

# Property Maintenance

## Chapter 0722 - Fence - Height – Description

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## **Article 1 – Short Title**

### **722.1.1 Citation**

The short title of this Chapter is the “Fence By-law.”

## **Article 2 – Interpretation**

### **722.2.1 Corner lot – defined**

“corner lot” means a lot situated at the intersection of and abutting upon two streets, or upon two parts of the same street, the adjacent sides of which street or streets (or, in the case of a curved corner, the tangents at the street extremities of the side lot lines) contain an angle of not more than 135 degrees. In the case of a curved corner, the corner of the building lot shall be that point on the lot line abutting a street nearest to the point of intersection of the said tangents.

### **722.2.2 Corner visibility triangle – defined**

“corner visibility triangle” means a triangular area formed within a corner lot by the intersecting lot lines abutting the streets or the projections thereof and a straight line connecting them 9.0 metres (30 feet) from their point of intersection.

### **722.2.3 Driveway visibility triangle – defined**

“driveway visibility triangle” means a triangular area formed by the intersection of the lateral limit of the travelled portion of a driveway and a lot line abutting a

street or the projections thereof and a straight line connecting them 4.57 metres (15 feet) from their point of intersection.

**722.2.4 Enclosure – defined**

“enclosure” means a fence, wall or other structure, including doors and gates, surrounding a privately-owned outdoor swimming pool to restrict access thereto.

**722.2.5 Engineer – defined**

“engineer” means the City Engineer of the City of Woodstock or his/her designate.

**722.2.6 Exterior side lot line – defined**

“exterior side lot line” means the longest lot line abutting a street with respect to a corner lot.

**722.2.7 Exterior side yard – defined**

“exterior side yard” means a yard, immediately adjoining a public street, extending from the front yard to the rear yard and from the side lot line of the lot to the nearest part of the main building on the lot.

**722.2.8 Fence – defined**

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

**722.2.9 Front yard – defined**

“front yard” means a yard extending across the full width of the lot between the front lot line of the lot and the nearest part of the main building on the lot. For the purposes of this Chapter the shortest line abutting the street is the front lot line.

**722.2.10 Height – defined**

“height” means the distance measured from the grade where the fence posts are embedded to the top of the said posts.

**722.2.11 Highway – defined**

“highway” means the road allowance between street lines and includes the boulevard portion.

**722.2.12 Hydro massage pool – defined**

“hydro massage pool” shall include those pools commonly referred to as a hot tub, a whirlpool, a Jacuzzi or a spa.

**722.2.13 Interior lot – defined**

“interior lot” means a lot other than a corner lot.

**722.2.14 Interior side yard – defined**

“interior side yard” means any yard extending from the front yard to the rear yard and from the side lot line of the lot to the nearest part of the main building on the lot other than an exterior side yard.

**722.2.15 Line fence – defined**

“line fence” means any fence constructed on a property line so as to be owned by the parties owning and occupying the lands immediately adjoining thereto and divided by such fence.

**722.2.16 Lot line – defined**

“lot line” means the line formed by the boundary of any lot.

**722.2.17 Officer – defined**

“officer” means any municipal law enforcement officer or by-law enforcement officer of the City of Woodstock.

**722.2.18 Parking space – defined**

“parking space” shall mean a parking space as defined by the zoning by-law.

**722.2.19 Property Standards Committee – defined**

“property standards committee” means the committee established under City of Woodstock Municipal Code, Chapter 745 Maintenance - Occupancy.

**722.2.20 Privately-owned swimming pool – defined**

“privately-owned swimming pool” means any body of water located or to be located outdoors on privately-owned property, contained by artificial means and is capable of a depth at any point in excess of 76.2 centimetres (30 inches), which is intended or used for the purpose of swimming, diving or bathing but shall not include a natural body of water, watercourse, fish pond, a storm water management pond or a hydro massage pool.

