

Fence Regulations 2010



Adopted June 28, 2010
Amended October 21, 2013



PUBLISHED BY AUTHORITY

The following regulations have been made by the Town Council of the Town of Logy Bay-Middle Cove-Outer Cove pursuant to the power conferred by Section 414(hh) and any other Section found enabling, of the Municipalities Act, 1999 as amended.

Adopted by the Town Council of the Town of Logy Bay-Middle Cove-Outer Cove on the **28** day of **June 2010** to come into effect as of the **29** day of **June 2010**.

A copy of these regulations was sent to the Minister of Municipal Affairs on the **29** day of **June 2010**. These regulations were amended on October 21, 2013 via a Motion of Council

John Kennedy
MAYOR

Richard Roche
TOWN CLERK

FENCE REGULATIONS, 2010

1 . Title

These regulations may be cited as “The Town of Logy Bay-Middle Cove-Outer Cove Fence Regulations, 2010”.

2 . Interpretation

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

- a. “Act” or “Municipalities Act” means the Municipalities Act, Statutes of Newfoundland, 1999, Chapter M-24 as amended;
- b. “Council” means the Town Council of Logy Bay-Middle Cove-Outer Cove;
- c. “Corner Lot” means a lot situated at the intersection of two streets.
- d. “Curve” means a bend without angles or straight parts;
- e. “Erect” includes alter, construct, reconstruct, plant, place, relocate and any work preparatory to erection and “erection” has a corresponding meaning.
- f. “Fence” is a freestanding erected barrier between two divisions of land, used to mark a boundary. Fences are usually constructed to keep animals or people in or out, to keep livestock in or predators out, to keep children or pets in or to provide privacy.
- g. “Front Building Line” means a line established by the Authority to set the horizontal distance between the closest point of a building and the street reservation;
- h. “Municipal Authority” means the Town of Logy Bay-Middle Cove-Outer Cove Council constituted or continued under the Town of Logy Bay-Middle Cove-Outer Cove;
- i. “Municipal Enforcement Officer” means the Municipal Enforcement Officer appointed by the Town of Logy Bay-Middle Cove-Outer Cove.

- j. "Officer" means the Town Manager, a member of the Royal Newfoundland Constabulary, a member of the Royal Canadian Mounted Police Force stationed in the Province, or anyone authorized by the Town of Logy Bay-Middle Cove-Outer Cove to enforce this regulation;
- k. "Owner" means any person, firm, or corporation controlling the property under consideration;
- l. "Primary Street" means a street that contains the civic address of the dwelling for the purpose of corner lots only;
- m. "Rear Building Line" means a line established by the Authority to set the horizontal distance between the furthest point of a building and the street reservation;
- n. "Secondary Street" means a street that contains the side of a dwelling for the purpose of corner lots only;
- o. "Snow Fence" shall mean a temporary light fence or lath and wire or constructed of polyethylene (mesh) of a material which meets with the approval of Council.
- p. "Street Reservation" means the street right-of-way (ROW) as established by the Authority to set the horizontal distance from either side of the center line of the roadway to the property line of a residential or commercial property
- q. "Town" means the Town of Logy Bay-Middle Cove-Outer Cove as defined by Order-in-Council dated the 1st day of September, 1986, and any amendments thereto according to the Municipalities Act.
- r. "Town Manager" and/or designate means the Town Manager of the Town of Logy Bay-Middle Cove-Outer Cove.
- s. "Decorative Fence" may be erected primarily for aesthetics and not to obstruct visibility, and is constructed of materials to enhance the appearance of a property or garden. These materials may be wood, wrought iron, chain link and other materials as approved by Council and may be enhanced with flowers, shrubbery or other ornaments mounted along fence posts to provide a visually aesthetic and pleasing appearance of the property.
- t. "Solid Fence" is fencing material erected primarily to block access, restrict sight, ensures privacy by the placement of a solid surface constructed with various materials such as wood, rock or synthetic composite.

