



City of Wanneroo

(30.04.02 Gazette 79; 16.08.02 Gazette 148; 09.04.09 Gazette 58; 15.01.10 Gazette 7)

(Note April 2010: When this local law is next amended or reviewed the referencing of Clause 10.1 in the Fifth Schedule is to be corrected.)

LOCAL GOVERNMENT ACT 1995

CITY OF WANNEROO

PRIVATE PROPERTY LOCAL LAW 2001

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¹ Disallowed by the Legislative Council, by prorogation of Parliament on 9 August 2002 – effective on and from 9 August 2002, by public notice published in the *Government Gazette* on 16 August 2002, No. 148, page 4215.

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LOCAL GOVERNMENT ACT 1995

CITY OF WANNEROO

PRIVATE PROPERTY LOCAL LAW 2001

PART 1 - PRELIMINARY

1.1 Title

This local law may be referred to as the *City of Wanneroo Private Property Local Law 2001*.

1.2 Commencement

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

1.3 Purpose and intent

(1) The purpose of this local law is to provide for the regulation, control and management of street numbering, fencing, tennis court floodlighting, vehicle wrecking, fibreglassing, spraypainting, private swimming pool inspections, sand drift, rubbish and litter control, driveways and vehicle crossovers generally on private property within the district so as to protect the amenity of the area.

(2) The effect of this local law is to establish the requirements for erecting street numbers, fencing and tennis court floodlighting, vehicle wrecking, fibreglassing, spraypainting, private swimming pool inspections, sand drift, rubbish and litter control, driveways and vehicle crossovers generally on private property within the district.

1.4 Repeal

The Shire of Wanneroo Private Property Local Law 1998 and clause 5.13 of the Shire of Wanneroo Health Local Law 1999 are repealed on the day this local law comes into operation.

1.5 Application of local law

This local law applies throughout the district.

1.6 Definitions

In this local law unless the context requires otherwise -

“Act” means the *Local Government Act 1995*;

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

“approval” means a favorable decision of an application which may be subject to conditions issued in writing by the local government which allows a proposal to proceed;

“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 an approval under Part 8 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 Wanneroo;

“disused” means in relation to any thing whatsoever that the thing –

- (a) is not in use for the purpose for which it was designed or appears to have been designed or intended; or
- (b) has been stored or left station on land in the district for more than 3 months.

“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 sub division of land to indicate the extent of that sub division and includes any special works or construction that identifies the entrance to that land;

“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 fence” means a fence in the front setback area;

“front setback area” means the area between the front boundary of a lot and an imaginary line running parallel to the front boundary and being the lesser of either 6m or where the land or adjoining properties are developed the lesser of the front building setback of that development within 3m of the common boundary on either of the adjoining properties;

“gradient” means the change in level represented as a percentage calculated by dividing the change in height (with an increase in height being positive and a decrease in height being negative) by the distance;

“height” in relation to a fence unless otherwise specified 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;

“litter” includes -

- (a) all kinds of rubbish, refuse, junk, garbage or scrap; and
- (b) any article or material abandoned or unwanted by the person or owner last in possession thereof;

“local government” means the City of Wanneroo;

“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;

“natural angle of repose” means the maximum gradient of an embankment measured as a ratio of height to length for the various soil types as measured and defined in clause 3.1.1 of the Building Code of Australia;

Footnote:

Clause 3.1.1 of the Building Code of Australia provides that the maximum natural angle of repose of sand with little moisture change is 1:2.

“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 a 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;

“open fence” means a fence which has continuous vertical gaps with a minimum gap width of 50 mm with the area of gaps being not less than one third of the fence face. The lower portion of an open fence may be closed up to a height of 1.2 m above a line between the height of the road verge at the property boundary and the floor level of the dwelling at the entrance;

“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;

“secondary frontage” means in the case of land that has a frontage and access to more than one road, unless the local government otherwise approves, the longer of the boundaries that separates the road reserve and a lot adjacent the road reserve;

“soil” includes sand, limestone, dust, rock, clay and mulch;

“special rural lot” means any lot situated within a special rural zone as classified by the town planning scheme;

“state of disrepair” in relation to wrecking and storage of vehicles, means a vehicle, part, or body of a vehicle or machinery that is disused and generally 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. The term includes a vehicle which is not licensed or cannot be legally used on the road by virtue of their condition;

“stored” in relation to disused motor vehicles includes storing, parking or keeping of disused motor vehicles;

“sufficient fence” means a fence described in clause 3.2;

“swimming pool” has the same meaning as in the *Building Regulations 1989*;

“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 machine, 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 - APPROVALS

2.1 Approval requirements

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

2.2 Planning and other approvals

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 an approval under this local law.

