

THE MUNICIPALITY OF SOUTH BRUCE

BY-LAW

2008 - 18

"FENCE BY-LAW"

**To prescribe the height and description of fences
in the Municipality of South Bruce**

WHEREAS Section 8 of the Municipal Act, 2001, S.O. 2001, c. 25 ("the Municipal Act, 2001"), as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Act;

AND WHEREAS Section 9 of the Municipal Act, 2001, provides that Sections 8 and 11 shall be interpreted broadly so as to confer broad authority on municipalities to (a) enable municipalities to govern their affairs as they consider appropriate and, (b) enhance their ability to respond to municipal issues;

AND WHEREAS Section 11 of the Municipal Act, 2001, provides that a lower-tier municipality may pass by-laws respecting matters within the spheres of jurisdiction described in the Municipal Act, 2001 and subject to certain provisions as outlined in the Municipal Act, 2001;

AND WHEREAS; the Municipality of South Bruce is desirous of enacting a Fence By-law;

NOW THEREFORE the Council of the Municipality of South Bruce enacts as follows:

1. DEFINITIONS In this By-law:

- 1.1. **Construct a Fence** means to construct, erect, build, install, alter, reconstruct or replace a fence, or cause or permit another person to do so.
- 1.2. **Designated Official** means a By-law Enforcement Officer or Chief Building Official for the Municipality of South Bruce, or as otherwise determined by the Municipality.
- 1.3. **Division Fence** means a fence marking the boundary between abutting parcels of land.
- 1.4. **Farm fence** means a fence erected for the purpose of containing livestock, enclosing crops, water areas (excluding private swimming pools), woodlots, buildings, fields or laneways for the operation of agriculture.
- 1.5. **Fence** means a barrier or partition erected or grown, including shrubs and hedges, which may or may not define the boundary line of a property but shall not include a building or structure as defined in the Ontario Building Code Act or Regulations for the Municipality of South Bruce Zoning By-law.
- 1.6. **Height** means the vertical distance measured between the average finished grade and the highest point of the fence. In the case of a fence located on top of a retaining wall or berm, height means the combined vertical distance between the lowest point of the retaining wall or berm and the highest point of the fence.
- 1.7. **Lot** means all contiguous land under one ownership.
- 1.8. **Lot, Through** means a lot which has street access on 2 or more streetlines, other than a corner lot.
- 1.9. **Lot, Corner** means a lot situated at the intersection of two or more streets, or a lot abutting on one or more parts of the same street, where such intersections have an angle of intersection of 135 degrees or less or located on the curve of a street where the angle of intersection of the projected tangents of the street line does not exceed 135 degrees.

- 1.10. **Lot Line** means any boundary of a lot and the vertical projection thereof.
- 1.11. **Lot Line, Front** means the lot line that abuts the street except that:
- a) In the case of a corner lot or through lot, the shorter lot line abutting a street shall be deemed the front lot line.
 - b) In the case of corner or through lots, with two lot lines of equal length abutting streets, the lot line that abuts the wider street shall be deemed to be the front lot line. Where the streets are of equal width, the lot line which abuts a County or Provincial Highway shall be deemed to be the front lot line. In the case of both streets being under the same jurisdiction and of the same width, the Municipality shall designate which street line shall be the front lot line.
- 1.12. **Lot Line, Rear** means the lot line opposite to the front lot line except where the side lot lines intersect, as in the case of a triangular lot, in which case the rear lot line shall be represented by the point of intersection of the side lot lines
- 1.13. **Owner** means an owner, lessee, tenant, mortgagee in possession and the person in charge of any property.
- 1.14. **Person** shall include a Firm Partnership, Company, Corporation, or Contractor of Owner.
- 1.15. **Public Highway** means a street or highway being a Provincial highway or Under the jurisdiction of the County of Bruce or the Municipality of South Bruce, or assumed by the municipality or being constructed under an Agreement with the Municipality.
- 1.16. **Shrubs and Hedges** mean a continuous line of plantings or plant material arranged to form a fence or boundary.
- 1.17. **Sight Triangle** means an area free of buildings or structures higher than 0.6 metres (2 feet) which is determined by measuring from the point of intersection of street lines on a corner lot to a prescribed distance or by measuring from the point of intersection of any street line and driveway to a prescribed distance.
- 1.18. **Structure** means anything constructed or erected which requires location on or in the ground or is attached to something having location on or in the ground but shall not include a fence, a retaining wall less than 0.6 metres (2 feet) in height, lawn ornament or a shrub or hedge.
- 1.19. **Municipality** means the Council of the Municipality of South Bruce.
- 1.20. **Yard** means an uncovered space on a lot lying between the lot line and the nearest part of any building or structure on the lot.
- 1.21. **Yard, Exterior Side** means a side yard immediately adjacent to a street or a reserve abutting a street, extending from the front yard to the rear yard of any lot.
- 1.22. **Yard, Front** 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 nearest building or structure on the lot.
- 1.23. **Yard, Interior Side** means the yard between the side lot line and the nearest part of any building or structure extending from the front yard to the rear yard of a lot.
- 1.24. **Yard, Rear** means the yard extending across the full width of the lot between the rear lot line of the lot and the nearest part of the nearest building or structure on the lot.

