

BY-LAW NUMBER 135- 23

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THE CORPORATION OF THE COUNTY OF BRANT

A by-Law to regulate fences on privately owned lands and to repeal and replace by-law 54-03 as amended.

WHEREAS Sections 8, 9, and 10 of *the Municipal Act, 2001, S.O. 2001, c.25* authorize the *County* of Brant to pass by-laws necessary or desirable for municipal purposes, and in particular paragraph 10 of Subsection 10(2) authorizes by-laws respecting *fences*;

AND WHEREAS pursuant to Subsection 8(3) of *the Municipal Act, 2001, S.O. 2001, c.25* the by-laws of a municipality may (a) regulate or prohibit regarding a certain matter; (b) require a *person* to do certain things respecting such matter;

AND WHEREAS Section 98 of *the Municipal Act, 2001, S.O. 2001, c.25* provides that a municipality may provide that *the Line Fences Act, R.S.O. 1990, c. L-17* does not apply to all or any part of the municipality, but despite such by-law being passed, Section 20 of *the Line Fences Act, R.S.O. 1990, c.L.17* continues to apply throughout the municipality;

AND WHEREAS it is deemed expedient to exclude the Corporation of the *County* of Brant from the provisions of *the Line Fences Act, R.S.O. 1990, c. L-17*, as amended;

AND WHEREAS Section 132 of *the Municipal Act, 2001, S.O. 2001, c.25* 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 alterations to any *building, fence* or other structures on the *land* of the *owner* or occupant but only to the extent necessary to carry out the repairs or alterations;

AND WHEREAS Section 425 of *the Municipal Act, 2001, S.O. 2001, c.25* authorizes the *County* of Brant to pass by-laws providing that a *person* who contravenes a by-law of the *County* Brant passed under that *Act* is guilty of an offence;

AND WHEREAS Section 446 of *the Municipal Act, 2001, S.O. 2001, c.25* authorizes Council to pass a by-law enabling the municipality to do such matter or thing at the *person's* expense when that *person* fails to do what they are required or directed to do by by-law or otherwise, and to recover the costs of such action from the *person* by adding the costs to the tax roll and collecting them in the same manner as taxes;

AND WHEREAS Subsection 391(1) of *the Municipal Act, 2001, S.O. 2001, c.25* provides that a municipality may impose fees and charges on *persons* (a) for services or activities provided or done by or on behalf of it; (b) for costs payable by it for services or

activities provided or done by or on behalf of any other municipality or any local board; and, (c) for the use of its property including property under its control;

AND WHEREAS Council deems it necessary and expedient to regulate *fences* in the *County* of Brant;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF BRANT HEREBY ENACTS as follows:

1. SHORT TITLE

1.1. This by-law shall be known as “The Municipal Fence By-law.”

2. DEFINITIONS

2.1. For the purpose of this by-law:

2.2. “**Building**” shall mean any permanent structure used or intended to be used for the shelter, accommodation or enclosure of persons, animals, or goods, but shall not include a lawful boundary wall or *fence*.

2.3. “**Corner Lot**” shall mean a *lot* situated at the intersection of and abutting upon two streets, or upon two parts of the same street, the adjacent sides of which street or streets (or, in the case of a curved corner, the tangents at the street extremities of the side *lot* lines) contain an angle of not more than one hundred and thirty-five (135) degrees. In the case of a curved corner, the corner of the building *lot* shall be that point on the street line nearest to the point of intersection of the said tangents.

2.4. “**County**” shall mean the Corporation of the *County* of Brant and includes the geographic area contained within the *County* of Brant.

2.5. “**Effective Ground Level**” at any location shall mean the highest level of the ground within 1.22 metres (4 feet) measured horizontally in any direction from the location under consideration.

2.6. “**Erect**” shall include alter, construct, plant, place, relocate and any work preparatory to erection, and “*erection*” has a corresponding meaning.

2.7. “**Exterior Side Yard**” shall mean a side yard immediately adjoining a public street.

