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LOCAL GOVERNMENT ACT 1995

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**CITY OF NEDLANDS**

**LOCAL LAW RELATING TO  
FENCING**

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**LOCAL LAW RELATING TO  
SITE EROSION AND SAND  
DRIFT**



**LOCAL GOVERNMENT ACT 1995**

## CITY OF NEDLANDS

**LOCAL LAW RELATING TO FENCING**

Under the powers conferred by the *Local Government Act 1995* and by all other powers the Council of the City of Nedlands resolved to make the following local law on the 25th day of January 2000.

**PART 1—PRELIMINARY****1. Citation**

This Local Law may be cited as the *City of Nedlands Local Law Relating to Fencing No. 1*.

**2. Repeal**

The City of Nedlands By-laws Relating to Fencing published in the *Government Gazette* of the 12 November 1982 and amended on the 7 June 1985 are repealed.

**3. Interpretation**

In this Local Law, unless the context requires otherwise—

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

“authorised person” includes an officer of the local government or any person authorised by the Council to exercise all or any of the powers and functions in this Local Law;

“Building Licence” means a Building Licence issued under Section 374 of the Local Government (Miscellaneous Provisions) Act 1960;

“Building Line” means the line between which and any public place a building may not be erected except by or under the authority of an Act;

“CEO” means the Chief Executive Officer of the City;

“City” means the local government of the City of Nedlands;

“Commercial Lot” means a lot in an “Office/showroom” “Hotel” or “Service Station” zone in a town planning scheme where a commercial use—

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

“dangerous” in relation to any fence includes:

- (a) an electrified fence other than a fence in respect of which a Permit under Part 5 of this Local Law is in force;
- (b) a fence containing barbed wire or razor wire, other than a fence erected and maintained in accordance with this Local Law;
- (c) a fence which has become dangerous through lack of maintenance or repair;
- (d) a fence containing exposed broken glass, asbestos fibre or any other potentially harmful projection or material; or
- (e) a fence which in the opinion of the City is likely, in whole or in part to collapse or fall, from any cause;

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

“district” means the district of the City;

“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 building or structure, including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes a gate;

“frontage” means the boundary line between the front of a lot and the thoroughfare upon which that lot abuts;

“Front Setback Area” means the area of a lot between the front of the lot and the building line and the side boundaries 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 natural ground level or, where the ground levels on each side of the fence are not the same, the height of the fence shall be measured from a level fixed by an authorised person;

“Industrial Lot” means a lot in a “Light Industry” or “Special Use” zone in a town planning scheme where an industrial use—

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

“Local Government” means the Local Government of the City of Nedlands;

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

“non-sacrificial graffiti protection” means a product which when applied to a fence facilitates the removal of any graffiti without the product itself suffering any deterioration (visual or otherwise) by the removal of the graffiti;

“Notice of Breach” means a notice referred to in Section 16;

“Permit” means a permit issued under Part 5 of this Local Law;

“Residential Lot” means a lot in a “Residential” or a “Development” zone in a town planning scheme where a residential use—

- (a) is or may be permitted under the town planning scheme; and
- (b) 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;

“Schedule” means a Schedule to this Local Law;

“sufficient fence” means a fence as described in Part 2;

“town planning scheme” means a town planning scheme of the City made under the Town Planning and Development Act 1928 in force in the district.

Any other expression used in this Local Law and not defined herein shall have the meaning given to it in the Local Government Act 1995 or the Local Government (Miscellaneous Provisions) Act 1960 unless the context requires otherwise.

## **PART 2—SUFFICIENT FENCE**

### **4. Sufficient Fence**

- (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Subject to subsections (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 Part A of the First 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 Part A of the Second Schedule;
- (3) Where a fence is erected on or near the boundary between;
  - (a) a Residential Lot and a Commercial or Industrial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Part A of the First Schedule.
  - (b) an Industrial Lot and a Commercial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Part A of the Second Schedule.
- (4) Unless an authorised person determines otherwise, a sufficient fence on a boundary between lots other than those specified in subsections (2) and (3) is a dividing fence constructed in accordance with the specification and requirements of Part A of the First Schedule.

