

The Corporation of the Town of Spanish

By-Law 2018-22

A By-Law for prescribing the height and description of fences within the Town of Spanish

Whereas it is considered desirable that where fences are constructed, such fences should be regulated with respect to height and description in order to maintain the amenities of the area and the free movement of light and air; and

Whereas it is deemed responsible and necessary to establish fencing restrictions to regulate fences for purposes related to the health, safety and well being of the inhabitants of the Town and;

Whereas the Council of the Corporation of the Town of Spanish has, pursuant to the Municipal Act, R.S.O. 2001, authority to enact this By-Law.

Now Therefore the Council of the Corporation of the Town of Spanish enacts as follows:

Section 1.-Definitions

In this By-Law unless the context otherwise requires,

- 1.1 Day Lighting Triangle-[See Schedule B]
“**Day Lighting Triangle**” means a triangular space, free of buildings, structures and obstructions, including vegetation, formed by the street lines abutting a corner lot and a third line drawn from a point on a street line to another point on a street line, each such point being the required sight distance from the point of intersection of the street lines. The triangular-shaped area between the intersecting property lines and the straight line joining the end points is the “Day Lighting Triangle”.
- 1.2 Corner Lot [See Schedule B]
“**Corner Lot**” means a lot situated at the intersection of two or more streets, or at the intersection of two parts of the same street which have an interior angle or intersection of not more than one hundred and thirty-five (135) degrees. Where such street lines are curved, the angle of intersection of the street lines shall be deemed to be the angle formed by the intersection of the tangents to the street lines, drawn through the extremities of the side lot lines. In the latter case, the corner of the lot shall be deemed to be that point on the street line nearest to the point of intersection of the said tangents, and any portion of a corner lot distant not more than 30 m (98.4 feet) from the corner measured along the street line shall be deemed to be an interior lot.
- 1.3 Fence
“**Fence**” means any barrier or structure erected or grown constructed of chain link metal, wood, stone, metal, brick or other similar materials or combinations of such materials which is erected for the purpose of screening, safeguarding, retaining or enclosing property or delineating property lines.
- 1.4 Construct A Fence
“**Construct a Fence**” means to construct, erect, build, install, alter, reconstruct or replace a fence, or cause or permit another person to do so. Construction of a fence shall have the same meaning.

- 1.5 Front Yard
“**Front Yard**” means a yard extending across the full width of a lot between the front lot line and line drawn parallel or concentric thereto and through the point of the main wall of a main building closest to the front lot line.
- 1.6 Height
“**Height**” means the vertical distance measured between the ground level and the highest point of the fence. Where the ground levels are not the same on both sides of the fence, the higher of such levels shall be considered the ground level for purposes of the height. In the case of a fence located on top of a retaining wall or wall of an above-ground pool, height means the combined vertical distance between the lowest points of the retaining wall or swimming pool and the highest point of the fence.
- 1.7 Established Grade
“**Established Grade**” means when used with reference to a structure, the average elevation of the finished surface of the ground immediately surrounding such structure.
- 1.8 Lot
“**Lot**” means all contiguous land under one ownership. A parcel of land which is capable of being legally conveyed in accordance with the Planning Act.
- 1.9 Exterior Lot Line
“**Exterior Lot Line**” means the longer of the lot lines of a corner lot which abut a street.
- 1.10 Town
“**Town**” means the Corporation of the Town of Spanish.
- 1.11 Open/Closed Construction
“**Open Construction**” means the construction of a fence where spaces or open areas are designated between fence components to allow for visibility through the fence or from one side of the fence to the other side. The types of construction include the open areas of chain link fences and horizontal/vertical spaces in wooden fences provided the open spaces are: a maximum of 3.8 centimetres (1 ½ inches) gauge for chain link fencing or 10 centimetres (4 inches) for wooden or composite construction fencing. Other types of open construction include wrought-iron or cedar rail fences.

“**Closed Construction**” means the construction of a fence of solid brick, solid concrete, continuous steel panels, translucent or opaque material panels, or abutting wooden boards or composite materials designed to create a continuous visual barrier from one side of the fence to the other and may be described as “privacy” fencing.
- 1.12 Pool
“**Pool**” means a private outdoor swimming pool, either above-ground or in ground, contained by artificial means in which the depth of water at any point exceeds 0.610 metres (24 inches) but shall not include hot tubs or landscaping ponds.
- 1.13 Person
“**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 representative of a person to whom the context can apply according to law.
- 1.14 Lot Line-Interior Side –[See Schedule B]
“**Interior Side**” means a lot line other than a front lot line, rear lot line or exterior side lot line. On a lot with more than four sides, any lot line not

otherwise defined as a front, rear or side lot line shall be considered as in interior side lot line.

