

Public Notice

Draft Fence Regulations 2018

The Town Council wishes to amend and update the Town of Logy Bay-Middle Cove-Outer Cove Fence Regulations 2010, as amended in 2013, to add definitions and clarify standards and conditions related to the placement, erection and construction of fences. A draft of the proposed Fence Regulations 2018 has been prepared and, prior to Council's formal consideration of these regulations, Council is seeking public feedback. Access to the draft Fence Regulations are available on our website www.lbmccoc.ca (under Municipal Services, Public Notices & Information), at the Town Hall at 744 Logy Bay Road, or by emailing office@lbmccoc.ca.

If you wish to provide feedback, the feedback is to be in the form of a written submission. Due to the postal disruption, the preference is to hand deliver to the Town Hall (744 Logy Bay Rd., Logy Bay, NL A1K 3B5) or email office@lbmccoc.ca by **12:00 noon, Monday, 10 December 2018**.

Written submissions received will become a matter of public record. Any identifying information beyond your name (civic address, email and/or other contact information) will be redacted (removed) prior to the information being released publicly.



**Logy Bay
Middle Cove
Outer Cove**

Fence Regulations 2018



FENCE REGULATIONS 2018

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 authority conferred by Section 414(hh) of the Municipalities Act, 1999, Chapter M-24 as amended.

Adopted by the Town Council of the Town of Logy Bay-Middle Cove-Outer Cove on the ___ day of _____ **2018** to come into effect as of the ___ day of _____ **2018**.

A copy of these Regulations was sent to the Minister of Municipal Affairs and Environment on the ___ day of _____ **2018**.

Bert Hickey,
Mayor

Adele Carruthers
Town Manager

REGULATIONS

1. TITLE

These Regulations shall be known and cited as “The Town of Logy Bay-Middle Cove-Outer Cove Fence Regulations, 2018”.

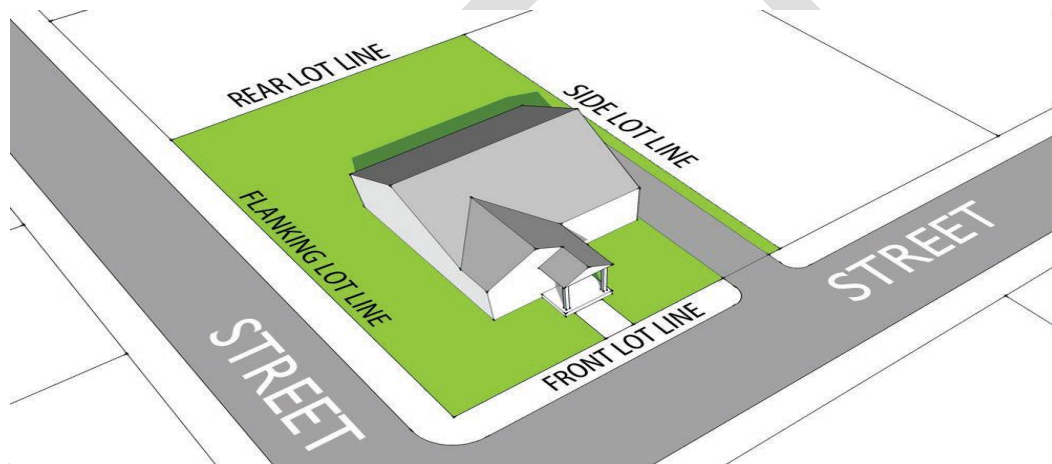
2. INTERPRETATION

In these Regulations:

- (a) “Act” means the Municipalities Act, Statutes of Newfoundland, 1999, Chapter M-24 as amended.