2.3 Application for approval

(1) A person seeking the issue of an approval shall make application on the form provided and used for the purpose and shall 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 and any other matter reasonably required by the local government;
- (c) the relevant fee; and
- (d) such other information as may be required by the local government to assist in determining the application.

(2) Where a building licence is also required the Local Government may provide that the form of the application is the form of an application for a building licence and in such instances the application shall be an application for both an approval under this local law and a building licence.

2.4 Determination of application

(1) The local government may refuse an application for an approval that does not comply with the requirements of clause 2.3, and in any event, shall refuse an application 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 an approval -

(a) refuse the application; or

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

2.5 Approval

(1) An approval shall be issued to the person whose name appears on the application and is the owner of the land or acting on behalf of the owner.

(2) The approval shall be issued in the form prescribed or provided by the local government for that purpose.

(3) Where the application is an application for both an approval and a building licence, the issue of a building licence by the local authority shall also be an approval under this local law.

2.6 Fees and charges

All 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

3.1 Dividing and boundary fences

Unless by agreement between the owners of adjoining properties, a person shall not -

(a) erect, construct or alter a dividing or boundary fence on a lot that does not satisfy the requirements of a sufficient or permissible fence; or

(b) fail to maintain a dividing or boundary fence in a condition which satisfies the requirements of a sufficient or permissible fence; or

(c) alter the level of the ground adjoining the boundary so as to change the height of a dividing or boundary fence unless the dividing or boundary fence is altered, re-erected, reconstructed or relocated so as to satisfy the requirements of a sufficient or permissible fence.

3.2 Sufficient fence

- (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.
- (4) Where any of the Schedules provides for permissible alternative fences, such fences may be constructed as an alternative to the respective sufficient fence.

3.3 Fences within front setback - approval requirement

- (1) Subject to clause 3.6 a person must not without the written approval of the local government, erect a fence within the front setback area of a residential lot in the district on a boundary , greater than one metre in height unless -
 - (a) the fence is an open fence; or
 - (b) the fence is a side boundary fence which uniformly slopes down to 1m in height over a maximum distance of 1.5m from the front set back area.
- (2) An open fence is a fence constructed and maintained in accordance with the specifications and requirements of the First Schedule.

3.4 Boundary fences on secondary frontages

Subject to clauses 3.3 and 3.5 a person shall not, without the written approval of the local government, erect a fence on any secondary frontage of a residential lot in the district unless the fence is a permissible alternative fence.

3.5 Sightlines at vehicle access points

(1) Fences adjacent to vehicle access points shall be truncated with the minimum dimension of the truncation being 1.5m or the fence reduced in height to no more than 0.75m.

(2) Sub-clause (1) does not apply -

- (a) to a fence which is an open fence that does not obscure the lines of vision of a motorist using the access point, or
- (b) where there is a distance of 3.5m between the fence and a carriageway or footpath.

3.6 General discretion of the local government

(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 matters 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.

3.7 Maintenance of fences

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

3.8 Fencing materials

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

3.9 Prohibited fencing materials

(1) A person shall not use broken glass in the construction of any fence.

(2) A person shall not use razor wire or other material with spiked or jagged projections in the construction of any fence unless the fence is a sufficient or permissible alternative fence.

3.10 Gates in fences

A person shall not erect or maintain a gate in a fence -

- (a) which does not open into the property;
- (b) which does not open by sliding parallel and on the inside of the boundary fence, of which it forms part when closed; or
- (c) abutting a road reserve, pedestrian access way, right of way, reserve or public property without approval unless the local government has otherwise approved access from the road reserve, pedestrian access way, right of way, reserve or public property.