2.8. “**Fence**” shall include a railing, wall, hedge, line of posts, shrubs, wire, gate, boards or pickets or other similar materials, which encloses or divides in whole or in part a *yard* or other *land*, or establishes a property boundary, or provides privacy.

- 2.9. **“Front Yard”** shall mean a yard extending across the full width of the *lot* between the front lot line of the *lot* and the nearest part of the main *building* on the *lot*. For the purpose of this by-law the shortest lot line abutting the street is the front lot line.
- 2.10. **“Ground Level”** shall mean the *ground level* at the boundary line but where the *ground levels* are not the same on both sides of the boundary, the higher of such levels shall be considered as *ground level* for the purposes of the *fence*; however, in the case of a *privacy screen* on an elevated deck, the surface of the deck shall be the point of measurement.
- 2.11. **“Height”** shall mean the vertical distance measured from the *ground level* or *effective ground level*, as the case may be, where the *fence* posts are embedded to the top of the said posts.
- 2.12. **“Interior lot”** shall mean a *lot* other than a *corner lot*.
- 2.13. **“Interior Side Yard”** shall mean a side yard other than an *exterior side yard*.
- 2.14. **“Line Fences Act”** shall mean *the Line Fences Act, R.S.O. 1990, c. L-17*.
- 2.15. **“Lot”** shall mean any parcel of land that can be alienated or otherwise disposed of separately and apart from any abutting lands, whether or not such parcel is described in a registered deed or shown on a registered plan of subdivision.
- 2.16. **“Municipal Law Enforcement Officer”** shall mean any *person* appointed as such by the Corporation of the *County* of Brant to enforce municipal by-laws.
- 2.17. **“Owner”** shall mean the *owner* of the property or any *person* having care and control of the property, including an occupant or tenant.
- 2.18. **“Person”** shall mean a natural *person*, partnership, or corporation, and includes the heirs, executors, administrators or other legal representatives to whom the context can apply according to law.
- 2.19. **“Privacy Screen”** shall mean a visual barrier that shields any part of a yard from view.
- 2.20. **“Rear Yard”** shall mean a yard extending across the full width of the *lot* between the rear lot line of the *lot* and the nearest part of the main *building* on the *lot*.

- 2.21. “**Side Yard**” shall mean a yard extending from the *front yard* to the *rear yard* and from the side lot line of the *lot* to the nearest part of the main *building* on the *lot*.
- 2.22. “**Sound Barrier**” shall mean a *fence* or *building* constructed to minimize sound from road, highway, or railway traffic.
- 2.23. “**Visibility Triangle**” shall mean the triangular space formed by the distance between the point of intersection of two lot lines, at least one of which is also a street line, and their respective points of intersection with the line constituting the third side of the triangle shall be calculated in accordance with the County’s Development and Engineering Standards and the Transportation Association of Canada. A visibility triangle is commonly called a sight triangle or a daylight triangle.

3. GENERAL PROVISIONS

- 3.1. Nothing in this By-Law shall serve to prevent something that is permitted under the *Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1*.
- 3.2. *The Line Fences Act, R.S.O. 1990, c. L-17* shall continue to apply in the *County*, except to municipal *fences*.
- 3.3. This by-law shall not apply to licensed Automobile Wrecking Yard *fences*, constructed in accordance with the provisions of the *County’s* Business Licensing By-Law.
- 3.4. Where the provisions of this by-law and the provisions of a Site Plan Control Agreement or Condominium or Subdivision Agreement conflict, the Site Plan Control Agreement or Condominium or Subdivision Agreement shall prevail, except:
- 3.4.1. Where the *fence* contemplated contains either barbed wire or an *electrical* current, the *height* requirements provided in this By-Law for the said *fences* shall apply as minimum standards.
- 3.4.2. Where *fences* or structures that act as *sound barriers*.
- 3.4.3. On lands that are associated with an airport.
- 3.5. This By-Law shall not apply to construction *fences* that act as a barrier to active construction sites. Any construction *fences* that are on any road allowance shall obtain approval from the *County*.
- 3.6. *Front yard, interior side yard, and corner lot* provisions under Table 5.1.1 of this By-Law do not apply to a *person* who *erects*, or causes to be *erected*, a *fence* enclosing a privately *owned* outdoor tennis court, basketball court, baseball diamond, or other privately *owned* outdoor recreational facility of a similar nature

if:

