

This is an office consolidation of By-Law 54-03 and amendments thereto. For accurate reference you should consult the original by-laws that are retained by the Clerk.

BY-LAW NUMBER 54-03 (As amended by By-Laws, 158-04, 74-11, and 84-11)  
Updated August 2011

**BY-LAW NUMBER 54-03**

- of -

**THE CORPORATION OF THE COUNTY OF BRANT**

*A by-law to regulate fences*

**WHEREAS** Section 11 (1) 7 of the *Municipal Act, 2001*, S.O. 2001, c.25 authorizes Council to pass a by-law regarding structures, including *fences*;

**AND WHEREAS** Section 98 (1) of the *Municipal Act, 2001*, S.O. 2001, c.25 authorizes Council to provide that the *Line Fences Act* does not apply to all or any part of the municipality;

**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 427 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** Council is desirous of regulating the injury to and maintenance of *fences* bordering on municipal property, and other matters relating to fences;

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

Definitions

*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*.

*Chief Building Official* shall mean the *person* appointed as such by the Corporation of the *County* of Brant or his designate.

*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.

*County* shall mean the Corporation of the *County* of Brant.

*Daylight Corner* shall mean that portion of a *corner lot* within the triangular space formed by joining the street lines by a straight line, drawn between two points on the street lines, each such point being 6 metres (19 ft. 8 inches) measured along each street line from the point of intersection of the street lines, or such other sight triangle set out in the zoning by-law or in a site plan control agreement for a particular lot.

*Effective Ground Level* shall mean the highest level of the ground at a particular location taking into consideration the surrounding ground level for a horizontal distance of five feet either side of the location being considered.

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

*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.

*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.

*Height* shall mean the 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

*Interior lot* shall mean a lot other than a *corner lot*.

*Line Fences Act* shall mean the *Line Fences Act*, R.S.O. 1990, c. L-17.

*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.

*Municipal Law Enforcement Officer* shall mean any *person* appointed as such by the Corporation of the *County* of Brant to enforce municipal by-laws.

*Owner* when used in relation to a *swimming pool* or *swimming pool enclosure* shall mean the *owner* of the property or any *person* having care and control of the property upon which the pool is located.

*Person* shall include an individual, partnership, association, firm or corporation, business entity or club, or any other incorporated or unincorporated group or organization to which the context can apply in accordance with the *Interpretation Act*, R.S.O. 1990, c.I.11.

*Privacy Screen* shall mean a visual barrier that shields any part of a yard from view from any adjacent parcel or highway.

*Quality* shall mean that any alteration to the construction must be substantially similar to the existing construction.

*Same Materials* shall mean that any new or additional materials being used in the alteration must be substantially similar to the materials used in the construction of the *fence*.

*Swimming Pool* shall mean any privately owned body of water located out of doors which is contained solely by artificial means and is capable of containing a depth of 40 cm (16 inches) or more, but does not include a hot tub which is covered and locked.

*Swimming pool area* shall mean the *swimming pool* plus any surrounding platforms, walkways, play areas and landscaped areas, which lie within the *swimming pool enclosure*.

*Swimming pool enclosure* shall mean a *fence* or wall or combination thereof including any doors or gates surrounding a *swimming pool*.

*Yard, Front* 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.

*Yard, Side* 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*.

*Yard, Side, Exterior* shall mean a *side yard* immediately adjoining a public street.

*Yard Side, Interior* shall mean a *side yard* other than an *exterior side yard*.

*Yard, Rear* 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*.

