



LABRADORCITY

FENCE & RETAINING WALL REGULATIONS, 2021

Pursuant to the authority conferred by Section 414 and any other sections found enabling under the Municipalities Act, 1999 SNL 1999 Chapter M-24 as amended, the Town of Labrador City enacts the following Regulations in relation to the construction and maintenance of fences and retaining walls, as adopted by Council on the 25th day of May, 2021 and to come into effect as of the 26th day of May, 2021.

1. TITLE

These Regulations may be cited as the 'Town of Labrador City Fence & Retaining Wall Regulations, 2021'.

2. DEFINITIONS AND APPLICATION

For the purpose of these Regulations unless the context otherwise requires:

ACT	means the Municipalities Act, 1999.
CORNER LOT	means a lot deemed to have street frontages on both a primary and a flanking street.
COUNCIL	means the Town Council of Labrador City.
EASEMENT	means a nonpossessory right to use and/or enter onto the real property of another without possessing it.

ENFORCEMENT AUTHORITY	means Council or its authorized administrator.
ERECTED	means built, constructed, reconstructed, moved upon, or any physical operations on the premises required for building.
FENCE	includes railing, wall, line of posts, wire, gate, boards, concrete, rock, stone or other similar materials used to separate or divide any parcel of land or part thereof from any other parcel of land or part thereof, immediately adjacent thereto or to establish a property boundary.
FLANKING STREET	means the secondary street bordering a corner lot.
FRONT BUILDING LINE	means a line established by Council that runs parallel to the street line and is set at the closest point to a street that a building may be placed. A corner lot is deemed to have a building line setback on both the primary and flanking streets.
MUNICIPAL AUTHORITY	means the Town of Labrador City Council or its employees or designates authorized by the Town of Labrador City to administer these Regulations.
MUNICIPAL ENFORCEMENT OFFICER	means the Municipal Enforcement Officer appointed by the Town of Labrador City
OFFICER	means a member of the Royal Newfoundland Constabulary, Municipal Enforcement Officer, or anyone authorized by the Town of Labrador City to enforce these Regulations.
OWNER	means a person or entity owning or having the legal right to use the land under consideration.
PERSON	means any person, firm, partnership, association, corporation, company, co-operator, club, society, or any other corporate body or organization of any kind.
PRIMARY STREET	means the street on which a development fronts and is referenced in the civic address.
REAR YARD	means a yard extending across the full width of a lot between the rear lot line and nearest main wall of any main building or main structure on the lot.
RETAINING WALL	means a structure designed and constructed to resist the lateral pressure of soil or other material, when there is a desired change in ground elevation that exceeds the angle of repose of the material.

SNOW FENCE	means a temporary light fence or lath and wire or constructed of polyethylene (mesh) or similar material.
STREET RESERVATION	means the street right-of-way (ROW) as established by the Municipal Authority to set the horizontal distance from either side of the center line of the street, future street or future street improvements, to the property line of an adjacent parcel of land.
TOWN	means the Town of Labrador City.

3. APPLICATION

- a. These Regulations shall apply to all lands contained within the municipal boundary & planning area of the Town of Labrador City.
- b. If there is a conflict between a provision of these Regulations and a provision of any other act or regulation in force within the municipal boundaries, the provisions as established under these Regulations shall prevail.
- c. A fence or retaining wall in existence at the date of coming into effect of these Regulations which is not in accordance with the provisions of these Regulations may continue to exist provided the structure is maintained in a good state of repair and the fence or retaining wall is not deemed to be a safety hazard or obstruction by the Council.

4. PERMIT REQUIRED

- a. No Person shall erect, alter, repair, or relocate a fence or retaining wall unless the Town approves the location and plan for the fence or retaining wall and a permit has been issued for its construction, alteration, repair and/or relocation.
- b. An application to construct a fence or retaining wall shall be made to the Town only by the Owner or by a Person authorized by the Owner on such form as may be prescribed by the Town. Every application shall include such plans, specifications and drawings as the Town may require, and be accompanied by the required permit fee.