3. Application of Regulation

This regulation shall apply to all areas of the municipality throughout the entire year;

4. Fences in All Zoning Districts

- a. A person shall not erect or start to erect a fence; extend or repair an existing fence; unless the location and building plans of the fence has been approved by and a permit issued by the Council.
- b. An application to construct a fence shall be made only by the owner or by a person authorized by the owner to the Council on such forms as may be

- prescribed by the Council, and every application shall include such plans, specifications and drawings that the Council may require and be accompanied by the permit fee required by the Council.
- c. No fence shall be permitted to be erected that obscures a clear view of street intersection, pedestrian pathways, driveways or other points of access or egress of vehicles or pedestrian traffic or on roads with reserves of less than 15 meters, the location of front fencing shall be at the discretion of Council in order to facilitate snow clearing.
 - d. The material or materials used in the erection and repair of a fence shall only be of a type which meets the approval of Council.
 - e. 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;
 - ii. Protected by weather-resistant materials;
 - iii. Fence components are not broken, rusted, rotten or in a hazardous condition;
 - iv. All stained or painted fence are maintained free of peeling; and
 - v. The fence does not present an unsightly appearance deleterious to abutting land or to the neighbourhood.
 - f. 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;
 - g. Fences shall be maintained in an upright condition;
 - h. Missing boards, pickets or posts shall be replaced with material of the same type and quality;
 - i. All exposed steel, except the galvanized metal fences, shall have a colored finished coat applied to them and be preserved against rust and corrosion;
 - j. No Snow Fence shall be erected or maintained or cause to be maintained for a period of more than six (6) consecutive months in any year within the Town on land being used for residential or commercial use.
 - k. Customary fencing around tennis courts and other recreational amenities shall be exempt from height restrictions but shall comply in all other respects with the terms of this section;
 - l. It shall be the responsibility of the property owner to insure that a fence does not impede, obstruct or alter the flow of water drainage;
 - m. Fences shall not be constructed to impede access for fire fighting purposes and shall not enclose or be within five feet (5') of a fire hydrant.
 - n. Council shall not be held liable for any damages for the repair of any fence whatsoever, where the Town, its employees or agents otherwise have acted without negligence. In particular, the Council shall not be liable for any damages for the repair of any fence whatsoever during the normal operation of snow clearing on streets or sidewalks located within the street reservation.

- o. No fence shall be constructed within the street reservation.
- p. A fence in existence at the date of coming into effect of these Regulations which is not in accordance with the provisions of these Regulations shall be considered a non-conforming fence which may continue to exist provided the fence is constructed within the property owner's lot lines, is maintained in a good state of repair and the fence is not deemed to be a safety hazard or obstruction by the Council. A non-conforming fence shall not be enlarged, extended, reconstructed, replaced or altered structurally with a fence which differs in height, type, style or material used in the erection or construction of the existing fence unless 25% or more of the total linear feet of an existing fence is repaired or replaced, the entire fence is required to be in compliance with these Regulations.
- q. It is the owner's or occupier's responsibility to make sure that the fence is constructed within his/her lot lines.
- r. A dispute concerning fencing between two properties is strictly a civil matter between both property owners.

5 Fences in Residential Zones

- a. No more than two different types of fencing material (wood and chainlink or two types of wood) are permitted.
- b. The use of barbed wire, single strand wire, electrified wire and barbed top is subject to Council approval
- c. Wooden material shall be used for the construction of a fence only if it is property cut and trimmed;
- d. Horizontal and vertical support posts shall be inside of the fence area or otherwise hidden from both the neighbour's and general public's view. Fences with a shadowbox design shall be considered to hide support posts.
- e. The maximum height of a fence erected on the front of a lot shall be 1.22 meters (4') in height, above the adjoining ground level; maximum 4 feet decorative or chain link
- f. The maximum height of a fence erected on the rear of a lot shall be 1.8 meters (6') in height, above the adjoining ground level; exception where rear lot borders a road, the fence must be chain link or decorative maximum 4 feet or 1.22 meters.
- g. Properties located on corner lots shall have no fences in excess of 1.22 meters (4') in height from the front building line forward on the Primary Street. The fence shall be setback either a minimum of 4.57 meters (15'), or to the property boundary which ever is furthest from the edge of the pavement. Crescents which contains a dwelling on the curve, for the purpose of these regulations, shall be considered as a corner lot.