1.25. **Yard, Side** means the yard between the side lot line and the nearest part of any building or structure extending from the front yard to the rear yard of a lot.

1.26. **Zone** means a zone category in a By-law enacted pursuant to Section 34 of the Planning Act, as amended, or a predecessor of that Section.

2. RESTRICTIONS ON FENCES

2.1. No person shall use any barbed wire or other barbed material or any material of a nature, which could be injurious to the public in the construction of, or in connection with, any fence in the Municipality of South Bruce, except where such a fence is located within an industrial zone and provided that such materials are used at a height of at least 1.8 metres (6 feet) above the finished grade or within an agricultural zone.

2.2. No person shall permit a fence or any attachment to a fence to be used as a conductor of an electrical current except where such fence is located within an agricultural zone.

2.3. No person shall erect a fence on or in any municipal easement unless the fence is constructed in accordance with the applicable easement document. Furthermore, the Municipality of South Bruce shall not be responsible for any damage to a fence during the course of regular or emergency maintenance within such easement.

2.4. No person shall construct a fence that contains a gate structure that abuts Municipal owned property without being granted an exemption by the Municipality.

2.5. No person shall construct a fence that is greater than 0.6 metres (2 feet) in height along any point of a Sight Triangle and such fence must be of open construction.

2.6. No fence shall be erected between two abutting dwellings where the distance between such dwellings is 0.6 metres (2 feet) or less.

2.7. No fence shall be erected closer than 0.6 metres (2 foot) from any lot boundary abutting a street.

2.8 No fence shall be erected closer than 0.6 metres (2 foot) from any lot boundary without written consent of the abutting land owner.

2.9 If a land owner proposes to erect a boundary fence and the sides of the boundary fence are of unequal appearance, the adjoining land owner shall have the right to decide which side of the fence faces his property.

2.10 When a land owner and an adjacent land owner are unable to reach agreement on any matter or item in this section, the parties may refer the issue to the Chief Building Official whose decision shall be final. No costs shall be incurred by the Municipality pursuant to this subsection.

2.11 The Municipality of South Bruce of South Bruce takes no responsibility in the accuracy of any property line. In the event of a dispute the Municipality may engage an Ontario Land Surveyor at the expense of landowners to identify such boundary lines.

3. FENCES IN RESIDENTIAL ZONES

3.1. Fences in Rear Yards:
No fence erected in a rear yard shall exceed 1.8 meters (6 feet) in height.

3.2. Fences in Front Yards:
No fence erected in a front yard shall exceed 1.0 meters (3.3 feet) in height unless constructed as a fence of open construction.

3.3. Fences in Interior Side Yards:

3.3.1 No fence erected in an interior side yard shall exceed 1.8 meters (6 feet) in height.

3.3.2 Notwithstanding Section 3.3.1, if the fence is a division fence, the subject fence may be erected to a point opposite the front corner of the building nearer the road.

3.4. Fences in Exterior Side Yards:

3.4.1 No fences erected in an exterior side yard shall exceed 1.0 meters (3.3 feet) in height.

3.4.2 Notwithstanding Section 3.4.1, if the residence is set back further than the minimum setback required by the current Zoning By-law, then a fence not exceeding 1.8 meters (6 feet) may be constructed if such fence meets minimum setbacks as required by the current Zoning By-law.

