

TOWN OF WABUSH RETAINING WALL REGULATIONS, 2024

PUBLISHED BY AUTHORITY

Pursuant to the authority conferred by the Municipalities Act 1999, chapter M 24, Section 414 and any other enabling sections of Municipalities Act 1999, chapter M 24 as amended, the Town Council of Wabush hereby adopt the following Retaining Wall Regulations

1. TITLE

These Regulations may be cited as "The Town of Wabush Retaining Wall Regulations 2024"

2. INTERPRETATION

In these Regulations, unless the context otherwise requires:

- a) "Act" means the *Municipalities Act, 1999, SNL 1999 Chapter M-24* as amended.
- b) "Building Line" means a line established by Council that runs parallel to the street line and is set at the closest point to a street that a building may be placed. A corner lot is deemed to have a building line on both the primary and flanking streets.
- c) "Corner Lot" means a lot flanked by two intersecting streets.
- d) "Council" means the Town Council of the Town of Wabush.
- g) "Flanking Street" means the secondary street bordering a corner lot
- h) "Front Lot Line" means the property line dividing the lot from an abutting road. In the case of a corner lot, the property lot line that is parallel to the front of the house shall be the front lot line.
- i) "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.
- j) "Fully Serviced Lot" means any lot in an area that is serviced in full with municipal water, municipal sewer, municipal storm sewer, and curb and gutter.
- k) "Gabion" means a basket or cage filled with earth or rocks and used especially in building a support or abutment.

l) "Grade" means the surface of the ground below a Retaining Wall at each location where a structural support is embedded in the ground, or the point at which the lowest elevation of any part of the Retaining Wall contacts the surface or the ground.

m) "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.

n) "Owner" means the legal entity having title to a property

o) "Person" means any person, firm, partnership, association, corporation, company, cooperator, club, society, or any other corporate body or organization of any kind.

p) "Rear Lot Line" means the property line that is directly opposite to the front lot line at the rear of the property.

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 of the lot and includes the lot area between the front corners of the main building and the Side Lot Line.

r) "Retaining Wall" means any structure built to resist lateral pressures, prevent the movement of a mass of earth or water and/or abruptly and artificially changes the elevation of the ground surface on a property (except the wall of a building).

s) "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.

t) "Right of way" means the area of land over which a public road or pathway exists, including the legal limits of the public road or pathway reservation

u) "Side Lot Line" means the property line extending between the front lot line and the rear lot line that identifies the division between the lot and an abutting lot sharing said lot line.

v) "Side Yard" means the area of the lot between the side wall of the building and the Side Lot Line.

w) "Snow Fence" means a temporary light Fence of lath and wire or of polyethylene mesh and used to redirect snow drifting.

x) "Street Line" means the edge of a street reservation as defined by the authority having jurisdiction

y) "Town" means the Town of Wabush.

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.GENERAL

- a) No Person shall erect a Retaining Wall that projects into or onto the road reservation.
- b) It shall be the responsibility of the Owner to ensure that a Retaining Wall does not impede, obstruct or alter the flow of water drainage.
- c) Retaining Wall shall not be constructed to impede access for firefighting purposes and shall not enclose or be within five feet (5') of a fire hydrant.
- d) Retaining Wall shall be a minimum 1 foot inside the side yard property line.
- e) Retaining Wall shall be reviewed by Planning Department and by Public Works to determine setback in the front yard and rear yards of property.

7. 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.

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

The Town shall determine the location, 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.

9. RETAINING WALL CONSTRUCTION

- a) Retaining Walls with a height of 1.22 meters (4 feet) or greater shall 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 Retaining Wall has been constructed as per the submitted design drawings.
- b) Where applicable, Retaining Walls shall be equipped with a guard as required by the National building Code of Canada
- c) Retaining Walls shall not conflict with site grading requirements new subdivision unless approved by the Town
- d) 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.
- e) 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.

