

**THE CORPORATION OF THE
TOWNSHIP OF EDWARDSBURGH CARDINAL**

BY-LAW NO. 2023-

**“A BY-LAW TO REGULATE THE ERECTION, HEIGHT AND MAINTENANCE OF
BOUNDARY FENCES WITHIN THE TOWNSHIP OF EDWARDSBURGH
CARDINAL”**

WHEREAS Section 8(1) of the Municipal Act, 2001, S.O. 2001, c 25, as amended, states that the powers of a municipality shall be interpreted broadly so as to confer broad authority on municipalities to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues; and

WHEREAS Section 8(2) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, states that in the event of ambiguity, the ambiguity shall be resolved so as to include, rather than exclude, municipal powers that existed before the Municipal Act, 2001 came into force; and

WHEREAS Section 9 of the Municipal Act, 2001, S.O. 2001, c. 25, gives the municipality the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this Act; and

WHEREAS Section 11 (3), paragraph 7 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a lower-tier municipality may pass bylaws respecting structures including fences; and

WHEREAS Section 425 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may create offences for the contravention of bylaws; and

WHEREAS Municipal Council deems it advisable to regulate the erection, height and maintenance of boundary fences within the Township of Edwardsburgh Cardinal.

NOW THEREFORE the Council of the Corporation of the Township of Edwardsburgh Cardinal enacts as follows:

1. DEFINITIONS

For the purpose of this bylaw, the following definitions apply:

- 1.1 “Agricultural Use” shall mean the use of land, buildings or structures for:
- a) Growing crops, including all related activities such as fertilizing, planting, spraying, irrigating, harvesting and the storage and sale of crops produced;
 - b) Raising, breeding, boarding, training, keeping and/or sale of livestock, including the raising and sale of fish;
 - c) Collection, production, storage and sale of animal products such as milk, eggs, wool, fur or honey;
 - d) Greenhouse or nursery garden, including storage and sale of products produced;
 - e) Planting, harvesting and sale of forest products, including maple syrup;
 - f) Use and storage of all equipment related to the foregoing activities, including the occasional use of a portable sawmill; and
 - g) Farm-gate sales of any of the above products, provided they are produced on the farm.

Agricultural use shall not include commercial or industrial activities such as abattoirs, tanneries, kennels or manufacturing activities involving crops, animal products, lumber or wood products. An agricultural use shall include cannabis production licensed by a Federal Agency for both cultivation outdoors and

indoors within a greenhouse or a similar growing environment but shall not include a cannabis production and processing facility.

1.2 “Fence” shall mean any barrier or structure other than a building, erected at grade on privately owned property, which is erected for the purpose of screening, safeguarding, enclosing property or delineating property lines, but does not include a hedge.

1.3 “Inspector” shall mean and include the following:

- a) Chief Building Official
- b) Building Inspector
- c) Bylaw Enforcement Officer

1.4 “Residential Use” shall mean a property that is being used or is intended to be used for residential purposes, but does not include properties where the residential use is accessory to another use.

1.5 “Township” means the Corporation of the Township of Edwardsburgh Cardinal.

1.6 “Yard” shall mean an open, uncovered space appurtenant to a building or structure:

1.6.1 “Front Yard” shall mean a yard extending across the full width of the lot between the front lot line and the nearest part of any main building or structure on the lot.

1.6.2 “Rear Yard” shall mean a yard extending across the full width of the lot between the rear lot line and the nearest part of any main building or structure on the lot.

1.6.3 “Side Yard” shall mean a yard extending from the front yard to the rear yard between the side lot line and nearest part of any main building or structure on the lot.

1.6.3.1 “Exterior Side Yard” shall mean a side yard abutting a street.

1.6.3.2 “Interior Side Yard” shall mean a side yard other than an exterior side yard.

2. EXEMPTIONS

2.1 The provisions of this bylaw do not apply to:

- a) a fence erected on lands used for an agricultural operation;
- b) a fence constructed as per the Township’s Animal Control Bylaw;
- c) noise attenuation barriers or screening required by the Township as per a Site Plan Control Agreement;
- d) temporary boarding and fencing erected around construction sites as per the Township’s Building Bylaw; and
- e) pool enclosures as per the Township’s Building Bylaw.

3. EXEMPTION APPLICATION

3.1 Notwithstanding anything in this bylaw, any person may make an application, in a form as approved by the Township, to a Committee of the Whole or Regular Council, to request an exemption to any provisions of this bylaw. The Township may refuse to grant any such exemption or may grant the exemption applied for or any exemption of lesser effect, and any exemption granted shall be in the form, attached hereto, as Schedule “A”.

