

CITY OF ST. CATHARINES

BY-LAW NO. 2025-072

A By-law to require Construction Fencing for sites subject to Building Permits issued under the Building Code Act, 1992, S.O. 1992, c. 23 (the "Building Code Act").

WHEREAS Section 11(3) of the Municipal Act, 2001, S.O. 2001, c 25 (the "Municipal Act") provides that the council of a lower-tier municipality may pass by-laws respecting structures, including fences and signs;

AND WHEREAS Subsections 7(1)(i) and (j) of the Building Code Act authorize the council of a municipality to pass by-laws requiring persons issued Building Permits to erect and maintain fences enclosing construction or demolition sites within prescribed areas, and to prescribe the height and description of such fences;

AND WHEREAS the Council of The Corporation of the City of St. Catharines now deems it expedient and in the public interest to require fencing around certain construction and demolition sites to pass this by-law;

NOW THEREFORE the Council of The Corporation of the City of St. Catharines enacts as follows:

1. TITLE

1.1 Short title. This by-law may be cited as the "Construction Fences By-law".

2. DEFINITIONS

2.1 Meaning. In this by-law, the following definitions shall apply:

“Building Permit” means a permit issued under the Building Code Act, authorizing the construction, renovation, demolition, or change of use of a building, including the construction of its foundation.

“City” means The Corporation of the City of St. Catharines.

“Construction Fence” or **“Construction Fencing”** means temporary fencing used to enclose a Construction Site for the purposes of safety, security, or demarcation.

“Construction Site” means a property, or part thereof, for which a Building Permit has been issued by the City and includes the following:

- a) sites where a building is under construction, demolition, incomplete, or damaged by fire or other causes;
- b) sites adjacent to areas where the public may congregate, or where the City deems a safety risk; and
- c) any other area as may be determined by the City.

“Corner Lot Sight Triangle” means an unobstructed triangular area where the Front Lot Line and Exterior Side Lot Line meet on a Corner Lot. The triangle shall be determined by measuring a prescribed distance along each of the two (2) Lot Lines from the point of intersection, and a third line joining the terminal points of the two (2) measured lines. The prescribed distance to be measured along each Lot Line in a Residential zone shall be 6.0 m, and in all other zones shall be 7.5 m.

“Council” means the municipal council of The Corporation of the City of St. Catharines.

“Officer” means the person, or persons, who have been appointed to enforce the provisions of this by-law and includes a provincial offences officer as defined by the Provincial Offences Act, R.S.O. 1990, c. P.33 (the “Provincial Offences Act”).

“Responsible Person” means the person to whom the Building Permit has been issued. Where the Building Permit is issued to a contractor or agent, the property owner and the permit holder shall be jointly and severally responsible for complying with this by-law.

“Structurally Sound” means that a structure is capable of withstanding normal loads and forces, is in good condition, solid, strong, and free from defects.

3. PURPOSE

- 3.1 **Intent.** The purpose of this by-law is to enhance public safety, protect property, and maintain orderly construction by requiring secure, uniform fencing around construction and demolition sites, consistent with the City’s authority under the Building Code Act and the Municipal Act.
- 3.2 **Application.** This by-law applies to all construction activities for which a Building Permit is issued on or after the date that is three months following the enactment of this by-law. For greater clarity, this By-law does not apply to construction activities undertaken by the City or by contractors engaged by the City for the purpose of carrying out municipal construction, maintenance, or infrastructure-related work.
- 3.3 **Responsibility.** The Responsible Person shall be responsible for ensuring that Construction Fencing is erected and maintained in accordance with this by-law. Where the Building Permit is issued to a contractor or agent, the property owner and the permit holder shall be jointly and severally responsible for complying with this by-law.