**722.2.21 Rear yard – defined**

“rear yard” means a yard extending across the full width of the lot between the rear lot line of the lot and the nearest part of the building on the lot.

**722.2.22 Street line – defined**

“street line” means the property limit of the road allowance.

**722.2.23 Person – defined**

“person” is an owner, occupant or adult responsible for the property pertaining to the location where a privately-owned swimming pool, hydro massage pool or fence is located.

**722.2.24 Yard – defined**

“yard” means that part of a lot extending from a lot line into a lot to the nearest building and measured at right angles to the lot line.

**722.2.25 Zoning by-law – defined**

“zoning by-law” means any by-law administered by the City of Woodstock passed pursuant to section 34 of the *Planning Act*, R.S.O. 1990, c. P.13 or a predecessor or successor thereof, as may be amended from time to time.

## **Article 3 – General Provisions**

### **722.3.1 Fence – contrary to Chapter – prohibited**

No person shall erect, construct, maintain or permit to be erected or constructed, any fence that does not comply with the provisions of this Chapter.

### **722.3.2 Exemption – fence erected under other authority**

A fence required by federal or provincial statute or regulation, by the Ontario Hydro Electric Commission or any other utility or by agreement with the City of Woodstock 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, is exempt from the provisions of this Chapter.

### **722.3.3 Erection – fence – without proper authority – prohibited**

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

### **722.3.4 Visible obstruction – hazard – distance from street**

No person shall erect, construct, maintain or permit to be erected or constructed any fence, or plant, any hedge or any tree whose branches may constitute a visual obstruction, on a corner lot within the triangular space formed by the intersection of street lines for a distance of 9.0 metres (30 feet) each way from the point of their intersection, where the height of such fence or hedge exceeds 0.6 metres (2 feet) above the level of the adjacent sidewalk or, where no sidewalk exists, the grade as established by the Engineer. To prevent persons from crossing boulevards at the corners of highways and damaging the same, the Engineer may approve fences which do not constitute a visual hazard on a site specific basis, such as post and rail or wide mesh chain link when erected diagonally from the corner of the house to the intersection of the street lines. (See set fine)

### **722.3.5 Plantings – existing – not hazard – exemption**

Despite Section 722.3.4, the Engineer may authorize existing hedge-rows, plantings and fences or may permit new hedgerows, plantings or fences that are not deemed to constitute a visual hazard.

### **722.3.6 Property line – determination – owner expense**

Every person, before fencing or planting a hedge on his or her property along any highway or public place, shall ascertain, 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 such person shall file in the Engineer's office plans and data of the said lines when required.

### **722.3.7 Fence – unlawful on highway – removal owner expense**

Any fence or hedge placed 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 fence or hedge exists.

**722.3.8 Entry – on private property – maintenance – repairs**

An owner of any fence or the agent or employee of the 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 affect such repairs, alterations or improvements and shall leave the adjoining property in the same condition as it was prior to such entry.

**722.3.9 Entry on private property – permission**

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

**722.3.10 Line fence – sharing of costs**

Each of the owners of adjoining occupied land shall repair, replace or maintain just proportions of any line fence heretofore or hereafter erected which marks the boundary of their respective properties, or shall bear a just proportion of the cost of any work of erection, repair, replacement or maintenance which has been carried out.

**722.3.11 Fence type – non-agreement – apportionment of cost**

Where owners of adjoining land cannot agree on the type or kind of fence to be erected between them as provided by Section 722.3.10, the contribution to the cost thereof shall be limited to the cost to construct one-half of a chain link fence 1.22 metres (4 feet) in height. Only upon such fence being constructed shall the provisions of Section 722.3.10 apply respecting the apportionment of costs of the said fence.

