

LOCAL GOVERNMENT ACT 1995

SHIRE OF EXMOUTH

LOCAL LAWS RELATING TO FENCING

In pursuance of the powers conferred upon it by the abovementioned Act and of all other powers enabling it, the Council of the abovementioned Municipality hereby records having resolved on the Twenty First day of May 1998 to make the following Local Laws.

1. In these Local Laws unless the content otherwise requires

“Council” means the Council of the Shire of Exmouth

“District” means the municipal district of the Shire of Exmouth

“Dangerous Fence” means a fence declared by a Building Surveyor to be in a dangerous condition by reason of any one or more of the following, namely; faulty design, location, construction, deterioration of materials, damage by termites, decay, damage by collision, changes in ground levels, or any other cause or causes.

“Fence” means a fence abutting a road way or street or a fence on or near the boundary line of a lot includes any free standing wall and any retaining wall.

“Industrial, Light Industrial and Mixed Zone Use Zones” means any portion of the District that is classified or zoned Industrial, Light Industrial and Mixed Zone Use by a Town Planning Scheme or Local Law for the time being in force.

“Residential Zone” means any portion of the District that is classified or zoned Residential by a Town Planning Scheme or Local Law for the time being in force.

“Building Surveyor” means a building surveyor appointed by the Shire of Exmouth

“Dividing Fence” means a fence that separates the land of different owners whether the fence is on the common boundary of the adjoining land or on a line other than the common boundary.

“Town Planning Scheme” means the Town Planning Scheme of the Shire of Exmouth for the time being in force under the provisions of the Town Planning and Development Act 1982 (as amended).

2. Sufficient Fences

(a) Subject to Local Law 8 a fence within a Residential Zone constructed in accordance with the specifications set out in the First Schedule hereto is hereby prescribed as a “sufficient fence” for the purpose of the Dividing Fences Act 1961 (as amended).

(b) A fence within an Industrial, Light Industrial and Mixed Use Zone constructed in accordance with the specifications set out in the second Schedule hereto is hereby prescribed as a “sufficient fence” for the purpose of the Dividing Fence Act 1961 (as amended).

- (c) A fence within a Special Rural Zone constructed in accordance with the specifications set out in the third Schedule hereto is hereby prescribed as a “sufficient fence” for the purpose of the Dividing Fence Act 1961 (as amended).
3. (a) Where a fence is erected on the boundary between land in a Residential zone and land in some other zone then a “sufficient fence” for the purposes of the Dividing Fences Act 1961 (as amended) shall be prescribed as a “sufficient fence” for Residential Zone.
- (b) Where a fence is erected on a boundary line between land in differing zones neither of which is a Residential Zone the Council shall determine which schedule shall apply for the purposes of prescribing a “sufficient fence” for the purposes of the Dividing Fence Act 1961 (as amended).
4. (a) No person shall construct a fence of second hand material within the townsite of Exmouth under any circumstances, and in any other case without the written consent of the Council which consent the Council in its absolute discretion may refuse to grant or may grant upon such terms and conditions as it deems fit.
- (b) No fence shall be constructed of sheet metal unless approval has been granted by the Council.
5. (a) Within a Residential Zone, subject to Local law 7 a front boundary fence not exceeding 1200mm in height may be constructed along the full width of the frontage of a lot.
- (b) A fence within a residential Zone in excess of 1200mm and not exceeding 1800mm in height may be constructed along the front boundary of a lot subject to –
- (i) approval by Council; and
 - (ii) Local law 7 being complied with.
- (d) A fence within a residential Zone shall not, within 6 metres of the front boundary of the lot, exceed 1200mm in height, without the express approval of Council.
- (e) The Council at its discretion may upon written application approve a fence other than those permitted by these Local laws.
6. No person shall erect any structure in front of the building line in a an Industrial, Light Industrial and Mixed Zone Use or Residential Zone other than a fence permitted by these Local laws without having first made written application to and obtained the written approval of the Council.