3.2 Applications will be reviewed by staff to ensure completeness.

- 3.3 If the application is deemed to be complete, staff shall inform adjacent property owners of the proposed exemption and provide a 10 day comment/feedback period before a report is presented to a Committee of the Whole or Regular Council for approval.
- 3.4 Where the applicant/property owner is proposing to build/locate a fence on the property line or on property that they do not own, the application must be accompanied by a letter of consent by said property owner or licence agreement between the two parties.
- 3.5 The exemption application shall be accompanied with the following:
- a) a site plan sketch of the proposed fence location indicating distance from surrounding property lines; and
 - b) a property survey prepared by an Ontario Land Surveyor; and
 - c) full description of the type/style and dimensions of proposed fence, including the building materials; and
 - d) property owner's letter of consent or licence agreement (if applicable).
- 3.6 The Township may issue an itemized invoice for any costs incurred while processing the application, and the applicant is required to remit the payment. Invoices issued under this provision will be subject to the municipality's interest and collection policies. Fees not paid may be added to the tax roll of the subject property in accordance with Section 398(2) of the Municipal Act, SO 2001, c.25.

4. GENERAL PROVISIONS

- 4.1 Fences or similar barriers constructed in any side or rear yard in any residential use property shall be no higher than 1.83 m (6 ft), with the exception of a fence or similar barrier constructed in any side or rear yard in any residential use property adjacent to the St. Lawrence River where a fence or similar barrier shall be no higher than 1.2 m (4 ft) within 15.2 m (50 ft) of the water's edge.
- 4.2 Fences or similar barrier constructed in any front yard in any residential use property shall be no higher than 0.91 m (3 ft).
- 4.3 Barbed wire, spire tips, sharp objects, electrically charged fences or any other fence material which poses a safety hazard shall not be on or adjacent to any residential use property.
- 4.4 Every person who erects a fence or causes a fence to be erected shall keep such fence:
- a) in good repair;
 - b) in a safe and structurally sound condition; and
 - c) free from accident hazards.
- 4.5 Fences may be erected on the property line. It is the responsibility of the property owner erecting the fence to determine and demonstrate the property line. Boundary line disputes must be resolved by the owners themselves. Consultation with an Ontario Land Surveyor may be required.
- 4.6 Despite provision 4.5 to this bylaw, no fence shall be erected within 45cm (18 in) of a public highway or sidewalk.
- 4.7 Nothing in this bylaw shall prevent the continued use and maintenance of a fence if such fence was lawfully erected prior to the effective date of this bylaw.

5. ENTRY AND INSPECTION

- 5.1 Every Inspector shall be authorized to enforce the provisions of this bylaw.

- 5.2 An Inspector or their designate may at any time, enter onto a property without notice and without consent of the owner in order to determine whether this bylaw is being complied with and to monitor compliance progress.

6. ENFORCEMENT AND PENALTIES

- 6.1 No person shall obstruct or hinder or attempt to obstruct or hinder an Enforcement Officer, or other authorized employee or agent of the Township in the exercise of a power or the performance of a duty under this bylaw.
- 6.1 Every person who contravenes any provision of this bylaw is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.
- 6.2 Upon registering a conviction for a contravention of any provision of this bylaw, the court in which the conviction has been entered, may in addition to any other remedy and to any penalty imposed by this bylaw, make an order prohibiting the continuation or repetition of the offence by the person convicted, pursuant to Section 431 of the Municipal Act, 2001, as amended.
- 6.3 Where a person fails or defaults to carry out any direction or action required by the Township as authorized by this bylaw, upon reasonable and written notice, the Township may proceed to do such things or carry out such actions as directed at the expenses of the person and such expenses may be recovered by the Township in a like manner as taxes in accordance with the provisions of Section 326 of the Municipal Act, 2001, as amended.

7 VALIDITY AND SEVERABILITY

- 7.1 If any section, subsection, clause, paragraph or provision of this bylaw or parts thereof are declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or beyond the powers of Municipal Council to enact, such section, subsection, clause, paragraph, provision or parts thereof shall be deemed to be severable and shall not effect the validity or enforceability of any other provisions of the bylaw as a whole or part thereof and all other sections of the bylaw shall be deemed to be separate and independent there from and enacted as such.
- 7.2 Whenever any reference is made under this bylaw to a statute or regulation of the Province of Ontario, such reference shall be deemed to include all subsequent amendments to such statute or regulation and all successor legislation to such legislation.
- 7.3 That bylaw 2022-41 and all other bylaws previously passed that are inconsistent with the provisions of this bylaw are hereby repealed.
- 7.4 That this bylaw shall come into force and take effect on its passing.

Read a first and second time in open Council this 29 day of May, 2023.

Read a third and final time, passed, signed and sealed in open Council this 29 day of May, 2023.

Mayor

Clerk

Boundary Fence Exemption Application

Applicant's Email: _____

Distance from surrounding property lines: _____

By signing below, the applicant certifies that all information contained herein is correct.

Applicant's signature

Date