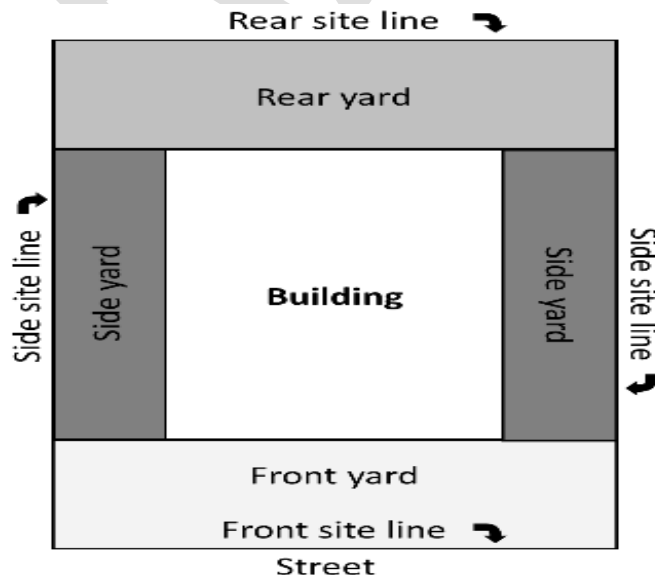
- (b) *“Building”* means:
- i. a structure, erection, excavation, alteration or improvement placed on, over or under land, or attached, anchored or moored to land;
 - ii. mobile structures, vehicles and marine vessels adapted or constructed for residential, commercial, industrial and other similar uses;
 - iii. a part of and fixtures on buildings referred to in subparagraphs (i) and (II), and, (a) and (b), and
 - iv. an excavation of land whether or not that excavation is associated with the intended or Actual construction of a building or thing referred to in subparagraphs (i) to (iii).
- (c) *“Building Line”* means a line established by the Council that runs parallel to the Street Line and is set at the closest point to a street that a building may be placed.
- (d) *“Council”* means the Town Council of Logy Bay-Middle Cove-Outer Cove.
- (e) *“Corner Lot”* means a lot situated at the intersection of two streets.
- (f) *“Curve”* means a bend without angles or straight parts.
- (g) *“Decorative Fence”* means a Fence that is erected primarily for aesthetic purposes which does not obstruct visibility into or out of the lot or property, and is constructed of materials to enhance the appearance of a property or garden.
- (h) *“Electrical Fence”* means a Fence or portion of a Fence through which electricity passes.
- (i) *“Erect”* means to alter, construct, reconstruct, plant, place, relocate and carry out any work preparatory to erection and “erection” has a corresponding meaning.
- (j) *“Established Grade”* means the average elevation of the finished grade of the ground immediately surrounding the structure, exclusive of any artificial embankment or entrenchment

- (k) “*Fence*” means a railing, wall, line or posts, wire, boards or other similar substances used to separate or divide land or part thereof from any other parcel of land thereof, immediately adjacent thereto or to establish a property boundary.
- (m) “*Lot Line (Front)*” means the Street Line on which a lot has its civic address, except where a lot has two or more Street Lines, in which case the Council shall determine the Front Lot Line.
- (n) “*Lot Line (Rear)*” means a lot line or lines opposite the Front Lot Line.
- (o) “*Lot Line (Side)*” means a lot line or lines other than a Front Lot Line or a Rear Lot Line.



- (p) “*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 to enforce these Regulations;
- (q) “*Owner*” means a person or an organization or persons owning or having legal right to use the land under consideration.
- (r) “*Primary Street*” means a street that contains the civic address of the dwelling for the purpose of Corner Lots only;
- (s) “*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.

- (t) “*Street Line*” means the edge of a street, road or highway reservation as defined by the authority having jurisdiction.
- (u) “*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
- (v) “*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.
- (w) “*Town Manager*” and/or designate means the Town Manager of the Town of Logy Bay-Middle Cove-Outer Cove
- (q) “*Yard (Flanking Street Side)*” means the side yard of a corner lot which is adjacent to a street and is not the front yard.
- (r) “*Yard (Front)*” means a yard extending across the full width of the lot from the Front Lot Line to the front wall of the main Building on the lot.
- (s) “*Yard (Rear)*” means a yard extending across the full width of the lot from the Rear Lot Line to the rear wall of the main Building on the Lot.
- (t) “*Yard (Side)*” means the area of the lot between the side wall of the building and the Side Lot Line.



3. APPLICATION

These Regulations shall apply within the boundaries of the Town.

4. CONFORMITY WITH REGULATIONS

No person shall Erect, maintain or repair a Fence except in accordance with these Regulations.

5. PERMIT REQUIRED

A Fence shall be erected or repaired if the location and building plans are approved by Council and a permit for the erection or repair of the Fence has been issued by the Town.

6. FORM OF APPLICATION

An application to Erect or construct a Fence shall be made only by the Owner or by a person authorized by the Owner, in writing, on such form as may be prescribed by the Council, and every application shall include such plans, specifications and drawings the Council may require, and be accompanied by the permit fee required by the Town.

