

Authority: Licensing and Standards Committee Item LS25.3, as adopted by City of Toronto Council on May 22, 23 and 24, 2018

CITY OF TORONTO

BY-LAW 641-2018

To amend City of Toronto Municipal Code Chapter 447, Fences.

Whereas Council has authorized amendments to Chapter 447, Fences which is a by-law passed under sections 7 and 8 of the City of Toronto Act, 2006, in respect of the health, safety and well-being of persons and in respect of structures including fences; and

Whereas under section 109 of the City of Toronto Act, 2006, the City may provide that the Line Fences Act does not apply to all of the City of Toronto; and

Whereas Chapter 447, Fences, requires housekeeping updates to reflect recent Council decisions and to align the style and formatting of the chapter to the current Municipal Code standards;

The Council of the City of Toronto enacts:

1. City of Toronto Municipal Code Chapter 447, Fences, is amended by replacing Chapter 447 with the updated version attached as Schedule A to this by-law.
2. City of Toronto Municipal Code Chapter 441, Fees and Charges, is amended by deleting Items 147, 148, 149, 150 and 151 of Appendix C – Schedule 12.
3. City of Toronto By-law 304-2017, to appoint fence viewers under the Line Fences Act, is repealed.
4. This by-law comes into force on June 20, 2018.

Enacted and passed on May 24, 2018.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

SCHEDULE A

Chapter 447

FENCES

ARTICLE 1
Private Property

§ 447-1.1. Definitions.

As used in this article, the following terms shall have the meanings indicated:

COMMUNITY COUNCIL - As defined in Chapter 27, Council Procedures.

DRIVEWAY - Any space on private property used or intended to be used by vehicles to park or to access parking.

EXECUTIVE DIRECTOR - The Executive Director, Municipal Licensing and Standards, and the Executive Director's designate or successor.

FENCE - A barrier, including one for noise attenuation, or any structure, except a structural part of a building, that wholly or partially screens from view, encloses or divides a yard or other land, or marks or substantially marks the boundary between adjoining land, and includes any hedge or shrub that has the same effect.

FRONT LOT LINE - The front boundary line between a public highway and any private property measured along the full width of the property.

FRONT YARD - The space, extended to the full width of the lot, including any side lot lines, between the main front wall of the building and the lot line abutting a public highway, but on a corner lot means the space, extended to the full width of the lot, including any side lot line, between the shorter lot line abutting a public highway, other than a public lane, and the nearest wall of the main building on the lot.

GUARD - The same meaning as Chapter 629, Property Standards, which, for reference purposes only, means a protective barrier, with or without openings through it, that is around openings in floors or at the open sides of stairs, landings, balconies, mezzanines, galleries, raised walkways or other locations to prevent accidental falls from one level to another.

HEIGHT - Vertical distance above grade or, if another reference point is specified, vertical distance above the other reference point.

LOT LINE - A lot line is the boundary line on all sides of a lot that marks the division of properties.

MULTIPLE RESIDENTIAL PROPERTY - Land other than single residential property that is used for residential purposes only and includes land used for hotels and vacant land abutting multiple residential property.

NON-CLIMBABLE - Describes a 1.2-metre vertical face presented to the exterior of a swimming pool enclosure. For an enclosure of chain link construction, means a mesh which is no greater than 38 millimetres square for a minimum of 1.2 metres vertically. For all other enclosures, means that there is no horizontal opening or step greater than 38 millimetres in width for 1.2 metres vertically, or where horizontal components are a minimum of 1.2 metres apart there shall be no opening greater than 100 millimetres.

NON-RESIDENTIAL PROPERTY - Land that is used for other than residential purposes and includes land used for both residential and other purposes and vacant land abutting non-residential property.

OFFICER - Any City employee assigned responsibility for enforcing this article.

OPEN-FENCE CONSTRUCTION - Fence construction that provides motorists and pedestrians with an unobstructed view of people, vehicles and their movements through the entire length of the fence.

OUTSIDE - When used with reference to a swimming pool enclosure, means the side external to the enclosed area in which the pool is located.

OWNER - Includes the registered owner of any property; 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 the person's own account or as agent or trustee of any other person, or who would so receive the rent if such land and premises were leased; and a lessee or person in charge of the property.

