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CITY OF SOUTH PERTH

CAT ACT 2011
LOCAL GOVERNMENT ACT 1995

CATS LOCAL LAW 2024

LOCAL GOVERNMENT ACT 1995
DIVIDING FENCES ACT 1961

FENCING LOCAL LAW 2024

CAT ACT 2011
LOCAL GOVERNMENT ACT 1995

CITY OF SOUTH PERTH

CATS LOCAL LAW 2024

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CAT ACT 2011
LOCAL GOVERNMENT ACT 1995

CITY OF SOUTH PERTH

CATS LOCAL LAW 2024

Under the powers conferred by the *Cat Act 2011*, the *Local Government Act 1995* and all other powers enabling it, the Council of the City of South Perth resolved on 22 October 2024 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the City of South Perth Cats Local Law 2024.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

(1) The following local laws are repealed—

(a) The *City of South Perth Cats Local Law 2016*, published in the *Government Gazette* on 4 November 2016; and

(b) The *City of South Perth Cats Amendment Local Law 2017* published in the *Government Gazette* on 8 December 2017.

1.5 Terms Used

(1) In this local law, unless the context otherwise required—

Act means the *Cat Act 2011*;

applicant means a person who applies for an approval;

application means an application for an approval;

approval means approval under regulation 9 of the *Cat (Uniform Local Provisions) Regulations 2013* and Part 2 of this local law;

approved person means the person to whom an approval is granted;

authorised person means a person appointed under section 9.10 of the *Local Government Act 1995* to perform any of the functions conferred on an authorised person under this local law;

cat has the meaning in the Act;

cat prohibited area means an area described in Schedule 1;

cat management facility has the meaning in the Act;

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

local government means the City of South Perth;

local planning scheme means a local planning scheme made by the local government under the *Planning and Development Act 2005*;

multiple dwelling has the meaning in the local planning scheme;

nuisance means—

(a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;

(b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land;

(c) interference which causes material damage to land or other property on the land affected by the interference;

owner in relation to a cat, has the meaning in the Act;

penalty unit has the meaning given to it in clauses 4 and 5 of the City of South Perth Local Law relating to Penalty Units;

premises has the meaning in the Act;

prescribed premises has the meaning in the *Cat Regulations 2012*;

Schedule means a schedule to this local law; and

veterinarian has the meaning in the Act

(2) A term that is used in this local law and is not defined in subclause (1) has the meaning in the Act or if not defined in the Act, the meaning in the *Cat Regulations 2012*, the *Cat (Uniform Local Provisions) Regulations 2013* or the *Local Government Act 1995*.

PART 2—NUMBER OF CATS THAT MAY BE KEPT

2.1 Interpretation

For the purposes of this Part, a cat does not include a cat less than 6 months old.

2.2 Prescribed premises

(1) For the purposes of the definition of prescribed premises in regulation 4(1) of the *Cat (Uniform Local Provisions) Regulations 2013*, this local law limits the number of cats that may be kept at any premises except—

(a) a cat management facility operated by a body prescribed as a cat management facility operator under the *Cat Regulations 2012*;

(b) a cat management facility operated by the local government; or

(c) a veterinary practice business or veterinary premises as defined under section 3 of the *Veterinary Practice Act 2021* but only in relation to cats kept on those premises for treatment.

(2) To avoid doubt, subclause (1) applies in respect of cats that are kept at premises under a boarding service operated by a veterinarian.

2.3 Standard number of cats

For the purposes of the definition of standard number of cats in regulation 4(1) of the *Cat (Uniform Local Provisions) Regulations 2013*, unless a member of a cat organisation is ordinarily resident on the premises, no more than 3 cats may be kept on premises within the residential zone of a local planning scheme or on premises used for residential purposes.

2.4 Application for approval

(1) An application for approval to keep an additional number of cats at prescribed premises is dealt with in regulation 8 of the *Cat (Uniform Local Provisions) Regulations 2013*.

(2) Application for approval must be accompanied by the application fee determined by the local government in accordance with section 6.16 to 6.19 of the *Local Government Act 1995*.

2.5 Determining an application

(1) For the purpose of determining whether to grant approval for an application to keep an additional number of cats at prescribed premises, the local government must have regard to—

(a) the zoning of the land under a local planning scheme;

(b) the physical suitability of the premises for the proposed use;

(c) the environmental sensitivity and general nature of the location surrounding the premises for the proposed use;

(d) the structural suitability of any enclosure in which any cat is to be kept;

(e) the likelihood of a cat causing a nuisance, inconvenience or annoyance to an occupier of adjoining land;

(f) the likely effect on the amenity of the surrounding area of the proposed use;

(g) the likely effect on the local environment, including any pollution or other environmental damage, which may be caused by the proposed use; and

(h) any other factors which the local government considers to be relevant in the circumstances of the application.

(2) The local government may, in respect of an application for approval—

(a) grant the application, unconditionally or subject to any conditions it considers appropriate; or

(b) refuse to grant the application.

(3) If the local government grants the application, it is to issue to the approved person an approval in the form determined by the CEO.

(4) If the local government refuses to grant the application, it must advise the applicant in writing of its decision.

2.6 Conditions

(1) For the purpose of ensuring that the premises to which an application relates are suitable for the additional number of cats, the local government may impose any condition that it considers appropriate for that purpose, including—

(a) that the premises must be adequately fenced (and premises will be taken not to be adequately fenced if there is more than one escape of a cat from the premises); that there must be adequate space for the exercise of the cats;

(b) that, in the case of multiple dwellings where there is no suitable dividing fence, each current occupier of the adjoining multiple dwellings must give their written consent to the approval; and

(c) that, without the consent of the local government, the approved person must not substitute or replace any cat that dies or is permanently removed from the premises.

