

**LOCAL GOVERNMENT ACT 1995  
CITY OF BUNBURY**

**CONSOLIDATED  
PRIVATE PROPERTY LOCAL LAW 2003  
PRIVATE PROPERTY AMENDMENT LOCAL LAW 2007**

Under the powers conferred by the Local Government Act 1995 and all other powers enabling it, the Council of the City of Bunbury resolved on 21 October 2003 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Title**

This Local Law may be referred to as the City of Bunbury Private Property Local Law.

**1.2 Purpose and Effect**

- (1) The purpose of this local law is to provide for the regulation, control and management of dividing fences between private properties, fencing and lighting of tennis courts, outdoor lighting, street numbering, unsightly land, hazardous plants, sand drift and stormwater and swimming pool wastewater containment and disposal on private land within the district and for the enforcement of this local law.
- (2) The effect of this local law is to establish—
  - (a) the standard of a sufficient fence according to land use;
  - (b) requirements to reduce the intrusive effects of tennis court and outdoor lighting;
  - (c) requirements for the orderly assignment of street numbers to each lot;
  - (d) requirements for the prevention of unsightly land and the accumulation of disused materials within the district;
  - (e) requirements to prevent plants and trees becoming a hazard to a person or thing;
  - (f) requirements for the keeping of bees;
  - (g) requirements to control and prevent sand drift;
  - (h) requirements for the containment and disposal of stormwater and swimming pool waste water; and
  - (i) notification, enforcement and penal provisions for the any breaches of this local law.

**1.3 Commencement**

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

**1.4 Repeal**

The following by-laws and local laws adopted by the City of Bunbury are repealed on the day this local law comes into operation—

- By-law—Relating to Fencing, published in the Government Gazette of 19 January 1966 and amendments;
- By-law—Relating to Fences at Intersections, published in the Government Gazette 11 November 1988;
- Local law—Relating to Depositing and Removal of Refuse, Rubbish and Disused Materials, published in the Government Gazette of 23 January 1998;
- By-law –Relating to Vehicle Wrecking, published in the Government Gazette 3 August 1966 and amendments;
- By-law—Relating to Old Refrigerators, published in the Government Gazette 23 August 1962;

- By-law- Relating to Bees, published in the Government Gazette 8 May 1987.

### 1.5 Application

This local law applies throughout the district of the City of Bunbury.

### 1.6 Interpretation

In this Local Law, unless the context requires otherwise—

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

“**AS**” means Australian Standard published by Standards Australia;

“**authorised person**” means a person authorised by the local government under section 9.10 of the Local Government Act 1995 to perform any of the functions of an authorised person under this local law;

“**building**” means any roofed structure enclosing space and intended for use as shelter (for people, animals or property) or for recreational, commercial or industrial purposes;

“**Building Surveyor**” means a Building Surveyor of the local government;

“**building license**” means a building license issued pursuant to Section 374 of the Local Government (Miscellaneous Provisions) Act 1960;

“**CEO**” means the Chief Executive Officer of the local government;

“**commercial lot**” means a lot where a commercial or light industrial use is or may be permitted under the Town Planning Scheme and is or will be the predominant use of the lot;

“**dangerous**” in relation to any fence means—

- an electrified fence;
- a fence containing barbed wire, other than a fence erected and maintained in accordance with this local law;
- a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material;
- a fence which in the opinion of the local government is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause; or
- a fence that has become dangerous through lack of maintenance or repair;

“**development**” has the same meaning given to it in the Town Planning and Development Act 1928;

“**district**” means the district of the City of Bunbury;

“**disused**” means in relation to any thing, that the thing—

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

“**dividing fence**” means 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;

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

“**floodlight**” means a specific form of luminaire that emits light within a limited range of direction, such as a beam;

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

- the top of the fence at any point; and
- 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 a lot where an industrial use is or may be permitted under the Town Planning Scheme and is or will be the predominant use of the lot;

“**land**” means land in the district and includes houses, buildings, works, and structures, in or upon the land;

“**local government**” means the City of Bunbury;

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

**“luminaire”** means apparatus which distributes, filters or transforms the light transmitted from one or more lamps and which includes, except for the lamps themselves, all parts necessary for fixing and protecting the lamps and, where necessary, circuit auxiliaries with the means for connecting them to the electricity supply;

**“notice of breach”** means a notice referred to in Part 11 of this local law;

**“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) anything 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) anything 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 is consistent with the standard of behaviour in the relevant locality shall not be unreasonable for the purpose of this local law;

**“obtrusive lighting”** means spill light which, because of quantitative, directional or spectral attributes in a given context, gives rise to a nuisance, distraction, discomfort, or reduces the ability of a person to see essential information such as signal lights;

