



THE CORPORATION OF THE CITY OF MISSISSAUGA

The Fence By-law 397-78

(amended by By-laws 318-79, 499-81, 349-83, 438-83,
177-84, 1250-86, 1298-86, 755-87, 62-92, 303-00, 236-01, 162-03, 4-06, 298-08)

THE Council of the Corporation of the City of Mississauga ENACTS as follows:

TITLE

1. This By-law may be referred to as "The Fence By-law"

DEFINITIONS

2. In this By-law,

"Commissioner" means the Commissioner of the Transportation and Works Department for the City or his or her designate. (By-law 755-87, 4-06)

"corner lot" means a lot situated at the intersection of two or more streets having an angle of intersection of not more than one hundred and thirty-five degrees (135°).

"Council" means the Council for the Corporation of the City of Mississauga;

"effective ground level" means the mean level of the ground within a radius of 1.25 metres (49 inches) of the ground location being considered;

"electrical fence" means a fence through which electricity passes;

"erect" includes alter, construct, plant, place, relocate and any work preparatory to erection, and "erection" has a corresponding meaning;

"fence" includes a railing, wall, hedge, line of posts, shrubs, trees, wire, gate, boards, pickets or other similar substances, used to enclose or divide in whole or in part a yard or other land, to establish a property boundary, or to provide privacy;(236-01)

"hazardous material" includes, but is not limited to, the following materials: razor wire, barbed wire or any other sharp projections attached to a fence, or electrical fences carrying a voltage capable of causing physical injury to humans. (4-06)

"highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.

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"land" includes lands, tenements and hereditaments, and any estate or interest therein, and any right or easement affecting them, and land covered with water;

"lot" means any parcel of land which can be alienated or otherwise disposed of separately and apart from any abutting lands, whether or not such parcel is described in a registered deed or shown on a registered plan of subdivision;

"person" includes an individual, partnership, association, firm or corporation, business entity or club, or any other incorporated or unincorporated group or organization to whom the context can apply in accordance with The Interpretations Act, R.S.O. 1970 c. 225, as amended.

"privacy screen" means a visual barrier used to shield any part of a yard from view from any adjacent parcel or highway;

"sight triangle" means:

- (a) that portion of a corner lot within the triangular space formed by the street lines and a straight line drawn from a point in one street line to a point in the other street line, each such point being 6 metres (19 ft. 8 inches) measured along each street line from the point of intersection of the street lines, or
- (b) such other sight triangle set out;
 - (i) in the relevant sections of the City of Mississauga Zoning By-laws, as amended, or
 - (ii) in a site plan agreement, for a particular lot.

"street line" means the boundary between a highway and private land which separates private land from an abutting highway.

"yard" means any open, uncovered unoccupied space appurtenant to a building, and

- (a) **"front yard"** means a yard extending across the full width of a lot, and lying between the front lot line of the lot and that part nearest to the front lot line of any building or structure on that lot.
- (b) **"interior side yard"** means a side yard other than an outside side yard, which side yard extends from the front yard to the rear yard, between the side lot line and the main wall nearest to the interior side yard lot line of the main building or structure on that lot.
- (c) **"outside side yard"** means the side yard of a corner lot, which side yard extends from the front yard to the rear yard between the side street line and the main wall nearest to the outside side yard lot line of the main building or structure on that corner lot.

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- (d) **"rear yard"** means a yard extending across the full width of a lot between the rear lot line of that lot and the main wall nearest to the rear yard lot line of the main building or structure on that lot.
- (e) **"side yard"** means a yard extending from the front yard to the rear yard between the side lot line and the main wall nearest to the side lot line of the main building or structure on that lot.

APPLICATION OF BY-LAW

- 3. (1) This By-law applies to all fences and privacy screens erected in the City of Mississauga on and after the date of enactment and passage of this by-law, and except as provided in sub-section 2 of this section, applies to all fences in the City of Mississauga whenever erected.
- (2) Sections 5, 6, 7 and 8 of this By-law do not apply to a fence or privacy screen which on the date of enactment and passage of this by-law was already erected and in place.
- (3) In the event of any conflict between the provisions of this by-law and any provisions of City of Mississauga By-law 202-76 relating to fencing, or any conflict with any of the provisions of the City of Mississauga zoning by-laws relating to fencing, the provisions of those by-laws shall prevail over the provisions of this by-law.
- (4) The provisions of Sections 5, 6, 7 & 8 of this by-law do not apply to fencing or privacy screen provisions contained in site plans or site plan agreements approved or executed by the City of Mississauga under The Planning Act.