(2) An approved person who does not comply with a condition of the approval commits an offence.

2.7 Renewal of an approval

(1) The local government is to renew an approval if—

(a) the approved person has not breached the conditions of the approval;

(b) the approval would have been granted if a fresh application for approval had been made; and

(c) the renewal fee, imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*, is paid to the local government before the expiry of the approval.

(2) On the renewal of an approval, the conditions of the approval that applied immediately before the renewal continue to have effect.

2.8 Transfer of an approval

(1) An approval relates only to the premises specified in the approval, and only to the approved person specified in the approval and is transferrable only in accordance with this clause.

(2) An application for the transfer of an approval from the approved person to another person (transferee) must be—

(a) made in the form determined by the CEO;

(b) made by the proposed transferee;

(c) made with the consent of the approved person; and

(d) lodged with the local government together with—

(i) any document or information that the local government requires to determine the application, including any requirement for the applicant to verify the information by a statutory declaration; and

(ii) the fee for the application for the transfer of an approval that is imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995.*

(3) The local government is not to determine an application for the transfer of an approval until the proposed transferee has complied with subclause (2).

(4) The local government may, in respect of an application for the transfer of an approval—

(a) grant the application, subject to any conditions that the local government may impose under clause 2.6; or

(b) refuse to grant the application.

(5) If the local government grants an application for the transfer of an approval—

(a) it is to issue to the transferee an approval in the form determined by the CEO; and

(b) on the date of the grant, unless otherwise specified in the approval, the transferee becomes the approved person for the purposes of this local law.

(6) If the local government refuses to grant an application for the transfer of an approval, it must advise the applicant in writing of its decision.

2.9 Variation or cancellation of an approval

(1) The local government may, at any time, vary the conditions of an approval by giving written notice to the approved person and specifying the date on which the varied conditions are to become effective.

(2) The local government may cancel an approval—

(a) on the request of the approved person;

(b) if the approved person breaches the Act, the *Cat Regulations 2012*, the *Cat (Uniform Local Provisions) Regulations 2013* or this local law; or

(c) if, in the opinion of the local government, the approved person is not a fit and proper person to provide for the health and welfare of the cats.

(3) If the local government cancels an approval—

(a) it must give written notice to the approved person of its decision and the date of effect of the cancellation; and

(b) the fee paid for the approval is not refundable for the term of the approval that has not yet expired.

2.10 Objection and review rights

A decision of the local government made under Part 2 is a decision to which Division 1, Part 9 of the *Local Government Act 1995* applies.

PART 3—APPROVED CATTERY ESTABLISHMENT

3.1 Interpretation

In this Part, unless the context requires otherwise—

cattery means any premises where more than 3 cats are boarded, housed or trained temporarily, whether for profit or otherwise, and where the occupier of the premises is not the ordinary keeper of the cats;

licence means a cattery licence issued under this local law;

licensee means the holder of a licence;

premises, in addition to the meaning given to it in section 3 of the Act, means the premises described in the application to be licensed as a cattery; and

transferee means a person who applies for the transfer of a licence to him or her under clause 3.14.

3.2 Operating a cattery without a licence

A person who, without a licence, operates a cattery commits an offence.

3.3 Application for a licence to be a cattery

An application for a licence must be in a form approved by the CEO and must be lodged with the local government together with—

(1) details of the number of cats and a description of the cats proposed to be kept on the premises;

(2) plans and specifications of the premises, including a site plan;

(3) copies of the notices to be given under clause 3.4;

(4) written evidence that either the applicant or another person who will have the charge of the cats will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the cats and ensure their health and welfare;

(5) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of cats which may be nominated from time to time by the local government; and

(6) the fee for the application for a licence referred to in clause 3.11(1).

3.4 Notice of proposed use

(1) An applicant for a licence must give notice of the proposed use of the premises as an approved cattery after the application for a licence has been lodged—

(a) once in a newspaper circulating in the district; and

(b) to the owners and occupiers of any premises adjoining the premises.

(2) The notices in subclause (1) must specify that—

(a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and

(b) the application and plans and specifications may be inspected at the offices of the local government.

(3) Where—

(a) each notice given under subclause (1) does not clearly identify the premises; or

(b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises,

the local government may refuse to determine the application for a licence until each notice is given in accordance with its directions.

3.5 Exemption from notice requirements

The requirements of clauses 3.3(3) and 3.4 do not apply in respect of an application for a licence if the application is made in respect of premises on which an approved cattery is either—

(1) a permitted use under a planning scheme; or

(2) a use which, under a planning scheme, the local government may approve subject to compliance with specified notice requirements.

3.6 When application can be determined

An application for a licence is not to be determined by the local government until—

(1) development approval (if required) has been given by the local government;

(2) the applicant has complied with clause 3.3; and

(3) unless clause 3.5 applies—

(a) the applicant has submitted proof that the notices referred to in clause 3.4(1) have been given in accordance with that clause; and

(b) the local government has considered any written submissions received within the time specified in clause 3.4(2)(a) on the proposed use of the premises.