3.11 Fences across rights of way, pedestrian access ways or road reserves

A person shall 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, pedestrian 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.

PART 4 - GRAFFITI

[Part 4 deleted; disallowed¹ in Gazette 16 August 2002 p. 4215.]

PART 5 - ESTATE FENCES

5.1 Estate fencing

- (1) No person shall construct or erect an estate entry statement or estate boundary fence without the approval of the local government.
- (2) Where an estate entry statement or estate boundary fence is constructed and contains an estate name, the entry statement or estate boundary fence shall also depict the suburb name in equal prominence.

5.2 Repairs to estate fencing

- (1) 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.

[(2) deleted; disallowed¹ in Gazette 16 August 2002 p. 4215.]

PART 6 - TENNIS COURT FENCING

6.1 Tennis court fencing

¹ Disallowed by the Legislative Council, by prorogation of Parliament on 9 August 2002 – effective on and from 9 August 2002, by public notice published in the *Government Gazette* on 16 August 2002, No. 148, page 4215.

- (1) This clause does not apply to a rural lot.
- (2) A person shall not erect a fence around or partly around a tennis court on a lot unless -
 - (a) the fence is less than 3.6m in height;
 - (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 fence is constructed of chain link fabric mesh and is 50mm x 2.5mm poly-vinyl chloride coated or galvanised, and is erected in accordance with the manufacturer's specification.

PART 7 - SECURITY AND FLOOD LIGHTING

7.1 Security and floodlights

- (1) A person shall 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 10 lux to spill into adjacent land by more than 1m or onto any vertical or horizontal surface of a building thereon; or
 - (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 20 degrees from vertically downward; or
 - (c) in the opinion of the local government because of the glare adversely affects the amenity of adjoining residents or is hazardous to pedestrians or road users.
- (2) Paragraphs (a) and (b) of subclause (1) do not apply to a commercial lot or an industrial lot.

7.2 Lighting exclusion

Clause 7.1 does not apply to any luminaires erected or maintained in accordance with any written law operating in the district.

7.3 Tennis court floodlighting

- (1) This clause does not apply to a rural lot.
- (2) In determining an application 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 paragraph (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.

7.4 Tennis court floodlight use and other restrictions

Unless otherwise approved, the owner or occupier of a residential lot which has a tennis court and floodlights thereon, shall not -

- (a) permit the floodlights to remain lit after 10 pm;
- (b) hire the court for playing tennis or any other activity for commercial gain.

PART 8 – ELECTRIFIED, BARBED AND RAZOR WIRE FENCES

8.1 Requirement for an approval

- (1) An owner or occupier of a lot shall not -
 - (a) have and use an electrified fence on that lot without first obtaining an approval under sub-clause (3); or
 - (b) have a fence constructed wholly or partly of barbed or razor wire on that lot without first obtaining an approval under sub clause (4).
- (2) Sub clause (1)(a) does not apply to a rural lot or a special rural lot where the keeping of stock is permitted and is used for that purpose.
- (3) An approval to have and use an electrified fence shall only be issued -
 - (a) in respect of a lot which does not abut a residential lot;
 - (b) where the fence complies with AS/NZS 3016:1994; and

- (c) where 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.
- (4) An approval to have a fence constructed wholly or partly of barbed or razor wire shall only be issued -
 - (a) if the fence is not closer than 3m from the boundary of the lot; or
 - (b) where any barbed or razor wire used in the construction of the fence is higher than 2m but not more than 2.4m above the ground level.
- (5) An application for an approval 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.

PART 9 - STREET NUMBERING

9.1 Assignment and standard of street numbers

- (1) 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.
- (2) The local government may establish a minimum standard for the display of street numbering in the district and may from time to time establish another standard instead of that which was previously established.

9.2 Street number to be displayed

- (1) The owner or occupier of land in the district shall paint or affix and maintain, to a standard not less than that established by the local government, the current street number assigned by the local government, in a conspicuous place on the front of the building, fence, letterbox 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 permitted.

