

PROPERTY MAINTENANCE

Chapter 973 FENCE - HEIGHT - DESCRIPTION

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Article 1
SHORT TITLE

973.1.1 Citation

This Chapter shall be known as the “Fence By-law.”

Article 2
INTERPRETATION

973.2.1 Agricultural use - defined

“agricultural use” means those lands zoned “agricultural (A)”, “agricultural (A1)”, “rural residential (RR4)”, and “rural (R).”

973.2.2 Alter - defined

“alter” means any alteration to the structural component of a fence which would result in any changes.

973.2.3 Apartment building - defined

“apartment building” means a building containing five or more dwelling units, all of which have a common external access to the building by means of a common corridor system.

973.2.4 Building - defined

“building” means any structure whether temporary or permanent, used or built for the shelter, accommodation or enclosure of persons, animals, materials or equipment, but does not include a fence. Any tent, awning, bin, bunk, or platform, vessel or vehicle used for any of the said purposes shall be deemed a building.

973.2.5 Chief Building Official - defined

“Chief Building Official” means that person duly appointed as Chief Building Official for The Corporation of the Town of Richmond Hill under the Ontario Building Code, as amended, and includes his or her designate.

973.2.6 Corner lot - defined

“corner lot” means a lot situated at the intersection of and abutting onto two or more streets or two parts of the same street provided that the interior angle of intersection of such streets or part thereof is not more than 135 degrees.

973.2.7 Corporation - defined

“Corporation” means The Corporation of the Town of Richmond Hill.

973.2.8 Council - defined

“Council” means the Council of The Corporation of the Town of Richmond Hill.

973.2.9 Daylighting triangle - defined

“daylighting triangle” means a triangular area of land on a corner lot, free of buildings or structures, formed by measuring from the point of intersection of street lines to points equidistant along each such street line, and joining such points with a straight line where the street lines do not intersect, then the point of intersection shall be deemed to be that point created by the projection of the street lines to their point of intersection.

973.2.10 Depth - defined

“depth” with relation to a pool structure, means the portion of the pool structure below the ground level.

973.2.11 Dwelling - defined

“dwelling” means a separate building containing one or more dwelling units.

973.2.12 Dwelling unit - defined

“dwelling unit” means one or more habitable rooms occupied or capable of being occupied by an individual or family as an independent and separate housekeeping establishment, in which separate kitchen facilities are provided for the exclusive use of such individual or family, with an independent entrance from outside the building or from a common hallway or stairway inside the building.

973.2.13 Erect - defined

“erect” means to build, construct, reconstruct, alter and relocate, and without limiting the generality of the foregoing, shall be taken to include any work preparation to erection. “Erection” shall have a corresponding meaning.

973.2.14 Exterior side yard - defined

“exterior side yard” means the side yard of a corner lot which extends from the front yard to the rear yard, between the flankage lot line and the nearest main wall of the building or structure.

973.2.15 Fence - defined

“fence” means a structure constructed of posts, boards, palings, rails, wire, masonry or similar materials or any combination thereof used to define a property boundary or to enclose any outdoor area. Fencing shall have a corresponding meaning.

973.2.16 Flankage lot line - defined

“flankage lot line” means a side lot line which either abuts the street on a corner lot, or abuts a one-third metre (one foot) reserve which abuts a street.

973.2.17 Front lot line - defined

“front lot line” means the line which divides the lot from the street; in the case of a corner lot or a through lot, the shorter of the lines which divides the lot from the streets shall be deemed to be the front lot line; on a corner lot or a through lot where such lot lines are of equal length, the front lot line shall be deemed to be that line which abuts a regional or provincial road or highway. If both streets are under the same jurisdiction, the Corporation may designate either street line as the front lot line.

973.2.18 Front yard - defined

“front yard” means a yard extending across the full width of a lot between the front lot line and the nearest main wall of any building or structure on the lot.

973.2.19 Grade - defined

“grade” means the surface of the ground below a fence or privacy screen at each location where a structural support is embedded in the ground. With reference to a building or swimming pool, means the level of the ground adjacent to the outside wall of a building or swimming pool.

973.2.20 Height - defined

“height” means, with reference to a fence, the vertical distance measured from the grade to the highest point of the fence, not including the structural supports. The height of a fence shall be measured from the higher adjacent grade where there is a grade difference on each side of the fence. Where the land slopes, a fence may exceed the height restrictions at one or more alternate structural supports when necessary to maintain the top of the fencing in a horizontal plane between such structural supports. See also Section 973.7.13 regarding measurement of height for swimming pool enclosures.

973.2.21 Interior lot - defined

“interior lot” means a lot situated between adjacent lots and having access to one street.

973.2.22 Key lot - defined

“key lot” means an interior lot to the rear of, and adjacent to, a corner lot that is not separated from the corner lot by a lane.

973.2.23 Land - defined

“land” includes lands, tenements and hereditaments, any estate or interest therein, any right or easement affecting them, and land covered with water.

973.2.24 Landscaping - defined

“landscaping” means any combination of trees, shrubs, flowers, grass or other horticultural elements, decorative stonework, paving, screening or other architectural elements, all of which are designed to enhance the visual amenity of a property and/or to provide a screen to mitigate any objectionable aspects that may detrimentally affect adjacent land.

973.2.25 Lane - defined

“lane” means a public or private means of access which affords a secondary means of access to an abutting property in addition to a street.

973.2.26 Livestock - defined

“livestock” means farm animals kept for use, for propagation or intended for profit and includes, without limiting the generality of the foregoing, dairy cattle, beef cattle, horses, swine, sheep, laying hens, chicken and turkey broilers, turkeys, goats, geese, ducks, mink and rabbits.