3.7 Determining an application

In determining an application for a licence, the local government is to have regard to—

(1) the matters referred to in clause 3.8;

(2) any written submissions received within the time specified in clause 3.4(2)(a) on the proposed use of the premises;

(3) the effect which the cattery may have on the environment or amenity of the neighbourhood;

(4) the physical suitability of the premises for the proposed use;

(5) the structural suitability of any enclosure in which any cat is to be kept;

(6) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the cattery identified in the preceding paragraphs; and

(7) any other factors which the local government considers to be relevant in the circumstances of the application.

3.8 Where an application cannot be granted

The local government cannot grant an application for a licence where—

(1) an approved cattery cannot be permitted by the local government on the premises under a local planning scheme unless prior valid development approval has been issued by the local government and the application for a licence is consistent with that approval; or

(2) an applicant for a licence or another person who will have the charge of the cats will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the cats and so as to ensure their health and welfare.

3.9 Decision on an application

(1) The local government may, in respect of an application for a licence—

(a) grant the application as it was submitted, unconditionally or subject to any conditions that it considers appropriate; or

(b) grant the application but specify an alternative number of cats permitted to be kept on the premises; or

(c) refuse to grant the application.

(2) If the local government grants the application subject to conditions, those conditions may relate to matters such as—

(a) the location, number, type, form or construction, of any enclosure in which a cat is to be kept;

(b) the maintenance, in good order and in a clean and sanitary condition, of each enclosure;

(c) the type and construction of any fencing used to confine cats;

(d) the maintenance, cleaning and sanitising of drinking and eating vessels;

(e) the method of disposal of all refuse, faeces and food waste;

(f) the effective control of odours, fleas and flies; and

(g) the provision of suitable water available at the premises.

(3) If the local government grants the application, it is to issue a licence to the applicant in the form determined by the CEO.

(4) If the local government refuses to grant the application, it must advise the applicant in writing of its decision.

3.10 Compliance with conditions of licence

A licensee must comply with each condition of a licence.

3.11 Fees

(1) On lodging an application for a licence, the applicant must pay a fee to the local government.

(2) On renewal of a licence, the licensee must pay a fee to the local government.

(3) On lodging an application for the transfer of a valid licence, the transferee must pay a fee to the local government.

(4) The fees referred to in subclauses (1) to (3) are to be determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

3.12 Period of a licence

Unless otherwise specified in a condition on a licence, the licence commences on the date of issue and expires—

(1) if it is cancelled—on the date that written notice of the cancellation is given to the licensee, or on the date specified on that notice—whichever is the later; or

(2) if the licensee ceases to reside at the premises to which the licence relates—on the date that written notice of the expiry is given to the licensee, or on the date specified on that notice—whichever is the later.

3.13 Variation or cancellation of a licence

(1) The local government may, at any time, vary the conditions of a licence by giving written notice to the licensee and specifying the date on which the varied conditions are to become effective.

(2) The local government may cancel a licence—

(a) on the request of the licensee; or

(b) if the licensee breaches the Act, the *Cat Regulations 2012*, the *Cat (Uniform Local Provisions) Regulations 2013* or this local law.

(3) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

3.14 Transfer of a licence

(1) An application for the transfer of a valid licence from the licensee to another person (transferee) must be—
  (a) made in the form determined by the local government;
  (b) made by the transferee;
  (c) made with the written consent of the licensee; and
  (d) lodged with the local government together with—
    (i) written evidence that another person who will have the charge of the cats will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the cats and ensure their health and welfare; and
    (ii) the fee for the application for the transfer of a licence referred to in clause 3.11(3).

(2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).

(3) The local government may, in respect of an application for the transfer of a valid licence—
  (a) approve the application, unconditionally or subject to any conditions that it considers appropriate; or
  (b) refuse to grant the application.

(4) If the local government approves the application—
  (a) it is to give written notice of its decision to the transferee; and
  (b) unless otherwise specified in the notice, the transferee becomes, on the date that the notice is given to the transferee, the licensee of the licence for the purposes of this local law.

3.15 Notification

The local government is to give written notice to—
  (1) an applicant for a licence of the local government's decision on her or his application;
  (2) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
  (3) a licensee of any variation made under clause 3.13(1); and
  (4) a licensee of the cancellation of a licence under clause 3.13(2).

3.16 Objection and review rights

A decision of the local government made under Part 3 is a decision to which Division 1, Part 9 of the *Local Government Act 1995* applies.

PART 4—CAT CONTROL

4.1 Cat not to be a nuisance

(1) An owner must not allow a cat to be or create a nuisance.

(2) Where a cat is creating a nuisance, the local government may give written notice to the owner of the cat requiring that person to abate the nuisance.

(3) When a nuisance has occurred and a notice to abate the nuisance is given, the notice remains in force for the period specified by the local government in the notice which must not exceed 28 days.

(4) A person given a notice to abate the nuisance must comply with the notice within the period specified in the notice.

4.2 Cat prohibited areas

(1) Unless in accordance with written authorisation from the local government a cat must not be in a cat prohibited area at any time.

(2) If a cat is in a cat prohibited area contrary to subclause (1), the owner of the cat commits an offence.

(3) An authorised person may seize and remove or direct the seizure and removal of a cat from a cat prohibited area, pursuant to the Act.

PART 5—ENFORCEMENT

5.1 Offences

(1) A 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) Unless otherwise specified, a person who commits an offence under this local law is liable on conviction to a penalty not exceeding $5,000 and, if the offence is of a continuing nature, to a further penalty not exceeding a fine of $500 in respect of each day or part of a day during which the offence has continued.

5.2 Prescribed offences

(1) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 62(2) of the Act.