- 3.6.1. the facility is lawfully *erected* and maintained in accordance with the *County of Brant Comprehensive Zoning By-Law* and any other applicable municipal by-laws or provincial or federal legislation; and
- 3.6.2. the *fence* is of such open construction that it does not obstruct the visibility of motorists and pedestrians.

3.7. The provisions of this By-Law do not apply to *fences erected* by or on behalf of municipal, provincial, or federal government.

3.8. Applicants proposing to alter a *fence* constructed by or on behalf of the *County*, shall require a Municipal Fence Permit.

3.9. Applicants issued a Municipal Fence Permit shall fulfill all requirements of the permit.

3.10. Wrought iron and picket *fences* shall be constructed to not impede visibility for motorists and pedestrians.

3.11. If there is a conflict between a provision of this By-Law and a provision of any other municipal by-law or other regulation or legislation, then the more restrictive provision shall apply.

3.12. In this By-Law, where adjacent yards are classified differently as defined in the *By-Law*, the *fence* requirements applicable to the yard that are the most restrictive shall apply to any portion of the *fence erected* between the adjacent yards.

4. PROHIBITIONS

4.1. No *person* shall *erect* or permit to be *erected* a *fence* that does not comply with the provisions of this By-Law.

4.2. No *person* shall *erect* or permit to be *erected* a *fence* comprised of sheet metal or corrugated metal panels on a *lot* in a residential *zone*.

4.3. No *person* shall *erect* or permit to be *erected* a *fence* comprised of barbed wire, except in the case of:

- 4.3.1. A *fence* on a farm for the keeping of livestock in compliance with the *County of Brant Comprehensive Zoning By-law* or the protection of livestock or crops from animals, provided the barbed wire portion of the *fence* begins at least 1.21m from the *ground level*, unless an alternate *fence* construction is found to be a normal farm practice;

- 4.3.2. On the top of a *fence* on a *lot* used or *zoned* for commercial or industrial purposes, provided that the barbed wire is a minimum of 1.82m above the *effective ground level* and the barbed wire portion of the fence projects inwards towards the area enclosed by the *fence*; or
 - 4.3.3. On the top of a *fence erected* for security reasons around any *County owned*, operated, or maintained facility provided that the barbed wire portion of the fence projects inwards to the area enclosed by the *fence* and further that the barbed wire portion of the *fence* begins at least 1.82m from the *ground level*; or
 - 4.3.4. On the top of a *fence erected* for security reasons enclosing a facility *owned* or operated by any level of government or a utility provider, provided that the barbed wire is a minimum of 1.82m above the *effective ground level* and projects inwards towards the area enclosed by the *fence*.
- 4.4. No *person* shall *erect* or permit to be *erected* a *fence* equipped to transmit an electric current, except for a *fence* on a farm for the keeping of livestock or the protection of livestock or crops from animals as permitted in the *County of Brant Comprehensive Zoning By-law* provided that the *fence* meets the following:
- 4.4.1. Applicable Canadian Standards Association (CSA) Standards, as amended;
 - 4.4.2. The maximum electrical current does not exceed 120 volts at 0.04 amps;
 - 4.4.3. The electrical portion of the *fence* begins at least 1.21m from the *ground level*, unless alternate construction is found to be a normal farm practice; and,
 - 4.4.4. The electrical portion of the *fence* is located 1.01m from a lot line abutting any residential or institutional uses or *zones*.
- 4.5. No *person* shall *erect* or permit to be *erected* a *fence* on *County* property without the prior authorization from the *County*.
- 4.6. No *person* shall *erect* or permit to be *erected* a *fence* that poses a risk or is hazardous to *persons* or property.
- 4.7. No *person* shall damage or alter, or permit the damage or alteration, of any *fence* constructed by or on behalf of the *County* unless that *person* has been issued a Municipal Fence Permit approved by the *County*.
- 4.8. Notwithstanding any of the provisions set out in this By-Law, no *person* shall *erect*, or permit to be *erected*, a *fence* within a *visibility triangle*.
- 4.9. 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, including by refusing to identify themselves when requested to do so by a *Municipal Law Enforcement Officer*.

