

# FENCE BY-LAW

PUBLISHED BY AUTHORITY

Pursuant to the authority conferred by Sections 10 and 11 of the Towns and Local Service Districts Act, SNL Chapter T-6.2, the Town Council of the Town of Conception Bay South has made the following By-law.

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**DARRIN BENT**  
**MAYOR**

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## BY-LAW

### 1. TITLE

This by-law shall be known and cited as “Town of Conception Bay South Fence By-Law”.

### 2. INTERPRETATION

In this By-law:

- (a) **“By-Law”** means the Town of Conception Bay South Fence By-Law.
- (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.
- (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 Town Council of the Town of Conception Bay South 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) **“Flanking Street Lot Line”** means a street line abutting the lot other than the Front Lot Line such as the side of a corner lot or the portion of the lot line to the side of the property on a lot bounded by a curved street, but excludes the Rear Lot Line.
- (l) **“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 Council shall determine the front lot line.
- (m) **“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.
- (n) **“Industrial Lot”** means a lot used exclusively or primarily for industrial purposes.
- (o) **“Lot”** means any plot, tract or parcel of land, which can be considered as a unit of land for a particular use or building.

- (p) **“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.
- (q) **“Rear Lot Line”** means the lot line or lines opposite the front lot line.
- (r) **“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.
- (s) **“Residential Lot”** means a lot used exclusively or primarily for a dwelling or dwelling unit.
- (t) **“Road Reservation”** shall mean the area as prescribed in the Road Reservation Bylaw to be reserved for a street or street improvements.
- (u) **“Side Lot Line”** means the lot line or lines other than a front or rear lot line.
- (v) **“Snow Fence”** means a light fence of lath and wire or constructed of polyethylene mesh.
- (w) **“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.
- (x) **“Street Line”** means the edge of a street, road or highway reservation as defined by the authority having jurisdiction.
- (y) **“Town”** shall mean the Town of Conception Bay South.
- (z) **“Yard”** means any open, uncovered, unoccupied space appurtenant to a building.
- (aa) **“Zone”** means a land use zone established by the Town of Conception Bay South Development Regulations established under authority of the *Urban and Rural Planning Act, 2000*.
- (bb) Words and terms not specifically defined in this by-law shall have their ordinary and customary meaning in consideration of the context that the word or term is used within this bylaw.

### 3. APPLICATION

This By-law shall apply within the boundaries of the Town.

**4. CONFORMITY WITH BYLAW**

No person shall erect, maintain or repair a fence except in accordance with this By-law.

**5. PERMIT REQUIRED**

No person shall erect or repair a fence unless Council has issued a permit for height, location and erection or repair of the fence.

**6. FORM OF APPLICATION**

An application to erect a fence shall be made only by the owner of the property where the fence would be located, or by a person authorized by that owner, in writing, on such form as may be prescribed by Council, and every application shall include such plans, specifications and drawings Council may require, and be accompanied by the permit fee required by Council.

**7. CONSTRUCTION MATERIALS**

The material or materials used in the erection and repair of a fence shall only be of a type, which meets the approval of Council.

**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
- (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. 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 and in a structurally sound condition, 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.

## **11. CLEAR VIEW**

No fence shall be erected that obscures a clear view of street intersection, pedestrian pathways, driveways or other points of access or egress of vehicles or pedestrian traffic.

## **12. PROPERTIES ABUTTING A PARK, PUBLIC WALKWAY OR RIGHT OF WAY**

Council shall determine the style, type and height of fence to be erected or constructed on property, which abuts a park, public walkway or right of way.

## **13. CORNER LOTS**

- (a) Unless otherwise approved by Council, 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 lot line. The fence shall

not create a visible obstruction at any intersection or driveway. In such cases, Council will determine the height and location of the fence.

- (b) Unless otherwise approved by Council, a fence on the flanking street lot line shall not exceed 1.5 metres in height.

#### **14. ROAD RESERVATION**

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

#### **15. RESIDENTIAL LOT – FRONT 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, a curb no higher than 0.15m or a fence no higher than 0.6m may be constructed along the boundary between the adjoining driveways and must be set back from the front property boundary as required by Council.
- (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;
  - (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) Any front yard fence between the building line and the front property line shall not exceed 1.2 metres; and

- (vi) Any front yard fence between the building line and the front wall of the dwelling or main building on the lot shall not exceed 1.8 metres.

