

THE CORPORATION OF THE TOWNSHIP OF SOUTH STORMONT

BY-LAW NO. 2024-016

BEING a By-law for regulating the erection, construction and maintenance of fences and swimming pool enclosures and for clarifying the areas which the *Line Fences Act, R.S.O. 1990, c. L.17* apply to.

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

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

AND WHEREAS subsection 11(3) of the *Municipal Act, 2001, S.O. 2001, c. 25* provides that a By-law may be passed relating to the building of structures, including fences;

AND WHEREAS subsection 98(1) of the *Municipal Act, 2001, S.O. 2001, c. 25* provides that a By-law may be passed to provide that the *Line Fences Act, R.S.O. 1990, c. L.17* does not apply to all, or any part, of the Municipality;

AND WHEREAS section 45 of the *Planning Act, R.S.O. 1990, c. P.13* authorizes a Council that has constituted a Committee of Adjustment to empower the Committee of Adjustment by By-law to grant minor variances from the provisions of any By-law of the Municipality that implements an official plan, or from such By-laws of the Municipality as are specified and that implement an official plan;

AND WHEREAS the Official Plan of the United Counties of Stormont, Dundas, and Glengarry contains provisions relating to construction and use of accessory structures, including fences;

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

1.0 DEFINITIONS

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

- 1.1 "Building" shall mean any permanent structure, used or intended to be used, for the shelter, accommodation or enclosure of persons, animals or goods.
- 1.2 "Building Code" shall mean regulations made under section 34 of the *Building Code Act, 1992, S.O. 1992, c. 23*, as amended.
- 1.3 "Committee of Adjustment" shall mean the Committee of Adjustment, as appointed from time to time, by the Council of

the Corporation of the Township of South Stormont, pursuant to subsection 44(1) of the *Planning Act, R.S.O. 1990, c. P.13*, as amended.

- 1.4 "Construct" shall mean to do anything in the erection, installation or alteration of a Fence and "construction" and "constructed" have corresponding meanings.
- 1.5 "Corner Lot" shall mean a Lot situated at the intersection of two or more Streets having an angle of intersection not exceeding 135 degrees. In the case of a curved Street, such angles shall be formed by their tangents drawn from the points where the side Lot Lines meet the Street line, but does not include a Lot abutting the bulb of a cul-de-sac or a turning circle.
- 1.6 "Effective Grade Level" shall mean the lowest level of ground at a particular location, taking into consideration the surrounding ground level for a horizontal distance of 1.22 metres, measured in any direction from the Fence, and on either side of the location being considered.
- 1.7 "Fence" shall mean any barrier or structure, other than a Building, constructed at Effective Grade Level on privately owned property, constructed for the primary purpose of screening, safeguarding, enclosing property or delineating Lot Lines, but does not include:
  - (a) a fenced enclosure used to contain a dangerous dog, as regulated in the Township's current "Responsible Pet Ownership By-law", as amended from time to time;
  - (b) a noise attenuation barrier, regulated by a Site Plan Control Agreement or Subdivider's Agreement, and designed to reduce noise levels from adjacent activities;
  - (c) temporary boarding and fencing erected around construction and/or demolition sites; or
  - (d) a hedge.
- 1.8 "Fire Chief" shall mean the Fire Chief or their designate, as appointed from time to time, by the Council of the Corporation of the Township of South Stormont.
- 1.9 "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. 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.
- 1.10 "Front Wall" shall mean that wall of a Building customarily referred to as the front of the Building closest to the Front Lot Line or exterior Lot Line. Where such wall has irregular projections therein, the Front Wall shall mean that part of the wall which is closest to the relevant Lot Line.

- 1.11 "Front Yard" shall mean a Yard extending across the full width of the Lot between the Front Lot Line and the nearest part of the Main Building on the Lot.
- 1.12 "Gate" shall mean any swinging or sliding barrier used to fill or close an access in a Fence.
- 1.13 "Good Neighbour Fence" shall mean a Fence designed to be aesthetically pleasing when viewed from either side.
- 1.14 "Height" shall mean the vertical distance above the Effective Grade Level or, if another reference is specified, to the highest point of the Fence adjacent to the enclosure and includes any projections above, such as: posts, caps or similar components.
- 1.15 "Interior Lot" shall mean a Lot situated between adjacent Lots and having frontage on only one Street or private right-of-way.
- 1.16 "Line Fence" shall mean an eight (8) strand page wire Fence, with end posts having a 25 cm top and braces, the line posts will have a 13 cm 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.
- 1.17 "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.
- 1.18 "Lot" shall mean a parcel of land which is capable of being legally conveyed in accordance with the provisions of the *Planning Act, R.S.O. 1990, c. P.13*, as amended.
- 1.19 "Lot Line" shall mean a boundary line of a Lot or a vertical projection thereof.
- 1.20 "Main Building" shall mean the Building on a lot in which the principal use permitted on that Lot is conducted.
- 1.21 "Municipality" shall mean the Corporation of the Township of South Stormont.
- 1.22 "Municipal Law Enforcement Officer" shall mean a By-law Enforcement Officer of the Corporation of the Township of South Stormont or any Police Officer, Constable or Special Constable of the Ontario Provincial Police.
- 1.23 "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.
- 1.24 "Rear Lot Line" shall mean, in the case of a Lot having four (4) or more Lot Lines, the Lot Line or intersection of the Side Lot Lines, opposite to, and most distant from, the Front Lot Line. If the Lot has less than four (4) Lot Lines, there shall be deemed to be no Rear Lot Line.
- 1.25 "Rear Yard" shall mean a Yard extending across the full width of the Lot between the Rear Lot Line and the nearest part of the Main Building on the Lot. In the case of a Lot with no Rear Lot

