



LOCAL GOVERNMENT ACT 1960

CITY OF MELVILLE

BY-LAWS RELATING TO FENCES

IN pursuance of the powers conferred upon it by the abovementioned Act and of other powers enabling it, the Council of the above mentioned municipality hereby records having resolved on 8 February 1983 to repeal the whole of the "By-laws Relating to Fencing" as published in the *Government Gazette* No. 91 of 12 October 1966, and to make and submit for confirmation by the Governor the following "By-laws Relating to Fences".

By-law 1 is amended by the City of Melville's Amendments to the By-Laws relating to Fences Published in the Government Gazette on 31 December 1996, No. 206

Clause 1 is amended by the City of Melville's Amendments to the Fences Amendment Local Law 2011 Published in the Government Gazette on 29 March 2011, No. 51

Definition

1. In these By-laws unless the context otherwise requires, the following terms shall apply:

City means the City of Melville

Council is the Council of the Municipality of the City of Melville.

Dangerous, in relation to any fence, means a fence which is likely to collapse or fall, on 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.

Delegated officer means an officer delegated by the City who is qualified to perform the duties under this local law;"

District is the district of the Municipality of the City of Melville.

Dividing Fence is any wall, fence or similar such structure, irrespective of material content, located on or near a common boundary of adjoining land or on a line other than the common boundary, and includes a front fence to a property, but does not include any retaining wall structure.

Fence shall have the same meaning as a "Dividing Fence".

Height in relation to a fence shall be the height at any given point between that side which has the highest ground level, whether natural or retained, and the highest point of the fence immediately above that point.

Land shall have the same meaning as that contained in the Interpretations Act 1984.

Town Planning Scheme means City of Melville Community Planning Scheme No. 5 published in

the *Government Gazette* and amended from time to time or other Town Planning Schemes or Local Laws for the time being in force whereby the district of the Municipality of the City of Melville or any part thereof is classified or zoned.

2. (a) These By-laws apply to all fences within the District.

(b) These By-laws shall not be binding on the Council for Land vested in or under the care, control and management of the Council,
3. A fence constructed in accordance with the specifications and provisions contained in the First Schedule of these by-laws is hereby prescribed to be a "sufficient fence" for the purposes of the Dividing Fences Act 1961.

Clause 4 is amended by the City of Melville's Amendments to the By-Laws relating to Fences Published in the Government Gazette on 29 March 2011, No. 51

4. No person shall erect a fence otherwise than in accordance with the specifications and provisions contained in Schedule 1 unless the prior approval in writing of Council or a delegated officer in the form of a Building Licence is obtained where it is required to be obtained.

Clause 5 is amended by the City of Melville's Amendments to the By-Laws relating to Fences Published in the Government Gazette on 29 March 2011, No. 51

5. No person shall permit the storage of any materials whatsoever used in conjunction with the construction of any fence to remain on any public reserve, road reserve, public place or hand vested in or under the care, control and management of the Council unless with the prior written approval of the Council or a delegated officer.

Clause 6 is amended by the City of Melville's Amendments to the By-Laws relating to Fences Published in the Government Gazette on 29 March 2011, No. 51

6. No person shall erect, affix or permit to remain on any fence any barbed or other wire with sharp or jagged projections or any broken glass, metal or other material capable of inflicting injury to any person, animal or bird except with the prior written approval of the Council or a delegated officer provided that on Land zoned as "Industrial" under Council's Town Planning Scheme of the Municipality for the time being, barbed wire shall be permitted to be carried on posts angled at 45 degrees back into the Land with the bottom row of barbed wire set into the Land 150 mm from the face of the fence and shall not be nearer the ground surface than 2100 mm. The total height of such fence shall not exceed 2500 mm.

7. No person shall construct or repair a fence if that fence is to be constructed or repaired with other than new materials, except where the written approval of the Council has first been obtained.

Clause 8 is amended by the City of Melville's Amendments to the By-Laws relating to Fences Published in the Government Gazette on 15 March 1991, No. 43

Clause 8 is amended by the City of Melville's Amendments to the By-Laws relating to Fences Published in the Government Gazette on 31 December 1996, No. 206

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8. No person shall construct a fence with any material other than brick, concrete, masonry, wrought iron, tubular steel, link mesh, wire, timber, thatched brush-wood, fibro sheeting or any colorbond sheeting unless the written approval of the Council or a delegated officer has first been obtained.

Clause 9 is amended by the City of Melville's Amendments to the By-Laws relating to Fences Published in the Government Gazette on 29 March 2011, No. 51

9. (a) The owner of Land on which a fence is erected shall maintain the fence in good condition and in such manner as to prevent it from becoming dangerous or unsightly.
- (b) Where a fence separates adjoining private land each of the owners of the adjoining Land is liable to maintain the fence as required in subclause (a).

