

THE CORPORATION OF THE TOWN OF ORANGEVILLE

BY-LAW NUMBER 27-95

A BY-LAW TO DETERMINE THE
APPORTIONMENT OF COSTS OF
DIVISION FENCES

WHEREAS Paragraph 27 of Section 210 of the Municipal Act, R.S.O. 1990, c.M.45 (as amended) provides that a by-law must be passed by the Council of a local municipality for determining how the costs of division fences shall be apportioned, and for providing that any amount so apportioned shall be recoverable under the Provincial Offences Act, R.S.O., 1990, c.P.13 (as amended).

NOW THEREFORE THE COUNCIL OF THE
CORPORATION OF THE TOWN OF ORANGEVILLE
ENACTS AS FOLLOWS:

1. For the purposes of this by-law,
 - (a) "actual cost" means the total cost of the construction, reconstruction or repair of a division fence, and includes the value of the material used and the value of the labour performed to complete the work;
 - (b) "adjoining owner" includes all persons who are the registered owners of any lands which abut the parcel of land that is the subject of an application or an action for apportionment of the costs of a division fence pursuant to this by-law or the Provincial Offences Act;
 - (c) "basic cost" means the cost of constructing, reconstructing or repairing a division fence of any kind that is an amount of money equal to the cost of the construction, reconstruction or repair of a four (4) foot high steel chain link fence which shall be;
 - (i) of not greater than 1 1/2 inch diamond mesh;
 - (ii) constructed of galvanized steel wire not less than No. 12 gauge or minimum 14 gauge steel wire covered with a vinyl forming a total thickness equivalent to No. 12 gauge galvanized wire; and
 - (iii) supported by at least 1 1/2 inch diameter galvanized steel posts encased in a minimum of two (2) inches of concrete from grade to a minimum of two (2) feet below grade, such posts to be spaced not more than ten (10) feet apart. Top and bottom horizontal rails shall be provided or 1 1/4 inch minimum diameter galvanized steel tension rod may be substituted for the bottom horizontal steel rail.
 - (d) "Corporation" mean The Corporation of the Town of Orangeville; and
 - (e) "division fence" means a fence located on and marking the boundary between adjoining parcels of land;
 - (f) "owner" means a registered owner of land who initiates these procedures to install and apportion the costs of a division fence and "owner" includes the person managing or receiving the rent for the land or premises whether on his own account or as agent or trustee for the owner; and
 - (g) "Town" mean the geographic area within the jurisdiction of The Corporation of the Town Orangeville.
2. This by-law shall be applicable to all lands within the Town.
3. This by-law does not apply to any lands that constitute a public highway, including lands abutting a public highway that are held as a reserve by the Corporation or other public authority to separate lands abutting the reserve from the highway, or to lands that are being held by a municipality or other public authority as an unopened road allowance or for future public highway purposes.

4. An owner of land may construct and maintain a fence to mark the boundary between his land and adjoining lands.
5. This by-law does not apply to any fence constructed or intended to be constructed entirely or substantially upon one owner's land.
6. An owner desiring to construct, reconstruct or repair a division fence pursuant to this by-law shall serve or cause to be served upon the adjoining owner, by registered mail, a notice of his intention to do so at least fourteen (14) days prior to the commencement of any work or execution of any contract in relation to the work to be undertaken.
7. The notice shall indicate that, unless otherwise agreed, the actual cost for the construction of a division fence shall be paid as follows:
 - (a) the adjoining owner shall pay fifty percent (50%) of the basic cost or fifty percent (50%) of the actual cost, whichever is the lesser in respect of the division fence in relation to his property; and
 - (b) the owner shall pay the balance of the actual cost.
8. Where a declaration has been registered under the Condominium Act, the condominium corporation and not the owners of the individual units shall be deemed to be the adjoining owner or the owner of the land described in the declaration for the purposes of this by-law and,
 - (a) any payment that the condominium corporation may be responsible for under this by-law is a common expense for the purposes of the condominium Act; and
 - (b) any payment to be made to the condominium corporation under this Act is an asset of the condominium corporation.
9. Notwithstanding anything herein to the contrary, the provisions of this by-law shall not be interpreted as superseding or supplanting the provisions of any other by-law heretofore or hereinafter enacted by the Corporation establishing a maximum height for fences in any defined area and the provisions of such by-law or by-laws shall apply to any division fence in accordance with the terms hereof.
10. Any owner desiring to enforce the provisions of this by-law shall, within 90 days after completion of the construction, reconstruction or repair of the division fence, serve or cause to be served on the adjoining owner a notice by registered mail requiring compliance with this by-law by means of payment of that adjoining owner's portion of the basic cost and if such compliance does not take place within thirty (30) days after service of the notice, the owner may take appropriate proceedings under the Provincial Offences Act to recover the proportionate share of the cost of the work from the adjoining owner.
11. This by-law may be known as the Division Fences By-law.
12. This by-law shall come into force and effect upon third reading hereof.

PASSED IN OPEN COUNCIL THIS 24TH DAY OF APRIL , A.D., 1995.

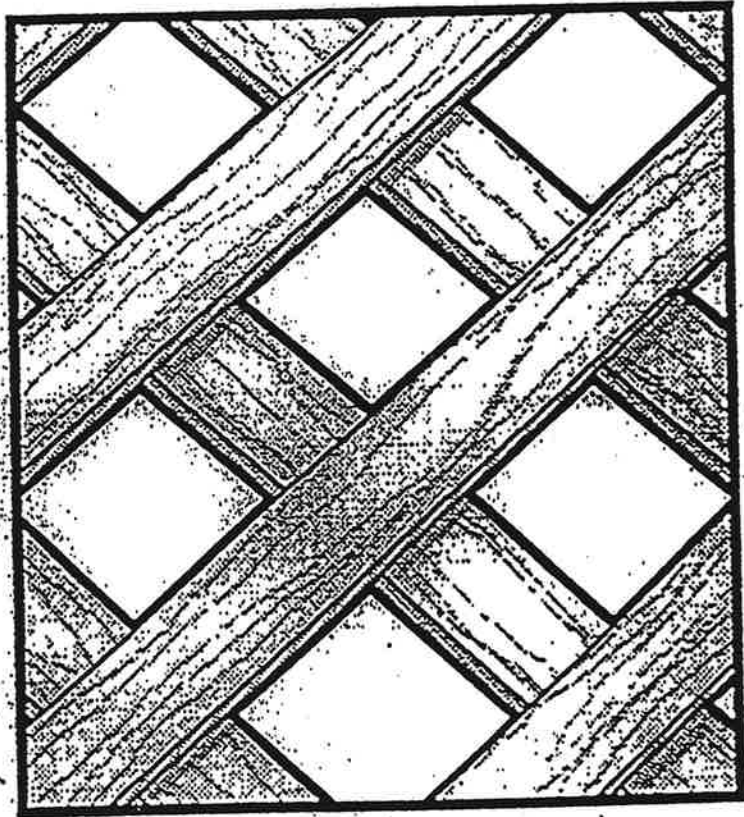

HEAD OF COUNCIL


CLERK

By-law read a first and second time this 24th day of April A.D., 1995.

By-law read a third time this 24th day of April A.D., 1995.

2 5/8" REGULAR



REGULAR