Line, the Rear Yard shall be considered as the area extending across the full width of the Lot between the apex formed by the Side Lot Lines and the nearest part of the Main Building on the Lot.

- 1.26 "Rural/Urban Settlement Area" shall mean those areas of the Municipality defined as such within the in-effect Stormont, Dundas and Glengarry Official Plan, as amended from time to time.
- 1.27 "Self-Closing Device" shall mean a mechanical device which is attached to the Gate and contains a device or spring that returns the Gate to its closed position within 30 seconds after it has been opened.
- 1.28 "Self-Latching Device" shall mean a mechanical device or latch which is attached to the Gate at a height of at least 1.52 meters, which locks or secures the Gate when it is returned.
- 1.29 "Side Lot Line" shall mean any Lot Line, other than a Front Lot Line or a Rear Lot Line.
- 1.30 "Side Yard" shall mean a Yard extending from the Front Yard to the Rear Yard and from the Side Lot Line to the nearest wall of the Main Building on the Lot.
- 1.31 "Street" shall mean any highway, as defined in the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, and includes all road allowances, opened and unopened, along with any lane shown on a registered plan of subdivision.
- 1.32 "Swimming Pool" shall mean any open or covered artificially constructed body of water which is at least 50 cm in depth and may include a hot tub or a whirlpool.
- 1.33 "Through Lot" shall mean a Lot bounded on two opposite sides by Streets; provided, however, that if any Lot qualifies as being a Corner Lot and a Through Lot, as hereinbefore defined, such Lot shall be deemed a Corner Lot for the purpose of this By-law.
- 1.34 "Yard" shall mean the area of a Lot abutting a Building that separates the Building from a given Lot Line.