**“outdoor lighting”** means any form of permanently installed exterior lighting (including advertising signs) and interior lighting systems which emit light that impacts on the outdoor environment;

**“person”** includes a propriety limited company or association;

**“public lighting”** means lighting provided for the purpose of all night safety and security on thoroughfares, pedestrian movement areas and public property;

**“public place”** includes any thoroughfare or place which the public are allowed to use, or any land set apart for the use and enjoyment of the inhabitants of the district whether the thoroughfare or place is or is not on private property and includes parklands, squares, reserves, beaches, and other lands set apart for the use and enjoyment of the public, including all lands which belong to or which are vested in, or are under the control or management of, the local government;

**“residential lot”** means a lot where a residential use is or may be permitted under the Town Planning Scheme and is or will be the predominant use of the lot;

**“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 a lot located in any type of rural zone under the Town Planning Scheme, where a rural use or bush-land conservation is or may be permitted under the Town Planning Scheme and is or may be the predominant use of the lot;

**“sand”** means any granular, siliceous and non-cohesive material;

**“schedule”** means a Schedule to this local law;

**“street”** includes a highway and thoroughfare as defined in the Local Government Act 1995 which the public are allowed to use and includes every part of the highway or thoroughfare, and other things including bridges and culverts appurtenant to it;

**“street setback area”** means the area between the prescribed building line of a lot and the property boundaries of that lot adjacent to any streets;

**“spill lighting”** means the light emitted by a lighting installation which falls outside the boundaries of the lot on which the installation is located;

**“street 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;

**“sufficient fence”** means a fence described in Part 2 of this local law;

**“Town Planning Scheme”** means the currently operative Town Planning Scheme of the local government made under the Town Planning and Development Act 1928;

**“unsightly”** has the meaning given to it in and for the purposes of the Local Government Act 1995;

**“zoned”** means zoned under a Town Planning Scheme of the local government,

Any other expression used in this local law and not defined herein shall have the meaning given to it in—

- (a) the Local Government Act 1995,
- (b) the Local Government (Miscellaneous Provisions) Act 1960,
- (c) the Glossary of Building Terms published by Standards Australia and the National Committee on Rationalised Building, and
- (d) Australian Standard 4282—Control of the obtrusive effects of outdoor lighting; unless the context requires otherwise.

## **PART 2—FENCES**

### **Division 1—Sufficient Fences**

#### **2.1 Sufficient fence**

- (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Subject to subclauses (3) and (4), 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 Second 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 Third Schedule;
  - (c) on a rural lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Fourth Schedule.
- (3) Where a fence is erected on or near the boundary between—
  - (a) a residential lot and an industrial lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Second Schedule;
  - (b) a residential lot and a commercial lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule;
  - (c) a residential lot and a rural lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Fourth Schedule;
- (4) Unless the Local Government specifies otherwise, a sufficient fence on a boundary between lots other than those specified in subclause (3) is a dividing fence constructed in accordance with the specifications and requirements of the Second Schedule.
- (5) Notwithstanding any other provisions in this local law, a fence constructed of stone or concrete shall be a sufficient fence only if it is designed by a structural engineer where—
  - (a) it is greater than 1.8 metres in height; or
  - (b) the Building Surveyor or Authorised Person so certifies.
- (6) Notwithstanding any other provisions in this local law, a sufficient fence shall not exceed 2 metres in height unless the local government has approved such fence by way of a building license.

### **Division 2—General**

#### **2.2 Fences within front setback areas**

- (1) A person shall not, without the written consent of the Building Surveyor or an Authorised Person, erect a front fence greater than 1200mm in height, within the front setback area of a residential lot within the district.
- (2) A front fence shall not exceed 1800mm in height, with the first 1200mm being of solid construction and the remainder being of an open style construction, unless otherwise approved in accordance with subclause 2.2 (1).

#### **2.3 Fences at intersections**

- (1) The local government may require the owner or occupier of a lot—
  - (a) which is bounded in part by a section of a street that is at or nearby the intersection of that street with another street; and

- (b) on which there is standing a fence, wall hedge, tree or like structure or thing is so situated,
  - (c) which in the opinion of the local government, constitutes an obstruction of or interference with the vision of persons driving vehicles approaching, entering or passing through that intersection;
- to take down or remove the fence, wall, hedge, tree or like structure or thing.
- (2) The local government or an authorised person shall give notice in writing to the owner or occupier of a lot to remove any fence, wall, hedge, tree or like structure or thing which constitutes an obstruction of or interference with the vision of persons driving vehicles approaching, entering or passing through that intersection of other such vehicles within the time specified in the notice, which period shall be not less than 48 hours.
  - (3) If the owner or occupier of a lot does not comply with the requirements specified in a notice issued under subclause 2, the local government may cause the removal of the obstruction or interference at the owner or occupier's expense.
  - (4) The local government may recover from the owner or occupier of a lot any expense incurred resulting in the removal of the obstruction or interference in a court of competent jurisdiction.

