

Fence By-law

PS-1 Enacted November 15, 1993

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PUBLIC SAFETY

By-law PS-1

A by-law to provide for REGULATING AND GOVERNING FENCES IN THE CITY OF HUMBER BAY

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WHEREAS it is deemed expedient to exercise the authority vested in the Council of The Corporation of the City of Humber Bay by paragraphs 25, 26, 27 and 28 of section 210, and paragraph 4 of subsection 314 (1) of the *Municipal Act, R.S.O. 1990, c. M.45*, as amended;

AND WHEREAS it is deemed expedient to exclude the City of Humber Bay from the provisions of the *Line Fences Act*;

THEREFORE the Municipal Council of The Corporation of the City of Humber Bay enacts as follows:

SHORT TITLE
FENCE BY-LAW

Part 1
DEFINITIONS

1.1 Definitions

In this by-law:

Fence - defined

"fence" shall mean any fence, wall (other than a wall of a building), gate or other structure which separates or purports to separate land not under common ownership.

Ground level - defined

"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.

Part 2
GENERAL PROVISIONS

2.1 Height - minimum - requirements

No person shall erect, construct or maintain a fence less than 1.07 metres (3 feet 6 inches) in height in the City of Humber Bay.

2.2 Height - maximum - permissible - exception

No person shall erect, construct or maintain a fence more than 1.37 metres (4 feet 6 inches) in height in the City of Humber Bay unless:

- (a) the portion of the fence above the height of 1.37 metres (4 feet 6 inches) and less than 2.13 metres (7 feet) is so constructed that when viewed at 90 degrees or at 45 degrees to the line of the fence, the area of daylight visible through the fence shall be not less than 387.0 square centimetres (60 square inches) for every 929.0 square centimetres (144 square inches) of that portion of the fence greater than 1.37 metres (4 feet 6 inches) in height and less than 2.13 metres (7 feet); and
- (b) the portion of the fence above the height of 2.13 metres (7 feet) is so constructed that when viewed at 90 degrees and at 45 degrees to the line of the fence the area of daylight visible through the fence shall be not less than 838.71 square centimetres (130 square inches) for every 929.0 square centimetres (144 square inches) of that portion of the fence greater than 2.13 metres (7 feet) in height; or unless:

- (c) the fence is constructed in accordance with a registered agreement or agreements entered into with The Corporation of the City of Humber Bay pursuant to sections 41 and 51 of the *Planning Act, R.S.O. 1990, c. P.13*, as amended, or any plan approved by the City in accordance with that section; provided that, in the event of conflict between this subsection and any such agreement or approved plan, the provisions of the agreement or approved plan shall prevail.

2.3 Barbed wire - prohibited - exception

Subject to section 2.4 of this by-law, no person shall erect, construct or maintain a fence composed wholly or partly of barbed wire or other barbed material in the City of Humber Bay, unless such barbed wire or other barbed material is cantilevered from the top of such fence in a direction away from adjacent properties, including highways, and is at a height of not less than 1.83 metres (6 feet) above ground level.

2.4 Barbed wire - permitted - farm purposes

Section 2.3 of this by-law shall not prohibit an existing barbed wire fence enclosing land assessed for farm purposes at the coming into effect of this by-law and continuing to be so assessed.

2.5 Fences - around salvage yards - other requirements

Notwithstanding any other provision of this by-law, no person constructing a fence around a wrecking or salvage yard shall fail to comply with the regulation provided in the by-law, in force from time to time, governing such wrecking yards and/or salvage yards.

2.6 Intersections - distance from - material requirements

Notwithstanding any other provision of this by-law, no person shall erect, construct or maintain any fence along any limit of a highway which intersects another highway between the point of the intersection and a point in the limit at which a line drawn from the corner of the building nearest the intersection intersects the limit at an angle of 45 degrees or where there is no building within 12.19 metres (40 feet) of any intersection, unless such fence shall be 1.07 metres (3 feet 6 inches) in height above the level of the centre line of the travelled portion of the roadway adjacent to such property, and constructed of unbarbed wire and posts only, and through which objects shall be clearly visible.

