



By-law No.1165-24

FENCE BY-LAW

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THE CORPORATION OF THE TOWNSHIP OF VAL RITA-HARTY

BY-LAW NO.1165-24

A By-law respecting the erection and maintenance of Fences.

WHEREAS subsection 10 (1) of the *Municipal Act, 2001*, S.O. 2001, c.25 provides broad authority and states that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS paragraph 10 of subsection 10 (2) may pass by-laws respecting structures, including fences and signs;

AND WHEREAS the Council of the Corporation of the Township of Val Rita - Harty deems it expedient to establish a by-law respecting the erection and maintenance of fences including swimming pool fences;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF VAL RITA - HARTY ENACTS AS FOLLOWS:

That By-Law #1028-16 is hereby repealed.

READ A FIRST TIME ON THIS 19th DAY OF MARCH 2024

Carole Lessard-Deputy Mayor

Vickie Boudreau – Clerk/Treasurer

READ A SECOND TIME ON THIS 19th DAY OF MARCH 2024

Carole Lessard-Deputy Mayor

Vickie Boudreau – Clerk/Treasurer

READ A THIRD TIME AND PASSED ON THIS 19th DAY OF MARCH 2024

Carole Lessard-Deputy Mayor

Vickie Boudreau – Clerk/Treasurer

PART 1

DEFINITIONS

- 1.1. In this by-law, except where a contrary intention appears, the following words have the following meaning:
- a. **“Chief Building Official”** means an officer or employee of the Town charged with the duty of enforcing the provisions of the *Building Code Act, 1992, S.O.1992, c.23*, as amended and similar by-laws of the Town or his authorized representative.
 - b. **“Committee”** means the Planning Committee.
 - c. **“Construct/erect”** means to build, reconstruct, or relocate, and includes any preliminary physical operations such as cutting, grading, excavating, filling, or draining, or any altering of any existing fence by the addition, extension, or any other structural change.
 - d. **“Council”** means the Council of the Corporation of the Township of Val Rita - Harty.
 - e. **“Existing”** means existing as of the date of the passing of this By-law.
 - f. **“Fence”** means a freestanding man-made structure, other than a building, or any earthwork or greenery that fulfils the same function, erected at grade for the purpose of screening, safeguarding, delineating the boundaries of a property, restricting ingress to or egress from a property, providing security or protection to property, and does include hedges and retaining walls.
 - g. **“Gate”** means any swinging or sliding barrier used to fill in or close an access in a Fence.
 - h. **“Grade”** means the average elevation of the finished grade of the ground immediately surrounding such structure, exclusive of any artificial embankment or entrenchment.
 - i. **“Hazardous”** means a fence that by its location, its proximity with neighbouring properties, its height, or its material is considered dangerous for the health, safety and well-being of a person or property, or has a potential of causing damages or injuries to a person or a property.

- j. **“Highway”** means a common and public highway, and includes any bridges, trestle or viaduct or other structure forming part of the highway and except as otherwise provided, includes a portion of a highway.
- k. **“Lot line”** means a boundary line of a lot.
- l. **“Lot Line, Front”** has the same definition that in the Zoning By-law.
- m. **“Lot Line, Side”** Has the same definition that in the Zoning By-law
- n. **“Lot Line, Rear”** means the lot line furthest from, and opposite to, the Front Lot Line.
- o. **“Municipal Law Enforcement Officer”** means a Municipal Law enforcement Officer appointed by the Corporation of the Township of Val Rita-Harty to enforce municipal by-laws;
- p. **“Non-Complying”** means an existing structure which does not comply or fails to meet with one or more of the provisions of this By-law on the date of its final passing thereof.
- q. **“Non-Residential Property”** means land used for other than residential purposes and includes land used for both residential and other purposes.
- r. **“Owner”** means the person or organization who owns the land in or on which a land use is located and who may be responsible for the establishment or operation of that land use.
- s. **“Person”** means an individual, an association, a chartered organization, a firm, a partnership, a corporation, an agent or trustee and the heirs, executors, or other legal representatives of a person to whom the context can apply according to law.
- t. **“Residential Property”** means land used for residential purposes and includes vacant land abutting residential property.
- u. **“Retaining Wall”** means any structure constructed of concrete, wood, stone, metal, brick, or other similar materials which are erected for the purpose of confining earth material, and which are of a maximum height of 1 meter.
- v. **“Temporary Fence”** means a fence that is installed for the sole purpose of safeguarding a construction site. It includes a plastic fence and the like

