

**TOWN OF KELVINGTON
PROVINCE OF SASKATCHEWAN**

BYLAW NO. 201-13

**A BYLAW OF THE TOWN OF KELVINGTON, SASKATCHEWAN, TO CONTROL THE
USE OF STREETS, LANES, SIDEWALKS AND OTHER TOWN OWNED LAND AND TO
CONTROL THE CONSTRUCTION OF FENCES ON PRIVATE LAND AND NEAR AN
INTERSECTION**

The Council of the Town of Kelvington enacts as follows:

Definitions

1. In this bylaw:

- (1) "ADMINISTRATOR" means the Administrator appointed by Council of the Town of Kelvington;
- (2) "BYLAW ENFORCEMENT OFFICER" means the agent of the Town of Kelvington authorized by the Council of the Town of Kelvington to enforce the Bylaws of the Town of Kelvington;
- (3) "FENCE" means a hedge, wall, railing, tree or shrub surrounding an area and used to divide, enclose, screen, shield, protect or fortify an area;
- (4) "FLOWER BED FENCES" means a decorative fence of metal, wood or plastic material that is a maximum of 36 inches tall and allows plantings located behind it to be visible through it;
- (5) "HEDGE" means a fence or row of live bushes or low trees;
- (6) "INTERSECTION" means the point where a street intersects with another street or alley;
- (7) "MANAGER" means the Director of Public Works and Utilities;
- (8) "PERSON" means the owner and/or tenant of said lot;
- (9) "SHRUB" means a woody plant of less size than a tree and usually divided into separate stems from near the ground;
- (10) "TREE" means a perennial plant with single woody self supporting trunk.
- (11) "TOWN" means the Town of Kelvington; and
- (12) "TOWN COUNCIL" means the Council of the Town of Kelvington.

Use of Town Property

2. Subject to the provisions of any Bylaw of the Town of Kelvington, no person other than an agent or employee of the Town in the normal or usual course of their duties shall, without the consent of the Manager, place, keep, maintain or leave any building, structure, sign, object or other thing of any kind whatsoever, on any street, lane, sidewalk or other public place, or on any land deemed to belong to the Town of Kelvington, or in any way obstruct any street, lane, sidewalk, park, public square or public place in the Town of Kelvington or land owned by the Town, in any manner whatsoever.

Fences

3. The provisions of sub paragraphs (1) and (2) hereof following, serve the purpose of eliminating visual obstructions at intersections within the Town of Kelvington and for the purpose of preventing future obstructions from occurring within Town limits.

- (1) (a) Fences – General:
 - (i) A permit is required whenever construction of a fence is to be undertaken.

- (ii) No owner or owner's agent shall work or authorize work or allow work to proceed on the construction of a fence for which a permit is required unless a valid permit exists for the work to be done.
- (iii) The granting of any permit that is authorized by this bylaw shall not:
 - (a) entitle the grantee, his successor or assigns, or anyone on his behalf to erect any fence that fails to comply with the requirements of any restriction agreement, bylaw, act and/or regulation affecting the site described in the permit; or
 - (b) make the local authority or its authorized representative liable for damages or otherwise by reason of the fact that the fence, the construction, erection, placement, alteration, repair, renovation, demolition, relocation, removal or use of which has been authorized by permit, does not comply with the requirements of any restriction agreement, bylaw, act and/or regulation affecting the site described in the permit.

(b) Fences – Permits/Fee:

- (i) Every application for a permit to construct, erect, place, alter, repair, renovate or reconstruct a fence shall be in Form F1 and shall be accompanied by plans and drawings, except that when authorized by the local authority or its authorized representative plans and/or specifications need not be submitted.
- (ii) If the work described in an application for a permit to construct a fence, to the best of the knowledge of the local authority, or its authorized representative, complies with the requirements of this bylaw, the local authority, upon receipt of the \$25.00 prescribed fee, shall issue a permit in Form F2 and return one set of submitted plans to the applicant.
- (iii) The local authority may, at its discretion, have plan review, inspection and other services for enforcement purposes provided by building officials designated by the minister to assist the local authority.
- (iv) Approval in writing from the local authority or its authorized representative is required for any deviation, omission or revision to work for which a permit has been issued under this section.
- (v) All permits issued under this section expire:
 - (a) six months from date of issue, or
 - (b) if work is suspended for a period of longer than six months, by prior written agreement of the local authority or its authorized representative.

(c) Fences -- Residential:

Fences within a residential area in side or rear yards shall not exceed two (2) metres in height. Fences shall not be placed in the front yard, excepting for flower bed fences, which may be placed within 4 feet of the foundation of the principle building and any accessory building. The front yard is the area from the

front facing wall of the principle building on the property to the front property line. Side and rear yards are the areas behind the front facing wall of the principle building to the rear property line. On a lot abutting two streets, fences measured along the property line shall not exceed a height of one (1) metre for a distance of five (5) meters from their common point of intersection and the diagonal which joins the two extreme points. No structure shall be erected and no vegetation shall be permitted to grow to a height greater than .6 metres above the grade of the streets that abut the site. Fences must be maintained in a safe and reasonable state of repair.

