

Western Australia
LOCAL GOVERNMENT ACT 1995



CITY OF BAYSWATER
FENCING AND FLOODLIGHTING
LOCAL LAW

Extract from Government Gazette (No. 120)

of 22 July 1997

Local Law review undertaken October 2007 – no amendments

Local Government Act 1995

CITY OF BAYSWATER

FENCING AND FLOODLIGHTING LOCAL LAW

In pursuance of the powers conferred on it by the abovementioned Act and of all other powers enabling it, the abovementioned local government hereby records having resolved on the 20th May 1997, to make and submit for confirmation by the Governor the following Local Laws, which resolution has effect under regulation 37(2) of the Local Government (Functions and General) Regulations 1996 as if it were a resolution under the abovementioned Act proposing to make a Local Law to the same effect.

PART I - PRELIMINARY

Citation

1. These Local Laws may be cited as the City of Bayswater Local Laws Relating to Fencing and Floodlighting.

Repeal

2. The City of Bayswater By-laws Relating to Fencing published in the Government Gazette of 1st March 1995 are hereby repealed.

Interpretation

3. In these Local Laws, unless the context requires otherwise:

“AS” means Australian Standard published by the Standards Association of Australia;

“Building Surveyor” means a Principal Building Surveyor of the City;

“Chief Executive Officer” means the Chief Executive Officer of the City.

“City” means the City of Bayswater;

“Commercial Area” means an area zoned “Hotel”, “Business,” “Office”, “Showroom/Warehouse” or “Service Station” under the Town Planning Scheme;

“Local Government” means the local government of the City;

“dangerous” in relation to any fence means:

- (a) an electrified fence other than a fence in respect of which a licence under Part 3 of these Local Laws has been issued and is current;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with these Local Laws;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material;
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, by reason of its faulty design, location or construction, deterioration of materials, damage by termites, decay, changes in ground levels or any other cause whatsoever.

“District” means the district of the City of Bayswater;

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

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

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

“frontage” means the boundary line between a lot and a street upon which that lot abuts;

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

- (a) the top of the fence at any point; and
- (b) the natural 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 Area” means an area zoned “Light Industry” or “General Industry” under the Town Planning Scheme;

“lot” has the meaning given to it in and for the purposes of the Town Planning & Development Act, 1928;

“Residential Area” means an area which is zoned:

- (a) “Residential”;
- (b) “Medium Density Residential”; or
- (c) “Special Purpose” where the predominant use of that land is of a residential nature;

under the Town Planning Scheme; and

(d) any land used principally 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;

“Schedule” means a Schedule to these Local Laws;

“setback area” means that portion of a lot situated between the street alignment and a line drawn parallel to that street alignment between which a building cannot be erected as prescribed by the Town Planning Scheme;

“Town Planning Scheme” means the City of Bayswater Town Planning Scheme No. 21 District Planning Scheme as amended or substituted from time to time;

PART 2 - GENERAL

Dividing Fences in a Residential Area

4. (1) A person shall not, without the written consent of the Building Surveyor, erect, commence to erect or maintain on a lot in a Residential Area:
- (a) a dividing fence higher than 1800mm behind the front setback area; or
 - (b) a fence higher than 750mm in the front setback area.
- (2) A person shall not erect, commence to erect or maintain a fence higher than 750mm in the front setback area of a lot in a Residential Area unless the fence on each side of the driveway into a lot across the front boundary is angled into the lot for a distance of not less than 1500mm along the frontage to a distance of not less than 1500mm from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a road, street or right-of-way.
- (3) The provisions of sub-clause (2) of this clause shall not apply to a fence:
- (a) of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a road, street or right of way; or
 - (b) that does not adjoin an existing footpath or an area where the Local Government proposes to construct a footpath.

Dividing Fences in a Commercial Area or an Industrial Area

5. A person shall not, without the written consent of the Building Surveyor, erect, commence to erect or maintain a fence in a Commercial Area or an Industrial Area other than in accordance with the specifications contained in the 2nd Schedule.

Fences Within Front Setback Areas

6. (1) A person shall not, without the written consent of the Building Surveyor, erect, commence to erect or maintain a fence higher than 1800mm within the front setback area of a lot within the District, except where these Local Laws otherwise allow.
- (2) A person shall not, without the written consent of the Building Surveyor erect, commence to erect or maintain a free-standing fence constructed of corrugated fibre reinforced cement sheeting within the front set-back area of a lot within the District.

