

**SHIRE OF COOLGARDIE
FENCING LOCAL LAW**

Adopted 31 December 1996, as amended 12 March 2020

Local Laws Document Control		
Description	Fencing and Obstructions at Intersection Local Law.	
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LOCAL GOVERNMENT ACT
Shire of Coolgardie
FENCING LOCAL LAW

Under the powers of the Local Government Act 1995 and under all other powers enabling it, the Council of the Shire of Coolgardie resolved on: -

- 27 October 1994, to make this Local Law (formerly referred to as By-law)
- 12 November 2019 to amend this Local Law.

Clause 1: In these Local-laws unless the context otherwise requires-

***"Authorised person"** means a person so designated by the local government under section 96 of the Building Act 2011 to perform all or any of the functions conferred on an authorised person under this local law;*

***"District"** means the municipal district of the Shire of Coolgardie.*

***"Dangerous Fence"** means a fence declared by a authorised person to be in a dangerous condition by reason of any one or more of the following, namely; faulty design, location, construction, deterioration of materials, damage by termites, decay, damage by collision, changes in ground levels, or any other cause or causes.*

***"Fence"** means a fence abutting a road way or street or a fence on or near the boundary line of a lot and includes any free standing wall and any retaining wall.*

***"Industrial and Commercial Zone"** means any portion of the District that is classified or zoned industrial and commercial by a Local Planning Scheme or Local-Law for the time being in force.*

***"Residential Zone"** means any portion of the District that is classified or zoned Residential by a Local Planning Scheme or Local-Law for the time being in force.*

***"Dividing Fence"** means a fence that separates the land of different owners whether the fence is on the common boundary of the adjoining land or on a line other than the common boundary.*

***"Local government"** means the Shire of Coolgardie;*

***"Local planning scheme"** means a local planning scheme made by the local government under the Planning and Development Act 2005;*

Clause 2:

Subject to Clause 3

- a. A fence within a Residential Zone constructed in accordance with the specifications set out in the First Schedule hereto is hereby prescribed as a "sufficient fence" for the purpose of the Dividing Fences Act 1961 (as amended).

Dividing Fences Act 1961

Sufficient fence, in relation to a dividing fence or a boundary fence referred to in section 16, means —

- (a) any fence prescribed by a local law as a sufficient fence for the part of the local government district in which the dividing fence or boundary fence is, or is to be, erected; or
 - (b) any fence of the description and quality agreed upon by the parties concerned which does not fail to comply with any local law referred to in paragraph (a),
- or where no such local law or agreement is made, means —
- (c) any substantial fence that is ordinarily capable of resisting the trespass of cattle and sheep; or
 - (d) any fence determined to be a sufficient fence by the court pursuant to this Act;

First Schedule – Residential Zone

A sufficient fence shall be a free standing fibro cement fence having specifications as follows-

- i A height of 1500mm;***
- ii An in-ground depth of 25% of the total length of the sheet with a minimum in-ground length of 600mm;***
- iii The combined height and depth of the fence shall consist of a single continuous fibre reinforced cement sheet;***
- iv Fibre reinforced cement sheets are to be lapped and capped with extruded "snap-fit" type capping in accordance with the manufacturers' specifications.***

- b. A fence within an Industrial and Commercial Zone constructed in accordance with the specifications set out in the Second Schedule hereto is hereby prescribed as a "sufficient fence" for the purposes of the Dividing Fences Act 1961 (as amended).

Dividing Fences Act 1961

Sufficient fence, in relation to a dividing fence or a boundary fence referred to in section 16, means —

- (e) any fence prescribed by a local law as a sufficient fence for the part of the local government district in which the dividing fence or boundary fence is, or is to be, erected; or
 - (f) any fence of the description and quality agreed upon by the parties concerned which does not fail to comply with any local law referred to in paragraph (a),
- or where no such local law or agreement is made, means —
- (g) any substantial fence that is ordinarily capable of resisting the trespass of cattle and sheep; or
 - (h) any fence determined to be a sufficient fence by the court pursuant to this Act;

Schedule – Commercial and Industrial Zone

A sufficient fence shall consist of rail-less link or chain mesh of a height of 1800mm on top of which are three strands of barbed wire carrying the fence to a height of 2100mm supported by galvanised iron posts of a diameter of 50mm spaced at three (3) metre centres and sunk in the ground 600mm and encased in a concrete footing having a dimension of 160mm x 600mm.

Clause 3:

- a. Where a fence is erected on the boundary between land in a Residential Zone and land in some other zone then a "sufficient fence" for the purposes of the Dividing Fences Act 1961 (as amended) shall be prescribed as a "sufficient fence" for a Residential Zone.

Dividing Fences Act 1961

Sufficient fence, in relation to a dividing fence or a boundary fence referred to in section 16, means —

- (i) any fence prescribed by a local law as a sufficient fence for the part of the local government district in which the dividing fence or boundary fence is, or is to be, erected; or
- (j) any fence of the description and quality agreed upon by the parties concerned which does not fail to comply with any local law referred to in paragraph (a),

or where no such local law or agreement is made, means —

- (k) any substantial fence that is ordinarily capable of resisting the trespass of cattle and sheep; or
- (l) any fence determined to be a sufficient fence by the court pursuant to this Act;

- b. Where a fence is erected on a boundary line between land in differing zones neither of which is a Residential Zone the Local Government shall determine which schedule shall apply for the purposes of prescribing a "sufficient fence" for the purposes of the Dividing Fences Act 1961 (as amended).