AUTHORITY

- 4. The Commissioner shall be responsible for the administration and enforcement of this By-law. (By-law 755-87, 4-06)

GENERAL FENCE PROVISIONS

- 5. (1) No person shall, in any yard on any land used for residential or commercial purposes erect, cause to be erected, or, in the case of trees, hedges or shrubs, maintain or allow a fence to grow to a height that is higher than 2 metres (6 feet, 7 inches) above effective ground level.(236-01)
- (2) The provisions of sub-section (1) do not apply to a fence erected upon, or abutting, land which is used for industrial purposes, for a railway right-of-way, or for hydro, telephone or utility installations, or for public works installations which are hazardous to the public.
- (3) The provisions of subsection 1 do not apply to a person who erects or causes to be erected a privately owned outdoor tennis court, provided the fence is of chain link construction. (By-law 318-79)

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- (4) The provisions of subsection (1) do not apply to a person who erects or causes to be erected a fence which is an acoustical barrier which approval, under an Engineering or similar Agreement or as a local improvement.(By-law 1250-86)
6. (1) For the purpose of this section, a "fence of open construction" means a fence constructed so that at least one third of its vertical surface area is open space, enabling motorists and pedestrians to have a clear view through such fence. (By-law 349-83)
 - (2) Notwithstanding the provisions of section 5, no person shall erect, cause to be erected, or, in the case of trees, hedges or shrubs, maintain or allow a fence to grow: (By-law 349-83, 236-01)
 - (a) higher than 1 metre (39 in) above effective ground level if the fence is of solid type construction or;
 - (b) higher than 1.5 metres (59 in) above effective ground level if the fence is of open type construction;within 4.5 metres (14 ft, 9 in) of the nearest streetline, in a front yard on any land used for residential or commercial purposes.
 - (3) Subsection 2 does not apply to the erection of an ornamental gateway or entranceway or similar structure. (By-law 349-83)
 - (4) Where a rear yard of one property abuts the front yard of an adjoining property and the safety of passing pedestrians from vehicular movement may be affected by the presence of a solid type rear yard fence then the fence must be of open construction if it is erected within 4.5 metres of a driveway on an adjoining lot. (By-law 349-83)

PRIVACY SCREEN

7. (1) Except as provided in subsection (2) of this section, no person shall erect, or cause to be erected, a privacy screen on any land lawfully used for residential or commercial purposes.
- (2) A privacy screen may be erected in a side yard or rear yard, if:
 - (a) it is more than 4.5 metres (14 ft. 9 inches) from the street line;
 - (b) it is more than 1.25 metres (49 inches) from any side lot line, provided, however, that where the privacy screen is located so as to provide a visual barrier between dwelling units divided by a common wall, such screen may be placed closer to any side lot line, and;
 - (c) it is more than 1.25 metres (49 inches) from the rear lot line,

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- (d) the privacy screen is not more than 12 metres (39 ft. 4 inches) in total length, and no single individual length is longer than 9 metres (29 feet 6 inches).
- (e) the privacy screen is not more than 3 metres (9 feet 10 inches) above effective ground level.

FENCES OR PRIVACY SCREENS WITHIN SIGHT TRIANGLES

- 8. No person shall erect, cause to be erected, or, in the case of trees, hedges or shrubs, maintain or allow a fence or privacy screen to grow to a height that is higher than 1 metre (39 inches) above effective ground level within a sight triangle unless such fence or privacy screen is of open construction and does not obstruct the visibility of motorists and pedestrians. (By-law 349-83, 236-01)

FENCES ALONG HIGHWAYS AND ON OTHER PUBLIC LANDS

- 9. No person shall erect, or cause to be erected, any fence or privacy screen on any lands owned by the City of Mississauga or on any highway or road allowance, opened or unopened, or on any City right-of-way, or City easement, without first having received the written authorization of Council.
- 10. Repealed by By-law 162-03

FENCES WITH BARBED WIRE OR OTHER HAZARDOUS MATERIAL

- 11. (1) No person shall erect or cause to be erected along any highway adjacent to any residential land or on any land used for residential purposes, a fence which contains, or is constructed of any hazardous material.
- (2) No person shall erect or cause to be erected on any residential land a fence which contains, or is constructed of barbed wire.

ELECTRICAL FENCES

- 12. (1) Except as provided in subsection 2 of this section, no person shall erect, or cause to be erected, an electrical fence on any land.
- (2) An electrical fence using direct current may be erected on land while it is being lawfully used for agricultural purposes, provided such fence:
 - (a) has a maximum 12 volt trickle charge,
 - (b) is designed and erected solely to contain animals, and
 - (c) has attached thereto at approximately 15.25 metres (49 ft 7 in) intervals, a sign warning that the fence carries electricity.