FENCES

5. GENERAL DUTIES AND OBLIGATIONS: LOCATION

- a. Fences shall be constructed within the owner's property boundaries and shall not be constructed within a municipal or other easement without the expressed permission of the respective Municipal Authority or easement holder.
 - i. It is the responsibility of the property owner to ensure expressed permission is received from an easement holder before construction of fencing in said easement. The Town of Labrador City does not take responsibility for enforcing any issues with respect to fences erected in a non-municipal easement without permission; these issues must be dealt with directly between the property owner and the easement holder.
 - i. Fences erected in a municipal easement will be subject to removal or reconstruction according to s.15 of these regulations.
- b. No fence shall be permitted to be erected where, in the opinion of the Municipal Authority, it obscures a clear view of a street intersection, pedestrian pathway, driveway or other points of access or egress of vehicles or pedestrian traffic.
 - i. Fences shall not be constructed to impede access for fire fighting purposes and shall not enclose or be within 1.52 m (5') of a fire hydrant;
 - i. All fences shall be setback from any road reservation either a minimum of 4.57 m (15'), or to the property boundary whichever is furthest from where the curb/sidewalk, adjoins the pavement. Where there is no curb/sidewalk, the setback shall be from the edge of the pavement.

6. GENERAL DUTIES AND OBLIGATIONS: DESIGN CRITERIA

- a. The maximum height of a fence erected on the front yard of a lot shall be 0.9 m (3') in height, above the adjoining ground level;
 - i. Notwithstanding s.6a, if the front yard of a lot abuts the rear yard of an adjacent property, the maximum height permitted shall be 1.82 m (6') in height, above the adjoining ground level;
- b. The maximum height of a fence erected on the rear of a lot shall be 1.82 m (6') in height, above grade. A rear yard fence constructed up to 2.4 m (8') may be approved at the discretion of the Municipal Enforcement Officer or authorized person(s) or agent(s) based upon grading difference in the yard.
- c. Properties located on corner lots shall have no fences in excess of 0.9 m (3') in height from the front building line forward on the Primary Street. On the Flanking Street. No fence in excess of 1.82 m (6') shall be permitted.
- d. Notwithstanding s.6 above, if a lot abuts an adjacent property, and whereby, based upon compliance with the design criteria of s.6, the adjacent property would be permitted to construct a fence to a maximum height of 1.82 m (6'), the owner may also construct a fence up to the maximum height.

- e. No person shall erect a fence or cause a fence to be erected unless the fence is constructed and finished in such a manner so as to present the finished side thereof, as determined by the Municipal Authority, toward the public street and the neighbouring properties.

7. GENERAL DUTIES AND OBLIGATIONS: MATERIALS

- a. No more than two different types of fencing material (ex. wood and chain link or two types of wood) are permitted.
- b. The use of barbed wire, single strand wire, electrified wire and barbed type obstacle are prohibited fencing materials.

8. GENERAL DUTIES AND OBLIGATIONS: MAINTENANCE

- a. Property owners shall be responsible for the maintenance of the fencing on their property, and for removal of any fence if it becomes unsightly or a menace to public safety, health or welfare.
- b. Every person who owns a fence shall maintain such fence in a good state of repair. For the purpose of this section, "good state of repair" shall mean:
 - i. The fence is complete and is constructed in a workmanship-like manner; is of structurally sound condition, properly cut and trimmed, is plumb and securely anchored and maintained in an upright condition.
 - ii. Fence components are not broken, rusted, rotten or in a hazardous condition. Missing boards, pickets or posts shall be replaced with material of the same type and quality.

9. GENERAL DUTIES AND OBLIGATIONS: TEMPORARY FENCING

- a. No Person shall erect or maintain a Snow Fence within the Municipal Boundary during the period of May 1 to October 1 in any year.