PARKING LOT - A driveway, not on single residential property, intended for the parking of vehicles.

PERSON - An individual, sole proprietorship, partnership, limited partnership, trust or body corporate, or an individual in his or her capacity as a trustee, executor, administrator or other legal representative.

PUBLIC HIGHWAY - Any highway and includes any street, road, sidewalk, boulevard, lane or any other portion of a highway.

SCHOOL - The same meaning as in subsection 1(1) of the Education Act.

SINGLE RESIDENTIAL PROPERTY - Land that is used for not more than two dwelling units in a detached or semi-detached building and vacant land abutting single residential property.

SNOW FENCE - Any fence used to force drifting snow to accumulate in a predictable place, and which is usually constructed of plastic mesh, lightweight woodstrip, or wire fencing.

SWIMMING POOL - Any outdoor structure or thing located on privately owned property that is capable of being used for swimming, wading or bathing and in which the water depth at any point can exceed 600 millimetres.

SWIMMING POOL ENCLOSURE - A fence, wall or other structure, including any permitted door, gate or other opening, which surrounds and restricts access to an outdoor swimming pool.

TIMED SELF-CLOSING DEVICE - A mechanism by which a door or gate is returned to the closed and locked or latched position after a specified period of time.

TRIGGERED SELF-CLOSING DEVICE - A mechanism by which a door or gate is returned to its closed and locked or latched position when triggered by a passing vehicle or person and includes, but is not limited to, magnetic loop detectors.

§ 447-1.2. Restrictions on fences; height.

A. Prohibited fences.

- (1) No person shall erect, own or maintain, or cause or permit the erection or maintenance of, any fence on private property in the City of Toronto that does not comply with this article and with any other applicable law.
- (2) No barbed wire, chicken wire or other barbed or sharp material shall be used in any fence unless the fence is permitted by Subsection B to exceed 2.5 metres in height and the barbed or sharp material is installed at a height of not less than 2.5 metres on metal brackets inclined towards the enclosed area at an angle of 45 degrees.
- (3) No sheet metal or corrugated metal panels shall be used in any fence.
- (4) No fence or attachment to a fence shall be used as a conductor of electricity unless the fence is located on agricultural land that is in actual use for raising livestock and the fence or attachment:
 - (a) Carries electricity of not more than 12 volts;
 - (b) Is designed and installed only to contain livestock; and
 - (c) Has signs installed at not more than twelve-metre intervals along the fence warning that the fence carries electricity.
- (5) No person shall erect, own or maintain, or cause or permit the erection or maintenance of any fence that uses materials not usually intended for use in permanent fencing, unless specifically permitted by this chapter or another by-law.
- (6) Notwithstanding Subsection A(5), a snow fence may be used on private property between November 15 and April 15, and shall comply with all corresponding standards in this chapter and other by-laws.

B. Fence height.

- (1) No fence described in the following Table shall, when measured at any point along its length from the average grade level measured perpendicular to and one metre away on either side of the fence, exceed the height set out in the Table for the fence.
- (2) Where more than one description in the following Table applies to a fence, each part that corresponds to a single description shall be deemed to be a separate fence for the purpose of determining the maximum height for that part.
- (3) Despite Subsection B(1), a fence at any school shall not exceed 1.5 metres in height if the fence is adjacent to a public highway or right-of-way.

**TABLE 1
MAXIMUM HEIGHT OF FENCES**

Item	Description of Fence	Fence on single or multiple residential property	Fence on non-residential property	Hedge, shrub or other vegetation that acts as a fence
1.	Fence in a front yard; and within 2.4 metres of a lot line abutting a public highway (public highway does not include a public lane)	1.2 metres	1.2 metres	1.2 metres
2.	Fence in a front yard; and not within 2.4 metres of a lot line abutting a public highway (public highway does not include a public lane)	2.0 metres	2.0 metres	No maximum
3.	Fence not in a front yard; and within 2.4 metres of a lot line abutting a public highway (public highway does not include a public lane)	2.0 metres	2.0 metres	2.0 metres
4.	Fence not in a front yard; and not within 2.4 metres of a lot line abutting a public highway (public highway does not include a public lane)	2.0 metres	2.5 metres	No maximum
5.	Fence on an unroofed deck; and not in a front yard; and not within 2.4 metres of a lot line abutting a public highway (public highway does not include a public lane)	2.0 metres above surface of deck	2.0 metres above surface of deck	No maximum