### Short Title

1. This by-law shall be known as the *Fence* by-law.

### General Provisions

2. 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. The *Line Fences Act* shall continue to apply in the *County* of Brant, except with respect to Municipal Fences as set out in Sections 14 through 20.
4. (a) The persons listed in Schedule 'A', forming part of this by-law, are hereby appointed as *fence* viewers for the *County* of Brant and shall hold office until their successors are appointed, and shall carry out their duties in accordance with the *Line Fences Act*;  
(a) The said fence viewers shall each be paid the sum, as set out in Schedule 'A', forming part of this by-law, for each attendance or re-attendance by them, and a mileage rate as set out from time to time by *Council*;

- (c) Every Award or Agreement of a fence viewer shall provide for the payment of the fence viewers costs and a payment, as set out in Schedule 'A', forming part of this by-law, for administration costs undertaken through the Clerk's office, such administration fee to be credited to the *County's* General Funds.
- 5. This by-law shall not apply to licensed Automobile Wrecking Yard *fences*, constructed in accordance with the provisions of the Business Licensing By-Law.
- 6. Where the provisions of this by-law and the provisions of a site plan agreement or subdivision agreement conflict, the site plan agreement or subdivision agreement shall prevail, except:
  - (a) where the *fence* contemplated is a *swimming pool enclosure*, the higher standard shall apply; and
  - (b) 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.
- 6.1 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 be deemed to any portion of the fence erected between the adjacent yards, that is subject to the conflicting requirements.
- 7. Sections 9 and 10 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:
  - (a) the facility is lawfully *erected* and maintained in accordance with the Zoning By-Law and any other applicable *County* By-Law or provincial or federal legislation; and
  - (b) the *fence* is of such open construction that it does not obstruct the visibility motorists and pedestrians necessary for the safe use of the highway.
- 7.1 The provisions of this by-law do not apply to fences erected by or on behalf of the County.

Visibility

- 8. Notwithstanding any of the provisions set out in this by-law, no *person* shall *erect*, or permit to be erected, a *fence* at a *height* that is higher than .06 metres (1.97 feet) above the elevation of the centre line of the said street, within a sight triangle as defined in the

County Zoning By-law, if such fence obstructs the visibility of motorists and pedestrians necessary for the safe use of the highway.

Fences on Interior Lots

9. No *person* shall *erect*, or permit to be *erected*, a *fence* on an *interior lot*, zoned for residential or agricultural use, except in accordance with the following regulations:
- (a) a *fence* within the *front yard* shall not exceed a *height* of 0.91 metres (3 feet) and shall not obstruct the visibility of motorists or pedestrians; and
  - (b) a *fence* within any *rear yard* or *interior side yard* shall not exceed a *height* of 1.81 metres (6 feet).

Fences on Corner Lots

10. No *person* shall *erect*, or permit to be *erected*, a *fence* on a *corner lot*, zoned for residential or agricultural use, except in accordance with the following regulations:
- (a) a *fence* not exceeding 0.91 metres (3 feet) in *height* may be *erected* within a *front yard* and an *exterior side yard* and shall not obstruct the visibility of motorists or pedestrians; and
  - (b) a *fence* not exceeding 1.81 metres (6 feet) in *height* may be *erected* within in an *interior side yard*, an *exterior side yard* and *rear yard*, provided the side *fence* is set back a minimum of 4.57 metres (15 feet) from the exterior side *lot* line.

Industrial and Commercial Lots

11. No *person* shall *erect*, or permit to be *erected*, a *fence* enclosing a *front yard* of a *lot* zoned for industrial or commercial use unless that *fence*,
- (a) is not within the *daylight corner*, and if on a *corner lot*, the *fence*
    - (i) is set back from the front *lot* line a minimum of 7.62 metres (25 feet); or
    - (ii) if ornamental, the *height* does not exceed 0.6 metres (1.97 feet) and does not affect the visibility of motorists or pedestrians.

