

TOWN OF CLAREMONT

FENCING LOCAL LAW 2000

In pursuance of the powers conferred upon it by the Local Government Act 1995 and all of the powers enabling it, the Council of the Town of Claremont hereby records having resolved on 19 December 2000 to make the Fencing Local Law 2000

1. **Repeal**

The By-Laws of the Town of Claremont entitled By-Laws relating to Fencing published in the Government Gazette on 15 January 1987 as amended are repealed.

2. **Title**

This local law may be referred to as the Town of Claremont Fencing Local Law 2000.

3. **Definitions**

In this local law, unless the context require otherwise:

“building surveyor” means the building surveyor of the Town of Claremont or an officer exercising the powers of the building surveyor for the purpose of this local law;

“Business Area” means any land or building within the district that is classified in the town planning scheme of the Town of Claremont as or part of any of the following zones: Town Centre, Local Centre, Light Industry or Highway, or on or in which land or building there is carried on a use which under the District Scheme, can only lawfully be carried on in one or other of those zones or as a non conforming use;

“council” means the council of the Town of Claremont;

“dangerous fence” means a fence certified by the surveyor to be dangerous by reason of a faulty design or construction, or deterioration of constituent materials, damage by termites, change in ground level, or other cause subsequent to construction;

“district” means the district of the Town of Claremont;

“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 linen other than the common boundary;

“fence” means a fence other than a dividing fence abutting a road or a right of way or a fence on a boundary line of an allotment of land and includes a free standing wall or retaining wall or other structure used or functioning as a fence;

“height”:

(a) in relation to a front fence, means the distance measured from the highest point of the fence to the highest point of:

(i) the footpath; or

(ii) where no footpath exists, the natural ground level, from that point;

- (b) in relation to a fence other than a front fence, means the distance measured from the highest point of the fence to the highest point of the natural ground level below the point.

“local government” means the Town of Claremont;

“Residential Area” means any land within the district classified in the relevant town planning scheme as a Residential Zone, and includes any land used for residential purposes;

4. **Fences Requiring Approval**

- (1) A person shall not commence to erect, proceed with the erection, rebuild, reconstruct or alter, any fence, pergola or hood attached to any gateway or fence if it is situated within 6 metres of a street alignment and exceeds 1.2 metres in height unless and until the person has lodged with the local government 2 copies of the plan and specification of the proposed fence or the proposed rebuilding, reconstruction, or alteration and the council has approved a copy of the plan and specification.
- (2) The council may refuse to approve of an application for a fence if, in its opinion, the materials or the finishes are out of character with surrounding buildings, fences or other improvements.
- (3) Notwithstanding subclause (1), the building surveyor may approve the plan and specification of a front fence where:
 - (a) no point of the fence is higher than 1.8 metres above the footpath;
 - (b) more than 50% of the fence is wrought iron or open pickets which allow views from the dwelling to the street;
 - (c) the fence is articulated both vertically and horizontally; and
 - (d) the piers, including capping, do not exceed 2.1 metres in height.

5. **Fences over 1.8 Metres in Height**

A person shall not commence to erect, proceed with the erection, rebuild, reconstruct or alter, any fence exceeding 1.8 metres in height on the boundary of a lot unless and until the person has lodged with the local government 2 copies of the plan and specification of the proposed fence or the proposed rebuilding, reconstruction, or alteration, and the council has approved a copy of the plan and specification.

6. **Fences on Lots at Intersection**

- (1) Subject to subclause (2), a person shall not erect a fence exceeding 0.75 metres in height on any frontage of a lot which is situated at the intersection of 2 or more streets within a distance of 6 metres from the point of intersection of the lines obtained by producing the street alignments fronting the lot.
- (2) Council may permit a fence to a greater height than 0.75 metres after considering a report by the person holding the office of Director Technical services on the effect of doing so on the visibility of drivers of vehicles approaching the intersection,

7. **Front Fences**

- (1) A front boundary fence may be constructed to a height of 1.8 metres above natural ground level, subject to the fence only being constructed on the boundary for a maximum of 60% of the length of the boundary and the remaining 40% must be kept back from the boundary at least 110 millimetres.
- (2) The council may, if in its opinion the circumstances so warrant, grant special approval for a front fence to be in excess of 1.8 metres high.
- (3) Notwithstanding subclause (1), no person shall erect any wall or fence on any front boundary or on any side boundary between the front boundary and the building setback line exceeding 1.2 metres in height using solely or substantially the material known as fibrous cement.

