

**THE CORPORATION OF THE TOWNSHIP OF SMITH-ENNISMORE**

**BY-LAW NUMBER 1998-41**

**FENCE BY-LAW**

**WHEREAS**, the Municipal Act, R.S.O. 1990, as amended, Chapter M.45, Section 25, states that a municipality may pass By-Laws for prescribing the height and description of lawful fences, which By-Law may apply to the whole of the municipality or to any defined areas thereof;

**AND WHEREAS**, the Municipal Act, R.S.O. 1990, as amended, chapter M.45, Section 28, states that a municipality may pass By-Laws for prohibiting or regulating the erection of fences made wholly or partly of barbed wire or other barbed material, which By-Law may apply to the whole of the municipality or to any defined areas thereof;

**AND WHEREAS** The Council of the Township of Smith-Ennismore deems it advisable to enact such a By-Law;

**NOW THEREFORE** the Council of the Corporation of Township of Smith-Ennismore **ENACTS** as follows:

**1. DEFINITIONS**

- (a) "Fence" shall mean any structure used to enclose or divide in whole or in part a yard or other land to establish a property boundary inclusive of any hedges consisting of a dense line of bushes or small trees.
- (b) "Front Wall" shall mean that wall of the "principal building" that is substantially parallel to and nearest to street line.
- (c) "Front yard" shall mean a yard extending across the full width of the lot between the front lot line, the line dividing the lot from the street, and the "front wall" of the "principal building" on the lot.
- (d) "Principal building" shall mean the building in which is carried on the principal purpose for which the building lot is used, i.e. the residence.
- (e) "Rear yard" shall mean a yard extending across the full width of the lot between the rear lot line and the "front wall" of the "principal building" on the lot.
- (f) "Sight triangle" shall mean the triangular space formed on a corner lot by the street lines and a line drawn from a point in one street line to a point in the other street line, each point being 9.0 metres measured along the street line from the point of intersection of the street lines. Where the street lines do not intersect at a point, the point of intersection of the street lines shall be deemed to be the intersection of the projection of the street lines or the intersection of the tangents to the street line.

**2. APPLICATION OF THIS BY-LAW**

- (a) This By-Law shall apply to all Residential Type Zones as set out in the Comprehensive Zoning By-Laws of the amalgamated municipalities as amended or replaced from time to time.
- (b) This By-Law shall be applied to ensure that any fence constructed is built in such a manner so as not to unduly obstruct the neighbour's view.

**3. FENCE HEIGHT**

- (a) The height of a fence shall be measured from the higher adjacent grade where there is a grade difference on each side of the fence.
- (b) No person shall erect or cause to be erected in a front yard a fence which is higher than 1.25 metres (4 feet) above grade.
- (c) No person shall erect or cause to be erected in a rear yard a fence which is higher than 1.83 metres (6 feet) above grade.
- (d) Notwithstanding Section 3(c), where a property is located on a lake or waterway, no person shall erect or cause to be erected in a rear yard a fence which is higher than 1.25 metres (4 feet).

**4. SIGHT TRIANGLES**

- (a) Notwithstanding any other provisions of the By-Law, no person shall, within a sight triangle, as defined hereunder, erect or cause to be erected a fence which would obstruct the vision of drivers of motor vehicles. Maximum height is .6 metres (2 feet) - see Zoning By-Laws.

**5. STYLE OF FENCE**

- (a) Any fence over 1.25 metres (4 feet) must be of an open construction to allow at least twenty (20%) light passage.
- (b) Notwithstanding Section 5(b), where a property is located on a lake or waterway, any fence in the rear yard must be of an open construction to allow at least twenty (20%) light passage.

**6. MAINTENANCE OF FENCE**

- (a) The owner of the land on which a fence is erected shall maintain such fence in a good state of repair as follows:
  - (i) the fence is complete and in a structurally sound condition and plumb and securely anchored;
  - (ii) the fence is protected by weather-resistant materials;
  - (iii) the fence components are not broken, rusted, rotten or in a hazardous condition;
  - (iv) all stained or painted fences are maintained free of peeling;
  - (v) the fence does not present an unsightly appearance deleterious to the abutting land or to the neighbourhood.

**7. HAZARDOUS FENCES**

- (a) No person shall erect or cause to be erected a fence, between residential properties, containing barbed wire or other material having dangerous characteristics or include any device for projecting an electric current through the fence.

**8. ADMINISTRATION AND ENFORCEMENT**

- (a) Any fence in existence at the date of passing of this By-Law, which does not conform to the provisions herein, and which, anytime thereafter, is in need of replacement or reconstruction, shall be built in conformity with the provisions of this By-Law.
- (b) The Municipal By-Law Enforcement Officer, upon written complaint by a property owner of the Township of Smith-Ennismore and/or by direction of a resolution passed by the Council of the Township of Smith-Ennismore, shall administer and enforce the provisions of this By-Law.
- (c) The By-Law Officer shall make final determination on quality, workmanship, conformity or whether a fence unduly obstructs, in the event that a dispute be lodged by either property owner.
- (d) Any person who contravenes any of the provisions of this By-Law is guilty of an offence and upon conviction is liable to a fine or penalty for each offence, exclusive of costs as prescribed by the Provincial Offences Act, R.S.O. 1990.
- (e) Every provision of this By-Law is declared to be severable from the remainder of the By-Law, and if any provisions of this By-Law shall be declared invalid by a court of competent jurisdiction, such declaration shall not effect the validity of the remainder of the By-Law.

By-Law read a first time this 7th day of July, 1998.

By-Law read a second time this 7th day of July, 1998.

By-Law read a third time and finally passed this 7th day of July, 1998.

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Reeve - Burritt Mann

Corporate Seal

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Clerk - Deputy Treasurer - Janice Lavalley