7. CONSTRUCTION MATERIALS

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.

8. MAINTENANCE

- (a) 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.
- (b) The Owner shall be responsible for the maintenance of the Fence on their property, and for removal of any Fence if it becomes unsightly or a menace to public safety, health or welfare as determined by Council;
- (c) The Fence shall be maintained in an upright condition;
- (d) Missing boards, pickets or posts shall be replaced with material of the same type and quality; and,
- (e) All exposed steel, except the galvanized metal Fences, shall have a colored finished coat applied to them and be preserved against rust and corrosion.

9. ROAD RESERVATION

No person shall Erect a Fence that projects into or onto the street reservation.

10. CLEAR VIEW

- (a) 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.
- (b) Where the Fence has gates for access to and egress from the property, the location of the gates shall be setback from the property line such a distance from the Street Line as to accommodate a stopped vehicle off the Road Reservation while the gates are being locked or unlocked during the process of accessing or egressing the property.
- (c) Where necessary, the location of a Front Yard Fence shall be determined by Council in order to facilitate snow clearing.

11. FIRE FIGHTING ACCESS

A Fence shall not be constructed to impede access in Town designated locations for dry hydrants and water access areas which are required for firefighting purposes.

12. PROPERTY OWNER'S RESPONSIBILITY

It shall be the responsibility of the property Owner to:

- (a) ensure that a Fence does not impede, obstruct or alter the flow of water drainage; and,
- (b) construct a Fence within his/her lot lines of the property in the ownership of the property Owner. A dispute concerning the location of a Fence between two properties is strictly a civil matter between the property Owners.

13. WOODEN POSTS

- (a) All wooden posts required for the erection and construction of a Fence shall be:
 - (i) installed at a minimum depth of 600 mm below Grade and if not pressure treated, coated with a wood preserver for that portion of the Fence post situated below Grade; and,
 - (ii) anchored by means of a concrete footing or wooden shoe and the concrete footing or wooden shoe shall be covered by soil.
- (b) All corner posts shall be installed a minimum depth of 900 mm below Grade and anchored by a concrete footing or wooden shoe which must be covered by soil.

14. METAL POSTS

All metal posts required for the erection and construction of a Fence shall be installed in accordance with the following requirements:

- (a) All corner posts shall be installed a minimum depth of 900 mm below Grade and anchored by a concrete pier footing; and,

- (b) All line posts shall be installed a minimum depth of 600 mm below Grade and anchored by a concrete pier footing.

15. FENCES ALONG MARINE DRIVE

The Town shall determine the location, style, type, and height of a Fence to be erected, relocated or repaired on any property that abuts the Marine Drive Scenic Route.

16. FENCES IN RESIDENTIAL ZONES

- (a) No more than two different types of Fence material (wood and chain-link or two types of wood) are permitted.
- (b) Wooden material shall be used for the construction of a Fence only if it is properly cut and trimmed. 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.
- (c) Unless otherwise determined by Council, the maximum height of a Fence erected in the Front Yard of a lot shall be 1.22 meters in height, above the established grade.
- (d) Unless otherwise determined by Council, the maximum height of a Side Yard or Flanking Street Side Yard Fence erected or constructed for residential purposes shall not exceed a height of 1.8 m above the established grade.
- (e) The maximum height of a Fence erected on the rear of a lot shall be 1.8 meters in height, above the established grade.
- (f) Properties located on Corner Lots shall have no Fences in excess of 1.22 meters (4') in height in the Front Yard. The Fence shall not create a visual obstruction at any intersection or driveway. In such case, the Council will determine the height and location of the fence.
- (g) The Council 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 these Regulations.

17. FENCES IN COMMERCIAL AND INDUSTRIAL ZONES

Unless otherwise determined by Council, the maximum height of a Fence erected on a lot shall be 1.8 m in height, above the established adjoining ground level and shall only be chain link.

