

THE CORPORATION OF THE TOWNSHIP OF PLUMMER ADDITIONAL
BY-LAW NO. 2022-06
LINE FENCE BY-LAW

WHEREAS pursuant to the provisions of the Municipal Act, S.O. 2001 and the Line Fences Act, R.S.O. 1990, the Corporation of the Township of Plummer Additional deems it desirable to enact a by-law to prescribe standards for fences and a procedure for the administration of the Line Fences Act.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF PLUMMER ADDITIONAL ENACTS AS FOLLOWS:

1. DEFINITIONS

- a. Adjoining Owner means the person who owns a parcel of land abutting the parcel of land of the owner.
- b. Awarded Cost means any cost awarded pursuant to Section 3(12) of this by-law.
- c. Boundary Fence means a fence marking the boundary between the owner's land and adjoining lands.
- d. Designate shall mean the Clerk's designate, said designate shall be the Chief By-law Officer
- e. Fence Viewers means the persons appointed by the Town to serve for the term of Council for the purpose of settling disputes under the Line Fences Act.
- f. Owner means the owner of land who desires to erect a division fence.
- g. Owners means both owner and adjoining owner.
- h. Prescribed Forms mean the forms prescribed under the Line Fences Act.
- i. Township means the Corporation of the Township of Plummer Additional.
- j. Value of Work means the value of the materials used and the value of Labour performed to complete the work.

2. GENERAL PROVISIONS

- (1) This by-law shall only apply to lands wholly situate within the Municipality of the Township of Plummer Additional and shall not apply where there is a dispute between adjoining landowners where the lands in dispute lie in whole or in part in another municipality.
- (2) Notwithstanding the provisions of this by-law, if an owner of land is required to install a fence pursuant to any other by-law or resolution of the Council of the Township of Plummer Additional, then the owner shall be responsible for all costs associated with the installation of said fence.

(3) Types of Dispute Issues

The Line Fence Viewers shall make determination or awards on the following disputes between Neighbours:

- (a) The type of offence to be erected.
- (b) The sharing of the cost of installation of a fence.
- (c) Determination of both (a) and (b) above.
- (d) The sharing of the cost of repair or maintenance to an existing fence on the boundary line.
- (e) The removal of an existing fence in a state of disrepair.

(4) Complete Prohibitions

- (a) The Line Fences Act **does not apply** to allow fence-viewers to settle property line or title disputes. The owner and adjoining owner shall deal with disputes as to the location of fences.
- (b) No owner shall be permitted to erect a **barbed wire** fence as the boundary fence in residential areas.

(5) Height of Fences

- (a) All fences erected within the boundaries of the Township of Plummer Additional shall be in accordance with the zoning by-laws and amendments thereto.

3. ADMINISTRATION

- (1) Under the Line Fences Act, the Clerk of the municipality or their designate shall be responsible for the administration of the Line Fences Act.
- (2) In the absence of the Clerk, the Chief By-law Officer shall be responsible for the administration of the Act.
- (3) Prior to making application for Fence Viewers, a landowner interested in having a boundary fence constructed, reconstructed or repaired should:
 - (a) Make every possible effort to reach an agreement with the adjoining owner.
 - (b) Discuss the matter informally with staff prior to a formal hearing by the Fence Viewers.
 - (c) Attempt to make sure that the Act applies to the lands of both owners; and,
 - (d) Ensure that the boundary line between the two properties is not in dispute.

(4) Fees

All requests for Fence Viewers shall be accompanied by a certified cheque payable to the Township or cash, e-transfer in the amount of \$300 to be applied against the costs of fence viewer's fees and the administration of the same.

This fee shall be considered non-refundable once the fence viewers have attended the site.

Should the owner wish to withdraw their request prior to the fence viewers attending, there shall be a \$50 administration fee deducted from any refund requested.