Item	Description of Fence	Fence on single or multiple residential property	Fence on non-residential property	Hedge, shrub or other vegetation that acts as a fence
6.	Fence not in a front yard; and not within 2.4 metres of a lot line abutting a public highway (public highway does not include a public lane); and not on a unroofed deck; and abutting a multi-residential property, a non-residential property, a public highway or a public walkway	2.5 metres	2.5 metres	No maximum
7.	Fence abutting a rapid transit right of way	2.5 metres	No maximum	No maximum
8.	Fence for a tennis court, a baseball diamond or other recreational facility	3.0 metres	No maximum	No maximum
9.	Any other fence	2.0 metres	2.5 metres	No maximum

C. Open-fence construction required.

Despite Table 1:

- (1) Any fence within 2.4 metres of any driveway shall be an open mesh chain-link fence or of an equivalent open-fence construction for at least 2.4 metres from the lot line at which the driveway begins so as not to obstruct the view of the boulevard or highway; and
- (2) In the case of a parking lot, any fence shall be an open mesh chain-link fence or of an equivalent open-fence construction anywhere it may otherwise restrict the sight lines of vehicular or pedestrian traffic in the parking lot.

D. Obstructions prohibited.

No vegetation shall be permitted to grow or object permitted to be placed in such a way as to obstruct the view through a fence under Subsection C.

E. Fence to meet guard requirements.

- (1) Where a fence is used as a guard, it shall be installed and maintained to comply with Chapter 629, Property Standards.

- (2) If the guard forms part of a swimming pool enclosure, it shall also comply with the requirements of § 447-1.3.
- (3) If more than one by-law provides requirements for the guard, the more restrictive provisions shall apply.

§ 447-1.3. Swimming pool enclosures.

A. Enclosure required.

Subject to the exceptions in Subsection F, every owner of a swimming pool shall erect and maintain a swimming pool enclosure that:

- (1) Complies with this article;
- (2) Completely encloses the area in which the swimming pool is located; and
- (3) Has no opening except a gate that complies with this article.

B. Permits and inspections.

- (1) No person shall excavate for or erect, or cause or permit excavation for or erection of, a swimming pool without first obtaining a permit from the Executive Director for a swimming pool enclosure for the proposed pool.
- (2) An application for a permit for a swimming pool enclosure shall be in the form required by the Executive Director and shall be accompanied with the non-refundable fee set out in Chapter 441, Fees and Charges, and by plans:
 - (a) Showing the location of the swimming pool in relation to lot lines and adjacent buildings.
 - (b) Providing complete details of the swimming pool enclosure; and
 - (c) Providing any other details and information required by the Executive Director for determining compliance with this article.
- (3) The Executive Director shall refuse or revoke a permit for a swimming pool enclosure if:
 - (a) The proposed swimming pool enclosure would contravene this article or any other applicable law;
 - (b) It was issued in error or on mistaken, false or incorrect information; or
 - (c) The required application fee under Chapter 441, Fees and Charges, has not been paid.
- (4) Every owner of property on which a swimming pool is under construction shall erect and maintain a swimming pool enclosure that complies with this article in every respect except that it may consist of temporary fencing if authorized by the Chief Building Official or an officer.
- (5) Any authorization to erect temporary fencing is granted on the condition that the temporary fencing shall be replaced with a permanent swimming pool enclosure that

fully complies with this article when an officer directs replacement or when construction of the swimming pool is substantially complete, whichever occurs first, and in determining whether to direct replacement of temporary fencing, an officer shall consider, among other factors, whether construction is proceeding expeditiously, whether temporary fencing is being adequately maintained and whether safety might be compromised without a permanent enclosure.

- (6) Temporary fencing shall be erected in a good, workmanlike manner and shall consist of steel "T" posts spaced at not more than 1.2 metre centres and embedded at least 600 millimetres into the ground with 38 millimetre plastic mesh fencing at least 1.2 metres high that is securely fastened to the posts at 200 millimetre centres and horizontally secured at the top and bottom by an eleven-gauge steel lacing cable threaded through the mesh and looped and fastened to each post, or any other fence acceptable to an officer.
- (7) No person shall fill a swimming pool with water or permit water to collect or remain in a swimming pool until an officer has conducted an inspection and confirmed completion of a permanent swimming pool enclosure that fully complies with this article.
- (8) Despite Subsection B(7), a person may fill a swimming pool with water when temporary fencing has been erected in compliance with this article, but the swimming pool shall not be used until permanent fencing has been erected and an officer has conducted an inspection and confirmed completion of a permanent swimming pool enclosure that fully complies with this article.