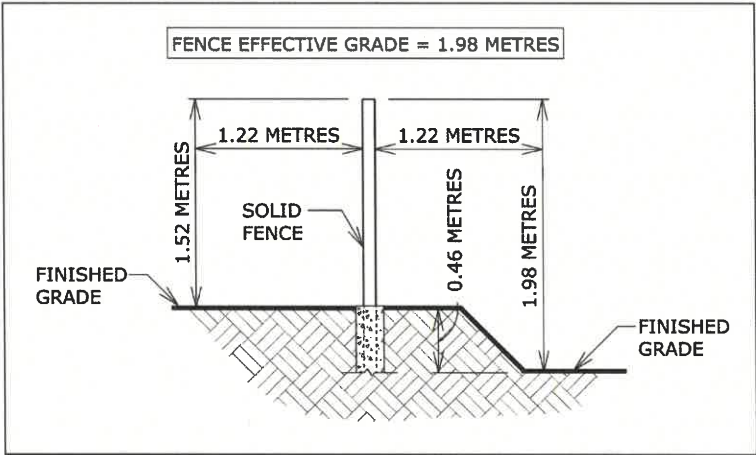


Figure 1: Effective Grade Level



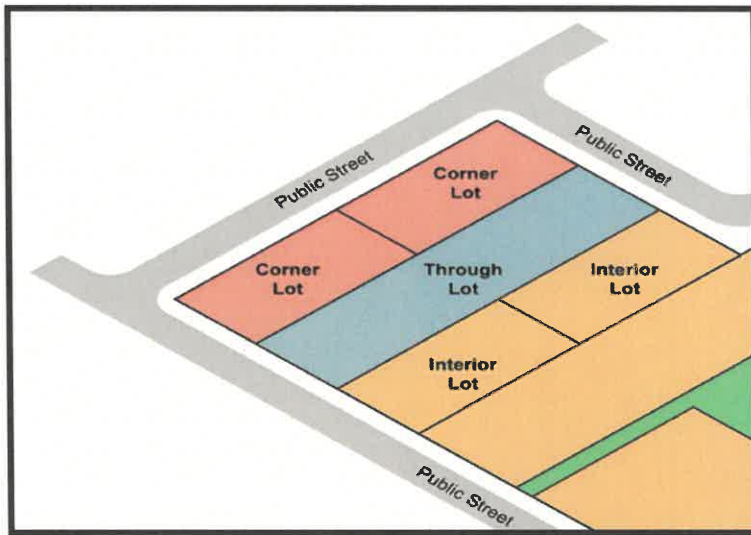


Figure 2: Lot Type Examples

## 2.0 ALL FENCES

- 2.1 No person shall Construct, or cause to be constructed, a Fence on a Lot 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 a Lot on which a fenced enclosure for a dangerous dog is located, shall also comply with the enclosure and fencing provisions of the Municipality's "Responsible Pet Ownership By-law", as amended from time to time. Where there is any conflict between this By-law and the "Responsible Pet Ownership By-law", the provision which creates the higher standard shall apply.
- 2.4 No person shall Construct, or cause to be constructed, a Fence on a Lot, other than their own Lot, without the express written permission of the Owner.
- 2.5 No person shall Construct, or cause to be constructed, a Fence that encroaches upon lands or road allowances owned by the Municipality or the United Counties of Stormont, Dundas and Glengarry without the express written permission of the Municipality or the United Counties of Stormont, Dundas and Glengarry, as the case may be.
- 2.6 No person shall Construct, or cause to be constructed, a Fence that, in the opinion of the Municipal 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, a Fence on a Corner Lot, within the triangular space formed by the projection or connection of the lateral curb lines or, if none, of the travelled roadway, for a distance of 10.0 metres from their point of intersection.

- 2.8 The Owner of a Fence, at their own expense, may be required to provide confirmation of its structural stability by a qualified Professional Engineer, licensed in the Province of Ontario, should the safety of the Fence be questioned by the Municipal Law Enforcement Officer.
- 2.9 All Fences and Gates shall be constructed and maintained in a good and workmanlike manner.
- 2.10 All Fences requiring periodic maintenance shall be constructed to facilitate such maintenance. Where access is obstructed, the Fence shall be constructed with moveable sections.
- 2.11 Any defacement on the exterior surface of a Fence shall be removed by the Owner, and the Fence refinished to its original condition.
- 2.12 No person shall Construct, or cause to be constructed, any Fence that obstructs or interferes with the maintenance of adjacent structures.
- 2.13 No person shall Construct, or cause to be constructed, 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 their neighbour's property.
- 2.14 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. The maximum Height at which a Fence indicated in this Section may be constructed shall be approved, in writing, by the Fire Chief.
- 2.15 Except as otherwise provided in this By-law, the Height of a Fence shall be measured from the Effective Grade Level to the top of the Fence.
- 2.16 No person shall Construct, or cause to be constructed, any Fence in any location within the Municipality, unless the person has the legal right to Construct, or cause to be constructed, the Fence in that location. The Municipality is not responsible for confirming Lot Line locations, private right-of-way locations or private easement locations.
- 2.17 No person shall Construct, or cause to be constructed, any Fence within 45.72 cm of a municipal sidewalk, regardless of Lot Line location.
- 2.18 No person shall Construct, or cause to be constructed, any Fence within 0.91 metres of a fire hydrant, or in any location that may interfere with fire department access to a property.

### 3.0 HEIGHT RESTRICTIONS FOR FENCES

#### GENERAL

#### 3.1 Front Yards - Interior Lots

No person shall Construct, or cause to be constructed, a Fence at a Height above 0.91 metres in the Front Yard of an Interior Lot.

#### 3.2 Front Yards - Through Lots

No person shall Construct, or cause to be constructed, a Fence at a Height above 0.91 metres in the Front Yard of a Through Lot.

#### 3.3 Front Yards - Corner Lots

No person shall Construct, or cause to be constructed, a Fence at a Height above 0.91 metres in the Front Yard of a Corner Lot.

#### 3.4 Rear Yards and Side Yards Abutting a Street

Except as provided in Section 3.6 of this By-law, no person shall Construct, or cause to be constructed, a Fence at a Height above 1.52 metres in a Rear Yard or Side Yard abutting a Street.

#### 3.5 Rear Yards and Side Yards Not Abutting a Street

No person shall Construct, or cause to be constructed, a Fence at a Height above 1.83 metres in a Rear Yard or Side Yard, which does not abut a Street. An increased Height, above the permitted 1.83 metres Height, is permitted, subject to the requirements set out in Section 3.7 of this By-law.

