



Fencing Local Law 2026

City of Cockburn

DIVIDING FENCES ACT 1961
LOCAL GOVERNMENT ACT 1995

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CITY OF COCKBURN

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Under the powers conferred by the *Dividing Fences Act 1961*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Cockburn resolved on 12 May 2026 to make the following local law.

Part 1 - Preliminary

1.1 Title

This is the *City of Cockburn Fencing Local Law 2026*.

1.2 Commencement

This local law comes into operation 14 days after the day on which it is published in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The *City of Cockburn Fencing Local Law 2012*, published in the *Government Gazette* on 3 July 2012, is repealed.

1.5 Interpretation

(1) In this local law —

Act means the *Local Government Act 1995*;

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

approved means approved by the local government;

AS/NZS means an Australian Standard or Australian/New Zealand Standard published by Standards Australia, as amended from time to time;

authorised person means a person appointed by the CEO under section 9.10(2) of the Act to perform any of the functions of an authorised person under this local law;

barbed wire means a wire or strand of wires having small pieces of sharply pointed wire twisted around it at short intervals and includes other materials with spiked or jagged projections;

boundary fence means a fence, other than a dividing fence, that separates private land from land that is local government property or a thoroughfare, whether the fence is on the common boundary of the adjoining lands or on a line other than a common boundary;

building permit means a permit granted under section 20 of the *Building Act 2011*;

CEO means the Chief Executive Officer of the local government;

dangerous in relation to any fence means —

- (a) an electrified fence, or one containing barbed wire or razor wire, other than a fence that is constructed and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, 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 in the *Dividing Fences Act*;

Dividing Fences Act means the *Dividing Fences Act 1961*;

electrified fence means a fence carrying or designed to carry an electric charge;

fence means any structure, not including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

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;

industrial lot means a lot zoned Industrial under a local planning scheme;

local government means the City of Cockburn;

local government property means anything, except a thoroughfare —

- (a) which belongs to, is owned by or is under the care, control and management of the local government;
- (b) which is an otherwise unvested facility within section 3.53 of the Act; or
- (c) of which the local government is the management body under the *Land Administration Act 1997*;

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

lot has the meaning in the *Planning and Development Act 2005*;

non-residential lot means a lot that is not —

(a) a residential lot; or

(b) a rural lot;

notice of breach means a notice referred to in clause 6.2(1);

occupier has the meaning in the Act, but does not include the local government;

owner has the meaning in the Act;

permit means a permit issued under this local law;

permit holder means a person to whom a permit is granted;

prescribed offence has the meaning in clause 6.5;

public place means a place to which the public has access, whether or not that place is on private property;

razor wire means a coiled strong wire with pieces of sharp cutting edges set across it at close intervals;

Regulations means the *Local Government (Functions and General) Regulations 1996*;

residential lot means a lot zoned Residential or Rural Living under a local planning scheme;

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

rural lot means a lot zoned Rural or Resource under a local planning scheme;

Schedule means a schedule to this local law;

sufficient fence means a fence described in clause 2.2; and

thoroughfare has the meaning in the Act, but does not include a private thoroughfare which is not under the management or control of the local government.

- (2) A term that is used in this local law and is not defined has the meaning in the Act or, if not defined in the Act, the meaning in the Dividing Fences Act.
- (3) Where in this local law, a duty or liability is imposed on an **owner or occupier** the duty or liability is taken to be imposed jointly and severally on each of the owners or occupiers.
- (4) If, under this local law in relation to any land, an act is required to be done or is prohibited, the owner or occupier of the land has, unless the contrary intention appears, the duty of causing to be done the act required to be done, or of preventing from being done the prohibited act, as the case may be.
- (5) This local law is subject to sections 3.25 and 3.27 and Schedules 3.1 and 3.2 of the Act and any powers of entry exercised by the local government under this local law is subject to Subdivision 3 of Division 3 of Part 3 of the Act.
- (6) A reference to a fee or charge is to a fee or charge determined and imposed by the local government under sections 6.16 to 6.19 of the Act.

1.6 Relationship with other laws

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*.