- 4.10. No *person* shall fail to comply with an Order issued pursuant to this By-Law.

5. FENCE HEIGHTS

- 5.1. The following *height* restrictions shall apply to *fences erected* within the *County*:

Table 5.1.1. Maximum Fence Heights

<i>Residential Zones</i>	
<i>Front Yard</i>	0.91m and shall not obstruct the visibility of motorists or pedestrians.
<i>Interior Side Yard</i>	2.28m
<i>Rear Yard</i>	2.28m
<i>Exterior Side Yard</i>	2.28m provided the <i>fence</i> is set back a minimum of 4.57 m from the <i>exterior side</i> lot line.
<i>Corner Lot</i>	(a) 0.91m within a <i>front yard</i> and an <i>exterior side yard</i> and shall not obstruct the visibility of motorists or pedestrians. (b) 2.28m within in an <i>interior side yard</i> , an <i>exterior side yard</i> and <i>rear yard</i> , provided the <i>fence</i> is set back a minimum of 4.57 m from the <i>exterior side</i> lot line.
<i>Employment Zones (Any yard)</i>	3.04m and shall not be within the <i>visibility triangle</i>
<i>Commercial Zones (Any yard)</i>	2.44m and shall not be within the <i>visibility triangle</i>
<i>Institutional Zones (Any yard)</i>	2.44m and shall not be within the <i>visibility triangle</i>
<i>Agricultural Zones (Any yard)</i>	1.82m and shall not be within the <i>visibility triangle</i>

- 5.2. Despite the provisions of Table 5.1.1. Maximum Fence Heights of this By-Law:

- 5.2.1. a gate may exceed such a limit by a maximum of 0.31m;
5.2.2. an archway forming an entrance or exit may exceed such a limit by 0.41m;

5.2.3. a decorative cap or structural post may exceed such a limit by a maximum of 0.15m.

6. PRIVACY SCREENS

6.1. A *privacy screen* may be *erected* within an *interior side yard* or *rear yard* of a residential property, only if:

6.1.1. the total *height* of the *privacy screen* from the *effective ground level* or on an elevated deck is no more than 2.22m.

6.1.2. the *privacy screen* is no larger than 12.19m in total length and no single individual length for a screen is more than 5.02m; and

6.1.3. The *privacy screen* is in accordance with the provisions of Table 5.1.1. Maximum Fence Heights of this By-Law.

7. MAINTENANCE OF FENCES

7.1. Any *owner* may enter adjoining land, at any reasonable time during daytime hours, for the purpose of maintenance (i.e., repairs or alterations) to any *fence* on the land of the *owner* provided that:

7.1.1. The *owner* enters the adjoining land only to the extent necessary to carry out maintenance;

7.1.2. The *person* exercising the power of entry displays or, on request, produces proper identification;

7.1.3. The *owner* provides reasonable notice of the proposed entry to the adjoining *owner*, and

7.1.4. The *owner* restores the adjoining land to its original condition and shall provide compensation for any damages caused by the entry or maintenance.

8. FENCE VARIANCES

8.1. Any *owner* or authorized designate affected by this By-Law may apply for a Fence Variance from the provisions of this By-Law except where:

8.1.1. The *fence* is required by the *County's* Municipal Swimming Pool Enclosure By-Law.

8.2. All Fence Variances shall be assessed in a similar process as that of a Minor Variance application with an appeal available to the appropriate Committee.

8.3. A complete application must be submitted, accompanied by the fee for Fence Variance within the *County's* Fees and Charges By-law.