(2) The amount appearing in the final column of Schedule 2 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

5.3 Forms

(1) The issue of infringement notices, their withdrawal and the payment of modified penalties are dealt with in Division 4 of Part 4 of the Act.

(2) An infringement notice in respect of an offence against this local law may be given under section 62 of the Act and is to be in the form of Form 6 in Schedule 1 to the *Cat Regulations 2012*.

(3) A notice sent under section 65 of the Act withdrawing an infringement notice is to be in the form of Form 7 in Schedule 1 to the *Cat Regulations 2012*.

Clause 4.2

SCHEDULE 1

CAT PROHIBITED AREAS

Areas where cats are prohibited—

Common Name	Physical Lot Boundaries	Description	As identified on Map number
Andrew Thomson Conservation Reserve	• Whole of Lot 4000 on Deposited Plan 44883 • Part of Lot 5000 on Deposited Plan 70746—Manning Road • Whole of Lot 389 on Plan 15472—Waterford Avenue • Part of Lot 3318 on Plan 13650—Elderfield Road	All bushland, foreshore and parkland within the boundaries of the listed lots	1
Bodkin Park	• Whole of Lot 3305 on Plan 13650—Kilkenny Circle • Whole of Lot 3306 on Plan 13650—Galway Grove • Whole of Lot 3977 on Plan 14787—Artane Court • Whole of Lot 3675 on Plan 14285—Thurles Court	All bushland, wetlands and parkland within the boundaries of the listed lots	1
Challenger Reserve	• Part of Lot 300 on Deposited Plan 45674—Challenger Avenue	All bushland within the boundaries of the lot	2
Collier Park Golf Course	• Whole of Lot 3858 on Deposited Plan 218457—Hayman Road • Part of Lot 500 on Deposited Plan 416118—Thelma Street	All parkland within the boundaries of the listed lots which are within the boundary of Collier Park Golf Course	3
Como Beach Foreshore	• Part of Lot 12510 on Deposited Plan 243198	All foreshore within the boundaries of the lot	4
Curtin Primary School Bushland	• Part of Lot 2006 on Diagram 24985—Goss Avenue	All bushland within the boundaries of the lot	5
Cygnia Cove Wetlands	• Part of Lot 4001 on Deposited Plan 70746—Cygnus Parade	All bushland, embankment and wetlands within the listed lot	1
Davilak Bushland, 1301 Davilak Crescent	• Whole of Lot 1301 on Plan 6385—Davilak Crescent	All bushland within the boundaries of the lot	6

Common Name	Physical Lot Boundaries	Description	As identified on Map number
Gentilli Boat Foreshore to Mt Henry Foreshore	• Whole of Lots 3942 and 3946 on Deposited Plan 219097 • Whole of Lot 4130 on Plan 12385 • Whole of Lot 3941 on Deposited Plan 219097 • Whole of Lot 3940 on Deposited Plan 219096	All bushland and foreshore within the boundaries of the listed lots associated with Gentilli Boat Ramp to Mt Henry Foreshore	7
Goss Avenue Reserve	• Part of Lot 4690 on Deposited Plan 27529—Manning Road	All bushland within the boundaries of the listed lots which are within the boundary of Goss Avenue Reserve	8
Hogg Avenue Reserve	• Whole of Lot 4550 on Plan 23956—Hogg Avenue	All bushland with the boundaries of the listed lot	9
Jet Ski carpark north	• Whole of Lot 500 on Deposited Plan 424378—Mill Point Road	All foreshore and parkland within the listed lot	10
Lake Doneraile	• Whole of Lot 3834 on Plan 18896—Doneraile Court	All parkland, embankment and wetlands associated with Lake Doneraile	11
Lake Douglas, Sir James Mitchell Park	• Part of Lots 198 and 199 on Plan 1620—Douglas Avenue • Part of Lots 101, 102, 103 & 104 on Plan 5947—Ranelagh Crescent • Part of Lot 11835 on Plan 240379—Coode Street	Lake Douglas, Sir James Mitchell Park	12
Lake Gillon	• Part of Lot 4690 on Deposited Plan 27529—Manning Road	All parkland, embankment and wetlands associated with Lake Gillon	8
Lake Hurlingham, Sir James Mitchell Park	• Part of Lot 100 on Plan 5947—Hurlingham Road • Part of Lot 11835 on Plan 240379—Coode Street • Part of Lot 101 on Plan 5947—Ranelagh Crescent	Lake Hurlingham, Sir James Mitchell Park	12
Lake Tondut, Clydesdale Reserve	• Part of Lot 16 on Plan 3285—Douglas Avenue	All parkland, embankment and wetlands associated with Lake Tondut	12
Manning Bushland	• Part of Lot 1769 on Plan 214206—Ley Street	All bushland within the boundaries of the lot	13
Melaleuca Grove (next to scented gardens), Sir James Mitchell Park	• Part of Lots 207, 208, 209 on Plan 5950—Coode Street • Part of Lot 210 on Plan 5950—Coode Street	All bushland, parkland and wetlands associated with Melaleuca located within Sir James Mitchell Park	12
Millers Pool	• Part of Lot 501 on Deposited Plan 424378—Mill Point Road	All foreshore, parkland, embankment and wetlands associated with Millers Pool	10