#### **2.4 Maintenance of fences**

An owner or occupier of a lot on which a fence is erected shall maintain the fence in good condition and so as to prevent it from becoming dangerous.

#### **2.5 General discretion of the local government**

- (1) Notwithstanding the provisions of clause 2.1, the local government may in its sole discretion consent with or without conditions to the erection or repair of a fence which does not comply with the requirements of this local law where there is written agreement between the owners of the adjoining properties.
- (2) In determining whether to grant its consent to the erection or repair of any fence which does not comply with the requirements of this local law, 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 land;
  - (b) the safety or convenience of any person; or
  - (c) the visual amenity of the locality.

### **Division 3—Fencing Materials**

#### **2.6 Pre-used fencing materials**

- (1) A person shall not construct a dividing fence on a Residential lot or a Commercial lot from perused materials without the prior written consent of the local government or an authorised person.
- (2) Where the local government or an authorised person approves the use of pre-used materials in the construction of a fence under subclause (1), that approval shall be conditional on the applicant painting or treating the pre-used material as directed by the local government or authorised person.

#### **2.7 Barbed wire fences**

- (1) An owner or occupier of a residential lot shall not erect, affix to or allow to remain on any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of an authorised person has been obtained.
- (2) An owner or occupier of a Commercial lot shall not erect, affix to or allow to remain on any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of an authorised person has been obtained.
- (3) Where written approval has been obtained in accordance with subclause (2), an owner or occupier shall not erect, affix or allow to remain on any fence bounding that lot any barbed wire or other materials with spiked or jagged projections unless such wire or materials is carried on posts set at an angle of 45 degrees into the lot, and unless the bottom row of wire or

other materials is set back 150 millimetres from the face of the fence and is at least 1.8 metres above ground level.

### **2.8 Electrified or razor wire fences and broken glass**

- (1) An owner or occupier of a lot shall not wholly or partly install, construct or use electrified fencing on the lot, without first obtaining the written approval of the local government.
- (2) An owner or occupier of a lot shall not on the lot –
  - (a) install, use or construct a fence made wholly or partially of razor wire; or
  - (b) affix or allow to remain as part of any fence or wall on the lot, whether internal or external, any broken glass.

## **Division 4—Tennis Court Fencing**

### **2.9 Tennis court fencing**

- (1) A person shall not erect or repair a fence around or partly around a tennis court on a lot unless—
  - (a) the fence is not more than 3.6 metres in height;
  - (b) the whole of the fence is at least 900 millimetres from the boundary between the lot on which the tennis court is located and the adjoining lot or if it is less than 900 millimetres, the owner of the adjoining lot has first been given the opportunity to indicate their consent in writing to the local government on the location of the fence;
  - (c) the fence is fabricated from 2.5 millimetre poly-vinyl chloride coated or galvanised wire 50 millimetre link mesh not more than 3.6 metres in height, and is erected in accordance with the manufacturer's specifications.
- (2) A person shall not erect a fence around or partly around any tennis court without the written approval of the local government.

## **PART 3—OUTDOOR LIGHTING**

### **3.1 Tennis court lighting**

- (1) A person shall not erect floodlights or other outdoor lighting for the illumination of a tennis court on a lot without the prior written approval of the local government.
- (2) In determining an application in respect of the proposed installation or use of floodlights or other outdoor lighting for the illumination of a tennis court on a lot, the local government shall not approve the application unless—
  - (a) the owners of adjacent lots are first given the opportunity to make submissions in respect of the application;
  - (b) proposed outdoor light fittings are to be mounted not more than 3.6 metres above natural ground level;
  - (c) the proposed outdoor light fittings are of a type mounted horizontally or of a type approved by the local government; and
  - (d) the level of illumination from the proposed floodlights or external lights on any land more than 1 metre from the lot boundary shall not exceed 10 lux.
- (3) A person shall not permit floodlights or other outdoor lights for the illumination of a tennis court to cause a nuisance or to be operated between 2200 hours and 0700 hours.
- (4) Obtrusive or spill lighting on adjacent residential lots from floodlights or other outdoor lights used for the illumination of a tennis court on a lot shall not exceed 10 lux when measured in a vertical plane parallel to the relevant adjacent lot, to a height commensurate with the height of the potentially affected dwellings.

