

LOCAL GOVERNMENT ACT 1995

~~DIVIDING FENCES ACT 1961~~

City of Vincent

Fencing Amendment Local Law 2017

Under the powers conferred by the *Local Government Act 1995*, ~~the *Dividing Fences Act 1961*~~ and by all other powers enabling it, the Council of the City of Vincent resolved on ~~<insert date>~~ 7 February 2018 to make the following local law.:

1. Citation

This local law may be cited as the *City of Vincent Fencing Amendment Local Law 2017*.

2. Commencement

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

3. Principal local law

In this local law the *City of Vincent Fencing Local Law 2008* published in the *Government Gazette* on 15 April 2008 is referred to as the principal local law. The principal local law is amended.

4. Table of Contents

Delete the PART 2 of the table of contents and insert-

"

PART 2—FENCES

Division 1—Sufficient Fences

2.1 Sufficient fence

Division 2—General

2.2 Relationship with other laws

2.3 Gates in fences

2.4 Depositing fencing material on public place

2.5 Alteration of ground levels

2.6 Maintenance of fences

~~2.87~~ Fences across right of way, public accessways or thoroughfares

~~2.98~~ General discretion of the local government

Division 3—Fencing Materials

~~2.109~~ Pre-used fencing materials

~~2.110~~ Barbed wire fences and spiked or jagged materials

~~2.124~~ Electrified and razor wire fences

~~2.132~~ Prohibited fencing materials

Division 4—Tennis Court Fencing

~~2.143~~ Tennis court fencing"

5. Clause 1.2 amended

Delete clause 1.2(1) and insert-

"(1) The objective of this local law is to establish the minimum requirements for fences within the district."

6. Clause 1.6 amended

In clause 1.6 —

- (a) delete the definition of "**Commercial lot**" and insert-
" "**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; "
- (b) within the definition of "**front boundary**" delete "on more than one" and insert "on more than one";
- (c) delete the definition of "**Industrial lot**" and insert-
" "**Industrial lot**" means a lot where an industrial 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; "
- (d) insert in alphabetical order-
" "**local planning scheme**" means a local planning scheme of the local government made under the *Planning and Development Act 2005*;"
- (e) within the definition of "**Residential lot**" delete "the predominant" and insert "a";
- ~~(f)~~ after the definition of "**thoroughfare**" delete "; and" and insert "."
- ~~(fg)~~ delete the definition of "**Town planning scheme**".

7. Clause 2.1 amended

- (1) Delete clause 2.1(1) and insert –

"(1) A person shall 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) Delete clauses 2.1(5) and 2.1(6).

8. Clause 2.2 amended

Delete clause 2.2 and insert-

"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 shall prevail."

9. Clause 2.3 amended

In clause 2.3 delete "fence" and insert "boundary fence";

10. Clause 2.7 deleted

Delete clause 2.7;

~~11. Clause 2.8 renumbered~~

~~Renumber clause 2.8 as 2.7;~~

~~12. Clause 2.9 renumbered~~

~~Renumber clause 2.9 as 2.8;~~

~~13.11. Clause 2.10 amended~~

In clause 2.10 delete "fence" and insert "boundary fence";

~~14. Division 3 renumbered~~

~~Renumber clauses 2.10, 2.11, 2.12 and 2.13 as 2.9, 2.10, 2.11 and 2.12 respectively;~~

~~15. Division 4 renumbered~~

~~Renumber clause 2.14 as 2.13;~~

~~16.12. Clause 6.1 amended~~

(1) In clause 6.1(1) delete "\$250" and insert "\$500";

(2) In clause 6.1(2) delete "\$250" and insert "\$500";

~~17.13. Schedule 1 amended~~

Delete *Schedule 1 – Prescribed Offences* and insert *Schedule 1 – Prescribed Offences* – as follows-

"

SCHEDULE 1
~~Local Government Act 1995~~
PRESCRIBED OFFENCES
(clause 6.2)

<u>ITEM</u>	<u>CLAUSE No.</u>	<u>NATURE OF OFFENCE</u>	<u>MODIFIED PENALTY \$</u>
<u>1</u>	2.1(1)	Erect a fence which is not a sufficient fence	500
<u>2</u>	2.3(a)	Erect or maintain a gate in a <u>boundary</u> fence not opening into the lot	500
<u>3</u>	2.3(b)	Erect or maintain a gate in a <u>boundary</u> fence not sliding parallel and inside of fence	500
<u>4</u>	2.6(1)	Failure to maintain a fence in good condition/prevent fence becoming dangerous, dilapidated, unsightly	500

ITEM	CLAUSE No.	NATURE OF OFFENCE	MODIFIED PENALTY \$
<u>5</u>	2. 87	Erect or maintain a fence/obstruction temporary or permanent across a right-of-way, public access way or thoroughfare without approval	500
<u>6</u>	2.910(1)	Construct a dividing-boundary fence on a Residential, Commercial or Industrial lot from pre-used materials without written approval	500
7	2.11(1)	Erect a fence using barbed wire or material with spiked or jagged projections in fence construction without approval	500
8	2.124(1)	Construct, erect or use razor wire in a fence or electrify a fence without approval	500
<u>9</u>	2.132	Affix, or use, any broken glass in a fence	500
<u>10</u>	2.143(1)(a)	Erect a tennis court fence higher than 3600 millimetres without approval	500
<u>11</u>	2.143(1)(b)	Erect tennis court fence less than 900 millimetres from boundary	500
<u>12</u>	2.143 (1)(c)	Erect a link mesh fence higher than 3600 millimetres or not in accordance with manufacturer's specification without approval	500
<u>13</u>	3.3	Failure to comply with terms or conditions of approval	500
<u>14</u>	5.1 (3)	Failure to comply with notice of breach	<u>500</u>

18.14. Schedule 2 amended

Delete *Schedule 2 – Specifications for a Sufficient Fence on a Residential Lot* and insert *Schedule 24 – Specifications for a Sufficient Fence on a Residential* – as follows-

"

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. 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 shall 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.

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

- (a) ~~c~~Concrete footings with minimum dimensions of 225 millimetres x 150 millimetres for single leaf walls or 300mm x 300mm for double leaf walls;
- (b) ~~f~~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)~~ (d) the height of the dividing fence to be 1,800 millimetres except with respect to the front setback area.

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

D. A composite dividing fence having an overall height of 1,800 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 1,800 millimetres centres bonded to a minimum height base wall of 516 millimetres (6 courses);
 - (b) each pier shall 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 shall be 1 course (85 millimetres) below ground level;
 - (c) the minimum ultimate strength of brickwork shall be 20 Megapascals. Mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
 - (d) the ground under the footings is to be compacted to 6 blows per 300 millimetres and checked with a standard falling weight penetrometer; and
 - (e) control joints in brickwork shall 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 shall 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 shall be 1 course (85 millimetres) below ground level."

19.15. Schedule 3 amended

(1) In Schedule 3 clause A-

- (a) delete "A fence" and insert "A dividing fence";
- (b) delete "no greater than 2400" and insert "1800";

(2) In Schedule 3 clause B, delete "A fence" and insert "A dividing fence";

- (3) In Schedule 3 clause C-
- (a) delete "A fence" and insert "A dividing fence";
 - (b) delete "aluminium" and insert "metal";
 - (c) delete "but no greater than 2400 millimetres";

~~***Insert common seal***~~

Dated:

The Common Seal of _____)

The City of Vincent was)

affixed in the presence of: _____)

Emma Cole
MAYOR

Len Kosova
CHIEF EXECUTIVE OFFICER