

LOCAL GOVERNMENT ACT 1995

Shire of West Arthur

Fencing Local Law

In pursuance of the powers conferred upon it by the abovementioned Act and of all other powers enabling it, the Council of the abovementioned municipality hereby records having resolved on 18 August 1988, 26 August 1999 and 25 November 1999 to make the following local law.

- 1 Citation
 - 1.1 This local law applies to the whole district.

- 2 Interpretation
 - 2.1 In this local law unless the context otherwise requires –
 - “Building Surveyor” means a building surveyor appointed by the Shire of West Arthur.
 - “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.
 - “Fence” includes a free standing wall or retaining wall.
 - “Height” in relation to a fence means a distance between the top of a fence at any point and the ground immediately below that point.
 - “Industrial and Commercial Zone” means any portion of the Shire of West Arthur from time to time classified as an Industrial or Commercial zone, and any portion of the Shire which is unzoned and used for commercial purposes.
 - “Residential Zone” means any portion of the Shire of West Arthur from time to time classified as a Residential zone, and any portion of the Shire which is unzoned and used for residential purposes.
 - “Rural Zone” means any portion of the Shire of West Arthur from time to time classified as a Rural zone, and any portion of the Shire which is unzoned and used for Rural purposes.
 - “Dangerous” in relation to a fence means a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, by reason of it’s faulty design, location or construction, deterioration of constituent materials, damage by termites, change in ground levels, or any other cause whatsoever.
 - 2.2
 - (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 shall be that prescribed as a sufficient fence for a residential zone.
 - (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 purpose of prescribing a sufficient fence for the purpose of the Dividing Fences Act 1961.

- 3 Approval
 - 3.1 No person shall commence to erect, construct, reconstruct or alter, or erect, construct, reconstruct or alter any fence or any hood or pergola forming part of a fence –
 - (a) exceeding one metre in height abutting or within 7.6 metres of a street alignment; or
 - (b) exceeding 1.8 metres in height on the remainder of any lot boundary or adjacent thereto unless he has lodged with the local government two copies of plans and specifications of the proposed fence or hood or pergola forming part of the fence, or the proposed reconstruction or alteration and unless the Local Government has approved the said plans and specifications.
 - 3.2 Where land is located at the corner of two streets, a fence that intersects at such a corner shall not exceed 750mm in height for the first 6 metres of its length from the corner.

- 4 Fencing Materials
 - 4.1 Pre-used materials shall not be used in the construction of any fence unless approved by the local government.
 - 4.2 No person shall erect a fence constructed otherwise than of one or more of concrete, masonry, wrought iron, tubular steel, link steel mesh, timber, fibro cement or such other materials approved by the local government.
 - 4.3 No person shall use or cause to be used corrugated galvanised iron as a covering to any fence on properties developed and used for residential purposes.

- 4.4 No person shall erect a fence wholly or partly of barbed wire except in accordance with this clause. A fence may be erected wholly or partly of barbed wire –
- (a) in a rural zone if no barbed wire is used on the side of the fence facing a road;
 - (b) in an industrial and commercial zone if no barbed wire is used below a height of 1800mm from the ground.
 - (c) in any other part of the district of the Shire of West Arthur with the written approval of the local government which shall in any event only be given if no barbed wire is used below a height of 1800mm from the ground.

5 Fences in Residential Zones.

- 5.1 Subject to local law 4 of this local law, a fence constructed in the residential area in accordance with specifications set out in the First Schedule of this local law shall be a sufficient fence for the purpose of the Dividing Fences Act 1961 as amended.

6 Fences in Rural Zones

- 6.1 The owner or occupier of a fence on land within a rural zone may place or fix barbed wire thereon provided that where a fence to which such wire is fixed abuts a thoroughfare or other place open to the public, such wire shall be fixed to the side of the fence posts furthest from such thoroughfare or other place.

6.2 Within a rural zone a fence which is parallel to and within 7.5 metres of a thoroughfare be constructed to a height of not more than 1.5 metres without special permission of the local government.

6.3 A fence constructed in accordance with specifications set out in the second Schedule of this local law shall be sufficient fence for the purpose of the Dividing Fences Act 1961.

7 Fences in Commercial and Industrial Zones

7.1 A wire link steel mesh fence of not more than 1.8 metres in height may be erected on land within a business and industrial zone.

7.2 A fence constructed in accordance with specifications set out in the third schedule of this local law shall be sufficient fence for the purpose of the Dividing Fences Act 1961.

8 Maintenance of Fences.

8.1 The owner or the occupier of land on which a fence is erected shall maintain the fence in good condition and so as to prevent it from falling into disrepair or becoming dilapidated, neglected, ruinous, unsightly, dangerous or prejudicial to the amenity of the locality.

8.2 The Council may give notice in writing to the owner or the occupier of any land upon which is erected a fence which is dangerous, neglected, ruinous, in bad condition or repair, dilapidated, unsightly or prejudicial to the amenity of the locality or is contrary to the provisions of this local law, requiring such owner or occupier to modify, repair, paint or maintain the fence within the time stipulated within the notice.