installed during the winter months for protecting shrubs, hedges and other from snow drifting.

- w. **“Township”** means the Corporation of the Township of Val Rita - Harty.
- x. **“Yard”** means a space, appurtenant to a building or structure or excavation, located on the same lot as the building, structure or excavation, and which space is open, uncovered, and unoccupied from the ground to the sky except for such accessory buildings, structures or uses as are specifically permitted.
- y. **“Yard, Front”** means a yard located between the front lot line and the nearest part of any excavation or main building on the lot and extending across the full width of the lot.
- z. **“Yard, Rear”** means a yard located between a rear lot line and the nearest part of any excavation or main building on the lot and extending for the full length of such rear lot line but excluding any front yard.
- aa. **“Yard, Side”** means a yard located between a side lot line and the nearest part of any excavation or main building on the lot and extending for the full length of such side lot line but excluding any front yard or rear yard.
- bb. **“Zoning By-law”** means the Township of Val Rita Zoning By-law No. 839-08, as amended from time to time, and any version replacing the Zoning By-law No. 839-08, as amended.

PART 2

GENERAL REGULATIONS

- 2.1. All persons erecting a fence or causing a fence to be erected shall be responsible to ensure that they have a legal right to erect the fence on the proposed location. The Township shall not be involved in property ownership disputes regarding lot line, private rights-of-way, easements, and the like. Furthermore, all Persons shall be responsible to obtain all underground locates from concerned utilities and the Township before any excavation, digging or planting be undertaken.
- 2.2. All persons erecting a fence or causing a fence to be erected shall be responsible for the respect of the dispositions of this By-law, as amended.
- 2.3. No person shall erect a fence or cause a fence to be erected unless the fence is:
 - a. stable;
 - b. vertical;
 - c. made of material of good quality;
 - d. suitable for the purpose, and;
 - e. constructed and supported in a manner commensurate with the design of the entire fence.
- 2.4. No Person shall fail to keep such fence:
 - a. in good repair;
 - b. in a safe and structurally sound condition;
 - c. free from accident hazards;
 - d. protected by paint, preservative, or other weather resistant material, except for wooden Fences made of cedar, redwood or treated wood;
 - e. where comprised in whole or in part of shrubs, cedars, bushes, or other planting material, regularly pruned, trimmed, or otherwise maintained.

- f. which is located within a sight triangle a maximum height that is greater than one (1) meter (three (3) feet).
- 2.5. No Person shall erect a fence or cause a fence to be erected:
 - a. which is wholly or partly constructed of barbed wire, chicken wire or other barbed or sharp materials, steel wire cable or chains.
 - b. which is constructed of demolition material, used or new metal roofing, used or new corrugated tin or fibreglass, or the like;
 - c. which contains a device for projecting an electric current.
- 2.6. No person shall erect a fence or cause a fence to be erected on Township property, including any public highway in the Township of Val Rita – Harty unless said fence is authorized by the Council of the Township of Val Rita – Harty by way of an Encroachment Agreement with the Township of Val Rita - Harty.
- 2.7. No person shall erect a fence or cause a fence to be erected in any way that would alter the existing grades or drainage patterns of the premises, and the neighbouring properties, unless the design recommended by a professional engineer is prior approved in writing by the Township.
- 2.8. No person shall erect a fence or cause a fence to be erected unless the fence is constructed and finished in such a manner as to present an acceptable finished side toward the public highway and the neighbouring properties.
- 2.9. Notwithstanding paragraph a) of subsection 2.5, where required for the safety or protection of non-residential property, the portion of any fence above two hundred and ten centimetres (210 cm), seven feet (7 ft) may be wholly or partially constructed of barbed wire. In such case, no person shall fail to keep, clearly posted, signs warning people of the presence of barbed wire.
- 2.10. Notwithstanding paragraph a) and c) of subsection 2.5, where required on agricultural lands only for the purpose of containing livestock, a fence which is wholly or partly constructed of barbed wire or chicken wire is permitted.
- 2.11. No person shall fail to remove unsightly markings, stains, or other defacements on the exterior surfaces of fences and to refinish the surface when necessary.