### **5. Application for Approval**

- (1) Subject to this Local Law, a person shall not erect or commence to erect a fence exceeding a height of 1.8m outside the Front Setback Area, without first having obtained the approval of the City.
- (2) A person shall not erect or commence to erect a fence including a retaining wall on or near a lot boundary without having both—
  - (a) submitted to the City:
    - (i) an application for a Building Licence to erect a fence;
    - (ii) plans and specifications for the fence (“the Proposed Fence”); and
    - (iii) an application fee specified by the Building Regulations 1989.
  - and
  - (b) received approval from an authorised person for the erection of the Proposed Fence and a Building Licence.
- (3) Where in a Residential Zone a fence is to be constructed in corrugated reinforced pressed cement sheeting, brick, stone or concrete, or in composite materials, then the fence shall be constructed in accordance with the corresponding standards prescribed for fences of that description in Parts B to D of the First Schedule.
- (4) Where a fence is to be erected on a Commercial or Industrial lot in corrugated reinforced pressed cement sheeting, brick, stone or concrete, or in composite materials, then the fence shall be constructed in accordance with the standards prescribed for fences of that description in Parts B to D of the Second Schedule.

(5) Notwithstanding any other provision in this Local Law a fence shall not be constructed in stone or concrete to a height greater than 1.8 metres unless it is constructed in accordance with plans and specifications prepared by a structural engineer and approved by an authorised person.

(6) The City may grant an application for a Building Licence with or without conditions which may include—

- (a) where a retaining wall is approved pursuant to this Local Law that the construction of that retaining wall shall be completed prior to the commencement of any other development on the land;
- (b) if an applicant seeks approval for the use of barbed wire, that barbed wire shall not be installed in any fence below a height of 1.8 metres; and
- (c) any of the conditions listed in the Third Schedule.

### PART 3—GENERAL

#### 6. Fences shall not Impede Water Movement

A person shall not erect or commence to erect a fence of impervious material in any location where it may or is likely to act as a barrier to or restrict in any way whatsoever the normal flow of stormwater, floodwater or a water course in, on, or over any land.

#### 7. Fences on or Adjacent to a Boundary of a Public Reserve

(1) A person shall not erect or commence to erect a fence exceeding a height of 1.8 metres on or within a distance of 7.5 metres from the boundary of a public reserve.

(2) Notwithstanding the preceding provision the City may approve the construction of a fence, in timber, brick, concrete, masonry, wrought iron or cast iron, and exceeding a height of 1.8 metres provided that the City is satisfied that such fence will not prejudice the amenity of the locality or the use or proposed use of the public reserve.

#### 8. Fences within Front Setback Areas

(1) A person shall not, without the written consent of an authorised person erect, or repair a free-standing fence constructed of corrugated reinforced pressed cement sheeting within the Front Setback Area of a lot within the district.

(2) A person shall not erect or commence to erect on or within a Front Setback Area of a lot a fence—

- (a) exceeding 750mm in height unless—
  - (i) an authorised person has first approved plans and specifications of the fence and the location thereof;
  - (ii) the fence does not exceed 1.8 metres in height; and
  - (iii) the fence does not cover more than 25% of the linear frontage of the lot.
- (b) which is constructed of a material other than timber, brick, concrete, masonry, wrought iron, cast iron or other material approved by the Council.

(3) In determining an application for a Building Licence in respect of a fence, an authorised person may approve the erection of a fence of a height greater than 750mm in the Front Setback Area of a Residential Lot, only if the fence on each side of the driveway into the lot across the front boundary is to be angled into the lot for a distance of not less than 1500mm along the frontage to a distance of not less than 2500mm from the front boundary, in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.