(d) Fences -- Commercial:

Fences within a commercial area in front yards shall not exceed one (1) metre in height and shall not exceed two (2) meters in height in side or rear yards. The front yard is the area from the front facing wall of the principle building on the property to the front property line. Side and rear yards are the areas behind the front facing wall of the principle building to the rear property line. On a lot abutting two streets fences measured along the property line shall not exceed a height of one (1) metre for a distance of five (5) metres from their common point of intersection and the diagonal which joins the two extreme points. No structure shall be erected and no vegetation shall be permitted to grow to a height greater than .6 metres above the grade of the streets that abut the site. Fences must be maintained in a safe and reasonable state of repair.

(e) Fences -- Industrial:

(i) Outdoor storage of raw materials, finished or partially finished products, fuel, salvage materials, junk or waste on a site shall be concealed from sight from adjacent sites, streets or lanes by a fence or wall of appropriate design and sufficient dimension and position such that stored materials are not visible from any point one point five (1.5) metres or less above grade on any adjacent site, street or lane.

(ii) Fences in front yards shall not exceed two (2) metres in height and shall not exceed two point five (2.5) metres in side or rear yards. The front yard is the area from the front facing wall of the principle building on the property to the front property line. The side and rear yards are the areas behind the front facing wall of the principle building to the rear property line.

(iii) Chain link or like material shall be lathed to provide limited view of contents within the fenced area.

(f) Fences - Swimming Pools

All outdoor under-ground swimming pools and above-ground swimming pools at least 100 cm in height shall be completely surrounded by a fence or wall that is at least one point eight (1.8) metres in height, designed and constructed to discourage unauthorized entry by a locked gate, for use in the event of an emergency, which can be opened with a key in the possession of the operator.

(g) Fences - Adjacent Properties

When a fence is being constructed by property owners of two adjacent properties and both owners are in agreement to construct

the fence, the fence may be placed on the property line separating the adjacent properties.

- (h) Fences - Single Property Owner
When a fence is being constructed by a property owner, the fence shall be placed 150mm inside the property line.
- (i) Fences - Buffer Strip
When a side or rear property abuts a highway or rail right-of-way or an associated buffer strip, a two point five (2.5) metre high wall or fence is permitted.
- (j) Fences - Certain Areas
In any Commercial or Industrial District, the Council may require that certain areas be fenced and the Council shall establish the type, style and nature of fence to be used.
- (k) Fences - Barbed Wire
 - (i) Any person contemplating the use of barbed wire in any part of the municipality shall first obtain the written approval of the Council.
 - (ii) The use of barbed wire as a fence material is not allowed in the following areas of Town as designated in the Town of Kelvington Zoning Bylaw:
 - (a) R1 - Residential
 - (b) R2 - Residential
 - (c) RMH - Residential Mobile Home
 - (iii) The use of barbed wire as a fence material in the following areas of Town as designated in the Town of Kelvington Zoning Bylaw, is limited to the top 300 mm of the fence but shall not be permitted within 1.5 metres of the ground:
 - (a) C1- Commercial
 - (b) C2 - Commercial
 - (c) M - Industrial
 - (iv) The use of barbed wire as a fence material is allowed in the following areas of Town as designated in the Town of Kelvington Zoning Bylaw:
 - (a) CS - Community Service
 - (b) UR - Urban Reserve
 - (v) The use of electrified or electrified barbed wire as a fencing material is not allowed in the Town limits.

(2) Hedges, Shrubs and Trees

- (a) For a distance of five (5) metres back both ways from the corner of a lot abutting on two streets measured along the property line, no person may by themselves or other, plant, maintain or keep any hedge, shrub or tree which exceeds one (1) metre in height.
- (b) No person shall by themselves or other, plant, maintain or keep any hedge, shrub or tree on a street or on any land owned by the Town of Kelvington except with the prior approval of and under the direction of the Manager.

Fire Hydrants

- 4. No person shall by means of a hedge, shrub or tree, fence, wall or other structure, hinder, prevent or obstruct access by the Fire Department to any

fire hydrant located on a street or public place.

Cords Crossing Town Property

5. No person shall place any cord, cable or like material on or across any sidewalk, lane, street or other highway in the Town, whether at/or above ground level. Provided however, in the winter season, for the purpose of maintaining a vehicle engine block heater, an electrical cord may be installed, but it must not in any way impede or be dangerous to pedestrians, pets or Town snow removal equipment.

Dangerous to Traffic

6. The Council may, upon the report of a police officer, bylaw enforcement officer or Manager that a hedge, shrub, tree or fence situated at an intersection is dangerous to traffic, by resolution order that such hedge, shrub, tree or fence be removed or shortened to such a height as may be deemed necessary to overcome such danger.

Inspection

7. (1) The inspection of property by the Municipality to determine if this Bylaw is being complied with is hereby authorized.
- (2) No person shall obstruct a Bylaw Enforcement Officer or Administrator who is authorized to conduct an inspection under this section, or a person who is assisting a Bylaw Enforcement Officer.