- 2.12. No person shall erect or cause to be erected on residential property or on lot lines of non-residential property abutting a residential property, a chain link fence that is not vinyl or powder coated and /or snow fence.

PART 3

TEMPORARY FENCE

- 3.1. No person shall install a temporary fence during the months of April to October unless the premises where the temporary fence is to be erected thereon has been issued a demolition or construction permit from the Building Services Department and until said permit remains valid.
- 3.2. No Person shall use a temporary fence as a divisional fence.

PART 4

CALCULATION OF HEIGHT

- 4.1. The height of a fence at any given point shall be measured from grade at the base of the fence, as follows:
- a. To the top of the fence where erected at grade and where there is no grade difference between the two sides of the fence; or
 - b. From the higher grade to the top of the fence where erected at grade and there is a grade difference between the two sides of the fence.

PART 5

SPECIFIC REGULATIONS

- 5.1. No person shall erect or cause to be erected a fence which obscures a clear view at street intersections, pedestrian or bicycle pathways, driveways, or other points of ingress or egress of vehicular or pedestrian traffic or within the sight triangle as per described in the Zoning By-law.

Residential Property

- 5.2. No person shall erect a fence or cause a fence to be erected exceeding 2.1 metres (7 feet) in height in any Side Yard or Rear Yard or exceeding 1 metre (3 ft) in height in any Front Yard.
- 5.3. Notwithstanding subsection 5.2, where a property is abutting a non-residential property, and such fence is contiguous to the non-residential property, the height of the fence shall not exceed 2.4 metres (8 feet).
- 5.4. Fences around tennis courts, in other than a required front yard, may be erected to a maximum height of 3.65 metres (12 feet).
- 5.5. Notwithstanding subsection 5.2, no person shall in any side yard or rear yard install or cause to be installed:
 - a. Gates that exceed the height restrictions by a maximum of 30 centimetres (1 foot);
 - b. Archways forming part of an entrance that exceed the height restrictions to a maximum of 250 centimetres (8 feet); and
 - c. Decorative caps on structural posts that exceed the height restrictions to a maximum of 15 centimetres (6 inches).
- 5.6. No person shall erect or cause to be erected a retaining wall exceeding 1 meter (3 feet) in any side yard or rear yard without respecting the provisions of the Ontario Building Code.

Non-Residential Property

- 5.7. No person shall erect a fence or cause a fence to be erected exceeding 2.4 metres (8 feet) in height in any side yard or rear yard.
- 5.8. Where the front yard abuts to a street, no person shall erect a fence or cause a fence to be erected without respecting a .03 metre (1 foot) setback from the front lot line and exceeding 1 meter (3 feet) in height unless a site plan agreement with the Township is agreed upon by both parties.
- 5.9. Fences around tennis courts on lands used for non-residential purposes may be erected to a maximum height of 4.3 metres (14 feet).