1.7 Transitional

A permit or approval issued in accordance with a local law that is repealed under clause 1.4 —

- (a) is taken to be a permit or approval granted under this local law, as the case may be;
- (b) is to be valid for the period specified in the permit or approval; and
- (c) may be earlier cancelled or suspended in accordance with this local law.

Part 2 - Sufficient fences

2.1 Only sufficient fences to be constructed

- (1) A person must not construct a dividing fence that is not a sufficient fence.

2.2 Meaning of 'sufficient fence'

- (1) A dividing fence is a sufficient fence if it is constructed in accordance with the requirements of Schedule 2 and is on or near the boundary between —
 - (a) 2 residential lots; or
 - (b) a residential lot and —
 - (i) a non-residential lot; or
 - (ii) a rural lot.
- (2) A dividing fence is a sufficient fence if it is constructed in accordance with the requirements of Schedule 3 and is on the boundary between —
 - (a) 2 non-residential lots; or
 - (b) a non-residential lot and a rural lot.
- (3) A dividing fence is a sufficient fence if it is constructed in accordance with the requirements of Schedule 4 and is on or near the boundary between 2 rural lots.
- (4) Notwithstanding subclauses (1)-(3) above, a dividing fence is also a sufficient fence if all the owners of the lots adjoining the lots on which the dividing fence is to be constructed agree on the kind of dividing fence that is to be constructed.
- (5) A dividing fence lawfully erected before this local law came into operation is also taken to be a sufficient fence for the purposes of the Dividing Fences Act.

Part 3 - Fencing materials and maintenance

3.1 Barbed wire fences

- (1) This clause does not apply to a fence constructed wholly or partly of razor wire.
- (2) Unless in accordance with a permit issued by the local government, an owner or occupier of a residential lot or a non-residential lot, but not an industrial lot or rural lot, must not, on that lot —
 - (a) construct a fence that contains;
 - (b) affix to a fence; or
 - (c) allow to remain on a fence,any barbed wire or other material with spiked or jagged projections.
- (3) An owner or occupier of an industrial lot must not, on that lot —
 - (a) construct a fence that contains;
 - (b) affix to a fence; or
 - (c) allow to remain on a fence,any barbed wire or other materials with spiked or jagged projections unless —
 - (d) the barbed wire or materials are carried on posts at an angle of 45 degrees; and
 - (e) the bottom row of barbed wire or other materials is set back at least 150mm from the face of the fence and is not nearer than 2000mm from the ground level.
- (4) If the posts which carry the barbed wire or other materials referred to in subclause (3) are angled towards the outside of the lot bounded by the fence, the face of the fence must be set back from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach on adjoining lots.
- (5) An owner or occupier of a rural lot must not, on that lot, place, affix or allow barbed wire to remain on a fence adjacent to a thoroughfare or public place, unless the barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.

3.2 Razor wire fences

- (1) An owner or occupier of a lot, other than a rural lot, must not —
 - (a) construct a fence wholly or partly of razor wire on that lot —
 - (i) without first obtaining a permit; and
 - (ii) except in accordance with that permit.
- (2) A permit cannot be issued in respect of a lot —
 - (a) if the lot is, or abuts, a residential lot;
 - (b) if the fence is within 3m of any boundary of the lot; or

- (c) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above the ground level.

3.3 Electric fences

- (1) An owner or occupier of a lot, other than a rural lot, must not —
 - (a) have or use an electrified fence on that lot —
 - (i) without first obtaining a permit; and
 - (ii) except in accordance with that permit.
- (2) A permit, in respect of a lot, cannot be issued —
 - (a) if the lot is, or abuts, a residential lot; and
 - (b) 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.
- (3) On a rural lot, an electrified fence must comply with AS/NZS 3016:2002.

3.4 Other prohibited fencing materials

In constructing or repairing a fence, a person must not use —

- (a) broken glass or any other potentially harmful projections or material;
- (b) asbestos fibre; or
- (c) material that is likely to collapse or fall, or part of which is likely to collapse or fall, from any reasonably foreseeable cause.