(4) The provision of subsection (3) shall not apply to a fence—

- (a) of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare; or
- (b) that does not adjoin a footpath.

(5) Where an authorised person is satisfied that—

- (a) there will be not more than 30% loss of vision through the truncation;
- (b) no single obstruction to vision will be more than 340mm in horizontal dimension; and
- (c) the safety of persons will not be unduly impaired;

approval may be granted for the erection of a fence within the truncation area.

(6) A person shall not erect or commence to erect a fence within a truncation of any vehicular accessway located on a lot or an adjoining lot which truncation has the dimensions of 2.5 metres x 1.5 metres being measured along the front boundary of the lot or adjoining lot or both as the case requires, unless the fence does not exceed a height of 750 mm.

#### 9. Fences in Relation to Fill

Where land has been filled or retained to a height of more than 300 mm above natural ground level at or within 1 metre of a boundary, a person shall only erect a dividing fence that is a sufficient fence on the said fill or retaining wall if—

- (a) the applicant produces to the City written agreement from all and any adjoining owners; and
- (b) the fence is approved by an authorised person.

#### 10. Maintenance and Protection of Fences

(1) An owner of a lot on which a fence is erected shall maintain the fence in good condition and so as to prevent it from becoming or being dangerous, dilapidated, unsightly or prejudicial to the amenity of the locality. For the purpose of this section the term “unsightly” includes the presence of graffiti.

(2) Where in the opinion of an authorised person a fence is in a state of disrepair or dangerous or is otherwise in breach of a provision of this Local Law an authorised person may give notice in writing to the owner or occupier (as the case requires) of the land upon which the fence is erected requiring the owner or occupier to modify, repair, paint or maintain the fence within the time and in the manner specified in the notice. Any notice issued pursuant to this subparagraph may contain a condition requiring that the fence be treated with non-sacrificial graffiti protection, which protection shall be applied in accordance with the specification of the manufacturer thereof.

(3) An owner or occupier who fails to comply with the notice issued under section 10(2) commits an offence.

#### **PART 4—FENCING MATERIALS**

##### **11. Fencing Materials**

(1) A person shall not construct a fence on a Residential Lot, a Commercial Lot, or an Industrial Lot, from material other than brick, stone, concrete, wrought iron, tubular steel framed, link mesh, timber, plastic coated or galvanised link mesh, corrugated reinforced pressed cement sheeting, colour-bonded metal, or a material approved by an authorised person.

(2) Where an authorised person approves the use of second hand or recycled materials in the construction of a fence under subsection (1), that approval shall be conditional upon the applicant painting or treating those materials as directed by an authorised person.

##### **12. Barbed Wire and Broken Glass Fences**

(1) This section does not apply to a fence constructed wholly or partly of razor wire the subject of a current Building Licence.

(2) An owner or occupier of a Residential Lot or a Commercial Lot shall not erect or affix to or allow to remain on or as part of, any fence on such a lot any barbed wire or other material with spiked or jagged projections.

(3) An owner or occupier of an Industrial Lot shall not erect or affix to, or allow to remain as part of any fence bounding that lot, any barbed wire or other materials with spiked or jagged projections unless the wire or materials are carried on posts bent back into the lot from the boundary at an angle of 45 degrees, and unless the bottom row of wire or other materials is set back 150mm from the face of the fence and is not nearer than 2000mm from the ground level, in accordance with the prior written approval of an authorised person.

(4) An owner or occupier of a lot shall not affix or allow to remain as part of any fence, or wall, whether internal or external, on that lot, any broken glass.

#### **PART 5—ELECTRIFIED AND RAZOR WIRE FENCES**

##### **13. Requirements for a Permit**

(1) An owner or occupier of an Industrial Lot shall not;

- (a) erect or use an electrified fence on that lot without first obtaining a Permit under subsection (2); or
- (b) erect a fence constructed wholly or partly of razor wire on that lot without first obtaining a Permit under subsection (3).