3.5. Fences in Through Lots:

A fence having a maximum height of 1.8 meters (6 feet) may be erected along the side lot lines. A fence may not be closer than 7.5 meters (25 feet) to the front or rear lot line. However, it may extend to the dwelling if the dwelling is within this setback.

4. FENCES IN COMMERCIAL, INDUSTRIAL, INSTITUTIONAL AND OPEN SPACE ZONES

4.1. No fence shall exceed 3.04 meters (10 feet) in height.

4.2. No fence shall be erected having a height in excess of 1.8 meters (6 feet) from the exterior side lot line to the established building line of the main building erected on the lot.

4.3. No fence shall be erected having a height in excess of 1.2 meters (4 feet) between the established building line of the main building on the lot, and a setback of 3.04 meters (10 feet) from the front lot line.

4.4. A fence shall be of open construction.

5. FENCES IN INDUSTRIAL EXTRACTIVE ZONE

5.1 In an industrial extractive zone, a fence of heavy duty farm fencing with a minimum height of 1.2 meters (4 feet) and maximum height of 2.4 meters (8 feet) shall be erected and maintained around the entire site. Such fence shall follow the contours of the surface of the ground along the perimeter of the lot or area of the lot to be used for a pit operation.

6. FENCES IN AGRICULTURAL AND RURAL ZONES

6.1 Notwithstanding the provisions of this by-law, nothing shall prevent the construction and maintenance of farm fences in areas zoned Agricultural or Open Space by the applicable zoning by-law. In addition, nothing shall prevent the use of barbed wire or electric farm fencing within an agricultural zone.

7. CONSTRUCTION AND MAINTENANCE

7.1 All fences shall be maintained in good repair.

7.2 All fences shall be constructed and maintained in a structurally sound condition.

7.3 All fences shall be maintained to prevent an unsafe or unsightly condition.

7.4 Where fifty percent (50%) or more of any fence is to be replaced or repaired, such replacement and or repairs shall meet the requirements of this By-Law.

7.5 Where a lot line is indicated as following a zone boundary, the fence that may be erected shall be constructed to the specifications of the zone with the highest maximum height restrictions. Where the zone boundary is located on a street line, this subsection shall not apply.

8. VARIANCES

8.1 Notwithstanding the provisions of this by-law, nothing shall prevent the construction and maintenance of a fence constructed for public service purposes by the Municipality of South Bruce or any other government authority.

8.2 Notwithstanding any provisions respecting the height of fences in the by-law, where the Municipality has entered into a subdivision or site plan agreement requiring any fence to form part of a required architectural or noise attenuation feature, such fence shall be exempt from the height restrictions set out in the by-law for such fence and shall be the height set forth for such applicable subdivision or site plan control agreement.

8.3 The requirements of this by-law do not apply to a fence that was constructed lawfully prior to the day on which this by-law came into force.

8.4 The Municipality may, upon application by an owner of land, enact a resolution to grant an exemption from the height restrictions set out in this By-law.

8.5 Where a conflict exists between this by-law and any other zoning by-law, the provisions of this by-law shall prevail.

9. FEES

9.1 The fee for issuance of a permit under Section 7 of this By-law and the fee shall be paid in advance to the Municipality and shall be in accordance with the Building By-Law fee schedule.

9.2 All fees, which are paid, are non-refundable.
The applicant shall notify the Designated Official within 6 months of the date of issuance of the permit for a final inspection to ensure full compliance to the by-law.

10. ADMINISTRATION, ENFORCEMENT AND PENALTY PROVISIONS

10.1. The administration and enforcement of the By-Law shall be under the authority of the Chief Building Official.

10.2. Every person or owner who contravenes any provision of this By-Law is, upon conviction in a court of competent jurisdiction, therefore guilty of an offence and shall be liable to a fine as provided under the Provincial Offences Act.

10.3. In this By-Law, where any person is directed to do any matter or thing, in default of it being done by the person directed or required to do it, such matter or thing may be done at his or her expense by the Municipality of South Bruce or its agents and such expense may be recovered by action or in like manner as Municipal taxes.

11. REPEALS

13. TITLE

13.1. This by-law shall be cited as the "Fence By-Law".

14. EFFECTIVE DATE

14.1. This by-law shall come into force upon the date of its final passing thereof.

READ A FIRST AND SECOND TIME this _____ day of _____, 2008

READ A THIRD AND FINALLY PASSED this _____ day of _____, 2008

MAYOR

Seal

CLERK