

## Proposed Construction Fence By-law

*(City Council at its regular meeting held on October 3, 4 and 5, 2000, and its Special Meetings held on October 6, 2000, October 10 and 11, 2000, and October 12, 2000, amended this Clause by amending the proposed Construction Fence By-law by adding to subsection (f)(i), under Part 3, entitled "General Requirements", the words "and be free of graffiti and posters", so that such subsection shall now read as follows:*

*"(f) be maintained,*

*(i) in good repair with no gaps larger than 100 millimetres below the fencing, and be free of graffiti and posters;"*)

**The Planning and Transportation Committee recommends that the proposed Construction Fence By-law, appended to the following report (July 25, 2000) from the Commissioner of Urban Development Services be adopted, and that authority be granted for the introduction of the necessary bill in Council substantially in the form of the proposed By-law:**

### Purpose:

To implement harmonized regulatory requirements by means of a Construction Fence By-law requiring erection and maintenance of fences at construction and demolition sites in the City of Toronto.

### Financial Implications and Impact Statement:

There are no financial implications.

### Recommendation:

It is recommended that Council approve the proposed Construction Fence By-law attached.

### Background:

Former municipalities in the City of Toronto, by means of by-laws and policies, required construction and demolition sites to be enclosed with a construction fence during the period of construction. With the formation of the new City, it was recognized that there was a need for a harmonized set of requirements with respect to such fences. To this end, a task force was created within the Building Division to develop regulations that could be uniformly applied across the City. To accomplish this, the task force examined legislation now in place, along with previous construction fence by-laws and policies of the former municipalities now within the City of Toronto. By-laws from municipalities outside of Toronto, that have had good success in their application and enforcement were also examined and utilized in formulating the proposed by-law which is now presented to Council for approval.

More specifically, the following documents were reviewed for reference and guidance.

- (1) By-laws of former municipalities of North York, Etobicoke and Toronto as well as by-laws of Cities of Ottawa and Vancouver.
- (2) The Occupational Health and Safety Act and Regulations for Construction Projects.
- (3) The National Building Code of Canada, Part 8 Construction Safety.
- (4) City of Toronto's "Proposed Fence By-law" July 15, 1998.

In addition to the above, a number of organizations such as Greater Toronto Home Builders Association, Construction Safety Association, Dupont Canada, Monarch Construction, Port-a-Fence Inc. and others, were contacted for comments and suggestions.

#### Comments:

Section 5(7) i of the Ontario Building Code Act authorizes municipalities to require erection of fences to enclose construction and demolition sites while work is taking place on such sites.

During the construction or demolition process, a project site is exposed to a series of activities that generate debris and wreckage of various kinds. A Construction fence that is properly installed, positioned and maintained on the site will contain the debris and wreckage within the construction or demolition area and keep all other areas relatively clean and uninhibited. The construction fence will also provide limited security and safety measures for both construction personnel and the public. Entrance and exit points are clearly defined as part of the construction fence providing safe ingress and egress of construction vehicles and equipment.

With a uniform set of regulations stipulating the size and specifications of construction fences, the appearance of a site under construction or demolition will help to keep the City clean and will encourage professional management and organization of the site.

To assist the builders, diagrams and sketches of fence construction will be made available at the time of permit issuance.

#### Conclusions:

The adoption of the proposed by-law will provide a clear and concise set of regulations that can be enforced uniformly throughout the City. The provisions within the By-law will keep construction and demolition sites clean and functional while maintaining an acceptable appearance through the various stages of the project.

The By-law along with its supplementary information has been reviewed by Corporate Services, Legal Division staff.

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**CITY OF TORONTO**

**BY-LAW No. \_\_\_\_\_**

**The Council of the City of Toronto HEREBY ENACTS as follows:**

**1. Definition**

In this by-law, residential site means a construction or demolition site for a building that is used only for residential purposes and that is not more than three storeys in building height and not more than one level below grade.

**2. Fence required**

(1) Unless granted an exemption under subsection (2), a person issued a construction or demolition permit under the Building Code Act, 1992 for any work in the City of Toronto shall erect and maintain a fence to enclose the construction or demolitions site including any areas where equipment is operated or equipment or material is stored.

(2) The Chief Building Official is authorized to grant an exemption from the requirement in subsection (1) to erect a fence if the Chief Building Official is satisfied that conditions at a site would not present a particular hazard to the public after having regard for:

- (a) the proximity of the site to occupied dwellings;
- (b) the proximity of the site to places frequented by the public, including but not limited to, streets, parks, businesses and workplaces;
- (c) the effectiveness of any existing fencing adjacent to the site;
- (d) the feasibility and effectiveness of fencing the site;
- (e) any proposed security measures to deter entry to the site;
- (f) the hazard presented by the activity occurring and materials used on the site;

- (g) the expected duration of the hazard; and
- (h) any other safety considerations.