973.2.27 Lot - defined

“lot” means a parcel or tract of land:

- (a) which is a whole lot as shown on a registered plan of subdivision, but a registered plan of subdivision for the purpose of this definition does not include a registered plan of subdivision which has been deemed not to be a registered plan of subdivision under a by-law passed pursuant to section 50 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended; or
- (b) which fronts on a street and is a separate parcel of land without any adjoining land being owned by the same owner or owners as of the date of passing of the enabling by-law; or
- (c) the description of which is the same as in a deed which has been given consent pursuant to section 50 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, or a predecessor thereof,

but for the purpose of this definition no parcel or tract of land ceases to be a lot by reason only of the fact that part or parts of it has or have been conveyed to or acquired by the Corporation, Her Majesty in the Right of Canada, or the Regional Municipality of York.

973.2.28 Lot line - defined

“lot line” means a line delineating any boundary of a lot.

973.2.29 Main wall - defined

“main wall” means the exterior front, side or rear wall of a building, and shall include all structural members essential to the support of a fully or partially enclosed space or roof, where such members are nearer to a lot line than the said exterior wall.

973.2.30 Multiple residential property - defined

“multiple residential property” means any property serving multiple dwelling units and includes hotels and apartment buildings.

973.2.31 Non-residential property - defined

“non-residential property” means any property serving other than a residential use and includes schools and private clubs, but does not include public highways.

973.2.32 One-third metre reserve [one foot reserve] - defined

“one-third metre reserve [one foot reserve]” means a reserve owned by the Town of Richmond Hill, the Regional Municipality of York, or Her Majesty the Queen.

973.2.33 Owner - defined

“owner” in reference to a swimming pool, includes the owner, lessee, tenant, or person in possession of any land on which a swimming pool is located.

973.2.34 Person - defined

“person” means an individual, association, firm, partnership, corporation, trust, incorporated company, corporation created under the *Condominium Act*, organization, trustee or agent, and the heirs, executors or other legal representatives of a person to whom the context can apply according to law.

973.2.35 Privacy screen - defined

“privacy screen” means a visual barrier used to shield any part of a yard from view from any adjacent lot or highway.

973.2.36 Rear lot line - defined

“rear lot line” means the lot line opposite and most distant from the front lot line, or in the case of a triangular or otherwise irregular-shaped lot, a line of a minimum three metres (9.84 feet) in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

973.2.37 Rear yard - defined

“rear yard” means the yard extending across the full width of a lot between the rear lot line and the nearest main wall of any building or structure on the lot.

973.2.38 Residential property - defined

“residential property” means any property that is used or designed for use as a domestic establishment in which one or more persons usually sleep and prepare and serve meals, and includes any land or buildings that are appurtenant to such establishment and shall include property developed or designed for an apartment building as well as single residential property and multiple residential property.

973.2.39 Residential uses - defined

“residential uses” means the use of land, buildings or structures for human habitation.

973.2.40 Service entrance - defined

“service entrance” means that entrance into a building which is normally used by persons entering such building for the purposes of delivering goods or rendering maintenance service, as opposed to the main or principal entrance, and shall include a door giving access to a garage.

973.2.41 Shall - defined

“shall” is mandatory and not directory.

973.2.42 Side lot line - defined

“side lot line” means a lot line other than a front lot line or a rear lot line.

973.2.43 Side yard - defined

“side yard” means a yard other than an exterior side yard which extends from the front yard to the rear yard between the side lot line and the nearest main wall of the building or structure.

973.2.44 Single residential property - defined

“single residential property” means any property or portion thereof serving a single dwelling unit.

973.2.45 Singular - plural - present - future - tense

Words in the present tense include future; words in the singular number include the plural; words in the plural include the singular number.

973.2.46 Street - defined

“street” means a public highway as defined by the *Municipal Act*, as amended, and shall exclude a lane, or any private right-of-way or unopened road allowance, or any street which is shown on a registered plan of subdivision which has been deemed not to be a registered plan of subdivision under section 50 of the *Planning Act*, R.S.O. 1990, c. P.13 as amended, or has not been assumed by the Town.

973.2.47 Streetline - defined

“streetline” means a boundary line of a street.

973.2.48 Structural support - defined

“structural support” means any vertical posts or pipes driven into the ground or embedded into concrete, and placed at a minimum 1.524 metres (five feet) intervals for the support of a fence or privacy screen.

973.2.49 Structure - defined

“structure” means anything that is erected, built or constructed of parts with a fixed location on the ground, or attached to something having a fixed location in or on the ground, and shall include buildings, walls, or any sign, but for the purpose of this Chapter shall not include a fence or privacy screen.

973.2.50 Swimming pool - defined

“swimming pool” means any body of water located outdoors on privately owned property, contained by artificial means in which the depth of the water at any point can exceed 0.6 m. (1.96 ft.).

973.2.51 Swimming pool enclosure - defined

“swimming pool enclosure” means a fence, wall or other structure, including doors, gates and other openings, surrounding an outdoor swimming pool restricting access thereto.

973.2.52 Temporary enclosure - defined

“temporary enclosure” means a fence, used for the purpose of temporarily enclosing a swimming pool or pool excavation to effectively prevent access thereto.

973.2.53 Through lot - defined

“through lot” means a lot bounded on two opposite sides by a street; if any lot qualifies as being both a corner lot and a through lot, such lot shall be defined, for the purposes of this Chapter to be a corner lot.

973.2.54 Used - defined

“used” includes arranged, designed or intended to be used.