4. GENERAL CONDITIONS

4.1 Standards. The Responsible Person shall ensure that Construction Fencing is erected and maintained in accordance with the following standards:

4.1.1 Construction Fencing shall be of uniform material and constructed from smooth exterior-grade plywood with a minimum thickness of 12.5 mm, or an alternative material approved by the City;

4.1.2 artwork and murals shall be permitted on Construction Fencing, subject to any applicable municipal approvals or guidelines. Where construction fencing is installed along a public sidewalk or other public right-of-way, the outward facing (i.e. public-facing) surface of such fencing shall include a minimum of 50 percent surface coverage consisting of the following:

- a) public art, including murals, community-focused artwork, or authorized reproductions of existing visual art; or
- b) marketing or promotional content related to the subject property, including renderings of the approved development, project branding, and information about the future or existing building.

For clarity, this provision does not permit third-party advertising on construction fencing located on private property

4.1.3 Construction Fencing shall be removed within 20 days following the substantial completion of construction or demolition, unless it is otherwise brought into compliance with the City's Fences and Swimming Pool Enclosures By-law;

4.1.4 where applicable, Construction Fencing shall comply with O. Reg. 213/91 (“Public Way Protection”) under the Occupational Health and Safety Act, R.S.O. 1990, c. O.1, and any relevant Ministry of Labour standards;

4.1.5 unless otherwise approved by the City, every Construction Fence shall be installed in such a manner to adequately secure the Construction Site, but shall not be located in a Corner Lot Sight Triangle;

4.1.6 Construction Fencing shall be Structurally Sound;

4.1.7 Construction Fencing shall be located entirely on the property to which the Building Permit applies, and shall not encroach onto adjacent private property or municipal road allowances without prior written consent;

4.1.8 Construction Fencing is not required for detached, semi-detached, duplex, triplex, fourplex, or townhouse dwellings, residential accessory buildings, or buildings located in Agricultural, Green Space, or Employment Zones, as defined in Zoning By-law 2013-283, as amended, unless otherwise directed by the City.

4.1.9 Construction Fencing shall be painted, vinyl-wrapped, or finished using an alternative material or method to the satisfaction of the City;

4.1.10 Construction Fencing shall be a minimum of 1.8 m in height and shall not exceed 2.0 m, measured from the finished grade on the exterior of the fence;

4.1.11 Construction Fencing may display the contractor's name or logo, and signage for the future or existing building. Any signage shall comply with the City's Sign By-law, and where required, shall be subject to an approved permit;

4.1.12 no rails, other horizontal or diagonal bracing, attachments, or pattern of openings on the outside of the fence that would facilitate climbing will be permitted;

4.1.13 no objects or fixtures that would facilitate climbing may be placed around the outside perimeter of the fence;

4.1.14 openings in the fence shall not permit a spherical object greater than 100 mm in diameter, and no gap beneath the fence shall exceed 100 mm, except for gated entry and exit points as defined herein;

4.1.15 gated entry and exit points shall be clearly identified and securely closed and locked during non-construction hours. Openings for construction vehicles or equipment shall be closed off securely when not in active use;

4.1.16 Construction Fencing that contains or is constructed, in whole or in part, of any hazardous material, chicken wire, barbed wire, other barbed or sharp material, any projection or fixture designed to harm or cause injury, or is an electrified fence equipped with a device that projects or transmits an electric current, is not permitted; and

4.1.17 the City may waive this by-law in whole or in part for specific construction and demolition projects where suitable alternatives are determined to be acceptable. Any such exemption shall be documented in writing.

5. **ENFORCEMENT**

5.1 **Orders.** Where a Responsible Person is in contravention of any provision of this by-law, an Officer may issue a written order requiring compliance. The order shall:

5.1.1 set out reasonable particulars of the contravention, including any required actions to bring the site into compliance. This may include:

- a) installing, repairing, or replacing Construction Fencing;
- b) removing unauthorized fencing; or
- c) addressing hazards arising from non-compliant fencing placement, design, or maintenance.

5.1.2 specify the time period within which compliance shall be achieved;

5.1.3 advise that if the person fails to comply with the order within the specified time, the City may undertake the necessary work at the person's expense, and such costs may be recovered in accordance with the Municipal Act; and

5.1.4 advise that failure to comply with an order issued under this section constitutes an offence under this by-law.