### **3.2 Outdoor and security lighting**

- (1) Obtrusive or spill lighting on adjacent residential lots from outdoor or security lights on a lot shall not exceed 10 lux when measured in a vertical plane parallel to the relevant adjacent lot, to a height commensurate with the height of the potentially affected dwellings.

- (2) Otrusive or spill lighting from outdoor or security lights located on commercial lots on adjacent residential lots shall not exceed 25 lux when measured in a vertical plane parallel to the relevant adjacent residential lot, to a height commensurate with the height of the potentially affected dwellings.

### **3.3 Public lighting**

The provisions of this local law do not apply to public lighting.

## **PART 4—STREET NUMBERING**

### **4.1 Assignment of street number**

- (1) The local government or an authorised person shall assign a street number to each lot in a street, thoroughfare or way in the district in accordance with its policy on Street Numbering so as to ensure unambiguous and easy identification of every individual lot.
- (2) The local government or an authorised person may from time to time assign another street number to a lot instead of that which was previously assigned.

### **4.2 Street number to be displayed**

- (1) The owner or occupier of each lot shall paint or affix and maintain the current street number assigned by the local government, in a conspicuous place on the front of the building, fence or gate adjacent to the street fronting the lot.
- (2) A sign painted on the kerb adjacent to a lot depicting the street number is satisfactory for the purposes of subclause (1).

### **4.3 Location of number not to be misleading**

- (1) A person shall not place or display the street number of the lot in such a location as to cause confusion or be misleading.
- (2) A person shall not adopt, use or display a street number other than that street number assigned by the local government.
- (3) Where the location of a street number causes confusion or is misleading, or an unauthorised street number is being used or displayed on a lot, the local government or an authorised person may serve notice in writing on the owner or occupier of the land specifying remedial action to be taken and the time within action will be taken.

## **PART 5—UNSIGHTLY LAND AND DISUSED MATERIALS**

### **5.1 Removal of refuse and disused materials**

- (1) The owner or occupier of a lot shall not keep, or permit to remain on the lot, any refuse, rubbish or disused material of whatsoever nature or kind which in the opinion of the local government or an authorised person is likely to—
  - (a) give the lot an untidy appearance and which does not conform with the general appearance of other land in that particular part of the district;
  - (b) adversely affect the value of adjoining property;
  - (c) adversely affect the amenity of the locality or adjoining property;
  - (d) adversely affect the health, comfort and wellbeing of the inhabitants of the locality or adjoining property; or
  - (e) create a nuisance.
- (2) The local government or an authorised person may give notice in writing to the owner or occupier of a lot requiring that person to attend to the removal of refuse, rubbish or disused material from the lot within the time specified in the notice.

### **5.2 Removal of unsightly overgrowth of vegetation**

- (1) The owner or occupier of a lot shall not permit to remain on a lot any unsightly overgrowth of vegetation that gives the lot an untidy appearance and which does not conform with the general appearance of surrounding land in that particular part of the district.

- (2) The local government or an authorised person may give notice in writing to the owner or occupier of a lot requiring the removal of the overgrowth of vegetation within the time specified in the notice.

### **5.3 Storage of vehicles and machinery**

- (1) The owner or occupier of a residential lot shall not without prior written approval of the local government—
  - (a) store or allow to remain on any residential lot, a vehicle, part or body of a vehicle or machinery, in a disused state;
  - (b) wreck, dismantle or break up any vehicle, part or body of a vehicle or machinery.
- (2) The owner or occupier of a commercial lot or industrial lot shall not—
  - (a) wreck, dismantle or break up any vehicle, part or body of a vehicle or machinery; unless such activity is carried out—
    - (i) inside a building; or
    - (ii) within an area enclosed by a fence or wall of not less than 2 metres in height; and
    - (iii) in an area zoned for that purpose.
  - (b) wreck, dismantle or break up a vehicle so as to cause excess noise or any nuisance.

### **5.4 Disposing of disused refrigerators or similar containers**

A person shall not place, leave or discard any disused refrigerator, ice-chest, ice-box, trunk, chest or other similar article having a compartment which has a capacity of 0.04 cubic metres or more on any land without first removing every door and lid and every lock, catch and hinge attached to a door or lid; or rendering every door and lid incapable of being fastened.