Common Name	Physical Lot Boundaries	Description	As identified on Map number
Mt Henry Road Reserve	• Whole of Lot 3651 on Deposited Plan 189047—Mount Henry Road	All bushland with the boundaries of the listed lot	9
Neil McDougall Park	• Part of Lot 100 on Diagram 71837—Clydesdale Street	All parkland, embankment and wetlands within the boundary of the lot	14
Redmond Foreshore	• Part of Lot 300 on Deposited Plan 44440—Salter Point Parade • Part of Lot 2080 on Plan 8515—River Way	All foreshore and bushland within the boundaries of the lot	2
Salter Point Lagoon	• Part of Lot 300 on Deposited Plan 44440—Salter Point Parade • Part of lot 310 on Deposited Plan 47439	All embankment and wetlands associated with Salter Point Lagoon	2
Sandon Park and Foreshore	• Whole of Lot 3976 on Plan 16038—Elderfield Road • Part of Lot 300 on Deposited Plan 44440—Salter Point Parade • Whole of lot 1943 on Deposited Plan 170093—— Salter Point Parade • Part of lot 310 on Deposited Plan 47439 • Part of lot 301 on Deposited Plan 44440—Salter Point Parade	All foreshore, bushland, embankment and wetlands associated with Sandon Park	2

The below maps are provided for visual guidance only—

MAP 1: Waterford Foreshore



Key:
1 – Andrew Thompson Reserve
2 – Bodkin Park
3 – Cygnia Cove

MAP 2: Salterpoint Foreshore



Key:
1 - Challenger Reserve
2 – Sandon Park
3 – Salter Point Lagoon
4 – Redmond Foreshore

MAP 3: Collier Park Golf Course



MAP 4: Como Beach Foreshore



MAP 5: Curtin Primary School



MAP 6: Davilak Reserve



MAP 7: Gentilli Boat Ramp to Mt Henry Foreshore



MAP 8: George Burnett



Key:
1 - Goss Avenue Reserve
2 – Lake Gillon

MAP 9: Hogg Avenue Reserve and Mt Henry Road Reserve



Key:
1 – Hogg Avenue Reserve
2 – Mt Henry Road Reserve

MAP 10: Mill Point Peninsula



Key:
1 – Jet Ski Carpark North
2 – Millers Pool

MAP 11: Lake Donnelle



MAP 12: Sir James Mitchell Park



Key:
1 – Melaleuca Grove
2 – Lake Tondut
3 – Lake Douglas
4 – Lake Hurlingham

MAP 13: Manning Primary School



MAP 14: Neil McDougall Park



Clause 5.2

SCHEDULE 2

PRESCRIBED OFFENCES AND MODIFIED PENALTIES

Item no.	Clause	Nature of Offence	Modified Penalty Units
1	2.3	Keeping more than the standard number of cats without an approval	15
2	2.6	Failure to comply with the conditions of an approval	15
3	4.1	Cat causing nuisance	15
4	4.1(4)	Failure to comply with a cat control notice	15
5	4.2(2)	Cat in prohibited area	15

Note: *Penalty Units are prescribed in the City of South Perth Local Law relating to Penalty Units. On 1 June 2024 one penalty unit is $13.00.*

Dated this 1 November 2024.

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

GREGORY SHANE MILNER, Mayor.
MICHAEL WAYNE BRADFORD, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995
DIVIDING FENCES ACT 1961

CITY OF SOUTH PERTH

FENCING LOCAL LAW 2024

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SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT

LOCAL GOVERNMENT ACT 1995
DIVIDING FENCES ACT 1961

CITY OF SOUTH PERTH

FENCING LOCAL LAW 2024

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of South Perth resolved on 22 October 2024 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *City of South Perth Fencing Local Law 2024.*

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

No local laws are repealed.

1.5 Terms Used

In this local law, unless the context otherwise required—

Act means the *Local Government Act 1995;*

applicant means a person who makes an application for approval under this local law;

AS means an Australian Standard published by the Standards Association of Australia;

authorised person means a person authorised by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

barbed wire fence means a wire or strand of wires having small pieces of sharply pointed wire twisted around it at short intervals;

boundary fence means a fence constructed on the boundary of a lot which abuts a thoroughfare;

Building Surveyor means a Building Surveyor of the local government;

CEO means the Chief Executive Officer of the local government;

Commercial lot means a lot where a commercial use is or may be permitted under the local planning scheme, and is or will be the predominant use of the lot, and no residential use is a use of the lot;

dangerous in relation to any fence means—

(a) an electrified fence other than a fence approved by the local government under this local law;

(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 local government;

dividing fence has the meaning given to it in and for the purposes of the *Dividing Fences Act 1961*;

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;

front boundary means the boundary line between a lot and the thoroughfare upon which that lot abuts, or in the case of a lot abutting on more than one thoroughfare the boundary line between the lot and the primary thoroughfare;

front fence means a fence erected on the front boundary of a lot or on a line adjacent to the front boundary;

front setback area means the area between the building line of a lot and the front boundary of that lot;

height in relation to a fence 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;

local government means the City of South Perth;

local government property means anything except a thoroughfare—

(a) which belongs to the local government;

(b) of which the local government is the management body under the *Land Administration Act 1997*; or

(c) which is an "otherwise unvested facility" under section 3.53 of the Act;

local planning scheme means a local planning scheme of the local government made under the *Planning and Development Act 2005*;

lot has the meaning given to it in and for the purposes of the *Planning and Development Act 2005*;

notice of breach is defined in clause 5.1;

non-sacrificial graffiti protection means a coating applied to a fence which is not removed in the process of removing graffiti;

occupier has the meaning given to it in the Act;

owner has the meaning given to it in the Act;

penalty unit has the meaning given to it in clauses 4 and 5 of the City of South Perth Local Law relating to Penalty Units;

Residential lot means a lot where a residential use is or may be permitted under the Local Government planning scheme, and is or will be a use of the lot;

retaining wall means any structure which prevents the movement of soil or retains soil or structures in order to allow ground levels of different elevations to exist adjacent to one another;

Schedule means a Schedule to this local law;

sufficient fence means a fence that satisfies clause 2.1 and includes a fence of the description and quality agreed upon by the owners of adjoining lots which does not fail to satisfy clause 2.1;

thoroughfare has the meaning given to it in the Act.