8. **Fences on Lots with 2 Street Frontages**

- (1) For the purpose of this clause, the primary street frontage of a lot with 2 street frontages is taken to be the frontage with the lesser dimension, and the other frontage is taken to be the secondary street frontage.
- (2)
 - (a) Any part of a fence on a secondary street frontage located within 6 metres of the primary street frontage, shall comply with the requirements for fences on primary street frontages.
 - (b) The remainder of the fence may be constructed at an average height of 1.8 metres above the footpaths or verge and to a maximum height of 2.1 metres, so as to give privacy to the private open space within the lot, provided that:
 - (i) the fence is articulated both vertically and horizontally;
 - (ii) the length is limited to a maximum of 75% of the frontage where private open space fronts the street; and
 - (iii) some surveillance of the street is maintained from the dwelling.
- (3) The council may approve a fence on a secondary street frontage, which does not comply with paragraph (b) of subclause (2).

9. **Use of Barbed Wire etc**

A person shall not erect or affix or allow to remain on any fence bounding a lot owned or occupied by him in a Residential or Business Area any barbed or other wire with spiked or jagged projections nor shall any person erect or affix or allow to remain on any fence bounding a lot owned or occupied by him and classified in the relevant town planning scheme as Light Industry, any barbed or other wire with spiked or jagged projections unless the wire is carried on posts bent back into the lot from the boundary at an angle of 45 degrees, nor unless the bottom row of wire is set back 150 millimetres from the face of the fence and it not nearer than 2.1 metres to the ground.

10. **Use of Broken Glass**

- (1) A person shall not affix broken glass to or allow it to remain upon any fence on a lot owned or occupied by him in a Residential or Business Area.
- (2) A person shall not affix broken glass to or allow it to remain upon any fence which is erected upon a lot owned or occupied by him and which abuts on to any street or public place.

11. **Use of Secondhand Materials**

- (1) A person shall not construct any fence with secondhand sheet metal or secondhand galvanised iron or other secondhand material unless he shall previously have obtained the written consent of the council to use such material.
- (2) The council may refuse to grant its consent to the use of such material, or may grant its consent subject to conditions.

12. **Permissible Fence Materials**

A person shall not erect or permit the erection on land owned or occupied by him within the district, or suffer to permit to remain on that land, any fence constructed with any material other than brick, concrete, masonry, wrought iron, tubular steel, link mesh, cold formed sheetmetal, timber sheeted with pickets, palings, boarding, fibrous cement, welded mesh or other material approved by the council.

13. **Fences Abutting Freshwater Bay Foreshore Reserve**

Notwithstanding clause 13 of the Metropolitan Region Scheme no person shall erect any fence whatsoever on any lot boundary which abuts the foreshore reserve around Freshwater Bay unless the approval of the council has been obtained in writing.

14. **Dangerous Fences**

A person shall not within the district erect or permit the erection on land owned or occupied by him, or suffer or permit to remain on that land, any dangerous fence.

15. **Maintenance**

The owner and occupier of any land within the district shall maintain all fences erected the land in good condition and so as to prevent them from becoming dilapidated, dangerous or unsightly or prejudicial to the inhabitants of the neighbourhood or their property.

16. **Notice May be Given to Remove etc**

The local government may give notice in writing to the owner or to the occupier of any land upon which there exists a fence which is dangerous or which has not been maintained in accordance with clause 15 requiring the owner or occupier to pull down, remove, repair, paint or maintain the fence within the time stipulated in the notice.

17. **Failure to Comply with Notice**

A person who fails to comply with a notice given to him under clause 16 commits an offence.

18. **Fences affecting Stormwater Flow**

Notwithstanding any other provision of this local law, the local government may give notice in writing to the owner or the occupier of any land upon which there exists an impervious fence requiring the owner or occupier to take down, modify or alter the fence if it affects stormwater flow thus causing or resulting in or likely to cause or result in, drainage problems.

19. **Recovery of Expenses**

If an owner or occupier of land who has been given notice pursuant to clause 16 fails to comply with the notice then the local government may enter upon the land and maintain the fence and recover the amount of the expenses from the owner in a court of competent jurisdiction and notwithstanding the taking of such action for recovery, may prosecute the owner for committing a breach of any of clauses 12, 13, 14 or 15.

20. **Sufficient Fence**

A fence constructed in accordance with the specifications set out in the schedule hereto is hereby prescribed to be a sufficient fence for the purposes of the Dividing Fences Act 1961.

21. **Offences**

A person who fails to comply with or does anything in contravention of any of the provisions of this local law or who fails to carry out any duty or requirement imposed upon him by this local law laws commits an offence and shall be liable on conviction to a maximum penalty of \$200 and in addition to a maximum daily penalty of \$20 per day during which the offence continues.

Schedule

A sufficient fence shall be a free standing corrugated fibrous cement having specifications as follows:

A height of 1.8 metres,

An in-ground component of 25% of the total length of the sheet,

The combined height and depth of the fence shall consist of a single sheet,

The corrugated fibrous cement sheets shall be lapped and capped with an extruded 'snapfit' type capping in accordance with the manufacturer's specification."

Dated this day of 200__

The Common Seal of the }
Town of Claremont }
was affixed by authority of a }
resolution of the Council in the }
presence of: }

PETER OLSON JP
MAYOR

ARTHUR KYRON
CHIEF EXECUTIVE OFFICER