PART 6

EXCLUSION

- 6.1. This By-law does not apply to a fence erected upon, or abutting land, which is used for a railway right-of-way, for hydro, telephone or public utilities installation or equipment, or for public works installations or equipment which are dangerous to the public safety and well-being.
- 6.2. An agreement under Section 41 of the *Planning Act, R.S.O. 199, Chapter P.13*, as amended, approved by Council, may require a fence not respecting the provisions of this By-law as a condition.
- 6.3. The provisions in subsections 5.2 to 5.9 inclusively of this By-law do not apply to a fence that has been lawfully erected and is in existence prior to the passing of this By-law. The onus of the proof shall lie with the owner of the property. Non-complying fences may be maintained and repaired with the same material, height, and dimensions as they existed.
- 6.4. Notwithstanding the provision of subsection 6.3, an existing fence that is deemed by the Municipal Law Enforcement Officer to be hazardous, or to be unreasonably obstructing a view, shall comply with the provisions of this By-law. The Municipal Law Enforcement Officer may issue an order to comply with the provisions of this By-law to an owner of a fence deemed by the Municipal Law Enforcement Officer to be Hazardous or a view obstruction. The order to comply issued may be appealed in accordance with the provisions of section 8 hereof.

PART 7

GENERAL PROHIBITION

- 7.1. No Person shall erect a fence, cause a fence to be erected or maintain a fence on private property within the Township that does not comply with this By-law.

PART 8

APPEAL

- 8.1. A committee comprised of the Township of Val Rita – Harty Council is hereby constituted as the Fence Review Committee.
- 8.2. For the purpose of the present section, a person who files an appeal shall be recognized as the “Applicant”.
- 8.3. An order to comply sent by the Municipal Law Enforcement Officer under subsection 6.4 for an existing fence may be appealed to the Fence Review Committee by the owner.
- 8.4. A person filing a complaint on an existing fence may also appeal the decision of the Municipal Law Enforcement Officer to the Committee.
- 8.5. The applicant shall pay the appeal fees as established by Council, as modified from time to time.
- 8.6. The Committee shall have jurisdiction over any dispute concerning an order to comply for an existing fence to this By-law, the interpretation of hazardous fence or fence obstructing the view provided in subsection 6.4 as well as the decision by the Municipal Law Enforcement Officer to reject a complaint on an existing fence.
- 8.7. Upon receipt of notice of an appeal, the Committee shall be supplied with the appeal application and a report from the Municipal Law Enforcement Officer.
- 8.8. Upon receipt of the documents described in subsection 8.7, the Clerk’s office shall determine the time and date of the review hearing and shall give said notice in writing to the Applicant, and such other persons as the Clerk deems appropriate. The notice shall be served personally or by registered mail to the Applicant at the address as shown on the application.
- 8.9. The appeal hearing shall be open to the public except when the Committee is of the opinion that:
 - a. matters involving public security may be disclosed, or;
 - b. intimate financial or personal matters may be disclosed at the appeal hearing and avoiding disclosure is in the best interest of any person affected or in the public interest.

- 8.10. The Applicant and any other person served with a notice may be represented by a counsel, or an agent, call and examine witnesses, present his/her arguments and submissions, and cross-examine witnesses at the hearing to reasonably bring forward all the facts of the matter before the Committee.
- 8.11. The Committee shall render a decision in writing within twenty-one (21) days of the appeal hearing.
- 8.12. A copy of said decision shall be sent by registered mail or served personally to the Applicant and to any other person who has requested a copy of the decision.
- 8.13. The decision of the Committee is final and binding on all parties and is conclusive as to the applicability of this By-law to the matter in appeal.
- 8.14. The Committee is not liable to compensate the owner, occupant, or any other person by reason of anything done by or on behalf of the Township in the reasonable exercise of its powers, or any other section of this By-law.

PART 9

ADMINISTRATION

- 9.1. Council hereby delegates to the Municipal Law Enforcement Officer or designated alternate the function of determining compliance with the provisions of this By-law, and without restricting the generality of the foregoing, the assessment of whether a fence is hazardous, or creates an unreasonable obstruction of a view, and the issuance of orders to comply with the provisions of this By-law.
- 9.2. This By-law shall be enforced by the Municipal Law Enforcement Officer, or any other person duly appointed by Council.

