This is an office consolidation of By-Law 135-23 and amendments thereto. For accurate reference you should consult the original by-laws that are retained by the Clerk

BY-LAW NUMBER 135- 23 (As amended by By-law 97-26 & 119-26)

- of –

THE CORPORATION OF THE COUNTY OF BRANT

A by-Law to regulate fences on privately owned lands and to repeal and replace by-law 54-03 as amended.

WHEREAS Sections 8, 9, and 10 of *the Municipal Act, 2001, S.O. 2001, c.25* authorize the *County* of Brant to pass by-laws necessary or desirable for municipal purposes, and in particular paragraph 10 of Subsection 10(2) authorizes by-laws respecting *fences*;

AND WHEREAS pursuant to Subsection 8(3) of *the Municipal Act*, *2001, S.O. 2001, c.25* the by-laws of a municipality may (a) regulate or prohibit regarding a certain matter; (b) require a *person* to do certain things respecting such matter;

AND WHEREAS Section 98 of *the Municipal Act*, *2001, S.O. 2001, c.25* provides that a municipality may provide that *the Line Fences Act*, *R.S.O. 1990, c. L-17* does not apply to all or any part of the municipality, but despite such by-law being passed, Section 20 of *the Line Fences Act, R.S.O. 1990, c.L.17* continues to apply throughout the municipality**;**

AND WHEREAS it is deemed expedient to exclude the Corporation of the *County* of Brant from the provisions of *the Line Fences Act*, *R.S.O. 1990, c. L-17*, as amended;

AND WHEREAS Section 132 of *the Municipal Act, 2001, S.O. 2001, c.25* authorizes Council to pass a by-law to authorize the *owner* or occupant of *land* to enter adjoining *land*, at any reasonable time, for the purpose of making repairs or alterations to any *building*, *fence* or other structures on the *land* of the *owner* or occupant but only to the extent necessary to carry out the repairs or alterations;

AND WHEREAS Section 425 of *the Municipal Act, 2001, S.O. 2001, c.25* authorizes the *County* of Brant to pass by-laws providing that a *person* who contravenes a by-law of the *County* Brant passed under that *Act* is guilty of an offence;

AND WHEREAS subsection 434.1 of the Municipal Act, 2001 provides that a municipality may require a person to pay an administrative penalty if the municipality is satisfied that a person has failed to comply with a by-law of the municipality passed under the Municipal Act;

AND WHEREAS Subsection 434.2(1) of the Municipal Act, 2001 provides that an administrative penalty imposed by a municipality on a person constitutes a debt of the person to the municipality;

AND WHEREAS Section 446 of *the Municipal Act, 2001, S.O. 2001, c.25* authorizes Council to pass a by-law enabling the municipality to do such matter or thing at the *person*'s expense when that *person* fails to do what they are required or directed to do by by-law or otherwise, and to recover the costs of such action from the *person* by adding the costs to the tax roll and collecting them in the same manner as taxes;

AND WHEREAS Subsection 391(1) of *the Municipal Act, 2001, S.O. 2001, c.25* provides that a municipality may impose fees and charges on *persons* (a) for services or activities provided or done by or on behalf of it; (b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and, (c) for the use of its property including property under its control;

AND WHEREAS Council deems it necessary and expedient to regulate *fences* in the *County* of Brant;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF BRANT HEREBY ENACTS as follows:

1. SHORT TITLE

1.1. This by-law shall be known as "The Municipal Fence By-law."

2. DEFINITIONS

2.1. For the purpose of this by-law:

2.2. ***"Approval Authority"*** means any such designate of Council delegated such authority by the County of Brant Delegation of Authority By-Law, as amended from time to time, to exercise a power or perform a duty under this By-Law.

2.3. ***"Building"*** shall mean any permanent structure used or intended to be used for the shelter, accommodation or enclosure of persons, animals, or goods, but shall not include a lawful boundary wall or *fence*.

2.4. *"**Corner Lot**"* shall mean a *lot* situated at the intersection of and abutting upon two streets, or upon two parts of the same street, the adjacent sides of which street or streets (or, in the case of a curved corner, the tangents at the street extremities of the side *lot* lines) contain an angle of not more than one hundred and thirty-five (135) degrees. In the case of a curved corner, the corner of the building *lot* shall be that point on the street line nearest to the point of intersection of the said tangents.