(2) A Permit to erect and use an electrified fence shall not be issued—

- (a) in respect of a lot which is or which abuts a Residential Lot;
- (b) unless the fence complies with AS/NZS 3016:1994; and
- (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.

(3) A Permit to erect or use a fence constructed wholly or partly of razor wire shall not be issued—

- (a) if the fence is within 3000mm of the boundary of the lot;
- (b) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above the ground level.

(4) An application for a Permit referred to in subsections (2) or (3) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

(5) An application for a Permit referred to in subsections (2) or (3) may be—

- (a) approved by the City, for a term of not less than 12 months;
- (b) approved by the City subject to such conditions as it thinks fit; or
- (c) refused by the City.

(6) Where an applicant seeks a Permit under this Part for a fence that is yet to be constructed, the applicant must also obtain a Building Licence under Section 5 and otherwise comply with the requirements of that Section.

##### **14. Transfer of a Permit**

(1) The holder of a Permit referred to in section 13 may transfer that Permit to another occupier or owner of the lot only with the written approval of the City.

- (2) The application for a transfer of a Permit shall be—
- (a) made by the proposed transferee;
  - (b) in the form determined from time to time by the City;
  - (c) signed by the holder of the Permit;
  - (d) accompanied by the fee determined by the City from time to time; and
  - (e) accompanied by such other information as the City may require.
- (3) The City may—
- (a) approve the application for a transfer of the Permit;
  - (b) approve the application for a transfer of the Permit subject to such conditions as it thinks fit; or
  - (c) refuse to approve the application for a transfer of the Permit.

#### **15. Cancellation of a Building Licence**

Subject to Division 1 Part 9 of the Local Government Act 1995, the City may cancel a Permit issued under this Part if—

- (a) the fence no longer satisfies the requirements specified in section 13(2) or 13(3) as the case may be; or
- (b) a Notice of Breach has been served on the Permit holder for a breach of any condition upon which the Permit has been issued and the breach has not been rectified within the period specified in the Notice.

### **PART 6—NOTICES OF BREACH**

#### **16. 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 City may give a Notice of Breach in writing to the owner or occupier of that lot.

(2) A 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 28 days from the giving of the notice.

### **PART 7—ADMINISTRATION AND OFFENCES**

#### **17. Determination of Levels**

Where there is a dispute as to the height of a fence from natural ground level, or ground level for the purposes of this Local Law, the determination of an authorised person as to natural ground level or ground level shall be conclusive.

#### **18. Engineer's Certificate**

Notwithstanding any of the provisions in this Local Law an authorised person may in respect of any application first require that the applicant provide to the City at the cost of the applicant a certificate from a practising structural engineer to certify that the proposed fence when constructed in accordance with the approved plans and specifications will be capable of bearing any reasonably foreseeable loads which might be imposed on the fence.

#### **19. Delegation**

The City may delegate any of the powers, functions and duties in this Local Law to the CEO or to an authorised person.

#### **20. Offences and Penalties**

(1) An owner or occupier 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 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.

#### **21. 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 Local Government Act 1995.

(2) Unless otherwise specified, the amount of the modified penalty for an offence against any provision of this Local Law is \$500.

#### **22. Form of Notices**

For the purpose of this Local Law—

- (a) the form of the infringement notice referred to in Section 9.17 of the Local Government Act 1995 is to be in or substantially in the form of Form 2 of the Local Government (Functions and General) Regulations 1996;

- (b) the form of the notice referred to in section 9.20 of the Local Government Act 1995 is to be in or substantially in the form of Form 3 in Schedule 1 of the Local Government (Functions and General) Regulations 1996.

### 23. Appeals

Where the City exercises a discretion pursuant to this Local Law any person aggrieved by that exercise of the decision has a right of appeal under Part 9 of the Act.

