

City of Joondalup Fencing Local Law 2014 – Comparison Matrix

New local law clause	Clause Title	Existing local law clause	Comment
PART 1 – Preliminary			
1.1	Citation	PPLL 1	Local law will be cited as the <i>City of Joondalup Fencing Local Law 2014</i> .
1.2	Commencement	PPLL 2	Local law commences 14 days after its publication in the <i>Government Gazette</i> .
1.3	Purpose and effect	PPLL 3	While not technically required for the local law, the purpose and effect has been included considering the requirement upon a local government to notify residents of the purpose and effect of local laws.
1.4	Application	PPLL 5	Local law applies throughout the district.
1.5	Repeal	PPLL 4	Local law repeals: <ul style="list-style-type: none"> the <i>City of Joondalup Private Property Local Law 1998</i>; relevant clauses within the <i>City of Joondalup Amendment Local Law 2000</i>; relevant clauses within the <i>City of Joondalup Amendment Local Law 2001</i>.
1.6	Definitions	PPLL 6	Includes some new definitions used throughout the local law.
1.7	Relationship with other laws	PPLL 7 and 8	Local law clarifies that in the event of any inconsistency between the local law and the district planning scheme, or any other law, the district planning scheme or other law shall prevail.
PART 2 – Sufficient fences			
2.1	Meaning of sufficient fence	PPLL 13, 14	Defines what a sufficient fence is for the purposes of the <i>Dividing Fences Act 1961</i> .
PART 3 – Fencing materials and requirements			
3.1	Fences that do not require a building permit	PPLL 7-12	Outlines those fences that do not require a building permit, consistent with the provisions of the <i>Building Act 2011</i> and the <i>Building Regulations 2012</i> . Former clauses regarding the application and issue of licences are not required, as they are dealt with in the aforementioned Act and Regulations.

New local law clause	Clause Title	Existing local law clause	Comment
3.2	Prohibited fencing materials	PPLL 16, 18, 19	Outlines that fences must be constructed using specified materials and to a specified standard and that in certain circumstances the local government can approve the use of pre-used materials subject to conditions.
3.3	Gates in boundary fences	PPLL 20	Gates are required to open inwards to a property, or slide along the inside of the adjoining parallel fence.
3.4	Fencing materials requiring written approval	PPLL 18, 19	Clause stipulates that the construction of a barbed wire, electrified fence or razor wire fence is only permitted with the City's written approval and subject to conditions.
3.5	Masonry fences	–	Details the Australian Standard to be complied with for the construction of masonry fences.
PART 4 – Fencing materials and requirements			
4.1	Offences and penalties	PPLL 42-46	Outlines what constitutes an offence under the local law and the applicable penalty on conviction.
SCHEDULES			
SCHED 1	Specifications for a sufficient fence on a residential lot	Schedule 1	Details specifications for a sufficient fence on residential lots.
SCHED 2	Specifications for a sufficient fence on a commercial lot or an industrial lot	Schedule 2	Details specifications for a sufficient fence on commercial and industrial lots.
SCHED 3	Specifications for a sufficient fence on a rural lot	Schedule 3	Details specifications for a sufficient fence on rural lots.

Former clauses not provided in new local law

Former local law	Old local law clause	Clause Title	Comment
PPLL	15	Fences within Front Setback – Approval Requirement	The former clause outlined development conditions associated with fencing constructed in the front setback area. These provisions are regulated in the <i>City of Joondalup District Planning Scheme No. 2</i> and <i>State Planning Policy No. 3 – Residential Design Codes</i> and are not relevant for inclusion within the local law.
PPLL	17	Maintenance of Fences	The former clause is redundant as clause 12 of Schedule 3.1 of the <i>Local Government Act 1995</i> specifically provides the ability for local governments to issue notices to ensure that unsightly, dilapidated or dangerous fences or gates that adjoin public property (boundary fences) are to be modified or repaired. The repair of dividing fences is a civil matter between neighbours and is regulated by the <i>Dividing Fences Act 1961</i> .
PPLL	21	Fences across Right of Ways, Public Access Ways or Road Reserves	The former clause is redundant as the <i>Local Government Act 1995</i> provides that regulations may control these issues. The <i>Local Government (Uniform Local Provisions) Regulations 1996</i> provides local governments with the authority to regulate these issues.
PPLL	22	Graffiti Protection	The JSCDL previously determined in its Sixth Report (2003) that the prescriptive nature of such clauses is neither contemplated nor authorised by the <i>Local Government Act 1995</i> on the grounds of unreasonableness. For these and other reasons, the JSCDL will continue to require the repeal of such 'anti-graffiti' clauses in local laws or recommend that the local law be disallowed.
PPLL	23	Record of Graffiti Protection	See above.
PPLL	24	Estate Fencing	The former clause regulated the approval of estate boundary fences. Such provisions are regulated at the subdivision development approval stage and not a relevant matter for inclusion within the local law.
PPLL	25	Estate Boundary Fences	See above.
PPLL	26	Tennis Court Fencing	The former clause regulated the fencing of tennis courts. The new local law is only designed to determine the minimum standards of a 'sufficient fence' for the purposes of the <i>Dividing Fences Act 1961</i> . Additionally and in accordance with the provisions of the

(Extract from Government Gazette (No 37) of 8 March 1999)

LOCAL GOVERNMENT ACT 1995

The Municipality of the City of Joondalup

PRIVATE PROPERTY LOCAL LAW 1998

Under the powers of the Local Government Act 1995 and by all other powers, the Council of the City of Joondalup resolved to make the following local law on the 9th day of February 1999.

ARRANGEMENT

PART 1 - PRELIMINARY	Clauses 1 - 6
PART 2 - LICENCES AND APPROVALS.....	Clauses 7 - 12
PART 3 - FENCING - GENERAL.....	Clauses 13 - 23
PART 4 - ESTATE FENCES	Clauses 24 - 25
PART 5 - TENNIS COURT FENCING	Clause 26
PART 6 - SECURITY AND FLOODLIGHTING	Clauses 27 - 30
PART 7 - ELECTRIFIED AND RAZOR WIRE FENCES	Clauses 31 - 32
PART 8 - STREET NUMBERING	Clauses 33 - 35
PART 9 - VEHICLE WRECKING	Clauses 36 - 38
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SCHEDULES 1-4	

PART 1 - PRELIMINARY

Title

- 1 This local law may be referred to as the City of Joondalup Private Property Local Law 1998.

Commencement

- 2 This local law comes into operation 14 days after the date of its publication in the Government Gazette.

Purpose and Intent

- 3 (1) The purpose of this local law is to provide for the regulation, control and management of street numbering, fencing, tennis court floodlighting and vehicle wrecking on private property within the district.

- (2) The effect of this local law is to establish the requirements for erecting street numbers, fencing and tennis court floodlighting and for the wrecking of vehicles within the district.