C. Access protection.

- (1) Subject to Subsection C(2), a swimming pool enclosure shall be designed and constructed so that all entrances to any building are located outside the enclosed area.
- (2) Subsection C(1) does not apply to any structure that does not provide access to the exterior of the pool enclosure.
- (3) If the wall of any building, or any portion of it, forms part of the pool enclosure, there shall be no access to the enclosed pool area through the wall.
- (4) Subsection C(3) applies to pool enclosures for which a pool enclosure permit was issued more than 30 calendar days after the enactment of that subsection on November 20, 2007, and to any existing fence if a substantial portion of it is demolished or removed, or if it is in such a state of disrepair that it is not practical to repair it.
- (5) Every owner of a swimming pool shall:
 - (a) Take all steps necessary to control any access point to the swimming pool area; and
 - (b) Ensure that if the closing mechanism of a gate is electrically powered it includes a back-up system which shall automatically power the closing mechanism in case of a power disruption.

- (6) Every gate in a swimming pool enclosure shall:
- (a) Be constructed in compliance with Subsection E;
 - (b) Be supported on substantial hinges;
 - (c) If it is a single gate:
 - [1] Be self-closing and equipped with a lockable, self-latching device located on the inside near the top of the gate or on the outside at least 1.5 metres above grade; and
 - [2] Be kept locked at all times except when the enclosed area is in use.
 - (d) If the gate is double gate:
 - [1] Have one gate that is self-closing and equipped with a lockable, self-latching device located on the inside near the top of the gate or on the outside at least 1.5 metres above grade;
 - [2] Have a second gate that is equipped with a lockable drop bolt that extends down into concrete, asphalt, or paving stones by a minimum of 25 millimetres; and
 - [3] Be kept locked at all times, included keeping the lockable drop bolt in the locked position, except when the enclosed area is in use.
- (7) All automatic closing devices and their power back-up systems shall be in compliance with the applicable product and installation standards of the Canadian Standards Association.

D. Enclosure height.

- (1) The minimum height of a swimming pool enclosure above the highest outside grade within one metre of the enclosure shall comply with the following Table when measured at any point along the enclosure.

**TABLE 2
MINIMUM HEIGHT OF SWIMMING POOL ENCLOSURES**

Pool on Single Residential Property	Pool on Multiple Residential Property	Pool on Non-Residential Property
1.2 metres	1.8 metres	1.8 metres

- (2) The maximum height of any fence used in a swimming pool enclosure shall comply with § 447-1.2B.

E. Construction standards.

- (1) A swimming pool enclosure, including any gate forming part of the enclosure, shall:
- (a) Be no closer than 1.2 metres horizontally to the water's edge in the pool;

- (b) Be no closer than one metre to any external condition that may facilitate climbing the outside of the enclosure unless the height of the enclosure is at least 1.8 metres for a distance of at least one metre on each side of the condition;
 - (c) Have no element or attachment between 100 millimetres and 1.2 metres above grade that may facilitate climbing the outside of the enclosure; and
 - (d) Have a non-climbable facing material installed on the outside of the enclosure which extends from no more than 50 millimetres above grade to the required minimum height of the enclosure, but, if a hard surface such as concrete, asphalt, paving stones or patio slabs extends for a distance of 500 millimetres on each side of a gate, the clearance under the gate may be no more than 100 millimetres.
- (2) Every fence and gate used in a swimming pool enclosure shall be constructed to the following standards:
- (a) A chain-link fence used in a swimming pool enclosure shall be constructed in a good, workmanlike manner and in compliance with the following Table:

**TABLE 3
MINIMUM STANDARDS FOR CHAIN-LINK FENCE CONSTRUCTION**

Fence Components	Pool on Single Residential Property	Pool on Multiple Residential or Non-Residential Property
MESH SIZE	38 millimetres maximum	38 millimetres maximum
MESH GAUGE (Galvanized wire)	14 gauge galvanized wire and 2 gauge vinyl for 12 gauge total thickness	11 gauge galvanized wire and 2 gauge vinyl for 9 gauge total thickness
GATE and END (TERMINAL) POSTS:		
(1) Diameter	48 millimetres	60 millimetres
(2) Depth of embedment	760 millimetres (in 200 millimetre diameter concrete)	760 millimetres (in 200 millimetre diameter concrete)
INTERMEDIATE POSTS:		
(1) Diameter	38 millimetres	48 millimetres
(2) Depth of embedment	760 millimetres	760 millimetres

Fence Components	Pool on Single Residential Property	Pool on Multiple Residential or Non-Residential Property
TOP RAIL (Diameter)	32 millimetres	32 millimetres
BOTTOM WIRE (Diameter)	9 gauge galvanized, threaded through the mesh and looped and fastened to each post	9 gauge galvanized, threaded through the mesh and looped and fastened to each post
GATE FRAME (Diameter)	32 millimetres	32 millimetres
SPACING OF POSTS	2.4 metres maximum	2.4 metres maximum

(b) A wood fence used in a swimming pool enclosure shall be constructed in a good, workmanlike manner as follows:

[1] Vertical boards shall be:

[a] At least 19 millimetre by 89 millimetre lumber;

[b] Spaced at least 38 millimetres apart where horizontal rails are spaced less than 1.2 metres apart;

[c] Spaced at least 100 millimetres apart where horizontal rails are spaced 1.2 metres apart or more;

[d] Attached to horizontal rails that are:

a. At least 38 millimetre by 89 millimetre lumber; and

b. Supported on substantial posts that are at least 89 millimetres by 89 millimetres, spaced not more than 2.4 metres apart, securely fastened to the ground and structurally sound.

[2] Horizontal boards shall be:

[a] At least 19 millimetre by 89 millimetre lumber;

[b] Spaced not more than 20 millimetres apart;

[c] Offset or protruding not more 15 millimetres from the board immediately above or below; and

[d] Not more than 2.4 metres in length.

(c) A metal picket fence used in a swimming pool enclosure shall be constructed in a good, workmanlike manner as follows:

- [1] Vertical pickets shall be spaced not more than 38 millimetres apart where horizontal rails are spaced less than 1.2 metres apart and not more than 100 millimetres apart where horizontal rails are spaced at least 1.2 metres apart; and
 - [2] Horizontal rails shall be supported on substantial posts that are spaced not more than 2.4 metres apart, securely fastened to the ground and structurally sound.
- (d) A glass panel fence used in a swimming pool enclosure shall be constructed in a good, workmanlike manner as follows:
- [1] Glass panels shall be located so there is no opening of more than 38 millimetres between the panel and the post where horizontal elements are spaced less than 1.2 metres apart, and not more than 100 millimetres apart where horizontal elements are spaced more than 1.2 metres apart; and
 - [2] Horizontal elements shall be supported on substantial posts that are spaced not more than 2.4 metres apart, securely fastened to the ground and structurally sound.
 - [3] Glass panels used in swimming pool enclosures shall be:
 - [a] Safety glass of the laminated or tempered type conforming to CAN/CGSB-12.1-M "Tempered or Laminated Safety Glass"; or
 - [b] Wired glass conforming to CAN/CGSB-12.1-M "Wired Safety Glass."
- (e) A masonry wall that is not a part of a building and is used in a swimming pool enclosure shall be constructed in a good, workmanlike manner as follows:
- [1] The wall shall present a minimum 1.2-metre non-climbable surface to the exterior of the enclosed area.
 - [2] It shall be constructed of a minimum double course brick or single course concrete block with a minimum width of 200 millimetres, and securely attached to a minimum 1.2-metre deep concrete foundation.
 - [3] Where the wall abuts a building or gate there shall be no opening between the wall and the building or gate which exceeds 38 millimetres where there are horizontal elements less than 1.2 metres apart, or which exceeds 100 millimetres where there are no horizontal elements or where horizontal elements are in excess of 1.2 metres apart.
 - [4] All components of a masonry wall used as a part of a swimming pool enclosure shall conform with CSA S304.1.
- (3) Every fence and gate used as part of a swimming pool enclosure which forms the part of the enclosure that separates the pool from any residential building on the same property shall be constructed of open mesh chain-link fence or equivalent open fence construction that does not restrict visibility of the pool from any door or window that

