

THE CORPORATION OF THE TOWNSHIP OF SOUTH STORMONT

BY-LAW NO. 2006-69

BEING a by-law to regulate the erection, height and maintenance of fences.

WHEREAS the *Municipal Act, 2001*, c. 25 S. 5 (1) provides that the powers of a municipal corporation are to be exercised by its council;

AND WHEREAS the *Municipal Act, 2001*, c. 25 S. 5 (3) provides that the powers of every council are to be exercised by by-law;

AND WHEREAS the *Municipal Act, 2001*, c. 25, S. 11 authorizes a municipality to pass by-laws respecting matters within the sphere of structures, including fences and signs;

AND WHEREAS the *Municipal Act, 2001*, c. 25, S. 132 authorizes Council to pass a by-law to authorize the owner or occupant of land to enter adjoining land, at any reasonable time, for the purpose of making repairs or alternations to any building, fence or other structure on the land of the owner or occupant but only to the extent necessary to carry out the repairs or alternations.

NOW THEREFORE the Council of the Corporation of the Township of South Stormont hereby enacts as follows:

1.0 DEFINITIONS

For the purposes of this by-law, the following definitions shall apply:

- 1.1 "By-law Enforcement Officer" shall mean a By-law Enforcement Officer, or designate, of the Corporation of the Township of South Stormont; or any Police Officer, Constable or Special Constable of the Ontario Provincial Police.
- 1.2 "Corner Lot" shall mean a Lot that has frontage on two or more streets.
- 1.3 "Fence" shall mean any barrier or structure other than a building, erected at grade on privately owned property, erected for the purpose of screening, safeguarding, enclosing property or delineating property lines, but does not include:
 - (a) an enclosure as regulated by the Township's by-law to regulate fences and gates around privately owned outdoor swimming pools;
 - (b) a fence used to contain a vicious dog as regulated in the Township's current "Dog Licencing and Control By-law, as amended from time to time";
 - (c) noise attenuation barriers designed to reduce noise levels from adjacent activities;
 - (d) temporary boarding and fencing erected around construction sites; and
 - (e) hedges.
- 1.4 "Front Lot Line" shall mean, in the case of an interior lot, the line dividing the lot from the street. In the case of a corner lot, the shorter lot line abutting a street shall be deemed the front lot line and the longer lot line shall be deemed an exterior lot line. In the case of a through lot or corner lot where the lot lines are the same length, the lot line where the principal access to the lot is provided shall be deemed to be the front lot line.

- 1.5 "Front Wall" shall mean that wall of a building customarily referred to as the front of the building closest to the front or exterior lot line. Where such wall has irregular projections therein, the front wall shall mean the most projecting portion of wall.
- 1.6 "Gate" shall mean any swinging or sliding barrier used to fill or close an access in a fence.
- 1.7 "Good Neighbour Fence" shall mean a fence designed to be aesthetically pleasing when viewed from either side.
- 1.8 "Grade" shall mean the elevation of the finished ground or surfaces adjoining the fence.
- 1.9 "Line Fence" shall mean an eight (8) strand page wire fence, with end posts having a 25 cm (10 inch) top and braces, the line posts will have a 13 cm (5 inch) top, one (1) rod apart. If steel posts are used, a Line Fence will be comprised of one wood post followed by three steel posts, etc.
- 1.10 "Livestock" shall mean horses, donkeys, cattle, deer and elk, goats, sheep, llama, swine, ratites, fur-bearing animals or rabbits, but does not include poultry and game birds.
- 1.11 "Lot" shall mean a parcel of land registered as a legally conveyable parcel of land in the local Registry Office.
- 1.12 "Lot Line" shall mean any boundary of a Lot or the vertical projection thereof.
- 1.13 "Lot Line, Side" shall mean any Lot Line other than a Front Lot Line or a Rear Lot Line.
- 1.14 "Main Building" shall mean the building on a lot in which the principle use ermitted on that lot is conducted.
- 1.15 "Municipality" shall mean the Corporation of the Township of South Stormont.
- 1.16 "Non-Residential Property" shall mean a property that is not being used or is not intended to be used for residential purposes.
- 1.17 "Owner" includes the registered owner of land and a mortgagee, lessee, tenant, or person entitled to a limited estate or interest in land or a trustee in which land is vested.
- 1.18 "Rear Lot Line" shall mean, in the case of a Lot having four (4) or more Lot Lines, the Lot Line farthest from and opposite to the Front Lot Line. If the Lot has less than four (4) Lot Lines, there shall be deemed to be no Rear Lot Line.
- 1.19 "Residential Property" shall mean a property that is being used or is intended to be used for residential purposes.
- 1.20 "Through Lot" shall mean a Lot bounded on two (2) opposite sides by streets, rovided however, that if any Lot qualifies as being both a Corner Lot or Through Lot as hereinbefore defined, such Lot shall be deemed to be a Corner Lot for the purpose of this by-law.
- 1.21 "Urban Area" shall mean those areas of the Municipality described as:
 - (a) "Settlement Area" on Schedules "A4a", "A4b", "A4c", "A4d" and "A4e" to the Municipality's current Official Plan; and/or