3.5 Maintenance of fences

- (1) An owner or occupier of a lot on which a fence is constructed must maintain the fence in good condition and so as to prevent it from becoming dangerous, dilapidated or unsightly.
- (2) If the local government is satisfied that an owner or occupier of a lot has not complied with subclause (1), the local government may give the owner or occupier a written notice requiring the owner or occupier, within the time specified in the notice, to take such reasonable actions as the local government considers necessary to return the fence to good condition.

3.6 Gates in fences

A person must not install a gate in a fence which does not —

- (a) open into the lot; or
- (b) open by sliding parallel and on the inside of the fence, which it forms part of, when closed,

without first obtaining the written approval of the local government.

Part 4 - Permits

4.1 Application for a permit

- (1) A person who is required to obtain a permit under this local law must apply for the permit in accordance with subclause (2).
- (2) An application for a permit must —
 - (a) be in the form determined by the CEO;
 - (b) be made and signed by the owner or occupier of the lot;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the local government together with any fee imposed by the local government under sections 6.16 to 6.19 of the Act.
- (3) Before determining an application for a permit, the local government may request the applicant —
 - (a) within a specified time of not more than 21 days, to provide any further or other information that the local government considers necessary for it to consider the application; and/or
 - (b) to consult with nearby owners and/or occupiers, or other persons specified in the request, and to advise those persons that they may, within 14 days of receiving that advice, make submissions to the local government on the application.
- (4) The local government may refuse to consider an application that is not in accordance with subclause (2) or if the applicant does not comply with a request under subclause (3) within the prescribed time.
- (5) A person must not make a false or misleading statement in connection with an application in respect of a permit.

4.2 Determining an application

- (1) The local government may —
 - (a) approve an application unconditionally or subject to conditions; or
 - (b) refuse to approve an application.
- (2) In considering whether to approve or refuse an application under subclause (1), the local government is to have regard to any adverse effect that an approval would have on —
 - (a) the safe or convenient use of any land;
 - (b) the safety or convenience of any person; and
 - (c) the visual amenity of the locality.
- (3) A decision under subclause (1) must be made within 90 days of the applicant satisfying the requirements of clause 4.1(2) and any request made under clause 4.1(3).

- (4) If a decision under subclause (1) is not made within that period of 90 days, the application is taken to have been refused and any fee payable under clause 4.1(2)(d) is to be refunded to the applicant.
- (5) If an application is approved, the local government is to issue to the applicant a permit in the form of —
 - (a) Schedule 5, where the application is made in relation to an electric fence;
 - (b) Schedule 6, where the application is made in relation to razor wire; or
 - (c) Schedule 7, where the application is made in relation to barbed wire.
- (6) If an application is refused, the local government is to give written notice of that refusal with reasons for the decision to the applicant.

4.3 Compliance with and variation of conditions

- (1) Where a permit is issued subject to conditions, the permit holder must comply with each of the conditions.
- (2) The local government may, at any time, amend a condition of a permit and the amended condition takes effect —
 - (a) 14 days after the written notice of it is given to the permit holder; or
 - (b) if a later date is specified in the written notice, on the later date.

4.4 Duration of a permit

- (1) Unless otherwise specified as a condition of the permit, a permit is valid from the date on which it is issued until the earlier of —
 - (a) the expiry date, if any, specified on the permit; or
 - (b) the date that the permit is cancelled under this Part.
- (2) Unless otherwise specified as a condition of approval, a permit —
 - (a) runs with the lot to which it relates;
 - (b) may be relied on by any subsequent occupier or owner of the lot; and
 - (c) may be enforced by the local government against a subsequent occupier or owner of the lot.

4.5 Cancellation of a permit

- (1) The local government may cancel a permit if —
 - (a) the permit holder requests the local government to do so;
 - (b) the fence to which the permit applies has been demolished and not rebuilt for a period of 6 months;
 - (c) the circumstances are such that a permit could not be issued under this local law;

- (d) the permit holder fails to comply with a condition of the permit; or
 - (e) the permit holder breaches a provision of this local law in respect of the fence that is the subject of the permit.
- (2) If the local government cancels a permit under subclauses (1)(b)-(e), it must give the permit holder written notice of the cancellation and of the reasons for the cancellation.
- (3) A cancellation under subclause (1) takes effect —
 - (a) 14 days after the written notice under subclause (2) is given to the permit holder; or
 - (b) if a later date is specified in the written notice, on the later date.
- (4) If a permit is cancelled —
 - (a) the permit holder must, in the case of a written permit, return the permit to the local government as soon as practicable, or cause it to be destroyed; and
 - (b) no part of the fee paid for the permit is refundable.

