

Division Fence By-law 2012-66

REFERENCE GUIDE

Division Fences:

Owners of property must install division fencing in accordance with the Zoning By-law and Fence By-law (ie. height and setback requirements). The Division Fence By-law regulates the division of cost of the fencing and its repair.

NEW FENCES, ADJOINING OWNERS:

When two owners agree to the cost of the installation and/or maintenance of the fence, By-law 2012-66 shall not apply.

When an owner does not agree to paying the cost of the new fencing, there is an obligation that all parties, at a minimum, pay the 50/50 split of the basic cost, being 4ft steel chain link fencing, or actual cost, if lesser.

The owner wishing to proceed with building a new fence and have By-law 2012-66 apply should proceed as follows, IN ADVANCE OF COMMENCING CONSTRUCTION:



1. A Notice of Intent (ie, letter titled "Notice of Intent") must be delivered (registered mail) to the adjoining neighbor(s) advising of the intent to construct/maintain a division fence and the Notice of Intent must contain the following information:
 - (3) written quotes for actual cost of fencing work
 - Statement indicating that the maintenance or construction may commence (14) business days after the mailing of the notice and that the owner may seek contributory payment for the work
 - Statement that the adjoining owner may seek (3) additional quotes for presentation to the owner not later than (10) business days from the date of mailing of the Notice of Intent
 - Complete copy of the by-law must be attached

Where the cost of the construction/maintenance of the division fence is in dispute, the cost shall be apportioned as follows:

Apportioned Cost of a Division Fence

- The Adjoining Owner shall pay fifty percent (50%) of the Basic Cost or fifty percent (50%) of the Actual Cost, whichever is the lesser, having considered all the fencing quotes exchanged; and
- The Owner desiring to construct or replace the Division Fence shall pay the balance of the Actual Cost.

*Definitions included below for references purposes.

<p>Basic Cost</p> <p>Means the total cost of construction, replacement, maintenance or repair (as applicable) of:</p> <ul style="list-style-type: none"> • An Agricultural fence; or • A Residential fence. 	
<p>Agricultural Fence</p> <p>Means a fence constructed along a boundary line of any agriculturally zoned land, being actively used for agricultural purposes and shall consist of 8 strand page wire fencing 106.7cm (42 inches) tall.</p>	<p>Residential Fence</p> <p>Means and four (4) foot high (1.2 metre), 1-1/2 inch mesh, steel chain link Fence which:</p> <ul style="list-style-type: none"> • Has a diamond mesh not greater than 1½ inches; and • Is constructed of galvanized steel wire not less than 12 gauge or minimum 14 gauge steel wire covered with a vinyl forming a total thickness equivalent to 12 gauge galvanized wire; and • Supported by at least 1½ inch diameter galvanized steel posts encased in a minimum of three (3) inches of concrete from grade to a minimum of three (3) feet below grade, such posts to be spaced not more than ten (10) feet apart; and • Top and bottom horizontal rails of 1¼ inch minimum galvanized steel (except that a minimum 9 gauge galvanized steel wire may be substituted for the bottom horizontal steel rail).
<p>Actual Cost</p> <p>The total cost of construction, replacement, maintenance or repair (as applicable)</p>	

Once the fence is constructed, the repair and maintenance shall be shared as stated above except in the following circumstances:

- The cost of repairs to a division fence shall be borne by the owner if her or his invitees caused the damage necessitating the repair.
- The cost of repairs to a division fence shall be borne by the adjoining owner if her or his invitees caused the damage necessitating the repair.
- The cost of repairs to the division fence shall be borne equally by the owner and the adjoining owner if the damage necessitating the repair was caused by natural disaster.
- If a tree is thrown down by accident, carelessness, negligence, deliberate intent or otherwise, so as to cause damage to a division fence, the owner of the land on which the tree stood shall, as his sole expense, remove the tree and repair the fence.

Compliance with this by-law does not exempt compliance from other by-laws (fence and zoning by-laws)

Recovering the Cost of Building/Maintaining a Division Fence:

Where an owner fails to pay his/her portion of the cost associated with the division fence within (90) days of completion of maintenance or construction, the owner may seek recovery of the cost. A guide to residents choosing to enforce recovery of costs is attached for reference purposes.