9.3 Location of number not to be misleading

- (1) The owner or occupier of land shall not place or display a number or the street number of the land in such a way as to cause confusion or be misleading.
- (2) Where in the opinion of an authorised person, the location or display of a number or street number causes confusion or is misleading, a notice may be served on the owner or occupier of the land, specifying remedial action to be taken in accordance with clause 14.1.

PART 10 - VEHICLE STORAGE, WRECKING, FIBREGLASSING AND SPRAY PAINTING

10.1 Storage of disused motor vehicles

- (1) Only motor vehicles which are operational and registered for on-road use may be stored in the front set-back of properties.
- (2) Only one motor vehicle which is not operational and road registered may be stored on a residential lot, either within a garage, or in the fenced rear yard, and screened so as to not be visible from beyond the property boundaries.
- (3) The use of vehicle covers within the front set-back does not qualify as screening the vehicle from visibility beyond the property boundaries.
- (4) Any motor vehicle, whether road registered or not, which is longer than 10 metres, wider than 2.5 metres or higher than 3 metres, may not be stored at a residential lot.

10.2 Commercial wrecking of vehicles

An owner or occupier of land in the district shall not undertake, permit or suffer the commercial wrecking of vehicles on that land, except in accordance with a planning approval.

10.3 Wrecking and storage of vehicles generally

- (1) A person shall not -
 - (a) store any vehicle, part or body of a vehicle or machinery, in a state of disrepair or which is disused;
 - (b) allow to remain on any land or place a vehicle, part or body of a vehicle or machinery, in a state of disrepair or which is disused; or
 - (c) wreck, dismantle or break up any vehicle, part or body of a vehicle or machinery, unless -
 - (i) inside a building; or
 - (ii) in the case of a residential lot or a special rural lot, within an area enclosed by a fence or wall of not less than 1750mm 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.
- (2) A person shall not -
 - (a) wreck, dismantle or break up any vehicle, part or body of a vehicle or machinery; or
 - (b) keep in a state of disrepair more than one vehicle,

on a residential lot or a special rural lot without the prior written approval of the local government.

10.4 Disposal of vehicles, parts and machinery

(1) A person shall not dispose of, abandon or leave 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.

10.5 Fibreglassing and spraypainting

No person shall -

- (a) apply, use, manufacture or repair fibre reinforced plastics or resins; or
- (b) engage in spraypainting,

on any land other than an industrial lot except in accordance with the prior written approval of the local government.

PART 11 –PRIVATE SWIMMING POOLS

11.1 Private swimming pool inspections

Where the local government has authorised a swimming pool inspector to inspect private swimming pools in the district -

- (a) no person shall prevent the inspector from undertaking an inspection of a swimming pool on any property; and
- (b) where in the opinion of the inspector reasonable or safe access to the property is not possible because of locked gates, doors and the like or the presence of dogs the local government may by giving not less than 7 days' notice served on the occupier or owner require that the matter which prevented the inspection be removed or remedied to allow the inspection to be undertaken.

PART 12 –SAND DRIFT AND LITTER CONTROL

12.1 Wind blown sand

No person shall allow any land in the district to be kept in such a condition so as to allow soil or dust to be released or escape whether by means of wind, water or other causes, from that land onto adjoining or nearby land.

12.2 Soil to be retained

(1) Unless authorised by a building licence issued under the Local Government (Miscellaneous Provisions) Act 1960 or otherwise authorised by law, no person shall cause land in the district to be excavated, filled or kept in such a condition so as to -

- (a) undermine the land adjoining; or

- (b) to allow the fill to spill onto the land adjoining.
- (2) The adjoining land is to be taken to be affected by the events listed in sub clause (1) if –
- (a) the local government considers that the embankment resulting from the fill or excavation exceeds the natural angle of repose of the soil and consequently is likely to result in a change in level of the adjoining land, or
 - (b) the local government considers that a change in level has occurred.
- (3) Where a person causes a change in the level of land at the boundary, the land so excavated or filled shall be retained to the satisfaction of the local government.