2.5. ***"County"*** shall mean the Corporation of the *County* of Brant and includes the geographic area contained within the *County* of Brant.

2.6. "***Effective Ground Level*"** at any location shall mean the highest level of the ground within 1.22 metres (4 feet) measured horizontally in any direction from the location under consideration.

2.7. "***Erect***" shall include alter, construct, plant, place, relocate and any work preparatory to erection, and "*erection*" has a corresponding meaning.

2.8. **"Exterior Side Yard"** shall mean a side yard immediately adjoining a public street.

2.9. ***"Fence"*** shall include a railing, wall, hedge, line of posts, shrubs, wire, gate, boards or pickets or other similar materials, which encloses or divides in whole or in part a *yard* or other *land*, or establishes a property boundary, or provides privacy.

2.10. **"Front Yard"** shall mean a yard extending across the full width of the *lot* between the front lot line of the *lot* and the nearest part of the main *building* on the *lot.* For the purpose of this by-law the shortest lot line abutting the street is the front lot line.

2.11. ***"Ground Level"*** shall mean the *ground level* at the boundary line but where the *ground levels* are not the same on both sides of the boundary, the higher of such levels shall be considered as *ground level* for the purposes of the *fence*; however, in the case of a *privacy screen* on an elevated deck, the surface of the deck shall be the point of measurement.

2.12. ***"Height"*** shall mean the vertical distance measured from the *ground level or effective ground level, as the case may be,* where the *fence* posts are embedded to the top of the said posts.

2.13. **"*Interior lot*"** shall mean a *lot* other than a *corner lot*.

2.14. **"Interior Side Yard"** shall mean a side yard other than an *exterior side yard.*

2.15. ***"Line Fences Act"*** shall mean *the Line Fences Act*, *R.S.O. 1990, c. L-17*.

2.16. ***"Lot"*** shall mean any parcel of land that can be alienated or otherwise disposed of separately and apart from any abutting lands, whether or not such parcel is described in a registered deed or shown on a registered plan of subdivision.

2.17. *"**Municipal Law Enforcement Officer**"* shall mean any *person* appointed as such by the Corporation of the *County* of Brant to enforce municipal by-laws.

2.18. ***"Owner"*** shall mean the *owner* of the property or any *person* having care and control of the property, including an occupant or tenant.

2.19. ***"Person"*** shall mean a natural *person*, partnership, or corporation, and includes the heirs, executors, administrators or other legal representatives to whom the context can apply according to law.

2.20. ***"Privacy Screen"*** shall mean a visual barrier that shields any part of a yard from view.

2.21. **"Rear Yard"** shall mean a yard extending across the full width of the *lot* between the rear lot line of the *lot* and the nearest part of the main *building* on the *lot*.

2.22. **"Side Yard"** shall mean a yard extending from the *front yard* to the *rear yard* and from the side lot line of the *lot* to the nearest part of the main *building* on the *lot*.

2.23. **"*Sound Barrier*"** shall mean a *fence* or *building* constructed to minimize sound from road, highway, or railway traffic.

2.24. **"*Visibility Triangle*"** shall mean the triangular space formed by the distance between the point of intersection of two lot lines, at least one of which is also a street line, and their respective points of intersection with the line constituting the third side of the triangle shall be calculated in accordance with the County's Development and Engineering Standards and the Transportation Association of Canada. A visibility triangle is commonly called a sight triangle or a daylight triangle.

3. GENERAL PROVISIONS

3.1. Nothing in this By-Law shall serve to prevent something that is permitted under the *Farming and Food Production Protection Act, 1998*, *S.O. 1998, c.1*.

3.2. *The Line Fences Act*, *R.S.O. 1990, c. L-17* shall continue to apply in the *County*, except to municipal *fences*.

3.3. This by-law shall not apply to licensed Automobile Wrecking Yard *fences*, constructed in accordance with the provisions of the *County's* Business Licensing By-Law.

