

# *THE CITY OF VAUGHAN*

# *BY-LAW*

## **BY-LAW NUMBER 175-93**

### **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 may be passed by the Council of local municipality for determining how the cost 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.33. Subsection 23 (1):

**THEREFORE BE IT ENACTED** by the Council of the Corporation of the City of Vaughan as follows:

1. For the purposes of this by-law:
  - a) “adjoining owner” includes all persons who are the registered owners or occupants 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:
  - b) “owner” means a registered owner or occupant 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:
  - 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 four (4) foot high steel chain link fence which shall:
    - i) be of not greater than 1½ inch diamond mesh:
    - ii) be 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) be supported by at least 1½ 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 at 1¼ inch minimum diameter galvanized steel tension rod may be substituted for the bottom horizontal steel rail.
  - d) “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.

- e) "municipality" includes the Regional Municipality of York;
  - f) "division fence" means a fence marking the boundary between adjoining parcels of land.
2. This by-law shall apply to all lands within the City of Vaughan, excluding lands that constitute a public highway, including lands abutting a public highway that are held as a reserve by a municipality 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.
  3. The provisions of this by-law do not apply where the owner of any land has initiated proceedings under the Line Fences Act prior to the date of the passing of this by-law.
  4. An owner of land may construct and maintain a fence to mark the boundary between his land and adjoining lands.
  5. An owner desiring to construct, reconstruct or repair a division fence, and intending to require the adjoining owner to share responsibility for the construction or basic cost of the fence under 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.
  6. Where owners of adjoining land have agreed, in writing, to the construction, reconstruction or repair of a division fence, each owner shall construct, reconstruct or repair fifty percent (50%) of the division fence and pay fifty percent (50%) of the actual cost for such construction, reconstruction or repair unless otherwise provided for in the written agreement.
  7. 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 owner of the land described in the declaration for the purposes of this by-law; and
    - a) any payments of 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.
    - 1) Any division fence constructed pursuant to this by-law shall comply with the provisions of By-law 80-90 (Fence By-law) or any successor to such by-law.
    - 2) Any division fence constructed or repaired within an area designated as a heritage conservation district pursuant to Part V of the Ontario Heritage Act is subject to all requirements for obtaining a permit pursuant to such legislation.

10. Any owner desiring to enforce the provisions of this By-law shall within 90 days after completion of the construction 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. By-law Number 17-93 is hereby repealed.

READ a FIRST, SECOND and THIRD time and finally passed this 21<sup>st</sup> day of June, 1993.

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L. D. Jackson, Mayor

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J. D. Leach, City Clerk