

# CORPORATION OF THE MUNICIPALITY OF NORTH GRENVILLE

## BY-LAW NO. 38-04

### *A By-Law to Regulate the Erection, Height and Maintenance of Fences*

**WHEREAS** the *Municipal Act 2001*, grants authority to the council of local municipalities to pass by-laws to regulate fences;

**NOW THEREFORE** the Council of the Corporation of the Municipality of North Grenville 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” means a By-Law Enforcement Officer, Special Enforcement Officer or Building Inspector of the Corporation of the Municipality of North Grenville; or any Police Officer, Constable or Special Constable of the Ontario Provincial Police.
- 1.2 “Fence” means any barrier or structure other than a building, erected at grade on privately owned property, which is erected for the purpose of screening, safeguarding, enclosing property or delineating property lines, but does not include:
  - (a) an enclosure as regulated by the Municipality’s “Swimming Pool Enclosure By-Law”;
  - (b) a fence used to contain a vicious dog as regulated in the Municipality’s “By-Law to Provide for the Keeping of Animals and the Regulating of Dogs Running at Large”;
  - (c) noise attenuation barriers designed to reduce noise levels from adjacent activities;
  - (d) temporary boarding and fencing erected around construction sites; and
  - (e) hedges.
- 1.3 “Front Wall” means that wall of a building which is customarily referred to as the front of the building where the main access to the building is located. Where such wall has irregular projections therein, the front wall shall mean the most projecting portion of wall.
- 1.4 “Gate” means any swinging or sliding barrier used to fill or close an access in a fence.
- 1.5 “Good Neighbour Fence” means a fence which is designed to be aesthetically pleasing when viewed from either side.
- 1.6 “Grade” means the elevation of the finished ground or surfaces adjoining the fence.
- 1.7 “Livestock” means horses, cattle, goats, sheep, swine, fur-bearing animals or rabbits, but does not include poultry and game birds.
- 1.8 “Lot” means a parcel of land that is registered as a legally conveyable parcel of land in the local Registry Office.

- 1.9 “Lot, Corner” means a Lot which has frontage on two or more streets.
- 1.10 “Lot, Through” means a Lot bounded on two (2) opposite sides by streets, provided 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.
- 1.11 “Lot Line” means any boundary of a Lot or the vertical projection thereof.
- 1.12 “Lot Line, Front” means any Lot Line that divides the lot from the abutting public highway, street, avenue, lane, parkway or driveway. In the case of a Corner Lot or Through Lot, the shorter Lot Line abutting a street or private right-of-way shall be deemed to be the Front Lot Line. In the case of a Corner Lot or Through Lot where the Lot Lines abutting the street or private right-of-way are the same length, the Lot Line where the principle access to the Lot is provided shall be deemed to be the Front Lot Line.
- 1.13 “Lot Line, Rear” means, 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.
- 1.14 “Lot Line, Side” means any Lot Line other than a Front Lot Line or a Rear Lot Line.
- 1.15 “Main Building” means the building on a lot in which the principle use permitted on that lot is conducted.
- 1.16 “Municipality” means the Corporation of the Municipality of North Grenville.
- 1.17 “Non-Residential Property” means a property that is not being used or is not intended to be used for residential purposes.
- 1.18 “Owner” includes the registered owner of land and a mortgagee, lessee, tenant, or a person entitled to a limited estate or interest in land or a trustee in which land is vested.
- 1.19 “Residential Property” means a property that is being used or is intended to be used for residential purposes.
- 1.20 “Urban Area” means those areas of the Municipality which are described as:
- (a) “Service Area 1 ” on Schedule “B” to the Municipality’s current Official Plan; and/or
  - (b) all multi-unit residential developments within the Municipality, which are serviced by piped sewer and/or water.
- 1.21 “Yard” means any open, uncovered, unoccupied space appurtenant to a building or structure.
- 1.22 “Yard, Front” means the Yard extending across the full width of a Lot between the Front Lot Line and the front wall of the Main Building.
- 1.23 “Yard, Rear” means the Yard extending across the full width of a Lot between the Rear Lot Line and the rear wall of the Main Building.
- 1.24 “Yard, Side” means 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 fence which was 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 "Swimming Pool Enclosure By-Law" and "By-Law to Provide for the Keeping of Animals and the Regulating of Dogs Running at Large".
- 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 which is 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, where the safety of the fence is 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 which require 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 whatever height is 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 majority of 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 (5 ft.) in height. A fence constructed of lattice, louvers or other open type construction may be erected up to 2.0 metres (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 lot line that exceeds 1.0 metre (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, where a Residential Property abuts 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 yard or 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 yard on a Non-Residential property.