8.4. Upon receipt of the application, the *County* will conduct a site visit to determine if

the *fence* will obstruct traffic safety sight lines. Where it is determined that the *fence* will obstruct traffic safety sight lines the application will be denied, and the denial will be final and binding unless appropriate design modifications are submitted.

- 8.5. Where it is determined that the *fence* will not obstruct traffic safety sight lines, the *County* shall provide a copy of the application to every property *owner* that shares a common property boundary with the applicant along which the *fence* is located or is to be constructed. Copy of the application shall be provided by personal service, registered mail, or by prepaid first-class mail, along with a notice advising that any objection to the proposed *fence* must be delivered to the *County* within fourteen (14) days of receipt of the notice. For the purpose of this section, notice sent by prepaid first-class mail shall be deemed to be delivered five (5) days after the date of mailing.
- 8.6. Where an objection is not received within the time indicated in subsection 8.5. no further opportunity to file an objection will be granted, and a by-law to amend the *County* of Brant Fence By-Law and permit the Fence Variance will be prepared for the appropriate Committee for recommendation to Council.
- 8.7. Where an objection is received within the time indicated in subsection 8.5., notification will be provided to the Secretary Treasurer of Committee of Adjustment who shall schedule a hearing before the Committee of Adjustment and shall provide notice in the manner and containing the information described in section 8.5., at least ten (10) days before the date of the hearing, to the applicant and to the party that filed the objection to the application, or their representative.
- 8.8. Notice shall be provided by personal service or prepaid first-class mail and shall include the following:
 - 8.8.1. The date, time and location of the hearing;
 - 8.8.2. A statement that the hearing is being held pursuant to the authority granted in section 8.5. of the *County* of Brant Fence By-Law;
 - 8.8.3. An explanation of the purpose and effect of the proposed Fence Variance;
 - 8.8.4. A description of the subject land or a key map showing the location of the subject land;
 - 8.8.5. A statement that if the party notified, or their representative, does not attend at the hearing, the Committee of Adjustment may proceed in the party's absence and the party will not be entitled to any further notice in the proceeding;
 - 8.8.6. Where the good character, propriety of conduct or competence of a party is an issue in a hearing, the party is entitled to be furnished with reasonable information of any allegations with respect thereto.
 - 8.8.7. An explanation of the purpose and effect of the proposed Fence Variance.
 - 8.8.8. A description of the subject land or a key map showing the location of the

subject land;

- 8.9. The Committee of Adjustment will conduct a hearing in accordance with the *Statutory Powers Procedure Act, R.S.O. 1990, c. S. 22* as amended, and may authorize such Fence Variance from the provisions of this By-Law, in respect of any fence on the said land, as in its opinion is desirable, if in the opinion of the Committee of Adjustment the general intent and purpose of the by-law is maintained. Where a notice of hearing has been given to a party, or their representative and the party, or their representative, does not attend the hearing, the Committee of Adjustment may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding.
- 8.10. In addition to complying with the requirements of this By-Law, the Committee of Adjustment shall comply with such rules of procedure as are set out in the *Statutory Powers Procedure Act, R.S.O. 1990, c. S. 22* as amended.
- 8.11. The hearing of every application shall be held in public, except as otherwise provided in the *Statutory Powers Procedures Act, R.S.O. 1990, c. S.22*, as amended, and the Committee of Adjustment shall hear the applicant and the *person(s)* who filed the objection to the application, or their representative and the Committee of Adjustment may adjourn the hearing or reserve its decision.
- 8.12. Any member of the Committee of Adjustment may administer oaths and affirmations and may require evidence to be given under oath or affirmation.
- 8.13. No decision of the Committee of Adjustment on an application is valid unless it is concurred in by the majority of the members of the Committee of Adjustment that heard the application, and the decision of the Committee of Adjustment, whether granting or refusing an application, shall be in writing and shall set out the reasons for the decision.
- 8.14. Any Fence Variance granted by the Committee of Adjustment may be for such time and subject to such terms and conditions as the Committee of Adjustment considers advisable and as are set out in the decision.
- 8.15. The Secretary-Treasurer of the Committee of Adjustment shall compile a record of the hearing as set out in the *Statutory Powers Procedures Act, R.S.O. 1990, c. S22*.
- 8.16. The Secretary-Treasurer of the Committee of Adjustment shall, not later than ten (10) days from the making of the decision, send one copy of the decision including the reasons that have been given if any, by regular letter mail, by electronic transmission, or by telephone transmission of a facsimile, to each party who participated in the proceeding or the party's representative, together with a notice of the last day for appealing to the Planning and Development Committee and such notice shall be deemed to be received by the party as set out in the *Statutory Powers Procedures Act, R.S.O. 1990, c.S22*.