Fencing Materials

7. A person shall not construct a fence in a Residential Area, a Commercial Area or an Industrial Area from other than brick, stone, concrete, wrought iron, tubular steel, link mesh, timber, plastic coated or galvanised link mesh, corrugated fibre reinforced cement sheeting, colour bonded metal or a material approved by the Building Surveyor.

Retaining Wall

8. (1) A person shall not, without the written consent of the Building Surveyor, erect, commence to erect or maintain a retaining wall.
- (2) An application for consent to erect a retaining wall shall:
 - (a) be made in writing to the Local Government; and
 - (b) where the proposed retaining wall exceeds 600mm in height, be accompanied by plans and specifications for the proposed retaining wall together with a certificate from a qualified, practising structural engineer certifying that the proposed retaining wall will be structurally adequate.
- (3) A retaining wall proposed to retain fill in excess of 1500mm above natural ground level shall not be constructed less than 2400mm from the nearest lot boundary unless that wall forms part of the external walls of a building.

Barbed Wire Fences

9. A person shall not erect, commence to erect or maintain a fence constructed wholly or partly of barbed wire except in an Industrial Area or a Commercial Area and then only if:
 - (a) the barbed wire is 2000mm or more above ground level; and
 - (b) the fence does not abut a Residential Area.

Tennis Court Fencing and Floodlighting

10. (1) A person shall not erect, commence to erect or maintain a fence around or partly around a tennis court unless:
- (a) the fence is not more than 3600mm in height;
 - (b) the whole of the fence is at least 900mm from the boundary of the land on which the tennis court is located and any adjoining land unless the owner of that adjoining land has first been given the opportunity to make submissions to the Local Government on the location of the fence;
 - (c) the corner posts are at least 50mm nominal bore galvanised 3.6mm gauge pipe set into 750mm x 230mm diameter concrete bases;
 - (d) the intermediate fence posts are of not less than 40mm nominal bore galvanised 3.2mm gauge pipe set into 600mm x 230mm diameter concrete bases and are not more than 3000mm apart;
 - (e) corner stays are at least 40mm nominal bore galvanised 3.2mm gauge pipe concreted into the ground and secured to corner posts by clamp on fittings;
 - (f) the chain link fabric mesh is equal to or less than 2600mm high and is 50mm x 2.5mm poly-vinyl chloride coated or galvanised;
 - (g) the supporting cables are double twisted 3.15mm poly-vinyl chloride coated wire and are fixed 75mm from the top and bottom of the mesh and 1530mm from the ground; and
 - (h) a written application to erect the fence has been made to the Local Government in writing and has been approved by the Building Surveyor in writing.

Floodlighting

11. (1) A person shall not erect, commence to erect, maintain or use floodlights or other exterior lights for illumination of a tennis court unless:
- (a) the owner of each lot adjoining the land upon which the tennis court is located is given the opportunity to make submissions to the Local Government on the erection of the floodlights or other exterior lights;
 - (b) light fittings are not more than 3600mm above natural ground level;
 - (c) light fittings used are of a type mounted horizontally or of a type approved by the Building Surveyor;
 - (d) the level of light from the floodlights or external lights on any lot or street adjoining the land on which the tennis court is located at a distance of greater than 1000mm from the boundary of that land does not exceed 10 lumens;

- (e) where required by the Building Surveyor written approval to the erection of the lighting has been obtained from the Main Roads Department of Western Australia;
- (f) a written application to erect the lighting has been made to the Local Government and has been approved by the Building Surveyor in writing.

Maintenance of Fences

12. An owner or occupier of land 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.

General Discretion of the Local Government

13. (1) The Local Government may consent to the erection or maintenance of a fence which does not comply with the requirements of these Local Laws.
- (2) In determining whether to grant its consent to the erection or maintenance of any 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 safe or convenient use of any other land;
 - (b) the safety or convenience of any person;
 - (c) the orderly and proper planning of the locality; or
 - (d) the amenity of the locality.