## FIRST SCHEDULE

### RESIDENTIAL LOTS

- A A picket timber fence which satisfies the following specifications is a sufficient fence—
- (i) corner posts to be 125mm x 125mm x 2400mm and intermediate posts to be 125mm x 75mm x 2400mm spaced at 2400mm centres;
  - (ii) corner posts to be strutted two ways with 100mm x 50mm x 450mm sole plates and 75mm x 50mm struts;
  - (iii) intermediate posts to be doubled yankee strutted with 150mm x 25mm x 450mm struts;
  - (iv) all posts to have tops with a 60mm weather cut and to be sunk at least 600mm into the ground;
  - (v) rails to be 75mm x 50mm with each rail spanning two bays of fencing double railed or bolted to each post with joints staggered;
  - (vi) the fence to be covered with 75mm x 20mm sawn pickets, 1.8 metres in height placed 75mm apart and double nailed to each rail; and
  - (vii) the height of the fence to a minimum of 1.8 metres.

### FENCING STANDARDS

- B A fence constructed of corrugated reinforced pressed cement sheeting which satisfies the following specifications—
- (i) a minimum in-ground length of 25% of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600 mm;
  - (ii) the total height and depth of the fence to consist of a single continuous reinforced pressed cement sheet;
  - (iii) the sheets to be lapped and capped with extruded “snap-fit” type capping in accordance with the manufacturer’s written instructions; and
  - (iv) the height of the fence to be a minimum of 1.8 metres.
- C A fence constructed of brick, stone or concrete, which satisfies the following specifications—
- (i) footings of minimum 225mm x 150mm concrete 15MPA or 300mm x 175mm brick laid in cement mortar;
  - (ii) fences to be offset a minimum of 450mm at maximum 3000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3000mm centres;
  - (iii) expansion joints in accordance with the manufacturer’s written instructions; and
  - (iv) the height of the fence to be a maximum of 1.8 metres.
- D A composite fence which satisfies the following specifications for the brick construction—
- (1) (i) brick piers of minimum 230mm x 230mm at 1.8 metres centres bonded to a minimum height base wall of 514mm;
  - (ii) 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;
  - (iii) 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;
  - (iv) the ground under the footings is to be compacted to 6 blows per 300mm and checked with a standard falling weight penetrometer; and
  - (v) control joints in brickwork shall be provided with double piers at a maximum of 6 metre centres; or
  - (2) (i) brick piers of a minimum 230mm x 350mm x 270mm centres bonded to the base wall; and
  - (ii) each pier shall be reinforced with two R10 galvanised starting rods as previously specified.

## SECOND SCHEDULE

### COMMERCIAL AND INDUSTRIAL LOTS

- A A fence constructed of galvanised or PVC coated rail-less link mesh, chain mesh or steel mesh which satisfies the following specifications is a sufficient fence—
- (i) corner posts to be minimum 50mm normal bore x 3.5mm and with footings of a 225mm diameter x 900mm;



- (ii) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5mm centres and with footings of 225mm diameter x 600mm;
- (iii) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and two at each corner posts;
- (iv) 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;
- (v) galvanised link mesh wire to be 2000mm 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.
- (vi) in the case of an Industrial Lot, rail-less link, chain or steel mesh is to be to a height of 2000mm on top of which are to be three strands of barbed wire carrying the fence to a height of 2400mm;
- (vii) 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.

**FENCING STANDARDS**

B A fence of reinforced pressed cement sheet constructed to the minimum specifications referred to in Item B of the First Schedule.

C A fence constructed of painted or galvanised steel or aluminium sheeting provided that this is used behind the building line to maximum height of 2400mm when supported on posts and rails.

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

FORM 1

PERMIT TO CONSTRUCT AND MAINTAIN AN  
ELECTRIFIED/RAZOR WIRE FENCE

*(strike out where not applicable)*

This is to certify that .....  
of .....  
is licensed, subject to the conditions set out below, to have and use an electrified/razor wire fence on:  
.....  
.....  
.....

