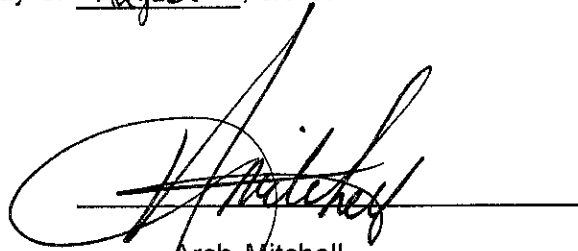


PUBLISHED BY AUTHORITY

Pursuant to the authority conferred by the Municipalities Act, 1999, chapter M-24, Section 168, 404(1) (i), 414 (2)(hh) the following Fence and Retaining Wall Regulations have been made by the Town Council of Humber Arm South.

In accordance with Section 412 (1), these Regulations were adopted by the Town Council at a meeting held on the 11 day of August, 2015.



Arch Mitchell
Mayor

Town of Humber Arm South Fence and Retaining Wall Regulations, 2015

1. *Title*

These regulations shall be known and cited as the Town of Humber Arm South Fence and Retaining Wall Regulations, 2015.

2. *Interpretation*

In these Regulations:

- a) "Regulations" means the Town of Humber Arm South Fence Regulations.
- b) "Building" means a structure, erection, alteration, or improvement placed on,

over or under land or attached, anchored or moored to land.

- c) **"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.
- d) **"Corner Lot"** means a lot flanked by two intersection streets
- e) **"Council"** means the Town Council of the Town of Humber Arm South.
- f) **"Electrical Fence"** means a Fence through which electricity passes.
- g) **"Fence"** means a physical barrier including rail, 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.
- h) **"Fence Height"** means the vertical distance from the established Grade to the top of the Fence surface.
- 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 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.
- k) **"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.
- l) **"Grade"** means grade(slope).
- m) **"Lot"** means any plot, tract or parcel of land, which can be considered as a unit of land for a particular use or building.
- n) **"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.
- o) **"Nuisance Condition"** means any condition of a Fence or 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.

- p) "Owner" means the legal entity having legal or beneficial ownership to a property.
- q) "Rear Lot Line" means a 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) "Retaining Wall" means any structure built to resist lateral pressures, prevents the movement of a mass of earth or water/or abruptly and artificially changes the elevation of the ground surface on a property (except the wall of a building).
- t) "Retaining Wall Height" means the total vertical distance from the established grade to the top of the Retaining Wall regarding of terracing or other change in horizontal location from grade to the top of the structure.
- u) "Side Lot Line" means a lot line or lines other than a Front Lot Line or a Rear Lot Line.
- v) "Snow Fence" means a light Fence of lath and wire or constructed of polyethylene mesh.
- 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 Humber Arm South.

3. *Conformity with Regulations*

No Person shall erect, maintain, repair or relocate a Fence or Retaining wall except in accordance with these Regulations.

4. ***Permit Required***

No person shall erect, alter, repair or relocate a Fence or Retaining wall unless the Town 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.

5. ***Form of Application***

An application to construct a Fence shall be made only by its 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 Council may require.

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 repair of a Fence shall be:

- a) Installed at a minimum depth of 600 mm below grade and if not pressure treated, coated with a wood preserver for that portion of the Fence 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.

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

9. ***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 and 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 the abutting land or neighborhood.

10. ***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.

11. ***Properties Abutting a Park, Public Walkway or Right of Way***

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

12. ***Corner Lots***

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 visible obstruction at any intersection or driveway. In such cases, the Town Council will determine the height and location of the Fence.

13. ***Road Reservation***

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

14. ***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 it will be permissible to construct curbing to a height of 150 mm or to erect Fencing to a maximum height of 600 mm.
- 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:
 - e) It does not create a visual obstruction for vehicles entering or exiting the lot;
 - f) It does not create an obstruction to the travelling public;
 - g) It does not interfere with snow clearing operations; and,

15. ***Residential Lots - 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.

16. ***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.

17. ***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 a 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) 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 high Fence must be provided.

18. ***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 a fence as determined by Council.

19. ***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 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.

20. ***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 erect for snow abatement purposes.

21. ***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.

22. ***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.

23. ***Responsibility for Damage***

The 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, the 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 with the Town.

24. ***Compliance with Regulations***

A fence 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 the Fence is maintained in a good state of repair and the Fence is not deemed to be a safety hazard or obstruction by the Council. A Fence which is in existence at the date of coming into effect of these Regulations 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 these Regulations.

25. ***Penalties***

Every person who is guilty of 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:

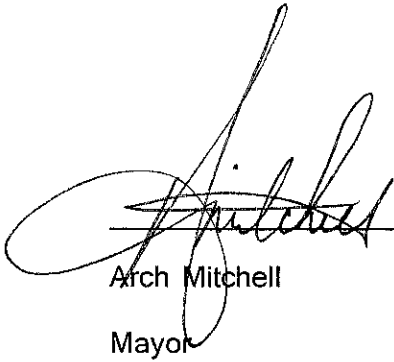
- a) Shall be liable to penalties as stipulated in accordance with section 420 of the *Municipalities Act, 1999*; or
- b) Shall be subject to an order under section 404 (1) (i) of the *Municipalities Act, 1999*; or
- c) Shall be subject to a violation notice issued under Section 421.1 (1) of the *Municipalities Act, 1999*; or
- d) Shall be issued to a ticket under the *Provincial Offences Act* in accordance with section 421.2 of the *Municipalities Act, 1999*.

26.

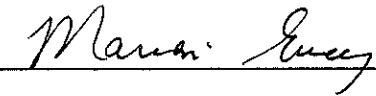
Effective Date

These Regulations shall come into force on the 11 day of August,
2015.

In witness whereof the Seal of the Town of Humber Arm South has been affixed hereto and these regulations have been signed by the Mayor and the Town Clerk/Manager.



Arch Mitchell
Mayor



Marion Evoy
Town Clerk/Manager