

## **THE MUNICIPALITY OF CASSELMAN**

### **BY-LAW NO 2020-068**

#### **BEING A BY-LAW TO PROVIDE FOR THE REGULATION OF FENCES**

**WHEREAS** Section 11 (3) (7) of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended authorizes Council to pass by-laws concerning structures including fences;

**AND WHEREAS** section 8(3) of the Municipal Act, 2001 authorizes a municipality to regulate or prohibit matters pertaining to fences and as a part of that power, to provide for a system of approvals and to impose conditions as requirements of obtaining, continuing to hold or renewing the approval;

**AND WHEREAS** section 446 of the Municipal Act authorizes a municipality, under a by-law, to direct or require a person to do a matter or thing and the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, and the municipality may recover the costs of doing the matter or thing from the person by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

**AND WHEREAS** section 425 of the Municipal Act authorizes a municipality to pass a by-law providing that a person who contravenes a by-law of the municipality is guilty of an offence;

**NOW THEREFORE** the Council of the Casselman Municipality enacts as follows:

#### **1. Definitions**

"Building" means any structure used or intended for supporting or sheltering any use or occupancy.

"Council" means the Council of Municipality of Casselman.

"Fence" means a structure or partition made of wood, metal or other substance that is constructed for any purpose, such as marking the boundary of a property, enclosing a property, providing privacy, preventing escape or access by people or animals, or dividing a property into sections, and includes every door, posts, gate and other closure that forms part of the fence, and does not include a hedge;

"Hedge" means a continuous line of thick shrubs or trees, which is densely planted and intended to be maintained at an even height.

"Municipal Law Enforcement Officer" shall mean a Municipal Law Enforcement officer appointed by the Municipality of Casselman to enforce municipal by-laws.

"Person" shall mean an individual, firm, corporation, association, partnership or an individual in his or her capacity as a trustee, executor, administrator or other legal representative.

"Yard" Means a space, appurtenant to a building or structure, located on the same lot as the building or structures, open, uncovered and unoccupied from the ground to the sky except for accessory buildings, structures or uses specifically permitted by this by-law.

"Yard, Front" Means the space extending across the full width of the lot between the front lot line and the nearest part of any main building or structure on the lot.

"Yard, Rear" Means the space extending across the full width of the lot between the rear lot line and the nearest part of any main building or structure on the lot.

"Yard, Side" Means a yard extending from the front yard to the rear yard between the side lot line and the side wall of the main building or main structure.

"Yard, Side -Exterior" Means a yard extending from the front yard to the rear yard between the exterior side lot line and the side wall of the main building or main structure.

"Yard, Side -Interior" Means a yard extending from the front yard to the rear yard between the interior side lot line and the side wall of the main building or main structure.

## **2 GENERAL REGULATIONS**

2.1 No Person shall erect, construct, maintain, or cause or permit to be erected, constructed or maintained any Fence that does not comply with the provisions of this by-law and any other applicable by-law.

2.2 No Person shall erect a Fence or cause a Fence to be erected unless the Fence is,  
a) Stable;  
b) Vertical;  
c) Made of material of good quality;  
d) Suitable for the purpose; and  
e) Constructed and supported in a manner commensurate with the design of the entire Fence.

2.3 Every Person who erects a Fence or causes a Fence to be erected shall keep such Fence:

a) In good repair;  
b) In a safe and structurally sound condition;  
c) Free from accident hazards, and;  
d) Protected by paint, preservative or other weather resistant material, except for wooden Fences made of cedar, redwood or treated wood.

2.4 No Person shall have, erect, construct, maintain or permit to be erected a Fence which is wholly or partly constructed of damaged/used materials.

2.5 No Person shall erect a Fence or cause a Fence to be erected on the Municipality property, including within road allowances.

2.6 Every fence shall be maintained in such a manner that no defects are visible from any street or any property adjoining the property on which the fence is located.

2.7 No person shall construct or cause to construct or erect a fence to remain constructed that includes material which will, does or may, in the opinion of The Casselman Municipality adversely affect the safety of the public.

2.8 Unsightly markings, stains, or other defacements on the exterior surfaces of Fences shall be removed and the surface shall be refinished when necessary to the satisfaction of the Municipal Law Enforcement officer.

2.9 No person shall construct or cause to construct or erect a fence that obscures a clear view at street intersections, pedestrian or bicycle pathways, driveways, or other points of access or egress of vehicular traffic and, more specifically, no fence shall be permitted within the sight triangle of a corner lot noted at schedule A of this by-law.

2.10 All persons erecting or causing or permitting a fence to be erected are responsible to ensure that they have a legal right to erect the fence on the proposed location. The Municipality of Casselman will not be involved in property ownership disputes regarding property line location, private right-of-ways and/or easements.

2.11 Every person shall comply with any order or notice issued to them under the authority of this By-Law.

2.12 No person shall hinder or obstruct, or attempt to hinder or obstruct, a Chief Building Official, a Building Inspector or a By-Law Enforcement Officer in the exercise of a power or the performance of a duty under this By-Law.

2.13 Nothing in this By-Law shall exempt any person from complying with the requirements of any other law in force within the area affected by this By-Law.

2.14 All requirements for a swimming pool enclosure are treated in the swimming pool enclosure By-Law 2007-204.

### **3. HEDGE FENCE**

3.1 Every person shall maintain neatly trimmed a naturally growing hedge to a maximum width of 1.2 metres (3.9 feet).

3.2. No person shall erect or maintain or permit or cause to be erected or maintained any fence or hedge on or projecting into or over any public roadway, walk, park, boulevard, or other public property in the Municipality of Casselman.

