

# Fences and your rights

For further information on how to resolve issues relating to fences and boundaries, or for how to apply the provisions of the Fencing Act 1978, please approach your local Community Law Office, Citizens Advice Bureau, Department for Courts (Disputes Tribunal), or your solicitor.

## Horowhenua District Plan Standards

### Residential Zone

#### **Front Road Boundary:**

The maximum height of a fence or wall sited on the boundary or within 1m from the boundary shall comply with at least one of the following :

- 1.5m where the fence or wall fronts a road boundary; or
- 2m where the fence or wall fronts a front road boundary and at least the upper 0.5m of the fence is at least 50% transparent.

#### **Other Boundaries:**

The maximum height of a fence or wall sited on the boundary or within 1m from the boundary shall not exceed 2m.

### Greenbelt Residential and Open Space Zones

The maximum height of a fence on any boundary shall not exceed 2m.

### Rural Zone

The maximum height of a fence shall not exceed 2 metres in height on the boundary or within the building setback.

Resource consent is required for all fences which do not comply with the above standards.

Assistance and information about applying for resource consent is available from the Planning Team, Environmental Services or can be viewed on the Council website [www.horowhenua.govt.nz](http://www.horowhenua.govt.nz)

**Note:** The District Plan provisions outlined in this brochure are from the Horowhenua District Plan as at June 2014. These provisions may change and, as such, should only be used as a guide.

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## Fences

Local Councils are generally reluctant to become involved in neighbourhood disputes about fences unless a fence exceeds the maximum permitted height specified for the zone. However this information leaflet contains some general rules which may assist you when addressing your rights concerning fences.

Unless there is agreement to the contrary:

- All fences must be on the boundary line;
- The cost of erection or repair of a fence is borne equally between adjoining owners. The Fencing Act 1978 sets out this general rule and the procedure for getting a neighbour to contribute to the cost. The Fencing Act 1978 can be viewed at [www.legislation.govt.nz](http://www.legislation.govt.nz)
- A compulsory contribution to the cost of a fence cannot be obtained unless a Fencing Notice under the Fencing Act 1978 has been issued on the adjoining owner and other procedures followed; and
- Usually in a new subdivision the subdividing owner can exempt himself/herself from contributing to the cost of a fence.

It is always best to try to talk to your neighbour in the first instance. If an agreement is made, note this in writing on the day and get your neighbour to countersign so there is no confusion later

on. If you are unsure of where the boundary line is on your property then contact a surveyor. A surveyor will be able to establish where the boundary line runs and if necessary they can replace lost or removed survey pegs.

## Serving a fencing notice

If agreement cannot be reached, you cannot go ahead and erect a fence regardless – a process must be followed. First you must serve a notice on the neighbour, giving details of the proposal and stating that it is served under the Fencing Act 1978. The notice must also contain:

- Names and addresses of all parties;
- Description of the fence and its location;
- Details of materials, supplier, builder and costs;
- Advice that the neighbour has 21 days to object or make any counter proposals, noting that if they do not reply it will be assumed they have agreed (in which case they will have to pay the notified share of the costs);
- Details of how the costs and labour will be shared between the parties; and
- Intended commencement date of the build.

The notice should be signed and dated and copies retained. If the neighbour does not agree they can issue a cross notice which presents a counter proposal or states the reasons for disagreeing.

**Note:** If you commence building before the 21 day period has lapsed you will be responsible for the whole cost of the fence.

## Disputes Tribunal

Where neighbours cannot agree after following the recommended course of action under the Fencing Act 1978, the issue can be referred to the Disputes Tribunal if the amount is less than \$15,000 (or \$20,000 by agreement). In this case the final decision would be made by the Disputes Tribunal Referee. The decision by the referee in these matters has the same effect as an order from the court.

## Other forms of resolution

Other options to resolve a fencing dispute include mediation, arbitration or the District Court.

A mediator helps the two sides in a dispute to negotiate a solution. An arbitrator imposes a solution. Both processes are private and voluntary, but once you agree to take part in an arbitration you are bound by the outcome as this will be supported by the Courts. For more information contact the Arbitrators and Mediators Institute of New Zealand [www.aminz.org.nz](http://www.aminz.org.nz)

Under the Property Law Act 1952, it is possible to apply to a District Court for an order to remove or alter a fence that is detrimentally affecting land or obstructing a view. Usually the cost of the removal falls on the person applying for the order.