#### 3.6 Side Yards and Rear Yards Abutting a Street - Increased Heights and Other Restrictions.

(a) Where a Fence is constructed within a required Side Yard that abuts a Street, or the extension of the Side Yard to a Front Lot Line or Rear Lot Line that abuts a Street, the Height may be extended to 1.83 metres, provided that:

a. any portion of Fence located within 3.05 metres of the intersection of a driveway and a sidewalk, or a Street, does not exceed 0.91 metres in Height.

(b) Where a Fence is constructed along a Rear Lot Line that abuts a Street, the Height may be extended to 1.83 metres, provided that:

a. any portion of Fence located within 3.05 metres of the intersection of a driveway and a sidewalk, or a Street, does not exceed 0.91 metres in Height.

#### 3.7 Exceptions

The maximum Height of Fences or Swimming Pool enclosures may be exceeded where:

- (a) the property is used for industrial, commercial, or institutional purposes, provided that the portion within the required setbacks abutting the Street be of chain link or other see-through material and that the Height shall not exceed 2.44 metres;
- (b) a Fence located in a Rear Yard acts as a required sound barrier between a residential property and Provincial Highway #401, a rail line, an industrial property or similar use, as determined by the Fire Chief;
- (c) a Fence encloses a public Swimming Pool or wading pool used, or intended to be used, for commercial or multi-residential purposes (4 residential suites or more);
- (d) the main posts and caps extend above the maximum permitted Height by no more than 5.08 cm, provided a post spacing of not less than 1.22 metres is maintained;
- (e) additional screening is permitted for Rear Yards and Side Yards not abutting a Street, provided that the extension is constructed of lattice type material of 2.54 cm square minimum opening and the total Fence Height, including lattice, does not exceed 2.44 metres;
- (f) the Fence Height is regulated by a Site Plan Control Agreement;
- (g) the Fence encloses a private or public tennis court, or similar type of recreational use, provided that the portion above the normal Height restriction is of un-obscured chain link or other approved mesh-type material with 5.08 cm square minimum openings; or
- (h) the Fence is constructed as a Line Fence on a Lot located outside of a Rural/Urban Settlement Area and the main purpose of the Lot is for the keeping and pasturing of Livestock. The permitted Height above the normal Height restriction shall be approved, in writing, by the Fire Chief.

#### 4.0 RESTRICTED FENCES

- 4.1 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.
- 4.2 The provisions of Section 4.1 of this By-law shall not apply with respect to any Fence erected on lands used for the purpose of keeping and pasturing Livestock.
- 4.3 No person shall use, or permit to be used, any barbed wire on any Fence located on any property within the Municipality, except as otherwise permitted by this By-law.
- 4.4 Notwithstanding the provisions of Section 4.3 of this By-law to the contrary, barbed wire may be used in a Fence on a Lot located outside of a Rural/Urban Settlement Area with the written permission of the Fire Chief, provided the barbed wire is



located not less than 2.0 metres in Height above the Effective Grade Level.

4.5 The provisions of Section 4.3 of this By-law shall not apply with respect to any Fence erected on lands used for the purpose of keeping and pasturing Livestock.

4.6 When neither an electric shock nor barbed wire Fence is erected for the purpose of keeping and pasturing Livestock, a Line Fence, as defined in this By-law, may be used.

## 5.0 MATERIAL REQUIREMENTS FOR ALL FENCES

5.1 No person shall Construct, or cause to be constructed, a Fence within the Municipality which does not conform to the material requirements set forth in Sections 5.2 through 5.5 of this By-law.

5.2 For purposes of Section 5.1 of this By-law, the material requirements are as follows:

- (a) chain-link construction;
- (b) wood board construction;
- (c) metal picket construction;
- (d) of such other materials and construction that will provide an equivalent degree of safety and aesthetics, as determined by the Fire Chief; or
- (e) a combination of (a), (b), (c) or (d).

5.3 A Fence of chain-link construction shall:

- (a) have a mesh not greater than 38 mm opening consisting of 12-gauge galvanized steel wire, or of 14-gauge steel wire covered with vinyl or other approved plastic which would yield a total thickness equivalent to 12-gauge wire;
- (b) be supported by minimum 38 mm diameter galvanized steel posts spaced not more than 3.05 metres apart. Such posts shall be securely embedded in concrete, compacted stone dust or equivalent; and
- (c) have top and bottom rails firmly fastened to the vertical posts, made of minimum 38 mm diameter galvanized steel pipe. A galvanized steel tension wire minimum 12-gauge in diameter may be substituted for the bottom rail.