## **PART 6—HAZARDOUS PLANTS AND TREES**

### **6.1 Removal of hazardous plants and trees**

- (1) Where a plant or tree in a lot presents a hazard, or endangers or may endanger any person or thing on an adjoining lot, thoroughfare, public place or reserve, the local government or an authorised person may give a notice to the owner or the occupier of the lot to remove, cut, prune, move or otherwise deal with that plant or tree so as to remove the danger or hazard.
- (2) Where a plant or tree in a lot presents a serious and immediate danger to any person or thing in a thoroughfare, public place or reserve, the local government or an authorised person may take any remedial action it considers appropriate in order to make a plant or tree safe without having given the owner or occupier notice as required by Part 11 of this local law.
- (3) Any costs incurred by the local government for remedial action taken in terms of subclause (2) cannot be recovered by the local government.

## **PART 7—KEEPING OF BEES**

### **7.1 Interpretation**

In this part unless the context otherwise requires—

**“beehive”** means a moveable or fixed structure, container or object in which a colony of bees is kept and used for apiary activities and excludes any wild or swarming bee colony;

**“bees”** means an insect belonging to any of the various hymenopterous insects of the super family Apoidea and commonly known as a bee.

### **7.2 Limitation on numbers of hives**

- (1) A person shall not keep or permit the keeping of bees except on a lot in accordance with this Part.
- (2) The local government may, upon written application, consent, with or without conditions, to a person keeping bees hives on a lot other than a Rural lot.

- (3) A person shall comply with any conditions imposed by the local government under subclause (2).

### **7.3 Restrictions on keeping bees in hives**

A person shall not keep or permit the keeping of bees in a hive on a lot unless, at all times—

- (a) an adequate and permanent supply of water is provided on the lot within 10 metres of the beehives;
- (b) the beehive is kept—
  - (i) outside, and at least 15 metres from any building other than a fence;
  - (ii) at least 15 metres from any public place; and
  - (iii) at least 5 metres from the boundary of the lot; and
- (c) the beehive is adequately enclosed on all sides by a fence, wall or other enclosure.

### **7.4 Bees which cause a nuisance not to be kept**

- (1) a person shall not keep, or permit the keeping of bees, which cause a nuisance.
- (2) Whenever in the opinion of the local government or an authorised person, the keeping of bees is causing a nuisance, the local government or an authorised person may give written notice to an owner or occupier requiring him or her to remove any bees or beehives from the land within the time specified in the notice.

## **PART 8—SAND DRIFT**

### **8.1 Prevention of sand drift**

- (1) An owner or occupier of a lot on which any sand exists shall not suffer or permit the release or escape of such sand or other material from the lot, whether by means of wind, water or any other cause, so as to cause a nuisance, trespass or interfere with any adjacent lot, thoroughfare, public place or reserve.
- (2) Where the local government or an authorised person is of the opinion that, as a result of any activity occurring on, or likely to occur on a lot, sand or other material may be released or escape, the local government or an authorised person may give a notice to the owner or occupier specifying that the activity may only occur subject to conditions, including time restrictions specified in that notice.
- (3) Where the local government or an authorised person is of the opinion that as a result of wind, water or any other cause, sand or other material may be released or escape from a lot, the local government or an authorised person may give a notice to the owner or occupier requiring that the sand or other material be stabilised as specified in that notice within the time specified in that notice.
- (4) Where sand or other material has been released or escaped from a lot, the local government or an authorised person may give a notice to the owner or occupier of the lot requiring the owner or occupier to—
  - (a) remove the sand or other material;
  - (b) ensure that sand or other material is not released or escape from the lot by means specified in the notice;
  - (c) repair or make good any damage resulting from that release or escape, within the time specified in the notice.

## **PART 9—STORMWATER AND WASTEWATER DISPOSAL**

### **9.1 Containment of stormwater**

Unless discharged or drained off by means of a stormwater connection approved by the local government, the owner or occupier of a lot shall ensure that all rainwater or stormwater received by the lot and any building or house on the lot, is contained within the lot and is not permitted to discharge onto, or run-off into, or cause damage to any structures on an adjacent lot, thoroughfare, right of way, public place or reserve.

## **9.2 Containment and disposal of swimming pool wastewater**

The owner or occupier of a lot shall ensure that all wastewater and backwash water from any swimming pool and associated filtration systems is contained within the lot and is not permitted to discharge onto, or run-off into, or cause damage to any structures on an adjacent lot, thoroughfare, right of way, public place or reserve.

## **PART 10—MISCELLANEOUS**

### **10.1 Appointment of authorised persons, and certificate of appointment for authorised persons**

Both the appointment of authorised persons and issue of a certificate of appointment detailing what duties and responsibilities the person is authorised to perform shall be in accordance with section 9.10 of the Act.

### **10.2 False or misleading statement**

A person shall not make a false or misleading statement in connection with any application, requirement or demand under this local law.