*[insert address]*

From.....and until this Permit is transferred or cancelled.

DATED this                    day of                    2000

.....  
Chief Executive Officer

This Permit is issued upon and subject to the following conditions, namely that the holder of the Permit shall;

- (a) Display the Permit in a prominent position on the land or premises on which the electrified fence has been erected.
- (b) Upon the request of a authorised person produce to him or her the Permit.
- (c) Within 14 days of a change in the ownership or occupation of the land or premises, in respect of which the Permit has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes.
- (d) Obtain the written consent of the City prior to the commencement of any alterations, addition or other work relating to or affecting the fence and in case of an electrified fence—
  - (i) Comply with AS/NZS 3016:1994.
  - (ii) Following erection of the fence, lodge with Western Power, a certificate of installation from a qualified electrician and comply with any requirements of Western Power regarding the erection of the fence.
- (e) Other conditions, if any: .....

DATED this                    day of                    2000

.....  
Chief Executive Officer  
City of Nedlands

**TRANSFER BY ENDORSEMENT**

This Permit is transferred to .....  
.....  
of .....  
.....

from and including the date of this endorsement.

DATED this                    day of                    2000

.....  
Chief Executive Officer  
City of Nedlands

**THIRD SCHEDULE**

**CITY OF NEDLANDS: LOCAL LAW RELATING TO FENCING**

**CONDITIONS WHICH MAY BE ATTACHED TO A LICENCE (INCLUDING ADVISORY NOTES)**

1 The Builder is to ensure that all work undertaken on site (including work by contractors) is restricted to the following times—

Monday to Saturday—7.00 am to 7.00 pm

Sundays—Building work which emits noise **is not permitted on Sundays.**

2 It should be noted that the boundary fences may form part of approved swimming pool barriers for their respective pools. Such fences are not to be removed, or partly removed, in any way without the prior full consent in writing, from the adjoining owners, who are responsible for maintaining their respective pool barriers. Any damage occurring to these fences during the progress of the works is to be rectified immediately by the Builder. Any changes proposed to the swimming pool barriers are to be inspected and approved by an authorised person **prior** to implementation.

3 If approval has been given to the placement of fill on the lot, then that fill shall be retained within the lot boundary. If there is a difference in levels between adjoining lots whether by reason of fill or by natural site contours, and the construction of a retaining wall is required, then no construction shall be commenced until plans and specifications, accompanied by a certificate from a practising structural engineer, have been lodged with and approved by the City.

4 In the event that approval has been obtained to place fill on a lot and that fill requires compaction, all adjoining owners are to be given not less than 14 days notice. If so requested a builder shall carry out a dilapidation survey of the adjoining owners' lot and buildings there before compaction of any fill and after construction has been completed.

5 Fencing material on or adjacent to any boundary shall be finished externally to the satisfaction of an authorised person.

6 Fences or walls adjacent to a public place or reserve shall be treated with non-sacrificial graffiti protection, which protection shall be applied in accordance with the specification of the manufacturer thereof.

7 The Builder shall comply with notations marked in red on the approved plans.

8 Where a tree on or near a fence line has been identified for retention, the fence is to be constructed with minimum disturbance to the tree.

**ADVISORY NOTES:**

- (a) It is recommended the lot is re-pegged by a Licensed Land Surveyor prior to commencement of construction.
- (b) Any Permit or approval given by the City does not affect the rights and remedies of adjoining owners which may exist in the Dividing Fences Act 1961.
- (c) During construction works no materials are to be stored on any carriageway, footpath or right of way.
- (d) The City of Nedlands does not support the use of old growth forest or tropical forest timber.

If you are dissatisfied with these conditions, you may be able to appeal to the Minister under Section 374 of the Local Government (Miscellaneous Provisions) Act 1960.

Passed at a meeting of the Council of the City of Nedlands on 25th January 2000.