12.3 Litter control on building sites

- (1) No person, owner or occupier shall allow or commence or continue the construction of any building works on any land, unless one of the following measures is implemented to prevent building litter or rubbish of any kind whatsoever from being blown from the construction site -
- (a) provide a receptacle of a capacity not less than 4m³ fitted with a lid on site for the disposal of all rubbish; or
 - (b) provide an equivalent wire enclosure on site with a lid for the disposal of all rubbish.
- (2) All rubbish which is capable of being wind blown and other offensive matter on the construction site is to be placed and kept in the receptacle.
- (3) The lid is to be kept secure on the receptacle at all times.

PART 13 - DRIVEWAYS AND DRAINAGE

13.1 Road verge and driveway gradients

- (1) No person shall on a road reserve adjacent to a residential lot construct or maintain a vehicle crossing to that property which rises up from the road surface edge, kerb or other treatment to the property boundary other than at a 2% gradient without the approval of the local government.
- (2) No person shall on a residential lot construct or maintain a driveway connecting a parking bay and a vehicle crossing at a gradient which exceeds that specified in the Fourth Schedule without the approval of the local government.

13.2 Property drainage

A person shall not allow storm water or other waste water to discharge onto -

- (a) an adjoining lot without the current approval of the adjoining owner; or

- (b) on to a road reserve or other property under the care control and management of the local government without the approval of the local government.

PART 14 -REMEDY FOR BREACH

14.1 Works on private property

(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.

(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.

PART 15 - PENALTIES

15.1 Offences

(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.

15.2 Infringement and infringement withdrawal notices

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*.

15.3 Offence description and modified penalty

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

15.4 Prosecution for offences

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.

15.5 Records to be kept

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

Footnotes -

1. *Appeal of decision*

When the local government makes a decision as to whether it will:

- (a) grant a person an approval under this local law; or*
- (b) renew, vary, or cancel an 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.

2. *Vehicle wrecking*

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

PART 16 - MISCELLANEOUS

16.1 Fees and charges

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.

First Schedule
CITY OF WANNEROO
Private Property Local Law 2001
SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

Subject to clause 5.2 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 between 1750mm to 1850mm.

Permissible alternative fences

The following fence types are permissible alternative fences to a sufficient fence on a residential lot -

1. A picket timber fence.
2. A fence constructed of brick, stone or concrete.
3. A composite fence.
4. A factory colored sheet metal post and paneled fence

Open fence

The following fence types are open fences permitted on a residential lot -

1. An open picket timber fence.
2. A fence comprising brick or stone piers with an open infill of timber, wrought iron or tube.
3. Other open fences approved by the local government.

Footnote: *Specifications for permissible alternative and open fences are detailed in the Fences Information Sheets obtained from local government offices.*

Second Schedule
CITY OF WANNEROO
Private Property Local Law 2001
**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT
AND AN INDUSTRIAL LOT**

Subject to clause 5.2 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 galvanized steel or aluminium sheeting.
- 3. Fences of timber, brick, stone or concrete.

Footnote: *Specifications for permissible alternative fences are detailed in the Fences Information Sheets obtained from local government offices.*

Third Schedule
CITY OF WANNEROO
Private Property Local Law 2001
**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT
AND SPECIAL RURAL LOT**

Subject to clause 5.2 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, these to be 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, and threaded through 12mm holes in posts to all fences;
- (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.

Permissible Alternative Fences

Permissible alternative fences apply to front fences only and are not intended for other boundary fences on a rural lot or special rural lot.

With approval from the local government, open front fences may be constructed of:

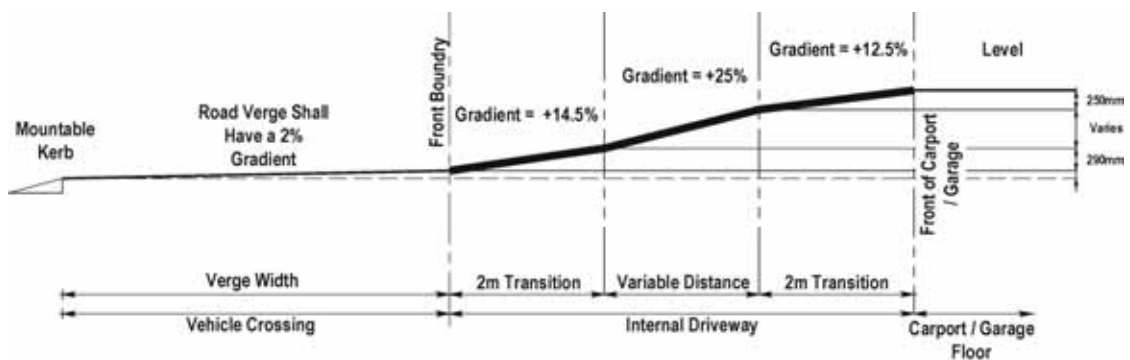
- (a) an open picket timber fence;
 - (b) brick, stone or concrete piers with an open infill of timber, wrought iron or tubular metal; or,
 - (c) such other open fencing as approved by the local government.
-

Fourth Schedule
CITY OF WANNEROO
Private Property Local Law 2001
MAXIMUM VEHICLE DRIVEWAY GRADIENTS

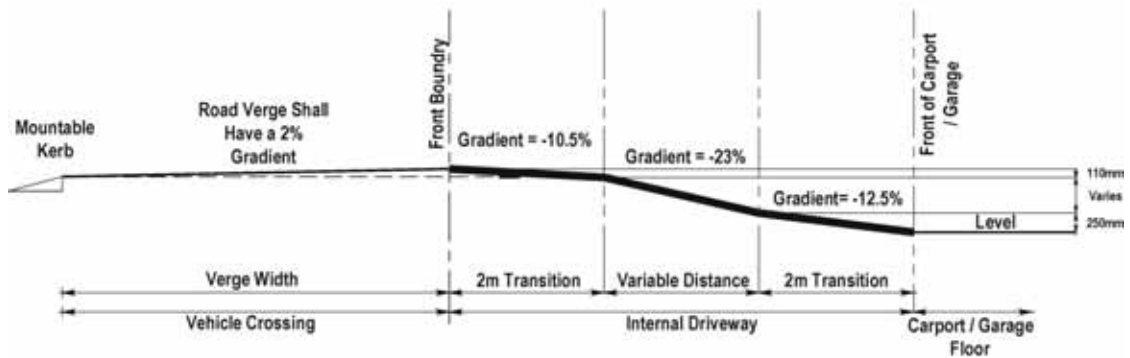
For the purpose of this Schedule

“Transition” means half the sum of the two adjacent gradients

“Gradient” means the height divided by the horizontal length of any slope expressed as a percentage, eg a slope of 1m change in height (upward) over 8m in length = 1 in 8 = +12.5%

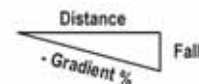
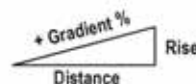


DRIVEWAY SLOPES UP FROM PROPERTY BOUNDARY



DRIVEWAY SLOPES DOWN FROM PROPERTY BOUNDARY

NOTE : Gradient = $\frac{\text{Rise / Fall}}{\text{Distance}} \times 100$ (%)



Fifth Schedule
CITY OF WANNEROO
Private Property Local Law 2001
OFFENCES AND MODIFIED PENALTIES

