

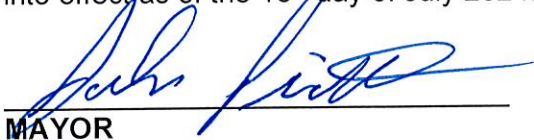


FENCE AND RETAINING WALL REGULATIONS 2024

PUBLISHED BY AUTHORITY

These Regulations have been made by the Town Council of the Town of Clareville pursuant to the power conferred by Section 414(2)(hh) and any other Section found enabling, of the Municipalities Act, 1999 SNL Chapter M-24 as Amended.

Adopted by the Town Council of the Town of Clareville on the 16th day of July 2024 to come into effect as of the 16th day of July 2024.


MAYOR


TOWN CLERK

1. TITLE

These Regulations shall be known and cited as "The Town of Clareville Fence And Retaining Wall Regulations."

2. DEFINITIONS

In these Regulations:

- (a) **"Regulations"** means the Town of Clareville Fence And Retaining Wall Regulations.
- (b) **"Building"** means:
 - (i) a structure, erection, 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
 - (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 an authority that runs parallel to a street line and is set at the closest point to a street that a building can be set.



FENCE AND RETAINING WALL REGULATIONS 2024

- (d) **"Commercial Lot"** means a lot used exclusively or primarily for commercial purposes.
- (e) **"Corner Lot"** means a lot situated at the intersection of two streets.
- (f) **"Council"** means the Council of the Town of Clarenville or designate.
- (g) **"Electrical Fence"** means a fence through which electricity passes.
- (h) **"Erect"** includes alter, construct, reconstruct, plant, place, relocate and any work preparatory to erection and "erection" has a corresponding meaning.
- (i) **"Established Grade"** means average elevation of the finished grade of the ground immediately surrounding the structure, exclusive of any artificial embankment or entrenchment.
- (j) **"Fence"** includes railing, wall, line of posts, wire, gate, boards or other similar substances used to separate or divide any parcel of land or part thereof from any other parcel of land or part thereof, immediately adjacent thereto or to establish a property boundary.
- (k) **"Front Lot Line"** 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.
- (l) **"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.
- (m) **"Industrial Lot"** means a lot used exclusively or primarily for industrial purposes.
- (n) **"Lot"** means any plot, tract or parcel of land, which can be considered as a unit of land for a particular use or building.
- (o) **"Lot Line"** means any line defining the boundaries of a lot and shall include a front lot line, side lot line and rear lot line.
- (p) **"Rear Lot Line"** means the lot line or lines opposite the front lot line.
- (q) **"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 on the lot.
- (r) **"Residential Lot"** means a lot used exclusively or primarily for a dwelling or dwelling unit.
- (s) **"Road Reservation"** shall mean the area as prescribed in the Road Reservation Regulations to be reserved for a street or street improvements.
- (t) **"Side Lot Line"** means the lot line or lines other than a front lot line or rear lot line.



FENCE AND RETAINING WALL REGULATIONS 2024

- (u) **"Snow Fence"** means a light fence of lath and wire or constructed of polyethylene mesh.
- (v) **"Street"** means any street, road or highway or any other way designed or intended for public use for the passage of vehicles and pedestrians, owned by the Authority or other public agency and maintained at public expense, and is accessible to Fire Department vehicles and equipment.
- (w) **"Street Line"** means the edge of a street, road or highway reservation as defined by the authority having jurisdiction.
- (x) **"Town"** shall mean the Town of Clarenville.
- (y) **"Yard"** means any open, uncovered, unoccupied space appurtenant to a building.

3. APPLICATION

These Regulations shall apply within the boundaries of the Town.

4. CONFORMITY WITH REGULATIONS

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

5. PERMIT REQUIRED

No person shall erect, alter, repair or relocate a fence or retaining wall unless the Council approves the location and plan for the fence or retaining wall and a permit has been issued for its construction, alteration, repair and/or relocation.

6. FORM OF APPLICATION

An application to erect a fence or retaining wall 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 Town. Every application shall include such plans, specifications and drawings the Town may require, and be accompanied by the permit fee.

7. FENCE 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 the Town.

8. WOODEN POSTS

All wooden posts required for the erection and construction of a fence shall be:

- (a) Installed a minimum depth of 600 millimetres below grade and if not pressure treated at plant, coated with a wood preserver for that portion of the fence post situated below established grade; and

FENCE AND RETAINING WALL REGULATIONS 2024

- (b) Anchored by means of a concrete pier footing or wooden shoe and the concrete footing or wooden shoe shall be covered by soil.

9. METAL POSTS

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

- (a) All corner posts shall be installed a minimum depth of 900 millimetres below established grade and anchored by a concrete pier footing.
- (b) All line posts shall be installed a minimum depth of 600 millimetres below established grade and anchored by a concrete pier footing.

10. ELECTRICAL FENCE

No person shall erect an electrical fence on any land except where required in a rural use zone to contain livestock or protect agricultural crops. In addition, adequate signage shall be erected also.