Part 5 - Objection and review

5.1 Objection and review rights

Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to a decision of the local government —

- (a) to refuse to grant an approval or permit;
- (b) to vary or cancel an approval or permit;
- (c) to impose or amend a condition of an approval or permit; and
- (d) to give a person a notice under clause 6.2.

Part 6 - Enforcement

6.1 Legal proceedings and evidence

Provisions relating to legal proceedings and evidence are contained in Subdivisions 3 and 4 of Division 2 of Part 9 of the Act.

6.2 Notices of breach

- (1) Where a breach of a provision of this local law has occurred, the local government may give a notice in writing to the person alleged to be responsible for the breach, directing the person, within the time specified in the notice, to take such action as specified in the notice for the purpose of remedying the breach.
- (2) A notice given under subclause (1) must specify —
 - (a) the provision of this local law that has been breached;
 - (b) the particulars of the breach;

- (c) the actions the person must take to remedy the breach; and
 - (d) the time and date by which the actions in the notice must be completed.
- (3) A person given a notice of breach must remedy the breach within the time specified in the notice.

6.3 Local government undertaking work required by a notice

- (1) This clause applies in respect of a notice given under clause 3.5(1), if the fence is a boundary fence.
- (2) If a person fails to comply with a notice referred to in subclause (1), the local government may, subject to compliance with the requirements of Subdivision 3 of Division 3 of Part 3 of the Act, do anything that the CEO considers necessary to achieve, so far as is practicable, the purpose for which the notice was given.
- (3) The local government may recover the cost of anything it does under subclause (2) as a debt due from the person who failed to comply with the notice.

6.4 Offences and general penalty

- (1) A person who —
 - (a) fails to do anything required or directed to be done under this local law;
 - (b) fails to comply with a notice issued to the person under this local law; or
 - (c) does an act or omits to do an act contrary to this local law,commits an offence.
- (2) A person who commits an offence under this local law is liable, on conviction —
 - (a) to a penalty not exceeding \$10,000; and
 - (b) if the offence is a continuing offence, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

6.5 Prescribed offences and modified penalties

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) In accordance with section 9.16 of the Act, an authorised person who has reason to believe that a person has committed an offence against this local law may, within 28 days after the alleged offence is believed to have been committed, give an infringement notice to the alleged offender.
- (3) In accordance with section 9.17 of the Act, a person who does not contest an allegation that they have committed the offence against this local law may, within the time specified in an infringement notice or within such further time as may, in any particular case, be allowed by the CEO, pay the modified penalty for that offence which, in accordance with section 9.21 of the Act, has the effect of preventing the local government from commencing a prosecution for the alleged offence.

- (4) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1 —
- (a) in the case of a first offence the modified penalty will be that prescribed in column 4 of that Schedule; and
 - (b) in the case of a subsequent offence the modified penalty will be that prescribed in column 5 of that Schedule.
- (5) Provisions relating to modified penalties in general are contained in Subdivision 2 of Division 2 of Part 9 of the Act.

6.6 Form of infringement notices

For the purposes of this local law —

- (a) the form of the infringement notice that may be given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
 - (b) the form of the notice referred to in section 9.20 of the Act to withdraw an infringement notice is that of Form 3 in Schedule 1 of the Regulations.
-