5.4 A Fence of wood board construction shall:

- (a) have wood boarding minimum 19 mm thick nominal attached to a top and bottom rail or, in the case of horizontal boarding, to vertical rails. Such wood boards must not have any spacing between them when in the horizontal position and forming part of a Swimming Pool enclosure or, in all other cases, be spaced not more than 38 mm where the horizontal or vertical rails are spaced less than 1.22 metres apart and not more than 100 mm

where the horizontal or vertical rails are spaced more than 1.22 metres apart;

- (b) be supported by posts at least 89 mm x 89 mm nominal, spaced not more than 2.44 metres apart. Such posts shall be securely embedded in concrete, compacted stone dust or equivalent. Any other supports shall be strictly at the discretion of the Fire Chief; and
- (c) have top and bottom, or vertical, rails of at least 38 mm x 89 mm nominal dimensions.

5.5 A Fence of metal picket construction shall:

- (a) have vertical pickets spaced not more than 38 mm apart where horizontal rails are spaced less than 1.22 metres apart and not more than 100 mm apart where horizontal rails are spaced at least 1.22 metres apart; and
- (b) horizontal rails shall be supported on substantial posts spaced not more than 2.44 metres apart and embedded in concrete, compacted stone dust or equivalent.

6.0 FENCES AS SWIMMING POOL ENCLOSURES

6.1 No person or Owner of any lands on which a privately owned Swimming Pool is proposed shall excavate for, or erect, or cause or permit excavation for or erection of, a Swimming Pool without first obtaining a permit from the Fire Chief for an enclosure for the proposed Swimming Pool.

6.2 An application for a permit for a Swimming Pool enclosure shall be in the form required by the Fire Chief and shall be accompanied with the non-refundable fee, as set out in the Municipality's applicable By-law, as amended from time to time. The completed application shall:

- (a) show the location of the Swimming Pool in relation to Lot Lines, adjacent Buildings, on-site sewage systems and wells located on the property;
- (b) provide complete details of the Swimming Pool enclosure; and
- (c) provide any other details and information required by the Fire Chief for determining compliance.

6.3 The Fire Chief shall refuse or revoke a permit for a Swimming Pool enclosure if:

- (a) the proposed Swimming Pool enclosure would contravene this By-law;
- (b) it was issued in error or on mistaken, false or incorrect information; or
- (c) the required application fee under the applicable By-law has not been paid.

- 6.4 Every Owner of property on which a Swimming Pool is under construction shall Construct, and maintain, a Swimming Pool enclosure that complies with this By-law in every respect, except that it may consist of temporary fencing, if authorized by the Fire Chief.
- 6.5 Any authorization to erect temporary fencing is granted on the condition that the temporary fencing shall be replaced with a permanent Swimming Pool enclosure that fully complies with this By-law when replacement is directed or when construction of the Swimming Pool is substantially complete, whichever occurs first, and in determining whether to direct replacement of temporary fencing, it shall be considered, among other factors, whether construction is proceeding expeditiously, whether temporary fencing is being adequately maintained and whether safety might be compromised without a permanent enclosure.
- 6.6 Temporary fencing shall be erected in a good, workmanlike manner and shall consist of steel 'T' posts spaced at not more than 1.22 metres on centre and embedded at least 0.61 metres below grade with 38 mm plastic mesh fencing at least 1.22 metres high that is securely fastened to the posts at 20.23 cm on centre and horizontally secured at the top and bottom by an eleven-gauge steel lacing cable threaded through the mesh and looped and fastened to each post, or any other Fence acceptable to the Fire Chief.
- 6.7 No person shall fill a Swimming Pool with water, or permit water to collect or remain in a Swimming Pool, until an inspection has been completed and a permanent Swimming Pool enclosure has been confirmed to be in full compliance with this By-law.
- 6.8 Fences that form part of a required Swimming Pool enclosure shall:
- (a) extend at least 1.52 metres in Height above the Effective Grade Level;
  - (b) have no openings between the Fence and the Effective Grade Level which exceed 100 mm and any part of the Fence shall not permit the passage of a spherical object exceeding 100 mm in diameter;
  - (c) contain no barbed wire, electrical wiring, sharp projections or any other dangerous characteristics, either on the outside, or inside; and
  - (d) be located not less than 76.2 cm from the nearest inside wetted surface of the Swimming Pool wall.
- 6.9 No Swimming Pool enclosure shall be located closer than 0.91 metres to any condition that facilitates the climbing of the enclosure, unless alternative measures are implemented to provide an equivalent level of safety, as set out in this By-law.
- 6.10 Notwithstanding the requirements of Section 6.8 of this By-law to the contrary, on above-ground pools only, a pre-manufactured

guard or barrier mounted directly on the Swimming Pool wall system is considered to be an acceptable enclosure, provided:

- (a) the guard or barrier is designed, constructed and installed in such a manner to provide, in the opinion of the Fire Chief, adequate rigidity and strength to withstand substantial lateral pressure and also provide an effective barrier preventing access to the Swimming Pool;
- (b) the Owner shall provide information to demonstrate that any pre-manufactured guard or barrier complies with this Section, or any other relevant Section, of this By-law. For other than pre-manufactured guards or barriers, the Owner shall provide to the Fire Chief details and/or drawings to demonstrate equivalent strength and performance; failing this, such guards or barriers shall not be permitted;
- (c) the total Height of the Swimming Pool wall and the attached guard or barrier is at least 1.52 metres above Effective Grade Level around the Swimming Pool wall;
- (d) there are no openings in the guard or barrier, and also between the guard and the pool wall or ledge, which could allow the passage of a spherical object being 100 mm or more in diameter;
- (e) the guard or barrier is designed in a manner that will not facilitate climbing;
- (f) the Swimming Pool filtering system is located at least 0.91 metres away, measured horizontally, from the exterior surface or ledge of the Swimming Pool wall or guard, or the Swimming Pool filtering system may be enclosed with a Fence and Gate which complies with the relevant provisions of this By-law, except that such Fence or Gate does not have to be located 0.76 metres away from the filtering equipment; and
- (g) all access to the above-ground Swimming Pool, such as decks, platforms, stairs and ladders shall be restricted by installing a Fence and/or Gate conforming to the relevant provisions of this By-law.

6.11 Notwithstanding the material construction requirements of Sections 5.1 through 5.5 of this By-law to the contrary, no Swimming Pool enclosure shall be constructed in such a manner as to facilitate climbing from the outside.

## 7.0 GATES AND ENTRANCES TO THE SWIMMING POOL AREA

7.1 Gates which form part of a Swimming Pool enclosure shall be:

- (a) supported on substantial hinges;
- (b) of construction and Height equivalent to, or greater than, that of the required Swimming Pool enclosure;
- (c) equipped with a Self-Closing Device and a Self-Latching Device, which the Self-Latching Device must be mounted a



minimum 1.52 metres above the adjacent Effective Grade Level or other adjacent surface or, for a Gate or door of lesser Height, a distance down from the inside top of the Gate or door to provide equivalent 1.52 metres reach from outside. If the Self-Latching Device is located less than 1.52 metres vertically above the adjacent Effective Grade Level or other adjacent surface, it shall be mounted on the inside of the Swimming Pool enclosure. Self-Latching Devices shall release only with a downward movement; and

(d) be equipped with a locking device.

7.2 All entrances to the Swimming Pool area which form part of the Swimming Pool enclosure, whether they be doors, windows or Gates, shall be kept locked at all times, except when the Swimming Pool is being supervised by a responsible adult person.

7.3 Where a wall, or portion thereof, of any Building located on the same property as a Swimming Pool enclosure forms part of such enclosure, no entrances to the Swimming Pool area shall be permitted through such wall, unless:

(a) any door at the entrance way is equipped with a Self-Closing Device, Self-Latching Device and a locking device in compliance with Section 7.1 of this By-law; and

(b) such wall is located no closer than 0.76 metres from the nearest inside wetted surface of the Swimming Pool wall.

7.4 Overhead garage doors, or similar types, shall not be permitted to perform as a Gate or door forming part of a Swimming Pool enclosure.

7.5 Every Owner of a Swimming Pool shall be responsible to take all steps necessary to always control any access point to the Swimming Pool area.

## 8.0 DECKING FOR ABOVE-GROUND SWIMMING POOLS

8.1 A guard of not less than 0.90 metres in Height shall be provided around platforms and decks which are located more than 0.60 metres above the adjoining Effective Grade Level. Guards and handrails shall conform to the provisions of the Building Code in effect at the time of installation.

8.2 Any integral platform or deck provided around an above-ground Swimming Pool shall have a minimum clear width of 0.76 metres, measured from the inside wetted wall of the Swimming Pool.

## 9.0 LOT LINE SETBACKS

9.1 Lot Line setbacks (distance to Lot Lines) to Swimming Pools, whirlpools, hot tubs and spas shall be in accordance with the Municipality's Zoning By-law in effect at the time of installation.

## 10.0 HOT TUBS, WHIRLPOOLS AND SPAS

10.1 Sections 6.0 through 8.0 of this By-law shall not apply to a whirlpool, hot tub or spa if it has a substantial, structurally adequate cover permanently attached to it or to its supporting structure and the cover is securely fastened and locked to prevent access at all times when the whirlpool, hot tub or spa is not in use.

## 11.0 INSPECTIONS

11.1 The Owner is responsible for requesting the required final inspection when the construction of the Swimming Pool enclosure is complete. The inspection request shall be made at least two (2) business days in advance of the date of which the inspection is desired to be conducted.

## 12.0 ORDERS

12.1 A Municipal Law Enforcement Officer 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.

12.2 An Owner in receipt of such an order shall satisfy the terms of the order within such time period, as specified within the order.