Clause No	Nature of Offence	Modified Penalty \$
Part 3 - Fencing General		
3.1(a)	Erecting a fence which is not a sufficient or permissible fence	150
3.1(b)	Failure to maintain a fence to satisfy requirements of sufficient or permissible fence	150
3.3	Erecting without approval a fence higher than 1 m within the front setback which is not an open fence	150
3.4	Erecting without approval a fence which is not a permissible alternative fence on a secondary frontage	150
3.5	Erecting a fence adjacent to an access point without a truncation	150
3.7	Failure to maintain a fence in good condition to prevent fence becoming dangerous, dilapidated, unsightly	150
3.8	Constructing a barbed wire or an electrified fence on rural property adjacent to a public place or reserve with barbed wire or an electrified fence not fixed to side of fence furthest from the public place or reserve	150
3.9	Using broken glass, barbed or razor wire, spiked or jagged projections in fence construction without approval	150
3.10(a)	Erecting or maintaining a gate in a fence not opening into the property	150
3.10(b)	Erecting or maintaining a gate in a fence not opening by sliding parallel and on inside of fence	150
3.10(c)	Erecting or maintaining a gate in a fence without approval	150
3.11	Erecting or maintaining a fence/obstruction temporarily or permanently across right of way, pedestrian access way or road without consent	150
Part 5 - Estate Fences		
5.1(2)	Failure to depict suburb name on estate boundary fence or estate entry statement	250
5.2(1)	Failure to repair/replace damaged estate boundary fence with same or similar materials as original fence	150
Part 6 - Tennis Court Fencing		
6.1(2)(a)	Erecting or repairing a tennis court fence higher than 3.6m	150
6.1(2)(b)	Erecting tennis court fence less than 900mm from boundary of adjoining lot without submission from adjoining owner	150
6.1(2)(c)	Not erecting or repairing chain link mesh fence in accordance with manufacturer's specification	150
Part 7 - Security and Flood Lighting		
7.1(1)(a)	Erecting or maintaining on private land a luminaire which spills 10 lux or more illumination into adjacent land/building	150
7.1(1)(b)	Erecting or maintaining security/floodlight higher than 3m or at greater angle than 20 degrees from the vertical down	150
7.1(1)(c)	Erecting or maintaining security/floodlight so glare affects amenity or is hazardous	150
7.4(a)	Permitting tennis court floodlights to remain lit after 10 pm	150

Clause No	Nature of Offence	Modified Penalty \$
7.4(b)	Hiring tennis court for tennis or other activity for commercial gain	150
Part 8 – Electrified, Barbed and Razor Wire Fences		
8.1(1)(a)	Having and using an electrified fence without a licence	150
8.1(1)(b)	Having and using a barbed or razor wire fence without a licence	150
Part 9 - Street Numbering		
9.2(1)	Failure to paint/affix/maintain current street number in a conspicuous place on front of building, fence, letterbox or gate fronting street	150
9.3(1)	Placing street number so as to cause confusion or be misleading	150
Part 10 - Vehicle Storage, Wrecking, Fibreglassing and Spray Painting		
10.1(b)	Parking a not operational and road registered vehicle on the front set-back without being properly screened	150
10.1(1)		
10.1(2)		
10.1(3)		
10.1(e)	Storing a vehicle longer than 10 metres, wider than 2.5 metres or higher than 3 metres on a residential lot	150
10.1(4)		
10.2	Undertaking or permitting commercial wrecking of vehicles without planning approval	150
10.3(1)	Storing, wrecking or allowing to remain on land any vehicle, part or body of vehicle or machinery in state of disrepair without it being screened from view	150
10.3(2)	Keeping on any residential or special rural lot more than one vehicle in state of disrepair	150
10.4(1)	Failure to dispose of vehicle, parts or body of vehicle or machinery at a place set aside or approved for that purpose	150
10.4(2)	Destroying portion of vehicle or machinery by fire so as to cause nuisance by smoke or odour	150
10.5	Using or manufacturing fibreglass or undertaking spray painting without approval	150
Part 11 - Private Swimming Pools		
11.1(a)	Not allowing inspector to inspect swimming pool	150
11.1(b)	Failure to remove impediment to reasonable and safe access	150
Part 12 - Sand Drift and Litter Control		
12.1	Failure to prevent soil or dust from being released or escaping	150
12.2(1)	Allowing fill or excavation to affect adjoining land	150
12.2(3)	Failure to retain soil	150
12.3(1)	Failure to provide a suitable litter receptacle or enclosure on a building site	250
12.3(2)	Failure to keep wind blown building rubbish in receptacle or enclosure	150
Part 13 - Driveways and Drainage		
13.1(1)	Constructing a vehicle crossing at a gradient exceeding maximum allowable	150
13.1(2)	Constructing a driveway at a gradient exceeding maximum allowable	150
13.2	Allowing storm water to discharge onto adjoining land or road reserve	150
	Other offences not specified	150