- (5) Where the owner of any land desires to have a boundary fence constructed to mark the boundary between the owner's land and the land of an adjoining owner, or where such a fence exists, to have it repaired or reconstructed and where the owner has not entered into a written agreement with the adjoining owner for sharing costs of construction, reconstruction or repair, the owner may notify the Clerk of the municipality and complete a Form 1 - "Owner's Request for Fence Viewers".
- (6) Upon receipt of a formal application (Form 1) and payment for the same, the Clerk of the municipality, or designate, shall establish a date and time for the hearing. The said hearing shall take place within (30) days of the receipt of the completed application.
- (7) No hearings shall be scheduled between November 1st and March 31st each year. Where an application has been received just prior to or during this period, the hearing shall not be scheduled until April.
- (8) The Clerk, or designate, shall provide notice on the required form (Form 2) to the landowners of the date and time of the hearing, and such notice shall be provided by personal service or by registered mail.
- (9) The Clerk, or designate, shall provide notice on the required form (Form 3) to three of the fence viewers advising of the date, time, and location of the hearing, and such notice shall be provided by registered mail at least once week in advance of the hearing date.
- (10) Upon attending the premises, the Fence Viewers shall consider all relevant circumstances including:
 - (a) The suitability of the fence to the needs of each owner.
 - (b) The nature of the terrain where the fence is to be located.
 - (c) The nature of other fences in the locality; and,
 - (d) The benefit to both owners of having the boundary between their lands marked by a boundary fence.
- (11) Where, in the opinion of the Fence Viewers, the nature of the terrain is impracticable to locate the fence upon the line between the lands of the property owners, it may be determined to locate the fence either partly or wholly on the land of either landowner, but such determination shall not in any way affect title to the land.

- (12) The Fence Viewers shall deposit the Award (Form 4) in the office of the clerk and a copy of the Award shall be sent by registered mail to the owners and occupants of the adjoining lands.
 - (a) This Award shall outline the division of costs responsible by each owner under Section 2 of Form 4 as well as the completion date for the work required to be done by each property owner.

4. APPEALS

- (1) The owner of either property may make an appeal to the fence Viewers Award. Appeals are processed through the municipal office but are made to a provincially appointed Referee.
- (2) Property owners wishing to appeal a decision of the Fence Viewers are required to file an appeal within fifteen (15) days of receiving a copy of the award.
- (3) Fee
The fee to be paid in accordance with the appeal process shall be set at \$200 and the said fee shall be filed with the Clerk of the municipality (payable to the Township of Plummer Additional) **with** copies of the applicable forms.

This fee shall be collected in order to offset the fees that will be required to be paid to the province by the municipality for the services of the appointed referee. Any fees over and above \$200 will be charged back to the appellant.

- (4) The owner dissatisfied with the award of the Fence Viewers shall, within fifteen (15) days of receipt of the award, serve the owner or occupant of the adjoining land a notice of appeal (Form 5) and filing a copy of the Notice along with an affidavit of Service (Form 6) together with the prescribed fee to the Clerk of the municipality.
- (5) The Clerk, or his or her designate, shall forthwith notify the Referee of the appeal.
- (6) The Referee shall notify the Clerk of the time and date of the hearing, and the Clerk shall provide notice by registered mail to the adjoining property owners.
- (7) The decision of the Referee shall be final. The Referee may, at any time, order that the appellant pays additional fees to the municipality to cover such costs of the appeal.
- (8) The Clerk shall forward by registered mail a copy of the Referee's final decision to both property owners as well as the Minister of Municipal Affairs and Housing.


5. ENFORCEMENT OF COMPLETION OF WORK

- (1) Where the work outlined in an award by the Fence Viewers has not been completed within the time frame set out in the Award, the owner may provide notice to the adjoining owner to obey the award.
- (2) If the work is not completed within two weeks of being served notice, the owner wishing to enforce the Award may complete the work.
- (3) Under the Line Fences Act, the owner (or person acting on behalf of the owner) completing the work shall be allowed entry onto the property in order to complete the work but shall not leave any unnecessary waste.
- (4) The owner may then commence proceedings to recover the cost of completing the said work by notifying the Clerk of the municipality of the request to have the fence viewers re-attend the property to certify the default by the adjoining owner and the value of the work completed.
- (5) The Fence Viewers, after attending the property, shall file with the Clerk a "Certificate of Default of Work not Done" (Form 9) setting out the cost of the work completed as a result of the adjoining owners default, as well as the administrative costs incurred as a result of the Fence Viewers re-attending the site.
- (6) The adjoining owner (who has defaulted) shall be responsible for paying to the municipality the value of the work completed in addition to the administrative costs incurred by the municipality set at \$300.
- (7) In accordance with Section 12(9) of the Line Fences Act, the total amount owing as certified by the Fence Viewers (Form 9) shall be placed on the collector's roll to be collected in the same manner as taxes.
- (8) The municipality shall then reimburse the owner who completed the work the value of the work completed as determined by the Fence Viewers and set out on Fence Viewers' Certificate of Default Work Not Done (Form 9).

Read three times and enacted February 16, 2022.



Mayor: Beth West



Clerk: Vicky Goertzen-Cooke

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| <p><u>Minimum Fees:</u> Filing Fee \$300 Appeal Fee \$200 Default Fee \$300</p> |
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