3.3 The maximum height restriction for a naturally growing hedge shall be 3.66 metres (12 feet), except along a front property line or within a front yard; the maximum height shall be 1.2 metres (3.9 feet).

#### **4. HEIGHT RESTRICTIONS - LOCATIONS**

4.1 No person shall erect a fence or cause a fence to be erected that is higher than,

- a. One metre (3.3 feet) in height in a yard, front, and
- b. Two hundred and thirteen centimetres (7 feet) in height in any yard other than a yard, front.

4.2 No Fence exceeding 0.75 metres (3 feet) in height may be erected within any Sight Triangle.

4.3 No Person shall erect or cause to be erected a Fence on land owned by the Municipality of Casselman, including road allowances.

4.4 The height restrictions shall not be applied to a fence erected to enclose a tennis court.

4.5 The height of a fence at any given point shall be measured from the grade at the base of the fence to the top of the fence.

#### **5. Municipal Park fence standards**

5.1 All fences surrounding a municipal park shall be erected as follow:

- a. With chain link (commercial metal 60 inch)
- b. Two feet inside of the property line
- c. Five feet in height
- d. No person allowed to connect his fence to the Municipal park fences
- e. No person shall erect a fence, trees, cedar hedge on property line dividing the Municipal parks and the resident's property (two feet away at each side of the property line are required)

#### **6. FENCES-PROHIBITED TYPES**

6.1 No barbed wire, razor wire or electrically charges wire which is intended to give an electrical discharge shall be used as a part or in conjunction with any fence In the Municipality of Casselman.

#### **7. SNOW FENCE**

7.1 Snow fencing shall only be used as a temporary device and therefore may be erected and maintained only as follows:

- a. during the winter months for the purpose of snow control;
- b. to temporarily provide a barricade for a public purpose;

7.2 Snow fencing shall not be constructed as to cause a snow drift on a sidewalk, pedestrian pathway or road allowance.

#### **8. Existing Fences**

8.1 Notwithstanding the provisions of this By-law, any Fence that is in existence prior to the date of the enactment of this By-law and in compliance with other applicable regulations including the Municipal by-laws, shall be deemed to comply with this By-law and may be maintained with the same material, height and dimensions as previously existed, including

any repair work that may be done to such Fence. Any repair which is fifty percent (50%) or more of any fence is to be repaired or replaced, after the passing of this by-law, such replacement and or repairs shall meet the requirements of this by-law.

8.2 The deemed compliance provision set out in subsection 7.1 shall not apply to a Fence which is located within a Sight Triangle, within one (1) metre of a fire hydrant, or is otherwise deemed to be a safety hazard in the sole discretion of the Municipal Law enforcement Officer. All such Fences shall be required to comply with the provisions of this By-law, notwithstanding that the Fence was in existence prior to the date of the enactment of this By-law.

## **9. Remedial Action**

9.1 Every Person who has, erects constructs, maintains, or permits to be erected, constructed or maintained any Fence that does not comply with the provisions of this By-law shall forthwith take any necessary action to ensure that the Fence complies with the provisions of this by-law.

9.2 Remedial Action- work done by The Municipality of Casselman  
In default of the work required by this By-law not being done by the Person directed or required to do it, the Municipality of Casselman, in addition to all other remedies, may have, do or cause the work to be done at the Person's expense and may enter upon land, at any reasonable time, for this purpose.

### **9.3 Remedial Action – recover costs**

The Municipality of Casselman may recover the costs incurred by doing the work or causing it to be done from the Person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

## **10. INSPECTION**

10.1 The Municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with:

- a. this by-law; or,
- b. an order made under section 431 of the Municipal Act, 2001.

10.2 For the purposes of conducting an inspection pursuant to section 13.1 of this by-law, the Municipality may:

- a. require the production for inspection of documents or things relevant to the inspection;
- b. inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- c. require information from any Person concerning a matter related to the inspection; and,
- d. alone or in conjunction with a Person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

## **11. Line fence Act-division fence**

11.1 Line fences Act - not applicable,

The line Fences Act shall not apply to any property within the Casselman Municipality.

## **12. SEVERABILITY**

It is declared that if any section, subsection or part, or parts thereof, be declared by any Court of Law to be bad, illegal or ultra vires, such section, subsection or part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

## **13. ENFORCEMENT**

13.1 This By-Law shall be enforced by the Municipal Law Enforcement Officer (MLEO) of The Municipality of Casselman.

## **14. PENALTY**

14.1 Any person who contravenes any provision of this By-Law is guilty of an offence and, upon conviction, is liable to a fine as prescribed for under the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

14.2 Each period of two (2) months, on which a person contravenes any provision of this By-Law, shall be deemed to constitute a separate offence under this By-Law as provided for in section 429(2) on the Municipal Act, S.O. 2001, c. 25.

## **15. Enactment**

### **15.1 Short title**

This by-law may be referred to as the "Fence By-law"

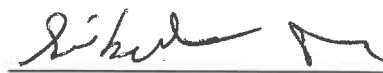
### **15.2 Effective date**

This By-Law shall come into force and take effect upon final reading thereof

**READ A FIRST, SECOND AND THIRD TIME AND PASSED IN OPEN COUNCIL THIS 27 OF OCTOBER 2020.**



**Daniel Lafleur, Mayor**



**Sébastien Dion, Clerk**

# Schedule A : Sight triangle

