

THE CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC

By-law No. xx-23

BEING A BY-LAW TO PRESCRIBE THE HEIGHT, DESCRIPTION AND MANNER OF BUILDING AND MAINTAINING FENCES.

WHEREAS in accordance with 'purpose provision' in section 2 of the Municipal Act, 2001, the specific natural environment powers conferred on municipalities by sections 135 through 147 of the aforementioned Act supplement the powers provided under section 11 of the same Act to provide municipalities with broad and flexible discretion to create regulations necessary for the economic, social, and environmental well-being of their respective municipalities;

AND WHEREAS Section 10(2) paragraph 10 of the Municipal Act, 2001 S.O. 2001, c.25, as amended, provides that a municipality may pass bylaws respecting structures, including fences.

AND WHEREAS the Municipality may enact by-law provisions that create offences, impose fines, authorize orders to achieve compliance or discontinue contraventions, authorize inspections, authorize remedial work and provide for the collection of remediation costs pursuant to Part XIV of the Municipal Act;

AND WHEREAS it is deemed desirable to establish regulations concerning fences for the Municipality of Strathroy-Caradoc.

NOW THEREFORE BE IT ENACTED BY THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC AS FOLLOWS:

1 **DEFINITIONS**

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

“Alter”, shall mean, when used in reference to a building or structure, to change, extend, enlarge, or renovate any one or more of the interior or external dimensions or walls or roof thereof. When used in reference to a fence, the word “alter” may also mean change or cause to change in character or composition.

“Chief Building Official” means the Chief Building Official for the Corporation of the Municipality of Strathroy-Caradoc and/or designate;

“Municipal Law Enforcement Officer” shall mean a Designated Official;

“Council” means the Council of the Municipality of Strathroy-Caradoc;

“Designated Official” shall mean the Chief Building Official, By-law Enforcement Officer or any other officer of the Municipality who has been assigned the responsibility of administering and enforcing this By-law, or their designate.

“Driveway” means a vehicle access provided between a street and a parking area/space or a loading space;

“Electrical Fence” means a fence through which electricity passes;

“Erect” shall mean to build, construct, reconstruct, alter or relocate and, without limiting the generality of the foregoing, may include any preliminary physical operation such as excavating, grading, piling, cribbing, filling or draining, structurally altering any existing building or structure by an addition, deletion, enlargement or extension.;

“Fence” includes a railing, wall, line of posts, wire, masonry, gate, boards or pickets or other similar substances, used to enclose or divide in whole or in part a yard or other land, or to establish a property boundary, but does not include a retaining wall;

“Fence – open type construction” means a fence constructed so that its vertical surface area is unobstructed, enabling motorists and pedestrians to have a clear view through such fence (e.g. a fence of chain link construction, wrought iron);

“Fence – solid type construction” means a fence constructed so that its vertical surface is obstructed, preventing motorists and pedestrians from having a clear view through such fence;

“Gate” means any part of a fence which opens on hinges and includes a door located in the wall of an attached or detached garage or carport which forms part of the swimming pool fence;

“Height” is measured from the ground where the fence posts are embedded or other supporting structures are located to the top of the fence; and does not include decorative post caps or similar features.

“Livestock” shall mean animals kept for use, for propagation, or for intended profit or gain and, without limiting the generality of the foregoing, may include cattle, horses, swine, sheep, laying hens, chicken and turkey broilers, turkeys, goats, geese, ducks, mink and rabbit, but excludes household pets;

“Lot” means any parcel of land which can be occupied or used 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;

“Maintain” means to carry out repairs of any part or parts of a fence so that it can properly perform the intended function;

“Municipality” means the Municipality of Strathroy-Caradoc;

“Non-Residential Lot” means either a lot located within a zone that does not include ‘dwelling’ as a primary permitted use within the Strathroy-Caradoc Zoning By-Law OR, a lot that is located within a zone that does include a ‘dwelling’ as a permitted use but it contains, as a main structure, a non-residential building or structure.;