7. No person shall erect or permit to be erected on any land owned or occupied by him any wall, fence, hedge, tree, shrub or other obstruction of a greater height than 750mm measured from the level of the footpath, road or right-of-way immediately adjoining the same within the area enclosed by the boundaries of the streets, roads, or right-of-way and a line adjoining the points located at a distance of 6 metres measured horizontally along each street, or road or right-of-way boundary from the point of intersection of the streets, roads, right-of-way or from the point of intersection of a prolongation of the said boundaries except that this Local law shall not apply to intersections or junctions having the standard truncation of 8.5 metres or more.
8. No person shall erect a dividing fence greater than 1800mm in height in a Residential Zone without having first made application to and obtained the written approval of the Council.
9. (a) No person shall commence to erect or proceed with the erection of a retaining wall which is on a boundary line unless and until he has lodged with the Council two (2) copies of a plan and specifications thereof and in the case of a retaining wall exceeding 1000mm in height when required by the Council, engineering calculations in respect thereof and the and the Council has approved a copy of the plan and specifications and (where applicable) the calculations.

(b) No person shall erect or permit a dividing fence to act as a retaining wall without first having obtained Council permission.
10. A fence wholly or partly of barbed wire complying with these Local laws may only be erected—
 - (i) In any area that is used for Pastoral purposes.
 - (ii) In an Industrial, Light Industrial and Mixed Zone Use if no barbed wire is used below a height of 1800mm from the ground; or
 - (iii) In any other part of the Shire of Exmouth with the written approval of the Council.
11. (a) No person shall erect or maintain a dangerous fence in the Exmouth Shire without the written approval of Council.
(b) No person shall erect an electric fence in the Exmouth townsite without written approval of Council.
12. The use of metal spikes, broken glass or any other potentially dangerous material in or on any fence in the district is prohibited.
13. The owner or the occupier of land on which a fence is erected shall maintain the fence in good condition and in such a manner as to prevent it from becoming dilapidated, unsightly or prejudicial to property in or to the inhabitants of the neighbourhood.

14. The Council may give notice in writing to the owner or occupier of any land upon which there is a dangerous fence or a fence which is of the opinion of the Building Surveyor in bad condition of repair, dilapidated, unsightly or prejudicial to property in or to the inhabitants of the neighbourhood or is contrary to the provisions of these Local laws requiring such owner or occupier to repair, paint, or maintain such fence within the time stipulated in the notice or in that time which to comply. Any person who fails to comply with the terms of any notice served under these Local laws commits an offence.
15. Where the owner or occupier of land fails to comply with a written notice given by the Council in accordance with Local law 14 of these Local laws the Council may enter upon such land and carry out the works specified in the written notice and the costs and expenses incurred by the Council in so doing may be recovered from such owner or occupier in a Court of competent jurisdiction.
16. Any person who commits a breach of these Local laws commits an offence and shall on conviction be liable to—
 - (i) a maximum penalty of \$200, and
 - (ii) in addition a maximum daily penalty of \$20 for each day during which the offence occurs.

FIRST SCHEDULE

Residential Zone

A sufficient fence shall consist of rail – less link or chain mesh of a height of 900mm, supported by galvanized iron posts of a diameter of 50mm spaced at 3 metre centres set in concrete 450mm deep x 250mm diameter, or supported by termite treated timber posts of a diameter of 100mm spaced at 3metre centres and set in concrete 450mm deep x 300mm diameter

SECOND SCHEDULE

Industrial, Light Industrial and Mixed Use Zones

A sufficient fence shall consist of rail – less link or chain mesh of a height of 1800mm on top of which are three strands of barbed wire carrying the fence to a height of 2100mm, supported by galvanized iron posts of a diameter of 50mm spaced at three (3) metre centres and sunk in the ground 600mm and encased in a concrete footing having a dimension of 600mm deep x 250mm diameter, or supported by termite treated timber posts of a diameter of 100mm spaced at 3 metre centres set in the ground 600mm and encased in a concrete footing having a dimension of 600mm deep by 350mm diameter.

THIRD SCHEDULE

Specifications for a Sufficient Fence in a Special Rural Zone

The following is a “sufficient fence” in a Special Rural Zone –

1. A lot boundary fencing shall be of post and rail or post and wire unless otherwise approved by the Council or as otherwise stated in Council’s Town Planning Scheme.
2. A fence shall be erected and maintained so as to securely confine all cattle within the boundaries of the property.
3. Barbed wire is permitted on fencing within this Zone.