Barbed Wire Fences

12. No *person* shall *erect*, or permit to be *erected*, any barbed wire *fence* within the *County*, except that barbed wire is permitted:
- (a) on a *fence erected* on land in an agricultural zone as designated by the zoning by-law and used for the purpose of keeping livestock and the barbed wire portion of the *fence* begins at least 1.21 metres (4 feet) from the ground level, unless an alternate fence construction is found to be a normal farm practice;
  - (b) on the top of a *fence erected* for security reasons around any *County* owned, operated or maintained facility provided that it projects inwards to the area enclosed by the *fence* and that the barbed wire portion of the *fence* begins at least 1.8 metres (6 feet) from the *ground level*; or

- (c) on the top of a *fence erected* in a commercial or industrial zone as designated by the zoning by-law provided that it projects inwards to the area enclosed by the *fence* and that the barbed wire portion of the *fence* begins at least 1.8 metres (6 feet) from the *ground level*.

Electrical Fences

- 13. No *person* shall *erect*, or permit to be *erected*, any *fence* equipped with a device for transmitting an electric current thereon or there through, except on *land* designated as agricultural by the zoning by-law and used for the purpose of keeping livestock provided that the maximum electrical current does not exceed 120 volts at 0.04 amps, and the electrical portion of the *fence* begins at least 1.21 metres (4 feet) from the *ground level*, unless alternate construction is found to be a normal farm practice.

Municipal Fences

- 14. The *Line Fences Act* shall not apply to sections 14 through 20 of this by-law.
- 15. Sections 14 through 20 shall apply to all *fences* constructed by or on behalf of the *County*.
- 16. No *person* shall injure or alter, or permit the injury or alteration, of any *fence* constructed by or on behalf of the *County* unless that *person* has been issued a Municipal Fence Permit by the *County*.
- 17. Every *person* wishing to alter a *fence* constructed by or on behalf of the *County*, shall apply for a Municipal Fence Permit from the *County* as illustrated in Schedule B.
- 18. Every *person* who has been issued a Municipal Fence Permit shall fulfill all requirements of the permit.
- 19. The *Chief Building Official* shall issue permits for *fence* alterations in the form provided as Schedule 'B' and in accordance with the conditions set forth as follows:
  - (a) the alteration must be of the *same materials* and *quality* as the *fence*;
  - (b) gates must be:
    - (i) of such *height* and of such construction as will provide a degree of safety and rigidity equivalent to or greater than that of the municipal *fence*;
    - (ii) supported on substantial hinges;
    - (iii) self-closing and self latching with the latch device at the top and on the inside of the gate; and
    - (iv) locked at all times unless under competent supervision.
  - (c) any other conditions which the *Chief Building Official* deems necessary.

20. Pursuant to section 427 of the Municipal Act, 2001, S.O. 2001, c. 25, Any unlawful injury or alteration to a *fence* constructed by or on behalf of the *County* may be removed and the *fence* restored to its former condition, all at the expense of the *owner* or occupant of the *land* appurtenant to the injured *fence*.

Swimming Pools

21. Every *owner* of a *swimming pool* shall *erect* and maintain a *swimming pool enclosure* in accordance with the provisions of sections 21 through 43.
22. No *person* shall *erect*, or permit to be *erected* any *swimming pool*, without obtaining a *swimming pool enclosure* permit from the *Chief Building Official*, , and except in compliance with the set back distances from a septic system as set out in Schedule C, both schedules attached hereto and forming part of this by-law.
23. No *person* shall place water or permit the placement of water in a *swimming pool*, until a *swimming pool enclosure* has been *erected* in compliance with the provisions of sections 28 through 43.
24. Where a person fails to *erect* or maintain a *swimming pool enclosure* in accordance with the provisions of this by-law the *County* may *erect* or maintain the *swimming pool enclosure* at the owner or occupant's expense pursuant to section 427 of the *Municipal Act, 2001*, and may enter onto the property for the purpose of carrying out the powers granted therein.
25. Swimming Pool – Permits
- (a) Every *owner* who wishes to construct or *erect* a *swimming pool* shall submit to the *Chief Building Official* plans showing details of the proposed *swimming pool enclosure*;
- (b) The plans shall be reviewed by the *Chief Building Official* who can refuse to issue a permit where the *erection* of the *swimming pool enclosure* would be contrary to the provisions of any *County* by-law;
- (c) Upon being satisfied that the plan meets the requirements of this by-law and other applicable legislation and upon receipt of the permit fee as set out in Schedule 'D', the *Chief Building Official* shall prepare and issue a permit certifying approval of the *swimming pool enclosure* plan.
26. Upon completion of the *swimming pool enclosure* the *owner* shall contact the *County* to request a final inspection. If, upon inspection, the *swimming pool enclosure* is found to be in compliance with the provisions of this by-law, the *owner* shall be issued a Certificate of Approval, as set out in Schedule 'E', forming part of this by-law. If, subsequent to the original issuance of a Certificate of Approval, the *owner* seeks a subsequent Certificate of Approval, the fee set out in Schedule 'D' shall apply.
27. A permit is not required in the case of a *swimming pool* which has been dismantled and is being reconstructed in the exact same manner and in the exact same position, provided a permit was obtained for the original *swimming pool enclosure* and provided that the enclosure is not being altered in any way.

