

Town of Pilley's Island



P.O. Box 70
Pilley's Island, NL A0J 1M0

Tel: (709) 652-3555
Fax: (709) 652-3852

Town of Pilley's Island Fence Regulations

1. TITLE

The Regulations shall be known and cited as The Town of Pilley's Island Fence Regulations, 2022.

2. INTERPRETATION

In these Regulations:

- (a) "Act" means the Municipalities Act, 1999, Statutes of Newfoundland and Labrador, 1999, Chapter M-24 as amended.
- (b) "Building" means:
 - i. a structure, erection, excavation, alteration or improvement placed in, 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 a building referred to in sub paragraphs (i) and (ii); 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 sub paragraphs (i) to (iii).
- (c) "Building Line" means a line established by the Town 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 Pilley's Island.
- (e) "Corner Lot" means a lot situated at the intersection of two streets.
- (f) "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.

- (g) "Electrical Fence" means a fence or portion of a fence through which electricity passes.
- (h) "Erect" means to alter, construct, reconstruct, plant, place, relocate and carry out any work preparatory to said erection.
- (i) "Established Grade" means the average elevation of the finished grade of the ground immediately surrounding the structure, exclusive of any artificial embankment or entrenchment.
- (j) "Fence" means a railing, wall, line of posts, boards, wire, rope or other similar materials, and includes hedging, used to separate or divide land or part thereof.
- (k) "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 the Council shall determine the Front Lot Line.
- (l) "Lot Line (Rear)" means a lot line opposite the Front Lot Line.
- (m) "Lot Line (Side)" means a lot line(s) other than a Front Lot Line or a Rear Lot Line.
- (n) "Officer" means anyone authorized by the Town to enforce these Regulations.
- (o) "Owner" means a person(s) owning or having legal right to use the land under consideration.
- (p) "Primary Street" means a street that contains the civic address of the dwelling for the purpose of Corner Lots only.
- (q) "Snow Fence" shall mean a temporary light fence such as lath and wire, polyethylene mesh, or other material which meets with the approval of Council.
- (r) "Street Line" means the edge of a street, road or highway reservation as defined by the authority having jurisdiction.
- (s) "Street Reservation" means the street right-of-way as established by the Authority to set the horizontal distance from either side of the centre line of the roadway to the property line of a residential or commercial property.
- (t) "Town" means the Town of Pilley's Island.
- (u) "Yard (Flanking Street Side)" means the side yard of a corner lot which is adjacent to a street and is not the front yard.
- (v) "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.
- (w) "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.

- (x) "Yard (Side)" means the are 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 of Pilley's Island.

4. CONFORMITY WITH REGULATIONS

No person shall erect, maintain, repair or relocate a fence except in accordance with these Regulations.

5. PERMIT REQUIRED

A fence may be erected, altered, repaired, relocated or removed in accordance with these Regulations, if approved by Council, and a permit has been issued by the Town.

6. FORM OF APPLICATION

An application to erect, alter, repair, relocate, or remove a fence shall be made by the owner, in writing, and every application shall include specifications and drawings, and be accompanied by the permit fee required by the Town.

7. 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 their own lot lines of the property. A dispute concerning the location of a fence between two properties is strictly a civil matter between the property owners.

8. STREET RESERVATION

No person(s) shall erect a fence that projects into or onto the Street Reservation.

9. CLEAR VIEW

- (a) No fence 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.
- (b) Where necessary, the location of a fence shall be determined by Council in order to facilitate snow clearing.

10. FIREFIGHTING ACCESS

So as to not impede firefighting response, a fence shall not be constructed within 1.5 metres of fire hydrants.

11. CONSTRUCTION MATERIALS

The material(s) used in the erection and repair of a fence shall only be of a type which meets the approval of Council.

12. MAINTENANCE

(a) Every person who owns a fence shall maintain it in a good state of repair. For the purpose of this section, "good state of repair" shall mean:

- (i) the fence is complete, structurally sound,, properly cut and trimmed, is plumb and securely anchored;
- (ii) fence components are not broken, rusted, rotten or in a hazardous condition;
- (iii) all stained or painted fences are free of peeling; and
- (iv) the fence does not present an unsightly appearance adverse 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 a fence if it becomes unsightly or a menace to public health or safety, 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.

(e) All exposed steel, except galvanized metal fences, shall have a finished coat applied to prevent rust and corrosion.

13. DISTANCE FROM PROPERTY BOUNDARY

Fences must maintain a setback of one (1) metre from property boundaries to facilitate construction and maintenance without trespassing onto an abutting property.