Repeal

4 The following by Laws of the former City of Wanneroo:-

- (a) By Law D1: Disused Motor Vehicles and Machinery, published in the Government Gazette - 31 October 1975, and amendments;
- (b) By Law F1: Fencing and Private Tennis Court Floodlighting, published in the Government Gazette - 31 October 1986, and amendments;
- (c) By Law S8: Street Numbers for Houses, published in the Government Gazette - 17 March 1998, and amendments;
- (d) By Law V1: Vehicle Wrecking, published in the Government Gazette - 12 April 1967 and amendments

are repealed on the day this local law comes into operation.

Application of Local Law

5 This local law applies throughout the district.

Definitions

6 In this local law unless the context otherwise requires:

“Act” means the Local Government Act 1995;

“application” means the completed form lodged by a person seeking a licence or approval as required by this local law;

“authorised person” means a person authorised by the local government under section 9.10 of the Act to carry out functions with respect to this local law;

“boundary fence” means a boundary fence referred to in section 16 of the Dividing Fences Act 1961;

“commercial lot” means any lot situated within a commercial zone as classified by the town planning scheme and includes land predominately used for commercial purposes;

“commercial wrecking” means the activity of wrecking of vehicles or machinery for the purpose of conducting a business by offering vehicles, machinery or parts thereof for purchase, trade, sale or gain;

“dangerous” in relation to any fence means:

- (a) an electrified fence other than a fence in respect of which a licence under Part 7 of this local law has been issued and is current;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

“district” means the district of the City of Joondalup;

“dividing fence” has the meaning given to it in and for the purposes of the Dividing Fences Act 1961;

Footnote:

Section 5 of the Dividing Fences Act 1961 defines “dividing fence” to mean “a fence that separates the land of different owners whether the fence is on the common boundary of adjoining lands or on a line other than the common boundary”.

“electrified fence” means a fence carrying or designed to carry an electric charge;

“estate entry statement” means a fence, or wall constructed of masonry or other materials in accordance with a licence to identify the entrance of an estate and may include but not be limited to a sign indicating the estate name and locality, sculptures, flagpoles and flags;

“estate boundary fence” means the fence erected around the external boundary of a subdivision of land to indicate the extent of that sub division and includes any special works or construction that identifies the entrance to that estate;

“fence” means any structure, including a retaining wall less than 450mm in height and used or functioning as a barrier, irrespective of where it is located and includes any gate;

“floodlight” means a luminaire which emits light within a limited range of directions;

“front boundary” means the boundary that separates the road reserve and a lot adjacent the road reserve;

“front setback area” means the area between the front boundary of a lot and an imaginary line running parallel to the front boundary 6 metres into the lot

“height” in relation to a fence means the vertical distance between:

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level immediately below that point;

“industrial lot” means any lot situated within an industrial zone as classified by the town planning scheme and includes land predominately used for industrial purposes;

“land” means land in the district and includes houses, buildings, works, and structures, in or upon the land;

“licence” means a licence issued under this local law;

“local government” means the City of Joondalup;

“lot” means a defined portion of land for which a separate certificate of title has been issued and includes a strata lot;

“luminaire” means an apparatus which distributes, filters or transforms the light transmitted from one or more lamps and which includes, except for the lamps themselves, all the parts necessary for fixing and protecting the lamps, and where necessary, circuit auxiliaries with the means of connecting them to the electricity supply;

“non sacrificial graffiti protection” means a coating applied to a fence or wall which is not removed in the process of removing graffiti;

“nuisance” means:-

- (a) any activity, thing, condition, circumstance or state of affairs caused or contributed to by one person which is injurious or dangerous to the health of another person of normal susceptibility, or which has a disturbing effect on the state of reasonable physical, mental or social well-being of another person;
- (b) any thing a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place; or
- (c) any thing a person does on public or private land which unreasonably detracts from or interferes with the enjoyment or value of land owned by another person, provided that any thing done in accordance with the law or a legal right or which is consistent with the standard of behaviour in the relevant locality shall not be unreasonable for the purpose of this local law

“number” means a number with or without an alphabetical suffix indicating the address of land as assigned by the local government from time to time, in accordance with this local law;

“person” means any person, company, employer and includes the owner, occupier and licensee;

“planning approval” means an approval given under a relevant town planning scheme operating in the district from time to time;

“private property” means any real property, parcel of land or lot that has a separate certificate of title, which is in private ownership or subject of a lease or agreement with a company or person enabling its use for private purposes and includes any building or structure thereon;

“public lighting” means lighting provided for the purpose of all-night safety and security on public roads cycle paths, footpaths and pedestrian movement areas within public parks and gardens but not including car parks;

“public place” means any place to which the public has access;

“reserve” includes parklands, reserves, foreshores and other lands included in or adjoining the district, and set apart for the use and enjoyment of the public and includes parks and other lands acquired for public purposes, and vested in or under the care, control and management of the local government.

“residential lot” means any lot situated within a residential zone as classified by the town planning scheme and includes land predominately used for residential purposes;

“retaining wall” means any structure which prevents the movement of soil in order to allow ground levels of different elevations to exist adjacent to one another;

“rural lot” means any lot situated within a rural zone as classified by the town planning scheme and includes land predominately used for rural purposes;

“sacrificial graffiti protection” means a coating applied to a fence or wall which is removed in the process of removing graffiti;

“sand” means any granular material consisting of small eroded fragments of rock finer than gravel and includes dust and organic matter.

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“special rural lot” means any lot situated within a special rural zone as classified by the town planning scheme and includes land predominately used for special rural purposes;

“state of disrepair” in relation to wrecking and storage of vehicles, means a vehicle, part, or body of a vehicle or machinery that is not working or needs repair for it to work as initially intended or can not be used, driven or applied for the purpose it was manufactured.

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“sufficient fence” means a fence described in clause 14;

“town planning scheme” means any town planning scheme for the time being applying zoning or classification to land within the district;

“vehicle” means any motor vehicle, part of a motor vehicle or machinery in a state of disrepair or in the process of being wrecked, whether licenced or not;

“wreck” includes the dismantling, breaking up, storage and disposal of vehicles and wrecking and wrecked have a corresponding meaning.

PART 2 - LICENCES AND APPROVALS

Licence Requirements

- 7 Where in accordance with this local law a licence is required to enable the lawful building or erecting of a fence or performance of an activity, a licence must first be obtained before any work is commenced.

Planning and Other Approvals

- 8 Where under any written law operating within the district, the erection and maintenance of a fence, structure or performance of an activity, requires planning or other approval, the requirement for such approval shall be additional to the requirement for a licence under this local law.