Swimming Pools – Construction, Height & Location

28. The *swimming pool enclosure* shall extend from the *effective ground level* to a minimum vertical *height* of 1.22 metres (4 feet).
29. The wall of a *building* may form a part of the required *swimming pool enclosure* provided that any entrances on the wall are kept locked when the pool is not supervised.
30. The required *swimming pool enclosure*, except for any *building* walls which may form part thereof, shall have no attachment on the exterior face such as horizontal or diagonal bracing, horizontal rails or other members, which would facilitate climbing.
31. The *swimming pool enclosure* shall be located at a distance of at least 1.22 metres (4 feet) from any outside structure, *fence*, tree, air conditioning unit, meter, steps, ledge, window sill, or other object, that might afford a means whereby, in the opinion of the *Municipal Law Enforcement Officer*, the safety of the *swimming pool enclosure* is compromised.
32. The *swimming pool enclosure* shall be located at a distance of not less than 1.22 metres (4 feet) from the nearest inside wetted surface of the *swimming pool* wall.
33. For the purposes of this By-law a *fence* or its equivalent, which is to form a *swimming pool enclosure* or part thereof, shall be of:
  - (a) chain link construction; or
  - (b) vertical board construction; or
  - (c) an approved equivalent.
34. A *fence* of chain link construction shall:
  - (a) have a mesh not greater than 5 cm (2 inches) consisting of 11 gauge galvanized steel wire; and
  - (b) be supported by a minimum of 3.81 cm (1.5 inches) galvanized steel posts, spaced not more than 3.05 metres (10 feet) apart that extend at least .91 metres (3 feet) below grade and are encased in concrete at least 5 cm (2 inches) thick all around; and
  - (c) have top and bottom rails firmly fastened to the upright posts made of minimum 3.18 cm (1.25 inches) galvanized steel pipe. Galvanized steel tension wire of sufficient strength to keep the bottom of the *fence* taut may be substituted for the bottom rail; and
  - (d) have the bottom rail located a maximum of 5 cm (2 inches) from the finished grade.
35. A *fence* of wood construction shall:
  - (a) have vertical boarding attached to a top and bottom rail in such a manner as to not facilitate climbing from the outside. Such vertical boards must measure not less than 2.5 x 10 cm (1 x 4 inches) and must be spaced not more than 3.81 cm (1.5 inches) apart; and



- (b) be supported by cedar posts or pressure treated lumber that measure a minimum of 10 x 10 cm (4 x 4 inches), spaced not more than 2.44 metres (8 feet) apart. Such posts shall extend at least .91 cm (3 feet) into the ground; and
  - (c) have that portion of the post below the ground level treated with an approved wood preservative; and
  - (d) have top and bottom rails which measure a minimum of 5 x 10 cm (2 x 4 inches) spaced not less than 1.07 metres (3 feet, 6 inches) apart.
36. A *swimming pool enclosure* of any other construction that might yield an equivalent or greater degree of safety to that specified in Sections 34 and 35 may be approved by the *Chief Building Official* upon the receipt of complete plans and specifications for such *fence*.
37. Fences, or their equivalent, when forming part of the required *swimming pool enclosure* shall contain no barbed wire, *electrical* wiring, sharp projections or any other dangerous characteristics either on the outside or the inside.

