

PROPERTY MAINTENANCE

Chapter 438 FENCES - HEIGHT - REGULATION

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**Article 1
INTERPRETATION**

438.1.1 Boulevard - defined

“boulevard” means that portion of the road allowance lying between the adjacent property line and the edge of the travelled portion of the highway or the edge of the shoulder, where such exists, furthest from the travelled portion of the highway.

438.1.2 Engineer - defined

“Engineer” means the person who may from time to time be appointed by the Council of The Corporation of the City of Brantford to the position of Engineer or his/her duly authorized representative.

438.1.3 Exterior side yard - defined

“exterior side yard” means a yard extending from the minimum front yard to the rear lot line between the exterior side lot line and the nearest part of any wall of the main building on a corner lot.

438.1.4 Fence - defined

“fence” includes any wall, fence or similar structure of wood, brick, stone, metal, wire or any other similar material.

438.1.5 Front yard - defined

“front yard” means the yard extending across the full width of a lot between the front lot line and the nearest part of any wall of any building or structure on the lot.

438.1.6 Height - defined

“height” means the distance measured from the ground level at the base of the structure to the highest point of the structure. In the case of a boundary fence, where the ground level is not the same on both sides of the boundary, the higher of such levels shall be considered as ground level for the purposes of the fence.

438.1.7 Highway - defined

“highway” means a common and public highway, and includes a street and a bridge forming part of a highway or on, over, across which a highway passes.

438.1.8 Interior side yard - defined

“interior side yard” means a yard extending from the required front yard to the minimum rear yard between the interior side lot line and the nearest part of any wall of the main building on the lot.

438.1.9 Owner - defined

“owner” includes the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used whether on his/her own account or as an agent or trustee of any other person or who would so receive the rent if such land and premises were let, and includes the assessed owner and, for the purposes of this Chapter, all persons shown by the records in the Registry Office, or the Land Titles Office, to be the owner in fee simple of the property.

438.1.10 Rear yard - defined

“rear yard” means a yard extending across the full width of a lot between the rear lot line and the nearest part of any wall of the main building on the lot, and on a corner lot, shall mean a yard extending from the interior side lot line to the minimum exterior side yard, between the rear lot line and the nearest part of any wall of the main building on the lot.

438.1.11 Yard - defined

“yard” means the space on a lot, uncovered by buildings and structures, open from the ground to the sky.

Article 2**GENERAL PROVISIONS****438.2.1 Erection - contrary to Chapter - prohibited - exception**

No fence shall be erected on any property contrary to the provisions of this Chapter except a fence required by statute or regulation of Canada, by any statute or regulation of the Province of Ontario, by the Ontario Hydro Electric Commission, by the Brantford Public Utilities Commission, or by an agreement with the City of Brantford relating to a site plan, subdivision, condominium or other development approval, or judgment, order, direction or decision made or given by any court or other duly constituted authority having jurisdiction.

438.2.2 Entry - on adjoining land - for repairs - restrictions

An owner of any fence or the agent or employee of such owner, at reasonable times during daylight hours, may enter upon any adjoining land for the purpose of making repairs, alterations or improvements to such fence but only to the extent necessary to effect such repairs, alterations or improvements and shall leave the adjoining property in the same condition it was in prior to such entry.

438.2.3 Entry - on adjoining land - permission obtained

Prior to making such entry, the owner or the agent or employee of such owner shall make a reasonable attempt to obtain the permission of the owner of the adjoining land.

438.2.4 Corner lot - height - distance from sidewalk

To prevent persons from crossing boulevards at the corners of highways and damaging the same, the owner or occupant of any premises situated at the intersection of highways, having first obtained permission from the Engineer, may erect and maintain a suitable fence, hedge or railing approved by the Engineer, from such premises to within 0.6 metres of the inner edge of the sidewalk provided that the top of the fence, hedge, or railing so erected shall not exceed 0.6 metres in height above the level of the adjacent sidewalk and provided that any hedge planted will be trimmed to maintain the above dimensions.

438.2.5 Removal - fence - within ten days of notice

The Engineer may upon ten days notice require the removal of any fence approved in accordance with Section 438.2.4 and require the restoration of the highway at the expense of the owner or occupant.

438.2.6 Triangular lot - fence - location - height - restriction

No person shall erect, construct, or permit to be erected or constructed any fence or hedge on a corner lot, within the triangular space formed by the street lines for a distance of 4.6 metres from the point of their intersection, where the height of such fence or hedge exceeds 0.8 metres above the level of the adjacent sidewalk or where no sidewalk exists, the grade as established by the Engineer.

438.2.7 Intersection - angle less than 90 degrees

Where the angle of intersection of two street lines is less than ninety degrees, the distance set out in Section 438.2.6 shall be determined by the Engineer.

438.2.8 Fence - obstructing highway - prohibited

No person shall without lawful authority erect, install, place or maintain or cause or permit the erection, installing, placing or maintaining of any fence or hedge either wholly or partly upon or over a highway which may obstruct said highway.