973.2.55 Yard - defined

“yard” means an open, uncovered space on a lot appurtenant to a building or structure and unoccupied by buildings or structures, except as specifically permitted elsewhere in this Chapter.

Article 3**GENERAL PROVISIONS****973.3.1 Scope - all fences - within Town**

This Chapter applies to all lawful fences in the Town of Richmond Hill, and no fence shall be hereafter erected or altered except in conformity with the provisions of this Chapter.

973.3.2 Provisions - held to be minimum - requirements

In interpreting and applying the provisions of the Chapter, the provisions shall be held to be the minimum requirements for the promotion of health, safety, convenience and general welfare of the inhabitants of the Town of Richmond Hill.

973.3.3 Measurements - imperial - metric - conversions

The imperial measurements found in this Chapter in brackets are supplied for information only and are intended to be an approximate conversion of the metric measurements.

973.3.4 Measurements - variance - metric applicable

The metric or SI measurements shall be deemed to be the standards established by this Chapter and, wherever there is a variance between the metric or SI measurements and the imperial measurements, the metric or SI measurements shall apply.

973.3.5 Administration - by Chief Building Official - other

This Chapter shall be administered by the Chief Building Official or such other person as the Council shall designate.

973.3.6 Non-conforming - permit - refused

No building permit, for the use of a fence or swimming pool enclosure or for the erection of any fence, within the jurisdiction of the Council, shall be issued or given, where the proposed fence or swimming pool enclosure would be in violation of any provision of this Chapter.

973.3.7 Non-conforming - restrained - Municipal Act

Where any fence is erected, or is proposed to be erected or altered, reconstructed, extended or enlarged, in contravention of any requirements of this Chapter, such contravention may be restrained pursuant to the provisions of the *Municipal Act* in that behalf.

973.3.8 Lawful - existing - exception

The provisions of this Chapter shall apply to all fences except for those lawful fences erected prior to the date of the passing of this Chapter.

973.3.9 Litigation - proceeding - pending - not affected

This Chapter shall not affect the rights of any person concerned in any action, litigation or other proceeding pending on the date of the final passage thereof, except to the extent to be determined in the final adjudication of such action, litigation or other proceeding.

973.3.10 Conflict - other - enactments

Where there is a conflict, contradiction or inconsistency with respect to fencing, between this Chapter and any other by-law of the Town of Richmond Hill, the provisions of this Chapter shall prevail.

973.3.11 Ontario Building Code Act - regulations - applicable

Nothing in this Chapter shall be deemed to grant relief from the requirements of the Ontario *Building Code Act*, as amended, or the Ontario Building Code and regulations, as amended.

973.3.12 Authorization - required - on highway - road allowance

No person shall erect or cause to be erected, or maintain any fence or privacy screen on any land owned by the Town of Richmond Hill (or public authority) or on any public highway or public road allowance without first having received authorization from the appropriate government agency having jurisdiction over the land, public highway, or public road allowance.

973.3.13 Commissioner of Parks - Recreation - approval

In the case of the Corporation, the Commissioner of Parks and Recreation shall approve and authorize all fences abutting parks or open space areas. By-law 140-90, 10 September, 1990.

973.3.14 Transportation and Works - approval - requirement

The Commissioner of Transportation and Works shall approve all other fences erected pursuant to this Article except for those approved pursuant to an agreement under sections 41 or 51 of the *Planning Act*, R.S.O. 1990, c. P.13. By-law 140-90, 10 September, 1990; By-law 113-95, 1 May, 1995.

973.3.15 Daylighting triangle - dimensions - fences - prohibited

No person shall erect or cause to be erected, or maintain a fence, privacy screen, ornamental gateway, entranceway or similar structure in a daylighting triangle which shall have minimum dimensions of 4.5 m x 4.5 m (14.76 feet x 14.76 feet).

973.3.16 Daylighting triangle - fence permitted - height

Notwithstanding the provisions of Sections 973.4.1 and 973.4.2, and subject to Sections 973.3.13 and 973.3.14, a fence may be permitted within a daylighting triangle, that is not on publicly-owned land provided that said fence does not exceed 0.6 metres (1.96 feet) in height.

973.3.17 Height - maximum - residential property

No fence on residential property shall exceed 1.8 metres (5.9 feet) in height in any yard.

973.3.18 Height - maximum - non-residential property

No fence on non-residential property shall exceed 2.44 metres (8.0 feet) in height in any yard. By-law 140-90, 10 September, 1990.

973.3.19 Height - maximum - front yard

Notwithstanding the provisions of Sections 973.6.1 and 973.6.2, a fence in a front yard shall not exceed 1.2 metres (4.0 feet) in height.

973.3.20 Height - maximum - rear yard - corner lot

Where a fence in the rear yard of a corner lot also forms part of the front yard of a key lot, the fence shall be permitted to be 1.8 metres (5.9 feet) in height. By-law 175-93, 21 June, 1993.

973.3.21 Height - maximum - outdoor recreational facility

Notwithstanding the provisions of Section 973.6.1, a fence exceeding 1.8 metres (5.9 feet) but not exceeding 3.0 metres (9.84 feet) in height, shall be permitted when such is normally required as part of an outdoor recreational facility, such as, a public or private tennis court, a public pool, provided said fence:

- (a) is of chain link construction only and does not contain any barbed wire or other sharp material when located on residential property;
- (b) is located in the side yard, exterior side yard, or rear yard;
- (c) is erected 1.27 metres (4.2 feet) from any side lot line and rear lot line when located on residential property;

- (d) is erected the same distance from the exterior lot line as the dwelling when located on residential property, except in the case of an apartment building; and
- (e) is erected 7.6 metres (24.9 feet) from any street line in the case of an apartment building.