**Swimming Pools – Gates & Entrances**

38. Gates, which form a part of the *swimming pool enclosure*, shall:
- (a) be of such *height* and of such construction as will provide a degree of safety and rigidity equivalent to or greater than that of a required *fence*;
  - (b) be supported on substantial hinges; and
  - (c) be self-closing and self latching with the latch device at the top and on the inside of the gate.
39. Doors, which form a part of the *swimming pool enclosure*, shall be of such *height* and of such construction as will provide a degree of safety and rigidity equivalent to or greater than that of a required *fence*.
40. Where any garage forms part of the *swimming pool enclosure*, any man door that leads to the *swimming pool enclosure* shall:
- (a) be supported on substantial hinges; and
  - (b) be self-closing and self latching by means of a device located at least 1.53 metres (5 feet) above the bottom of the door.
41. No *person* shall permit any gate or door forming part of a *swimming pool enclosure* to be unlocked when the *swimming pool* is not under competent supervision.

**Swimming Pools – Temporary Fences**

42. Where it is necessary during construction to permit the entry of construction equipment into the *swimming pool enclosure*, a portion of the approved *swimming pool enclosure* may be replaced by temporary fencing provided it meets the following requirements:

- (a) the fencing material must be snow fencing or an approved alternate;
- (b) the fencing must be a minimum of 1.0 metres (3.28 ft) in *height* and adequately supported;
- (c) the fencing must enclose the *swimming pool area* whenever the area is not under competent supervision; and
- (d) the temporary fencing must be replaced by the approved permanent *swimming pool* enclosure within 15 days of filling the pool with water.

**Swimming Pools – Above Ground**

43. Except with respect to vinyl free-form pools as described in subsection 43(c), for the purposes of this by-law, above ground *swimming pools* will be deemed to comply with the *swimming pool enclosure* requirements of this by-law if:
- (a)
    - (i) the *swimming pool* walls are at least 1.22 metres (4 feet) in *height*;
    - (ii) the *swimming pool* has a ladder which can be removed or locked in an upright position prohibiting access to the *swimming pool*;
    - (iii) the ladder is always removed or locked in an upright position when not under competent supervision; and
    - (iv) the *swimming pool* walls are at least 1.22 metres (4 feet) from other objects, including but not limited to, trees and *swimming pool* equipment, such as heater and filter, and free from angled side supports, which could provide access to the *swimming pool*, or
  - (b)
    - (i) the above ground *swimming pool* has a fence around the *swimming pool area* as an integral part of its construction;
    - (ii) the fence extends from the surface level of the water, a minimum vertical distance of 1.22 metres (4 feet) and is at least 0.91 metres (3 feet) removed from the inside wetted wall of the *swimming pool*; and
    - (iii) a ground constructed enclosure, meeting the requirements of this by-law, as applicable, encloses the entrance ladder and any other objects, including trees or *swimming pool* equipment, such as heater and filter, which could provide access to the pool, or
  - (c) the *swimming pool* is a vinyl, free form pool, tightly secured with a lockable cover, manufactured for that purpose, or an equally secure alternative, and is locked and covered when not supervised.

**Maintenance of Fences**

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

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

Transition

- 45. Subject to Section 46, and section 47, any *fence* proven to have been lawfully *erected* before the day this by-law comes into force is deemed to comply with this by-law and may be maintained as *erected*, but when the *fence* is replaced, the replacement *fence* shall comply with this by-law.
- 46. All properties that have proven to have legally non-conforming *fences* shall be set out in Schedule 'F' for reference purposes.
- 47. Nothing in Section 45 serves to exempt an *owner* from the requirements of Sections 21 through 43.