438.2.9 Gate - door - swinging over highway - prohibited

No person shall cause or permit the hanging or maintenance of any gate, door or other thing in such a manner as to allow it to swing over any part of a highway.

438.2.10 Unlawful obstruction - removed - road restored

Any fence or hedge unlawfully upon or over a highway, either wholly or partly, shall be removed and the road restored to its former condition, all at the expense of the owner or occupant of the land in connection with which such obstruction exists.

438.2.11 Survey - required - before construction

Every person before fencing or planting a hedge on his/her property along any highway or public place, shall obtain at his/her expense the correct line of the highway adjacent to and bounding such property from a legally qualified provincial land surveyor where it is necessary and the said person shall file in the Engineer's office plans and data of the said lines when required.

**Article 3
BARBED WIRE****438.3.1 Use - industrial land - only**

No fence, except a fence on land used for industrial purposes, shall contain barbed wire or any other barbed material.

438.3.2 Height - number of strands - requirements

The maximum number of strands of barbed wire, where permitted, shall be 3 strands and shall be installed at a minimum height of 2.0 metres from the finished grade level and shall not project beyond the external face of the said fence.

**Article 4
RESIDENTIAL PROPERTY****438.4.1 Height - maximum - front yard**

Any fence or hedge erected in the minimum front yard, as required by By-law 160-90 (the City's Comprehensive Zoning By-law) as amended, of a residential property shall have a maximum height of 1.0 metres.

438.4.2 Height - visibility requirement - front yard

Notwithstanding Section 438.4.1, a fence within the minimum front yard may be erected to a height of 1.5 metres if the area of daylight visible through the fence is at least 50 per cent of the surface area of the fence, and where in the opinion of the Engineer such fence will not result in a visibility problem to vehicular and pedestrian traffic.

438.4.3 Height - maximum - interior - exterior - side - rear

Any fence erected in an interior side yard, an exterior side yard or rear yard of a residential property shall have a maximum height of 2.2 metres.

438.4.4 Height - maximum - exception

Notwithstanding Section 438.4.3, the maximum height of a fence erected in a rear yard, interior side yard or an exterior side yard shall be 2.5 metres where:

- (a) where the yard abuts a commercial or industrial property; or
- (b) where there is a difference of 0.5 metres or more in the elevation of the ground level within 3 metres of the fence.

438.4.5 Elevated deck - privacy screening - exception

Privacy screening for an elevated deck, shall not be subject to the height limitations of Section 438.4.3 provided that the screening is not within any required yard as defined in Zoning By-law 160-90, as amended from time to time.

438.4.6 Sound barrier - exemption

The height restrictions set out in Section 438.4.3 shall not apply to any fence constructed as a sound barrier in accordance with Ministry of Environment requirements. By-law 117-94, 13 June 1994.

438.4.7 General fence material - construction

No person shall erect or maintain a fence unless it is:

- (a) upright;
- (b) sufficiently sturdy so as not to present a hazard of toppling or collapse;
- (c) reasonably uniform in height, colour, pattern, and material so as not to appear unsightly; and
- (d) made of materials of good quality and suitable for the purpose. By-law 20-2013, 19 February, 2013.

Article 5 ADMINISTRATION

438.5.1 Engineer - Chief Building Official - jurisdiction

Administration of this Chapter shall be under the jurisdiction of the Engineer and the Chief Building Official.

438.5.2 Failure to remedy - done by City - owner's expense

Upon the default of any person to do anything required to be done by that person under this Chapter, The Corporation of the City of Brantford may, upon giving ten days notice, in writing, of its intention to the said person, enter upon the land affected and do the work or thing required to be done at the expense of the said person.

438.5.3 Expenses - recovery - by action - as taxes

All expenses incurred by the City in doing said works as set out in Section .438.5.2, including but without limiting the generality of the foregoing, materials, labour, equipment, administrative and legal expenses, shall be paid by the said person and may be recovered by action in any competent court or be added by the Clerk to the Collector's Roll and collected in like manner as municipal taxes against the land.

438.5.4 Existing fence - conforming - prior to enactment

Nothing in this Chapter shall be interpreted to require the alteration or removal of any fence where the same was in existence prior to the date of the passing of this Chapter and was in compliance with those standards in existence immediately prior to the date of the passage of this Chapter.

438.5.5 Minor variance - Committee of Adjustment

The Committee of Adjustment of The Corporation of the City of Brantford may, upon the application of any person and upon the payment of an application fee in the amount prescribed by Council from time to time, authorize minor variances from the provisions of this Chapter, provided that the general intent and purposes of the Chapter are maintained.

Article 6**ENFORCEMENT****438.6.1 Fine - for contravention**

Every person who contravenes any of the provisions of this Chapter is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty pursuant to the provisions of the *Provincial Offences Act*.

Article 7**ENACTMENT****438.7.1 Effective date**

This Chapter shall become effective from and after the date of passing of the enabling by-law. By-law 117-94, 13 June, 1994.