- is located on the main living area of the building, and which has a line of sight to the pool, and the materials used must comply with the provisions of this chapter.
- (4) Nothing shall be erected, planted or otherwise placed in such a way that the visibility of the pool is restricted from any door or window that is located on the main living area of a residential building on the same property, and which has a line of sight to the pool.
 - (5) Subsection E(4) applies only to fences and gates used as part of a swimming pool enclosure which forms the part of the enclosure that separates the pool from any residential building on the same property, as described in Subsection E(3).

F. Exceptions.

- (1) Subsections A through E do not apply to an above-ground pool erected before the day this article comes into force if the pool complies with the following standards:
 - (a) The pool is not less than 1.2 metres above grade;
 - (b) A guard not less than one metre high is provided around any platform or deck;
 - (c) The combined height of the swimming pool structure and any guard is not more than 2.6 metres;
 - (d) The outside of the swimming pool structure and any guard is free of any element or attachment that may facilitate climbing;
 - (e) No part of the swimming pool structure is closer than 1.2 metres to any lot line; and
 - (f) The point where a user of the above-ground pool gains access to the pool is protected by a gated enclosure which complies with the requirements for swimming pool enclosures set out in Subsections B through E, inclusive.
- (2) Subsections A through E do not apply to a whirlpool, hot tub or spa if it has a substantial, structurally adequate cover permanently attached to it or to its supporting structure and the cover is securely fastened and locked to prevent access at all times when the whirlpool, hot tub or spa is not in use.
- (3) Despite Section § 447-1.5, when the need for which an exemption to Subsection C(4), E(3), E(4) or E(5) was sought ceases to exist, the pool enclosure shall be reinstated to comply fully with the provisions in Subsection C(4), E(3), E(4) or E(5).

§ 447-1.4. Offences; entry to inspect, orders, notices of violation.

A. Offences.

- (1) Every person who contravenes any provision of this article, or a notice of violation or direction or order issued in accordance with this article, is guilty of an offence and on conviction is liable to a fine of not more than \$100,000.
- (2) In addition to a fine or fines provided for in this section every person who gains an economic advantage from contravening this article, or a notice of violation or

direction or order issued in accordance with this article, is liable to a special fine in an amount equal to the fair market value of the economic advantage obtained from the contravention.

- (3) In addition to offences in Subsections A(1) and (2), every person is guilty of an offence under this article who:
 - (a) Hinders or obstructs or attempts to hinder or obstruct any person exercising a power or performing a duty under this article;
 - (b) Neglects or refuses to produce or provide any information or thing to any person acting pursuant to an order made under section 378 of the City of Toronto Act, 2006;
 - (c) Knowingly makes, participates in, assents to or acquiesces in the provision of false information in a statement, affidavit, application or other document prepared, submitted or filed under this article.
- (4) Where a corporation contravenes any of the provisions of this article, or a notice of violation or direction or order issued in accordance with this article, every director or officer who concurs in such contravention is guilty of an offence and on conviction is liable to a fine of no more than \$100,000.
- (5) Each offence is designated as a continuing offence and is subject to, for each day or part of a day that the offence continues a maximum fine of no more than \$10,000. The total of all of the daily fines imposed for each offence may exceed \$100,000.

B. Entry to inspect.

- (1) In accordance with section 376 of the City of Toronto Act, 2006, an officer may enter upon land within the City at any reasonable time for the purpose of carrying out inspections to determine whether the following are being complied with:
 - (a) This article; or
 - (b) A notice of violation or direction or order issued in accordance with this article.
- (2) For the purposes of an inspection under Subsection B(1), an officer may:
 - (a) Require, for inspection, the production of documents or things relevant to the inspection;
 - (b) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts of them;

- (c) Require information from any person concerning a matter related to the inspection;
- (d) Be accompanied by such person or persons as the officer determines is necessary if such person or persons possesses special or expert knowledge related to the purpose of the inspection; and
- (e) Make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