- 1.15 Lot Line-Rear-[See Schedule B]
“**Rear Lot Line**” means the lot line furthest from, and opposite to, the front lot line. In the case of a lot with no rear lot line, the point where the two side lot lines intersect shall be the rear lot line.
- 1.16 Lot Frontage- [See Schedule B]
“**Lot Frontage**” means the horizontal distance between the side lot lines. Where such side lot lines are not parallel, it shall be the width of a lot measured between the intersections of the side lot lines with a line equal to the front yard setback back from and parallel or concentric to the front lot line. Arc distances shall apply on curved lines.
- 1.17 Lot Line-Exterior Side- [See Schedule B]
“**Exterior Side**” means a lot line located between the front and rear lot lines and dividing the lot from a street.
- 1.18 Fence
“**Snow Fence**” means a usually slated fence placed across the path of prevailing winds on a temporary basis during the winter months to protect a building, road, or railroad track from drifting snow by disrupting the flow of wind and causing the snow to be deposited on the lee side of the fence.

Section 2-General Provisions

- 2.1 Scope
The provisions of this By-Law apply to all lands within the Town of Spanish.
- 2.2 Conditions for Construction of Fences
No person shall construct a fence within the Town except in accordance with the specifications set out in this Bylaw and upon approval of an application(s) on which permission was granted as authorized by the Town.
- 2.3 If a land owner proposes to erect a boundary on a lot and the sides of the boundary fence are of unequal appearance, the adjoining land owner shall have the right to decide which side of the fence faces his property.
- 2.4 Obstructions of Streets
No person shall place, construct a fence or boarding around a construction or demolition site or maintain a fence or other barrier either permanently, or temporarily that encroaches on any street except in association with Public Works operations or for emergency protection measures or public safety unless otherwise approved by the Town. This by-law shall not be deemed to limit the authority of the Ministry of Labour to issue an Order under the Occupational Health and Safety Act or other legislation with respect to constructing a fence on a work site.
- 2.5 Shrubs and Hedges
Hedges and shrubs used as fences shall be maintained at a height not in excess of the Maximum height specified for fences in this By-Law.
- 2.6 Fence on Boundary of Different Zones
Where a lot line follows a Zone boundary in accordance with the Zoning By-Law of the Town, a fence may be erected to the specification of the Zone with the highest height restrictions.
- 2.7 Setbacks
All setbacks for fences shall be measured from a land owner’s property lines.

- 2.8 The Town takes no responsibility in the accuracy of any property line. In the event of a dispute the Town may request the landowners to engage an Ontario Land Surveyor at the landowners expense to identify such boundary lines.
- 2.9 **Town Property**
No person shall erect a fence which contains a gate structure that abuts Town property without the prior approval of the Town.
- 2.10 **Public Uses**
The provisions of this By-Law shall not apply to fences constructed for the purpose of a Public service by the Corporation of the Town of Spanish, and/or any Public authority, any department or Ministry of the Government of Ontario or of Canada including Ontario Hydro or any telephone, communication or gas company, and this includes fencing surrounding storm water management ponds and waste stabilization ponds.
- 2.11 The Town may, upon request in writing by a landowner, enact a resolution to grant an exemption from the height restrictions set out in this By-Law. All such requests will be delegated to the Planning Committee whom will review the request and make a recommendation to Council.
- 2.12 **Pools**
Fences around pools shall comply with the Town's Pool By-Law. In the case of any conflict, the more restrictive requirements shall apply.

Section 3-Restrictions for Constructing a Fence in all **Residential Zones**

In all Residential Zones as defined in the Zoning By-Law of the Town the following Provisions

- 3.1 No person shall construct a fence or use or allow the use of barbed wire, spire tips, sharp objects or any material of a nature which could be injurious to the public, including devices projecting electric current through a fence.
- 3.2 No person shall construct a fence or use for temporary fencing, chicken wire, farm wire or upgraded, used material. Snow fencing is excluded from this restriction, when used as "snow fence".
- 3.3 Any fence constructed shall be compatible to the area and finished in such a manner as to be aesthetically pleasing so as not to offend, to the satisfaction of the Town. This shall include conventional, privacy or acoustic, fencing found for sale at building supply retailers wherein vertical planks 25 millimetres (1inch) thick are attached to a top and bottom rail.
- 3.4 The maximum height of a fence in any interior side or rear yard or along an interior side yard or rear yard lot line shall be 2 meters (6.56 feet) measured from the established grade.
- 3.5 The maximum height of a fence in any front yard or exterior side yard or along a front yard or exterior front yard lot line shall be 1 metre (3.28 feet) measured from the established grade.
- 3.6 No fence shall be erected so as to visually obstruct a sight triangle except on a corner lot where a fence is used to confine livestock or contain crops in a rural area.
- 3.7 An unpierced hedgerow or other unpierced planting in a front yard or exterior side yard shall be deemed to be a fence.

- 3.8 Corner lots shall be provided with a day lighting triangle of not less than 5 metres (16.41 feet) in the case of local roads intersecting where a fence is to be constructed.

Section 4-Restrictions in All **Commercial Zones**

In all Commercial Zones as defined in the Zoning By-Law of the Municipality, the

Following provisions shall apply.