**722.3.12 Notice – to adjoining owner – apportionment of cost**

An owner desiring to enforce the provisions of Sections 722.3.10 and 722.3.11 shall deliver to the owner or occupant of the adjoining land a notice by registered mail requiring him/her to comply with this Chapter and, if such compliance does not take place within 30 days after the service of the notice, the owner serving the notice may do the work that this Chapter authorizes and may take civil proceedings to recover the value of the work and the cost from the said adjoining owner or occupant.

**722.3.13 Line Fences Act – not applicable – upon enactment**

From and after the coming into effect of the enabling Chapter, the *Line Fences Act* shall no longer apply in the City of Woodstock.

**722.3.14 Barbed wire – use – restriction**

No person shall construct or maintain a fence wholly or partly of barbed wire or any other barbed material or of high tensile steel unless it is constructed not less than 1.8 metres (6 feet) from the level of the ground on which the fence is erected and is not located on a property which is zoned for residential purposes according to the City of Woodstock zoning by-law, as amended. (See set fine)

**722.3.15 Electric fence – use – restriction**

No person shall use any device for projecting an electric current through or in conjunction with a fence. Notwithstanding the aforementioned, this provision shall not apply to those lands and premises which, according to records on file in the assessment department, are defined as farmlands.

**Article 4 – Residential Property**

**722.4.1 Repealed: By-law 8786-12, June 7, 2012**

**722.4.2 Repealed: By-law 8786-12, June 7, 2012**

**722.4.3 Repealed: By-law 8786-12, June 7, 2012**

**722.4.4 Repealed: By-law 8786-12, June 7, 2012**

**722.4.5 Fences on interior lots – height – location**

No person shall have, erect, construct, maintain or permit to be erected, constructed or maintained a fence on an interior lot used for residential purposes except in accordance with all of the following provisions:

- a) a fence within a front yard located within 6 metres (20 feet) of a street line shall not exceed a height of 0.91 metres (3 feet); (See Set Fine)
- b) a fence within any rear yard or interior side yard shall not exceed a height of 2.13 metres (7 feet) and; (See set fine)
- c) a fence shall not block access to a parking space as required by the zoning by-law unless such fence is constructed with a gate at least 2.59 metres (8.5 feet) wide allowing access to such parking space.

**722.4.6 Fences on corner lots – height – location**

No person shall have, erect, construct, maintain or permit to be erected, constructed or maintained a fence on a corner lot used for residential purposes except in accordance with all of the following provisions: (See set fine)

- a) a fence within a front yard located within 6.0 metres (20 feet) of a street line shall not exceed a height of 0.91 metres (3 feet);
- b) a fence within an interior side yard shall not exceed a height of 2.13 metres (7 feet);
- c) a fence within an exterior side yard or rear yard shall not exceed a height of:
  - i) 1.82 metres (6 feet) if less than 4.57m (15 feet) from the exterior lot line and;



- ii) 2.13 metres (7 feet) if at least 4.57 metres (15 feet) from the exterior side lot line.
- d) a fence within a corner visibility triangle shall not exceed a height of 0.61 metres (2 feet);
- e) a fence within a driveway visibility triangle shall not exceed a height of 0.91 metres (3 feet) and;
- f) a fence shall not be located or constructed so as to block access to a parking space required by the zoning by-law unless such fence is constructed with a gate at least 2.59 metres (8.5 feet) wide giving access to such parking space.

**722.4.7 Height – maximum – rear yard**

Subject to Section 722.4.6 (e), any fence erected in a rear yard or an interior side yard shall have a maximum height of 2.5 metres (8 feet), as measured from grade, where such yard abuts a commercial, industrial or institutional property.

**722.4.8 Privacy screening – elevated deck – exempt**

Privacy screening which forms part of an elevated deck shall not be subject to the aforementioned height limitations, however, cannot exceed 2.13 metres (7 feet) in height from the top of the deck floor, provided that the elevated deck conforms to the required zoning by-law setback from property lines.

**722.4.9 Sound barrier - exemption**

The height restrictions set out in this Chapter shall not apply to any fence constructed as a sound barrier as part of a subdivision approval.