### **10.3 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.

### **10.4 Limit on liability**

A person, owner, occupier or licensee is not entitled to make any claim by way of damages or otherwise, against an authorised person, local government employee, local government appointed subcontractor or other person authorised by the local government, to enter the land and carry out all or part of the works and do all things necessary that the owner, occupier or licensee was required to do to comply with this local law.

### **10.5 Name and residential address to be given on demand**

- (1) An authorised person or member of the WA Police Service who finds a person committing, or who on reasonable grounds suspects a person of having committed a breach of the provisions of this local law, may demand from the person their name and residential address.
- (2) A person who refuses to give his or her name and/or residential address, or who states a false name and/or residential address on a demand being made, commits an offence.

## **PART 11—NOTICES OF BREACH**

### **11.1 Notices of breach**

- (1) Where a breach of any provision of this local law has occurred in relation to private property, the local government may give a notice in writing to the owner or occupier of that lot (“notice of breach”).
- (2) The notice of breach shall—
  - (a) specify the provision of this local law which has been breached;
  - (b) specify the particulars of the breach; and
  - (c) state that the owner or occupier of the lot is required to remedy the breach within the time specified in the notice.
- (3) Should a person fail to comply with a notice of breach within the time specified in the notice, the local government may by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner or occupier of the lot in a court of competent jurisdiction.
- (4) A person who fails to comply with a notice issued pursuant to this local law commits an offence.

## **PART 12—OFFENCES AND MODIFIED PENALTIES**

### **12.1 Offences and penalties**

- (1) A person who fails to comply with a notice of breach commits an offence and is liable upon conviction to a maximum penalty of \$5000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.
- (2) A person who fails to comply with or who contravenes any other provision of this local law commits an offence and is liable to a maximum penalty of \$5000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

### **12.2 Modified penalties**

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of Section 9.16 (1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the corresponding clause in First Schedule to this local law.

### **12.3 Form of 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 to be in or substantially in the form of Form 2 in Schedule 1 of the Local Government (Functions and General) Regulations 1996;
- (b) the form of the notice referred to in section 9.20 of the Act is to be in or substantially in the form of Form 3 in Schedule 1 of the Local Government (Functions and General) Regulations 1996.

### **12.4 Transitional Provisions**

The Fifth Schedule to this local law, which contains transitional provisions, has effect.

*First Schedule*  
**OFFENCES AND MODIFIED PENALTIES**

Clause No.	Nature of Offence	Modified Penalty \$
<b>Part 2—Fences</b>		
2.1(1)	Erect a fence which is not a sufficient or permissible fence	200
2.2.1	Erect a fence without written consent	100
2.3	Failure to maintain a fence	100
2.6(1)	Construct a dividing fence on a residential or commercial lot from pre-used materials without written consent	100
2.7(1)	Erect a fence using barbed wire or material with spiked or jagged projections in fence construction without approval	200
2.8(1)	Use razor wire in a fence or electrify a fence	200
2.8(2)	Affix, or allow to remain, any broken glass in a fence or wall	200
2.9(1)(a)	Erect or repair a tennis court fence higher than 3.6 metres	100
2.9(1)(b)	Erect tennis court fence less than 900 millimetres from boundary of adjoining lot without submission from adjoining owner	100
2.9(1)(c)	Erect or repair chain link mesh fence higher than 3.6 metres not in accordance with manufacturer's specification	100
2.9(2)	Erect tennis court fence without written approval of the local government	200
<b>Part 3—Outdoor Lighting</b>		
3.1(1)	Erect floodlights or other outdoor lighting for illumination of a tennis court without written approval	100
3.1(2)(b)	Mount or maintain tennis court lighting higher than 3.6 metres	100
3.1(3)	Permit floodlights or other outdoor lights to illuminate a tennis court to remain lit between 2200 hours and 0700 hours	100
3.1(4)	Erect or maintain on private land tennis court lighting which spills 10 lux or more illumination into adjacent land/building	100
3.2(1)	Outdoor or security lighting on private land which spills 10 lux or more illumination into adjacent land/building	100
3.2(2)	Outdoor or security lighting on commercial lot which spills 25 lux or more illumination into adjacent residential land/building	100
<b>Part 4—Street Numbering</b>		
4.2(1)	Failure to paint, affix or maintain current street number in a conspicuous place on the building, fence or gate to street	100