18. ELECTRICAL AND BARB WIRE FENCE

- (a) No person shall Erect an Electrical Fence on any land except where required to contain livestock or protect agricultural crops where such used are permitted.
- (b) Where an Electrical Fence is permitted by the Council, the property Owner shall be required to notify adjacent Owners of the use of an Electrical Fence and to post signs along the Fence to notify the public that an Electrical Fence has been erected and may pose a risk to any one coming in contact with the Fence.
- (c) No person shall Erect a Fence consisting wholly or partly of barbed wire or other barbed material on a residential lot or in a residential use zone.
- (d) Barbed wire may be used:
 - (i) along the top of a Fence in excess of 1.8 metres enclosing a lot used for commercial or industrial purposes provided the industrial or commercial lot does not abut a residential lot or residential use zone; or
 - (ii) to contain livestock or protect agricultural crops or land where such uses are permitted.

19. SNOW FENCE

No person shall Erect or maintain a Snow Fence for the period of May 1 to October 31 in any year on land used for residential or commercial purposes unless the Snow Fence is used, with Council's approval, as a temporary safety measure around excavations.

20. TENNIS COURT AND RECREATIONAL AMENITIES FENCES

The height of a Fence around tennis courts and other recreational

amenities shall be determined by Council but shall comply in all other respects with these Regulations.

21. SWIMMING POOLS AND HOT TUBS

- (a) All swimming pools in excess of 0.91 meters in depth, permanently or temporarily located outdoors either above or below ground, or partly there above or there below, must be enclosed or Fenced with a self-closing and self-locking door device.
- (b) A 1.8m Fence shall be erected and maintained completely surrounding the swimming pool area of the lot.
- (c) The Fence that encloses the swimming pool shall be constructed so that it impedes the unauthorized passage either through, under, or over the Fence to the pool and that the construction method or material of the Fence 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.
- (d) The gate(s) serving as an entry to the swimming pool shall be of the same height and construction material as the swimming pool Fence. The gate(s) shall have a properly maintained self-closing, self-latching device installed on gate(s) on the pool side of the enclosed area at a position not less than 1.5 m above established grade and the gates must be locked whenever the pool area is unsupervised.
- (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.

22. MUNICIPAL AND UTILITY EASEMENTS

- (a) Construction shall not take place within a municipal or utility easement without the expressed permission of the Town 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.

23. AUTHORITY

- (a) When in the opinion of the Town, a Fence or Retaining Wall, or portion of a Fence or Retaining Wall creates a safety hazard, obstruction or Nuisance Condition due to its location, height, construction material, dilapidated state of repair and/or damaged condition, the Town may issue an order to the Owner stating that the Fence or Retaining Wall or portion of a Fence be removed, repaired, relocated to correct the safety hazard, obstruction or Nuisance Condition at the Owner's expense.
- (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 Town, in need of maintenance, or creates a safety hazard or 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 Regulation 26, 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 Town's Officers, agents, employees or contractors and shall recover the cost of so doing as a civil debt from the Owner or the property .

24. RESPONSIBILITY FOR DAMAGE

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 or in the case of a municipal response to an emergency situation.

25. COMPLIANCE WITH REGULATIONS

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.

26. PENALTIES

- (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 is guilty of 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:
- (c) Shall be liable to penalties as stipulated in accordance with Section 420 of the Municipalities Act, 1999;
- (d) Shall be subject to an order under Section 404 (1) (i) of the Municipalities Act, 1999;
- (e) Shall be subject to a violation notice issued under Section 421.1 (1) of the Municipalities Act, 1999; or

- (i) Shall be issued a ticket under the Provincial Offenses Act in accordance with Section 421.2 of the Municipalities Act, 1999.

27. COMPLIANCE WITH OTHER ACTS AND REGULATIONS

Nothing in these Regulations serves to exempt any person from obtaining any license, permission, permit, authority or approval required by any other regulation of the Town or any statute or regulations of the Province of Newfoundland and Labrador, and in such cases where more than one regulation or statute applies, the more restrictive regulation or statute shall apply.

28. COMING INTO EFFECT

These Regulations come into effect on ____ day of _____, 2018.

29. PUBLICATION

Notice of these Regulations was published in the _____ on ____ day of _____, 2018 and in the Newfoundland and Labrador Gazette on ____ day of _____, 2018.

30. COPY TO MINISTER

A copy of these Regulations was sent to the Minister of Municipal Affairs and Environment of the ____ day of _____, 2018

31. REPEAL OF PREVIOUS REGULATIONS AND AMENDMENTS

All previous Fence Regulations for the Town of Logy Bay-Middle Cove-Outer Cove are hereby rescinded.