

TOWN OF PARADISE RETAINING WALL REGULATIONS

PUBLISHED BY AUTHORITY

Pursuant to the authority conferred by Section 414(2)(hh) 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

TITLE

These Regulations may be cited as "The Town of Paradise Retaining Wall Regulations 2005"

2. DEFINITIONS

In these Regulations:

"Act" means the Municipalities Act, Chapter M-24, S.N. 1999.

"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.

"Council" means the Council of the Town of Paradise

"Street Line" means the edge of a street, road or highway reservation as defined by the Authority having jurisdiction.

"Corner Lot" means a lot flanked by two intersecting street

"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.

"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.

"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.

"Retaining Wall" shall mean any structure built to resist lateral pressures, prevents the movement of a mass of earth or water and/or which abruptly and artificially changes

the elevation of the ground surface on a property (except the wall of a building)”.

“Retaining Wall Height” means the total vertical distance from the established grade to the top of the retaining wall regardless of terracing or other change in horizontal location from grade to the top of the structure.

“Grade” means the point at which the lowest elevation of any part of the retaining wall contacts the surface of the ground.

“Nuisance Condition” means any condition of a retaining wall that is deemed to be an eyesore due to use of non-approved construction materials, poor maintenance, poor construction, graffiti and/or advertisements.

3. CONFORMITY WITH REGULATIONS

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

4. PERMIT REQUIRED

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

5. FORM OF APPLICATION

An application to construct a retaining wall 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 retaining wall shall include wood, concrete, interlocking brick/block, gabion baskets or as otherwise approved by the Town.

6.1 WOOD

All wooden materials used in the erection and construction of any portion of a retaining wall that is located below grade shall be pressure treated or coated with a wood preserver

8. PROTRUSIONS

No person shall erect a retaining wall having protrusions along any exposed vertical surface.

10. MAINTENANCE

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

- 10.1 The retaining wall is complete, structurally sound, plumb and securely anchored.
- 10.2 Retaining wall components are not missing, broken, rusted, rotten or in a hazardous condition;

The retaining wall does not present an unsightly appearance deleterious to the adjacent land or neighborhood.

11. 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.

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

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

13. LOCATION OF RETAINING WALLS

- 13.1 No portion of a retaining wall is permitted to project beyond the front boundary into the right-of-way of any street.
- 13.2 On flanking streets, no portion of a retaining wall is permitted to project beyond either the front boundary or boundary on the flanking street into the right-of-way of any street.
- 13.3 On any streets where, in the opinion of the Town, the distance between the property line and a street and/or roadside ditch is not adequate to reasonably prevent the likelihood of damaging the structure during normal maintenance, ditching or snow clearing operations, the retaining wall shall be set back from the property line a distance established by the Town.
- 13.4 Retaining walls are not permitted on utility easements and may only be constructed on Town easements at the discretion of the Town.

14. COMPLIANCE WITH REGULATIONS

A retaining wall 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:

- 14.1 The retaining wall 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.

14.2 A retaining wall which requires repairs, alterations and/or replacement of more than 50% of its original supporting structure must be replaced with a retaining wall that is constructed in accordance with these Regulations.

15. ORDER TO REMOVE RETAINING WALLS

When in the opinion of the Town, a retaining wall or portion of a 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 property owner stating that the retaining wall or portion of a fence be removed, repaired, relocated to correct the safety hazard, obstruction or "nuisance condition" at the property owner's expense.

16. AUTHORITY TO REMOVE RETAINING WALLS

The Council and/or the Court has the power to make an Order for the removal of any retaining wall 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 retaining wall at the owner's expense.

17. DAMAGE TO RETAINING WALLS

The Council shall accept no liability, financial or otherwise for damages caused to retaining walls during normal maintenance operations including but not limited to snow clearing and ditching.

18. 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:

- 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;
- 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.

19. COMING INTO EFFECT

These Regulations shall come into effect on the ___ day of _____, A. D. 2005 and shall be cited at the Town of Paradise Retaining Wall Regulations.