Application for Licence

- 9 A person seeking the issue of a licence must make application on the form provided and used for the purpose and must forward the application to the local government together with:-
- (a) where required, a copy of planning approval issued by the local government under the town planning scheme;
 - (b) 3 copies of plans drawn to scale of not less than 1:50 showing the size, position, design, and the method of construction of the proposed fence or retaining wall;
 - (c) the relevant licence fee;
 - (d) such other information as may be required by the local government to assist in determining the application:-

Determination of Application

- 10 (1) The local government may refuse an application for a licence that does not comply with the requirements of clause 9, and in any event, shall refuse an application for a licence where planning approval is required and has not first been obtained under the town planning scheme;
- (2) The local government may, in respect of an application for a licence:-
- (a) refuse the application; or

- (b) approve the application on such terms and conditions, if any, as it considers appropriate.

Licence Issue

- 11 (1) A licence shall be issued to the person whose name appears on the application for the licence and is the owner or acting on behalf of the owner.
- (2) A licence shall be issued in the form prescribed or provided by the local government for that purpose.

Licence Fees and Charges

- 12 All licence fees and charges applicable under this local law shall be as determined by the local government from time to time in accordance with section 6.16 of the Act.

PART 3 - FENCING - GENERAL

Dividing and Boundary Fences

- 13 Unless by agreement between the owners of adjoining properties, a person must not erect a dividing or boundary fence on a lot that is not a sufficient or permissible fence.

Sufficient Fence

- 14 (1) Subject to sub-clauses (2) and (3); a sufficient fence:
- (a) on a residential lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;
 - (b) on a commercial lot and on an industrial lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Second Schedule;
 - (c) on a rural lot and on a special rural lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule.
- (2) Where a fence is erected on or near the boundary between a residential lot and any of the following:
- (a) an industrial lot;
 - (b) a commercial lot;
 - (c) a rural lot; or
 - (d) a special rural lot,

a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule.

- (3) Unless an authorised person specifies otherwise, a sufficient fence on a boundary between lots other than those specified in sub-clause (2) is a dividing fence constructed in accordance with the specifications and requirements of the Second Schedule.

Fences within Front Setback - Approval Requirement

- 15 (1) A person must not without the written approval of an authorised person, erect a free standing fence greater than one metre in height within the front setback area of a lot in the district .

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- (2) In determining an application for approval to erect a fence in the front setback area of a residential lot, an authorised person may approve the erection of a fence higher than one metre, only if the front boundary fence on each side of the driveway into the lot is to be angled into the lot for a distance of not less than 1.5m from the front boundary in order to provide splayed lines of vision for a motorist using the driveway for access to a thoroughfare;

- (3) Sub-clauses (1) and (2) do not apply;

- (a) to a fence of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare;

- (4) Notwithstanding anything to the contrary in this local law, a front boundary fence in a residential area is only to be constructed of masonry or composite fencing with a minimum masonry content not less than 30%.

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Footnote: *In relation to the setback in sub clause (1), where buildings constructed on adjoining lots have setbacks less than 6m, then by agreement between the owners, and, subject to the written approval of an authorised person, the fence may be erected to a maximum height of 1.8m up to the greater of those setbacks.*

General discretion of the local government

- 16 (1) The local government may approve the erection of a fence which does not comply with the requirements of this local law;

- (2) In determining whether to approve the erection of a fence, the local government may consider, in addition to any other matter that it is authorised to consider, whether the erection or retention of the fence would have an adverse effect on:

- (a) the safety or convenience of any person; and
(b) the safe or convenient use of any land.

Maintenance of Fences

- 17 An owner or occupier of a lot on which a fence is erected shall maintain the fence in good condition and so as to prevent it from becoming dangerous, dilapidated, unsightly, or prejudicial to the amenity of the locality.

Fencing Materials

- 18 A person must not construct a fence of barbed wire on a rural property, adjacent to a public place or reserve, unless the barbed wire is fixed to the side of the fence furthest from the public place or reserve.

Prohibited Fencing Materials

- 19 (1) A person must not use broken glass in the construction of any fence;
- (2) A person must not use barbed wire or razor wire or other material with spiked or jagged projections in the construction of any fence which is not subject of a licence or otherwise in accordance with this local law.

Gates in Fences

- 20 A person must not erect or maintain a gate in a fence, which does not:
- (a) open into the property; or
- (b) open by sliding parallel and on the inside of the boundary fence, of which it forms part when closed.

Fences Across Right Of Ways, Public Access Ways or Road Reserves

- 21 A person must not, without the written consent of the local government, erect or maintain a fence or obstruction of a temporary or permanent nature across any right of way, public access way or road reserve so as to impede or prevent use of those facilities in the manner for which they are intended and constructed.

Graffiti Protection

- 22 (1) A person must not erect a fence or wall constructed of masonry or other materials, adjacent to a public place or reserve without treating the fence or wall with non sacrificial graffiti protection,
- (2) A person, owner, or occupier of a lot with a fence or wall erected adjacent to a public place or reserve shall treat that fence or wall with non sacrificial graffiti protection; where required by an authorised person;
- (3) The graffiti protection treatment required in accordance with sub-clauses (1) and (2) shall be applied to the manufacturer's specifications.

Record of Graffiti Protection

- 23 Where in accordance with this local law, a person is required to treat a fence or wall adjacent to a public place or reserve with graffiti protection, that person must cause to be affixed to that fence a plate inscribed with the approved number relating to the data base which identifies the name of the graffiti protection applied to the fence or wall, plus details of the manufacturer's recommended treatment including materials to be used for removal of graffiti.

PART 4 - ESTATE FENCES

Estate Fencing

- 24 A person must not erect or maintain an estate boundary fence or an estate entry statement, without having first obtained planning approval and a licence.

Estate Boundary Fences

- 25 (1) Where approval has been given to construct an estate boundary fence using specific materials for the purpose of defining the outer perimeter of an estate, the colour and type of materials first used, shall be the minimum standard to which that fence is to be kept repaired and maintained.
- (2) An owner or occupier of a lot adjacent to an estate boundary fence shall, where that fence is damaged, dilapidated or in need of repair, cause it to be repaired or replaced with the same or similar materials with which it was first constructed, so as far as practicable the repaired or replaced section shall be the same as the original fence.
- (3) Where in accordance with clause 22 graffiti protection has been applied to the section of a masonry fence or wall facing a reserve or public place and that wall is to be repaired or replaced, the owner or occupier of the lot adjacent to that section of fence or wall, must cause it to be treated with graffiti protection as part of the repair or replacement.

PART 5 - TENNIS COURT FENCING

Tennis Court Fencing

- 26 (1) This clause does not apply to a rural lot.
- (2) A person must not erect a fence around or partly around a tennis court on a lot unless:
- (a) the fence is not more than 3.6m in height;

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- (b) the whole of the fence is at least 900mm from the boundary between the lot on which the tennis court is located and the adjoining lot or if it is less than 900mm, the owner of the adjoining lot has first been given the opportunity to make submissions to the local government on the location of the fence; and
- (c) the chain link fabric mesh is not more than 3.6m in height and is 50mm x 2.5mm poly-vinyl chloride coated or galvanised, and is erected in accordance with the manufacturers specification.