8.3 Where the owner or occupier of land has been given notice under clause 8.2 hereof fails to comply therewith the Council may enter upon the land and carry out the work specified in the notice and recover the costs and expenses incurred by the Council in so doing from the owner in a Court of competent jurisdiction.

9 Penalty

9.1 Any person who constructs a fence, or permits a fence to be constructed, otherwise than in accordance with provisions of this local law, commits an offence and is liable, on conviction, to a maximum penalty of \$5000 and a further penalty of \$500 for each day the offence continues.

10 Modified Penalties

10.1 An offence against any provision of this Local Law is a prescribed offence for the purposes of section 9.16(1) of the *Local Government Act 1995*.

10.2 Unless otherwise specified, the amount of the modified penalty for an offence against any provision of this Local Law is \$100.

11 Form of Notices

For the purposes of this Local Law

- (a) the form of the infringement notice referred to in section 9.17 of the *Local Government Act 1995* is to be in or substantially in the form of Form 2 of Schedule 1 of the Local Government (Functions and General) Regulations 1996;

- (b) The form of the notice referred to in section 9.20 of the *Local Government Act 1995* is to be in or substantially in the form of Form 3 in Schedule 1 of the Local Government (Functions and General) Regulations 1996.

First Schedule – Residential Zones

- (1) Corrugated fibro reinforced cement sheet fencing shall have specifications as follows -
- (a) minimum above ground height to be 1.5m;
 - (b) a minimum in-ground length of 25 percent of the total length of the sheet with a minimum in-ground length of 450mm;
 - (c) the total height plus depth of the fence shall consist of a single continuous fibro reinforced cement sheet;
 - (d) fibro reinforced cement sheets are to be lapped and capped with extruded “snap-fit” type capping in accordance with the manufacturers’ specifications.
- (2) Timber fences to be erected as follows: -
- (a) First posts and rear corner posts shall not be less than 125mm x 125mm.
 - (b) Intermediate posts shall not be less than 125mm x 75mm
 - (c) All posts shall be spaced at not more than 2750mm centres.
 - (d) All posts shall be sunk at least 460mm into the ground.
 - (e) Corner posts shall be strutted two ways with 100mm x 50mm or 75mm x 50mm struts.
 - (f) Posts must have at least two rows of rails.
 - (g) Rails shall be not less than 75mm x 50mm double nailed to each post and each rail shall span two bays of fencing with joints staggered.
 - (h) The fence may be covered with a material approved by the Building Surveyor.
 - (i) All pickets or palings shall be placed not more than 75mm apart and shall be double nailed to each rail.
 - (j) Steel first, intermediate and corner posts may be used in lieu of timber with the written approval of the local government.
 - (k) Minimum above ground height to be 1.5m
- (3) Fences of link mesh construction shall have specifications as follows:
- (a) corner posts shall be placed at all changes in direction and are to be minimum 50mm nominal bore x 3.5mm; footings 225mm diameter x 600mm;
 - (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm spaced maximum 3.5m apart; footings 225mm diameter x 600mm;
 - (c) struts to be minimum 30mm nominal bore x 3.15mm, fitted at each gate and two each corner post;
 - (d) cables shall be affixed to the top, centre and bottom of all posts and shall consist of two or more 3.15mm wires twisted together;
 - (e) galvanised steel link mesh wire shall be not less than 1.5m in height and constructed of 50mm mesh 2.5mm galvanised steel wire and shall 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 galvanised steel link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.

Second Schedule – Rural Zones

A fence shall consist of standard iron star pickets; concrete; sawn, split or round wooden posts set not less than 450mm in the ground and not less than 1350mm out of the ground and spaced not more than 3500mm apart, or 1000mm for a prefabricated fence, with strainer posts set at all corners, gateways, and fence line angles. Each fence post shall be bored with not less than six 50mm staples, to be threaded with not less than six plain galvanised wires. Wire shall be wrapped around strainers and strained tight.

The following materials shall be used

- (a) Wire – shall not be less than 2.5mm diameter.
- (b) Posts to be standard iron star pickets or concrete or if of white gum, jarrah or other indigenous timber, or treated pine, be cut not less than 1800mm long by 100mm diameter at small end if round or 125mm x 60mm if split or sawn.
- (c) Strainer Posts –
 - (i). If cut from indigenous timber shall be not less than 1350mm above the ground and sunk in the ground a minimum of 750mm and shall be not less than 255mm in diameter at the small end.

- (ii). If of tubular steel shall be 50mm in diameter, not less than 1350mm above the ground, and sunk in the ground a minimum of 1000mm with the portion below ground encased in concrete having a minimum diameter of 300mm.

Third Schedule – Commercial and Industrial Zones

Fences constructed of corrugated fibro reinforced cement sheeting, timber or link mesh construction shall have specifications as set out in schedule 1, subclause (1), (2) and (3) respectively.

Dated this 18th day of August, 1988.

The Common Seal of the Shire of West Arthur was hereunto affixed by authority of a resolution of the Council in the presence of-

[L.S.]

K.M. McINERNEY, President.
G.S. WILKS, Shire Clerk

Recommended-

GORDON HILL, Minister for Local Government.

Approved by His Excellency the Governor in Executive Council on 5 February, 1991.

M.C. WAUCHOPE, Clerk of the Council