Minor Variances

- 48. (1) The owner of any land, affected by this by-law or any person authorized in writing by the owner, may apply for a minor variance from the provisions of this by-law, in respect of any fence or proposed fence on the said land.
  - 48. (1)(a) The provisions of subsection 48. (1) do not apply with respect to the requirements for swimming pool enclosures as set out in sections 21- 43 of this by-law.
- 48. (1)(b) Despite subsection 48. (1) (a), any exemptions granted by by-law for swimming pool enclosures prior to January 20, 2004 will remain in effect, subject to the provisions stated in the by-law and provided the property remains in the same ownership.

- (2) The application shall be in the form as provided by the County and shall be accompanied by the applicable fee as indicated in the County of Brant Fees and Charges By-law.
- (3) Upon receipt of the application, the County will conduct a site inspection 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.
- (4) 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. The copy of the application shall be provided by personal service or sent by 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 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 5 days after the date of mailing.
- (5) Where an objection is not received within the time indicated in subsection 48.(4), no further opportunity to file an objection will be granted, and a by-law to amend the fence by-law to permit the minor variance will be prepared for Council approval.
- (6) Where an objection is received within the time indicated in subsection 48.(4), notification will be provided to the Secretary-Treasurer of the 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 48.(7), at least 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.

- (7) Notice shall be provided by personal service or prepaid first class mail and shall include the following:
  - (a) The date, time and location of the hearing;
  - (b) A statement that the hearing is being held pursuant to the authority granted in section 48. of County of Brant By-law Number 54-03, as amended;
  - (c) An explanation of the purpose and effect of the proposed minor variance;

- (d) A description of the subject land or a key map showing the location of the subject land;
  - (e) 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;
  - (f) 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.
- (c) An explanation of the purpose and effect of the proposed minor variance;
- (d) A description of the subject land or a key map showing the location of the subject land;
  - (e) 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;
  - (f) 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) 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 minor 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.
- (9) 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.
- (10) 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.

- (11) Any member of the Committee of Adjustment may administer oaths and affirmations and may require evidence to be given under oath or affirmation.
- (12) 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.
- (13) Any minor 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.
- (14) 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.
- (15) The Secretary-Treasurer of the Committee of Adjustment shall, not later than ten days from the making of the decision, send one copy of the decision including the reasons that have been given if any, by regular lettermail, 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 Advisory 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.
- (16) Despite subsection 48.(8), if all objections under subsection 48.(6) are withdrawn within 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 48. (7) and the Committee of Adjustment is not required to hold a hearing as set out in subsection 48.(8).
- (17) If all objections received under subsection 48.(6) 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.
- (18) Where subsection 48.(17) applies, a by-law to amend the fence by-law to permit the minor variance will be prepared for Council approval.

Appeal to Planning Advisory Committee

49. (1) The applicant or any other person who appeared before the Committee of Adjustment, may within 20 days of the making of the decision appeal to the Planning Advisory 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 Fees and Charges By-law on an appeal for a Fence By-law Minor Variance
- (2) Where a notice of appeal is not received within the time indicated in subsection 49.(1), no further opportunity to file a notice of appeal will be granted, and a by-law to amend the fence by-law to permit the minor variance will be prepared for Council approval.
- (3) The Secretary-Treasurer of the Committee of Adjustment, upon receipt of a notice of appeal filed under subsection 49.(1), shall forthwith forward the notice of appeal to the Planning Clerk together with the record of the hearing as set out in subsection 48.(14).
- (4) Where a notice of appeal is received, the Planning Clerk shall schedule a hearing before the Planning Advisory Committee and shall provide notice in the manner and containing the information described in section 49.(5), at least 10 days before the date of the hearing, to each party who participated in the hearing or the party's representative.
- (5) Notice shall be provided by personal service or prepaid first class mail and shall include the following:
  - (a) The date, time and location of the appeal hearing;
  - (b) A statement that the hearing is being held pursuant to the authority granted in section 49. of County of Brant By-law Number 54-03, as amended;
  - (c) The objection to the decision and the reasons in support of the objection;
  - (d) A statement that if the party notified, or their representative, does not attend at the appeal hearing, the Planning Advisory Committee may proceed in the party's absence and the party will not be entitled to any further notice in the proceeding;
  - (e) 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.