1.6 Fees and charges

All fees and charges applicable under this local law must be determined by the local government from time to time under and in accordance with sections 6.16 to 6.19 of the Act.

PART 2—FENCES

Division 1—Sufficient Fences

2.1 Sufficient fence

(1) A person must not erect a dividing fence or a boundary fence that is not a sufficient fence unless—

(a) in respect of a dividing fence—

(i) All the owners of land that the dividing fence separates agree in writing to the type of dividing fence that is to be erected and that fence does not exceed 2400 millimetres in height and is designed by a suitably qualified structural engineer and constructed in accordance with that design; or

(ii) The dividing fence is determined to be a sufficient fence, for the purposes of the *Dividing Fences Act 1961*, by a magistrates court, under the *Dividing Fences Act 1961*; or

(iii) The approval of the local government has been obtained for such a fence.

(2) Pursuant to section 24 of the *Dividing Fences Act 1961* and subject to sub-clauses (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 Schedule 2; and

(b) on a Commercial lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 3.

(c) On adjoining Residential and Commercial lots is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 2.

(3) Where a fence is erected on or near the boundary between 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 Schedule 2.

(4) Unless an authorised person determines otherwise, a sufficient fence on a boundary between lots other than those specified in sub-clauses (2) and (3) is a dividing fence constructed in accordance with the specifications and requirements of Schedule 2.

Division 2—General

2.2 Relationship with other laws

(1) Nothing in this local law affects the need for compliance, in respect of a fence, with—

(a) any relevant provisions of a local planning scheme; and

(b) any relevant provisions that apply if a building permit is required for that fence under the *Building Act 2011* or *Building Regulations 2012*.

(2) Where there is inconsistency between the standards and requirements of this local law and those specified in a local planning scheme, the standards and requirements of a local planning scheme must prevail.

2.3 Gates in fences

A person must not erect or maintain a gate in a boundary fence which does not—

(a) open into the lot; or

(b) open by sliding parallel and on the inside of the fence, of which it forms part, when closed.

2.4 Depositing fencing material on public place

A person must not deposit or permit the deposit of any materials whatsoever used in the construction or maintenance of any fence, on any thoroughfare, public place or local government property unless the approval of the local government has been obtained.

2.5 Alteration of ground levels

(1) A fence constructed of corrugated fibre reinforced pressed cement must not have more than 150 millimetres difference in the ground levels on each side of the fence.

(2) Where land has been filled or retained to a height of more than 500 millimetres above natural ground level at or within 1000 millimetres of a boundary of a lot, a person must only erect a dividing fence that is a sufficient fence on the said fill or retaining wall if the person produces to the local government the written agreement of the owners of the adjoining lot.

(3) A person must not alter (whether by removing soil or bringing in fill of any kind) the natural ground level of land on or within 1000 millimetres of the boundary of a lot, by more than 500 millimetres without the approval of the local government.

2.6 Maintenance of fences

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

(2) Where in the opinion of the local government or an authorised person, a fence is in a state of disrepair or is dangerous or is otherwise in breach of a provision of this local law, the local government or an authorised person may give a notice of breach under clause 5.1 to the owner of the lot on which the fence is erected.

2.7 Fences across rights of way, public access ways or thoroughfares

A person must not, without the approval of the local government, erect or maintain a fence or obstruction of a temporary or permanent nature across any right-of-way, public access way or thoroughfare so as to impede or prevent use of those facilities in the manner for which they are intended and constructed.

2.8 General discretion of the local government

(1) Notwithstanding the provisions of clause 2.1, the local government may approve the erection or repair of a dividing fence which is not a sufficient fence where all of the owners of the lots to be separated by the dividing fence make an application for approval for that purpose.

(2) In determining whether to grant its approval under sub-clause (1), the local government may 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

2.9 Pre-used fencing materials

(1) Notwithstanding clause 2.1, a person must not construct a boundary fence on a Residential lot from pre-used materials without the approval of the local government.

(2) Where the local government approves the use of pre-used materials in the construction of a boundary fence under sub-clause (1), that approval must be conditional on the applicant painting or treating the pre-used material as stated in or attached to the form of approval issued by the local government under clause 3.2.

2.10 Barbed wire fences and spiked or jagged materials

(1) An owner or occupier of a Residential lot must 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 approval of the local government has been obtained.

(2) Where an approval has been obtained in accordance with sub-clause (1), that approval must be taken to have been issued subject to a condition that the owner or occupier must 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 are 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, is at least 2000 millimetres above ground level and the total height must not exceed 2400 millimetres.

2.11 Electrified and razor wire fences

(1) An owner or occupier of a Residential lot must not—
  (a) construct or use an electrified fence on that lot; or
  (b) construct a fence wholly or partly of razor wire on that lot.

(2) On a Commercial lot, an electrified fence must—
  (a) comply with AS/NZS3016:1994; and
  (b) be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.