973.3.22 Height - extension - by Council - noise barrier

Notwithstanding the provisions of Sections 973.6.1 and 973.6.2, Council may permit a fence exceeding 1.8 metres (5.9 feet) in height, if such fence is required for noise attenuation and is constructed pursuant to an agreement under either of sections 41 or 51 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended.

973.3.23 Height - extension - public safety

Notwithstanding the provisions of Sections 973.6.1 and 973.6.2, the Chief Building Official may permit a fence exceeding 1.8 metres (5.9 feet) in height on land used for, or abutting, a railway right-of-way, a hydro, telephone or utility installation or a public works installation which is hazardous to the public with respect to safety.

973.3.24 Height - common lot line - residential - non-residential

Where a residential property abuts a non-residential property, for purposes of determining the height permitted by this Section, the less restrictive provision shall apply to the common lot line.

973.3.25 Structural capacity - lateral wind pressure

Fences greater than 1.8 m (5.9 ft.) in height shall be designed to withstand a lateral wind pressure of .718 K Pa. (15 psf).

973.3.26 Maintenance - good repair

Every person who owns a fence or privacy screen shall maintain such fence or privacy screen in a good state of repair.

973.3.27 Good state of repair - defined

For purposes of Section 973.3.26, the term “good state of repair” means that:

- (a) the fence is complete, stands in a vertical position and is securely anchored;
- (b) wooden fence components below ground surface are treated appropriately to prevent rot prior to installation;
- (c) there are no fence components which are broken, rusted, rotted or otherwise in a hazardous condition; and
- (d) all stained or painted surfaces are maintained free of peeling.

973.3.28 Deteriorated fence - exception

The provisions of Section 973.3.26 do not apply to a fence which has deteriorated to the extent of 50% of its material content. Where such deterioration has occurred, any repair to the fence must be made in accordance with the provisions of this Chapter.

973.3.29 Fence - on lot line - permitted

A fence may be erected on any land as a means of protection from adjoining land, and may be erected on any lot line.

973.3.30 Fence - as landscaping - permitted

A fence may be used as a means, or as part of a means, of landscaping on any lot.

973.3.31 Structural supports - depth - minimum - requirements

The structural supports for any fence shall be driven into the ground or embedded into concrete a distance sufficient to prevent upheaval by frost i.e., below the frost line or a minimum of 1.2 metres (3.9 ft) whichever is the greater.

973.3.32 Fence - on corner lots - requirements

Notwithstanding any other provisions of this Chapter to the contrary, a fence erected on a corner lot which abuts a key lot shall not exceed a height of 1.2 metres (3.9 ft.) on the rear lot line of the corner lot for a distance equivalent to the exterior side yard setback for the house on the corner lot.

Article 4**BARBED WIRE FENCE****973.4.1 Prohibited - within Town - subject to exceptions**

No person shall erect or cause to be erected, or maintain on any land in the Town of Richmond Hill, a fence having barbed wire or other sharp material.

973.4.2 Exception - minimum height - above grade

Notwithstanding the provisions of Section 973.4.1, a barbed wire fence may be permitted on any land provided that such materials are used at a height not less than 1.8 metres (5.9 feet) above the higher adjacent grade, where a height greater than 1.8 m (5.9 ft.) is permitted by this Chapter.

973.4.3 Exception - three strands - horizontal

Notwithstanding the provisions of Section 973.4.1 and subject to Section 973.4.2, a barbed wire fence may be permitted on any land provided that a barbed wire fence shall be composed, in addition to other fencing materials, of not more than three strands of barbed wire which are strung in a horizontal fashion.

**Article 5
ELECTRICAL FENCE****973.5.1 Prohibited - within Town - subject to exception**

No person shall erect or cause to be erected, or maintain on any land in the Town of Richmond Hill, a fence or any device designed for or capable of projecting an electrical current through such fence.

973.5.2 Exception - agricultural - permitted - limitations

Notwithstanding the provisions of Section 973.5.1 an electrical fence using direct current may be erected on land while it is being lawfully used for an agricultural use, provided said fence:

- (a) has a maximum twelve volt trickle charge;
- (b) is designed and erected solely to contain livestock;
- (c) has attached thereto at approximately 30 metre (100 feet) intervals, a sign warning that the fence carries electricity; and
- (d) a sign required under 973.5.2 (c) shall have a minimum size of 929 cm² (one ft²).

**Article 6
PRIVACY SCREEN****973.6.1 Prohibited - on any land - subject to exceptions**

No person shall erect or cause to be erected, or maintain a privacy screen on any land. By-law 140-90, 10 September, 1990.

973.6.2 Exception - residential property - requirements

Notwithstanding the provisions of Section 973.6.1, a privacy screen on residential property may be erected in any side yard or rear yard provided said privacy screen:

- (a) is not located in a front yard and is erected more than 4.6 metres (15.1 feet) from any street line;
- (b) is erected more than 1.2 metres (3.9 feet) from any side lot line;

- (c) is erected more than 1.2 metres (3.9 feet) from the rear lot line;
- (d) is not more than 12.2 metres (40.0 feet) in total length, and no single individual length is longer than 9.2 metres (30.2 feet); and
- (e) said privacy screen is not more than 2.4 metres (8 feet) above grade. Notwithstanding the foregoing, the maximum height of a privacy screen may be 1.9 metres (6 feet) from the floor of the deck where the deck is more than 0.6 metres (2 feet) above grade. By-law 140-90, 10 September, 1990; By-law 109-08, 14 July, 2008.