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EXEMPTIONS (4-06)

13. (1) Any property owner may apply for an exemption from the provisions of this by-law.
- (2) Every application for an exemption shall be in writing and shall contain the following supporting documentation:
 - (a) a property survey;
 - (b) a site plan;
 - (c) specifications pertaining to the description of the fence;
 - (d) specifications pertaining to the construction and installation of the fence; (298-08)
 - (e) consent from the abutting neighbours to the exemption request, and (298-08)
 - (f) the application fee. (298-08)
- (3) An application for an exemption shall include:
 - (a) the name, address and telephone number of the applicant;
 - (b) reference to the section of the by-law from which the exemption is being sought.
 - (c) a statement whether the proposed fence or privacy screen will be temporary or permanent; and
 - (d) reasons why the exemption is being sought.
- (4) An application for an exemption, completed in accordance with section 13(2) and 13(3), shall be delivered to the Commissioner. (298-08)
- (5) The Commissioner may grant an exemption in whole or in part, with terms and conditions, subject to the provisions of this By-law. (298-08)
- (6) In considering the completed application for an exemption, the Commissioner shall take into account the following: (298-08)
 - (a) any special circumstances or conditions applying to the fence or privacy screen referred to in the application;
 - (b) whether strict application of the provisions of this by-law would result in practical difficulties or unnecessary hardship to the applicant;

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- (c) whether the fence or privacy screen may affect surrounding sight lines and create, or potentially create, a hazardous condition for persons or vehicles; and
 - (d) whether the affected Ward Councillor is in agreement with granting the exemption or any conditions that may be attached.
- (7) Notwithstanding that the authority to grant an exemption is delegated to the Commissioner, and that he or she may have already exercised the delegated power, Council shall retain the right to exercise the authority to grant or deny an exemption in accordance with the conditions set out in section 13(5) and 13(6) of this By-law. (298-08)

GENERAL

14. In this by-law, unless the context otherwise requires, words imparting the singular number shall include the plural, and words imparting the masculine gender shall include the feminine, and further, the converse of the foregoing also applies where the context so requires.

PENALTY

15. Every person who contravenes any provision of this by-law is guilty of an offence. Pursuant to the provisions of the Provincial Offences Act, R. S. O. 1990, c.P 33 upon conviction a person is liable to a fine of not more than \$5,000, exclusive of costs. (By-law 499-81, 62-92,)

SEVERABILITY

16. When a court of competent jurisdiction declares any section or part of a section of this by-law invalid, the remainder of this by-law shall continue in force unless the court makes an order to the contrary.

BY-LAWS REPEALED

17. (1) By-law Number 73-50, and any other by-law, or those parts of any other by-law, except any City of Mississauga Zoning by-laws, with respect to fencing, enacted and passed by Council of the Corporation of the former Town of Streetsville, be and the same are hereby repealed.
- (2) Any by-law, or those parts of any by-law, except any City of Mississauga Zoning By-laws, with respect to fencing, enacted and passed by the Council of the Corporation of the former Town of Mississauga, or the Corporation of the former Township of Toronto, be and the same is hereby repealed.

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- (3) Any By-law, or those parts of any By-law, except any City of Mississauga Zoning By-laws, with respect to fencing, enacted and passed by the Council of the Corporation of the former Village or Town of Port Credit, including Section 8 under The General Regulations of By-law No. 577, enacted and passed on the 19th day of May, 1947, by the Council of the Corporation of the former Village of Port Credit, be and the same is hereby repealed.
- (4) Any By-law, or those parts of any By-law, except any City of Mississauga Zoning By-laws, with respect to fencing, enacted and passed by the Council of the Corporation of the Town of Oakville which applies to that part of the Town of Oakville annexed to the City of Mississauga pursuant to The Regional Municipality of Peel Act, 1973, S.O. 1973, c. 60, as amended, be and the same is hereby repealed.
- (5) Any By-law, or those parts of any By-law, except any City of Mississauga Zoning By-laws, with respect to fencing, enacted and passed by the Council of the Corporation of the City of Brampton, which applies to that part of the City of Brampton annexed to the City of Mississauga pursuant to The Regional Municipality of Peel Act, 1973, S.O. 1973, c. 60, as amended, be and the same is hereby repealed.

ENACTED and PASSED this 26th day of June, 1978.

Signed by: "R. A. Searle", Mayor Signed by: "Terence L. Julian", Clerk