PART 3 - ELECTRIFIED AND RAZOR WIRE FENCES

Requirement for a Licence

14. (1) A person shall not:
- (a) erect, commence to erect or maintain:-
 - (i) an electrified fence; or
 - (ii) a fence constructed wholly or partly of razor wire,without first having applied for and the Local Government having issued or transferred to that person under this Part a licence to erect or maintain that fence; or
 - (b) alter an electrified fence without first obtaining the written consent of the Building Surveyor.

- (2) A licence for an electrified fence shall not be issued:
 - (a) in respect of premises within or abutting a Residential Area;
 - (b) unless the fence complies with AS/NZS 3016:1994;
 - (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations of the premises where it is erected.
- (3) A licence for a fence constructed wholly or partly of razor wire shall not be issued:-
 - (a) in respect of a fence erected within 3m of the boundary of a lot;
 - (b) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above ground level.

Licence Application

- 15. (1) An application for a licence to erect or maintain an electrified fence or a fence constructed wholly or partly of razor wire shall be:
 - (a) in writing addressed to the Chief Executive Officer;
 - (b) made either:
 - (i) by the owner of the land on which the fence is to be erected; or
 - (ii) with the written consent of the owner of the land on which the fence is to be erected, by the occupier of that land;
 - (c) accompanied by:
 - (i) a plan clearly identifying both the land and the location on that land where the fence is to be erected;
 - (ii) plans and specifications of the fence;
 - (iii) any other information that the Local Government may require to enable the application to be determined;
 - (iv) proof that all necessary approvals for the erection of the fence have been obtained from other statutory authorities; and
 - (v) a licence fee of \$100.00.

- (2) Upon receipt of an application for a licence, the Local Government may:
- (a) grant the application subject to such conditions as it thinks fit;
 - (b) require the applicant to forward to it such further information as the Local Government may require to enable the application to be determined; or
 - (c) refuse to grant the application.
- (3) A licence granted by the Local Government shall:
- (a) be in the appropriate form of the 3rd Schedule;
 - (b) be signed by the Chief Executive Officer; and
 - (c) in respect of either an electrified fence or a fence constructed wholly or partly of razor wire, be issued upon and subject to the following conditions, namely that the licence holder shall:
 - (i) display the licence in a prominent position on the land on which the fence has been erected;
 - (ii) upon request, produce the licence to a Building Surveyor;
 - (iii) within 14 days of any change in the ownership or occupation of the land in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes; and
 - (iv) obtain the written consent of the Building Surveyor prior to the commencement of any alteration, addition or other work relating to or effecting the fence.
 - (d) in respect of an electrified fence, be issued upon and subject to the following additional conditions, namely that the licence holder shall:
 - (i) comply with AS/NZS 3016:1994;
 - (ii) following erection of the fence, lodge with Western Power a certificate of installation from a qualified electrician; and
 - (iii) comply with any requirements of Western Power regarding the erection of the fence.

Transfer of a Licence

16. (1) An application for the transfer of a licence shall be:
- (a) made either:
 - (i) by the owner of the land on which the fence is erected; or
 - (ii) with the written consent of the owner of the land on which the fence is erected, by the occupier of that land;
 - (b) made in writing addressed to the Chief Executive Officer;
 - (c) signed by the proposed transferee of the licence and the holder of the licence; and
 - (d) forwarded to the Chief Executive Officer together with a licence transfer fee of \$50.00.
- (2) Upon receipt of an application for the transfer of a licence, the Local Government may:
- (a) grant the application subject to such conditions as it thinks fit;
 - (b) require the applicant to forward to it such further information as the Local Government may require to enable the application to be determined; or
 - (c) refuse to grant the application.
- (3) Where the Local Government grants an application for the transfer of a licence:
- (a) an endorsement to that effect, signed by the Chief Executive Officer, shall be completed on the licence in accordance with the appropriate form in the 3rd Schedule; and
 - (b) the licence shall be subject to the conditions set out in clause 15(3)(c) and 15(3)(d) of these Local Laws.

Cancellation of a Licence

17. The Local Government may, at any time during the currency of a licence, cancel the licence if:
- (a) the licence holder has ceased to be the owner or occupier of the land or premises upon which the fence is erected;
 - (b) the licence holder has procured the issue of the licence by means of any false or misleading statement or conduct;
 - (c) for safety, environmental, town planning or other reasons the Local Government considers that the fence should not be retained;

- (d) in respect of an electrified fence, the Local Government considers that the fence does not comply with AS/NZS 3016:1994; or
- (e) the Local Government considers that the holder of the licence has, during the currency of the licence, by reason of his or her conduct or on any other grounds become unsuitable or has ceased to be a fit and proper person to hold a licence.