PART 10

OFFENCE

- 10.1. Every Person who contravenes any of the provisions of this By-law is guilty of an offence and is liable upon conviction to a fine as provided for by the *Provincial Offences Act, R.S.O. 1990, c.P. 33*, as amended.

- 10.2. When a person has been convicted of an offence under this By-law, any court of competent jurisdiction, thereafter, may in addition to any other penalty imposed on the person convicted, issue 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.
- 10.3. An owner or occupant desiring to enforce the provisions of this By-law shall serve or cause to be served on the abutting owner, a notice by registered mail requiring compliance with this By-law, and if such compliance does not take place within thirty (30) days after service of the notice, the owner may take appropriate proceedings at the Ontario Court of Justice or any court of competent jurisdiction to obtain an order imposing compliance upon that owner of abutting property.

PART 11

VALIDITY

- 11.1. If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, the remaining sections shall remain in effect until repealed.
- 11.2. Where a provision of this By-law conflicts with the provisions of another By-law in force in the Township, the provisions that establish the higher standards to protect the health, safety and welfare of the general public shall prevail.

PART 14

RIGHT OF ENTRY

- 14.1. The Municipal Law Enforcement Officer or its designate shall have the right of entry on any property for the purpose of enforcing this by-law as per the *Municipal Act*.

PART 15

SHORT TITLE

- 15.1. This By-law may be known as the “**Fence By-law**” of the Corporation of the Township of Val Rita - Harty.

PART 16
SCHEDULES

16.1. Schedules attached hereto and by this reference shall form part of this By-law.

PART 17
EFFECTIVE DATE

16.1. This By-law shall come into force upon the date of its final passing.

ENACTED AND PASSED THIS [REDACTED] DAY OF [REDACTED] [REDACTED].

UNDER THE SEAL OF THE CORPORATION OF THE TOWNSHIP OF VAL RITA – HARTY.

Mayor

Town Clerk

SCHEDULE "A"

ORDER TO COMPLY



ORDER TO COMPLY

Section 6.4 of the Fence By-law No. [REDACTED] as amended.

Date:

To:

Address:

Roll:

Legal Description:

Municipality:

District of Cochrane

The above-described subject property has been inspected by a Municipal Law Enforcement Officer.

The inspection revealed a contravention of the Township of Val Rita – Harty Fence By-law No. [REDACTED]

IT IS ORDERED THAT you discontinue contravening activity to correct the contravention set out in **SCHEDULE "A"**.

YOU ARE ADVISED THAT if you do not discontinue contravening activity to correct the contravention set out in **SCHEDULE "A"**, it may result in charges being laid under the **Provincial Offences Act**.

For any questions relating to this **ORDER TO COMPLY** please call the Municipal Law Enforcement Officer at 1-705-335-2341.

Municipal Law Enforcement Officer

The item(s) listed herein are in contravention to the Township of Val Rita – Harty Fence By-law No.

Item	Contravention	Section
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

Inspection Notes

Actions Required

SCHEDULE "B"

NOTICE OF APPEAL



NOTICE OF APPEAL TO FENCE REVIEW COMMITTEE

Date:

To the Clerk – Secretary of the Review Committee
Fence Review Committee
Corporation of the Township of Val Rita – Harty
106 Government Road P.O. Box 100
Val Rita – Harty, Ontario
P0L 2G0

Re: Order to Comply

TAKE NOTICE of the appeal of the undersigned to the Fence Review Committee because of dissatisfaction with the above referenced Order to Comply served upon the undersigned on .

Name (Owner or Agent):

Address:

Telephone Number:

APPEAL TO THE FENCE REVIEW COMMITTEE

If an owner or occupant upon whom an order to comply has been served is not satisfied with the terms or conditions of the order to comply may appeal to the committee by sending a **NOTICE OF APPEAL** with the reason(s) for appealing by registered mail to the Clerk of the Township of Val Rita - Harty, within fifteen days after service of the order to comply, and, in the event that no appeal is taken, the order to comply shall be deemed to have been confirmed.