(3) The local government must not approve an application for a razor wire fence on a Commercial lot—
  (a) if the fence is within 3000 millimetres of the boundary of the lot; or
  (b) where any razor wire used in the construction of the fence is less than 2000 millimetres or more than 2400 millimetres above the ground level.

(4) Notwithstanding the provisions of clause 2.11, the local government may approve the erection or repair of a dividing fence which includes an electrified or razor wire fence where all of the owners of the lots to be separated by the dividing fence make an application for approval for that purpose.

(5) In determining whether to grant its approval under sub-clause (4), the local government may 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.

2.12 Prohibited fencing materials

A person must not affix or use broken glass in the construction of any fence.

Division 4—Home recreational sports fencing

2.13 Home recreational sports fencing

(1) A person must not erect a fence higher than 1800 millimetres in height around or partially around a home tennis court, basketball court, netball court, cricket practice area or similar home sporting area on a lot within 900 millimetres of a lot boundary with a residential use lot unless—
  (a) The person has given at least 60 days prior notice to the owner of any residential use lot immediately adjoining that part of the fence that is higher than 1800 millimetres of the person's intention to erect such fence and the design thereof and proposed fencing materials to be used; and
  (b) Fence is not more than 3000 millimetres in height; and;
  (c) The fence above 1800 millimetres in height is either constructed of
    (i) chain link mesh and is poly vinyl coated or galvanised and installed in accordance with manufacturer's specifications; or
    (ii) flexible retractable nylon or similar mesh;

  or
  (d) The fence is otherwise approved by the local government.

(2) In determining any application for approval under (1)(d), the local government must invite submissions on the proposal from the owner of any residential use lot immediately adjoining that part of the fence that is proposed to be higher than 1800 millimetres and must consider any such submission in making its decision under clause 3.2.

PART 3—APPROVALS

3.1 Application for approval

(1) Where a person is required to obtain the approval of the local government under this local law, that person must apply for approval in accordance with sub-clause (2).

(2) An application for approval under this local law must—
  (a) be in the form determined by the local government;
  (b) be signed by the applicant and the owner of the lot;
  (c) provide the information required by the form; and
  (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for approval.

(4) The local government may refuse to consider an application for approval which is not in accordance with sub-clauses (2) and (3).

3.2 Decision on application for approval

(1) The local government may—
  (a) approve an application for approval unconditionally or subject to any conditions; or
  (b) refuse to approve an application for approval.

(2) If the local government approves an application for approval, it is to issue to the applicant an approval in the form determined by the local government.

(3) If the local government refuses to approve an application for approval, it is to give written notice of that refusal to the applicant.

(4) Where a clause of this local law refers to conditions which may be imposed on an approval or which are to be taken to be imposed on an approval, the clause does not limit the power of the local government to impose other conditions on the approval under sub-clause (1)(a).

3.3 Compliance with approval

Where an application for approval has been approved, the applicant and the owner and occupier of the lot to which the approval relates, must comply with the terms and any conditions of that approval.

3.4 Duration of approval

Unless otherwise stated in the form of approval, an approval granted under this local law runs with the lot to which it relates and for the avoidance of doubt, it may be relied upon by any subsequent occupier or owner of the lot and may be enforced against them by the local government.

PART 4—MISCELLANEOUS

4.1 False or misleading statement

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

PART 5—NOTICES OF BREACH

5.1 Notices of breach

(1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice in writing to that owner of that lot ('notice of breach').

(2) The notice of breach must—

(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 is required to remedy the breach within the time specified in the notice.

(3) An owner given a notice of breach must comply with the terms of the notice and remedy the breach within the time specified in the notice.

5.2 Limit on liability

An owner to whom a notice of breach has been given is not entitled to make any claim by way of damages or otherwise, against an authorised person, local government employee, local government appointed sub-contractor or other person authorised by the local government arising from anything done while they are acting under clause 5.1(3).

PART 6—OFFENCES

6.1 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 penalty of not less than $500 and not exceeding $5000 and, if the offence is a continuing offence, to a maximum daily penalty of $500.

(2) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable on conviction to a penalty of not less than $500 and not exceeding $5000 and, if the offence is a continuing offence, to a maximum daily penalty of $500.

6.2 Modified penalties

(1) An offence against any provision of this local law is a prescribed offence described for the purposes of section 9.16 (1) of the Act.

(2) The amount appearing in the final column of Schedule 1 directly opposite a prescribed offence in that Schedule is the modified penalty for that prescribed offence.

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that—

(a) commission of the prescribed offence is a relatively minor matter; and

(b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

6.3 Form of notices

For the purposes of this local law—

(1) the form of the infringement notice referred to in sections 9.16 and 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;* and

(2) 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*.

PART 7—OBJECTIONS AND REVIEW

7.1 Objections and review

When the local government makes a decision under clause 3.2, the provisions of Division 1 of Part 9 of the Act and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