- 4.1 A fence having a maximum height of 1.8 metres (6 feet) may be erected for an enclosure in a side yard and a rear yard or along the rear and side lot lines to the front wall of the principle building or structure on a lot.
- 4.2 Fencing within a front or along a front yard lot line must be less than 1.2 metres (4 feet) and of open construction.
- 4.3 Corner lots shall be provided with a day lighting triangle of not less than 5 metres (16.41 feet) in the case of local roads intersecting where a fence is to be constructed.
- 4.4 Council has the authority to approve an alternative form or height of fencing as shown on a commercial site plan drawing. All such requests will be delegated to the Planning Committee who will review the request and make a recommendation to Council.

Section 5-Restrictions for constructing a Fence in **Industrial Zones**

In all Industrial Zones as defined in the Zoning By-Law of the Municipality, the following provisions shall apply.

- 5.1 Surrounding an aggregate operation, a fence of heavy duty farm fencing with a minimum height of 1.5 metres (5 feet) and maximum height of 2.4 metres (8 feet) shall be erected and maintained or as provided in a licence issued pursuant to the Aggregates Resources Act. Such fence shall follow the contours of the surface of the ground along the perimeter of the lot or area of the lot to be used for a pit or quarry operation.
- 5.2 Where land is used for the purpose of a salvage yard or automobile wrecking yard, the use shall be surrounded on all sides by a fence having a minimum height of 1.8 metres (6 feet) and a maximum height of 2.4 metres (8 feet) unless otherwise shown on a site plan approved under Section 41(7) of the Planning Act. Any part of the fence facing a public road shall be closed construction including the gate.
- 5.3 Corner lots shall be provided with a day lighting triangle of not less than 5 metres (16.41 feet) in the case of local roads intersecting where a fence is to be constructed.
- 5.4 For all other industrial uses, Council has the discretion of approving an alternate form or height of fencing as shown on the relevant site plan approved under Section 41(7) of the Planning Act. All such requests will be delegated to the Planning Committee whom will review the request and make a recommendation to Council.

Section 6-Restrictions for Constructing a Fence in **Agricultural or Rural Zones**
In all Agricultural or Rural Zones as defined in the Zoning By-Law of the Town. The following provisions shall apply.

- 6.1 Fencing for farm use is permitted and NOT subject to the terms and fees of the By-Law. This includes a fence erected for the purpose of containing livestock, enclosing crops, water areas, woodlots, buildings, fields or laneways for the agricultural operations. An electric charged fence shall be exempted where used to confine livestock as part of a permitted agricultural use.
- 6.2 Fencing of all other non-farm uses including surrounding a pool and/or a residential dwelling unit shall comply to the General Provisions or Residential Restrictions as established in Section 2 or 3 of this By-Law.

Section 7-Special Provisions-**Recreation Facilities**

Notwithstanding the provisions of this By-Law, chain link or other fences for recreation and related facilities shall be permitted, subject to the approval of Council of the Town.

Section 8-Offences and Penalties

- 8.1 Every fence that is erected in breach of the provisions of this By-Law shall be removed and/or made to conform to the provisions of the By-Law within 30 days of receiving written notice of non-conformity from the Municipality.
- 8.2 In addition to any other party who commits the offence, the owner, lessee or any occupant of any property on which a fence is constructed other than in accordance with the provisions of this By-Law shall be deemed to commit the offence.
- 8.3 Any person convicted of a breach of the provisions of this By-Law shall forfeit and pay at the discretion of the Convicting Judge or Justice, a penalty not exceeding (exclusive of cost) the sum of \$5,000.00 for each such offence.
- 8.4 In this By-Law, where any person is directed to do any matter of thing in default of its being done by the person directed to do it, such matter or thing may be done by the Municipality and such expense may be recovered by action or in like manner as Municipal taxes, as per the Municipal Act, 2001, Chapter 25, Section 398.

This by-law shall come into force and take effect upon the day it is finally passed.
Schedule 'A' and Schedule "B" attached forms part of this By-Law.

Read a first time this 2nd day of May 2018

Original Signed
Ted Clague-Mayor

Original Signed
Pam Lortie-CAO

Read a second and third time and finally passed
This 20th day of June, 2018

Original Signed
Ted Clague-Mayor

Original Signed
Pam Lortie-CAO

Schedule "A"-By-Law 2018-22

**Application For Permission To
Erect A Fence**

Date Of Application: _____

Owner (s) Name: _____

Address: _____

E-mail: _____

Phone: _____

Legal Description of Property:

Lot No: _____ Plan No: _____

Roll No: _____

Zone: _____

Purpose For Fence: _____

Type of Fence: Chain Link _____

Vertical Wood _____

Other _____

Please Describe Including the Height:

Attach sketch or survey of property and indicate where on property fence is to be placed.

Owners Name & Signature

For Office Use Only

Approval Date _____

Fee _____

Receipt No: _____

Roll No: _____

Authorization of Town Official
(Signature on Approval)

Schedule B
By-Law No. 2018-22