



OAKVILLE

Division Fence By-law 2023-076

Procedural Guide

A division fence is a fence that is located on the property line between adjacent properties. The Town of Oakville's Division Fence By-law 2023-076 establishes rules and regulations for determining how the cost of constructing, replacing or repairing a division fence is to be shared between neighbours. When neighbours are not able to reach an agreement on the division fence, the By-law can be used to complete the work and divide the cost fairly.

NOTE – the Town does not become actively involved in the use of the Division Fence By-law or provide assistance to resolve neighbourly disputes. The By-law and this Procedural Guide are tools for residents who wish to seek a contributory payment for work completed on a division fence. If you need some assistance in resolving this matter with your neighbour, free mediation services for Halton residents are available from Community Conflict Resolution Services of Halton. Please call 289-402-0705 for further information.

Before constructing a division fence, you may want to:

- Review Fence & Privacy Screen By-law 2002-034 to ensure the proposed fence complies with the by-law
- Review Division Fence By-law 2023-076 for information on the basic cost of a division fence
 - Check the location of the property line between your property and your neighbour's property.
 - You should have received a property survey when you purchased your home.
 - Surveys are not available from the Land Registry OnLand system.
 - You can contact your lawyer, your mortgage company, or a licenced professional surveyor to obtain a survey.

Step 1: Attempt to reach an agreement with your neighbour

Contact your neighbour and see if you can reach an agreement regarding the fence work to be done.

Step 2: An agreement cannot be reached with your neighbour

If you cannot reach an agreement with your neighbour about the division fence, or your neighbour is not interested in sharing the cost of a division fence, you may:

- Build the fence on your own property and pay for the cost yourself; or
- Review Division Fence By-law 2023-076 to understand the process to recover some of the cost from your neighbour.

(a) Notify your neighbour about the fence work

Prepare and send a written notice of intent (see Sample Letter #1) to your neighbour by registered mail or by personal delivery, which includes the following minimum information:

- work to be done on the division fence (constructing, replacing, or repairing the fence);
- copies of at least 3 written quotes for the fence work to be done;
- a paragraph stating that the construction, repair or replacement of the division fence will commence after 14 business days of the mailing or personal delivery of the notice of intent and the owner may seek payment of a contribution for the basic cost of the division fence from the adjoining owner in accordance with By-law 2023-076;
- a paragraph stating that the adjoining owner may obtain up to 3 additional quotes, to be presented to the owner by registered mail or by personal delivery, not later than 10 business days from the date on the notice; and
- a complete copy of Division Fence By-law 2023-076.

(b) If your neighbour does not respond to the notice of intent within 14 business days

You are required to wait at least 14 business days before starting work on the division fence in order to give your neighbour time to respond to your notice.

If your neighbour does not respond to your notice of intent, after 14 business days have passed you can select your preferred quote and begin work on your division fence. You will have to pay the fence contractor and proceed to Step 3 for reimbursement of 50% of the basic cost of the fence.

Remember that you can reach an agreement with your neighbour regarding the fence work at any time.

(c) Notify your neighbour of cost recovery for fence work

If your neighbour does not pay their portion of the division fence, you may initiate collection for their portion of the cost.

Prepare and send a notice by registered mail requiring compliance with Division Fence By-law 2023-076 within 30 days after service of the notice (see Sample Letter #2). The notice should also state that the owner serving the notice may take appropriate proceedings under the Provincial Offences Act to recover the adjacent owner's share of the cost of the division fence. If payment is not received, you may proceed to Step 3.

Step 3: Recovering costs through court

If you are unfamiliar with the court process and the rules of evidence, you may consider obtaining legal advice to assist in proceeding with the issuance and prosecution of a charge under the Division Fence By-law.

If Step 2 was unsuccessful and your neighbour did not pay their share of the division fence, you can initiate a court proceeding. Contact the Provincial Offences Court Office at 905-637-1274 (located at 4085 Palladium Way, Burlington) to determine the next steps available to you.

SAMPLE LETTER #1 – NOTICE OF INTENT

SENT BY (enter whether sent by registered mail or personal delivery)

Date:

Neighbour's Name & Address

RE: NOTICE OF INTENT TO (ENTER WHETHER CONSTRUCT, REPLACE, OR REPAIR) A DIVISION FENCE

Dear

As the owner of the property located at (enter address of owner), I am providing you with this letter and notification package to formally advise you of my intent to (enter construct a, replace the, or repair the) division fence on the property line which separates our adjoining parcels of land.

Despite our previous conversations about (enter constructing, replacing, or repairing) the division fence, we are not currently in agreement about the sharing of the cost for the fence work. Therefore, I intend to proceed with the (enter construction, replacement, or repair) of the division fence in accordance with the Town of Oakville Division Fence By-law 2023-076, a copy of which is enclosed for your information.

Enclosed in this notification package you will also find copies of 3 written quotes for the work to be done on the division fence. As the adjoining owner, you may obtain 3 additional quotes to be considered for the proposed work. The additional quotes must be provided to me by registered mail or by personal delivery not later than 10 business days from the date of this notice.

The work on the division fence will commence after 14 business days of the date of the (enter mailing, or personal delivery) of this notification package and, in accordance with the Town of Oakville Division Fence By-law 2023-076, I may seek a contributory payment for the basic cost of the work on the division fence from you, the adjoining owner.

Should you wish, I would be pleased to discuss all of the quotes with you prior to making a decision as I would prefer to reach an agreement amicably.

Sincerely,

(enter signature of owner)

(enter name of owner)

SAMPLE LETTER #2 – NOTICE OF COMPLIANCE

SENT BY REGISTERED MAIL

Date:

Neighbour's Name & Address

**RE: COMPLIANCE WITH TOWN OF OAKVILLE DIVISION FENCE BY-LAW
2023-076**

Dear

Further to my Notice of Intent letter dated (enter date of Letter #1), (construction of, replacement of, or repair to) the division fence on the property line between our parcels of land was completed on (enter date work was completed). Town of Oakville Division Fence By-law 2023-076, a copy of which was previously provided to you, requires that the cost with respect to a division fence be shared between the adjacent property owners.

As the adjoining owner, you are required to comply with Section 4 of the Town of Oakville Division Fence By-law 2023-076 by paying your portion of the cost related to the division fence. Based on the quotes exchanged, you are responsible for \$(enter the exact dollar amount). Please find enclosed with this letter a copy of the quote for which you must pay 50% in accordance with the By-law.

If you do not comply with the By-law by paying your portion no later than 30 days from the date of this letter, being (enter date 30 calendar days after letter date), I may proceed to recover your share of the cost through legal action under the Provincial Offences Act.

Sincerely,

(enter signature of owner)

(enter name of owner)