### **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 which is 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.

## **6.0 ORDERS**

- 6.1 A By-Law Enforcement Officer, Special Enforcement Officer or Building Inspector of the Corporation of the Municipality of North Grenville 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.

## **7.0 ENFORCEMENT AND PENALTIES**

- 7.1 This by-law shall be administered and enforced by the By-Law Enforcement Officers 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".

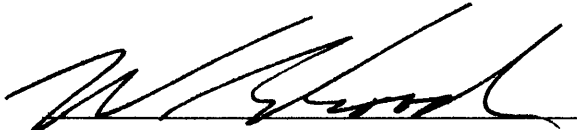
## **8.0 GENERAL PROVISIONS**

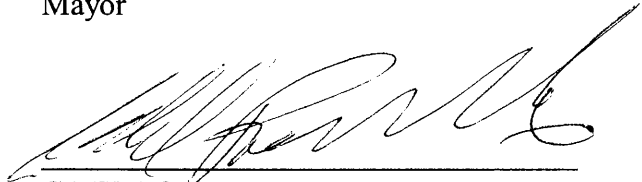
- 8.1 The provisions of this by-law are severable. If any section, subsection, clause or provision of this by-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this by-law as a whole or any part thereof, other than the part so declared to be invalid.
- 8.2 The Council of the Corporation of the Municipality of North Grenville may delegate its approval authority for exemptions or variances to the provisions of this by-law to a designated staff member; whose decision may be appealed to Council. Variances may be granted by staff of up to 25% greater than the height restriction contained in this by-law and exemptions/variances granted with regard to location of fences at staff's discretion.
- 8.3 The Municipality may impose an Application Fee for the foregoing in the Municipal Tariff of Fees By-law.
- 8.3 Nothing in this by-law shall prevent strengthening, repairing or replacing of an existing fence which 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 can 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 which it is replacing; and,

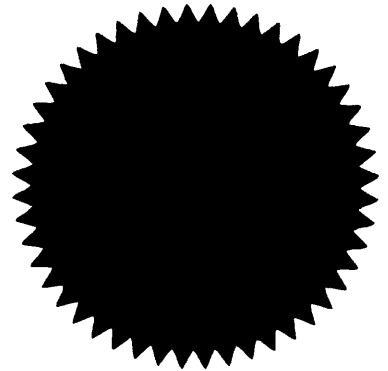
- (c) the new fence is not a "Restricted Fence" as described in Section 5.0 of this by-law.
  
- 8.4 The Council of the Corporation of the Municipality of North Grenville may, by resolution, allow an exemption to this by-law.
  
- 8.5 By-Law No. 45-02, as amended, is hereby repealed.
  
- 8.6 Schedule "A", attached, shall constitute part of this by-law.
  
- 8.7 This by-law may be cited as the "Fence By-Law".
  
- 8.8 This by-law shall come into force and effect on the date of passing.

READ A FIRST AND SECOND TIME  
THE 9<sup>TH</sup> DAY OF AUGUST, 2004.

READ A THIRD TIME AND PASSED  
THIS 13<sup>TH</sup> DAY OF SEPTEMBER, 2004.

  
BILL GOOCH  
Mayor

  
CAHL POMINVILLE  
Clerk



THE CORPORATION OF THE MUNICIPALITY OF NORTH GRENVILLE

Schedule "A" to By-Law No. 38-04

| 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 |
| <p><b>The penalty provision for the offences indicated above are found in Section 7.3 of By-Law 38-04, a certified copy of which has been filed</b></p> |   |         |          |