BY-LAW NUMBER 137-2026

A BY-LAW TO EXEMPT THE CITY OF WINDSOR FROM THE LINE FENCES ACT AND ESTABLISH DISPUTE RESOLUTION GUIDELINE FOR BOUNDARY FENCES

Passed the 14th day of September, 2026.

WHEREAS Section 2 of the *Line Fences Act*, R.S.O. 1990, Chapter L.17, provides that the Council of every local municipality shall by By-law appoint such number of fence viewers as are required to carry out the provisions of this Act, and the By-law shall fix the per diem remuneration to be paid to the fence viewers;

AND WHEREAS Section 10(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, municipalities may pass By-laws respecting matters within the sphere of jurisdiction for structures, and the health, safety and well-being of persons.

AND WHEREAS structures including fences and signs are one of the named spheres of jurisdiction over which single-tier municipalities have exclusive authority.

AND WHEREAS Section 98(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, a local municipality may provide that the *Line Fences Act* does not apply to all or any part of the municipality.

AND WHEREAS a By-law may be passed for determining how the cost of Boundary Fences shall be apportioned, and for providing that any amount so apportioned shall be recoverable under the *Provincial Offences Act*;

AND WHEREAS it is deemed expedient to repeal By-law 350-2002 replace it with an amended By-law;

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

SECTION 1 SHORT TITLE

1.1 This By-law may be cited as the Fence Dispute Resolution Guideline By-law.

SECTION 2 DEFINITIONS

2.1 In this By-law:

ACTUAL COST means the total cost of the construction, reconstruction, maintenance and/or repair of a Boundary Fence, and includes the value of the material used and the value of the labour performed to complete the work.

ADJOINING OWNER means the person who owns land adjacent to land on which another landowner seeks to build a Boundary Fence.

BASIC COST means the cost of constructing, reconstructing, maintaining or repairing (as applicable) a four (4) foot high, 1-1/2 inch mesh, steel chain link fence.

BOUNDARY FENCE means a fence marking the boundary between adjoining parcels of land.

CITY means The Corporation of the City of Windsor.

CITY CLERK means the person duly appointed as Clerk for the City.

OWNER includes the registered owner, 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 the person's own account or as agent or trustee of any other person, or who would receive the rent if such land and premises were let, or a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards of this By-law.

2.2 Any word or term not defined in this By-law shall have the meaning ascribed to it in the Building Code Act or the Ontario Building Code.

SECTION 3 AUTHORITY

3.1 The City Clerk shall administer this By-law.

SECTION 4 APPLICATION

4.1 This By-law applies only to fences located on private property.

4.2 The process set out herein is provided as a non-binding guideline only and reflects a recommended approach that City staff would generally advise if attending on-site. It is not mandatory and does not limit the rights of any party under applicable law.

4.3 An Owner of land may construct and maintain a Boundary Fence.

4.4 Where the Owners of adjoining lands are in agreement or are able to reach agreement on the details of construction, repair or replacement of a Boundary Fence, each of them shall construct, repair, replace or maintain a reasonable proportion of the Boundary Fence, or shall bear a reasonable and just proportion of the cost of any work required to do so, in accordance with the agreement reached between the Owners, regardless of any provision to the contrary in this By-law.

4.5 Where the Owners of adjoining lands cannot agree or reach an agreement as referred to in Section 4.4, on the details of construction, repair or replacement of a Boundary Fence, an Adjoining Owner desiring to construct, reconstruct or repair a Boundary Fence may do so subject to complying with the following requirements:

(a) The Owner should serve the Adjoining Owner(s) with a notice of intent to construct, repair or replace ("the Notice of Intent"), by registered mail, of his or her intention to construct a Boundary Fence; and

(b) The notice of intent should contain the following information:

(i) The Owner should provide the Adjoining Owner with 3 written quotes for the actual or basic costs for fencing work to be undertaken;

(ii) "The construction, repair or replacement of the Boundary Fence located at" (address) "will commence after fourteen (14) days of the mailing of this notice of intent and the Owner may seek payment of a contribution for the construction of the Boundary Fence, from the Adjoining Owner(s) in accordance with the formula set out in Sections 4.6, 4.7, 4.8 and 4.9 of this by-law";

(iii) The Adjoining Owner may obtain additional quotes to be presented not later than ten (10) business days from the date of the Notice of Intent, sent by registered mail; and

(iv) A copy of this By-law should be attached to the Notice of Intent.

4.6 In cases where the cost of construction of a Boundary Fence is in dispute, costs should be assigned as follows:

(a) the Adjoining Owner should pay fifty percent (50%) of the basic cost or fifty percent (50%) of the actual cost, whichever is the lesser of all of the fencing quotes submitted; and

(b) the Owner should pay the balance of the actual cost.

4.7 The cost of reconstruction or maintenance of a Boundary Fence should be borne equally by the Owner and the Adjoining Owner.

4.8 The cost of repairs to a Boundary Fence should be borne by the Owner if their invitees caused the damage necessitating the repair. The cost of repairs to a Boundary Fence should be borne by the Adjoining Owner if their invitees caused the damage necessitating the repair. Subject to Section 4.9, the cost of repairs to a Boundary Fence should be borne equally by the Owner and the Adjoining Owner if the damage necessitating the repair was caused by natural disaster.

4.9 If a tree comes down by accident or otherwise so as to cause damage to a Boundary Fence, the Owner of the land on which the tree stood should at their sole expense forthwith remove the tree and repair the fence.

4.10 Where an Owner or Adjoining Owner is in default of their obligations pursuant to this By-law, a person desiring to enforce the provisions of this By-law should, within ninety days after completion of the construction of the Boundary Fence, serve or cause to be served on the defaulting person, a notice by registered mail requiring compliance with this By-law. The notice should specify that if the default is not rectified within thirty (30) days after service of the notice, the person enforcing this By-law may rectify the default by making an application to the Ontario Court of Justice and initiate proceedings pursuant to Part IX of the *Provincial Offences Act* for an order to recover the proportionate share of the cost of the work from the defaulting person.

SECTION 5 EXEMPTIONS

5.1 Lands under the control of the City and its Agencies, Boards, and Commissions are exempt from this By-law and the *Line Fences Act*.

SECTION 6 REPEAL

6.1 By-law Number 350-2002 is hereby repealed.

SECTION 7 EFFECTIVE DATE

7.1 This shall come into force and take effect on the day of the final passing thereof.

DREW DILKENS, MAYOR

CITY CLERK

By signing this by-law on September 14, 2026, Mayor Drew Dilkens will not exercise the power to veto this by-law, and this by-law is deemed passed as of this date.

First Reading – September 14, 2026
Second Reading – September 14, 2026
Third Reading – September 14, 2026