- (6) The Planning Advisory Committee will conduct a hearing in accordance with the Statutory Powers Procedure Act, R.S.O. 1990, c. S. 22 as amended, and may uphold, reverse or amend the decision of the Committee of Adjustment as in its opinion is desirable, if in the opinion of the Planning Advisory 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 Advisory Committee may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding.
- (7) In addition to complying with the requirements of this by-law the Planning Advisory 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.
- (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 Advisory Committee shall hear the appellant and any party who participated in the hearing, or their representatives, and the Planning Advisory Committee may adjourn the hearing or reserve its decision.
- (9) Any member of the Planning Advisory Committee may administer oaths and affirmations and may require evidence to be given under oath or affirmation.
- (10) No decision of the Planning Advisory Committee on an appeal is valid unless it is concurred in by the majority of the members of the Planning Advisory Committee that heard the appeal, and the decision of the Planning Advisory 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 decision. When the Planning Advisory Committee makes a decision on an appeal, no further opportunity to appeal will be granted by the County.
- (11) Any decision by the Planning Advisory Committee may be for such time and subject to such terms and conditions as the Planning Advisory Committee considers advisable and as are set out in the decision.
- (12) The Recording Secretary of the Planning Advisory 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 Planning Clerk.
- (13) The Planning Clerk shall, not later than ten days from the making of the decision, send one copy of the decision including the reasons that have been given if any, by regular lettermail, by electronic transmission, or by telephone transmission of a facsimile, 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.

- (14) Where the Planning Advisory Committee decision is to permit the minor variance, no further opportunity to appeal will be granted by the County, and a by-law to amend the fence by-law to permit the minor variance will be prepared for Council approval.
- (15) If all appeals under subsection 49. (3) are withdrawn within 15 days after the last day for filing a notice of appeal, the Planning Clerk shall notify the parties that the appeal has been withdrawn, that a hearing will not be held and that no further opportunity to appeal will be granted
- (17) Where the appeal is withdrawn pursuant to subsection 49.(16) and where an application for an exemption was granted by the Committee of Adjustment, a by-law to amend the fence by-law to permit the minor variance will be prepared for Council approval.

#### Enforcement

- 58. *Municipal Law Enforcement Officers*, appointed by *County* by-law, are authorized to enforce the provisions of this by-law.

#### Severability

- 59. If any section or sections of this By-Law or parts thereof are found in any court of law to be illegal or beyond the power of the Council, of the Corporation of the *County* of Brant, to enact such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this By-Law shall be deemed to be separate and independent therefrom and to be enacted as such.

#### Penalty

- 60. Every *person* who contravenes any provision of this by-law is guilty of an offence and upon conviction shall be liable to a penalty as set out in the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, and any amendments thereof.

#### Repeal

- 61. The following by-laws, as amended, are hereby repealed.

By-law No. 190-99 of the County of Brant  
By-law No. 184-00 of the County of Brant  
By-law No. 97-15 of the former Township of Burford  
By-law No. 35-97 of the former Township of South Dumfries

Effective

62. The requirements of this By-law shall come into force and take effect on the resolution of council, following receipt of Provincial set fines.

**READ** a first and second time this 1st day of April, 2003.

**READ** a third time and finally passed in Council, this 1st day of April, 2003.

**THE CORPORATION OF THE COUNTY OF BRANT**

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R.E.F. Eddy, Mayor

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Jayne Carman, Clerk