- (b) all multi-unit residential developments within the Municipality, that are serviced by piped sewer and/or water.

1.22 "Yard" shall mean any open, uncovered, unoccupied space appurtenant to a building or structure.

1.23 "Yard, Front" shall mean the Yard extending across the full width of a Lot between the Front Lot Line and the front wall of the Main Building.

1.24 "Yard, Rear" shall mean the Yard extending across the full width of a Lot between the Rear Lot Line and the rear wall of the Main Building.

1.25 "Yard, Side" shall mean the Yard extending from the Front Yard to the Rear Yard between the Side Lot Line and the side of the Main Building.

2.0 ALL FENCES

2.1 No person shall erect or cause to be erected a fence on a property within the limits of the Municipality save and except in compliance with the provisions of this by-law.

2.2 Any legally established fence in existence on the date of the passing of this by-law shall be deemed to be in compliance with this by-law.

2.3 In addition to complying with the provisions of this by-law, the Owner of property on which a privately owned outdoor pool or a fenced enclosure for a vicious dog is located, as shall be applicable, shall also comply with the enclosure and fencing provisions of the Municipality's by-law regulating fences and gates around privately owned outdoor swimming pools and the "Dog Licencing and Control By-law".

2.4 No person shall construct or cause to be constructed any fence on lands, other than their own property, without the express written permission of the landowner.

2.5 No person shall construct or cause to be constructed any fence that encroaches upon Municipal owned lands or road allowances without the express written permission of the Municipality.

2.6 No person shall construct or cause to be constructed or maintained any fence that, in the opinion of the By-law Enforcement Officer, constitutes an obstruction of view at street intersections, pedestrian pathways, driveways or other points of access or egress of vehicular or pedestrian traffic.

2.7 No person shall construct or cause to be constructed any fence on a corner lot, within the triangular space formed by the projection or connection of the lateral curb lines or if none, then of the travelled roadway, for a distance of 10.0 metres (33 ft.) from their point of intersection.

2.8 No person shall construct or cause to be constructed any fence or gate unstable or structurally unsound. In this regard, all fences shall be vertical and shall be made of materials of good quality and suitable for their intended purpose, arranged and supported in an orderly manner commensurate with the design of the entire fence.

2.9 The owner of a fence may be required to provide confirmation of its structural stability by a qualified professional engineer, should the safety of the fence be questioned by the By-Law Enforcement Officer.

2.10 All fences and gates shall be constructed and maintained in a good and workmanlike manner.

2.11 All fences requiring periodic maintenance shall be constructed to facilitate such maintenance. Where access is obstructed, the fence shall be constructed with moveable sections.

- 2.12 Any defacement on the exterior surface of a fence shall be removed by the owner and the fence refinished when necessary.
- 2.13 No person shall construct or cause to be constructed any fence that obstructs or interferes with the maintenance of adjacent structures.
- 2.14 No person shall erect or cause to be erected any fence such that the bracing and posts face their neighbour's property. All fences shall be constructed as Good Neighbour Fences or with their finished side facing out.
- 2.15 Notwithstanding any other height restriction for fences in this by-law, where it is necessary for the safety of the public in respect to such uses as high voltage substations, storage of explosive material and similar materials or other situations of hazardous nature, a fence may be permitted, and shall be erected to the height deemed necessary to ensure such safety.
- 2.16 Except as otherwise provided in this by-law, the height of a fence shall be measured from grade to the top of the fence. In the event of a difference in grade between two sides of the fence, the height of the fence shall be measured from the higher grade to the top of the fence.
- 2.17 Except as otherwise provided in this by-law, where the topography of the land changes over the length of a fence, the maximum allowable height of the fence shall be the average height measured from grade to the top of the fence over the length of the fence.