3.4. Where the provisions of this by-law and the provisions of a Site Plan Control Agreement or Condominium or Subdivision Agreement conflict, the Site Plan Control Agreement or Condominium or Subdivision Agreement shall prevail, except:

3.4.1. Where the *fence* contemplated contains either barbed wire or an *electrical* current, the *height* requirements provided in this By-Law for the said *fences* shall apply as minimum standards.

3.4.2. Where *fences* or structures that act as *sound barriers*.
3.4.3. On lands that are associated with an airport.

3.5. This By-Law shall not apply to construction *fences* that act as a barrier to active construction sites. Any construction *fences* that are on any road allowance shall obtain approval from the *County.*

3.6. *Front yard, interior side yard*, and *corner lot* provisions under Table 5.1.1 of this By-Law do not apply to a *person* who *erects*, or causes to be *erected*, a *fence* enclosing a privately *owned* outdoor tennis court, basketball court, baseball diamond, or other privately *owned* outdoor recreational facility of a similar nature if:

3.6.1. the facility is lawfully *erected* and maintained in accordance with the *County* of Brant Comprehensive Zoning By-Law and any other applicable municipal by-laws or provincial or federal legislation; and
3.6.2. the *fence* is of such open construction that it does not obstruct the visibility of motorists and pedestrians.

3.7. The provisions of this By-Law do not apply to *fences erected* by or on behalf of municipal, provincial, or federal government.

3.8. Applicants proposing to alter a *fence* constructed by or on behalf of the *County*, shall require a Municipal Fence Permit.

3.9. Applicants issued a Municipal Fence Permit shall fulfill all requirements of the permit.

3.10. Wrought iron and picket *fences* shall be constructed to not impede visibility for motorists and pedestrians.

3.11. If there is a conflict between a provision of this By-Law and a provision of any other municipal by-law or other regulation or legislation, then the more restrictive provision shall apply.

3.12. In this By-Law, where adjacent yards are classified differently as defined in the *By-Law*, the *fence* requirements applicable to the yard that are the most restrictive shall apply to any portion of the *fence erected* between the adjacent yards.

4. PROHIBITIONS

4.1. No *person* shall *erect* or permit to be *erected* a *fence* that does not comply with the provisions of this By-Law.

4.2. No *person* shall *erect* or permit to be *erected* a *fence* comprised of sheet metal or corrugated metal panels on a *lot* in a residential *zone*.

4.3. No *person* shall *erect* or permit to be *erected* a *fence* comprised of barbed wire, except in the case of:

4.3.1. A *fence* on a farm for the keeping of livestock in compliance with the *County* of Brant Comprehensive Zoning By-law or the protection of livestock or crops from animals, provided the barbed wire portion of the *fence* begins at least 1.21m from the *ground level*, unless an alternate *fence* construction is found to be a normal farm practice;

4.3.2. On the top of a *fence* on a *lot* used or *zoned* for commercial or industrial purposes, provided that the barbed wire is a minimum of 1.82m above the *effective ground level* and the barbed wire portion of the fence projects inwards towards the area enclosed by the *fence*; or

4.3.3. On the top of a *fence erected* for security reasons around any *County owned*, operated, or maintained facility provided that the barbed wire portion of the fence projects inwards to the area enclosed by the *fence* and further that the barbed wire portion of the *fence* begins at least 1.82m from the *ground level*; or

4.3.4. On the top of a *fence erected* for security reasons enclosing a facility *owned* or operated by any level of government or a utility provider, provided that the barbed wire is a minimum of 1.82m above the *effective ground level* and projects inwards towards the area enclosed by the *fence*.

4.4. No *person* shall *erect* or permit to be *erected* a *fence* equipped to transmit an electric current, except for a *fence* on a farm for the keeping of livestock or the protection of livestock or crops from animals as permitted in the *County* of Brant Comprehensive Zoning By-law provided that the *fence* meets the following:

4.4.1. Applicable Canadian Standards Association (CSA) Standards, as amended;

4.4.2. The maximum electrical current does not exceed 120 volts at 0.04 amps;

4.4.3. The electrical portion of the *fence* begins at least 1.21m from the *ground level*, unless alternate construction is found to be a normal farm practice; and,

4.4.4. The electrical portion of the *fence* is located 1.01m from a lot line abutting any residential or institutional uses or *zones*.