Signature of Owner or Authorized Agent

REASON(S) OF APPEALING ORDER:

SCHEDULE "C"

NOTICE OF HEARING

NOTICE OF HEARING

TOWNSHIP OF VAL RITA - HARTY



at

Name of hearing

Place of Hearing

File Number

Form: Notice of Hearing

Applicant(s)

Full legal name & address for service – street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any)

Lawyer's name & address – street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any)

Respondent(s)

Full legal name & address for service – street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any)

Lawyer's name & address – street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any)

NOTICE:

FENCE REVIEW COMMITTEE WILL HOLD A HEARING on

at _____ a.m./p.m. , or as soon as possible after that date at (place of hearing)

The Clerk of The Township of Val Rita - Harty has received

- ☐ An application for an appeal under the Fence By-law _____ Part 6 Section 6.4
☐ Order to Comply

Date of signature

Signature of clerk

Note: A copy of the application should be attached to this notice

SCHEDULE "D"

PERMISSION FORM



FENCE PERMISSION FORM

A. Project Information

Address: _____
Municipality: _____
Postal Code: _____

B. Owner/Applicant

☐ Owner ☐ Authorized agent of owner

Full Name: _____
Street Address: _____
Unit Number: _____
Municipality: _____
Postal Code: _____
Province: _____
Email: _____
Phone: _____
Cell: _____

CONDITIONS OF APPROVAL

1. Each application shall be accompanied by a site plan that indicates property line locations, building locations and proposed location of fence, including fence height. No Encroachments.
2. This permission form authorizes the erection of the fence located on the subject property.
3. All persons erecting a fence shall be responsible to ensure that they have legal right to erect the fence on the proposed location.
4. The Township shall not be involved in property ownership disputes regarding lot line, private rights-of-way, easements, and the like.
5. Furthermore, all persons shall be responsible to obtain all underground locates from concerned utilities and the Township before any excavation, digging or planting be undertaken.

DECLARATION

I hereby signify that I will comply with the conditions on this permission, and I certify the truth of all the statements or representations contained therein.

Signature of Owner or Authorized Agent

Date



FENCE PERMISSION FORM

Site Plan:

Fence Information:

Fence Material: _____

Fence Height: _____

Fence Setbacks: _____

Zoning Information:

Zoning: _____

SCHEDULE “E”

SHORT FORM WORDING

ITEM	SHORT FORM WORDING	PROVISION CREATING OR DEFINING OFFENCE	SET FINE
1	Erected fence on township property or public highway without authorization	Sec. 2.6	\$ 115.00
2	Erected fence altering grades or drainage patterns	Sec. 2.7	\$ 115.00
3	Erected fence without acceptable finished side toward highway or neighbouring property	Sec. 2.8	\$ 115.00
4	Failed to keep posted warning signs	Sec. 2.9	\$ 75.00
5	Fail to remove unsightly markings or defacements	Sec. 2.11	\$ 75.00
6	Erected a chain link fence – not vinyl or powder coated	Sec. 2.12	\$ 75.00
7	Installed temporary fence from April to October	Sec. 3.1	\$ 75.00
8	Using temporary fence as a divisional fence	Sec. 3.2	\$ 115.00
9	Erected fence obscuring view of vehicular or pedestrian traffic	Sec. 5.1	\$115.00
10	Erected fence exceeding 7 feet in height	Sec. 5.2	\$75.00
11	Erected fence exceeding 3 feet in height	Sec. 5.2	\$75.00
12	Erected retaining wall exceeding 3 feet	Sec. 5.6	\$75.00
13	Erected fence exceeding 8 feet in height	Sec. 5.7	\$75.00
14	Erect, cause to be erected or maintain a fence in non-compliance	Sec. 7.1	\$75.00