PART 4 - MISCELLANEOUS

Sufficient Fences

18. (1) In this clause “sufficient fence” means a sufficient fence for the purposes of the Dividing Fences Act, 1961.
- (2) Subject to sub-clause (3), a sufficient fence:
- (a) in a Residential Area is a dividing fence constructed and maintained in accordance with the specifications and requirements set out in the 1st Schedule;
 - (b) in a Commercial Area and an Industrial Area is a dividing fence constructed and maintained in accordance with the specifications and requirements set out in the 2nd Schedule.
- (3) Where a fence is erected on or near the boundary between:
- (a) a Residential Area and an Industrial Area, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements set out in the 1st Schedule;
 - (b) a Residential Area and a Commercial Area, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements set out in the 2nd Schedule;
 - (c) a Commercial Area and an Industrial Area, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements set out in either the 1st or 2nd Schedule as determined by the Local Government.

Offences and Notices

19. (1) The Local Government may give notice in writing to the owner or occupier of any land upon which a fence is being erected, has been erected or is being maintained otherwise than in accordance with or in breach of these Local Laws.
- (2) Any such notice shall specify the manner in which the fence is otherwise than in accordance with or in breach of the Local Laws and shall require the owner or occupier of the land to bring the fence into compliance with the Local Laws within 28 days from the date of service of the notice.

- (3) Should the owner or occupier of land upon whom a notice under these Local Laws is served not comply with the requisitions contained in that notice, the Local Government may, by its agents, servants or workmen, enter upon the land to which the notice relates and carry out the requisitions contained in the notice at the expense of the owner or occupier of the land and may recover the expense of so doing from the owner or occupier of the land in a Court of competent jurisdiction.
- (4) A person who fails to comply with a notice given pursuant to these Local Laws commits an offence and is liable upon conviction to a penalty of \$500.00 together with a daily penalty of \$50.00 for each day during which the offence continues.
- (5) A person who fails to comply with or contravenes a provision of these Local Laws commits an offence and is liable to a penalty of \$500.00 and a daily penalty of \$50.00 for each day during which the offence continues.

1st Schedule

**SPECIFICATIONS FOR A SUFFICIENT FENCE
IN A RESIDENTIAL AREA**

Each of the following is a “sufficient fence” in a Residential Area:

- A. a picket timber fence which satisfies the following specifications:
- (a) corner posts to be 125mm x 125mm x 2400mm and intermediate posts to be 125mm x 75mm x 2400mm spaced at 2400mm centres;
 - (b) corner posts to be strutted two ways with 100mm x 50mm x 450mm sole plates and 75mm x 50mm struts;
 - (c) intermediate posts to be doubled yankee strutted with 150mm x 25mm x 450mm struts;
 - (d) all posts to have tops with a 60mm weather cut and to be sunk at least 600mm into the ground;
 - (e) rails to be 75mm x 50mm with each rail spanning two bays of fencing double railed or bolted to each post with joints staggered;
 - (f) the fence to be covered with 75mm x 20mm sawn pickets, 1800mm in height placed 75mm apart and doubled nailed to each rail; and
 - (g) the height of the fence to be 1800mm; and
- B. 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 1800mm.
- C. For a fence constructed of brick, stone or concrete, the minimum specifications are:
- (a) footings of minimum 225mm x 150mm concrete 15MPA or 300mm x 175mm brick laid in cement mortar;
 - (b) fences to be offset a minimum of 200mm at maximum 3000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3000mm centres;

- (c) provide expansion joints in accordance with the manufacturers written instructions; and
- (d) the height of the fence to be 1800mm.