“Owner” means the person who holds legal title to a piece of property or has an equitable interest in the same;

“Perimeter Fence” means a fence with gates, where necessary that is located on the outer boundaries of a property and that encloses a property in its entirety;

“Residential Lot” means located within residential zone category that permits one or more dwelling units or dwelling types -as a primary use per Strathroy-Caradoc Zoning By-law;

“Road, Public”, shall mean a common and public highway and includes a bridge forming part of a highway or on, over or across which a highway passes, but does not include an unopened road allowance;

“Road, Private”, shall mean an improved highway, street or road which affords the principal means of vehicular access to a dwelling or a dwelling unit, and which is not under the jurisdiction of the Municipality, the County or the Province.

“Sight Triangle” refers to Sight Visibility Triangles regulated in the -Strathroy-Caradoc Zoning By-law;

“Street” please refer to the definition of “Road”;

“Street Line” means the boundary between a street and a lot separating the lot from the abutting street;

“Yard” means that part of a lot not covered or occupied by any building;

“Yard, exterior side” means a side yard immediately adjoining a street, extending from a front yard to the rear lot line;

“Yard, front” means a yard that extends across the full width of the lot from the front lot line to the nearest wall of the main building on the lot. Where a lot is a corner lot, for the purposes of this by-law the shortest lot line abutting the street is the front lot line;

“Yard, interior side” means a side yard other than an exterior side yard.

“Yard, rear” means a yard that extends across the full width of the lot from the rear lot line to the nearest wall of the main building on the lot;

“Yard, side” means a yard that extends from the front yard to the rear yard and from the side line of a lot to the nearest wall of the main building on the lot.

“Zoning By-law” means the current comprehensive zoning by-law passed by the Municipality pursuant to the provisions of the Planning Act, as amended.

2 GENERAL PROVISIONS

- a. The requirements of this by-law applies to all properties within the Municipality of Strathroy-Caradoc.
- b. Swimming pool enclosure fences require a permit from the Chief Building Official prior to the construction of a pool, refer to Strathroy-Caradoc Pool Fences By-law No. 26-12 as amended.
- c. Notwithstanding the provisions of this By-law, a Fence that lawfully existed prior to the effective date of this By-law shall be deemed to comply with this By-law and Shall be maintained with the same material, height and dimensions as previously existing, including (without limitation) lawful repair work.
- d. No person shall erect or cause or permit to be erected or maintain a fence unless it is:
 - i. reasonably uniform in colour and pattern;
 - ii. constructed of materials that are specifically designed or commonly used for fencing purposes;
 - iii. non-reflective in nature;
- e. No person shall erect or cause or permit to be erected or maintain any fence that is not:
 - i. in good repair; and
 - ii. sufficiently sturdy so as not to present a hazard through risk of toppling or collapse or through risk of portions coming loose that could become a hazard.
- f. Notwithstanding any of the regulations set out in this by-law, no person shall erect, alter, construct or permit to be erected or constructed a fence that:
 - i. obstructs pedestrian or vehicular traffic; or obscures clear visibility of normal approaching pedestrian or vehicular traffic
 - ii. obstructs the use of a fire hydrant or interfere with the operations of the Strathroy-Caradoc Fire and Emergency Services. Not less than a two (2) meter clear space shall be maintained around the circumference of a fire hydrant.
 - iii. obstructs the use of a legal right-of-way or easement over an intervening lot or a private common element unless a fence is a permitted encroachment.
 - iv. obstructs or interferes with natural or engineered drainage of the property on which it's erected on or any adjacent property.
- g. Notwithstanding any other provision of this By-law, a fence that is constructed as required in a registered agreements or agreements entered into with the Municipality pursuant to Section 41, 45 51, or 53 of the Planning Act, R.S.O. 1990, c. P.13, as amended, or any plans approved by the Municipality in accordance to either of those sections shall be deemed not to contravene the provisions of this By-law.
- h. No person shall erect or cause or permit to be erected or maintain any fence that is located within a Sight Triangle in such a manner as to impede vision between a height of