C. Orders to comply or notices of violation.

- (1) An officer who finds a contravention of this article may make one or more orders or notices of violation requiring discontinuance of the contravening activity or to do work to correct the contravention under section 384 or 385 of the City of Toronto Act, 2006.
- (2) An order or notice of violation may be of immediate effect should the Executive Director determine that a delay would result in circumstances that endanger the health or safety of any person or similarly serious consequences.
- (3) The order or notice of violation may be served personally on the person to whom it is directed or to an email or social media address that person has provided to the City or by registered mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed.
- (4) If there is evidence that the occupant of the land is not the registered property owner, the order or notice of violation shall be served on both the registered property owner and the occupant of the land.
- (5) If the address of the owner is unknown or the City is unable to effect service on the owner or occupant under Subsection C(3), a placard stating the terms of the order or notice of violation and placed in a conspicuous place upon land on or near the property shall be deemed to be sufficient notice to the owner.
- (6) If the delay necessary to serve an order or notice of violation under Subsection C(3) would result in circumstances that endanger the health or safety of any person or similarly serious consequences, the order or notice of violation may be served by a placard stating the terms of the order or notice of violation and placed in a conspicuous place upon land on or near the property.

D. Remedial action.

If a person fails to comply with an order or a notice of violation to correct a contravention of this article, the Executive Director or persons acting upon the Executive Director's instructions, may enter the lands at any reasonable time for the purposes of doing the things described in the order or notice of violation at the person's expense.

§ 447-1.5. Exemptions.

- A. If a person is required to erect a specified fence under a site plan agreement, a subdivision agreement, another City by-law or any law, statute or regulation of a provincial or federal authority having jurisdiction, the fence is exempt from the provisions of this chapter with which it does not comply.
- B. Fence exemptions.
- (1) A person may request to have a fence considered by Council or community council under delegated authority for a site-specific exemption from any of the requirements of this article on or before the date indicated on the notice of violation if such a notice has been issued.
 - (2) The community council in Subsection B(1) shall be the community council for the geographic area in which the fence is located.
 - (3) If the fence is located in the geographic area of more than one community council, the matter shall be determined by Council, and notice of the matter will be given to the councillors of the wards in which the fence is located.
 - (4) A request for an exemption under Subsection B(1) shall be in writing to the Executive Director of Municipal Licensing and Standards and shall be delivered to the issuing office, as indicated on the notice of violation.
 - (5) When a request for an exemption has been received along with the required application fee under Subsection B(4), the Executive Director of Municipal Licensing and Standards, or his or her designate, shall report to Council or community council for consideration, and shall not take action under this article until the matter has been dealt with by Council or community council under delegated authority.
 - (6) The City Clerk shall provide notice to the ward councillor and shall send, by prepaid mail, notice of the community council meeting to consider the fence exemption request to the owner of the property at least 14 days before the meeting and:
 - (a) In the case of a rear-yard fence exemption request, to the owners of all adjoining properties; and
 - (b) In the case of fences in the front yard and within 2.4 metres of a lot line abutting a public highway (public highway does not include a public lane), to the owners of all properties within a 60 metre radius of the subject property.
 - (7) Upon receiving notice of the date of the community council meeting, the owner of the property shall post a notice on the property in a place visible to the public at least 10 days before the meeting date, indicating the nature of the exemption being sought, the name of the property owner and the date of the meeting.
 - (8) The template for the notice to be posted under Subsection (7) shall be provided by the Municipal Licensing and Standards Division.

- (9) Council, or community council under delegated authority, may:
- (a) Grant the exemption, with or without conditions, and cancel the notice of violation, if one has been issued; or
 - (b) Confirm the notice of violation and direct that a second notice of violation be given under this article.
- (10) Subsections B(1) to (9) do not apply to a second notice of violation given under Subsection B(9)(b).

§ 447-1.6. Conflicting provisions.

Subject to § 447-1.5, where this article conflicts with any other by-law, this article prevails to the extent of the conflict.

§ 447-1.7. Transition.

Any fence or swimming pool enclosure that was lawfully erected before June 20, 2018, or that is granted an exemption under § 447-1.5, is deemed to comply with this article until it is replaced and any replacement fence or swimming pool shall comply with this article.

ARTICLE 2
Line Fences Act

§ 447-2.1. The Line Fences Act.

The Line Fences Act, except for section 20, does not apply to all of the City of Toronto.