

# THE CORPORATION OF THE TOWNSHIP OF MELANCTHON

## BY-LAW NO. 6 -2006

**WHEREAS** the *Municipal Act, 2001*, S.O. 2001, s. 8, provides that a Municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its' authority under the Municipal Act or any other Act;

**AND WHEREAS** the *Municipal Act, 2001*, S.O. 2001 s. 11 provides that a Municipality may pass By-laws respecting matters within a list of identified spheres of jurisdiction, including structures (which includes fences and signs);

**AND WHEREAS** the Corporation of The Township of Melancthon has enacted certain By-laws for the purpose of the description of and the manner of maintaining, keeping up and laying fences along highways or parts thereof, within the limits of the Corporation, namely: By-law #712 passed on the 14<sup>th</sup> day of August, 1948; and amended by By-law #758 passed on the 19<sup>th</sup> day of July, 1954; and further amended by By-law #761 passed on the 4<sup>th</sup> day of September, 1954; and further amended by By-law #6 passed on the 9<sup>th</sup> day of April, 1956; and amended by By-law #7 passed on the 5<sup>th</sup> day of May, 1956;

**AND WHEREAS** it is deemed expedient and necessary to pass a By-law for prescribing the description of, and the manner of maintaining, keeping up and laying down fences along highways or parts thereof and for making compensation for the increased expenses, if any, to persons required so to maintain, keep up or lay down any such fence;

**AND WHEREAS** provision is made in the Municipal Act whereby Councils of local Municipalities may pass By-laws for prescribing the description of, and the manner of maintaining , keeping up and laying down fences along highways or parts thereof, and further provision is made in the Snow Roads and Fences Act whereby the Council of every Township may pass By-laws requiring the owners or occupants of lands bordering upon a public highway to take down, alter or remove any fence which causes accumulation of snow or drift so as to impede or obstruct travel.

**THEREFORE** the Council of the Corporation of The Township of Melancthon enacts as follows:

1. (a) No person shall erect a fence bordering a public highway other than a Provincial Highway, within the Corporation of The Township of Melancthon, without first obtaining a permit issued by the municipality, for that purpose.
  - (a)(i) No permit should be required for a seasonal fence as described in Section 2(b).
- (b) The permit authorizing the erection of fences within the municipality may be subject to a fee as set by the Council of the Corporation, and specified in the schedule of fees as periodically determined by By-law.
- (c) In addition to the fee set for the permit as specified in Section 1(b) a deposit may also be required and collected by the municipality. Upon satisfactory completion of the fence and subsequent inspection by the Township Road Superintendent, the said deposit shall be forthwith refunded to the applicant. The permit fee is non refundable.
- (d) The Township Road Superintendent will make recommendations to the application as the proper citing and type of fence to be constructed and these recommendations shall be recorded and filed with the permit application.
- (e) Any fence erected that does not comply with the Road Superintendent's recommendations shall be deemed to be non complying and subject to the provisions of Section 2. In such case the deposit collected shall not be refunded until the fence becomes compliant, as determined by the Road Superintendent, and approved by Council.
- (f) Notwithstanding Section 1 (d) the erection of fences other than wire fences shall be discouraged, however taking all relevant factors into consideration other fences may be approved by the Road Superintendent. Primary considerations will be snow accumulation and drifting and other factors that will influence normal maintenance requirements.

2. (a) The owners or occupants of properties bordering upon a public highway within the municipality shall take down, alter or remove any fence that causes an accumulation of snow or drifting so as to impede travel or interfere with winter road maintenance by the Township.
- (b) Exemption for Seasonal Fences - Fences erected for the temporary containment of livestock such as electric fences, barbed wire and multi-strand single wires shall be exempt under this By-law.
- (c) Under no circumstances shall a fence bordering a Township Roadway encroach upon the Township Road Allowance. These fences will be considered non-compliant and will be subject to immediate removal by the owner or occupant of the said property upon notification from the Township Clerk. Upon such notice the owner or occupant of said land will be given 14 days to remove the fence in question. Upon the expiration of the said time limit, the Township may remove the fence at the owner or occupants expense which will be assessed at the current rates for labour and equipment. Failure to compensate the Township will result in the costs being assessed on the Collectors Roll and collected in the same manner as taxes.
3. (a) Upon written notice from the Council of the Corporation, that a fence erected prior to the passing of this By-law contravenes the provisions of Section 2, the owners or occupants of the subject property may enter into an agreement with the Township that will rectify the problems caused by the fence, and in such cases the Road Superintendent will make remedial recommendations in writing to Council. Agreements so made will have an expiration date, determined by Council.
- (b) There shall be a sixty (60) day time limit to enter into an agreement as specified in Section 3 (a) failing which the Township shall consider that the notice outlined in Section 1 has been ignored and may proceed to remove the fence. All costs incurred will be attributed to the said property owners or occupants. Failure to compensate the Township for costs incurred will result in same being assessed against the property as taxes, and duly registered on title.
4. (a) Fences within the Corporation that border roads maintained by the County of Dufferin, shall be subject to this By-law. Fences that border Provincial Highways are exempt in that they are regulated by applicable Revised Statutes of Ontario.
- (b) Subject to Sections 1 (d) , 2 and 4 (a) the Dufferin County Road Superintendent will be notified of fence applications that border County Roads and will have the opportunity to make recommendations. These recommendations will be filed with the permit application.
- (c) Fences erected pursuant to this By-law shall be kept in good condition, properly maintained, and not allowed to become unserviceable or unsightly.
5. (a) Any person who contravenes any provisions of this By-law shall be guilty of an offence and subject to the penalties outlined in the Provincial Offences Act, R.S.O.
6. All By-laws inconsistent with this By-law are hereby repealed.

By-law read a first and second time this 16<sup>th</sup> day of Feb., 2006.

Gary Miller  
MAYOR

Denise B. Holmes  
CLERK

By-law read a third time and finally passed this 16<sup>th</sup> day of Feb., 2006.

Gary Miller  
MAYOR

Denise B. Holmes  
CLERK



**APPLICATION TO ERECT FENCE BORDERING  
A HIGHWAY WITHIN THE TOWNSHIP OF  
MELANCTHON.**

I/we the undersigned, hereby make application for a \_\_\_\_\_ (specify fence to be erected) on Township Road \_\_\_\_\_ /County Road \_\_\_\_\_.

I/we agree to the following regulations:

1. The Township of Melancthon's Road Superintendent, or his/her designate, shall specify the exact location of the fence.
2. The Road Superintendent, or his/her designate, shall specify the type of fence to be erected subject to item number 3.
3. Wire fences are preferred, however, other fence types such as rail, board, and decorative may be approved at the Road Superintendent's discretion.
4. No permit is required for a seasonal fence, as defined in the By-law.
5. The Applicant acknowledges that should the fence being erected, become a hindrance to normal highway maintenance, remedial action may be required, as specified in the applicable By-law.

I/we hereby agree not to commence work on the proposed fence until a permit has been issued by the Township of Melancthon Road Department.

**Name of Applicant:**

Last Name \_\_\_\_\_ First Name \_\_\_\_\_

**Date:**

Day \_\_\_\_\_ Month \_\_\_\_\_ Year \_\_\_\_\_ Telephone Number \_\_\_\_\_

**Mailing Address:**

**6-Digit Civic Address:**

\_\_\_\_\_

\_\_\_\_\_

**Legal Address:**

**Applicant's Signature:**

Lot \_\_\_\_\_ Concession \_\_\_\_\_ \_\_\_\_\_

**Road Superintendent's Signature:**

**Date:**

\_\_\_\_\_

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