5.2 Effective date. Any notice or document respecting this by-law may be given in writing in any of the following ways and is effective:

5.2.1 when a copy is personally delivered to the person to whom it is addressed;

5.2.2 on the fifth (5th) day after a copy is sent by registered or regular mail to the person's last known address;

5.2.3 on the same day of the transmission of a copy by electronic transmission, to the person's last known electronic transmission number, including electronic mail and facsimile transfer, if it was sent before 4 p.m., otherwise, it is deemed to be given the day after; or

5.2.4 immediately upon posting a copy of the document at or on a conspicuous location on the property, or on the property.

5.3 Compliance with order. Every person shall comply with an Order issued pursuant to this by-law within the time provided for therein.

5.4 Remedy and disposition. Where a person defaults in complying with an order issued under this by-law, the City may authorize its employees, contractors, or agents to take any action, or combination of actions, necessary to bring the site into compliance with the requirements of this by-law.

5.5 Recovery of costs. The City may recover the costs of carrying out any work or action authorized under this By-law from the person named in the order. Such costs including any applicable fees and charges in accordance with the City's Rates and Fees By-law, as amended, shall be added to the tax roll of the property, and collected in the same manner as municipal property taxes any such costs shall accrue interest at a rate of 15% per annum, calculated from the date the City incurs the costs until the date the costs, including interest, are paid in full.

5.6 Obstruction. No person shall hinder or obstruct an Officer, who is carrying out an inspection of a site for the purpose of enforcing this by-law, nor shall any person hinder or obstruct any employee or agent of the City directed to carry out work to bring the site into compliance with any section of this by-law.

6. PENALTIES

6.1 Offence. Any person who contravenes any provision of this by-law is guilty of an offence and, upon conviction, is subject to a fine as provided in the Municipal Act or the Provincial Offences Act and to any other applicable penalties.

6.2 Director or officer of a corporation. A director or officer of a corporation who knowingly concurs in the contravention of this by-law by the corporation, including failing to comply with an order made under this by-law, is guilty of an offence and is liable to such penalties as provided for in the Provincial Offences Act and the Municipal Act.

6.3 Administrative penalties. An Officer who finds that a person has contravened any provision of this by-law may issue a penalty notice pursuant to the City's Non-Parking AMPS By-law.

6.4 Continuing offence. Each day or part of a day that a contravention of this by-law continues shall constitute a new and separate offence.

6.5 Additional penalties. If this by-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order:

6.5.1 prohibiting the continuation or repetition of the offence by the person convicted; and

6.5.2 requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

7. GENERAL

7.1 Severability. If any provision or part of a provision of this by-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative circumstances, the balance of the by-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

7.2 Compliance with other by-laws and regulations. This by-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the City or by any governmental authority having jurisdiction to make such restrictions or regulations.

7.3 Gender and number. In this by-law, unless the contrary intention is indicated, words used in singular shall include the plural and words used in the male gender shall include the female gender and vice versa.

7.4 Measurements. The abbreviation "mm" stands for millimetres, "cm" stands for centimetres, and "m" stands for metres.

7.5 And/or. The word "and" is an inclusive conjunction, the use of which indicates that all items or phrases in that subsection, article, or list in which it appears are permitted or required. The word "or" is an alternate conjunction, the use of which indicates that alternate or optional items or phrases in the subsection, article or list in which it appears are permitted or required, as the case may be; however, notwithstanding the foregoing, where the context permits, the word "or" may also be an inclusive conjunction having the same meaning as the word "and";

7.6 Delegation. For the purposes of subsection 23.2(4) of the Municipal Act, it is the opinion of Council that the powers delegated pursuant to this By-law are minor.

7.7 Legislation. Any reference to legislation in this by-law includes the legislation referred to and its amendments as well as any subsequent legislation which may replace the legislation referred to, and its amendments thereto.

7.8 Conflict. Where this by-law conflicts with any previous City by-law or policy pertaining to matters related to encroachments on Highways, including road allowances, this by-law shall prevail.

7.9 Effective date. This by-law shall come into force on the date of passage by Council.

Read and passed this 9th day of June 2025.

D DeVecchio
Acting CLERK



MAYOR

A handwritten signature in blue ink, appearing to read "Mark".