Clause No.	Nature of Offence	Modified Penalty \$
4.3(1)	Place or display a street number so as to cause confusion or be misleading	100
4.3(2)	Adopt, use or display a street number other than that street number assigned by the local government	100
4.3(3)	Failure to comply with a notice to remedy a confusing, misleading street number, or use/display an unauthorised street number	500
<b>Part 5—Unsightly Land</b>		
5.1(2)	Failure to comply with a notice to remove refuse, rubbish or disused material from land	200
5.2(2)	Failure to comply with a notice to remove overgrowth of vegetation	200
5.3(1)(a)	Store or allow to remain on land any vehicle, part or body of vehicle or machinery in a disused state	200
5.3(1)(b)	Wreck, dismantle or break up any vehicle part or body or machinery	200
5.3(2)(a)(i)	Wreck, dismantle or break up any vehicle part or body or machinery not in a building	200
5.3(2)(a)(ii)	Wreck, dismantle or break up any vehicle, part or body or machinery not behind fence or wall	200
5.3(2)(a)(iii)	Wreck, dismantle or break up any vehicle, part or body or machinery on land not zoned for that purpose	200
5.3(2)(b)	Wreck, dismantle or break up a vehicle so as to cause noise or a nuisance	200
5.5	Disposing of disused refrigerator or similar container with door or lid that can be fastened, or with door or lid still fitted	200
<b>Part 6—Hazardous Plants and Trees</b>		
6.1(1)	Failure to comply with a notice to remove, cut, move or otherwise deal with a plant or tree so as to remove the danger or hazard	200
<b>Part 7—Keeping of Bees</b>		
7.2(1)	Keep hives on a lot without approval from the local government	100
7.3(a)	Failure to provide an adequate water supply and permanent water supply within 10 metres of a hive	100
7.3(b)(i)	Failure to keep a hive outside and at least 15 metres from any building	100
7.3(b)(ii)	Failure to keep a hive at least 15 metres from any public place	100
7.3(b)(iii)	Failure to keep a hive at least 5 metres from the boundary of any lot	100
7.3(c)	Failure to keep a hive adequately enclosed by a fence, wall or other enclosure	100
7.4(1)	Keep or permit the keeping of bees so as to cause a nuisance	100
<b>Part 8—Sand Drift</b>		
8.1(1)	Permit the release or escape of sand or other material from a lot so as to cause a nuisance	100
8.1(2)	Failure to comply with a notice specifying that the activity may only be carried on subject to conditions specified in that notice	200
8.1(3)	Failure to comply with a notice to stabilise sand or other material on a lot as specified in that notice	200

Clause No.	Nature of Offence	Modified Penalty \$
<b>Part 9—Stormwater and Wastewater Disposal</b>		
9.1	Failure to ensure that all rainwater or storm water received by a lot and any building or house on the lot, is contained within the lot	100
9.2	Failure to contain or dispose of swimming pool wastewater on the lot on which the swimming pool is located	100
<b>Part 10—Miscellaneous</b>		
10.2	Giving false or misleading information in connection with an application, requirement or demand	200
10.5(2)	Refusing to give name or address or stating a false name or address on a demand being made	200
<b>Part 11—Notice of Breach</b>		
11.1(4)	Failure to comply with requirements of a notice	200

## **Second Schedule Clause 2.1(2)(a)**

### **SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT**

Each of the following is a “sufficient fence” on a Residential Lot—

**A** Open Aspect Fencing—Intended for use in the urban areas of the City (requires prior Local Government approval)—

- (a) posts to be 125mm diameter treated pine poles spaced at not more than 2.4 metre centres;
- (b) posts to be buried a minimum of 600mm into stable soil;
- (c) horizontal top rail to be 100mm diameter treated pine pole located at not more than 1100mm above the adjacent natural ground level;
- (d) ringlike or similar wire rural fencing material fixed to each post and to the horizontal top rail to control the movement of animals between lots.

**B** 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 affixed securely to each rail; and
- (g) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.

**C** 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 except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.

**D** A fence constructed of brick, stone or concrete, which satisfies the following specifications—

- (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 2400mm centres or 230mm x 110mm engaged piers to be provided at maximum 2400mm centres;
- (c) expansion joints in accordance with AS 3700, Masonry Structures; and
- (d) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.

**E** A composite fence having a minimum overall height of 1800mm except with respect to the front setback area for which there is no minimum height but which is subject to clause 2.2, which satisfies the following specifications for the brick construction—

1. (a) brick piers of minimum 230mm x 230mm at 1800mm centres bonded to a minimum height base wall of 514mm;
  - (b) each 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 a mix of 1 part cement, 1 part lime and 6 parts sand;
  - (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 meter centres; and
  - (f) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.
2. (a) brick piers of a minimum 230mm x 350mm x 2400mm centres bonded to the base wall; and
  - (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified;
  - (c) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.
3. Specifications in Items D & E of this Schedule are to be certified by a Structural Engineer as being appropriate for the particular site and wind terrain category.