973.6.3 Exception - front yard - location - height - requirement

Notwithstanding the provisions of Section 973.6.1, a privacy screen on residential property may be erected in any front yard provided said privacy screen:

- (a) is erected more than 4.6 metres (15.1 feet) from any front lot line;
- (b) is erected more than the setback as established by the applicable zoning by-law from any side lot line; and
- (c) said privacy screen is not more than 1.8 metres (5.9 feet) above grade.

Article 7

SWIMMING POOL ENCLOSURE

973.7.1 Fence - required

The owner of a swimming pool shall erect and maintain a swimming pool enclosure in accordance with the provisions of this Chapter.

973.7.2 Permit - required - prior to erection

No person shall erect a swimming pool enclosure until a permit therefor has been obtained from the Chief Building Official.

973.7.3 Permit - application - plans - required

The plans submitted with the permit application shall:

- (a) show the location of the swimming pool in relation to the lot line and to adjoining buildings; and
- (b) provide complete details of the swimming pool enclosure.

973.7.4 Inspection - approval - prior to filling

No person shall fill a newly constructed swimming pool with water, or allow water to remain in a newly constructed swimming pool, until:

- (a) the Chief Building Official has been notified and an inspection has been made; and
- (b) the provisions of this Chapter have been fully complied with.

973.7.5 Temporary enclosure - required - during construction

Every swimming pool while under construction shall be enclosed with a temporary enclosure until such time as construction is completed and a permanent enclosure has been erected in compliance with the provisions of this Chapter.

973.7.6 Temporary enclosure - structural requirements

A temporary enclosure shall consist of a 1.2 m (3.9 ft) plastic mesh fence (38 mm (1.5 in.) mesh), with a steel T-bar post every 3.0 m (9.8 ft) maximum and a 9 ga. galvanized steel wire located at the top and bottom of such fencing or; be constructed of material that will provide an equivalent degree of safety.

973.7.7 Temporary enclosure - erected - workmanlike manner

The temporary enclosure set out in Section 973.7.5 shall be erected in a workmanlike manner.

973.7.8 Temporary enclosure - replaced - upon completion

A temporary enclosure shall be replaced by a permanent enclosure upon completion of the swimming pool or immediately upon the direction to erect a permanent enclosure being given by the Chief Building Official.

973.7.9 Entrance - locked - except when in use

The owner of every swimming pool shall ensure that any access point forming part of the swimming pool enclosure is kept locked, except when the enclosed area is in use.

973.7.10 Entrance - one separate - main building - pool

At least one entrance into the main building shall be located outside the swimming pool enclosure.

973.7.11 Building - part of enclosure - entrance - requirements

When a wall or portion thereof, of an building located on the same property as a swimming pool enclosure forms part of such enclosure, no entrances to the pool area shall be permitted through such wall, unless:

- (a) any door at such entrance way is equipped with a bolt or a chain latch at a minimum height of 1.5 m (4.9 ft) above the inside floor level;
- (b) the care, control and maintenance of any entrance way, door, and safety latch described in clause (a) of this Section is provided by the owner; and
- (c) such wall is located no closer than 1.2 m (3.9 ft) from the edge of the water contained in the swimming pool.

973.7.12 Height - minimum requirements - table

Subject to the provisions of Section 973.7.13 the height of every fence, including any gate therein, erected around a swimming pool, shall comply with the Table set out in Section 973.7.14.

973.7.13 Height - measured from grade - with 1 m of exterior

Notwithstanding the definition of height in Section 973.2.20, height shall be measured from the highest grade that is adjacent to and within 1.0 m (3.3 ft.) of the exterior face of the swimming pool enclosure.

973.7.14 Height - table - various uses

Height requirements for swimming pool enclosures are as follows:

| Fence Residential Height | Single Property | Multiple Residential Property | Non-Residential Property |
|---------------------------------|------------------------|--------------------------------------|---------------------------------|
| Minimum | 1.2 m (3.9 ft) | 1.8 m (5.9 ft) | 1.8 m (5.9 ft) |
| Maximum | 1.8 m (a) (5.9 ft) | 3.7 m (12.2 ft) | 3.7 m (12.2 ft) |

973.7.15 Facing material - over supports - height - requirements

Except as provided in Section 973.7.21 every swimming pool shall have a facing material placed on the enclosure supports extending from within 50 mm (2 in.) above grade to the required height as measured in accordance with Section 973.7.13.

973.7.16 Fence - distance from waters edge - minimum

Except for above-ground pools complying with Article 8, no swimming pool enclosure shall be erected closer than 1.5 m (4.9 ft.) from the edge of the water contained in the pool.

973.7.17 Climbing - prevented - exterior of fence

No members or attachments that could facilitate climbing are permitted on the exterior face of a swimming pool enclosure, between 100 mm (3.9 in.) and 1.2 m (3.9 ft.) from the grade.

973.7.18 Climbing - distance from condition - facilitating

No swimming pool enclosure shall be located closer than 1.0 m (3.3 ft.) to any condition that facilitates the climbing of the enclosure. In the alternative, the height of the enclosure shall be increased to a minimum height of 1.8 m (5.9 ft.) for a distance of at least 1.0 m (3.3 ft.) on either side of such condition.

973.7.19 Metal picket fences - height - exception

Metal picket fences need not exceed 1.6 m (4.9 ft.) in height.

973.7.20 Gate - construction - supports - hinges - substantial

Every gate in a swimming pool enclosure shall be supported on substantial hinges and constructed in accordance with the requirements of Sections 973.7.25 and 973.7.26.