**722.4.10 Height restriction - exemption**

Despite Sections 722.4.5 and 722.4.6, a fence located within a driveway visibility triangle may be erected to a maximum height of 1.8 metres (6 feet) if the area of daylight visible through the fence is at least 60 percent of the surface area and where, in the opinion of the Engineer, such fence will not result in a visibility problem to vehicular and pedestrian traffic.

**Article 5 – Pool Enclosures**

**722.5.1 Required – maintained adequate – prevention of entry**

No person shall own, have or maintain a privately-owned swimming pool unless such pool or the land or a part of the land on which such pool is located is fenced or enclosed in accordance with the provisions set out in this Chapter. (See set fine)

**722.5.2 Hydro massage pool – locking covers**

No person shall install or maintain an exterior hydro massage pool unless it has a cover with a locking mechanism on each portion of the cover that is intended to be open when the hydro massage pool is in use or is enclosed by a swimming

pool enclosure in compliance with this Chapter. (See set fine)

**722.5.3 Swimming pool enclosure permit – required**

No person shall construct or install a privately-owned swimming pool or a hydro massage pool without a lockable cover without obtaining a swimming pool enclosure permit from the City of Woodstock. (See set fine)

**722.5.4 Schedule 'A' – cost**

The fee for the swimming pool enclosure permit shall be as provided for in Schedule 'A'.

**722.5.5 Repealed: By-law 8786-12, June 7, 2012**

**722.5.6 Temporary fencing – limitation**

Despite Section 722.5.3, a temporary fence consisting of snow fencing or an approved alternative may be installed for a maximum period of fourteen days where construction equipment is required to enter the enclosure or a fence is being installed or replaced.

**722.5.7 Existing enclosure – conforming – prior to enactment**

Nothing in this Chapter shall be interpreted to require the alteration of any swimming pool fence, gate or enclosure where same was in compliance with those standards in existence at the time of construction where such privately-owned swimming pool existed prior to the 19th day of March 1987 provided such enclosure is maintained to the following minimum requirements:

- a) the enclosure is constructed of fencing that is continuous with no gaps or voids;
- b) a minimum fence height of 1.2 metres (4 feet) is maintained for the entire enclosure;
- c) the rigidity of the fence is adequate in the opinion of the Engineer and;
- d) any gate providing access to the privately-owned swimming pool is equipped with a device that will independently close and latch the gate.

**722.5.8 Height – minimum requirement**

Every fence, including gates, enclosing a privately-owned swimming pool shall extend above grade to a height of not less than 1.5 metres (5 feet) as measured on the outside of the enclosure. Any fence constructed to a height less than 1.8 metres (6 feet) shall not be located closer than 1.2 metres (4 feet) to a climbable object on the outside of the enclosure.

**722.5.9 Repealed: By-law 8786-12, June 7, 2012**

**722.5.10 Wall – forming part of enclosure – conditions**

When a wall of a building forms part of an enclosure it may be considered to provide adequate protection for its length when substituted for any portion of a fence when all doors located in such wall within non-habitable rooms are equipped with locks and self-closing and latching devices, and any building which is continuously occupied all doors are locked when it is not occupied.

**722.5.11 Hedgerows – use as enclosure – subject to inspection**

Dense and continuous hedgerows that comply with the height requirements herein that incorporate non-compliant fencing and that, in the opinion of the Engineer, provide adequate enclosure protection may be substituted for the fences prescribed herein.

**722.5.12 Gate – self-closing – self-latching – requirements**

No person shall maintain a gate in a swimming pool enclosure unless it is equipped with a self-closing device, latch and locking mechanism at the top and on the inside of the gate that will independently bring the gate to a closed latched position. If the latching device is located not less than 1.2 metres (4 feet) above grade, it may be placed on the outside of the gate.