**F** Colorbond metal fencing systems erected in accordance with the manufacture's specifications and instructions. The height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.

**Third Schedule Clause 2.1 (2) (b)**

**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT AND AN INDUSTRIAL LOT**

Each of the following is a “sufficient fence” on a Commercial Lot and an Industrial Lot.

**A** 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 normal 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 3.15m 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 or single 4mm wire;
- (e) rail-less link, chain or steel mesh is to be to a height of 1800mm on top of which are to be three strands of barbed wire carrying the fence to a height of 2400mm; and
- (f) galvanised link mesh wire to be 1800mm 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.

**B** A fence of fibre reinforced cement sheet constructed to the minimum specifications referred to Item C of the Second Schedule.

**C** A fence constructed of painted or galvanised steel or aluminium sheeting when supported on posts and rails provided that this is used behind the building line and is not higher than 2400mm.

**D** Fences of timber, brick, stone or concrete constructed to the minimum specifications referred to in the Second Schedule.

#### **Fourth Schedule Clause 2.1 (2)(c)**

#### **SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT**

Each of the following is a “sufficient fence” on a Rural Lot—

##### **A Post and Wire Construction—**

1. In the case of a non-electrified fence of post and wire construction—
  - (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of five wires shall be used, 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;
  - (b) post shall be of indigenous timber or other suitable material including—
    - (i) timber impregnated with a termite and fungicidal preservative;
    - (ii) standard iron star pickets; or
    - (iii) concrete; andcut not less than 1800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn. Posts to be set minimum 600mm in the ground and 1200mm above the ground; and
  - (c) strainer posts shall be not less than 2250mm long and 50mm diameter at the small end (tubular steel to be 50mm in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1000mm in the ground.
2. An electrified fence having four wires only is a sufficient fence if constructed generally in accordance with item 1 of this Schedule.

##### **B Post and Rail Construction**

- (a) All posts to be round of durable grade timber as defined by Australian Standards or other suitable material including timber impregnated with termite and fungicidal preservative cut not less than 2400mm long x 125mm diameter at the small end. Posts to be set minimum 900mm in the ground and 1500mm above the ground; and
- (b) All rails to be round of the same material specified in (a) cut not more than 2100mm long x 100mm diameter at the small end to be properly connected using R6 rod or double wire. No more than three rails to be used between posts.

**Fifth Schedule**  
**TRANSITIONAL PROVISIONS**

**Interpretation**

1. In this Schedule, unless the context otherwise requires—

*“local law”* refers to the local law relating to City of Bunbury Private Property Local Law to which this Fifth Schedule is attached;

*“permit”* includes a permit granted by the City of Bunbury under the repealed local law;

*“infringement”* includes an infringement issued by the City of Bunbury under the repealed local law;

*“approval”* means any approval, license, consent order or other permission issued by the City of Bunbury permitting any activity, conduct or recreation upon any land or area within the District of the City of Bunbury;

*“prohibition”* includes any ban, barring order, prohibition or regulation of any activity, conduct or recreation upon any land or part thereof located within the District of the City of Bunbury;

*“the repealed local laws”* means the repealed City of Bunbury local laws stated in clause 1.4 of this local law.

2. This Schedule does not limit the operation of the Interpretation Act, 1984.

3. Any reference, whether express or implied or having effect as such a reference, in any written Law or document to any provision of the repealed local laws shall be construed as a reference to this local law or, as the case may be, to the specific corresponding provisions of this local law.

4. Any notice given or thing done, or having effect as being made, given or done under a provision of the repealed local laws which corresponds to a provision of this local law shall have effect as if it had been made, given or done under the corresponding provision of this local law.

5. Any licence, permit, approval or consent given by the City under the repealed local laws corresponding to a type of consent approval or permission under this local law, shall if in force immediately before the date of gazettal of this local law be deemed converted into an approval consent or permission under this local law by operation of this Schedule.

6. Any infringement issued under the repealed local laws shall be dealt with in the same manner as if it were an infringement issued under the corresponding provisions of this local law.

7. A conviction imposed by any competent Court under the repealed local laws shall for the purposes of this local law—

- a. be treated as though it had been imposed, made or ordered under this local law where a provision of this local law corresponds with a provision of the repealed local laws concerned; and
- b. be taken into account for the purposes of assessing appropriate penalty.

Dated 21st day of October 2003

The Common Seal of the City of Bunbury was affixed by authority of a resolution of the Council in the presence of—

G. M. CASTRILLI, Mayor.

G. K. TREVASKIS, Chief Executive Officer.