

This is not the official version of the local law published in *Government Gazette* (No. 12) on 14 January 2015.

This version of the local law contains the provisions of relevant legislation or guiding information that have been reproduced in a boxed format as notes.

The purpose of reproducing these provisions is to assist the reader by giving a fuller picture or related legislative provisions.

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Local Government Act 1995

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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 18 November 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The following local laws are repealed: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 published by Standards Australia, as amended from time to time;

Note:

Australian Standards can be accessed online at the SAI Global website, at the following URL:

<http://infostore.saiglobal.com>

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.	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 — (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 (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 — (i) if constructed of masonry, is no more than 0.75 m in height; and (ii) if constructed of a material other than masonry, is no more than 1.8 m in height; and (iii) is not located in wind region C or D as defined in AS1170.2.

[*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 *AS3700-2011 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.

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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

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**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

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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 17 of December 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