

PUBLISHED BY AUTHORITY

Pursuant to the authority conferred by Section 414(2) (h) of the Municipalities Act, Chapter M-24, S.N. 1999, the Town Council of Paradise hereby enacts the following Regulations which were adopted at the Public Council Meeting held on the _____ day of _____ A.D., _____.

JOYCE MOSS
TOWN CLERK

FRED BROWN
MAYOR

FENCE REGULATIONS

1. TITLE

These Regulations may be cited as “The Town of Paradise Fence Regulations 2005”

2. DEFINITIONS

In these Regulations:

- (a) “Act” means the Municipalities Act, Chapter M-24, S.N. 1999.
- (b) “Town” means the Town of Paradise as defined by paragraph 2 of the Order-in-Council as gazetted on December 26, 1973 and continued in force as per the Municipalities Act, Chapter M-24, S.N. 1999, and includes its employees and agents.
- (c) “Council” means the Council of the Town of Paradise
- (d) “Building Line” means a line established by the Town to set the horizontal distance between the closest point of a building and the street line.
- (e) “Street Line” means the edge of a street, road or highway reservation as defined by the Authority having jurisdiction.
- (f) “Fully Serviced Lot” means any lot in an area that is serviced in full with municipal water, municipal sewer, municipal storm sewer and curb & gutter.
- (g) “Corner Lot” means a lot flanked by two intersecting street

- (h) “Front Lot Line” means the street line on which the 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.
- (i) “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.
- (j) “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.
- (k) “Rear Lot Line” means a lot line or lines opposite the front lot line.
- (l) “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.
- (m) “Side Lot Line” means a lot line or lines other than a “Front Lot Line” or a “Rear Lot Line”.
- (n) “ Side Yard” means the area of the lot between the side wall of the building and the side lot line.
- (o) “Fence” shall mean a **physical barrier** which 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, line of posts, wire, retaining walls (projections above the finished grade), gates and/or any other similar substance used for the purposes of separating parcels of land or part thereof and include hedging used along the “front lot line”.
- (p) “Fence Height” means the vertical distance from the established grade to the top of the fence surface.
- (q) “Grade” means the surface of the ground below a fence at each location where a structural support is embedded in the ground.
- (r) “Nuisance Condition” means any condition of a fence that is deemed to be an eyesore due to use of non-approved construction materials, poor maintenance, poor construction, graffiti and/or advertisements.
- (s) “Snow Fence” means a temporary light fence of lath and wire or of polyethylene mesh and used to redirect snow drifting.

3. CONFORMITY WITH REGULATIONS

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

4. PERMIT REQUIRED

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.

5. FORM OF APPLICATION

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 permit fee.

6. CONSTRUCTION MATERIALS

The material(s) used in the erection and repair of a fence shall only be of a type approved by the Town.

7. WOODEN POSTS

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

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

8. 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.

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

9. BARBED WIRE FENCES

No person shall erect a fence consisting wholly or partly of barbed wire or other barbed material except along the top of any fence in excess of 2.1 meters that encloses a lot used for commercial or industrial purposes and provided the industrial or commercial lot does not abut a residential lot or residential use zone. The use of barbed wire is prohibited on residential lots.

10. MAINTENANCE

Every person who owns a fence shall maintain such fence in a good state of repair. For 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 and painted fences are maintained in a visually appealing manner;
- (e) The fence does not present an unsightly appearance deleterious to the abutting land or neighborhood.

11. 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.

12. PROPERTIES ABUTTING A PARK, PUBLIC PATH/TRAIL OR RIGHT OF WAY

The Town shall determine the 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.

13. RESIDENTIAL LOT - FRONT YARD

- 13.1 A fence is not permitted in the front yard of any lot that is considered by the Town of Paradise to be a “fully serviced lot” ***unless approved by the Town in accordance with Section 12 of these Regulations.***

- 13.2 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:
- (a) A fence may be permitted to be erected or maintained in the front yard of any lot not deemed to be a “fully serviced lot” provided the distance from the “building line” to the “front lot line” is 10.0 meters or greater, the fence height does not exceed 1.8 meters in height and is setback 3.0 meters from the front yard line.
 - (b) For the purpose of acting as a retaining wall provided the retaining wall does not impede sight distance. **Any** retaining wall constructed on the property, included but not limited to the “front yard” must meet the specifications contained in the Town of Paradise Retaining Wall policy.
 - (c) On property boundaries, other than the front boundary, bordering public walkways, trails and paths, a fence may be permitted in accordance with Section 12 of these Regulations.

14. RESIDENTIAL LOTS – REAR YARD

Unless otherwise specified by the Council, the maximum height of a fence erected or constructed for residential purposes in the rear yard shall not exceed 1.8 meters in height above grade.

15. FENCE ON INDUSTRIAL, COMMERCIAL OR AGRICULTURAL 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 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 Section 13 and Section 14 of these Regulations.

16. FLANKING STREET ON CORNER LOTS

On a “fully serviced lot”, a fence is permitted to be constructed on the lot between the property boundary on the flanking street and the wall of the dwelling on a corner lot provided:

- (a) The fence is setback from the curb on the flanking street a minimum of 3.0 m.
- (b) The fence can not extend beyond the property line.

(c) The height of the fence that extends beyond the wall of the dwelling on the flanking street and along the 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 1.8m.

17. 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.

18. SWIMMING POOL FENCE

A 1.8 m fence shall be erected and maintained completely surrounding the swimming pool area of the lot. The fence shall be located so as to maintain a minimum separation of 1.8 meters between any portion of the swimming pool and the fence. The fence, used to surround the swimming pool, shall be of a type that restricts the view of the pool from beyond the exterior of the fence and would impede the unauthorized passage either through, under, or over the fence to the pool area with a gate that shall be locked.

19. COMPLIANCE WITH REGULATIONS

A fence in existence at the date of coming into effect of these Regulations, that is not in accordance with the provisions of these Regulations, may continue to exist provided:

- (a) 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.
- (b) A fence which 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 a fence that is constructed in accordance with these Regulations.
- (c) Any fence that is located in the front yard of a property may only be replaced in accordance with Section 13 of these Regulations.

20. ORDER TO REMOVE FENCE

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, dilapidated state of repair and/or damaged condition, the Town may issue an order to the property owner stating that the fence or portion of a fence be removed, repaired, relocated to correct the safety hazard, obstruction or “nuisance condition” at the property owner’s expense.

21. AUTHORITY TO REMOVE FENCES

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.

22. PENALTIES

Every person who contravenes or fails to comply with any of the provisions of these Regulations is guilty of an offence and that for each day which the same offence is committed or continued is a separate offence and is liable on summary conviction:

- (a) for a first offence to a fine of not less than \$100 and not more than \$500 or to a term of imprisonment of not more than one month or to both the fine and imprisonment;
- (b) for a subsequent offence to a fine of not less than \$500 and not more than \$1,000 or to a term of imprisonment of not more than 3 months or to both the fine and imprisonment.

23. REPEAL OF PREVIOUS REGULATIONS

The Town of Paradise Fencing Regulations, 1988 are hereby repealed and replaced upon these Regulations coming into effect.

24. COMING INTO EFFECT

These Regulations shall come into effect on the 1st day of January, A. D. 2005 and shall be cited at the Town of Paradise Fence Regulations.