12.3 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, shall:

- (a) 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 Section of this By-law.

12.4 Where the Municipality demolishes or repairs property, as mentioned in Section 12.3 of this By-law, the Municipality may recover the expenses incurred in respect thereof by any, or all, of the methods provided for in section 446 of the *Municipal Act, 2001, S.O. 2001, c. 25*.

## 13.0 ENFORCEMENT AND PENALTIES

13.1 This By-law shall be administered by the Fire Chief of the Municipality.

13.2 This By-law shall be enforced by the Municipal Law Enforcement Officer of the Municipality.

13.3 Pursuant to section 436 of the *Municipal Act, 2001, S.O. 2001, c. 25*, the Fire Chief or Municipal Law Enforcement Officer may

enter upon land at any reasonable time for the purpose of carrying out an inspection to determine whether or not any provisions of this By-law are being complied with.

13.4 Pursuant to subsection 426(1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law.

13.5 Every person who contravenes any of the provisions of this By-law is guilty of an offence and may be subject, upon conviction, to any of the penalties provided for in the *Provincial Offences Act, R.S.O. 1990, c. P.33*, as amended.

13.6 Any person violating any of the provisions of this By-law shall, upon conviction under the *Provincial Offences Act, R.S.O. 1990, c. P.33*, as amended, pay a fine, as shown on the attached Schedule "A" to this By-law.

#### 14.0 GENERAL PROVISIONS

14.1 Where "figures" are included in this By-law, they are provided for explanation purposes and do not form a part of this By-law.

14.2 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.

14.3 Nothing in this By-law shall prevent strengthening, repairing or replacing an existing Fence that does not comply with the provisions of this By-law, providing that the following conditions be met:

- (a) the Fence legally existed on the date of the passing of this By-law;
- (c) the Height of the new Fence shall not exceed the Height of the Fence that is being replaced; and
- (d) the new Fence is not a "Restricted Fence", as described in Section 4.0 of this By-law.

14.4 The Council of the Township of South Stormont hereby delegates authority for any minor variance to all provisions, save and except for those provisions set forth in Section 14.7, of this By-law to the Committee of Adjustment under subsection 45(3) of the *Planning Act, R.S.O. 1990, c. P.13*.

14.5 The Owner of the property, or authorized agent of the Owner, may make an application to the Committee of Adjustment for a minor variance from the provisions of this By-law.

14.6 The Committee of Adjustment may, subject to the criteria and procedures in section 45 of the *Planning Act, R.S.O. 1990, c. P.13* and applicable regulations, grant or refuse any application for a minor variance, as the case may be, and that such relief, as

it considers appropriate, be granted, either absolutely, or subject to conditions.

14.7 Pursuant to subsection 98(1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, the provisions of the *Line Fences Act, R.S.O. 1990, c. L.17* shall not apply to the Rural/Urban Settlement Areas within the Municipality.

14.8 Schedule "A", attached, shall constitute part of this By-law.

14.9 This By-law may be cited as the "Fence By-law".

#### 15.0 REPEAL


15.1 By-law Nos. 2005-060, 2006-069, 2006-100, 2012-038 and 2019-051 are hereby repealed in their entirety.

#### 16.0 EFFECTIVE DATE

16.1 This By-law shall come into force and effect on March 13<sup>th</sup>, 2024.

READ AND PASSED in open Council, signed and sealed this 13<sup>th</sup> day of March 2024.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Clerk



Township of South Stormont  
Part I Provincial Offences Act  
By-law No. 2024-016: Fence By-law Schedule "A"

Item	Short Form Wording	Provision Creating or Defining Offence	Set Fine
1	Construct, or cause to be constructed, a Fence on a Lot, other than Owner's Lot	Sec. 2.4	\$200.00
2	Construct, or cause to be constructed, a Fence that encroaches upon Municipal owned lands or road allowances	Sec. 2.5	\$200.00
3	Construct, or cause to be constructed, a Fence that constitutes an obstruction of view at Street intersections, etc.	Sec. 2.6	\$200.00
4	Construct, or cause to be constructed, a Fence on a Corner Lot, within the triangular space, etc.	Sec. 2.7	\$200.00
5	Fail to remove defacement on the exterior surface of a Fence within a reasonable time	Sec. 2.11	\$150.00
6	Construct, or cause to be constructed, a Fence that obstructs maintenance of adjacent structures	Sec. 2.12	\$150.00
7	Construct, or cause to be constructed, a Fence such that the bracing and posts face their neighbour's property	Sec. 2.13	\$150.00
8	Construct, or cause to be constructed, a Fence in a location with no legal right	Sec. 2.16	\$200.00
9	Construct, or cause to be constructed, a Fence within 45.72 cm of a sidewalk	Sec. 2.17	\$200.00
10	Construct, or cause to be constructed, a Fence within 0.91 metres of a fire hydrant or interference with Fire Department access	Sec. 2.18	\$300.00
11	Construct, or cause to be constructed, a Fence that exceeds 0.91 metres in Height in the Front Yard of an Interior Lot	Sec. 3.1	\$200.00