THE COMMON SEAL of the CITY OF NEDLANDS was hereunto affixed by authority of a resolution of the Council in the presence of—

J. M. PATERSON, Mayor.  
S. SILCOX, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**

## CITY OF NEDLANDS

**LOCAL LAW RELATING TO SITE EROSION AND SAND DRIFT**

Under the powers conferred by the *Local Government Act 1995* and by all other powers, the Council of the City of Nedlands resolved to make the following Local Law on the 25th day of January 2000.

**PART 1—DEFINITION AND OPERATION****Operation**

1. This Local Law will come into operation on the fourteenth day after the day on which it is published in the *Government Gazette*.

**Interpretation**

2. (a) In this Local Law, unless the context otherwise requires—

“Act” means the Local Government Act 1995;

“authorised person” means a person authorised by the City to be an authorised person for the purposes of this Local Law;

“CEO” means the Chief Executive Officer of the City of Nedlands;

“City” means the City of Nedlands;

“district” means the district of the City of Nedlands;

“occupier” includes any person who, at the time the notice is served, is in control of any place or part of any place or authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to a place to perform any work in relation to any place and without limiting the generality of the foregoing and for the avoidance of doubt includes a builder or contractor;

“sand” includes any granular and particulate material;

(b) Any other expression used in the Local Law and not defined herein shall have the meaning given to it in the Act;

(c) Where in this Local Law a duty, obligation or liability is imposed on an “owner or occupier” the duty shall be deemed to be imposed jointly and severally on each of the owner and occupier.

(d) Where, under this Local Law, an act is required to be done or forbidden to be done in relation to any land or premises, the owner or occupier of the land or premises has the duty of causing to be done the act so required to be done, or of preventing from being done the act forbidden to be done.

(e) Where this Local Law refers to the giving of a notice, other than the giving of an infringement notice, no particular form is prescribed and it will be sufficient that the notice be in writing giving sufficient details to enable the owner or occupier to know the offence committed and the measures required to be taken or conditions to be complied with, as the case may be.

**PART 2—APPLICATION OF LOCAL LAW**

3. This Local Law applies to all land in the district.

**PART 3—PROHIBITED ACTIVITIES**

4. An owner or occupier of land or premises from which any sand or other material deposited on that land or premises is released or escapes, whether by means of wind, water or any other cause, so as to cause a nuisance, commits an offence.

5. The City may serve on an owner or occupier of any land or premises in the district from which any sand has been released or escaped a notice requiring the owner or occupier to clean up and make good any damage resulting from that release or escape, and where the notice specifies a time or date, the requirements set out in the notice must be completed by the time or date specified.

6. Where the City is of the opinion that, as a result of an activity being carried on, or likely to be carried on from any land or premises sand may be released or escape, the City may cause to be given to the owner or occupier a notice providing that the activity can only be carried on subject to conditions and specifying the conditions.

7. Where an owner or occupier—

(a) fails to comply with a notice issued pursuant to section 5; or

(b) fails to comply with any conditions specified pursuant to section 6,

the City may undertake or cause to be undertaken that work.

- 8. Where the City undertakes or causes to be undertaken any work or carries out or causes to be carried out any conditions, it may cause to be given to the owner or occupier of the land or premise written notice of the amount expended by the City in carrying out that work.
- 9. The amount specified in the notice must be paid to the City within 14 days of the service of the notice.
- 10. If the amount specified is not paid to the City within 14 days from the service of the notice, the City may recover it, as well as the costs of proceedings, and interest thereof, in a court of competent jurisdiction.

**PART 4—MISCELLANEOUS**

- 11. Where a notice is served on the owner or occupier of any land or premises and the owner or occupier satisfies the City within 14 days from the date of the giving of the notice that—
  - (a) it was not responsible for the conduct in respect of which the notice was given pursuant to section 4 or 5, or the activity in respect of which conditions were imposed pursuant to section 6 as the case may be; and
  - (b) it took all reasonable precautions to prevent the conduct or all reasonable steps to comply with, or cause the conditions to be complied with, as the case may be; and
  - (c) where another person was responsible for the conduct, it identifies the person responsible for the conduct sufficiently to enable the notice to be issued to that person;

the City may cancel the notice.