973.7.21 Gate - clearance - requirements

A clearance of 100 mm (3.9 in.) is permitted under gates where a hard surface such as concrete, asphalt, paving stones or patio slabs extends for a distance of 0.5 m (2 in.) on each side of the gate.

973.7.22 Gate - self-closing

Every gate in a swimming pool enclosure shall be self-closing.

973.7.23 Gate - self-latching - from interior - height

Every gate in a swimming pool enclosure shall be equipped with a lockable self-latching device located on the interior face near the top of the gate or on the exterior face provided it is at least 1.5 m (4.9 ft.) above grade.

973.7.24 Gate - climbing - prevented - exterior construction

Every gate in a swimming pool enclosure shall not have any member or attachment that would facilitate the climbing of the gate.

973.7.25 Construction - chain - wood - minimum requirement

Every fence around a swimming pool shall be constructed as follows:

- (a) if of chain link, see Section 973.7.26;
- (b) if of wood,
 - (i) vertical boards shall be spaced not more than 38 mm (1.5 in.) apart where rails are spaced closer than 1.2 m (3.9 ft.) and not more than 100 mm (3.9 in.) where rails are spaced at least 1.2 m (3.9 ft.) apart;

- (ii) vertical boards shall be of not less than 19 mm (0.75 in.) x 89 mm (3.5 in.) in size. The rails shall be supported on substantial posts with a minimum dimension of 100 mm spaced not more than 2.4 m (7.9 ft) apart and embedded to a minimum depth of 1.2 m (3.9 ft.) below grade; or
- (c) shall be of other materials and construction providing an equivalent degree of safety.

973.7.26 Chain link fence - construction - requirement - table

Chain link fences shall be constructed as follows:

| Fence Components | Single Residential Property | Multiple-Residential and Non-Residential Property |
|---|---|--|
| Mesh Size | 38 mm (1.5 in.) | 38 mm (1.5 in.) |
| Mesh Gauge (galvanized wire) Vinyl to 12 GA | #14-2 (14 GGW & 2 GA. to 9 GA. total thickness) | #11-2 (11 GGW & 2 GA. Vinyl thickness) |

Gate & Terminal Posts:

| | | |
|------------------------|--|--|
| (1) Diameter | 48 mm (1.9") | 60 mm (2.4") |
| (2) Depth of Embedment | 1.2 m (4 ft.) (in 20.32 cm (8") diameter concrete) | 1.2 m (4 ft.) (in 20.32 cm (8") diameter concrete) |

Intermediate Posts:

| | | |
|--------------------------|-----------------|-----------------|
| (1) Diameter | 38 mm (1.5") | 48 mm (1.9") |
| (2) Depth of Embedment | 762 mm (30") | 762 mm (30") |
| Top Rail (diameter) | 32 mm (1.25") | 33 mm (1.30") |
| Bottom Wire (diameter) | 9 GGW | 9 GGW |
| Gate Frame (diameter) | 32 mm (1.25") | 33 mm (1.3") |
| Maximum Spacing of Posts | 3.0 m (9.8 ft.) | 3.0 m (9.8 ft.) |

NOTE: Whenever possible, (SI) units have been used to reflect industry standards.

Article 8
ABOVE GROUND POOL - HOT TUB
WHIRLPOOL - SPA

973.8.1 Above ground pool - exemption

Above ground pools in excess of 1.2 m. (3.9 ft.) above grade need not comply provided Sections 973.8.2 through 973.8.5 inclusive of this Chapter are complied with.

973.8.2 Above ground pool - side - guard - requirements

Above ground pools in excess of 1.2 m. (3.9 ft.) above grade need not comply if the exterior sides of the swimming pool structure and the outside face of any guard are constructed in a manner that will not facilitate climbing.

973.8.3 Platform - deck - guard - minimum requirements

Above ground pools in excess of 1.2 m. (3.9 ft.) above grade need not comply if a guard of not less than 1.0 m (3.3 ft.) in height is provided around any platform or deck.

973.8.4 Height - above grade - minimum requirements

Above ground pools in excess of 1.2 m. (3.9 ft.) above grade need not comply if the combined height of the exterior sides of the swimming pool structure and any guard attached thereto is a minimum of 1.8 m. (5.9 ft.) and a maximum of 2.5 m. (8.2 ft.) in height above the adjacent grade.

973.8.5 Location - distance for lot line

Above ground pools in excess of 1.2 m. (3.9 ft.) above grade need not comply if the outside face of a pool structure is located at least 1.6 m. (4.9 ft.) from any lot line.

973.8.6 Entrance - requirements - set out

Notwithstanding Sections 973.8.1 through 973.8.5 inclusive any entrance to a pool area shall be protected in accordance with Sections 973.7.2 through 973.7.26 inclusive.

973.8.7 Hot tub - whirlpool - spa - cover - requirements

Structures known as "hot tubs," "whirlpools," "spas," need not comply with Sections 973.7.1 through 973.7.8 inclusive of this Chapter, provided that a substantial cover is permanently fixed to the structure and locked to prevent access when the structure is not in use. By-law 140-90, 10 September, 1990.

Article 9
SPECIAL PROVISIONS

973.9.1 Exemption - 102 - 106 Winchester Lane

Notwithstanding anything in this Chapter to the contrary, the definition and interpretation of grade contained in Section 973.2.19 and the provisions of Section 973.3.17, shall not apply to a fence constructed on or adjacent to the side lot line between that part of Lot 60, Plan 1984 described as Part 2, Plan 65R-4888 and Lot 55, Plan M-1856 (municipally known as at May 19, 1992 as 102 Winchester Lane and 106 Winchester Lane respectively) and the provisions of Sections 973.2, 973.9.3 and 973.9.4 shall apply in lieu thereof.

