

The Corporation of the Town of Minto

By-Law 00-58

Being a by-law to provide for the regulation,
erection and maintenance of fences in the rural areas of
the Town of Minto

Whereas Section 210 (25) of the Municipal Act, RSO, 1990, M.45 and amendment thereto, provides that councils of local municipalities may prescribe the height, description and manner of building and maintaining fences of any defined area within the whole municipality;

And whereas Section 210 (27) of the Municipal Act, RSO, 1990, M45 and amendment thereto, provides for determining how the cost of division fences shall be apportioned;

And whereas Section 210 (29) of the Municipal Act, RSO, 1990, M45 and amendment thereto, provides for requiring the owners of land to erect and maintain a water gate;

And whereas it is deemed desirable to establish regulations for agricultural fences for the Town of Minto.

Therefore the Municipal Council of the Corporation of the Town of Minto enacts as follows:

1. For the purpose of this by-law, the following definitions shall apply:
 - a. **"Lawful Fence"** shall mean a fence authorized by this by-law as to height and description.
 - b. **"Line Fence"** shall mean a line fence within the meaning of the Line Fences Act, and amended thereto and is a fence constructed to mark the boundary between the land of an owner and an adjoining owner.
 - c. **"Division Fence"** shall mean a fence constructed, under the authority of the Line Fences Act, and amended thereto along the centre line of an unopened road allowance lying between the lands of two owners and not enclosed by a lawful fence, and marking the division line.
 - d. **"Private outdoor swimming pool"** shall mean a tank, structure or body of water which may be used for swimming purposes and which has a possible maximum depth greater than one half metre (0.5m) but shall not include an existing natural body of water, a water course or a pond in the areas zoned Agricultural and Open Space in the applicable zoning by-law.
 - e. **"Rural area"** shall mean any area of the Town of Minto not included in the former Village of Clifford, Town of Harriston, the Town of Palmerston, and Minto Highland Estates.

2. Part I – Lawful Fences

A lawful fence for the purposes of the Municipal Act, the Line Fences Act, the Pound Act or any other Act shall have a height of not less than 4 feet (1.22 meters) and may be constructed of a sturdy, durable and substantial material including wire, wood, steel or aluminum provided that it shall be constructed to any of the following minimum standards of construction;

(a) Barbed Wire Fence

A barbed wire fence shall consist of not less than 5 wires sufficiently taut and strained, strung parallel to the ground, anchored and securely fastened to vertical upright posts of wood or a metal construction and which are securely anchored in the ground to support the taut fence, such posts to be no more than 16.5 feet (5.02 meters apart).

- (i) A wooden post shall have a minimum diameter of at least 5 inches (12.7 cm.) at its narrowest point.
- (ii) The first bottom wire shall be strung not more than 10 inches (25.4 cm) above the ground.
- (iii) The second wire shall be strung not more than 10 inches (25.4 cm) above the first wire.
- (iv) The third wire shall be strung not more than 10 inches (25.4 cm) above the second wire.
- (v) The fourth wire shall be strung not more than 10 inches (25.4 cm.) above the third wire.
- (vi) The fifth wire shall be strung not more than 10 inches (25.4 cm.) above the fourth wire.

(b) Woven Wire Fence

A woven wire fence shall have a vertical height of not less than 42 inches (106.68 cm.) and shall have a barbed wire strung taut, at a distance of not more than 8 inches (20.32 cm.) above the uppermost wire of the woven wire fence.

- (i) The woven wire fence shall be strung parallel to the ground, the bottom wire to have a distance of not more than 8 inches (20.32 cm.) above the ground and shall be sufficiently taut and strained, anchored and securely fastened to vertical upright posts of wood and a metal construction and which are securely anchored in the ground to support the taut woven wire fencing material.
- (ii) The vertical fence posts shall be no more than 16.5 feet apart (5 meters).
- (iii) Wood posts shall have a minimum diameter of at least 5 inches (12.7 cm.) at the narrowest point.

(c) Chain Link Fence

A chain link fence shall have a vertical height of not less than 4 feet (1.22 meters).

- (i) The space between the wire mesh fabric shall not be greater than 2 inches (5.08 cm.) measured perpendicularly with the link segments.
- (ii) The wire mesh fabric shall contain a wire weight of not less than 9 gauge.
- (iii) The wire mesh fabric shall be sufficiently taut and strained and securely attached to vertical metal posts.
- (iv) The vertical metal posts shall be made of tubular material with a minimum outside diameter of 1 ½ inches (3.81 cm.).
- (v) The posts and wire mesh fabric shall be fabricated only of galvanized or vinyl coated steel.
- (vi) The posts shall be placed, anchored and spaced at a distance of no greater than 10 feet (3.05 meters) apart.