**722.5.13 Gate – doors – locked – when not supervised**

The owner and every adult person in care and control of a privately-owned swimming pool shall ensure that every gate and door required as part of a pool fence enclosure shall be kept locked at all times unless an adult person is present and actively supervising the swimming pool.

**722.5.14 Hydro massage pool – exemption – conditions**

A structure known as a hydro massage pool shall be exempted from the provisions of this Chapter provided that it is adequately secured by a rigid cover equipped with a locking device, which cover shall be kept in place over the hydro massage pool when not in use.

**722.5.15 Fence – requirements**

Every fence enclosing a swimming pool shall be constructed so that:

- a) it does not facilitate access to the privately-owned swimming pool by climbing, crawling or any other way save as hereinafter set out;
- b) for chain link fencing with links not exceeding 38 millimetres (1.5 inches) shall be used when such fence extends from the ground for a height of not less than 1.5 metres (5 feet) and;
- c) for chain link fencing with links not exceeding 50 millimetres (2 inches) shall be used when such fence extends from the ground to a height of not less than 1.8 metres (6 feet).

**722.5.16 Alternative materials – as fence – requirements**

A fence or its equivalent forming part of an enclosure, that differs from the specifications set out in Sections 722.5.15 may be approved by the Engineer

provided that, in the opinion of the Engineer, its construction and rigidity is equal to that specified and an equivalent degree of safety is maintained.

## **Article 6 – Appeals Property Standards Committee**

**722.6.1 Repealed: By-law 8786-12, June 7, 2012**

**722.6.2 Repealed: By-law 8786-12, June 7, 2012**

### **722.6.3 Order served – right to appeal – deadline**

When an owner or occupant upon whom an order has been served with respect to the provisions of Article 4 of this Chapter is not satisfied with the terms and conditions of the order or the requirements of this Chapter, he/she may appeal to the Property Standards Committee by sending a notice of appeal to the Engineer within seven days after service of the order and, in the event that no appeal is taken, the order shall be deemed to have been confirmed at the end of such period of appeal.

### **722.6.4 Request for relief**

When an owner or occupant, prior to the installation of new works or the replacement of existing works, wishes to seek relief with respect to the provisions of Article 4, he/she may submit a request for such relief to the Property Standards Committee by sending the request to the Engineer accompanied by the required fee. The Committee shall advise the applicant of its ruling in a timely fashion.

### **722.6.5 Fee – set out**

The fee to appeal to, or request relief from, the Property Standards Committee under Sections 722.6.3 and 722.6.4 shall be \$110.

## **Article 7 – Enforcement**

### **722.7.1 Fine – for contravention**

Every person who contravenes any of the provisions of this Chapter is guilty of an offence and upon conviction is liable to a fine or penalty as provided in the *Provincial Offences Act*.

### **722.7.2 Compliance – all occupants of property**

Every adult person in occupation or control of any land in the City of Woodstock, on behalf of or with the consent of the owner, is subject to all of the obligations of the owner for the purposes of this Chapter.

### **722.7.3 Application – all land within City**

The provisions of this Chapter shall apply to all lands within the City of Woodstock.

### **722.7.4 Enforcement – permit inspections**

The enforcement of the provisions of this Chapter shall be conducted by an officer of the City of Woodstock.

**722.7.5 Inspection – right of entry**

An Officer or Building Inspector as appointed by the City of Woodstock may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not this Chapter is being complied with. Entry to any place actually being used as a dwelling unit shall be subject to the requirements of the *Municipal Act, 2001*.

**Article 8 Repeal – Enactment**

**722.8.1 Chapters – previous**

Municipal Code Chapter 722 - Fence - Height - Description, is hereby repealed and replaced.

**722.8.2 Effective date**

This Chapter shall become effective as of third and final reading of the enabling by-law. By-law 8786-12, June 7, 2012.

**Schedule 'A'**

**Swimming Pool Enclosure Permit Fee**

Swimming Pool Enclosure Permit Fee \$65.00.