Clause 10 is amended by the City of Melville's Amendments to the By-Laws relating to Fences Published in the Government Gazette on 29 March 2011, No. 51

10. No person shall permit to remain on any hand of which he is the owner or occupier any fence, wall, hedge, tree or like structure or thing that is so situated in the opinion of the Council or a delegated officer as to constitute an obstruction of or interference with the vision of persons driving vehicles approaching, entering or passing through a section of a street that is at or nearby the intersection of that street with another street.

Clause 11 is amended by the City of Melville's Amendments to the By-Laws relating to Fences Published in the Government Gazette on 29 March 2011, No. 51

11. The Council or a delegated officer may give notice in writing to the owner or occupier of any land upon which there exists a fence that has not been maintained in accordance with the provisions of these by-laws requiring such owner or occupier to comply with such notice and within the imposed time constraints stipulated in the notice.

Clause 12 is amended by the City of Melville's Amendments to the By-Laws relating to Fences Published in the Government Gazette on 29 March 2011, No. 51

12. Any person who has been given a notice in accordance with clause 11 of these by-laws and who fails to comply with the notice commits an offence and the Council may enter upon the Land to fulfill the conditions of such notice and recover the expenses incurred in effecting such work from that person in a court of competent jurisdiction.

Clause 13 is amended by the City of Melville's Amendments to the By-Laws relating to Fences Published in the Government Gazette on 29 March 2011, No. 51

13. Work effected by the Council and action initiated to recover the expenses of such work pursuant to the provision of clause 12 shall not restrict the right of the Council to initiate action under these by-laws for a breach of any of the provisions of these by-laws.

Clause 14 is amended by the City of Melville's Amendments to the By-Laws relating to Fences Published in the Government Gazette on 29 March 2011, No. 51

14. Every person who by act or omission fails in any respect to observe, perform or comply with any provisions or requirements of any of these by-laws commits an offence against these by-laws and shall, on conviction, be liable:

- (a) To a penalty not exceeding five thousand dollars.
- (b) To a maximum daily penalty during continuation of the offence of five hundred dollars per day.

Clause 15 is included under the City of Melville's Amendments to the By-Laws relating to Fences Published in the Government Gazette on 31 December 1996, No. 206

Clause 15 is amended by the City of Melville's Amendments to the By-Laws relating to Fences Published in the Government Gazette on 29 March 2011, No. 51

15. Electrified Fences may be approved on commercial and industrial sites subject to the fencing being installed by a person holding a Security Installer's Licence in accordance with the Security and Related Activities (Control) Act 1996 to install electrified fences and the installation being in accordance with the current Australian Standard.

First Schedule is amended by the City of Melville's Amendments to the By-Laws relating to Fences Published in the Government Gazette on 15 March 1991, No. 43

First Schedule is amended by the City of Melville's Amendments to the By-Laws relating to Fences Published in the Government Gazette on 31 December 1996, No. 206

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First Schedule

- (a) A fence shall not exceed 1800mm in height unless the prior approval in writing of Council has been obtained.
- (b) A front fence shall not exceed 600 mm in height on an allotment which is situated at the intersection of two or more streets within a distance of 6 metres from the point of intersection of the lines obtained by producing the street alignments fronting that allotment or at a greater distance where an existing truncation of greater dimension exists.
- (c) A front fence exceeding 600mm in height adjoining a vehicle crossing which gives access to a property shall not be permitted within the truncation area, which may vary as follows-
 - i. Where a footpath is located on the front property line a 3.0 metre diagonal truncation is required.
 - ii. Where a footpath is located less than 1.8 metres from the front property line the truncation required may be reduced by the distance between the footpath and the front boundary.
 - iii. Where the footpath is at or more than 1.8 metres from the front property line no truncation is required.
 - iv. Where there is no footpath constructed-
 - (a) If the verge is equal to or more than 3.5 metres wide, no truncation is required.
 - (b) If the verge is less than 3.5 metres wide, a truncation equal to the difference between 3.5 metres and the verge width is required.
- (d) A sufficient fence for an area zoned "Residential" under the Town Planning Scheme of the district for the time being shall be defined as a 1800mm only high closed fence of wooden pickets, corrugated fibre cement sheeting, colourbond metal framed or similar material.
- (e) A sufficient fence for an area zoned "Industrial" under the Town Planning Scheme of the Municipality for the time being shall be defined as a wire mesh fence of rail-less link or chain wire mesh to a height of 2100mm with a steel wire top and bottom all supported by galvanised iron posts of a minimum diameter of, 30mm and sunk in the ground a minimum of 600mm encased in concrete having a minimum diameter of 150mm.

Second Schedule is deleted in its entirety by the City of Melville's Amendments to the By-Laws relating to Fences Published in the Government Gazette on 29 March 2011, No. 51

Dated this 25TH Day of July 1984.

The Common Seal of the City of Melville was hereunto affixed in the presence of-

[L.S.]

H. STICKLAND
Deputy Mayor

RALPH H FARDON
Chief Executive Officer

Recommended-

JEFF CARR
Minister for Local Government

Approved by His Excellency the Governor in Executive Council this 5th day of February, 1985.

R. G. COOPER
Clerk of the Council