PART 6 - SECURITY AND FLOOD LIGHTING

Security and Floodlights

- 27 (1) A person; must not erect or maintain or permit to be erected or maintained, on any private land, a luminaire which:
- (a) causes a level of illumination greater than 1 lux to spill into adjacent land by more than 1m or onto any vertical or horizontal surface of a building thereon, and;
 - (b) has the main beam angle of any floodlight or security light installed higher than 3m above natural ground level and positioned at a maximum angle of 70 degrees from the vertical plane.
- (2) The provisions of clause 27(1) do not apply to private land zoned commercial or industrial.

Lighting Exclusion

- 28 Clause 27 does not apply to any luminaires erected or maintained in accordance with any written law operating in the district.

Tennis Court Floodlighting

- 29 (1) This clause does not apply to a rural lot.
- (2) In determining an application for a building licence or planning approval in respect of the erection or use of floodlights or other exterior lights for illumination of a tennis court on a lot, the local government shall not approve the application unless:
- (a) the owner of each adjoining lot is given the opportunity to make submissions;
 - (b) the mounting height of light fittings is within the following range, and determined by the lamp luminous flux per pole:
 - (i) single court equal to or less than 12,500 lumens per pole - 5m

- (ii) single court equal to or less than 25,000 lumens per pole - 8m
- (c) approval may be given outside the range detailed in sub-clause (b) if considered appropriate to the circumstances;
- (d) light fittings used are of a type mounted horizontally or of a type approved by an authorised person;
- (e) the level of illumination from the floodlights or external lights on any land more than 1m from the lot does not exceed 10 lux; and
- (f) where required by an authorised person, written approval for the erection of the lights or other exterior lights has been obtained from the Commissioner of Main Roads.

Tennis Court Floodlight Use and Other Restrictions

- 30 Unless otherwise approved, the owner or occupier of a residential lot which has a tennis court and floodlights thereon, must not:
- (a) permit the floodlights to remain lit after 2200 hours, or to cause a nuisance;
 - (b) hire the court for playing tennis or any other activity for commercial gain.

PART 7 - ELECTRIFIED AND RAZOR WIRE FENCES

Requirement for a Licence

- 31 (1) An owner or occupier of a lot must not:
- (a) have and use an electrified fence on that lot without first obtaining a licence under sub-clause (2); or
 - (b) have a fence constructed wholly or partly of razor wire on that lot without first obtaining a licence under sub clause (4).
- (2) Clause 31(1)(a) does not apply to a rural lot.
- (3) A licence to have and use an electrified fence shall not be issued:
- (a) in respect of a lot which is or which abuts a residential lot;
 - (b) unless the fence complies with AS/NZS 3016:1994; and
 - (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.

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- (4) A licence to have a fence constructed wholly or partly of razor wire shall not be issued;
 - (a) if the fence is within 3m of the boundary of the lot;
 - (b) where any razor wire used in the construction of the fence is less than 2m or more than 2.4m above the ground level.
 - (5) An application for a licence referred to in sub-clauses (3) or (4) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

Transfer of a Licence

- 32 (1) The holder of a licence referred to in clause 31 may transfer that licence to another occupier or owner of the lot only with the written approval of the local government.
- (2) The application for a transfer of a licence shall be:
 - (a) made by the proposed owner;
 - (b) in the form determined by the local government;
 - (c) signed by the holder of the licence;
 - (d) accompanied by the fee determined by the local government; and
 - (e) accompanied by such other information as the local government may require to determine the application.
- (3) The local government may:
 - (a) approve the application for a transfer of the licence subject to such conditions as it considers appropriate; or
 - (b) refuse the application for a transfer of the licence.

PART 8 - STREET NUMBERING

Assignment of Street Number

- 33 (1) Street numbers shall be assigned and displayed on different lots of land to assist in the ready identification of the street address for that land.
- (2) The local government may assign a number to land in a street, thoroughfare or way in the district and may from time to time assign another number instead of that which was previously assigned.

Street Number to be Displayed

- 34 (1) The owner or occupier of land in the district must paint or affix and maintain, the current street number assigned by the local government, in a conspicuous place on the front of the building, fence or gate adjacent to the street fronting the land.
- (2) A sign painted on a kerb, adjacent to a property used for residential purposes, depicting the house number and in accordance with specifications approved by the local government is satisfactory for the purposes of sub-clause (1).

Location of Number not to be Misleading

- 35 (1) The owner or occupier of land must not place the street number of the adjacent land in such a way as to cause confusion or be misleading.
- (2) Where in the opinion of an authorised person, the location of a street number causes confusion or is misleading, a notice may be served on the owner or occupier of the land to which the number refers, specifying remedial action to be taken in accordance with clause 39.

PART 9 - VEHICLE WRECKING**Commercial Wrecking of Vehicles**

- 36 An owner or occupier of land in the district must not undertake, permit or suffer the commercial wrecking of vehicles on that land, without first having obtained planning approval from the local government.

Wrecking and Storage of Vehicles Generally

- 37 A person must not on any residential lot:
- (a) store any vehicle, part or body of a vehicle or machinery, in a state of disrepair;
 - (b) allow to remain on any land, a vehicle, part or body of a vehicle or machinery, in a state of disrepair;
 - (c) wreck, dismantle or break up any vehicle, part or body of a vehicle or machinery; unless:
 - (i) inside a building; or
 - (ii) within an area enclosed by a fence or wall of not less than 2 metres in height and of such a nature as to screen all vehicles, parts or bodies of vehicles or machinery from the street and from adjoining properties; or

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- (d) wreck, dismantle or break up a vehicle so as to cause a nuisance.

Disposal of Vehicles, Parts and Machinery

- 38 (1) A person must not dispose of a vehicle, parts or body of vehicles or machinery except at a place set aside or approved by the local government for the purpose.
- (2) A person shall not destroy any portion of a vehicle or machinery by fire so as to cause a nuisance to occupiers of adjacent land by smoke or odour.

PART 10 - SAND DRIFT PREVENTION AND ABATEMENT

Sand Drifts from Private Property

- 39 (1) A person shall not allow sand to be released or to drift from private property, whether by wind, water or any other means so as to cause a nuisance.
- (2) Where an authorised person is of the opinion that a person allows sand to be released or to drift from private property so as to cause a nuisance, the local government may issue a notice to the person to take specified measures for preventing or minimising sand drift from the property.