12	Construct, or cause to be constructed, a Fence that exceeds 0.91 metres in Height in the Front Yard of a Through Lot	Sec. 3.2	\$200.00
13	Construct, or cause to be constructed, a Fence that exceeds 0.91 metres in Height in the Front Yard of a Corner Lot	Sec. 3.3	\$200.00
14	Construct, or cause to be constructed, a Fence that exceeds 1.52 metres in Height in the Rear Yard or Side Yard abutting a Street	Sec. 3.4	\$200.00
15	Construct, or cause to be constructed, a Fence that exceeds 1.83 metres in Height in the Rear Yard or Side Yard not abutting a Street	Sec. 3.5	\$200.00
16	Construct, or cause to be constructed, a Fence that is intended to give an electric shock using electric current	Sec. 4.1	\$300.00
17	Use, or permit to be used, barbed wire on a Fence	Sec. 4.3	\$300.00
18	Construct, or cause to be constructed, a Fence which does not meet material requirements	Sec. 5.1	\$200.00
19	Excavate for, erect, or cause or permit excavation for or erection of Swimming Pool without permit	Sec. 6.1	\$200.00
20	Fill, or permit water to collect or remain, in Swimming Pool without enclosure	Sec. 6.7	\$200.00
21	Hinder or obstruct, attempt to hinder or obstruct, an officer	Sec. 13.4	\$300.00

NOTE: The penalty provision for the offences indicated above is Section 13.6 of By-law No. 2024-016, a certified copy of which has been filed.

THE HONOURABLE  
W. VINCENT CLIFFORD  
REGIONAL SENIOR JUSTICE  
ONTARIO COURT OF JUSTICE  
EAST REGION

COURTHOUSE  
161 ELGIN STREET, 6<sup>TH</sup> FLOOR  
OTTAWA, ONTARIO  
K2P 2L1



L'HONORABLE  
W. VINCENT CLIFFORD  
JUGE PRINCIPAL RÉGIONAL  
COUR DE JUSTICE DE L'ONTARIO  
RÉGION DE L'EST

PALAIS DE JUSTICE  
161, RUE ELGIN, 6<sup>E</sup> ÉTAGE  
OTTAWA (ONTARIO)  
K2P 2L1

TELEPHONE/TÉLÉPHONE (613) 239-1520  
FAX/TÉLÉCOPIEUR (613) 239-1572

April 5, 2024

[james@southstormont.ca](mailto:james@southstormont.ca)

Township of South Stormont  
P.O. Box 84, 2 Mille Roches Road  
Long Sault ON K0C 1P0

**Attention: James Morin, Chief Building Official**

Dear James Morin:

**Re: Set Fines – Provincial Offences Act – Part I  
By-Law No. 2024-016: Fences**

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Enclosed herewith is the original Order (Part I) dated April 5, 2024, and original schedule of set fines for By-Law No. 2024-016, the By-Law indicated in the schedule.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

Please ensure that a copy of the said documents is forwarded to the Provincial Offences Office, which has jurisdiction for the Township of South Stormont.

Yours truly,

*W. Vincent Clifford*

W. Vincent Clifford  
Regional Senior Justice  
Ontario Court of Justice  
East Region

/nl

Enclosures

c.c.: Melissa Adams  
Crown Counsel, Crown Law Office - Criminal  
Municipal Set Fines

# ***PROVINCIAL OFFENCES ACT***

## **Part I**

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2024-016, of the Township of South Stormont attached hereto is the set fine for that offence. This Order is to take effect on April 5, 2024.

Dated at Ottawa, this 5<sup>th</sup> day of April 2024.

Electronic Signature:

A handwritten signature in black ink that reads "W. Vincent Clifford". The signature is written in a cursive, flowing style.

W. Vincent Clifford  
Regional Senior Justice  
Ontario Court of Justice  
East Region



Township of South Stormont  
Part I Provincial Offences Act  
By-law No. 2024-016: Fence By-law

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*WVC, RSJ*

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21	Hinder or obstruct, attempt to hinder or obstruct, an officer	Sec. 13.4	\$300.00

NOTE: The penalty provision for the offences indicated above is Section 13.6 of By-law No. 2024-016, a certified copy of which has been filed.

The fine amounts listed above have been approved by the Regional Senior Justice.  
Dated: April 5, 2024.

Electronic Signature:



W. Vincent Clifford  
Regional Senior Justice  
Ontario Court of Justice - East Region