10. LOCATION OF RETAINING WALL

- a) No portion of a Retaining Wall is permitted to project beyond the front boundary into the right of way of any street.
- b) On Flanking Streets, no portion of a Retaining Wall is permitted to project beyond either the front boundary on the Flanking Street into the right of way of any street.
- c) 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.
- d) Retaining Walls are not permitted on utility easements and may only be constructed on Town easements at the discretion of the Town.

11. PROTRUSIONS

No Person shall erect a Retaining Wall having protrusions along any exposed vertical surface.

12. RETAINING WALL MAINTENANCE

- a) 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:
 - i) The Retaining Wall is complete, structurally sound, plumb and securely anchored.

ii) Retaining Wall components are not missing, broken, rusted, rotten or in a hazardous condition; and

iii) The Retaining Wall does not present an unsightly appearance deleterious to the adjacent land or neighborhood.

13. COMPLIANCE WITH REGULATIONS

a) A Retaining Wall that legally exists and is not in accordance with the provisions of these Regulations shall be considered a non conforming Retaining Wall which may continue to exist provided:

I) The Retaining Wall is constructed within the property Owner's lot lines, and

II) 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.

b) A non conforming Retaining Wall shall not be enlarged, extended, reconstructed, replaced or altered structurally with a Retaining Wall which differs in height, type, style or material used in the erection or construction of the existing Fence.

i) A Retaining Wall 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 Retaining Wall that is constructed in accordance with these Regulations.

14. ORDER TO REMOVE

When in the opinion of the Town, Retaining Wall, or section(s) 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 Owner stating that the Retaining Wall or portion of to be removed, repaired, relocated to correct the safety hazard, obstruction or Nuisance Condition at the Owner's expense.

15. AUTHORITY TO REMOVE

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 condition. Should such an order not be complied with in the time specified, the Council may remove the Retaining Wall at the Owner's expense.

16. 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. It is the responsibility of the homeowner to mark and locate retaining wall to prevent damage to wall or to Municipal property.

17. RIGHT OF ENTRY

Pursuant to Section 51 of the Urban and Rural Planning Act, 2000, Council or its duly authorized agents have the authority to enter a property for the purposes of inspection or to carry out work as required under these Regulations.

18. FAILURE TO COMPLY

a) Pursuant to Section 404 (5) of the Act, where a Person to whom an order is directed does not comply with the order or part of an order made under section 15 of these regulations, Council may take the action that it considers necessary to carry out the terms of the order and any costs, expenses or charges incurred by Council in carrying out the terms of the order are recoverable from the Person against whom the order was made as a civil debt owed to Council and are subject to enforcement mechanisms under Section 421.2 of the Act.

b) Council may delegate to an official or employee of Council the power to issue orders under this section

c) Council, its employees, servants or agents shall be saved harmless from all claims arising out of the action of Council, its employees, servants or agents in the process of inspecting and/or carrying out work under these Regulations, except in the case of gross negligence.

19. PENALTIES

a) Pursuant to Section 419 (2) of the Act, each day upon which the same offence is committed or continued is a separate offence.

b) 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:

i) May be liable to penalties as stipulated in accordance with section 420 of the Municipalities Act, 1999;

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

iii) May be subject to a violation notice issued under Section 421.1 (1) of the Municipalities Act 1999; or

20. COMING INTO EFFECT

These Regulations shall come into effect on the XX day of XX, 2024 A.D.

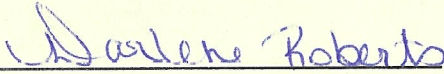
21. REPEAL OF PREVIOUS REGULATIONS AND AMENDMENTS

All previous Town of Wabush Retaining Wall Regulations and amendments are repealed.

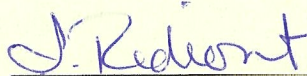
In Witness Whereof the seal of the
Town of Wabush has been affixed herewith
and the Mayor and the Town Clerk have
signed these Regulations on behalf of the
Wabush Town Council this 22 day of
August 2023



Ron Barron
Mayor



Witness



Rideout
Town Clerk/Director of Finance

Tiffanee