



**Portugal Cove
St. Philip's**

Fence Regulations

Pursuant to the authority conferred in Sections 413 and 414 of the Municipalities Act, 1999 the Town Council of Portugal Cove-St. Philip's has adopted the following regulations on the 12 day of May 2023.

1.0 TITLE

This document will be known and cited as the *Fence Regulations*.

2.0 INTERPRETATION

- 2.1 *“Act”* means the Municipalities Act, 1999.
- 2.2 *“Applicant”* means a person who has applied to an authority for approval or permit to carry out development;
- 2.3 *“Authority”* means a council, authorized administrator, or regional authority;
- 2.4 *“Building Line”* means a line established by an authority that runs parallel to a street line and is set at the closest point to a street where a building may be placed;
- 2.5 *“Corner Lot”* means a lot or parcel of land abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of fewer than 135 degrees;
- 2.6 *“Council”* means the Council of the Town of Portugal Cove-St. Philip's having jurisdiction of the Portugal Cove-St. Philip's Municipal Plan and Development Regulations;
- 2.7 *“Development Regulations”* means land use regulations and by-laws respecting land use management, and land and building development, that have been enacted by the relevant authority under the Urban and Rural Planning Act (2000), and serve as a companion community planning document to the Municipal Plan;

- 2.8 ***“Established Grade”*** means Where used in reference to a structure that is not a building, the average elevation of the finished grade of the ground immediately surrounding the structure, exclusive of any artificial embankment or entrenchments.
- 2.9 ***“Fence”*** means a constructed barrier that divides and separates property, and which may provide privacy, security, and protection: a fence is only to be constructed and installed in accordance with siting and height requirements of the Development Regulations and/or Town’s Fence Regulations, except for an agricultural or farm use for livestock and other similar animals, no fences with residential areas are to use barbed or razor wire materials.
- Fence also means a physical barrier that separates or divides any parcel of land or part thereof from any other parcel of land or part thereof including railings, walls (except the wall of a building), boards, lines of posts, wire, gates, and/or any other similar substance used to separate parcels of land or part thereof;
- 2.10 ***“Fence Height”*** means the vertical distance from the established Grade to the top of the Fence surface;
- 2.11 ***“Flanking Street”*** means any street on which a lot may front but does not include the street on which a lot has its Civic address;
- 2.12 ***“Lot Line, Front”*** means the lot line that is common to a street and the lot, and in the case of a corner lot, the shortest lot line facing the street shall be the front lot line;
- 2.13 ***“Front Yard”*** 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.
- 2.14 ***“Fully Serviced Lot”*** means any lot in an area that is serviced in full with municipal water, municipal sewer, municipal storm sewer, and curb and gutter.
- 2.15 ***“Grade”*** means the surface of the ground below a Fence at each location where structural support is embedded in the ground or the point at which the lowest elevation of any part of the Retaining Wall contacts the surface of the ground.
- 2.16 ***“Nuisance Conditions”*** means any conditions of a Fence that is deemed to be an eyesore due to the use of non-approved construction materials, poor maintenance, poor construction, graffiti, and/or advertisements.
- 2.17 ***“Property Owner”*** means any legal owner (person, firm, or corporation) of real property which contracts to be supplied with water and/or sewage disposal by the system;
- 2.18 ***“Owner”*** means the legal entity having title to a property.

- 2.19 *"Person"* means any person, firm, partnership, association, corporation, company, co-operator, club, society, or any other corporate body or organization of any kind.
- 2.20 *"Rear Lot Line"* means a lot line or lines opposite the Front Lot Line.
- 2.21 *"Rear Yard"* means a yard extending across the full width of the lot between the Rear Lot Line and the rear wall of the main building of the lot and also includes the lot area between the front corners of the main building and the Side Lot Line.
- 2.22 *"Side Lot Line"* means a lot line or lines other than a Front Lot Line or a Rear Lot Line.
- 2.23 *"Snow Fence"* means a temporary light Fence of lath and wire or polyethylene mesh used to redirect snow drifting.
- 2.24 *"Street Line"* means the edge of a street, road, or highway reservation as defined by the Authority having jurisdiction.
- 2.25 *"Town"* means the Town of Portugal Cove-St. Philip's as defined by Order of Council dated February 1st, 1992;

3.0 GENERAL

- 3.1 No Person shall erect, maintain, repair, or relocate a Fence except in accordance with these Regulations.
- 3.2 No Person shall erect, alter, repair, or relocate a Fence unless the Town approves the location and plan for the Fence and a permit has been issued for its construction, alteration, repair, and/or relocation.
- 3.3 An application to construct a Fence 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 application and permit fee.
- 3.4 No Person shall erect a Fence that projects into or onto the road reservation.
- 3.5 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 these Regulations.
- 3.6 The Property Owner shall be responsible for ensuring that a Fence does not impede, obstruct or alter the flow of water drainage.
- 3.7 Fences shall not be constructed to impede access for firefighting purposes and shall not enclose or be within five feet (5') of a fire hydrant.