8.17. If all objections under subsection 8.7. are withdrawn within fifteen (15) days after the last day for filing an objection, the Secretary-Treasurer of the Committee of Adjustment is not required to send notice as described under subsection 8.8. and the Committee of Adjustment is not required to hold a hearing as set out in subsection 8.9.

8.18. If all objections received under subsection 8.7. are withdrawn, the Secretary-Treasurer of the Committee of Adjustment shall notify the applicant and the party that filed the objection, or their representative, that the objection has been withdrawn, that a hearing will not be held and that no further opportunity to appeal will be granted.

8.19. Where subsection 8.16. applies, a by-law to amend the *County* of Brant Fence By-Law to permit the Fence Variance will be prepared to the Planning and Development Committee for recommendation to Council.

9. APPEAL TO PLANNING AND DEVELOPMENT COMMITTEE

9.1. The applicant or any other *person* who appeared before the Committee of Adjustment, may within twenty (20) days of the making of the decision appeal to the Planning and Development Committee against the decision of the Committee of Adjustment by filing with the Secretary-Treasurer of the Committee of Adjustment a notice of appeal setting out the objection to the decision and the reasons in support of the objection, accompanied by payment to the Secretary-Treasurer of the fee as set out in the *County's* Fees and Charges By-law on an appeal of a Fence Variance.

9.2. Where a notice of appeal is not received within the time indicated in subsection 9.1., no further opportunity to file a notice of appeal will be granted, and a by-law to amend the *County* of Brant Fence By-Law to permit the Fence Variance will be prepared for Planning and Development Committee recommendation to Council.

9.3. The Secretary-Treasurer of the Committee of Adjustment, upon receipt of a notice of appeal filed under subsection 9.1., shall forthwith forward the notice of appeal to the Planning Administrative Assistant together with the record of the hearing as set out in subsection 8.15.

9.4. Where a notice of appeal is received, the Planning Administrative Assistant shall schedule a hearing before the Planning and Development Committee and shall provide notice in the manner and containing the information described in section 8.5., at least ten (10) days before the date of the hearing, to each party who participated in the hearing or the party's representative.