- 12. The City may delegate any of the powers, functions and duties in this Local Law to the CEO or to an authorised person.
- 13. (a) A person who—
  - (i) contravenes section 4;
  - (ii) fails to comply with a notice served under section 5; or
  - (iii) carries on an activity without complying with a notice issued under section 6.
 commits an offence, in respect of which the City may issue an infringement notice.
- (b) A person who commits an offence under sub-section 13(a) is liable to—
  - (i) a penalty which is not more than \$4,000.00 and not less than—
    - in the case of a first such offence, \$500.00;
    - in the case of a second such offence, \$1,000.00; and
    - in the case of a third or subsequent such offence, \$2,000.00, and
  - (ii) if the offence is of a continuing nature, a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day for which the offence continues.
- 14. (a) An offence against any provision of this Local Law is a prescribed offence for the purposes of Section 9.16(1) of the Act.
- (b) The amount of the modified penalty for an offence against any provision of this Local Law is \$400.00.

**PART 5—INFRINGEMENT NOTICES**

- 15. An infringement notice in respect of an offence prescribed in this Local Law may be given under Section 9.16 of the Act and shall be in or to the effect of Form 1 of the Schedule provided that no error or misdescription will invalidate the notice if its meaning is otherwise clear.
- 16. An infringement notice may be withdrawn within one year after the notice was given whether or not the modified penalty has been paid, by sending to the alleged offender a notice in the prescribed form.

Schedule  
**Form 1**

*Local Government Act 1995*  
**INFRINGEMENT NOTICE**

Serial No. ....

Date ...../...../.....

**City of Nedlands**

To: (1) .....

(2) .....

It is alleged that on or about ..... (3)

at (4) .....

you committed the following offence (5)—

.....

.....

contrary to the Local Law section (6) .....  
The modified penalty for the offence is \$400.00. ....

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty must be paid to an authorised person at the offices of the City of Nedlands, 71 Stirling Highway, Nedlands within a period of 28 days after the giving of this notice.  
Name and title of authorised person giving notice (7)—

.....  
Signature .....

- (1) Name of owner or occupier.
- (2) Address of owner or occupier.
- (3) Date when offence committed. If the offence relates to a failure to take remedial action within the time specified, a notice will be sufficient if the final time for compliance is specified.
- (4) Specify land or premises.
- (5) Give details of the offence. If insufficient, space provide details by way of an annexure.
- (6) Insert relevant section.
- (7) The authorised person for the purpose of (3) must be a different person from the person authorised for the purposes of (7).

CITY OF NEDLANDS LOCAL LAW RELATING TO  
SAND DRIFT AND SAND ESCAPE  
**NOTICE OF WITHDRAWAL OF INFRINGEMENT NOTICE**  
CITY OF NEDLANDS

To: <sup>(1)</sup> .....

of: <sup>(2)</sup> .....

Infringement Notice No. .... dated .....

for the alleged offence of .....

.....

.....

.....

has been withdrawn.  
The modified penalty of \$  
\* has been paid and a refund is enclosed.  
\* has not been paid and should not be paid.  
\* delete as appropriate.

Chief Executive Officer.  
DATED this                    day of  
.....  
Signature

- (1) Name of alleged offender to whom infringement notice was given.
- (2) Address of alleged offender.

Passed at a meeting of the Council of the City of Nedlands on 25th January 2000.  
THE COMMON SEAL of the CITY OF NEDLANDS was hereunto affixed by authority of a resolution of the Council in the presence of—

J. M. PATERSON, Mayor.  
S. SILCOX, Chief Executive Officer.







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