2.7 Fences - free from plants - shrubs - vegetation

No owner of property upon which a fence constructed under the provisions of section 2.6 of this by-law stands shall fail to keep the fence entirely free from plants, vines, shrubs or other vegetation.

2.8 Exception - fence - on highway - over 40.23 metres

Section 2.6 of this by-law shall not apply to fences erected, constructed or maintained along any limit of a highway having a width of not less than 40.23 metres (132 feet).

2.9 Division fence - cost - shared - adjoining land owners

Each of the owners of adjoining occupied land shall repair, replace or maintain a just proportion of any division fence heretofore or hereafter erected which marks the boundary of their respective properties, or shall bear a just proportion of the cost of any work of erection, repair, replacement or maintenance which has been carried out.

2.10 Division fence - type - disagreement - procedure

Where owners of adjoining land cannot agree on the type or kind of fence to be erected between them as provided by section 2.9 of this by-law, no contribution to the cost thereof shall be payable unless the party erecting the fence constructs a chain link fence 1.22 metres (4 feet) in height. Only upon such fence being constructed shall the provisions of section 2.9 of this by-law apply respecting the apportionment of costs of the said fence. In the event any other type or kind of fence is erected, there shall be no apportionment of costs with respect thereto but where repair or maintenance is carried out under this by-law, a just proportion of the cost of the work may be recovered under section 2.11 of this by-law.

2.11 Notice - to adjoining land owner - cost recovery

An owner desiring to enforce the provisions of sections 2.9 and 2.10 of this by-law shall deliver to the owner or occupant of the adjoining land a notice by registered mail requiring him to comply with the by-law and if such compliance does not take place within 30 days after service of the notice, the owner serving the notice, may do the work that the by-law authorizes and may, pursuant to the *Provincial Offences Act*, take the proceedings to recover the value of the work and the cost, from the said adjoining owner or occupant.

2.12 Erection - on street - highway - prohibited

No person shall, without having statutory authority so to do, erect, construct or maintain in or upon any street or highway in the City of Humber Bay any fence, pole, post, pillar or wire or other construction.

2.13 Erection - on street - removal - notice - requirements

Any fence, pole, post, pillar or wire or other construction erected, constructed or maintained contrary to the provisions of section 2.12 of this by-law shall be removed by the person upon whom notice is served within 2 weeks after receipt of notice, in writing, served upon the owner or occupier of the adjoining premises by registered mail and in the event of non-compliance with such notice the City Engineer may cause the same to be removed at expense of the said owner or occupier and such expense shall be a debt due by such owner or occupier to the Corporation and the same may be recovered in like manner as municipal taxes.

2.14 Residence - street - between - maximum height

Subject to sections 2.6 to 2.8 inclusive of this by-law, no person shall erect, construct or maintain a fence on property used for residential purposes with a height greater than 1.37 metres (4 feet 6 inches) respecting the portion of the fence lying between the residential building or structure and the street line upon which the building or structure fronts.

2.15 Line Fences Act - not applicable

From and after the coming into effect of this by-law, the *Line Fences Act* shall no longer apply in the City of Humber Bay.

**Part 3
ENFORCEMENT**

3.1 Fine - for contravention

Any person who contravenes any provision of this by-law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the *Provincial Offences Act*.

3.2 Continuation - repetition - prohibited - by order

The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

**Part 4
REPEAL - ENACTMENT**

4.1 By-law - previous

By-law P.S.-92-209 and all of its amendments are hereby repealed.

4.2 Effective date

This by-law comes into force on November 15, 1993.

Passed in Open Council on November 15, 1993.

T.C. Gosnell
Mayor

K.W. Sadler
City Clerk

First Reading - November 15, 1993
Second Reading - November 15, 1993
Third Reading - November 15, 1993