4.5. No *person* shall *erect* or permit to be *erected* a *fence* on *County* property without the prior authorization from the *County*.

4.6. No *person* shall *erect* or permit to be *erected* a *fence* that poses a risk or is hazardous to *persons* or property.

4.7. No *person* shall damage or alter, or permit the damage or alteration, of any *fence* constructed by or on behalf of the *County* unless that *person* has been issued a Municipal Fence Permit approved by the *County*.

4.8. Notwithstanding any of the provisions set out in this By-Law, no *person* shall *erect*, or permit to be *erected*, a *fence* within a *visibility triangle*.

4.9. No *person* shall hinder or obstruct or attempt to hinder or obstruct any *person* who is exercising a power or performing a duty under this By-Law, including by refusing to identify themselves when requested to do so by a *Municipal Law Enforcement Officer*.

4.10. No *person* shall fail to comply with an Order issued pursuant to this By-Law.

5. FENCE HEIGHTS

5.1. The following *height* restrictions shall apply to *fences erected* within the *County*:

Table 5.1.1. Maximum Fence Heights

Residential *Zones*	
Front Yard	0.91m and shall not obstruct the visibility of motorists or pedestrians.
Interior Side Yard	2.28m
Rear Yard	2.28m
Exterior Side Yard	2.28m provided the *fence* is set back a minimum of 4.57 m from the *exterior side* lot line.
Corner Lot	(a) 0.91m within a *front yard* and an *exterior side yard* and shall not obstruct the visibility of motorists or pedestrians. (b) 2.28m within in an *interior side yard*, an *exterior side yard* and *rear yard*, provided the *fence* is set back a minimum of 4.57 m from the *exterior side* lot line.
Employment *Zones* (Any yard)	3.04m and shall not be within the *visibility triangle*
Commercial *Zones* (Any yard)	2.44m and shall not be within the *visibility triangle*
Institutional *Zones* (Any yard)	2.44m and shall not be within the *visibility triangle*
Agricultural *Zones* (Any yard)	1.82m and shall not be within the *visibility triangle*

5.2. Despite the provisions of Table 5.1.1. Maximum Fence Heights of this By-Law:

5.2.1. a gate may exceed such a limit by a maximum of 0.31m;
5.2.2. an archway forming an entrance or exit may exceed such a limit by 0.41m;
5.2.3. a decorative cap or structural post may exceed such a limit by a maximum of 0.15m.

6. PRIVACY SCREENS

6.1. A *privacy screen* may be *erected* within an *interior side yard* or *rear yard* of a residential property, only if:

6.1.1. the total *height* of the *privacy screen* from the *effective ground level* or on an elevated deck is no more than 2.22m.
6.1.2. the *privacy screen* is no larger than 12.19m in total length and no single individual length for a screen is more than 5.02m; and
6.1.3. The *privacy screen* is in accordance with the provisions of Table 5.1.1. Maximum Fence Heights of this By-Law.

7. MAINTENANCE OF FENCES

7.1. Any *owner* may enter adjoining land, at any reasonable time during daytime hours, for the purpose of maintenance (i.e., repairs or alterations) to any *fence* on the land of the *owner* provided that:

7.1.1. The *owner* enters the adjoining land only to the extent necessary to carry out maintenance;
7.1.2. The *person* exercising the power of entry displays or, on request, produces proper identification;
7.1.3. The *owner* provides reasonable notice of the proposed entry to the adjoining *owner*; and
7.1.4. The *owner* restores the adjoining land to its original condition and shall provide compensation for any damages caused by the entry or maintenance.

8. MINOR AMENDMENTS, VARIATIONS AND EXEMPTIONS

8.1. Council may delegate the authority to approve minor amendments, exemptions, or variations to this by-law in accordance with sections 23.1 to 23.3 of the Municipal Act, 2001, subject to such conditions and limitations as Council may impose and provided that the general purpose and intent of this by-law are maintained. Any such delegation of authority will be further described in the County of Brant's delegation of authority By-Law (73-22, as amended).

8.2. Any Owner or authorized agent affected by this By-law may apply to the Approval Authority for a Fence Variance from the provisions of this By-law,

except where the fence is required by the County's Municipal Swimming Pool Enclosure By-law. No variance may be granted from the provisions of the County's Municipal Swimming Pool Enclosure By-Law.