Administration and Enforcement

8. (1) The administration and enforcement of this bylaw is hereby delegated to the Administrator of the Town.
- (2) The Administrator of the Town is hereby authorized to further delegate the administration and enforcement of this bylaw to any other employee.
- (3) (a) If a Bylaw Enforcement Officer finds that a person is contravening this Bylaw, the Bylaw Enforcement Officer may, upon authorization of the Council, issue a written order, requiring the owner or occupant of the property to which the contravention relates, to remedy the contravention.
- (b) Orders given under this Bylaw shall comply with section 364 of *The Municipalities Act*.
- (c) Orders given under this Bylaw shall be served in accordance with Section 390(1) (a), (b) or (c) of *The Municipalities Act*.
- (4) A person may appeal an order made pursuant to section 14 in accordance with section 365 of *The Municipalities Act*.
- (5) (a) The Municipality may, in accordance with section 366 of *The Municipalities Act*, take whatever actions or measures are necessary to remedy a contravention of this Bylaw.
- (b) In an emergency, the Municipality may take whatever actions or measures are necessary to eliminate the emergency in accordance with the provisions of Section 367 of *The Municipalities Act*.
- (6) Any unpaid expenses and costs incurred by the Municipality in remedying a contravention of the Bylaw may be recovered either:
 - (a) by civil action for debt in a court of competent jurisdiction in accordance with Section 368 of *The Municipalities Act*; and
 - (b) by adding the amount to the taxes on the property on which the work is done in accordance with Section 369 of *The Municipalities Act*.
- (7) No person shall:
 - (a) fail to comply with an order made pursuant to this bylaw;
 - (b) obstruct or interfere with any Bylaw Enforcement Officer or any other person acting under the authority of the Bylaw; or
 - (c) fail to comply with any other provision of the Bylaw.

PENALTY

9. (1) A Bylaw Enforcement Officer who has reason to believe that a person has contravened any provision of the Bylaw, on a second offence, may serve on that person a Notice of Violation, which Notice of Violation shall indicate that the Municipality will accept voluntary payment in the sum of **One hundred (\$100.00)** to be paid to the Municipality within **fourteen (14) days**.
- (2) Where the Municipality receives voluntary payment of the amount prescribed under Section 9(1) within the time specified, the person receiving the Notice of Violation shall not be liable to prosecution for the alleged contravention.
- (3) Payment of any Notice of Violation does not exempt the person from enforcement of an order pursuant to Section 4 of this bylaw.
- (4) (a) Every person who contravenes any provision of this bylaw is guilty of an offence and liable on summary conviction:
(i) in the case of an individual, to a fine not exceeding \$10,000;
(ii) in the case of a corporation, to fine of not more than \$25,000.00; and
(iii) in the case of a continued offence, to a maximum daily fine of not more than \$2,500.00 per day.
- (b) In default of payment of any penalty imposed pursuant to paragraph (a) of this subsection, the person convicted may be committed to a jail, the guardroom of the Royal Canadian Mounted Police, or to a public lockup for any time determined by the said Judge of the Magistrates' Court or Justice of the Peace not exceeding Thirty (30) days unless the penalty and costs, including the costs of committal and of the conveyance of the person convicted to the said jail, guardroom or lockup are sooner paid.

10. This bylaw shall take effect March 18, 2013

11. Bylaw No. 92-91 is repealed on March 18, 2013

12. Council Approval

[SEAL]

Mayor

Administrator

Certified a True Copy of Bylaw number 201-13
Adopted by resolution on the 18th day of March, 2013

Administrator

Form F1 to Bylaw No. 201-13

TOWN OF KELVINGTON

APPLICATION FOR A FENCE PERMIT

I hereby make application for a permit to _____ construct
_____ alter a fence
_____ reconstruct

according to the information below and to the plans and document attached to this application.

Civic address or location of work: _____

Legal description --- Lot _____ Block _____ Plan _____

Owner _____ Address _____

Telephone _____

Designer _____ Address _____

Telephone _____

Contractor _____ Address _____

Telephone _____

Nature of Work _____

Fences Materials _____

Height _____

Estimated value of construction _____

I hereby agree to comply with the Bylaws of the local authority and acknowledge that it is my responsibility to ensure compliance with the bylaws of the local authority and with any other applicable bylaws, acts, regulations, regardless of any plan review or inspections that may or may not be carried out by the local authority or its authorized representative.

Date

Signature of Owner or Owner's Agent

TOWN OF KELVINGTON

FENCE PERMIT # _____

Permission is hereby granted to _____

To _____ a fence on civic address _____

Lot _____ Block _____ Plan _____

In accordance with the application dated _____.

This permit expires six months from the date of issue or, if work is suspended for a period of longer than six months, by prior written agreement of the local authority or its authorized representative.

Set backs of the fence are to be as indicated below and as shown on the diagram.

This permit is issued subject to the following conditions:

Any deviation, omission or revision to the approved application required approval of the local authority or its authorized representative.

Date

Signature of Authorized Representative