11. BARBED WIRE FENCES

- (a) 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.
- (b) Barbed wire may be used:
 - (i) Along the top of a fence in excess of 2.1 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) in a rural use zone to contain livestock or protect agricultural crops or land.

12. FENCE MAINTENANCE

Every person who owns a fence shall maintain such fence in a good state of repair. For the purposes of this section, "good state of repair" shall mean:

- (a) the fence is complete, structurally sound, plumb and securely anchored;
- (b) protected by weather-resistant materials;
- (c) fence components are not broken, rusted, rotten or in a hazardous condition;
- (d) all stained or painted fences are maintained free of peeling; and
- (e) that the fence does not present an unsightly appearance deleterious to abutting land or to the neighbourhood.

FENCE AND RETAINING WALL REGULATIONS 2024

13. CLEAR VIEW

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.

14. PROPERTIES ABUTTING A PARK, PUBLIC WALKWAY OR RIGHT OF WAY

The Town shall determine the style, type and height of fence to be erected, relocated or repaired on any property, which abuts a park, public walkway or right of way.

15. CORNER LOTS

(a) Subject to Council's discretion, no person shall erect a fence on a corner lot any closer than the front building line setback and within 3 metres of the side boundary on the flanking street. The fence shall not create a visible obstruction at any intersection or driveway. In such cases, the Town will determine the height and location of the fence

(b) A fence on the flanking street shall not exceed 1.8 metres.

16. ROAD RESERVATION

No person shall erect a fence that projects into or onto the road reservation.

17. RESIDENTIAL LOT – REAR YARD AND SIDE YARD FENCE

No person shall erect a fence for residential purposes in the front yard with the following exceptions:

- (a) For the purpose of acting as a retaining wall (along the front or side of the property) provided the retaining wall does not impede sight distance.
- (b) On boundaries bordering public walkways where a maximum 1-metre high fence will be permitted.
- (c) In areas of adjoining driveways it will be permissible to construct curbing to a height of 150 millimetres or to erect fencing to a maximum height of 600 millimetres.
- (d) Where an established form of front yard fencing has been established along a street, a fence may be constructed that is consistent with this form of front yard fencing provided:
 - i. It does not create a visual obstruction for vehicles entering or exiting the lot;
 - ii. It does not create an obstruction to the travelling public;
 - iii. It does not interfere with snow clearing operations;

FENCE AND RETAINING WALL REGULATIONS 2024

- iv. The fence is consistent and is in line with other fences in the immediate neighbourhood or meets the conditions established by the Town;
- v. At Council's discretion, a fence may be permitted in front of the building line of a residential dwelling that is next to a public use. The fence shall not exceed 1.2 metres in height; and
- vi. A fence built at the building line shall not exceed 1.8 metres.

18. RESIDENTIAL LOT – REAR YARD AND SIDE YARD FENCE

Unless otherwise approved by the Council, the maximum height of a fence erected or constructed for residential purposes shall not exceed a height of 1.8 metres above established grade. After consultation with neighbouring property owners, Council may allow a fence to be erected which is up to 2.4 metres in height where it is situated to the rear of a residential property and separates a residential property from a non-residential property or a property situated in a different zone.

19. INDUSTRIAL AND COMMERCIAL LOT – FRONT YARD FENCE

Unless otherwise approved by the Council, a minimum setback of 10 metres shall be required between the front lot line and the erection or construction of a fence

for industrial and commercial purposes and the maximum height of the fence shall not exceed a height of 2.7 metres above established grade.

20. INDUSTRIAL AND COMMERCIAL LOT - REAR YARD AND SIDE YARD FENCE

- (a) Unless otherwise approved by the Town, the maximum height of a fence erected or constructed on an industrial and commercial lot shall not exceed a height of 2.7 metres above established grade in the area of the lot between the building line and street line and rear lot line provided the lot does not abut a residential lot.
- (b) Unless otherwise approved by the Town, in the case where an industrial or commercial lot abuts a residential lot or residential use zone, the maximum height of a fence erected or constructed on an industrial and commercial lot shall not exceed a height of 1.8 metres above established grade except where the side yard of a commercial or industrial lot is used for open storage and then a 2 meter fence must be provided.

21. AGRICULTURAL AND RURAL PROPERTY FENCE

Unless otherwise approved by Council, the maximum height of a fence erected on an agricultural or rural property shall not exceed a height of 1.2 metres and may be constructed of wire and wooden posts typical of boundary fences demarcating agricultural or rural property.

FENCE AND RETAINING WALL REGULATIONS 2024

22. REAR YARD FENCES ABUTTING STREETS

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 a style, type and height of fence as determined by Council.

23. SNOW FENCE

No person shall erect or maintain a snow fence for the period of May 1st to October 31st in any year. Snow fences should only be erected for snow abatement purposes.

24. SWIMMING POOL FENCE

A 1.8-metre fence shall be erected and maintained completely surrounding the area of the lot in which a swimming pool is constructed, located or placed. The fence shall be located so as to maintain a minimum separation distance of 1.8 metres between the swimming pool and the fence.