- h. The Town may, in the case of a development where the general appearance of the area, the amenity of the surroundings, and any other considerations which are deemed relevant to the development, approve decorative fences and gates, and fence modifications exceeding that permitted in this policy. Such approval be the way of a Motion of Council

6 Fences in Commercial and Industrial Zones:

- a. The maximum height of a fence erected on a lot shall be six feet (6') in height 1.8 meters, above the adjoining ground level and shall only be chain link;
- b. The Town may, in the case of development which may affect public health, safety, or safety of goods approve fence heights which exceed those permitted in 6(a). Such approval shall be by way of a motion of Council.

7. Swimming Pools and Hot Tubs:

- a. All swimming pools in excess of 0.91 meters (3') in depth, permanently or temporarily located outdoors either above or below ground, or partly thereabove or therebelow, must be enclosed or fenced.
- b. Every fence or enclosure shall not be less than 1.52 meters (5') in height and not exceed 1.8 meters (6') in height; restricting location to the rear yard.
- c. Every fence that encloses a swimming pool shall be constructed so that it can not 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 (1-1/2 inches).
- d. All gates or doors serving as an entry to the swimming pool shall not be less than 1.52 meters (5') 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 a locking device.
- e. Fencing is not required for a hot tub that is equipped with a locking cover and the cover kept locked in place when the hot tub is not in use.

8 Encroachments:

- a. Construction shall not take place within a municipal or utility easement without the expressed permission of the Municipal Authority or utility.
- b. Fences located upon utility or other municipal easements shall be dismantled and reassembled at the expense of the owner whenever the Town or utility shall request the fence to be dismantled.
- c. In the event an emergency occurs and the owner of such fence cannot be located quickly, the Town shall immediately dismantle the fence.

9 Authority:

- a. Where a fence has been erected or started to be erected; or an existing fence is repaired or an extension added, without a permit or is in violation of a permit from Council, the Town Manager and or designate may order the owner or builder to stop construction or pull down the fence within the time specified in the order.
- b. All fences 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
- c. obstruction due to its location, height or construction material, the Town Manager may issue an order to the property owner to undertake such work to remove the safety hazard or obstruction and to make the fence conform to the standard including removal, reconstruction, repair, painting or clean-up of the fence or part thereof, within a specified time and the cost to remove, reconstruct, repair, paint or clean-up of said fence or part thereof shall be at the owner's expense.
- c. Any order issued under Article 9 (a) or (b), shall be in writing stating a specific date when the specified work shall be done; normally fourteen (14) days. In the case of a stop work order, the owner shall immediately secure the site and cease all work.
- d. Every person on whom an order is issued, shall carry out the order within the time period specified.
- e. In the event a person on whom an order is issued does not comply with said order within the time specified, the Town Manager and or designate may order the necessary work to be done to make the fence conform to the standards or the demolition of the fence be carried out by the Municipal Authority's officers, agents, employees or contractors and shall recover the cost of so doing as a civil debt from the owner or the property.

10 Offences and Penalties:

- a. Every person who fails to comply with or otherwise contravenes any of the provision of these Regulations or neglects or refuses to do so, commits an offence and is liable on summary conviction
 - i. for a first offence to a fine of not less than \$100 and not more than \$500;

- ii. for a subsequent offence to a fine of not less than \$500 and not more than \$1,000.
 - b. Each day upon which the same offence is committed or continued is a separate offence.
- 11.** All previous Fence Regulations for the Town of Logy Bay-Middle Cove-Outer Cove are hereby rescinded.
- 12.** These Regulations were passed and adopted by Council on the **28** day of **June 2010** and will come into effect on the **29** day of **June, 2010** and may be cited as the Town of Logy Bay-Middle Cove-Outer Cove Fence Regulations, 2010. This document was further amended on October 21, 2013.