Dividing Fences Act 1961

Sufficient fence, in relation to a dividing fence or a boundary fence referred to in section 16, means —

- (m) any fence prescribed by a local law as a sufficient fence for the part of the local government district in which the dividing fence or boundary fence is, or is to be, erected; or
- (n) any fence of the description and quality agreed upon by the parties concerned which does not fail to comply with any local law referred to in paragraph (a),

or where no such local law or agreement is made, means —

- (o) any substantial fence that is ordinarily capable of resisting the trespass of cattle and sheep; or
- (p) any fence determined to be a sufficient fence by the court pursuant to this Act;

Clause 4:

- a. No person shall construct a fence of second hand material within the townsites of Kambalda and Kambalda West under any circumstance, and in any other case without the written consent of the Local Government which consent the Local Government in its absolute discretion may refuse to grant or may grant upon such terms and conditions as it deems fit.
- b. No fence shall be constructed of sheet metal unless the fence to be erected is adequately capped.

Clause 5:

- a. Within a Residential Zone, subject to Clause 7 a front boundary fence not exceeding 1200mm in height may be constructed along the full width of the frontage of a lot.
- b. A fence within a Residential Zone in excess of 1200mm and not exceeding 1800mm in height may be constructed along the front boundary of a lot subject to-
 - i. approval by Local Government; and
 - ii. Clause 7 being complied with.
- c. A fence within a Residential Zone shall not, within 7.5 metres of the front boundary of the lot, exceed 1200mm in height, without the express approval of Local Government.
- d. The Local Government at its discretion may upon written application approve a fence other than those permitted by these Local-Laws.

Clause 6:

No person shall erect any structure in front of the building line in an Industrial, Commercial or Residential Zone other than a fence permitted by these Local-Laws without having first made written application to and obtained the written approval of the Local Government.

Clause 7:

No person shall erect or permit to be erected on any land owned or occupied by him any wall, fence, hedge, tree, shrub or other obstruction of a greater height than 750mm measured from the level of the footpath, road or right-of-way immediately adjoining the same within the area enclosed by the boundaries of the streets, roads, or rights-of-way and a line joining the points located at a distance of 6 metres measured horizontally along each street, or road or right-of-way boundary from the point of intersection of the streets, roads or rights-of-way or from the point of intersection of a prolongation of the said boundaries except that this Local-law shall not apply to intersections or junctions having the standard truncation of 8.5 metres or more.

Clause 8:

No person shall erect a dividing fence greater than 1800mm in height in a Residential Zone without having first made application to and obtained the written approval of the Local Government.

Clause 9:

- a. No person shall commence to erect or proceed with the erection of a retaining wall which is on a boundary line unless and until he has lodged with the Local Government two (2) copies of a plan and specifications thereof and in the case of a retaining wall exceeding 1000mm in height when required by the Local Government, engineering calculations in respect thereof and the Local Government has approved a copy of the plan and specifications and (where applicable) the calculations.
- b. No person shall erect or permit a dividing fence to act as a retaining wall without first having obtained Local Government permission.

Clause 10:

A fence wholly or partly of barbed wire complying with these Local-laws may only be erected-

- a. In any area that is used for rural purposes;
- b. In an Industrial and Commercial Zone if no barbed wire is used below a height of 1800mm from the ground; or
- c. In any other part of the Shire of Coolgardie with the written approval of the Local Government.

Clause 11:

No person shall erect or maintain a dangerous fence anywhere within the Shire.

Clause 12:

The use of metal spikes, broken glass or any other potentially dangerous material in or on any fence in the district is prohibited.

Clause 13:

The owner or occupier of land on which a fence is erected shall maintain the fence in good condition and in such a manner as to prevent it from becoming dilapidated, un-sightly or prejudicial to property in or to the inhabitants of the neighbourhood.

Clause 14:

The Local Government may give notice in writing to the owner or occupier of any land upon which there is a dangerous fence or a fence which is in the opinion of the authorised person in bad condition or repair, dilapidated, unsightly or prejudicial to property in or to the inhabitants of the neighbourhood or is contrary to the provisions of these Local-laws requiring such owner or occupier to repair, paint, or maintain such fence within the time stipulated in the notice or in that time give satisfactory reason why the notice should not be complied with or be given extra time in which to comply. Any person who fails to comply with the terms of any notice served under these Local-laws commits an offence.

Clause 15:

Where the owner or occupier of land fails to comply with a written notice given by the Local Government in accordance with Clause 14 of these Local-laws the Local Government may enter upon such land and carry out the works specified in the written notice and the costs and expenses incurred by the Local Government in so doing may be recovered from such owner or occupier in a Court of competent jurisdiction.

Clause 16:

Any person who commits a breach of these By-laws commits an offence and shall on conviction be liable to-

- i. a maximum penalty of \$5000, and
- ii. in addition, a maximum daily penalty of \$500 for each day during which the offence occurs.