973.9.2 Grade - defined

In this Article, "grade" means the surface of the ground below a fence at each location where a structural support is embedded in the ground except that where the surface of the ground within four feet of a fence to be built on a side lot line slopes upward, grade may be taken at any point not greater than four feet away from such fence or privacy screen.

973.9.3 Height - maximum - any yard

Subject to Section 973.9.4, no fence shall exceed 1.8 m. (5.9 ft.) in height in any yard.

973.9.4 Height - on sloping ground

Where the surface of the ground within four feet of a fence slopes upward and grade is taken at a point other than the location where a structural support is embedded in the ground, no fence shall be built higher than 2.4 m. (7.9 ft.) from the location where a structural support is embedded in the ground. By-law 135-92, 19 May, 1992.

973.9.5 Exemption - 22 Pebblelane Court

Notwithstanding anything in this Chapter to the contrary, the provisions respecting the permissible height of a fence located in the front yard or on the flankage lot line shall not apply to the property municipally known in the year 1999 as 22 Pebblelane Court, Lot 8, Registered Plan 65M-3145 provided:

- (a) the height of the fence erected in the front yard and on the flankage lot line does not exceed 1.8 m. (5.9 ft.); and
- (b) the fence was erected prior to the enactment of this Chapter. By-law 228-99, 1 November, 1999.

973.9.6 Exemption - 1 Royal Chapin Crescent

Notwithstanding anything in this Chapter to the contrary, the provisions respecting the permissible height of a fence located in the side and rear yards and on the flankage lot line shall not apply to the property municipally known in the year 2000 as 1 Royal Chapin Crescent, Part Block 10, Registered Plan 65M-3147 provided:

- (a) the height of the fence erected in the side and rear yards and on the flankage lot line does not exceed 2.4 m. (7.9 ft.); and
- (b) the fence was erected prior to the enactment of this Chapter. By-law 153-00, 17 July, 2000.

973.9.7 25 Moodie Drive, Lot 38, Plan 65M-1739

Notwithstanding anything in this Chapter to the contrary, the provisions respecting the permissible height of a fence located in the front and side yards and on the flankage lot line shall not apply to the property municipally known in the year 2001 as 25 Moodie Drive, Lot 38, Plan 65M-1739 provided:

- (a) the height of the fence erected in the front and side yards and on the flankage lot lines does not exceed 1.8 metres (5.9 ft.);
- (b) the fence is not erected on municipal property; and
- (c) the fence is not erected prior to the enactment of the enabling by-law. By-law 192-01, 10 December, 2001.

973.9.8 Exemption - 0 Stockdale Cres, Block 20, Plan 65M-2956

Notwithstanding anything in this Chapter to the contrary, the provisions respecting the permissible height of a fence located in the side, rear and front yards shall not apply to the property municipally known in the year 2001 as 0 Stockdale Crescent, Block 20, Plan 65M-2956 provided:

- (a) the height of the fence erected in the west side, rear and front does not exceed 2.1 metres (6.9 ft.); and
- (b) the fence was not erected prior to the enactment of the enabling by-law. By-law 195-01, 10 December, 2001.

973.9.9 Exemption - 55 Oak Ave, Part Lot 259, Plan 1960E

Notwithstanding anything in this Chapter to the contrary, the provisions respecting the permissible height of a section of fence located in the rear and side yards on the lot lines shall not apply to the property municipally known in the year 2002 as 55 Oak Avenue, Part lot 259, Registered Plan 1960E provided;

- (a) the height of the section of fence erected in the rear and side yards and on the lot lines does not exceed 1.9 metres (6.0 ft);

- (b) the fence is not erected on municipal property;
- (c) the fence is not erected prior to the enactment of the enabling by-law. By-law 92-03, 14 July, 2003.

973.9.10 Exemption - 76 Major Mackenzie Drive West

Notwithstanding anything to the contrary, the provisions respecting the permissible height of a section of fence located in the front yard on the lot lines shall not apply to the property municipally known in the year 2003 as 76 Major Mackenzie Drive West, Part lot 46, Concession 1 W.Y.S. provided:

- (a) the height of the section of fence erected in the front yard and on the lot lines does not exceed 1.9 metres (6.0 ft);
- (b) the fence is not erected on municipal property; and
- (c) the fence is not erected prior to the enactment of the enabling by-law. By-law 93-03, 24 June, 2003.

973.9.11 Exemption - 60 White Lodge Crescent

Notwithstanding anything to the contrary, the provisions respecting the permissible height of a section of fence located in the side and rear yards on the lot lines shall not apply to the property municipally known in the year 2003 as 60 White Lodge Crescent Plan 65M2439 PRT BLK 175 provided:

- (a) the height of the fence erected in the rear yard and on the lot lines does not exceed 2.4 metres (8 ft);
- (b) the fence is not erected on municipal property;
- (c) the fence is not erected prior to the enactment of the enabling by-law. By-law 128-03, 28 July, 2003.

973.9.12 Exemption - 18 Glenarden Cres., Plan 65M-2477 Lot 61

Notwithstanding anything in this Chapter to the contrary, the provisions respecting the permissible height of a fence located in the side and rear yards and on the flanking lot line shall not apply to the property municipally known in the year 2004 as 18 Glenarden Crescent, Plan 65M-2477 Lot 61 provided:

- (a) the height of the fence erected in the side yard does not exceed 2.4 metres (8 ft.); and
- (b) the fence erected was erected prior to the enactment of the enabling by-law. By-law 120-04, 31 May, 2004.