10. GENERAL DUTIES AND OBLIGATIONS: SWIMMING POOLS

- a. All swimming pools in excess of 0.91 m (3'), permanently or temporarily located outdoors either above or below ground, or partly there above or there below, must be enclosed or fenced.
- b. Every fence or enclosure shall not be less than 1.82 m (6') in height and not exceed 1.82 m (6') in height; thus restricting the pool and/or hot tub to the rear yard.

- c. Every fence that encloses a swimming pool shall be constructed so it cannot be used as a ladder to access the pool. All chain link fencing must not have openings exceeding the maximum size of 3.8 cm (1'6").
- d. All gates or doors serving as an entry to the swimming pool shall not be less than 1.82 m (6') in height above grade, be supported on substantial hinges and equipped with a self-closing device so that it will return to a latched or locked position when not in use and all gates or doors shall be equipped with a locking device that shall be locked when the swimming pool is not in use.
- e. Notwithstanding s.10(a), a hot tub that is equipped with a locking cover and the cover is kept locked in place when the hot tub is not in use, fencing shall not be required.

11. EXCEPTIONS

- a. The Town may, in the case of development which may affect public health or safety, approve fence heights which exceed those permitted in s.6 of these regulations. Such approval shall require permit approval by way of a motion of the Council.

RETAINING WALLS

12. GENERAL DUTIES & OBLIGATIONS: RETAINING WALLS

- a. Retaining Walls with a height of 1.22 metres (4') or greater shall be designed by a professional engineer licensed to practice in the province of Newfoundland and Labrador. The design engineer shall provide the Town with written verification that the Retaining Wall has been constructed as per the submitted design drawings.
- b. Where multiple retaining walls separated by a horizontal distance less than 1.0 m (3' 3") create terracing with a cumulative height of 1.22 m (4') or greater, design criteria detailed in s.12(a) above, shall apply.
- c. Retaining Walls shall be equipped with a guard rail, as required by the National Building Code of Canada; and, notwithstanding compliance with the Code, the Municipal Authority may in its discretion, require that any Retaining Wall be equipped with a guard rail.
- d. Retaining Walls shall not conflict with approved site grading plans of new subdivisions, unless otherwise approved by the Municipal Authority.

- e. The material(s) used in the erection and repair of a Retaining Wall shall include wood, concrete, interlocking brick/block, gabion baskets or other materials approved by the Town.
- f. All wooden materials used in the erection and construction of any portion of a Retaining Wall that is located below grade shall be pressure treated or coated with a wood preserver.
- g. The Town shall determine the style, type and height and accompanying landscaping requirements of any Retaining Wall to be erected, altered, or repaired on any property that faces a park, public path/trail or street reservation.

13. LOCATION: RETAINING WALLS

- a. Retaining Walls over 1.2 m (4') in height shall be setback from the property line a distance equal to the wall height, unless otherwise approved by the Municipal Authority.
- b. No development shall be permitted over any known easement, whether that easement has been assigned to the Town of Labrador City, a department of the provincial or federal government, or any utility company without prior written approval from the easement holder.
- c. On any streets where, in the opinion of the Town, the distance between the property line and a street and/or roadside ditch is not adequate to reasonably prevent the likelihood of damaging the structure during normal maintenance, ditching or snow clearing operations, the Retaining Wall shall be setback from the property line a distance established by the Town.
- d. No Retaining Wall shall be permitted to be erected that obscures a clear view of street intersections, pedestrian pathways, driveways, or other points of access or egress of vehicles or pedestrian traffic.

14. MAINTENANCE: RETAINING WALLS

- a. Every Person who owns a Retaining Wall shall maintain such Retaining Wall in a good state of repair. For purposes of this section, good state of repair shall mean:
 - i. The Retaining Wall is complete, structurally sound, plumb and securely anchored;
 - ii. Retaining Wall components are not missing, broken, rusted, rotten or in a hazardous condition; and

- iii. The Retaining Wall does not present an unsightly appearance deleterious to the adjacent land or neighbourhood.