- (vii) The use of chain link fencing is restricted to boundary making purposes in a residential setting and is not adequate or sufficient for the containment of livestock and for such containment purposes is not a lawful fence, unless at least a single strand of barbed wire is strung not more than 6 inches (15.24 cm.) above the chain link wire mesh fabric and is strung sufficiently taut and strained, anchored and secured to the same vertical spots that the wire mesh fabric is secured.

(d) High Tensile Fence

A high tensile fence shall have a vertical height of not less than 4 feet (1.22 metres).

- (i) The vertical spacing between the wire shall not be greater than 6 inches (15.24 cm.)
- (ii) The wire gauge shall be a minimum of 12.5 with a tensile strength of 150,000 to 210,000 PSI.
- (iii) The wire gauge should be taut with a minimum of 250 lbs. of tension per wire.
- (iv) The vertical posts should be wooden with a minimum diameter:

	<u>CCA treated pine</u>	<u>cedar</u>
Anchor	6 inches	10 inches
Brace	5 inches	8 inches
Compression	4 inches	6 inches
Line	4 inches	4 inches

- (v) The minimum length of posts is to be 8 feet.
- (vi) The posts shall be placed, anchored and spaced at a distance of no greater than 20-32 feet on centres with 1 or 2 droppers between wooden line posts that are of wood, plastic or fiberglass.
- (vii) The tighteners shall be placed within 600 to 800 feet for continued maintenance.
- (viii) For installation, posts should be pounded wherever possible to reduce the possibility of lifting and frost heaving, and should be a minimum of 42 inches in the ground.
- (ix) The braces should be doubled on ends and corners i.e. with one anchor post, two braces and two compression posts.
- (x) The compression posts should be installed horizontally rather than diagonally to reduce lift on the anchor post.

(e) Other Types of Fences

A line fence or division fence built of rails, boards or poles being horizontally placed shall have the first 3 bottom rails, boards or poles, not more than 6 inches (15.24 cm.) apart.

- (i) Such line fence shall have a height of at least 4 feet (1.22) meters.
- (ii) Such line fence shall have a bottom rail board or pole no greater than 8 inches (20.32 cm.) above the ground.
- (iii) A worm or snake rail fence shall, in addition to the above standards in (e)(i) and d(ii) have a crook of not more than 5 feet (1.52 meters) measured from the extremities at right angles and shall not have more than a 2.5 feet (76 cm.) distance from the determined centre line of the fence.

- (iv) Where the manner of construction of such line fence is such to require the use of posts of a diameter not less than 5 inches (12.7 cm.) to properly secure and anchor the rails, boards or poles, then such posts shall be spaced at a distance that will not be greater than the minimum length of the boards, rails or poles horizontally placed.
- (v) In no case shall the distance between the posts exceed 16.5 feet (5.02 meters).
- (vi) There shall be placed a strand of barbed wire, sufficiently taut, strained, secure and anchored to the top of the posts, not more than 6 inches above the top rail, board or pole.

3. Fencing of Private Outdoor Swimming Pools

- (i) Notwithstanding the other provisions of this by-law, no person shall construct or maintain a private outdoor swimming pool unless the pool, or the land on which the pool is located is effectively fenced or enclosed in accordance with the following provisions;
 - a. Every fence shall be not less than 1.5m in height;
 - b. Every fence shall be so constructed that all horizontal or diagonal structural members shall be located on the inside or pool side of the fence;
 - c. Every outside face of a fence shall be so constructed that it cannot be used in a manner similar to a ladder. For the purpose of this section, a shadow-type fence is deemed to comply, provided the horizontal members are 1.1m apart;
 - d. Every fence shall be constructed so that the only means of entry is by gates or doors of 1.5m in height each gate shall be equipped with a lock and kept secured when the pool is not in use;
 - e. A dwelling, building or accessory building may be utilized to effectively enclose any pool;
 - f. A hedge shall not be used as or considered to be a fence for the purpose of this section.
 - (ii) The provisions of this section shall not apply to any pool which is subject to the regulations under the Public Health Act, RSO, 1980, Chapter 409, Section 9, paragraph 36.
4. The provisions and standards of this by-law as are hereinbefore set out shall be deemed to be minimum standards only and are not designed or intended to limit or restrict the use of a greater or higher degree of standard, both in quality and construction, where the parties affected may so mutually agree amongst them, or where such greater standards are required by any other Federal, provincial, county or local by-law.
5. A fence constructed to standard, that is of a higher standard than that prescribed as minimum by this by-law, shall be deemed to be a lawful fence.