973.9.13 Exemption - 108 Larratt Lane, Plan 65M-2890, Lot 61

Notwithstanding anything in this Chapter to the contrary, the provisions respecting the permissible height of a fence located in the side and rear yards and on the flankage lot line shall not apply to the property municipally known in the year 2004 as 108 Larratt Lane, Plan 65M-2890 Lot 61 provided:

- (a) the height of the fence erected in the side yard does not exceed 2.4 metres (7 feet 11 inches); and
- (b) the fence was erected prior to the enactment of the enabling by-law. By-law 170-04, 12 July, 2004

973.9.14 Exemption - 21 Elderwood Drive, Plan 65M-2586, Lot 198

Notwithstanding anything in this Chapter to the contrary, the provisions respecting the permissible height of a gate and on the front lot line shall not apply to the property municipally known in the year 2004 as 21 Elderwood Drive, Plan 65M-2586 Lot 198 provided:

- (a) the height of the fence erected in the front yard does not exceed 1.68 m (5 ft 6 in.); and
- (b) the fence was erected prior to the enactment of the enabling by-law. By-law 171-04, 12 July, 2004.

973.9.15 Exemption - 153 Shaftsbury Ave, Plan 65M-2889, Lot 182

Notwithstanding anything in this Chapter to the contrary, the provisions respecting the permissible height of a fence shall not apply to the property municipally known in the year 2004 as 153 Shaftsbury Avenue, Plan 65M-2889 Lot 182 provided:

- (a) the height of the fence/privacy screen/trellis erected in the west side does not exceed 2.40 metres (7 feet 11 inches); and
- (b) the fence/privacy screen/trellis was erected prior to the enactment of the enabling by-law;
- (c) no other area fencing be increased or built exceeding the 1.9 metres (6 feet) provision without first applying for an amendment;
- (d) the present fence be maintained as set out in this Chapter. By-law 199-04, 25 October, 2004.

973.9.16 Exemption - 28 Ellsworth Ave, Plan 65R-20137, Lot 103

Notwithstanding anything in this Chapter to the contrary, the provisions respecting the permissible height of a privacy screen shall not apply to the property municipally known in the year 2005 as 28 Ellsworth Avenue, Plan 65R-20137, Lot 103, Part 2 provided that:

- (a) the height of the privacy screen of 2.15 metres (7 feet) not be altered;
- (b) the fence was erected prior to the enactment of the enabling by-law;
- (c) no other area fencing be increased or built exceeding the 1.8 metres (5.9 feet) provision without first applying for an amendment;
- (d) that the present fence/privacy screen be maintained as set out in this Chapter. By-law 3-05, 21 March, 2005.

973.9.17 Exemption - 550 Stouffville Rd, Plan 65R-22236, Lot 61

Notwithstanding anything in this Chapter to the contrary, the provisions respecting the permissible height of fence/privacy, screen/trellis shall not apply to the property municipally known in the year 2006 as 550 Stouffville Road, Plan 65R-22236, Lot 61 provided:

- (a) the height of the chain link fence in the front yard does not exceed 1.9 metres (6 feet) and;
- (b) the fence was not erected prior to the enactment of this Chapter, and;
- (c) no other area fencing be increased or built exceeding the 1.9 metres (6 feet) provision without first applying for an amendment.
- (d) the present fence be maintained as set out in this Chapter. By-law 70-06, 26 June, 2006.

973.9.18 Exemption - 85 Black Walnut Crescent, Plan 65R, Lot 22

Notwithstanding anything in this Chapter to the contrary, the provisions respecting the permissible height of fence shall not apply to the property municipally known in the year 2006 as 85 Black Walnut Crescent, Plan 65R-2797, Lot 22 provided:

- (a) the height of the wood fence in the back yard does not exceed 2.4 metres (8 feet) and;
- (b) the fence was not erected prior to the enactment of this Chapter and;
- (c) no other area fencing be increased or built exceeding the 1.9 metre (6 feet) provision without first applying for an amendment; and,
- (d) the present fence by maintained as set out in this Chapter. By-law 93-06, 12 July, 2006.

973.9.19 Exemption - 8 Kennington Court, Plan 65M-2375, Lot 15

Notwithstanding anything in this Chapter to the contrary, the provisions respecting the permissible height of a fence shall not apply to the property municipally known in the year 2007 as 8 Kennington Court, Plan 65M-2375, Lot 15:

- (a) the height of the wood fence in the back yard does not exceed 8 feet (2.4); and
- (b) no other area fencing be increased or built exceeding the 6 feet (1.8 metres) provision without first applying for an amendment; and,
- (c) the present fence be maintained as per By-law No. 140-90. By-law 117-07, 24 September, 2007.

973.9.20 Exemption - 39 King's Cross Ave Plan 65M-2585, Lot 56

Notwithstanding anything in this Chapter to the contrary, the provisions respecting the permissible height of a fence shall not apply to the property municipally known as 39 King's Cross Avenue to permit an arbor structure over a backyard gate of the property as outlined in SRPRS.10.121. By-law 123-10, 22 November, 2010.

Article 10 ENFORCEMENT

973.10.1 Fine - for contravention

Every person who contravenes any of the provisions of this Chapter is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the *Provincial Offences Act*. By-law 226-93, 28 July, 1993.

Article 11 REPEAL

973.11.1 By-law - previous

By-laws 131-76, 950, 1111 and 1125 are hereby repealed. By-law 140-90, 10 September, 1990.