- (a) The fence shall be constructed so that no openings are greater than 10 cm and that no grip, attachment, or opening will facilitate climbing.
- (b) A swimming pool fence shall not be constructed of chain link.
- (c) Where accessed by gate(s), all gates in the swimming pool fence shall meet the same height and construction requirements; the gate(s) shall have a properly maintained self-closing and self-latching device installed on the gate(s) on the pool side of the enclosed area at a position no less than 1.5 metres above the established grade and the gate(s) must be locked whenever the pool area is unsupervised.
- (d) The sidewalls of an aboveground pool shall not form part of the swimming pool fence.

25. RETAINING WALLS

- (a) Retaining walls shall not be placed on any right-of ways or easements owned by the Town of Clareville unless written permission has been granted.
- (b) Retaining walls shall not conflict with site grading requirements in new subdivisions unless approved by the Town of Clareville Public Works Department.
- (c) Retaining walls shall be equipped with a guard as required by the National Building code of Canada.
- (d) Retaining walls under a height of 1.22 metres that have imposed loads from driveways, deck footings, house footings, sloped backfill or other structures are required to be designed by a professional engineer licensed to practice in Newfoundland and Labrador. The design engineer shall provide the Town with written verification that the wall has been

FENCE AND RETAINING WALL REGULATIONS 2024

constructed as per the submitted design drawings. Two sets of stamped drawings shall be submitted to the Town of Clareville Public Works Department for review.

- (e) Retaining walls with overall accumulative heights of 1.22 metres or higher shall be designed by a professional engineer licensed to practice in Newfoundland and Labrador. The design engineer will specify a distance from the boundary that is sufficient for the future maintenance of the retaining wall. The design engineer shall provide the Town with written verification that the wall has been constructed as per the submitted design drawings. Two sets of stamped drawings shall be submitted to the Town of Clareville.

26. RETAINING WALL MAINTENANCE

Every person who owns a retaining wall shall maintain such retaining wall in a good state of repair. For the purposes of this section, "good state of repair" shall mean:

- (a) the retaining wall is complete, structurally sound, plumb and securely anchored;
- (b) retaining wall components are not missing, broken, rusted, rotten or in a hazardous condition; and
- (c) that the retaining wall does not present an unsightly appearance deleterious to abutting land or to the neighbourhood.

27. CLEAR VIEW

No retaining wall 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.

28. PROPERTIES ABUTTING A PARK, PUBLIC WALKWAY OR RIGHT OF WAY

The Town shall determine the style, type and height of retaining wall to be erected, relocated or repaired on any property, which abuts a park, public walkway or right of way.

29. PUBLIC AUTHORITIES

The provisions of these Regulations shall apply to all public authorities except in those cases where an exception from the Regulations is required to respond to an emergency or for a public purpose.

30. COMPLIANCE WITH REGULATIONS

A fence or retaining wall in existence at the date of coming into effect of these Regulations which is not in accordance with the provisions of these Regulations may continue to exist provided they are maintained in a good state of repair and are not deemed to be a safety hazard or obstruction by the Council. A fence or retaining

FENCE AND RETAINING WALL REGULATIONS 2024

wall which is in existence at the date of coming into effect of these Regulations shall not be modified or replaced with a fence or retaining wall which differs in the height, type, style or material used in the erection or construction of the existing fence unless the fence or retaining wall is constructed in accordance with these Regulations.

31. ORDER TO REMOVE

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 thereof be removed, repaired, relocated to correct the safety hazard, obstruction or nuisance condition at the owner's expenses.

32. AUTHORITY TO REMOVE

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

33. RESPONSIBILITY FOR DAMAGE

The Council shall not be liable for any damages for the repair of any fence or retaining wall whatsoever where the Town, its employees or agents or otherwise have acted without negligence. In particular, the Council shall not be liable for any damages for the repair of any fence or retaining wall whatsoever during normal maintenance operations including but not limited to snow clearing on streets or sidewalks and ditching.

34. RIGHT OF ENTRY

Pursuant to Section 158 of the *Municipalities Act, 1999*, Council or its duly authorized agents have the authority to enter a property for the purposes of inspection and enforcement as required under these Regulations.

35. OFFENCES AND PENALTIES

- (a) Pursuant to Section 419 (2) of the *Municipalities Act, 1999*, each day upon which the same offence is committed or continued shall be considered as a separate offence;
- (b) Every person who commits 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 pursuant to Section 420 of the *Municipalities Act, 1999*;



FENCE AND RETAINING WALL REGULATIONS 2024

- ii. Shall be subject to an order under Section 404 (1) (i) of the *Municipalities Act, 1999*;

36. 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 regulation 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.

37. REPEAL OF PREVIOUS REGULATIONS AND AMENDMENTS

All previous Town of Clarenville Fence Regulations and amendments are repealed.

38. ENACTMENT

These Regulations shall come into force on the 16th day of July 2024.

39. COPY TO MINISTER

A copy of these regulations were sent to the Minister of Municipal and Provincial Affairs on the 6th day of August, 2024.