

PROPERTY MAINTENANCE

Chapter 971 FENCE - ARBITRATION

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SCHEDULE

Schedule 'A' - Defined Areas

**Article 1
INTERPRETATION****971.1.1 Adjoining owner - defined**

“adjoining owner” includes all those persons referred to in Section 971.1.4 of this Chapter who own, manage, rent or occupy a parcel of land abutting the parcel of the owner.

971.1.2 Basic cost - defined

“basic cost” means the cost of installing or constructing or reconstructing a division fence of any kind that is an amount of money not exceeding the cost of installing a four-foot high steel chain-link fence as a division fence, provided that where a fence lower than a four-foot high steel chain-link fence is mandated by a by-law of The Corporation of the Town of Richmond Hill, “basic cost” means the cost of installing or constructing or reconstructing a division fence of any kind that is an amount of money not exceeding the cost of installing a fence equal to that so mandated as a division fence provided further, where a fence other than a four-foot high steel chain-link fence is mandated by an agreement to which The Corporation of the Town of Richmond Hill is a party, “basic cost” means the cost of installing or constructing or reconstructing a division fence of that kind.

971.1.3 Division fence - defined

“division fence” means a fence marking the boundary between abutting parcels of land.

971.1.4 Owner - defined

“owner” means the registered owner of the land and includes the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used whether on his or her own account or as agent or trustee of any other person or who would so receive the rent if such land or premises were let, and shall include a lessee or occupant of the property who, under the terms of the lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property.

Article 2
GENERAL PROVISIONS

971.2.1 Construction - repair - maintenance costs - agreement

Where owners of adjoining land are agreed on the details of construction, repair or replacement of a division fence, each of them shall construct, repair, replace or maintain that proportion of the division fence, or shall bear that proportion of the cost of any work required to do so as they have agreed upon.

971.2.2 Notice - to owner - within 14 days - work intention

Where owners of adjoining land are not agreed on the details of construction, repair or replacement of a division fence the owner desiring to construct, repair or replace a division fence shall serve or cause to be served upon the adjoining owner by registered mail a notice of his or her intention to do so at least fourteen days prior to commencement of any work or execution of any contract in relation to the work to be undertaken. By-law 41-90, 19 February, 1990.

971.2.3 Cost - contribution - maximum - one-half - basic cost

Where owners of adjoining land are not agreed on the details of construction, repair or replacement of a division fence the maximum contribution to the cost thereof payable by the adjoining owner shall be one-half the basic cost regardless of whether the owner constructing, repairing or replacing the fence does so for a price greater than basic cost, and the actual contribution payable by the adjoining owner shall be in accordance with the provisions of Sections 971.2.5 and 971.2.6. By-law 35-91, 21 January, 1991.

971.2.4 Cost - apportionment

Where owners of adjoining land are not agreed on the details of construction, repair or replacement of a division fence, only upon such construction, repair or replacement shall the provisions of Sections 971.2.5 and 971.2.6 of this Chapter apply with respect to the apportionment of costs. By-law 41-90, 19 February, 1990.

971.2.5 Cost - 50 per cent - actual cost - less or equal to - basic cost

Costs in respect of division fences shall be paid as follows where the owner constructing, repairing or replacing a division fence does so for a price equal to or less than basic cost:

- (a) 50 per cent of the actual cost shall be paid by the owner constructing, repairing or replacing the fence; and
- (b) 50 per cent of the actual cost shall be paid by the adjoining owner.

971.2.6 Cost - greater - 50 per cent - basic cost

Costs in respect of division fences shall be paid as follows where the owner constructing, repairing or replacing a division fence does so for a price greater than the basic cost:

- (a) 50 per cent of basic cost shall be paid by the adjoining owner;
and
- (b) the balance of the cost shall be paid by the owner constructing, repairing or replacing the fence. By-law 35-91, 21 January, 1991.

971.2.7 Cost - recovery - notice requirements

An owner desiring to enforce the provisions of Sections 971.2.5 and 971.2.6 of this Chapter shall serve or cause to be served on the adjoining owner a notice by registered mail requiring compliance with this Chapter and if such compliance does not take place within thirty days after service of the notice, the owner serving the notice, may take appropriate proceedings under the *Provincial Offences Act* to recover the proportionate share of the cost of the work as set forth in Sections 971.2.5 and 971.2.6 of this Chapter from the adjoining owner.

971.2.8 Highway land - exemption

This Chapter does not apply to any owner of land that constitutes a public highway in respect of such land.

971.2.9 Other enactments - not superseded

Notwithstanding anything herein to the contrary, the provisions of this Chapter shall not be interpreted as superseding or supplanting the provisions of any other by-law heretofore or hereinafter acted by the Town of Richmond Hill 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 thereof.

971.2.10 Applicable areas - set out - Schedule 'A'

The provisions of Article 1 and Sections 971.2.1 through 971.2.7 inclusive shall be restricted in their applications to the areas defined and more particularly shown on Schedule 'A' to this Chapter and, for greater particularity, it is hereby declared that the provisions of the *Line Fences Act* shall not apply to land where the land is in the areas defined and more particularly shown on Schedule 'A' to this Chapter.

971.2.11 Administration fee - areas other than defined

Where any proceedings are instituted under the *Line Fences Act* in respect of a line fence situate within any area that is not defined in Section 971.2.10, the costs of the proceedings, as set forth in subsections 8 (1)(e), 12 (2), 13 (8) and 14 (1) of the *Line Fences Act*, R.S.O. 1990, c. L.17 shall include \$100 for the administrative fees of The Corporation of the Town of Richmond Hill.

971.2.12 Proceedings - scheduled - November to April

No proceedings under the *Line Fences Act* in respect of a line fence situate within any area that is not defined in Section 971.2.10, requiring the attendance or re-attendance of fence-viewers shall be scheduled between the first day of November in any year and the 31st day of March in the next following year. By-law 41-90, 19 February, 1990.

971.2.13 Land - abutting defined areas

Where a boundary between abutting parcels of land is along and coincides with the boundary of one of the defined areas shown on Schedule 'A' so that one of the parcels is within one of the defined areas and one of the parcels is outside, the provisions of Article 1 and Sections 971.2.1 through 971.2.7 inclusive shall not apply and the provisions of the *Line Fences Act* shall govern the obligations and rights of the owners and occupants of the said parcels with respect to fencing between the said parcels of land. By-law 219-90, 18 June, 1990.

FENCE - ARBITRATION

SCHEDULE

Schedule 'A' - Defined Areas

Schedule 'A', being a map outlining the defined areas referred to in this Chapter, is available for inspection upon request in the office of the Clerk during normal office hours.