3.0 RESIDENTIAL PROPERTY

- 3.1 No person shall erect or cause to be erected a solid fence that is more than 1.5 metres approximately (5 ft.) in height. A fence constructed of lattice, louvers or other open type construction may be erected up to 2.0 metres approximately (6.5 ft.) in height if it is located back of the front wall of the main building.
- 3.2 No person shall erect or cause to be erected any fence between the front wall of the main building and the front or exterior lot line that exceeds 1.0 metre approximately (39 in.) in height. This Section applies only to those residential properties which are situated within the Urban Area.
- 3.3 Notwithstanding Section 3.1, a Residential Property abutting a Non-Residential property, the portion of the fence immediately contiguous to the Non-Residential property, may be constructed to a maximum height of 2.5 metres (8 ft.).
- 3.4 Notwithstanding Section 3.1, a fence constructed for the purpose of enclosing a tennis court, may be constructed to a maximum height of 3.7 metres (12 ft.) in a rear or interior side yard.

4.0 NON-RESIDENTIAL PROPERTY

- 4.1 No person shall construct or cause to be constructed any fence in a rear yard or side yard on a Non-Residential property, with a height in excess of 2.5 metres (8 ft.).
- 4.2 No person shall construct or cause to be constructed any fence in a front or exterior yard on a Non-Residential property unless required to do so by Zoning or Property Standards by-laws.

5.0 RESTRICTED FENCES

- 5.1 No person shall construct or cause to be constructed any fence that is intended to give an electric shock using electric current, except as otherwise permitted in this by-law.

- 5.2 The provisions of Section 5.1 shall not apply with respect to any fence erected on lands for the purpose of keeping and pasturing of livestock.
- 5.3 No person shall use or permit to be used any barbed wire on any fence located on any property within the Municipality.
- 5.4 Notwithstanding the provisions of Section 5.3, barbed wire may be used in a fence on Non-Residential Property with the written permission of the Municipality, provided it is located not less than 2.0 metres (6.5 ft.) in height above the adjacent finished grade and is located entirely on the property of the owner.
- 5.5 The provisions of Section 5.3 shall not apply with respect to any fence erected on lands used for the purpose of keeping and pasturing of livestock.
- 5.6 When neither an electric shock or barbed wire fence is erected for the purpose of keeping and pasturing of livestock, a Line Fence, as defined, may be used.

6.0 ORDERS

- 6.1 A By-law Enforcement Officer, or designate of the Corporation of the Township of South Stormont may issue Orders under this by-law, directing an Owner to do such things or take such measures as are specified within the Order, if in the opinion of such issuer, a fence does not conform to the provisions of this by-law, or causes an unsafe condition or hazard to exist.
- 6.2 An Owner in receipt of such an Order, shall satisfy the terms of the Order within such time period as specified within the Order.
- 6.3 If the owner or occupant fails to satisfy the terms of the Order within the approved time period, the Municipality in addition to all other remedies,
- (a) shall have the right to demolish or repair the fence accordingly and for this purpose with its servants and agents from time to time enter in and upon the property; and
 - (b) shall not be liable to compensate such owner, occupant or any other person having an interest in the property by reason of anything done by or on behalf of the Municipality under the provisions of this subsection.
- 6.4 Where the Township demolishes or repairs property as mentioned in section 6.3 the Township may recover the expense incurred in respect thereof by any or all of the methods provided for in section 427 of the *Municipal Act, 2001*.

7.0 ENFORCEMENT AND PENALTIES

- 7.1 This by-law shall be administered and enforced by the By-law Enforcement Officer, or designate of the Municipality.
- 7.2 Every person who contravenes any of the provisions of this by-law is guilty of an offence pursuant to the provisions of the *Provincial Offences Act*, R.S.O. 1990, as amended.
- 7.3 Any person violating any of the provisions of this by-law shall upon conviction under the *Provincial Offences Act*, R.S.O. 1990, as amended, pay a fine as shown on the attached Schedule "A".