4.0 FENCE CONSTRUCTION MATERIALS

- 4.1 The material(s) used in the erection and repair of a Fence shall only be of a type approved by the Town. Acceptable fence material types include chain links, wooden pickets, and wattle fences. Other fence types may be considered at the discretion of Council.
- 4.2 All **Wooden Posts** required for the erection and construction of a Fence shall be installed in accordance with the following requirements:
- i. All line posts at a minimum depth of 600 mm below Grade;
 - ii. Anchored using a concrete footing or wooden shoe and the concrete footing or wooden shoe shall be covered by soil, and;
 - iii. All corner posts shall be installed at a minimum depth of 900 mm below Grade and anchored by a concrete footing or wooden shoe which shall be covered by soil.
- 4.3 All **Metal Posts** required for the erection and construction of a Fence shall be installed in accordance with the following requirements:
- i. All line posts at a minimum depth of Installed at a minimum depth of 600 mm below Grade and anchored by a concrete pier footing;
 - ii. All corner posts shall be installed at a minimum depth of 900 mm below Grade and anchored by a concrete pier footing.

5.0 ELECTRICAL AND BARBED WIRE FENCES

- 5.1 No Person shall erect an electrical Fence on any land except where required to contain livestock or protect crops where such uses are permitted.
- 5.2 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 land use zone.
- 5.3 Barbed wire may be used along the top of a Fence more than 2.1 meters enclosing a lot used for commercial or industrial purposes provided the industrial or commercial lot does not abut a residential lot or residential land use zone or to contain livestock or protect crops or land where such uses are permitted.

6.0 FENCE MAINTENANCE

- 6.1 Every Person who owns a Fence shall maintain such Fence in a good state of repair. A good state of repair shall mean:
- i. The Fence is complete, structurally sound, plumb, and securely anchored;
 - ii. Fence components are not broken, rusted, rotten, or in a hazardous condition;

- iii. All stained and painted Fences are maintained in a visually appealing manner, and;
- iv. The Fence does not present an unsightly appearance deleterious to the abutting land or neighborhood.

7.0 CLEAR VIEW

- 7.1 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.

8.0 PROPERTIES ABUTTING A PARK PATH/TRAIL OR RIGHT-OF-WAY

- 8.1 The Town shall determine the location, style, type, and height of a Fence to be erected, relocated, or repaired on any property that abuts a Park, Public Path/Trail, or Right-of-Way.

9.0 RESIDENTIAL LOT - FRONT YARD

- 9.1 A Fence is not permitted in the Front Yard of any lot that the Town considers to be a Fully Serviced Lot unless that lot abuts a Park, Public Path/Trail, or Right-of-Way and is approved by the Town in accordance with Section 8 of these Regulations.
- 9.2 On residential building lots, other than Fully Serviced Lots, a Fence may be permitted in the Front Yard of the lot under the following circumstances:
- i. The distance from the Building Line to the Front Lot Line is 10.0 meters or greater, the Fence Height does not exceed 2.0 meters in height and is set back 3.0 meters from the Front Lot Line, and;
 - ii. On property boundaries, other than the front boundary, bordering Public Walkways, Trails, and Paths, a Fence may be permitted in accordance with Section 8.

10.0 RESIDENTIAL FENCE HEIGHT

- 10.1 The maximum height of a Fence erected or constructed for residential purposes shall not exceed 2.0 meters in height above Grade.

11.0 REAR YARD FENCES ABUTTING STREETS

- 11.1 No Person shall erect or construct a Fence along the Rear Lot Line of a lot that abuts a highway or street unless it is in accordance with the style, type, and height of the Fence as determined by council.