Clause 6.2

SCHEDULE 1
PRESCRIBED OFFENCES AND MODIFIED PENALTIES

Item	Clause No.	Nature Of Offence	Modified Penalty Units
1	2.1 (1)	Erect a fence which is not a sufficient fence	38
2	2.3(a)	Erect or maintain a gate in a boundary fence not opening into the lot	38
3	2.3(b)	Erect or maintain a gate in a boundary fence not sliding parallel and inside of fence	38
4	2.6 (1)	Failure to maintain a fence in good condition/prevent fence becoming dangerous, dilapidated, unsightly	38
5	2.7	Erect or maintain a fence/obstruction temporary or permanent across a right-of-way, public access way or thoroughfare without approval	38
6	2.9 (1)	Construct a boundary fence on a Residential lot from pre-used materials without written approval	38
7	2.10 (1)	Using barbed or razor wire, spiked or jagged projections in a fence on a Residential lot	38
8	2.11 (1)(a)	Having and using an electrified fence on a residential lot	38
9	2.11 (2)(a)	Having and using an electric fence on a Commercial lot that is noncompliant with AS/NZS3016:1994	38
10	2.11 (2)(b)	Operating an electric fence on a Commercial lot during business hours	38
11	2.11 (4)	Construct, erect or use razor wire in a fence or electrify a fence without approval	38
12	2.12	Affix, or use, any broken glass in a fence	38
13	2.13 (1)	Erect a home recreational sports fence higher than 1800 millimetres or less than 900 millimetres from the boundary of adjoining residential lot without meeting the requirements of 2.13(1)	38
14	2.13(1)(a)(c)(i)(ii)	Erect a home recreational sports fence not made of polyvinyl coated or galvanized chain link mesh in accordance with the manufacturer's specifications or flexible retractable nylon or similar mesh without approval	38
15	3.3	Failure to comply with terms or conditions of approval	38
16	5.1 (3)	Failure to comply with notice of breach	38

Note: *Penalty Units are prescribed in the City of South Perth Local Law relating to Penalty Units. On 1 June 2024 one penalty unit is $13.00.*

Clause 2.1 (2)(a)

SCHEDULE 2
SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

Each of the following is a "*sufficient fence*" on a Residential lot—

A. A fully enclosed timber boundary fence or dividing fence built in accordance with established construction techniques, and
   (i) the height of the dividing fence to be 1800 millimetres except with respect to the front setback area;
   (ii) the height of the boundary fence to not exceed 1800 millimetres.

B. Where a difference in levels exists on opposite sides of the common boundary at any point the height of the fence will be measured from the higher ground.

C. A dividing fence constructed of corrugated fibre reinforced pressed cement or metal sheeting erected in accordance with the manufacturer's specifications and 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, must have a minimum in-ground depth of 600 millimetres;

(b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet;

(c) the sheets to be lapped and capped with extruded "snap-fit" type capping in accordance with the manufacturer's instructions or established construction techniques; and

(d) the height of the dividing fence to be 1800 millimetres, except with respect to the front setback.

D. A boundary fence or dividing fence constructed of brick, masonry, stone or concrete, which satisfies the following specifications—

(a) concrete footings with minimum dimensions of 225 millimetres x 150 millimetres for single leaf walls or 300mm x 300mm for double leaf walls;

(b) fences to be offset a minimum of 200 millimetres at maximum 3000 millimetres centres or 225 millimetres x 100 millimetres engaged piers to be provided at maximum 3,000 millimetres centres;

(c) expansion joints in accordance with the manufacturer's written instructions; and

(d) the height of the dividing fence to be 1800 millimetres except with respect to the front setback area.

(e) The height of the boundary fence to not exceed 1800 millimetres.

E. A composite dividing fence having an overall height of 1800 millimetres, except with respect to the front setback area, which satisfies the following specifications for the brick component of the construction—

(1) (a) brick piers of minimum 345 millimetres x 345 millimetres at 1800 millimetres centres bonded to a minimum height base wall of 516 millimetres (6 courses);

(b) each pier must be reinforced with one 10 millimetre diameter galvanised reinforced starting rod 1,500 millimetres high with a 250 millimetres horizontal leg bedded into a 500 millimetres x 200 millimetres concrete footing and set 65 millimetres above the base of the footing. The top of the footing must be 1 course (85 millimetres) below ground level;

(c) the minimum ultimate strength of brickwork must be 20 Megapascals. Mortar must 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 300 millimetres and checked with a standard falling weight penetrometer; and

(e) control joints in brickwork must be provided with double piers at a maximum of 6000 millimetre centres; or

(2) (a) brick piers of a minimum 345 millimetres x 345 millimetres x 2,700 millimetres centres bonded to the base; and;

(b) each pier must be reinforced with two 10 millimetre diameter galvanised reinforced starting rods 1500 millimetres high with a 250 millimetres horizontal leg bedded into a 500 millimetres x 200 millimetres concrete footing and set 65 millimetres above the base of the footing. The top of the footing must be 1 course (85 millimetres) below ground level.

Clause 2.1 (2) (b)

SCHEDULE 3

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT

Each of the following is a *"sufficient fence"* on a Commercial lot—

A. A dividing fence constructed of galvanised or PVC coated rail-less link mesh, chain mesh or steel mesh to a height of 1800 millimetres all supported by galvanised iron posts of a minimum diameter of 30 millimetres spaced at no more than 3000 millimetres centres and sunk in the ground a minimum of 600 millimetres encased in concrete with a minimum diameter of 150 millimetres, except with respect to the front setback area.

B. A dividing fence of fibre reinforced cement sheet constructed to the specifications referred to in Schedule 2, except with respect to the front setback area.

C. A dividing fence constructed of metal sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1800 millimetres.

D. Fences of timber, brick, stone or concrete constructed to the specifications referred to in Schedule 2, except with respect to the front setback area.

E. Where a difference in levels exists on opposite sides of the common boundary at any point the height of the fence will be measured from the higher ground.

F. A sufficient fence on a commercial lot can include barbed wire.

Dated this 1 November 2024.

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

GREGORY SHANE MILNER, Mayor.
MICHAEL WAYNE BRADFORD, Chief Executive Officer.