60 cm and 3 m above the centre line grade of intersecting road or railway in the triangular area as regulated in Strathroy-Caradoc Zoning By-law Section 4.30 (1) as may be amended from time to time

3 RESIDENTIAL FENCES

- a. No person shall erect, cause or permit to be erected a fence on a Residential Lot except in accordance with Sections 3b) through 3e) inclusive.
- b. A fence within a Front Yard shall not exceed a height of 0.91 metres (3 feet) measured from the ground level if of a solid type construction or a maximum height of 1.8 metres (6 feet) measured from the ground level if of an open type construction.
- c. A fence within any rear yard or side yard shall not exceed a height of 2.1 metres (7 feet) measured from the ground level with the exception of a boundary fence between a Residential Lot and a Non Residential Lot where the abutting property is being used for a commercial, institutional or industrial purpose, in which case Section 4 may apply.
- d. Despite Section 3b), where a front yard abuts a rear yard of an adjacent corner lot, a fence not exceeding a height of 2.1 metres (7 feet) may be erected along that portion of the lot line between said Lots, having regard to the Sight Triangle requirements of Section 2h).
- e. Any Residential Lot containing more than 3 dwelling units and less than 11 units is required to construct and maintain a fence of solid type construction along the rear and side yards having a height of 1.8 metres (6 feet), having regard to the Sight Triangle requirements of Section 2hi), with the exception of a boundary fence between a Residential Lot and a Non Residential Lot where the abutting property is being used for a commercial, institutional or industrial purpose, in which case Section 4 may apply.

4. NON-RESIDENTIAL FENCES-COMMERCIAL, INSTITUTIONAL, INDUSTRIAL

- a. No person shall erect, cause or permit to be erected a fence on a non-residential lot within a Commercial, Institutional or Industrial zone as defined in the Zoning By-law except in accordance with Sections 4b) through 4d) inclusive.
- b. A fence within any yard shall not exceed a height of 2.7 metres (9 feet).
- c. The owner of any property used for commercial, institutional, or industrial purposes shall install and maintain fencing which shall be constructed in such a fashion as to block the view and such fence shall be not less than 1.2 metres (4 feet) and not more than 2.7 metres (9 feet) in height where such property abuts a Residential Lot and is used for the parking, access, and exiting of vehicles by tenants, employees, or customers or when used for the operation of equipment or when used for the storage of goods, or when used for any other purpose which may detract from the enjoyment and good

appearance of the abutting residential property unless otherwise considered necessary by the Municipality and provided for in a site plan agreement.

- d. Where outside storage is proposed and permitted by the Zoning By-law, the owner shall enclose such outside storage areas with fencing at least 1.52 metres (5 feet) in height, which fencing shall be constructed in such a fashion as to block the view of items stored.

5. **NON-RESIDENTIAL FENCES – AGRICULTURAL LIVESTOCK**

6. **FENCES WITH BARBED WIRE OR OTHER BARBED MATERIAL**

- a. Except as provided in Subsection (b) of this Section, no person shall erect or cause to be erected a barbed wire fence on any lot in the Municipality of Strathroy-Caradoc.
- b. Barbed wire or other barbed or sharp material may be used on the top and to the outside of fences that are erected on a Lot which meet all the following criteria:
 - i. the lot is zoned Industrial in the Zoning By-law;
 - ii. the barbed wire is located not less than 1.52 metres (5 feet) above ground level;
 - iii. the outward projection of the barbed wire does not project onto a neighboring property.
 - iv. A barbed wire fence is not located adjacent to a daycare facility, school or residential lot.

7. **ELECTRICAL FENCES**

- a. Except as provided in Subsection (b) of this Section, no person shall erect or cause to be erected an electrical fence on any lot in the Municipality of Strathroy-Caradoc.
- b. An electrical fence using direct current may be erected on land in Agricultural Zones, providing it is being lawfully used for agricultural purposes and on the condition that any person erecting an electric fence for the purpose allowed under this section shall comply with the following:
 - i. The fence is designed and erected solely to contain livestock;
 - ii. The fence shall have a controller that meets CSA (Canadian Standards Association) requirements;
 - iii. An electric fence is not located adjacent to a daycare facility or a school.