D. For a composite fence the minimum specifications for brick construction are:

- (a) brick piers of minimum 230mm x 230mm at 1800mm centres bonded to a minimum height base wall of 514mm;
- (b) the pier shall be reinforced with one R10 galvanised starting rod 1500mm high with a 250mm horizontal leg bedded into a 500mm x 200mm concrete footing and set 65mm above the base of the footing. The top of the footing shall be 1 course (85mm) below ground level;
- (c) the minimum ultimate strength of brickwork shall be 20MPA. Mortar shall be 1 cement 1 lime 6 sand mix;
- (d) the ground under the footings is to be compacted to 6 blows per 300mm and checked with a standard falling weight penetrometer;
- (e) control joints in brickwork shall be provided with double piers at a maximum of 6 metre centres;
- (f) alternatively brick piers 230mm x 350mm at 2700mm centre bonded to the base wall may be provided. The piers shall be reinforced with two R10 galvanised starting rods as previously specified;
- (g) fences constructed of stone or concrete shall be designed by a structural engineer.

2nd Schedule

**SPECIFICATIONS FOR A SUFFICIENT FENCE IN A
COMMERCIAL AREA AND INDUSTRIAL ZONES**

- A. The following is a “sufficient fence” in an Industrial Zone:
1. a fence constructed of galvanised or PVC coated:
 - (a) rail-less link;
 - (b) chain; or
 - (c) steel mesh;
 2. the rail-less link, chain or mesh is to be to a height of 2000mm on top of which are to be three stands of barbed wire carrying the fence to a height of 2400mm;
 3. a fence of link mesh construction the minimum specifications are:
 - (a) corner posts to be minimum 50mm normal bore x 3.5mm; footings 225mm diameter x 900mm;
 - (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5m centres; footings 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 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 link mesh wire shall be 2000mm in height and constructed of 50mm mesh 2.5mm galvanised iron 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 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.
- B. For a fence of fibre reinforced cement sheet construction the minimum specifications are as per Schedule 1B.
- C. Subject to the written approval of the Building Surveyor, painted, galvanised steel or aluminium sheeting may be used behind the building line to maximum 2400mm high when supported on posts and rails to the satisfaction of the Building Surveyor.
- D. For fences of timber, brick, stone or concrete construction the minimum specifications are those set out in Schedule 1.

3rd Schedule

Form 1

**LICENCE TO ERECT OR RETAIN AN ELECTRIFIED FENCE
IN ACCORDANCE WITH AS/NZS 3016:1994**

This is to certify that
of
is licensed, subject to the conditions set out below, to erect and/or* retain and/the* electrified fence on
.....

(*Delete whichever is not applicable)

.....
.....
..... (address)
from19 and until this licence is transferred or cancelled.

Dated this day of 19

.....
Chief Executive Officer
City of Bayswater

This licence is issued upon and subject to the following conditions, namely that the holder of the licence shall:

1. Display the licence in a prominent position on the land or premises on which the electrified fence has been erected.
2. Upon the request of a Building Surveyor produce to him or her the licence.
3. Within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes.
4. Obtain the written consent of the Local Government prior to the commencement of any alteration, addition or other work relating to or affecting the electrified fence.
5. Comply with AS/NZS 3016:1994.
6. Following erection of the fence, lodge with Western Power a certificate of installation from a qualified electrician and comply with any requirements of Western Power regarding the erection of the fence.

.....
.....

Transfer Endorsement

This licence is transferred to
.....
of
.....
from and including the date of this endorsement.

Dated this day of 19

.....
Chief Executive Officer
City of Bayswater

Form 2

**LICENCE TO ERECT OR RETAIN A FENCE CONSTRUCTED WHOLLY
OR PARTIALLY OF RAZOR WIRE**

This is to certify that
of
is licensed, subject to the conditions set out below, to erect and/or* retain and/the* fence constructed
wholly or partially of razor wire on

.....
(*Delete whichever is not applicable)
.....

from19 (address) and until this licence is transferred or cancelled.

Dated this day of 19

.....
Chief Executive Officer
City of Bayswater

This licence is issued upon and subject to the following conditions, namely that the holder of the licence shall:

1. Display the licence in a prominent position on the land or premises on which the fence has been erected.
2. Upon the request of a Building Surveyor produce to him or her the licence.
3. Within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes.
4. Obtain the written consent of the Local Government prior to the commencement of any alteration, addition or other work relating to or affecting the fence.

.....
.....

Transfer Endorsement

This licence is transferred to
.....
of
.....
from and including the date of this endorsement.

Dated this day of 19

.....
Chief Executive Officer
City of Bayswater

The COMMON SEAL OF THE CITY OF BAYSWATER was affixed by authority of a resolution of the Council in the presence of:

.....
Mayor

.....
Chief Executive Officer