Schedule 1 – Prescribed offences

Item no.	Clause no.	Description	Modified penalty	Modified penalty – subsequent offence
1	2.1	Constructing a dividing fence which is not a sufficient fence	\$250	\$500
2	3.1(2)	Having a barbed wire fence without a permit	\$250	\$500
3	3.1(2)	Using materials with spiky or jagged projections in construction of fence	\$250	\$500
4	3.1(3); 3.1(4); 3.1(5)	Failure to comply with requirements for a barbed wire fence	\$250	\$500
5	3.2(1)	Having a razor wire fence without a permit	\$250	\$500
6	3.3(1)	Having an electrified fence without a permit	\$250	\$500
7	3.3(3)	Failure to comply with requirements for an electrified fence	\$250	\$500
8	3.4	Using prohibited materials in construction or repair of a fence	\$250	\$500
9	3.5(1)	Failure to maintain a fence in good condition so as to prevent fence becoming dangerous, dilapidated or unsightly	\$250	\$500
10	3.6	Installing a gate in a fence without approval	\$250	\$500
11	4.1(5)	Providing false or misleading statement in connection with permit application	\$250	\$500
12	4.3(1)	Failure to comply with conditions of a permit	\$250	\$500
13		Each other offence not specified	\$250	\$500

Schedule 2 - Requirements for a sufficient fence on a residential lot

[Clause 2.2(1)]

The requirements for a sufficient fence on a residential lot are that it must be —

- (a) between 1.8m and 2.2m high; and
 - (b) comprised of —
 - (i) timber pickets or palings;
 - (ii) masonry (including brick, stone or concrete);
 - (iii) factory-coloured sheet metal posts and panels; or
 - (iv) any combination of (i), (ii) and (iii).
-

Schedule 3 - Requirements for a sufficient fence on a non-residential lot

[Clause 2.2(2)]

The requirements for a sufficient fence on a non-residential lot are that it must be —

- (a) not higher than 2.2m; and
 - (b) comprised of —
 - (i) timber pickets or palings;
 - (ii) masonry (including brick, stone or concrete);
 - (iii) factory-coloured sheet metal posts and panels;
 - (iv) galvanised or PVC steel frame and link mesh, chain mesh or steel mesh;
 - (v) painted or galvanised steel or aluminium sheeting; or
 - (vi) any combination of (i)-(v).
-

Schedule 4 - Requirements for a sufficient fence on a rural lot

[Clause 2.2(3)]

The requirements for a sufficient fence on a rural lot are that it must be —

- (a) at least 1.2m high; and
 - (b) of a posts and wire construction.
-

Schedule 5 - Permit for an electrified fence

[Clause 4.2(5)(a)]

This is to certify that
of
has a permit, subject to the conditions set out below, to have and use an electrified fence
on
.....
.....
(address)

Date

.....
Authorised Officer
City of Cockburn

Conditions of Permit

The holder of the permit must —

- (a) display the permit in a prominent position on the land or premises on which the electrified fence has been constructed;
- (b) on the request of an authorised person, produce this permit;
- (c) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the electrified fence;
- (d) comply with AS/NZS 3016:2002; and
- (e) following construction 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 construction of the fence.

.....
.....

Schedule 6 - Permit for a razor wire fence

[Clause 4.2(5)(b)]

This is to certify that
of
has a permit, subject to the conditions set out below, to have a fence constructed wholly
or partially of razor wire on
.....
.....
(address)

Date

.....
Authorised Officer
City of Cockburn

Conditions of permit

The holder of this permit must —

- (a) display this permit in a prominent position on the land or premises on which the fence has been constructed;
- (b) on the request of an authorised person, produce this permit; and
- (c) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the fence.

.....
.....

Schedule 7 - Permit for a barbed wire fence

[Clause 4.2(5)(c)]

This is to certify that
of
has a permit, subject to the conditions set out below, to have a fence constructed wholly
or partially of barbed wire on
.....
(address)

(Date

.....
Authorised Officer
City of Cockburn

Conditions of permit

The holder of this permit must —

- (a) display this permit in a prominent position on the land or premises on which the fence has been constructed;
- (b) on the request of an authorised person, produce this permit; and
- (c) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the fence.

.....
.....

.....

Dated this 25 day of August 2026.

The Common Seal of the City of Cockburn was affixed by authority of a resolution of the Council
in the presence of -

.....
LOGAN K HOWLETT
MAYOR

.....
DANIEL SIMMS
CHIEF EXECUTIVE OFFICER

.....