

THE CORPORATION OF THE TOWNSHIP OF PELEE

BY-LAW NO. 2013 – 11

A By-law to deal with division fences.

WHEREAS Subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS Subsection 10(1) of the *Municipal Act, 2001* provides that a single tier 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) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting structures, including fences and signs;

AND WHEREAS Section 98 of the *Municipal Act, 2001* provides that a municipality may provide that the *Line Fences Act* does not apply to all or any part of the municipality, but despite such a By-law being passed, Section 20 of the *Line Fences Act* continues to apply throughout the municipality;

AND WHEREAS By-law # 2013-03, passed on January 28, 2013 provides that the *Line Fences Act*, R.S.O. 1990, c. L.17, as amended shall not apply to any part of the Township;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF PELEE ENACTS AS FOLLOWS;

Definitions

1. In this By-law:

- (1) "adjoining owner" means the person(s) who own(s) the land adjacent to the land of another owner seeking to build a division fence;
- (2) "estimated basic cost" means the estimated total cost of construction, replacement, maintenance or repair (as applicable) of a post and wire farm fence;
- (3) "construct" or "construction" shall include the construction, erection, building, installation, alteration, reconstruction, replacement, repair or maintenance of a fence, or to cause or permit another person to do so;
- (4) "division fence" means a fence marking the boundary between abutting parcels of land;
- (5) "estimated cost" means the estimated total cost of the construction, replacement, maintenance or repair of a division fence, and includes taxes, the value of the material used and the value of the labour performed to complete the work; and
- (6) "owner" means an owner, lessee, mortgagee in possession or the person in charge of the property concerned.

Exceptions

2. The provisions of this By-law shall not apply:

(1) to a division fence erected adjacent to lands owned by the Township; and

(2) where the owners of adjoining lands have entered into an agreement regarding the details of the construction and the sharing of costs of a division fence.

Cost Sharing

3. An owner of land may construct, replace, repair and maintain a division fence.

4. Where the owners of adjoining lands cannot agree on a cost sharing arrangement for the construction of a division fence, an owner desiring to construct a division fence may do so and may claim a portion of the costs of the construction of the said division fence from the adjoining owner if the following requirements are met:

(1) the owner must deliver a Notice of Intent to the adjoining owner either by personal delivery or by registered mail, advising of the owner's intention to construct a division fence;

(2) the Notice of Intent must contain the following minimum information:

- (a) a copy of three (3) written quotes for the estimated cost of the division fence to be constructed;
- (b) a copy of three (3) written quotes for the estimated basic cost of the construction of a post and wire farm fence;
- (c) a paragraph stating that "the construction or replacement of the division fence will commence thirty (30) days after the date of delivery or mailing of this Notice of Intent, and the owner may seek a contributory payment for the construction of the division fence from the adjoining owner in accordance with the applicable By-law";
- (d) a further paragraph stating that "the adjoining owner may obtain up to three (3) additional quotes for the estimated basic cost of the division fence and/or of a post and wire farm fence for presentation to the owner not later than twenty (20) days after the date of delivery or mailing of the Notice of Intent"; and
- (e) a complete copy of this By-law must be attached to the Notice of Intent.

5. Where the owner desiring to construct a division fence has complied with the provisions of Section 4 of this By-law, and has not been able to agree with the adjoining owner on a cost sharing arrangement for the construction of the said fence:

(1) the adjoining owner pay to the owner fifty percent (50%) of the estimated basic cost of a post and wire farm fence or fifty percent (50%) of the estimated cost of construction of the division fence, as determined by averaging all of the estimates obtained by the owner and the adjoining owner concerned, whichever is less; and

(2) the owner shall pay the balance of the actual cost of construction of the division fence.

Administration and Enforcement

6. The administration and enforcement of this By-law shall be under the authority of the designated official(s) appointed by the Township for such purpose(s).


7. This By-law shall come into force and take effect on the final passing thereof.

This By-law was read a first and second time and finally passed this 13th day of May, 2013.

1st Reading – May 13, 2013

2nd Reading – May 13, 2013

3rd Reading – May 13, 2013



R. MASSE – MAYOR



S. SOMERVILLE
ACTING CLERK/C.A.O./TREASURER