8.3. An application under this section may be accepted provided it is made on the prescribed form to the Approval Authority and is accompanied by the applicable fee established by the County of Brant Fees and Charges By-law.

8.4. Upon receipt of a complete application, the Approval Authority shall review the application and prepare a report setting out the reasons for the application and including a recommendation to approve the application, approve the application with modifications or conditions, or refuse the application.

8.5. The Approval Authority shall circulate the application to:

a) owners of properties sharing a common property boundary with the subject property along which the proposed fence is located or proposed to be located; and

b) any agencies or departments that, in the opinion of the Approval Authority, may have an interest in the matter.

8.6. The notice shall describe the nature of the request and advise of the date by which written comments shall be received.

8.7. The Approval Authority shall consider the request of the applicant and the written comments of any person, agency, or department that wishes to comment on the matter before making a decision.

8.8. In consideration of an application under this section, the Approval Authority shall have regard for:

a) the general intent and purpose of this By-law;

b) impacts on adjacent properties;

c) traffic safety, visibility triangles, and sight lines;

d) the character of the surrounding area;

d) whether the proposed variance is minor in nature; and

f) any other matter considered relevant by the Approval Authority.

8.9. Despite any other provision of this By-law, a Fence Variance shall not be approved where, in the opinion of the Approval Authority, the proposed fence

would obstruct a visibility triangle or create a traffic safety hazard.

8.10. The Approval Authority may approve, approve with conditions, or refuse the application. Any such conditions imposed under this section shall form part of the approval.

8.11. For greater certainty, the delegated authority respecting Fence Variances is limited to site-specific applications seeking relief from the provisions of this By-law and does not include the authority to enact or approve amendments to this By-law, which authority shall remain with Council.

9. APPEALS

9.1. Only the applicant or any person who submitted written comments respecting the application may, within twenty (20) days of the date of the decision, file an appeal with the Approval Authority setting out the reasons for the appeal and accompanied by the applicable fee established by the County of Brant Fees and Charges By-law.

9.2. Where no appeal is received within the time required by subsection 9.1, the decision of the Approval Authority shall be final.

9.3. Where an appeal is received and the Approval Authority was not Council, the Approval Authority shall forward the appeal, the application, the staff report, and all comments received respecting the application to staff to be forwarded to the applicable authority delegated to hold hearings for such appeals, as may be outlined in the County's Delegation of Authority By-law.

9.4. Upon receipt of an appeal, the matter will be placed on an agenda for a hearing as soon as reasonably practicable.

9.5. Notice of the consideration of the appeal shall be provided to:

a) the applicant;

b) the appellant; and

c) any person who submitted written comments and requested notice of the appeal decision.

9.6. In considering the appeal, the following shall be considered:

a) the application;

b) the decision of the Approval Authority;

c) the grounds of appeal;

d) the staff report; and

e) any written submissions received respecting the application or appeal.

9.7. At the hearing, a decision may be made to uphold, vary, or overturn the decision of the Approval Authority and may impose such conditions as considered appropriate.

9.8. Written notice of the decision shall be provided within ten (10) days to the applicant, the appellant, and any person who requested notice of the decision.

9.9. The decision shall be considered final.

10. ADMINISTRATION

10.1. Pursuant to the provisions of Sections 23.1 through 23.5 of the Municipal Act, 2001, S.O. 2001, c.25 the Clerk of the Corporation of the County of Brant is hereby authorized to effect any minor modifications or corrections of an administrative, numerical, grammatical, semantical or descriptive nature or kind to the By-law and schedules as may be necessary after the passage of this By-Law.

10.2. Any fence that was in lawful existence prior to the effective date of this By-law shall be deemed to comply with this By-Law and may be maintained to the same location, height and dimensions as previously existed; and

10.3. Where an existing fence is replaced or substantially altered, the replacement and or alteration shall be constructed in accordance with this By-Law.

10.4. If there is a conflict between a provision of this By-Law and a provision of any other municipal by-law, the provision that establishes the highest standard to protect the health or safety of the public shall apply.