9.5. Notice shall be provided by personal service or prepaid first-class mail and shall include the following:

9.5.1. The date, time and location of the appeal hearing;

- 9.5.2. A statement that the hearing is being held pursuant to the authority granted in section 8.1. of the *County of Brant Fence By-Law*;
 - 9.5.3. The objection to the decision and the reasons in support of the objection;
 - 9.5.4. A statement that if the party notified, or their representative, does not attend at the appeal hearing, the Planning and Development Committee may proceed in the party's absence and the party will not be entitled to any further notice in the proceeding;
 - 9.5.5. Where the good character, propriety of conduct or competence of a party is an issue in the appeal hearing, the party is entitled to be furnished with reasonable information of any allegations with respect thereto.
- 9.6. The Planning and Development Committee will conduct a hearing in accordance with the *Statutory Powers Procedure Act, R.S.O. 1990, c. S. 22* as amended, and may recommend upholding, reversing or amending the decision of the Committee of Adjustment as in its opinion is desirable, if in the opinion of the Planning and Development Committee the general intent and purpose of the by-law is maintained. Where a notice of hearing has been given to a party, or their representative, and the party, or their representative does not attend the hearing, the Planning and Development Committee may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding.
- 9.7. In addition to complying with the requirements of this by-law the Planning and Development Committee shall comply with such rules of procedure as are set out in the *Statutory Powers Procedure Act, R.S.O. 1990, c. S. 22* as amended.
- 9.8. The hearing shall be held in public, except as otherwise provided in the *Statutory Powers Procedures Act, R.S.O. 1990, c. S.22*, as amended, and the Planning and Development Committee shall hear the appellant and any party who participated in the hearing, or their representatives, and the Planning and Development Committee may adjourn the hearing or reserve its decision.
- 9.9. Any member of the Planning and Development Committee may administer oaths and affirmations and may require evidence to be given under oath or affirmation.
- 9.10. No recommendation of the Planning and Development Committee on an appeal is valid unless it is concurred in by the majority of the members of the Planning and Development Committee that heard the appeal, and the recommendation of the Planning and Development Committee, whether upholding, amending or reversing the decision of the Committee of Adjustment, shall be in writing and shall set out the reasons for the recommendation. When the Planning and Development Committee makes a recommendation on an appeal, the recommendation will be sent to Council for decision. Council may ratify, reject, or amend the recommendation of Committee.
- 9.11. Any decision by the Planning and Development Committee may be for such time and subject to such terms and conditions as the Planning and Development Committee considers advisable and as are set out in the decision.

- 9.12. The Recording Secretary of the Planning and Development Committee shall compile a record of the hearing as set out in the *Statutory Powers Procedures Act, R.S.O. 1990, c. S22.* and shall provide said record to the Secretary Treasurer of Committee of Adjustment.
- 9.13. The Secretary Treasurer of Committee of Adjustment shall, not later than ten (10) days from the making of the decision, send one copy of the decision including the reasons that have been given if any, by regular letter mail, email, telephone, or fax, to each party who participated in the appeal hearing or their representatives, including a statement that no further opportunity to appeal will be granted by the *County* and such notice deemed to be received by the party as set out in the *Statutory Powers Procedures Act, R.S.O. 1990, c.S22.*
- 9.14. Where the Planning and Development Committee recommendation is to permit the Fence Variance, the recommendation will be sent to Council for decision. Council may ratify, reject, or amend the recommendation of Committee.
- 9.15. If all appeals under subsection 9.1. are withdrawn within fifteen (15) days after the last day for filing a notice of appeal, the Secretary Treasurer of Committee of Adjustment shall notify the parties that the appeal has been withdrawn, that a hearing will not be held and that the recommendation of Committee will be sent to Council for decision.
- 9.16. Where the appeal is withdrawn pursuant to subsection 9.15. and where a Fence Variance was approved by the Committee of Adjustment, a recommendation to amend the Fence By-Law will be prepared by Planning and Development Committee for Council decision.

10. ADMINISTRATION

- 10.1. Pursuant to the provisions of Sections 23.1 through 23.5 of *the Municipal Act, 2001, S.O. 2001, c.25* the Clerk of the Corporation of the *County* of Brant is hereby authorized to effect any minor modifications or corrections of an administrative, numerical, grammatical, semantical or descriptive nature or kind to the By-law and schedules as may be necessary after the passage of this By-Law.
- 10.2. Any *fence* that was in lawful existence prior to the effective date of this By-law shall be deemed to comply with this By-Law and may be maintained to the same location, *height* and dimensions as previously existed; and
- 10.3. Where an existing *fence* is replaced or substantially altered, the replacement and or alteration shall be constructed in accordance with this By-Law.
- 10.4. If there is a conflict between a provision of this By-Law and a provision of any other municipal by-law, the provision that establishes the highest standard

to protect the health or safety of the public shall apply.

11. POWERS OF ENTRY RE INSPECTION

11.1. Pursuant to Sections 435 and 436 of *the Municipal Act, 2001, S.O. 2001, c.25* any employee, officer or agent of the *County* may without notice, and upon producing the proper identification upon request, enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- 11.1.1. the provisions of this By-Law;
- 11.1.2. a direction or order of the municipality made under this By-Law;
- 11.1.3. an order made under Section 431 of *the Municipal Act, 2001, S.O. 2001, c.25*.