Part II – LINE FENCES

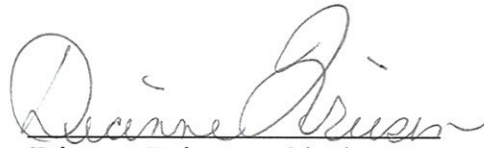
- 6. There shall be appointed not less than three fence viewers to carry out the provision of the Line Fences Act and other fencing duties required by other Provincial, County laws and by this and other Town of Minto by-laws.

7. The provisions of the Line Fences Act shall apply to the determination as to how the cost of division fences shall be apportioned between adjoining landowners, provided that in all cases the fence viewers shall attempt to equally apportion those sections of the fence that each adjoining landowner may be responsible for and the fence viewers shall have regard to the degree of difficulty in the construction of a particular section of a line fence with a view of determining that the material and construction costs of each adjoining landowner should tend to be the same, and notwithstanding that such determination may result in one adjoining landowner being responsible for a greater length of line fence than the other.
8. In the event of a conflict, or in the event of a disagreement as to whether any fence may constitute a lawful fence, the fence viewers appointed by the municipality under the Line Fences Act shall be the sole arbitrators and shall make such inquiries and determination as may be required of them to ascertain whether any such fence meets such minimum standards and is a lawful fence, and their decision shall be binding.
9. The fence viewers appointed by the municipality may determine what additional work must be carried out before a fence would be deemed to be a lawful fence.
10. Unless the parties otherwise agree or there is a pre-existing agreement or determination by a previously made Line Fence Award as to what portion of a line or division fence an adjoining owner may be responsible to maintain, the following rule of interpretation shall be deemed applicable, namely:
 - (i) That portion of each straight or curved line section of the property boundary between the adjoining landowners and the landowner lying to the right of the mid point of that straight or curved line section of property boundary as determined from a position standing opposite the mid point on the landowners property while facing the adjoining landowners property shall be the responsibility of that landowner and that section lying to the left shall be the responsibility of the adjoining landowner, unless the fence viewers otherwise determine.
 - (ii) Any section of a line or division fence that crosses a river or creek or watercourse that is prone to spring water run off drainage, being known as river fence, shall be erected and in place by the 14th day of May in each year, notwithstanding previous damage.
 - (iii) There shall be a water gate erected thereafter maintained by the landowner where fence crossed an open drain or watercourse within his property or along the line fence.
11. The fence viewer may recommend to Council the manner of maintaining, keeping up and laying fences along highways or parts thereof, and may recommend the compensation for increased expenses if any, to persons required so to maintain, keep up or lay down any such fence, and Council may reimburse or compensate such person for the same.
12. Notwithstanding any special provisions in any other general or special by-law previously passed and in force, the provisions set forth in this by-law should prevail.

13. The provisions of this by-law shall not apply to the erection of fences for public safety by the Corporation of the Town of Minto or any local boards thereof, any Public Utility Commission including telephone, gas and Ontario Hydro, all Boards of Education and the County of Wellington.
14. Any person who contravenes any provisions of this by-law is guilty of an offense and is liable on conviction, to a fine of not more than two thousand dollars (\$2,000.00) exclusive of costs and recoverable under the Provincial Offences Act.
15. All fence by-laws passed by the previous Village of Clifford, Town of Harriston, Town of Palmerston and Township of Minto become null and void on the passing of this by-law.
16. This by-law shall come into effect upon final reading thereof.


Read a first and second time this 12th day of September 2000.


Wm. R. Lawless, Mayor


Dianne Friesen, Clerk

Read a third time this 12th day of September 2000.


Wm. R. Lawless, Mayor


Dianne Friesen, Clerk

Town of Minto

Set Fine Application

Part 1 Provincial Offences Act

By-law 00-58 Rural Fencing.

Item	Column 1, Short form wording	Column 2, Offence creating provision	Column 3, Set fine (includes costs)
1	Fail to properly fence a rural private outdoor swimming pool.	Section 3 (i) a, b, c, d, e, and f	\$125.00

Note: The penalty provision for the offences indicated above is section 61 of the Provincial Offences Act, R.S.O. 1990, c.P.33