8.0 MAINTENANCE OF FENCES

- 8.1 An owner or occupant of land, or an employee or agent of the owner or occupant of land, may enter adjoining land, at any reasonable time, for the purpose of making repairs or alteration to any building, fence or other structure on the land of the owner or occupant provided that:

- (a) the owner or occupant enters the adjoining land only to the extent necessary to carry out repairs or alterations;
- (b) the person exercising the power of entry displays or, on request, produces proper identification;
- (c) the owner or occupant provides reasonable notice of the proposed entry to the occupier of the adjoining land; and
- (d) the owner or occupant of land, in so far as is practicable, restore the adjoining land to its original condition and shall provide compensation for any damages caused by the entry or by anything done on the adjoining land.

9.0 GENERAL PROVISIONS

9.1 The provisions of this by-law are severable. If any section, subsection, clause or provision of this by-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this by-law as a whole or any part thereof, other than the part so declared to be invalid.

9.2 Nothing in this by-law shall prevent strengthening, repairing or replacing of an existing fence that does not comply with the provisions of this by-law or the replacement of a hedge with a non-conforming fence, providing that the following conditions be met:

- (a) the fence or hedge legally existed on the date of the passing of this by-law;
- (b) the height of the new fence shall not exceed the height of the fence or hedge that is replacing; and,
- (c) the new fence is not a "Restricted Fence" as described in Section 5.0 of this by-law.

9.3 The Council of the Corporation of the Township of South Stormont may, by resolution, allow an exemption to this by-law.

9.4 Schedule "A", attached, shall constitute part of this by-law.

9.5 This by-law may be cited as the "Fence By-Law".

9.6 Any other by-laws inconsistent with this by-law are hereby repealed.

READ AND PASSED in open Council, signed and sealed this 13th day of September, 2006.



Mayor



Clerk

THE CORPORATION OF THE TOWNSHIP OF SOUTH STORMONT

Schedule "A" to By-Law No. 2006-69

NO.	OFFENCE	SECTION	SET FINE
1	Construct or cause to be constructed a "fence" on lands, other than owner's property	2.4	\$150.00
2	Construct or cause to be constructed a "fence" that encroaches upon "Municipal" owned lands or road allowances	2.5	\$150.00
3	Construct or cause to be constructed or maintained a "fence" that constitutes an obstruction of view at (street intersections, pedestrian pathways, driveways or other points of access or egress of vehicular or pedestrian traffic)	2.6	\$150.00
4	Construct or cause to be constructed a "fence" on a corner lot, within the triangular space formed by the projection or connection of the lateral curb lines or travelled roadway, for a distance of ten metres (10.0 m) from their point of intersection	2.7	\$150.00
5	Construct or cause to be constructed a "fence" or "gate" which is unstable or structurally unsound	2.8	\$200.00
6	Owner of a fence, fail to remove defacement on the exterior surface of a "fence" within a reasonable time	2.12	\$70.00
7	Construct or cause to be constructed a "fence" that obstructs maintenance of adjacent structures	2.13	\$70.00
8	Erect or cause to be erected a "fence" such that the bracing and posts face their neighbour's property	2.14	\$70.00
9	Erect or cause to be erected a solid "fence" that exceeds one and one-half metres (1.5 m) in height	3.1	\$150.00
10	Erect or cause to be erected a "fence" constructed of lattice, louvers or other open type construction exceeding two metres (2 m) in height located back of the "front wall" of the "main building"	3.1	\$150.00
11	Erect or cause to be erected a solid "fence" exceeding one metres (1.0) in height located between the "front wall" of the "main building" and the "front lot line" in the "urban area"	3.2	\$150.00
12	Construct or cause to be constructed a "fence" in a "rear yard" or "side yard" on a non-residential property, with a height in excess of 2.5 metres	4.1	\$150.00
13	Construct or cause to be constructed a "fence" in a "front yard" on a non-residential property	4.2	\$150.00
14	Construct or cause to be constructed a "fence" that is intended to give an electric shock using electric current	5.1	\$200.00
15	Use or permit to be used barbed wire on a "fence" located on residential property	5.3	\$200.00
16	Use or permit to be used any barbed wire on any "fence" located on non-residential property	5.4	\$200.00