12.0 FENCE ON INDUSTRIAL, COMMERCIAL, OR AGRICULTURAL PROPERTIES

- 12.1 A Fence not exceeding 2.7 meters in height above the adjoining ground level shall be permitted around the perimeter of any parcel of land used for industrial, commercial, or agricultural purposes wherever such land does not abut a residential use. Fences that abut a residential use are permitted provided the Fence is constructed in accordance with the provisions set out in Sections 9 and 10.

13.0 FLANKING STREET ON CORNER LOTS

- 13.1 A Fence is permitted to be constructed on the lot between the property boundary on a Flanking Street and the wall of the dwelling on a Corner Lot provided:
- i. The Fence is setback from the property boundary on a Flanking Street a minimum of 3.0 meters;
 - ii. The Fence cannot extend beyond the property line;
 - iii. Under no circumstances will the Fence be permitted to extend beyond the wall fronting the street on which the dwelling has its Civic address, and;
 - iv. The height of the Fence that extends beyond the wall of the dwelling on a Flanking Street and along a Flanking Street:
 - Shall not create a visible obstruction at the intersection of the two streets;
 - Shall be determined by Council, and;
 - Shall under no circumstances exceed 2.0 meters.

14.0 SNOW FENCE

- 14.1 No Person shall erect or maintain a Snow Fence from 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.

15.0 SWIMMING POOL FENCE

- 15.1 All Swimming Pools over 0.91 meters (3 feet) deep, and more than 2.3 m² in area, permanently or temporarily located outdoors either above or below ground, or part there above or there below, must be enclosed or fenced.
- 15.2 The area surrounding the swimming pool and pool deck must be fully enclosed by a fence (approximately two metres in height) to prevent people, especially children, from unauthorized access to the pool area.

- 15.3 Notwithstanding Section 15.1, in the case of 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.

16.0 COMPLIANCE WITH REGULATIONS

- 16.1 A Fence that legally exists and is not in accordance with the provisions of these Regulations shall be considered a Non-Conforming Fence which may continue to exist provided:
- i. The Fence is constructed within the property Owner's lot lines, and;
 - ii. The Fence is maintained in a good state of repair, is not deemed to be a safety hazard, and/or is not deemed to be an obstruction by the Council.
- 16.2 A Non-Conforming Fence shall not be enlarged, extended, reconstructed, replaced, or altered structurally with a Fence that differs in height, type, style, or material used in the erection or construction of the existing Fence.
- 16.3 A Fence that requires repairs, alterations, and/or replacement of more than 50% of its original supporting structure (i.e. posts, supporting rails, etc.) must be replaced with Fence that is constructed in accordance with these Regulations.
- 16.4 Any Fence that is located in the Front Yard of a property may only be replaced in accordance with Section 9 of these Regulations.

17.0 ORDER TO REMOVE

- 17.1 When in the opinion of the Town, a Fence or portion of a Fence creates a safety hazard, obstruction, or nuisance condition due to its location, height, construction material, the dilapidated state of repair, and/or damaged condition, the Town may issue an order to the Owner stating that the Fence or portion of a Fence be removed, repaired, relocated to correct the safety hazard, obstruction or nuisance conditions at the Owner's expense.

18.0 AUTHORITY TO REMOVE

- 18.1 The Council and/or the Court has the power to make an Order for the removal of any Fence erected contrary to the Regulations or deemed to be a safety hazard, obstruction, or nuisance. Should such an order not be complied with in the time specified, the Council may remove the Fence at the Owner's expense.

19.0 PENALTIES

- 19.1 Any person who neglects or fails to comply with, or acts in contravention of these Regulations, shall be guilty of an offense and shall be liable on summary conviction to a penalty as provided for in the Municipalities Act, Chapter M-24 S.N. 1999, Sections 419 and 420.

20.0 REPEAL OF PREVIOUS REGULATIONS AND AMENDMENTS


- 20.1 None

21.0 AMENDMENTS

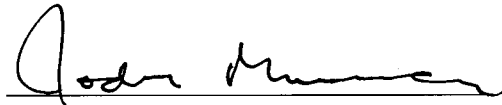
- 21.1 None

22.0 COMING INTO EFFECT

- 22.1 These Regulations first came into effect on the 16 day of May, 2023, through Council resolution #2023-112 and subsequently forwarded to the Minister's Office in accordance with section 413 of the Municipalities Act, 1999.



Carol McDonald, Mayor



Jody Murray, Chief Administrative Officer