8. **ACCESS TO FENCES FOR MAINTENANCE**

- a. 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 fence on the land of the owner or occupant provided that:
 - i. The owner or occupant enters the adjoining land only to the extent necessary to carry out repairs or alterations;
 - ii. The person exercising the power of entry displays, or on request, produces proper identification;
 - iii. The owner or occupant provides reasonable notice of the proposed entry to the occupier of the adjoining land; and
 - iv. 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.

9. GENERAL

- a. In this by-law, unless the context otherwise requires, words imparting the singular number shall include the plural, and words imparting the feminine gender shall include the masculine and, further, the converse of the foregoing also applies where the context so requires.
- b. Any person may apply to the Committee of Adjustment for a minor variance from the requirements of this by-law. The Committee may grant a minor variance if, in its opinion, the general intent and purpose of the Fence By-law are maintained or if the Committee is satisfied, after allowing input from the applicant and property owners within 60 metres (200 feet), that the variance is appropriate. The Committee may attach reasonable terms and conditions to the minor variance. A minor variance shall be invalid if the terms and conditions are contravened.

10. ADMINISTRATION AND ENFORCEMENT

- a. In the event that the Municipality receives complaints regarding a fence, the Municipal Law Enforcement Officer shall inspect such fence. If, in the opinion of the Municipal Law Enforcement Officer, the fence does not meet provisions of the by-law, the Municipal Law Enforcement Officer shall require, in writing, the owner, agent or person responsible for the fence to comply with the provisions of this by-law. Failure to comply shall be considered a contravention of the by-law which is subject to the penalty set out in Section 12 of this by-law.
- b. Notice in writing is deemed delivered when it has been:
 - i. personally served; or
 - ii. sent by regular mail to the address of the owner, as shown on the last revised assessment roll, on the ~~seventh~~fourteenth day after mailing; and/or

- iii. when posted ~~on the offending fence and/or posted~~ to the address of the assessment roll.

11. PENALTY

- a. Any person who contravenes a provision of this By-law is guilty of an offence and is liable, upon conviction, to the maximum penalty as prescribed by the Provincial Offences Act, as amended, and as set out in Schedule "A" attached hereto. All such fines shall be recovered under the Provincial Offences Act.

Schedule "A" being the Set Fine Schedule and attached hereto shall constitute part of this By-law.

- b. In addition to the foregoing penalty, failure to comply with the provisions of this By-law may result in the Municipality undertaking to complete the work and any costs associated with the work shall be billed to the registered property owner in a like manner as taxes.
- c. In the case of an immediate safety hazard, where the designated official has been compelled to remove said hazard, the work and any costs associated with the work shall be billed to the registered property owner in a like manner as taxes.
- d. Any structure, which contravenes any requirement of this By-law may be removed or altered at the instance of the Corporation, pursuant to the provisions of the Municipal Act, R.S.O. 2001, Section 445, as amended.
- e. Where a conviction is entered under this section, in addition to any other penalty provided by law, the court in which the conviction was entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted.

12. SEVERABILITY

If a court of competent jurisdiction declares any section or subsection of this by-law invalid, the remainder of this by-law shall continue in force unless the court makes an order to the contrary.

13. TITLE

This By-law shall be referred to as the "Municipality of Strathroy-Caradoc Fence By-law".