(3) Where work on a construction or demolition site is substantially suspended or abandoned, the Chief Building Official may revoke an exemption granted under subsection (2) by serving written notice of the revocation on the permit holder.

### **3. General requirements**

Every fence required by this by-law shall,

- (a) be erected at the perimeter of the site to fully enclose the site;
- (b) be built to deter entry by unauthorized persons or vehicles;
- (c) have no rails, other horizontal or diagonal bracing, attachments or pattern of openings on the outside that would facilitate climbing;
- (d) contain no opening more than 150 millimetres wide or less than 900 millimetres above the bottom of the fence except where required for access to and from the site;
- (e) at any access opening, be equipped with gates that shall,
  - (i) contain wire mesh or similar material sufficient to provide visibility for traffic entering or exiting the site;
  - (ii) be built to specifications that provide performance and safety at least equivalent to the fence and
  - (iii) deter entry by unauthorized persons;
- (f) be maintained,
  - (i) in good repair with no gaps larger than 100 millimetres below the fencing;
  - (ii) free from health, fire and accident hazards;
  - (iii) so that any access opening is closed and locked or securely reinstalled when the site is unattended; and
- (g) be removed not later than thirty days after completion of the construction or demolition work.

#### **4. Fence height**

A fence required by section 2 shall,

- (a) if erected on a residential site between an excavation on the site and a public sidewalk or lane that is within 3.0 metres of the excavation, have a height not less than 1.8 metres above the grade outside the enclosed area;
- (b) if erected on a residential site, have a height not less than 1.2 metres above the grade outside the enclosed area; and
- (c) if erected on any other construction or demolition site, have a height not less than 1.8 metres above the grade outside the enclosed area.

#### **5. Fence construction standards**

A fence required by section 2 shall be built to the following minimum standards:

- 1. If erected between an excavation and a public sidewalk or lane that is within 3.0 metres of the excavation, the fence shall be built of wood.
- 2. If built of wood, the outside face shall be smooth exterior grade plywood or wafer board 12.5 millimetres thick that is close-boarded, securely nailed or screwed to 89 millimetre by 89 millimetre vertical posts spaced at 2.4 metre centres and embedded sufficiently deep into the ground to provide a rigid support, and securely nailed or screwed to 39 millimetre by 89 millimetre horizontal rails secured to the vertical posts at the top, bottom and intermediate locations at 600 millimetre centres.
- 3. If built with plastic mesh, the fencing shall be fastened securely at 200 millimetre centres to steel T or 50 millimetre wide U posts, spaced at not more than 1.2 metre centres and embedded at least 600 millimetres into the ground, with the top and bottom of the plastic mesh secured horizontally by an 11 gauge lacing cable threaded through the mesh and looped and fastened to each post.
- 4. If built with chain link, the mesh shall have openings no larger than 50 millimetres and shall be fastened securely both to vertical steel posts, spaced at not more than 2.4 metre centres and embedded at least 600 millimetres into the ground, and to top and bottom horizontal steel rails or 9 gauge steel wire.
- 5. Any hoarding, canopy or similar protective barrier required under provincial law may form part of the fence.
- 6. The fence may be a combination of the fence types specified in this by-law or may be built of other materials if the fence can be shown to provide

performance and safety equivalent to fence types specified and the Chief Building Official authorizes its use.

**6. Conflict**

Where this by-law conflicts with any other by-law, the more restrictive by-law applies.

**7. Repeal, transition, commencement**

(1) The following are repealed:

- (a) Municipal Code Chapter 113, Construction Site Fencing, of the former City of Etobicoke: and
- (b) By-law No. 31856 of the former City of North York.

(2) If erected before the day this by-law comes into force, the following fences are deemed to comply with section 2 of this by-law:

- (a) any fence in the former City of Etobicoke erected and maintained in compliance with Municipal Code Chapter 113, Construction Site Fencing, of the former City of Etobicoke;
- (b) any fence in the former City of North York erected and maintained in compliance with By-law No. 31856 of the former City of North York; and
- (c) any fence in the former City of Toronto erected and maintained in compliance with Municipal Code Chapter 146, Building Construction and Demolition, Section 5.1 (Fencing of Construction and Demolition Sites), of the former City of Toronto.

(3) This by-law comes into force on the \_\_\_\_\_ day of \_\_\_\_\_, 2000

**ENACTED AND PASSED** this \_\_\_\_\_ day of \_\_\_\_\_ 2000.

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Mayor

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City Clerk