12. ENFORCEMENT PROVISIONS

12.1. The provisions of this By-Law shall be enforced by *Municipal Law Enforcement Officers*.

12.2. Every *Person* who contravenes any of the provisions of this By-Law, including any schedule attached hereto or an order issued pursuant to this By-Law, and every director or officer of a corporation who knowingly concurs in the contravention, pursuant to Section 425 of *the Municipal Act, 2001, S.O. 2001, c.25* is guilty of an offence.

12.3. Pursuant to the provisions of Section 431 of *the Municipal Act, , 2001, S.O. 2001, c.25* when a *person* has been convicted of an offence under this By-Law, the Ontario Court of Justice or any court of competent jurisdiction thereafter, in addition to any other penalty or order imposed, may make an order prohibiting the continuation or repetition of the offence or the doing of any Act or thing by the *person* convicted, directed toward the continuation or repetition of the offence.

12.4. Pursuant to the provisions of Section 433 of *the Municipal Act, 2001, S.O. 2001, c.25* where a *person* has been convicted of any offence under this By-Law, every fine imposed for contravention of this By-Law belongs to the *County*.

12.5. Pursuant to the provisions of Section 440 of *the Municipal Act, 2001, S.O. 2001, c.25* in addition to any other remedy and to any penalty imposed by the by-law, any such further contraventions may be restrained by action by the *County*.

12.6. Pursuant to Sections 444 and 445 of *the Municipal Act, 2001, S.O. 2001, c.25* where a contravention of this By-Law has occurred, the *County* may make an order requiring the *person* who contravened or permitted the contravention of the by-law to discontinue the contravening activity, to do work to correct the contravention.

12.7. An order may be personally delivered, posted in a conspicuous location on the property or served by Registered Mail. An order posted on the property is considered served. Where an order is mailed, the order shall be deemed delivered on the earlier of receipt of the order by the addressee or the fifth (5th) day following the date of mailing, whether actually received or not.

12.8. Pursuant to Section 446 of *the Municipal Act, 2001, S.O. 2001, c.25* where pursuant to this By-Law or any other Act, a *person* is required to do a matter or thing, in default of it being done by the *person* so directed, the matter or thing may be done at the *person's* expense, and for that purpose enter upon land at any reasonable time, and the costs including interest calculated at a rate of fifteen percent (15%) from the date the costs were incurred, until the date the costs including interest are paid in full, may be recovered in the same manner as property taxes and may be registered as a lien upon the land.

13. PENALTIES

13.1. Any *person* who contravenes any provision of this By-Law is guilty of an offence and, upon conviction is liable to the penalties as prescribed by *the Provincial Offences Act, R.S.O. 1990 c. P.33*.

13.2. A *person* convicted under this By-Law is liable to a maximum fine of \$10,000.00 upon a first conviction and a maximum fine of \$25,000.00 for any subsequent conviction.

13.3. Despite Section 13.2 of this By-Law where the *person* convicted is a corporation, the corporation is liable to a maximum fine of \$50,000.00 upon a first conviction and a maximum fine of \$100,000.00 for any subsequent conviction.

13.4. Each offence is designated as a continuing offence and is subject to, for each day or part of a day that the offence continues a maximum of no more than \$10,000. The total daily fines imposed for each offence may exceed \$100,000.

14. SEVERABILITY

14.1. If any provision or part of this By-Law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the by-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

15. ENACTMENT AND REPEAL

15.1. That this by-Law come into force and effect on January 1st, 2024, to allow for implementation of revised fees and charges through the *County of Brants Fees and Charges By-Law*.

15.2. By-Law #54-03 as amended, is hereby repealed upon this By-law coming into force and effect.

READ a first and second time this 19th day of December 2023.

READ a third time and finally passed in Council, this 19th day of December 2023.

THE CORPORATION OF THE COUNTY OF BRANT

David Bailey, Mayor

Alysha Dyjach, Clerk