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GG No 7
15.01.02

PART 11 -REMEDY FOR BREACH

Works on Private Property

- 40 (1) Where a breach of any provision of this local law has occurred on private property, the local government may give notice in writing to the owner or occupier of that property:
- (a) advising details of the breach of the local law;
 - (b) requiring the owner or occupier that the breach is to be remedied within the time specified in the notice; and
 - (c) advising that where the owner or occupier fails to comply with the requirements of the notice within the time specified, the local government may enter the property and do the required work.
- (2) Where the owner or occupier of the property fails to comply with the requirements of the notice, the local government may by its employees, agents or contractors enter upon the property and carry out all works and do all things necessary to comply with the requirements of the notice; and
- (3) The local government may recover the expenses incurred in carrying out the works in accordance with sub-clause (2) from the owner or occupier of the property in a court of competent jurisdiction.

Limit on Liability

- 41 A person, owner, occupier or licensee is not entitled to make any claim by way of damages or otherwise, against the local government, an authorised person, local government employee, local government appointed sub-contractor or other person authorised by the local government, to enter the land and carry out all or part of the works and do all things necessary that the owner, occupier or holder of a licence was required to do to comply with this local law.

PART 12 - PENALTIES**Offences**

- 42 (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) Any person who commits an offence under this local law shall be liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

Infringement and Infringement Withdrawal Notices

- 43 For the purposes of this local law:
- (a) the form of the infringement notice referred to in section 9.17 of the Act is form 2 in the First Schedule of the Local Government (Functions and General) Regulations) 1996; and
- (b) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is form 3 in the First Schedule of the Local Government (Functions and General) Regulations 1996 .

Offence Description and Modified Penalty

- 44 The amount appearing in the final column of the Fourth Schedule directly opposite an offence described in that Schedule is the modified penalty for that offence.

Prosecution for Offences

- 45 A penalty for an offence against this local law (not being a modified penalty) may be recovered by the local government by taking proceedings against the alleged offender in a court of petty sessions.

Records to be Kept

- 46 The local government shall cause adequate records to be kept of all infringement notices served and modified penalties received.

Footnotes:**Appeal of Decision**

- 1 When the local government makes a decision as to whether it will -
- (a) grant a person a licence or approval under this local law; or
 - (b) renew, vary, or cancel a licence or approval that a person has under this local law,
- the appeal provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Local Government (Functions and General) Regulations 1996 apply to that decision.

Vehicle Wrecking

- 2 The commercial wrecking of vehicles is covered under the provisions of the town planning scheme.

**CITY OF JOONDALUP
PRIVATE PROPERTY LOCAL LAW 1998**

FIRST SCHEDULE

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

Subject to Clause 25 relating to Estate Fences, the following is a “sufficient fence” on a residential lot for the purpose of the Dividing Fences Act.

A fence constructed of corrugated fibre reinforced pressed cement sheeting which satisfies the following specifications

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600mm;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement sheet;
- (c) the sheets to be lapped and capped with extruded “snap-fit” type capping in accordance with the manufacturers written instructions; and
- (d) the height of the fence to be 1.8m.

Permissible Alternative Fences

- 1 A picket timber fence.
- 2 A fence constructed of brick, stone or concrete.
- 3 A composite fence.

Note: Specifications for Permissible Fences are detailed in the Fences Information Sheets obtained from local government offices.

CITY OF JOONDALUP**PRIVATE PROPERTY LOCAL LAW 1998****SECOND SCHEDULE****SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT
AND AN INDUSTRIAL LOT**

Subject to Clause 25 relating to Estate Fences, the following is a “sufficient fence” on a Commercial Lot and an Industrial Lot for the purpose of the Dividing Fences Act.

A fence constructed of galvanised or PVC coated rail-less link mesh, chain mesh or steel mesh which satisfies the following specifications:

- (a) corner posts to be minimum 50mm nominal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
- (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5m centres and with footings of a 225mm diameter x 600mm;
- (c) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and two at each corner post;
- (d) cables to be affixed to the top, centre and bottom of all posts and to consist of two or more 3.15mm wires twisted together;
- (e) rail-less link, chain or steel mesh is to be to a height of 2m on top of which are to be three strands of barbed wire carrying the fence to a height of 2.4m; and
- (f) galvanised link mesh wire to be 2m in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than 3.6m and shall be constructed of 25mm tubular framework with one horizontal and one vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.

Permissible Alternative Fences

- 1 A fence of fibre reinforced cement sheets.
- 2 A fence constructed of painted or galvanised steel or aluminium sheeting.
- 3 Fences of timber, brick, stone or concrete.

CITY OF JOONDALUP**PRIVATE PROPERTY LOCAL LAW 1998****THIRD SCHEDULE****SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT
AND SPECIAL RURAL LOT**

Subject to Clause 25 relating to Estate Fences, a sufficient fence on a Rural Lot for the purpose of the Dividing Fences Act is a fence of posts and wire construction, the minimum specifications for which are:

- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of five wires shall be used generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases.
- (b) posts shall be of indigenous timber or other suitable material including timber impregnated with a termite and fungicidal preservative cut not less than 1.8m long x 100mm diameter at small end of round or 125mm x 60mm if split or sawn. Posts to be set minimum 600mm in the ground and 1.2m above the ground; and
- (c) strainer posts shall be not less than 2.25m long and 150mm diameter at the small end and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1m in the ground.

Amd
GG No 136
10.07.00

Permissible Alternative Fence

An electric fence.

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GG No 136
10.07.00

CITY OF JOONDALUP

PRIVATE PROPERTY LOCAL LAW 1998

FOURTH SCHEDULE

Offences and Modified Penalties**Part 3 - Fencing General**

Item No	Clause No	Nature of Offence	Modified Penalty \$
1	13	Erect a fence which is not a sufficient or permissible fence	100
2	15(1)	Erect without approval a free standing fence higher than 1 m within the front setback	100
3	17	Failure to maintain a fence in good condition/prevent fence becoming dangerous, dilapidated, unsightly	100
4	18	Construct a barbed wire fence on rural property wire not furthestmost from public place or reserve	100
5	19(1)	Erect a fence using broken glass	100
6	19(2)	Use barbed or razor wire, spiked or jagged projections in fence construction without approval or licence	100
7	20(a)	Erect or maintain a gate in a fence not opening into the property	100
8	20(b)	Erect or maintain a gate in a fence not sliding parallel and on inside of fence	100
9	21	Erect or maintain a fence/obstruction temporary or permanent across right of way, public access way or road without consent	100
10	22(1)	Erect masonry fence/wall adjacent public place or reserve or public place without treating with non-sacrificial graffiti protection	100
11	22(2)	Failure to treat fence/wall adjacent public place or reserve without treating with non-sacrificial graffiti protection where required	100
12	22(3)	Failure to apply non sacrificial graffiti protection to manufactures specification	100
13	23	Failure to affix approved non sacrificial graffiti identification plate to treated fence or wall	100

