



**The Corporation of the Municipality of West Grey
Bylaw No. 2024-067**

A bylaw to provide for the non-application of the *Line Fences Act* and the apportioning of costs of division fences in the Municipality of West Grey.

WHEREAS section 11 of the *Municipal Act, 2001*, S.O. 2001 c.25 (the "Act") provides that sections 9, 10 and 11 of the Act authorize a municipality to delegate its powers and duties under any Act to a person or body subject to listed restrictions; and

WHEREAS section 98(1) of the Act provides that a bylaw may be passed providing that the *Line Fences Act*, R.S.O. 1990, c. L.17, as amended (the "Line Fences Act", does not apply to all or any part of the municipality; and

WHEREAS section 98(2) of the Act provides that, despite a bylaw passed under section 98(1) of the Act, s. 20 of the *Line Fences Act* continues to apply throughout the municipality; and

WHEREAS section 20 of the *Line Fences Act* provides that the *Line Fences Act*, except section 20, does not apply to land in an area that is subject to a bylaw for apportioning the costs of line fences passed under the Act; and

WHEREAS the council of the Corporation of the Municipality of West Grey deems it desirable and in the public interest to enact a bylaw to provide for the non-application of the *Line Fences Act* and the apportioning of costs of division fences in West Grey;

NOW THEREFORE be it resolved that the council of the Corporation of the Municipality of West Grey hereby enacts as follows:

Short Title

1. This bylaw shall be known as the "Division Fence Cost Apportioning Bylaw".

Definitions

2. In this bylaw:
 - a. "Actual cost" means the total cost of the construction, replication, maintenance, or repair of a division fence and includes the value of the material used, plus applicable taxes, and the value of the labour performed to complete the work, plus applicable taxes;
 - b. "Adjoining owner" means an owner whose parcel of land abuts a parcel of land whose owner is seeking to construct, replace, maintain or repair a division fence;
 - c. "Basic cost" means the cost of constructing, replacing, maintaining or repairing a four-foot high, 1-1/2 inch mesh, steel chain link fence;
 - d. "Division fence" means a fence marking the boundary between adjoining parcels of land;
 - e. "Municipality" means the Corporation of the Municipality of West Grey;
 - f. "Owner" means:

- i. The registered owner of the land; or
 - ii. A person managing or receiving rent for the land; and where more than one person is the owner, they shall be considered to be a single owner for the purposes of this bylaw;
- g. "Zoning bylaw" means the relevant zoning bylaw of the municipality, as amended.

Application

3. From and after the date this bylaw comes into force, the *Line Fences Act*, except for section 20 of the *Line Fences Act*, does not apply to all or any part of the municipality.
4. This bylaw does not apply to:
- a. Any lands that constitute a public highway, including lands abutting a public highway, that are held as a reserve by the municipality or any other public authority;
 - b. Lands that are being held by the municipality or any other public authority as an unopened or for future public highway purposes;
 - c. Swimming pool fences;
 - d. Noise barriers required as part of the development approvals process; and
 - e. Fences required at construction sites.

Headings

5. The division of this bylaw into parts and the insertion of headings are for convenient reference only and shall not affect interpretation of the bylaw.

References to applicable law

6. All references to applicable law are ambulatory and apply as amended from time to time.

General provisions

7. Where an owner is seeking to construct, repair, replace or maintain a division fence and the adjoining owner agrees on the construction, repairs, replacement or maintenance, then the construction, repairs, replacement or maintenance of the division fence, including the apportionment of the cost, may take place as agreed, notwithstanding any provision of this bylaw.
8. Where an owner seeking to construct, repair, replace or maintain a division fence and the adjoining owner cannot agree on the construction, repairs, replacement or maintenance, then the owner may construct, repair, replace or maintain the division fence provided that they deliver a notice to the adjoining owner by registered mail advising them of the owner's intent. The notice must include:
- a. Copies of at least three written quotes for the actual cost and the basic cost of constructing, repairing, replacing or maintaining the division fence;
 - b. When the construction, repairs, replacement or maintenance of the division fence will commence and the estimate time until completion;

- c. A statement that the owner may seek a percentage of the costs for the construction, repairs, replacement or maintenance of the division fence from the adjoining owner in accordance with this bylaw;
- d. A statement that the adjoining owner may obtain additional quotes for the actual cost or the basic cost of constructing, repairing, replacing or maintaining the division fence, which shall be provided to the owner within 14 days of the adjoining owner receiving the notice; and
- e. A copy of this bylaw.