14. HEIGHT

(a) Unless otherwise determined by Council, the maximum height of a fence erected in the front yard of a lot shall be 1.22 metres in height, above the established grade.

- (b) 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 metres above the established grade.
- (c) The maximum height of a fence erected on the rear of a lot shall be 1.8 meters in height, above the established grade.
- (d) Properties located on Corner Lots shall have no fences that may create a visual obstruction at any intersection or driveway. In such case, the Council will determine the height and location of the fence.
- (e) Council may exempt the height restriction of fences for recreational facilities such as a ball-field or tennis court.

15. COMMERCIAL, INDUSTRIAL AND AGRICULTURAL FENCES

Unless otherwise determined by Council, the maximum height of a fence on a commercial, industrial or agricultural lot shall be 1.8 metres above the established grade.

16. ELECTRICAL AND BARBED WIRE FENCES

- (a) No person(s) shall erect an electrical fence on any land except where required to contain livestock or protect agricultural crops where such uses 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.
- (c) No person(s) shall erect a fence consisting wholly or partly of barbed wire or other barbed material on a residential lot.
- (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
 - (ii) to contain livestock or protect agricultural crops or land where such uses are permitted.

17. SNOW FENCE

No person(s) shall erect or maintain a Snow Fence from May 1 to October 31, in any year, except with Council's approval, as a temporary safety measure around excavations or for special events.

18. 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. Reassembly will be at the expense of the owner, not the Town.

19. AUTHORITY

- (a) When in the opinion of the Town, a fence creates a safety hazard, obstruction or nuisance due to its location, height, construction material, dilapidated state of repair and/or damaged condition, the Town may issue an order to the owner for removal, reconstruction, repair, painting, clean-up, or relocation within a specified time at the owner's expense.
- (b) Any order issued under Regulation 19, shall be in writing stating a date by which to have the specified work completed; normally fourteen (14) days. In the case of a stop work order, the owner shall immediately secure the site and cease all work.
- (c) Every person(s) on whom an order is issued, shall carry out the order within the time period specified.
- (d) Pursuant to Section 404(5) of the Act, in the event a person on whom an order is issued does not comply with said order within the time specified, the Council may order the necessary work to be done by the Town's Officers, agents, employees or contractors and shall recover the cost of doing so as a civil debt owed to the Town from the owner of the property.

20. RIGHT OF ENTRY

Pursuant to Section 51 of the Urban and Rural Planning Act, 2000, Council or its duly authorized officers, agents, employees or contractors have the authority to enter a property for the purposes of inspection or to carry out work as required under these Regulations.

21. RESPONSIBILITY FOR DAMAGE

The Council or Town shall not be held liable for any damages for the repair of any fence where the Town, its officers, agents, employees or contractors 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 within the Street Reservation or in the case of a municipal response to an emergency situation.

22. COMPLIANCE WITH REGULATIONS

A fence, previously approved or accepted by the Town, 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 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. If 25% or more of the total linear measure of an existing fence is repaired or replaced, the entire fence is required to be in compliance with these Regulations.

23. 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:
 - i. shall be liable to penalties as stipulated in accordance with Section 420 of the Municipalities Act, 1999;
 - ii. shall be subject to an order under Section 404 (1) (i) of the Municipalities Act, 1999;
 - iii. shall be subject to a violation notice issued under Section 421.1 (1) of the Municipalities Act, 1999; or
 - iv. shall be issued a ticket under the Provincial Offences Act in accordance with Section 421.2 of the Municipalities Act, 1999.

24. 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.

25. COMING INTO EFFECT

These Regulations were adopted at a public meeting of Council by Resolution #136-22 and come into effect on the 19th day of July, 2022.

26. PUBLICATION

A notice of these Regulations was distributed electronically via the Town website and email contacts, as well as public bulletin boards, on July 18th, 2022.

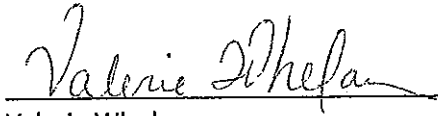
27. COPY TO MINISTER

A copy of these Regulations was sent to the Minister of Municipal and Provincial Affairs on the 18th day of July, 2022.

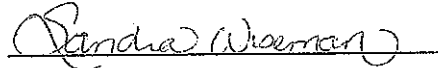
28. REPEAL OF PREVIOUS REGULATIONS AND AMENDMENTS

Any previous Fence Regulations for the Town of Pilley's Island are hereby repealed.

Signed:



Valerie Whelan
Mayor



Sandra Wiseman
Town Clerk