**16. RESIDENTIAL LOTS – REAR YARD AND SIDE YARD FENCE**

Unless otherwise approved by 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.

**17. INDUSTRIAL AND COMMERCIAL LOT – FRONT YARD FENCE**

Unless otherwise approved by 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.

**18. INDUSTRIAL AND COMMERCIAL LOT – REAR YARD AND SIDE YARD FENCE**

- (a) Unless otherwise approved by the Council, 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 Council, 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 metre fence must be provided.

**19. 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 2.4 metres and may be constructed of wire and wooden posts typical of boundary fences demarcating agricultural or rural property.

## **20. 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.

## **21. 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.

## **22. 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.

## **23. SNOW FENCE**

No person shall erect or maintain a snow fence for the period of May 1<sup>st</sup> to October 31<sup>st</sup> 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.

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 without approval of the easement Grantee(s).
- (b) Retaining walls shall not conflict with site grading requirements in new subdivisions unless approved by Council.
- (c) Retaining walls shall be equipped with a guard as required by the latest / current edition of the National Building Code of Canada, as adopted by Council.
- (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. Design drawings, stamped by the responsible professional engineer, shall be submitted to Council for review and approval. The responsible professional engineer shall provide the Town with written verification that the wall has been constructed as per the submitted design drawings.
- (e) Retaining walls with overall cumulative heights of 1.22 metres or higher shall be designed by a professional engineer licensed to practice in Newfoundland and Labrador. Design drawings, stamped by the responsible professional engineer, shall be submitted to Council for review and approval 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.

**26. PUBLIC AUTHORITIES**

The provisions of this Bylaw shall apply to all public authorities except in those cases where an exception from this By-law is required to respond to an emergency or for a public purpose.

**27. RESPONSIBILITY FOR DAMAGE**

Council shall not be liable for any damages for the repair of any fence whatsoever where the Town, its employees or agents or otherwise, have acted without negligence. In particular, Council shall not be liable for any damages for the repair of any fence whatsoever during the normal operation of snow clearing on streets or sidewalks located within the Town.

**28. COMPLIANCE WITH BYLAW**

A fence in existence at the date of coming into effect of this By-law which is not in accordance with the provisions of this By-law may continue to exist provided the fence is maintained in a good state of repair and the fence is not deemed to be a safety hazard or obstruction by Council. A fence which is in existence at the date of coming into effect of this By-law shall not be modified or replaced with a fence which differs in the height, type, style or material used in the erection or construction of the existing fence unless the fence is constructed in accordance with this By-law.

**29. PENALTIES**

Every person who is guilty of an offence under this By-law or who acts in contravention of or fails to comply with any provision thereof, or neglects or refuses to do so:

- (a) Shall be liable to penalties as stipulated in accordance with section 290 of the Towns and Local Service Districts Act; or
- (b) Shall be subject to an order under section 285 (1) of the Towns and Local Service Districts Act; or
- (c) Shall be subject to a violation notice issued under section 287 (1) of the Towns and Local Service Districts Act; or

(d) Shall be issued a ticket under the Provincial Offences Act in accordance with section 288 of the Towns and Local Service Districts Act.

**30. REPEAL OF PREVIOUS REGULATIONS, BY-LAWS AND AMENDMENTS**

All previous Town of Conception Bay South Fence Regulations, By-laws and amendments are repealed.

**31. COMPLIANCE WITH OTHER ACTS AND BY-LAW**

Nothing in this By-law serves to exempt any person from obtaining any license, permission, permit, authority or approval required by any other by-law of the Town or any statute or regulation of the Province of Newfoundland and Labrador, and in such cases where more than one by-law, regulation or statute applies, the more restrictive by-law, regulation or statute shall apply.

**32. EFFECTIVE DATE**

This By-law shall come into force on the 22<sup>nd</sup> day of January, 2025.

In witness whereof the Seal of the Town of Conception Bay South has been affixed hereto and this Bylaw has been signed by the Mayor and the Chief Administrative Officer on behalf of Council on this 22<sup>nd</sup> day of January, 2025.

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Darrin Bent  
Mayor

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Brian Crawley  
Chief Administrative Officer