14. FORCE and EFFECT

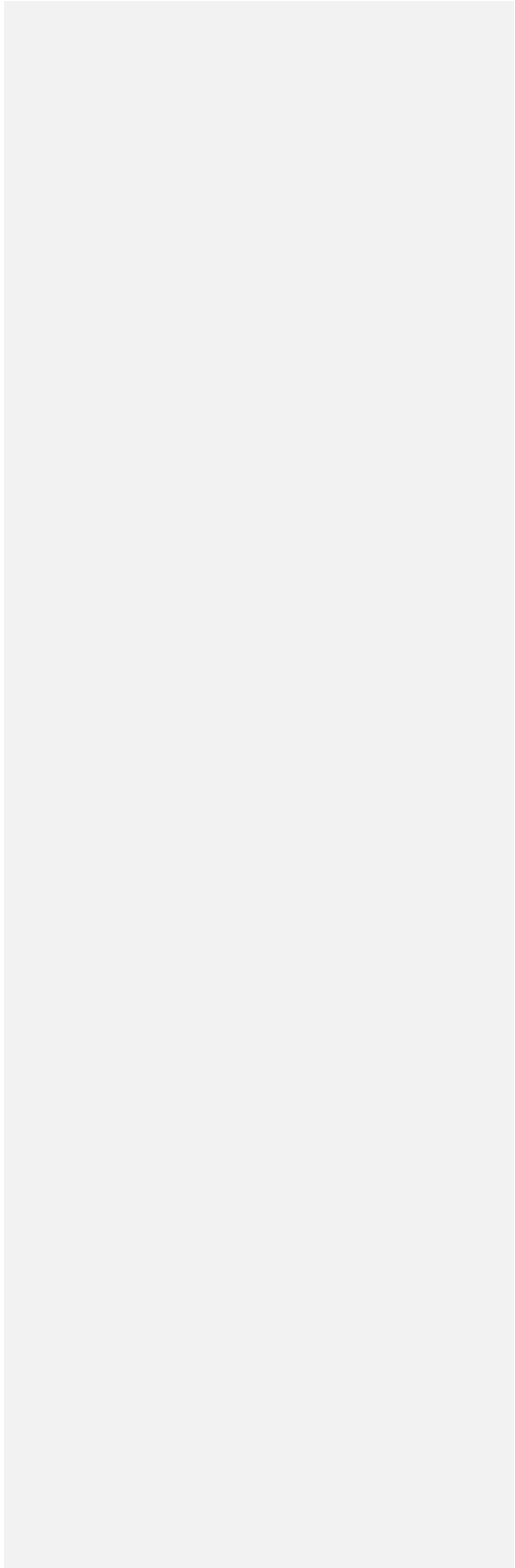
This by-law comes into force and effect on the date of passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED IN OPEN COUNCIL

Mayor

Clerk

DRAFT



Corporation of the Municipality of Strathroy-Caradoc

PART 1- Provincial Offences Act

Regulation of Fences within the Municipality of Strathroy-Caradoc – By law No.....

Schedule “A”

Short Form Wording and Set Fines

Item	Short Form Wording	Provision Creating or Defining Offence	Set Fine
1	Erect a fence of restricted colour, pattern and/or materials	Section 2 (d)	\$300.00
2	Failure to erect or maintain a fence that is sturdy and in good repair	Section 2 (e)	\$300.00
3	Erect a fence that obstructs pedestrian or vehicular traffic	Section 2 (f) (i)	\$300.00
4	Erect a fence that obstructs a fire hydrant	Section 2 (f) (ii)	\$300.00
5	Erect a fence that obstructs legal right-of-way or easement	Section 2 (f) (iii)	\$300.00
6	Erect a fence that obstructs natural or engineered drainage	Section 2 (f) (iv)	\$300.00
7	Erect a fence within sight triangle	Section 2 (h)	\$300.00
8	Erect a residential fence in excess of height restrictions	Section 3	\$300.00
9	Failure to construct or maintain a 1.8 m (6 ft) fence of solid type construction	Section 3 (e)	\$300.00
10	Erect a non-residential fence in excess of height restrictions	Section 4	\$300.00
11	Failure to install or maintain visual barrier on non-residential fence	Section 4 (c)	\$300.00
12	Failure to contain livestock within a perimeter fence	Section 5 (a)	\$600.00
13	Erect a fence with barbed material	Section 6 (a)	\$600.00
14	Erect an electric fence	Section 7 (a)	\$600.00