



**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 16 day of May, 2023.

1.0 TITLE

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

2.0 INTERPRETATION

2.1 *"Act"* - The Municipalities Act, 1999.

2.2 *"Building Line"* - 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;

2.3 *"Corner Lot"* - 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;

2.4 *"Council"* - The duly elected Council of the Town of Portugal Cove-St. Philip's;

2.5 *"Established Grade"* - 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.

2.6 *"Fence"* - A constructed barrier that divides and separates property, and which may provide privacy, security, and protection.

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.

2.7 *"Fence Height"* - The vertical distance from the Established Grade to the top of the Fence surface;

- 2.8 *"Flanking Street"* - Any street on which a lot may abut but does not include the street on which a lot has its Civic address;
- 2.9 *"Front Lot Line"* - 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;
- 2.10 *"Front Yard"* - 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.
- 2.11 *"Nuisance Conditions"* - 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, as defined by Council.
- 2.12 *"Rear Lot Line"* - A lot line or lines opposite the Front Lot Line.
- 2.13 *"Regulations"* - These Fence Regulations.
- 2.14 *"Snow Fence"* - A temporary light Fence of lath and wire or polyethylene mesh used to redirect snow drifting.
- 2.15 *"Street Line"* - The edge of a street, road, or highway reservation as defined by the Authority having jurisdiction.
- 2.16 *"Town"* - The Town of Portugal Cove-St. Philip's as defined by Order of Council dated February 1st, 1992.

3.0 GENERAL

- 3.1 No Fence shall be erected, altered, maintained, repaired, or relocated except in accordance with these Regulations.
- 3.2 No Fence shall be erected, altered, maintained, repaired, or relocated 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 No Fence shall be erected that projects into or onto the road reservation.
- 3.4 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.
- 3.5 The Property Owner shall be responsible for ensuring that a Fence does not impede, obstruct or alter the flow of water drainage.
- 3.6 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

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 (examples in Figure 1 below). Other fence types may be considered at the discretion of Council.

Figure 1: Fence Examples



Chain Link



Wooden Picket



Wattle

5.0 ELECTRICAL AND BARBED WIRE FENCES

- 5.1 No electrical Fence shall be erected on any land except where required to contain livestock or protect crops where such uses are permitted.
- 5.2 No Fence shall be erected 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

Every property owner 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, and;
- iii. The Fence does not present an unsightly appearance deleterious to the abutting land or neighborhood.

7.0 CLEAR VIEW

No Fence shall 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 RESIDENTIAL FENCE HEIGHT

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

9.0 FENCE ON INDUSTRIAL, COMMERCIAL, AGRICULTURAL, OR TOWN INFRASTRUCTURE PROPERTIES

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, agricultural, or Town Infrastructure purposes.

10.0 SNOW FENCE

No Snow Fence shall be erected or maintained 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.

11.0 SWIMMING POOL FENCE

11.1 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.

11.2 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.

11.3 Notwithstanding Section 11.1, 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.

12.0 COMPLIANCE WITH REGULATIONS

12.1 A Fence that exists at the time of these Regulations coming into effect that is not in accordance with 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.

12.2 A Non-Conforming Fence shall not be enlarged, extended, reconstructed, replaced, or altered structurally except in accordance with these Regulations.

12.3 Notwithstanding Section 12.2, a Fence that requires repairs, alterations, and/or replacement of less than 50% of its original supporting structure (i.e. posts, supporting rails, etc.) may be replaced with Fence that is constructed in the same manner as the existing Fence.

13.0 ORDER TO REMOVE

When in the opinion of the Town, a Fence or portion of 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 property owner stating that the Fence or portion thereof be removed, repaired, relocated to correct the safety hazard, obstruction or nuisance conditions at the property owner's expense.

14.0 AUTHORITY TO REMOVE

Council has the power to make an Order for the removal of any Fence erected contrary to these 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 Property Owner's expense.

15.0 PENALTIES

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.

16.0 REPEALS

This Regulation rescinds any previous Regulations on this subject matter.

17.0 AMENDMENTS

17.1 Motion # 2023-274 Date: October 3, 2023.

18.0 RESOLUTION

18.1 Pursuant to the authority vested in the Town Council of Portugal Cove-St. Philip's, Council has adopted by Resolution the above-referenced Regulations on the 16 day of May, 2023.

18.2 Resolution # 23-2023-112

18.3 Effective Date: 16 day of May, 2023.



Carol McDonald, Mayor



Claudine Murray, Town Clerk