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GG No 136
10.07.00

Part 4 - Estate Fences

14	24	Erect or maintain estate boundary fence or estate entry statement without planning approval and/or licence	100
15	25(2)	Failure to repair/replace damaged estate boundary fence with same or similar materials as original fence	100
16	25(3)	Failure to treat repaired/replaced fence/wall with non sacrificial graffiti protection	100

Part 5 - Tennis Court Fencing

17	26(2)(a)	Erect a tennis court fence higher than 3.6m	100
18	26(2)(b)	Erect tennis court fence less than 900mm from boundary of adjoining lot without submission from adjoining owner	100
19	26(2)(c)	Erect or repair chain link mesh fence higher than 3.6m not in accordance with manufacturers specification	100

Amd
GG No 136
10.07.00

Part 6 - Security and Flood Lighting

20	27(a)	Erect or maintain on private land a luminaire which spills 1 lux or more illumination into adjacent land/building	100
21	27(b)	Erect or maintain security/floodlight higher than 3m or at greater angle than 70 degrees	100
22	30(a)	Permit tennis court floodlights to remain lit after 2200hrs or cause a nuisance	100
23	30(b)	Hire the tennis court for tennis or other activity for commercial gain	100

Part 7 - Electrified and Razor Wire Fences

24	31(1)(a)	Have and use an electrified fence without a licence	100
25	31(1)(b)	Have and use a razor wire fence without a licence	100

Part 8 - Street Numbering

26	34(1)	Failure to paint/affix/maintain current street number in a conspicuous place on the building, fence/gate to street	100
27	35(1)	Place street number so as to cause confusion or be misleading	100

Part 9 - Vehicle Wrecking

28	36	Undertake or permit commercial wrecking of vehicles without planning approval	100
29	37(a)	Store any vehicle, part or body of vehicle or machinery in state of disrepair	100
30	37(b)	Allow to remain on land any vehicle, part or body of vehicle or machinery in state of disrepair	100
31	37(c)(i)	Wreck, dismantle or break up any vehicle part or body or machinery not in a building	100
32	37(c)(ii)	Wreck, dismantle or break up any vehicle, part or body or machinery not behind fence or screened from street	100
33	37(d)	Wreck, dismantle or break up a vehicle so as to cause a nuisance	100
34	38(1)	Fail to dispose of vehicle, parts or body of vehicle or machinery at place set aside or approved place	100
35	38(2)	Destroy portion of vehicle or machinery by fire so as to cause nuisance by smoke or odour	100

Part 10 - Sand Drift Prevention and Abatement

36	39(1)	Allowing sand to be released or to drift from private property	100
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GG No 7
15.01.02

Part 11 - Remedy for Breach

37	40(2)	Failure to comply with requirements of notice	100
38		Other offences not specified	100

CITY OF JOONDALUP
PRIVATE PROPERTY LOCAL LAW
SCHEDULE OF FEES AND CHARGES

	Fee \$
Approval of overheight front fence	60
Approval - Variation to sufficient fence	60
Approval - General fencing discretion	100
Approval - Gates or fences across Right Of Way, Public Access Way or Road Reserve	Annual Fee 100
Approval - Estate Fencing Nil Fee when included as part of an Approval to Commence Development; otherwise	100 min or 0.25% cost of works
Licence - Tennis Court Floodlighting	100
Licence - Electrified Fence	100
Licence - Razor Wire Fence	100
Transfer of Electrified or Razor Wire Fence Licence	80

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

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Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Under the powers conferred on it by the *Local Government Act 1995*, the *Dividing Fences Act 1961* and under all other powers enabling it, the Council of the City of Joondalup resolved on dd mm 2014 to make the following local law.

Part 1 – Preliminary

1.1 Citation

This local law may be cited as the *City of Joondalup Fencing Local Law 2014*.

1.2 Commencement

This local law commences on the 14th day after the day on which it is published in the *Government Gazette*.

1.3 Purpose and effect

- (1) The purpose of this local law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district.
- (2) The effect of this local law is to establish the minimum requirements for fencing within the district.

1.4 Application

This local law applies throughout the district.

1.5 Repeal

The following local laws are repealed:

- (1) The *City of Joondalup Private Property Local Law 1998* as published in the *Government Gazette* (No. 37) on 8 March 1999;
- (2) Clauses 5.2, 5.3, 5.5, 5.6 and 5.7 of the *City of Joondalup Amendment Local Law 2000* as published in the *Government Gazette* (No. 136) on 10 July 2000; and
- (3) Clause 7 of the *City of Joondalup Amendment Local Law 2001* as published in the *Government Gazette* (No. 7) on 15 January 2002.

1.6 Definitions

- (1) In this local law –

Act means the *Dividing Fences Act 1961*;

AS means an Australian Standard or Australian/New Zealand Standard published by Standards Australia;

barbed wire fence means a wire or strand of wires having small pieces of sharply pointed wire twisted around it at short intervals;

boundary fence means a fence, other than a dividing fence, that separates private land from land that is local government property or a thoroughfare;

building permit has the meaning given to it in the *Building Act 2011*;

commercial lot means a lot where a commercial use –

- (a) is or may be permitted under the district planning scheme; and
- (b) is or will be the predominant use of the lot;

district means the district of the local government;

district planning scheme means a local planning scheme of the local government made under the *Planning and Development Act 2005*;

dividing fence has the meaning given to it in the Act;

dividing fence means a fence that separates the lands of different owners whether the fence is on the common boundary of adjoining lands or on a line other than the common boundary;

[Section 5 of the Act]

electrified fence means a fence carrying or designed to carry an electric charge;

fence means any structure, not including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

height in relation to a fence means the vertical distance between –

- (a) the top of the fence at any point; and
- (a) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

industrial lot means a lot where an industrial use –

- (a) is or may be permitted under the district planning scheme; and
- (b) is or will be the predominant use of the lot;

local government means the City of Joondalup;

local government property has the meaning given to it in the *Local Government Act 1995*;

local government property means anything, whether land or not, that belongs to, or is vested in, or under the care, control or management of, the local government.