11. POWERS OF ENTRY RE INSPECTION

11.1. Pursuant to Sections 435 and 436 of the Municipal Act, 2001, S.O. 2001, c.25 any employee, officer or agent of the County may without notice, and upon producing the proper identification upon request, enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

11.1.1. the provisions of this By-Law;

11.1.2. a direction or order of the municipality made under this By-Law;

11.1.3. an order made under Section 431 of the Municipal Act, 2001, S.O. 2001, c.25.

12. ENFORCEMENT PROVISIONS

12.1. The provisions of this By-Law shall be enforced by Municipal Law Enforcement Officers.

12.2. Every Person who contravenes any of the provisions of this By-Law, including any schedule attached hereto or an order issued pursuant to this By-Law, and every director or officer of a corporation who knowingly concurs in the contravention, pursuant to Section 425 of the Municipal Act, 2001, S.O. 2001, c.25 is guilty of an offence.

12.3. Pursuant to the provisions of Section 431 of the Municipal Act, 2001, S.O. 2001, c.25 when a person has been convicted of an offence under this By-Law, the Ontario Court of Justice or any court of competent jurisdiction thereafter, in addition to any other penalty or order imposed, may make an order prohibiting the continuation or repetition of the offence or the doing of any Act or thing by the person convicted, directed toward the continuation or repetition of the offence.

12.4. Pursuant to the provisions of Section 433 of the Municipal Act, 2001, S.O. 2001, c.25 where a person has been convicted of any offence under this By-Law, every fine imposed for contravention of this By-Law belongs to the County.

12.5. Pursuant to the provisions of Section 440 of the Municipal Act, 2001, S.O. 2001, c.25 in addition to any other remedy and to any penalty imposed by the by-law, any such further contraventions may be restrained by action by the County.

12.6. Pursuant to Sections 444 and 445 of the Municipal Act, 2001, S.O. 2001, c.25 where a contravention of this By-Law has occurred, the County may make an order requiring the person who contravened or permitted the contravention of the by-law to discontinue the contravening activity, to do work to correct the contravention.

12.7. An order may be personally delivered, posted in a conspicuous location on the property or served by Registered Mail. An order posted on the property is considered served. Where an order is mailed, the order shall be deemed delivered on the earlier of receipt of the order by the addressee or the fifth (5th) day following the date of mailing, whether actually received or not.

12.8. Pursuant to Section 446 of the Municipal Act, 2001, S.O. 2001, c.25 where pursuant to this By-Law or any other Act, a person is required to do a matter or thing, in default of it being done by the person so directed, the matter or thing may be done at the person’s expense, and for that purpose enter upon land at

any reasonable time, and the costs including interest calculated at a rate of fifteen percent (15%) from the date the costs were incurred, until the date the costs including interest are paid in full, may be recovered in the same manner as property taxes and may be registered as a lien upon the land.

13. PENALTIES

13.1. Any person who contravenes any provision of this By-Law is guilty of an offence and, upon conviction is liable to the penalties as prescribed by the Provincial Offences Act, R.S.O. 1990 c. P.33.

13.2. A person convicted under this By-Law is liable to a maximum fine of $10,000.00 upon a first conviction and a maximum fine of $25,000.00 for any subsequent conviction.

13.3. Despite Section 13.2 of this By-Law where the person convicted is a corporation, the corporation is liable to a maximum fine of $50,000.00 upon a first conviction and a maximum fine of $100,000.00 for any subsequent conviction.

13.4. Each offence is designated as a continuing offence and is subject to, for each day or part of a day that the offence continues a maximum of no more than $10,000. The total daily fines imposed for each offence may exceed $100,000.

14. SEVERABILITY

14.1. If any provision or part of this By-Law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the by-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

15. ENACTMENT AND REPEAL

15.1. That this by-Law come into force and effect on January 1st, 2024, to allow for implementation of revised fees and charges through the County of Brants Fees and Charges By-Law.

15.2. By-Law #54-03 as amended, is hereby repealed upon this By-law coming into force and effect.

READ a first and second time this 19th day of December 2023.

READ a third time and finally passed in Council, this 19th day of December 2023.

THE CORPORATION OF THE COUNTY OF BRANT

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David Bailey, Mayor

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Alysha Dyjach, Clerk