Construction or replacement

9. Where an owner seeking to construct or replace a division fence has delivered a notice to the adjoining owner, as required by section 5 of this bylaw, the cost of the construction or replacement shall be apportioned as follows:
- a. Where the owner and adjoining owner agree to the apportionment of costs, each owner shall pay in accordance with that agreement; or
 - b. Where the owner and the adjoining owner do not agree to the apportionment of costs:
 - i. The adjoining owner shall pay 50 percent of the basic cost or 50 percent of the actual cost, whichever is less; and
 - ii. The owner shall pay the actual cost, less the amount paid by the adjoining owner pursuant to section 6(a)(i) above.

Repair and maintenance

10. Where an owner seeking to repair or maintain a division fence has delivered a notice to the adjoining owner, as required by section 5 of this bylaw, the cost of the repairs or maintenance shall be apportioned as follows:
- a. Where the owner and adjoining owner agree to the apportionment of costs, each owner shall pay in accordance with that agreement; or
 - b. Where the owner and adjoining owner do not agree to the apportionment of costs, the owner and the adjoining owner shall each pay 50 percent of the cost of the repairs or maintenance.

Where the municipality is the adjoining owner

11. Where the municipality is the adjoining owner, pursuant to sections 6 and 7 of this bylaw, the cost of the construction, repairs, replacement or maintenance shall be apportioned as follows:
- a. Where the owner and the municipality agree to the apportionment of costs, each shall pay in accordance with that agreement; or
 - b. Where the owner and municipality do not agree to the apportionment of costs, the municipality shall pay five percent of the basic cost or five percent of the actual cost, whichever is less, and the owner shall pay the actual cost, less the amount paid by the municipality.

Fencing regulations

12. All division fences shall comply with the provisions of the zoning bylaw as well as all other applicable laws, including statutes, regulations or other bylaws.
13. Notwithstanding any other provision of this bylaw, where an owner is required to construct, repair, replace or maintain a division fence under any other applicable law, including a statute, regulation or bylaw, the owner shall pay the entire cost of the construction, repairs, replacement or maintenance.

Enforcement

14. Where an owner or adjoining owner is in default of their obligations pursuant to this bylaw, an owner or adjoining owner desiring to enforce the provisions of this bylaw shall, within 90 days after completion of the work, serve or cause to be served on the defaulting person, a notice by registered mail requiring compliance with this bylaw within 30 days of the notice having been served.
15. Following any notice provided under section 14, an owner or adjoining owner may take enforcement actions using any legal means available to them, including the initiation of proceedings under *Part IX of the Provincial Offences Act, R.S.O. 1990, c.P.33*, as amended.

Offence and penalty

16. Every person who contravenes any of the provisions of this bylaw is guilty of an offence and, on conviction, is liable to a fine pursuant to the *Provincial Offences Act, R.S.O. 1990, c.P.33*, as amended.
17. When a person has been convicted of an offence under this bylaw, any Court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting continuation or repetition of the offence or the doing of any act or thing by the person convicted directly toward the continuation or repetition of the offence.

Conflict

18. In the event the provisions of this bylaw are inconsistent with the provisions of another bylaw, the provisions of this bylaw shall prevail.
19. In the event the provisions of this bylaw are inconsistent with the provisions of the *Municipal Act, 2001*, its Regulations, or any other Act, the provisions of the Act or Regulation shall prevail.

Terms Severable

20. The terms and provisions of this bylaw shall be severable should and term or provision be found by a court of competent jurisdiction to be legally unenforceable, inoperative, or invalid, the remained of the bylaw shall continue to be in full force and effect.

Enactment

21. This bylaw shall come into full force and effect on the date it is passed, at which time all bylaws, policies and resolutions that are inconsistent with the provisions of this bylaw are hereby amended or repealed insofar as it is necessary to give effect to the provisions of this bylaw.

Read a first, second and third time and finally passed this 13th day of August, 2024.

Original signed

Mayor Kevin Eccles

Original signed

Jamie M. Eckenswiller, Clerk