[Section 1.4 of the *Local Government Act 1995*]

lot has the meaning given to it in the *Planning and Development Act 2005*;

lot means a defined portion of land –

- (a) depicted on a plan or diagram available from, or deposited with, the Authority and for which a separate Crown grant or certificate of title has been or can be issued; or
- (b) depicted on a diagram or plan of survey of a subdivision approved by the Commission; or
- (c) which is the whole of the land the subject of —
 - (i) a Crown grant issued under the *Land Act 1933*;
 - (ii) a certificate of title registered under the *Transfer of Land Act 1893*;
 - (iii) a survey into a location or lot under section 27(2) of the *Land Administration Act 1997* or a certificate of Crown land title the subject of such a survey;
 - (iv) a part-lot shown on a diagram or plan of survey of a subdivision deposited with the Authority; or
 - (v) a conveyance registered under the *Registration of Deeds Act 1856*,

but does not include a lot in relation to a strata scheme, a lot in relation to a survey-strata scheme, or a lot shown as common property on a survey-strata plan, as those terms are defined in the *Strata Titles Act 1985*;

[Section 4 of the *Planning and Development Act 2005*]

primary street means the sole or principal thoroughfare that provides access to the major entry (front door) to the dwelling;

razor wire fence means a coiled strong wire with pieces of sharp cutting edges set across it at close intervals;

residential lot means a lot where a residential use –

- (a) is or may be permitted under the district planning scheme; and
- (b) is or will be the predominant use of the lot;

retaining wall means any structure which prevents the movement of soil in order to allow ground levels of different elevations to exist adjacent to one another;

rural lot means a lot where a rural use –

- (a) is or may be permitted under the district planning scheme; and
- (b) is or will be the predominant use of the lot;

Schedule means a Schedule to this local law;

street boundary means the boundary between the land comprising the primary street and the land that abuts thereon;

street setback means the horizontal distance between the street boundary and a building, measured at right angles (90 degrees) to the street boundary;

street setback area means the area between the street boundary and the street setback;

sufficient fence means a fence described in clause 2.1;

thoroughfare has the meaning give to it in the *Local Government Act 1995*, but does not include a private thoroughfare which is not under the management or control of the local government.

thoroughfare means a road or other thoroughfare and includes structure or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end.

[Section 1.4 of the *Local Government Act 1995*]

1.7 Relationship with other laws

- (1) In the event of any inconsistency between the provisions of a district planning scheme and the provisions of this local law, the provisions of the district planning scheme are to prevail.
- (2) Nothing in this local law affects the need for compliance, in respect of a fence, with –
 - (a) any relevant provisions of a district planning scheme; and
 - (b) any relevant provisions that apply if a building permit is required for that fence under the *Building Act 2011* or *Building Regulations 2012*.

Part 2 - Sufficient fences

2.1 Meaning of 'sufficient fence'

- (1) For the purposes of the Act a dividing fence is a sufficient fence in a residential area if it is constructed on or near the boundary between a residential lot and a –
 - (a) residential lot;
 - (b) commercial lot;
 - (c) industrial lot;
 - (d) rural lot,and is constructed and maintained to a minimum standard in accordance with the specifications in Schedule 1.
- (2) For the purposes of the Act a dividing fence is a sufficient fence in an industrial or commercial area if it is constructed on or near the boundary between a commercial lot or an industrial lot and a –
 - (a) commercial lot;
 - (b) industrial lot;
 - (c) rural lot,and is constructed and maintained to a minimum standard in accordance with the specifications in Schedule 2.
- (3) For the purposes of the Act a dividing fence is a sufficient fence in a rural area if it is constructed on or near the boundary between two or more rural lots and is constructed and maintained to a minimum standard in accordance with the specifications in Schedule 3.

Part 3 - Fencing materials and requirements

3.1 Fences that do not require a building permit

Fences that do not require a building permit is dealt with in the *Building Regulations 2012*.

Clause 2 of Schedule 4 defines the kinds of work for which a building permit is not required:	
Item	Description of building work for which building permit is not required
4.	<p>Construction, erection, assembly or placement of a fence, screen or similar structure, other than a fence forming part of an enclosure for a private swimming pool, if —</p> <p>(a) the fence, screen or similar structure is constructed in accordance with a local law made under the Local Government Act 1995 section 9.60 that applies to the construction of the fence, screen or similar structure in the district in which the fence, screen or similar structure is, or is to be, located; or</p> <p>(b) the fence, screen or similar structure is, or is to be, located in a district in which there is no local law of a type referred to in paragraph (a) and the fence, screen or similar structure —</p> <p>(i) if constructed of masonry, is no more than 0.75 m in height; and</p> <p>(ii) if constructed of a material other than masonry, is no more than 1.8 m in height; and</p> <p>(iii) is not located in wind region C or D as defined in AS 1170.2.</p>

[Building Regulations 2012]

3.2 Prohibited fencing materials

- (1) In constructing a fence a person must not use —
- (a) broken glass or any other potentially harmful projections or material;
 - (b) asbestos fibre;
 - (c) material that is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;
 - (d) pre-used materials unless the material is painted or treated to the satisfaction of the local government.

3.3 Gates in boundary fences

A person shall not install a gate in a boundary fence which does not —

- (a) open into the lot; or
- (b) open by sliding parallel on the inside of the fence, which it forms part of, when closed,

without first obtaining the written approval of the local government.

3.4 Fencing materials requiring written approval

- (1) A person shall not construct any barbed wire fence, electrified fence or razor wire fence without first obtaining the written approval of the local government.
- (2) Any barbed wire fence, electrified fence or razor wire fence shall be constructed in accordance with the conditions of written approval issued by the local government.

3.5 Masonry fences

A person shall construct a masonry fence in accordance with AS3700 – Masonry Structures.

Part 4 - Offences and penalties

4.1 Offences and penalties

- (1) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable on conviction to a maximum penalty of \$5,000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Schedule 1 – Specifications for a sufficient fence on a residential lot

A sufficient fence is a fence constructed of corrugated fibre reinforced pressed cement and erected in accordance with manufacturer's specifications and which satisfies the following specifications:

- (a) a minimum in-ground depth of 25% of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600 millimetres;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement sheet;
- (c) the sheets to be lapped and capped with extruded snap-fit type capping in accordance with the manufacturers written instructions; and
- (d) the height of the fence to be 1.8 metres except with respect to a fence within the street setback area.

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Schedule 2 – Specifications for a sufficient fence on a commercial lot or an industrial lot

A sufficient fence is a chain link fabric fence erected in accordance with *AS1725.1-2010 Chain link fabric fencing* with the height of the fence to be 1.8 metres.

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Schedule 3 – Specifications for a sufficient fence on a rural lot

A sufficient fence is a fence of post and wire construction erected at a height of 1.2 metres and containing a minimum of 5 wires, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through and each wire connected to posts in all cases.

Dated dd of mm 2014.

The Common Seal of the City of Joondalup)
was affixed by authority of a resolution)
of the Council in the presence of:)

.....
TROY PICKARD
MAYOR

.....
GARRY HUNT
CHIEF EXECUTIVE OFFICER

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

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Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Under the powers conferred on it by the *Local Government Act 1995*, the *Dividing Fences Act 1961* and under all other powers enabling it, the Council of the City of Joondalup resolved on dd mm 2014 to make the following local law.

Part 1 – Preliminary

1.1 Citation

This local law may be cited as the *City of Joondalup Fencing Local Law 2014*.

1.2 Commencement

This local law commences on the 14th day after the day on which it is published in the *Government Gazette*.

1.3 Purpose and effect

- (1) The purpose of this local law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district.
- (2) The effect of this local law is to establish the minimum requirements for fencing within the district.