COMPLIANCE

15. POWERS OF ENFORCEMENT AUTHORITY AND COMPLIANCE

- a. Enforcement and prosecution under these Regulations may be undertaken by any Officer or by any other person so authorized by the Enforcement Authority.
- b. Where a fence or retaining wall is in violation of these Regulations, the Enforcement Authority may order the owner or builder to stop construction or pull down the fence within the time specified in the order.
- c. All fences and retaining walls within the boundaries of the Town shall be maintained to the satisfaction of Council and where a fence is, in the opinion of the Municipal Authority, in need of maintenance, or creates a safety hazard or obstruction due to its location, height or construction material, the Enforcement Authority may issue an order to the property owner to undertake such work to remove the safety hazard or obstruction and to make the structure conform to the standard including removal, reconstruction, repair, painting or clean-up within a specified time and the cost to remove, reconstruct, repair, paint or clean-up of said fence or retaining wall or part thereof, shall be at the owner's expense.
- d. Pursuant to Section 404(1) of the Act, the Enforcement Authority may serve upon the owner or person violating a provision of these Regulations, a serially numbered notice instructing the owner of a property which does not conform to the standard:
 - i. To undertake work to bring the property into conformance with the standard;
 - ii. To stop work;
 - iii. To demolish all or a portion of the fence; or
 - iv. To carry out the remediation as may be required to provide a satisfactory condition of appearance and cleanliness.
- e. The owner or tenant shall carry out the directions of Council referred to in s.15(d) of these regulations at the cost of the owner or tenant and within the time specified. In the case of an emergency situation, an order may or may not be provided in writing and owner or person on whom the order is served shall carry out the work forthwith. In the event of the issuance of a stop work order, the owner or the person on whom the order is served, shall immediately secure the site and cease all work.
- f. Where the Enforcement Authority has placed or caused the placing of a sign, placard, or notice upon any premises under the authority of these Regulations or any other

applicable law, by-law, or regulation, no person shall remove such sign, placard, or notice except with the consent of the Enforcement Authority.

- g. Any dispute concerning the location of fencing between two adjacent properties is strictly a civil matter between the property owners; Town Council will not be involved. Property owners are advised to ensure themselves that their fencing is constructed within their own property boundaries.

16. RIGHT OF ENTRY

- a. Pursuant to Section 158 of the Act, Council or its duly authorized agents have the authority to enter a property for the purposes of inspection and enforcement as required under these Regulations.

17. FAILURE TO COMPLY

- a. Pursuant to Section 404(5) of the Act, where a person to whom an order is directed does not comply with the order or part of an order made under s.15(d) of these Regulations, Council may take the action that it considers necessary to carry out the terms of the order and any costs, expenses or charges incurred by Council in carrying out the terms of the order are recoverable from the person against whom the order was made as a civil debt owed to Council.
- b. Council may delegate to an official or employee of Council the power to issue orders under this section.

18. OFFENCE AND PENALTY

- a. Pursuant to Section 419 (2) of the Act, each day upon which the same offence is committed or continued is a separate offence.
- b. Every person who commits an offence under these Regulations or who acts in contravention of or fails to comply with any provision thereof, or neglects or refuses to do so:
 - i. Shall be liable to penalties pursuant to Section 421.1 of the Act or,
 - ii. Shall be liable on summary conviction to a fine pursuant to Section 420 or 421.2 of the Act.
- c. The conviction of a person for failing to comply with a requirement or obligation referred to in subsection b. shall not operate as a bar to further prosecution under these Regulations for the continued failure on the part of the person in comply.

19. SEVERABILITY

If a court of competent jurisdiction should declare any section or part of a section of these Regulations to be invalid, such declaration shall not affect the remainder of these Regulations and the remainder of these Regulations shall be valid and shall remain in force.

20. REPEAL OF PREVIOUS REGULATIONS

- a. The '*Town of Labrador City Fence Regulations, 2016*' are hereby repealed.
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Adopted by the Town Council of the Town of Labrador City on the 25th day of May, 2021 and to come into effect as of the 26th day of May, 2021.



Fabian Benoit, Mayor



Kim Conway, Town Clerk