1.4 Application

This local law applies throughout the district.

1.5 Repeal

The following local laws are repealed:

- (1) The *City of Joondalup Private Property Local Law 1998* as published in the *Government Gazette* (No. 37) on 8 March 1999;
- (2) Clauses 5.2, 5.3, 5.5, 5.6 and 5.7 of the *City of Joondalup Amendment Local Law 2000* as published in the *Government Gazette* (No. 136) on 10 July 2000; and
- (3) Clause 7 of the *City of Joondalup Amendment Local Law 2001* as published in the *Government Gazette* (No. 7) on 15 January 2002.

1.6 Definitions

- (1) In this local law –

Act means the *Dividing Fences Act 1961*;

AS means an Australian Standard or Australian/New Zealand Standard published by Standards Australia;

barbed wire fence means a wire or strand of wires having small pieces of sharply pointed wire twisted around it at short intervals;

boundary fence means a fence, other than a dividing fence, that separates private land from land that is local government property or a thoroughfare;

building permit has the meaning given to it in the *Building Act 2011*;

commercial lot means a lot where a commercial use –

- (a) is or may be permitted under the district planning scheme; and
- (b) is or will be the predominant use of the lot;

district means the district of the local government;

district planning scheme means a local planning scheme of the local government made under the *Planning and Development Act 2005*;

dividing fence has the meaning given to it in the Act;

electrified fence means a fence carrying or designed to carry an electric charge;

fence means any structure, not including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

height in relation to a fence means the vertical distance between –

- (a) the top of the fence at any point; and
- (a) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

industrial lot means a lot where an industrial use –

- (a) is or may be permitted under the district planning scheme; and
- (b) is or will be the predominant use of the lot;

local government means the City of Joondalup;

local government property has the meaning given to it in the *Local Government Act 1995*;

lot has the meaning given to it in the *Planning and Development Act 2005*;

primary street means the sole or principal thoroughfare that provides access to the major entry (front door) to the dwelling;

razor wire fence means a coiled strong wire with pieces of sharp cutting edges set across it at close intervals;

residential lot means a lot where a residential use –

- (a) is or may be permitted under the district planning scheme; and
- (b) is or will be the predominant use of the lot;

retaining wall means any structure which prevents the movement of soil in order to allow ground levels of different elevations to exist adjacent to one another;

rural lot means a lot where a rural use –

- (a) is or may be permitted under the district planning scheme; and
- (b) is or will be the predominant use of the lot;

Schedule means a Schedule to this local law;

street boundary means the boundary between the land comprising the primary street and the land that abuts thereon;

street setback means the horizontal distance between the street boundary and a building, measured at right angles (90 degrees) to the street boundary;

street setback area means the area between the street boundary and the street setback;

sufficient fence means a fence described in clause 2.1;

thoroughfare has the meaning give to it in the *Local Government Act 1995*, but does not include a private thoroughfare which is not under the management or control of the local government.

1.7 Relationship with other laws

- (1) In the event of any inconsistency between the provisions of a district planning scheme and the provisions of this local law, the provisions of the district planning scheme are to prevail.
- (2) Nothing in this local law affects the need for compliance, in respect of a fence, with –
 - (a) any relevant provisions of a district planning scheme; and
 - (b) any relevant provisions that apply if a building permit is required for that fence under the *Building Act 2011* or *Building Regulations 2012*.

Part 2 - Sufficient fences

2.1 Meaning of 'sufficient fence'

- (1) For the purposes of the Act a dividing fence is a sufficient fence in a residential area if it is constructed on or near the boundary between a residential lot and a –
 - (a) residential lot;
 - (b) commercial lot;
 - (c) industrial lot;
 - (d) rural lot,and is constructed and maintained to a minimum standard in accordance with the specifications in Schedule 1.
- (2) For the purposes of the Act a dividing fence is a sufficient fence in an industrial or commercial area if it is constructed on or near the boundary between a commercial lot or an industrial lot and a –
 - (a) commercial lot;

(b) industrial lot;

(c) rural lot,

and is constructed and maintained to a minimum standard in accordance with the specifications in Schedule 2.

- (3) For the purposes of the Act a dividing fence is a sufficient fence in a rural area if it is constructed on or near the boundary between two or more rural lots and is constructed and maintained to a minimum standard in accordance with the specifications in Schedule 3.

Part 3 - Fencing materials and requirements

3.1 Fences that do not require a building permit

Fences that do not require a building permit is dealt with in the *Building Regulations 2012*.

3.2 Prohibited fencing materials

- (1) In constructing a fence a person must not use –
- (a) broken glass or any other potentially harmful projections or material;
 - (b) asbestos fibre;
 - (c) material that is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;
 - (d) pre-used materials unless the material is painted or treated to the satisfaction of the local government.

3.3 Gates in boundary fences

A person shall not install a gate in a boundary fence which does not –

- (a) open into the lot; or
- (b) open by sliding parallel on the inside of the fence, which it forms part of, when closed,

without first obtaining the written approval of the local government.

3.4 Fencing materials requiring written approval

- (1) A person shall not construct any barbed wire fence, electrified fence or razor wire fence without first obtaining the written approval of the local government.
- (2) Any barbed wire fence, electrified fence or razor wire fence shall be constructed in accordance with the conditions of written approval issued by the local government.

3.5 Masonry fences

A person shall construct a masonry fence in accordance with AS3700 – Masonry Structures.

Part 4 - Offences and penalties

4.1 Offences and penalties

- (1) A person who fails to comply with or who contravenes any provision of this local law

commits an offence and is liable on conviction to a maximum penalty of \$5,000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Schedule 1 – Specifications for a sufficient fence on a residential lot

A sufficient fence is a fence constructed of corrugated fibre reinforced pressed cement and erected in accordance with manufacturer's specifications and which satisfies the following specifications:

- (a) a minimum in-ground depth of 25% of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600 millimetres;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement sheet;
- (c) the sheets to be lapped and capped with extruded snap-fit type capping in accordance with the manufacturers written instructions; and
- (d) the height of the fence to be 1.8 metres except with respect to a fence within the street setback area.

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

**Schedule 2 – Specifications for a sufficient fence on a commercial lot or
an industrial lot**

A sufficient fence is a chain link fabric fence erected in accordance with *AS1725.1-2010 Chain link fabric fencing* with the height of the fence to be 1.8 metres.

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Schedule 3 – Specifications for a sufficient fence on a rural lot

A sufficient fence is a fence of post and wire construction erected at a height of 1.2 metres and containing a minimum of 5 wires, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through and each wire connected to posts in all cases.

Dated dd of mm 2014.

The Common Seal of the City of Joondalup)
was affixed by authority of a resolution)
of the Council in the presence of:)

.....
TROY PICKARD
MAYOR

.....
GARRY HUNT
CHIEF EXECUTIVE OFFICER