



**WESTERN  
AUSTRALIAN  
GOVERNMENT  
Gazette**

ISSN 1448-949X (print)

ISSN 2204-4264 (online)

PRINT POST APPROVED PP665002/00041



**PERTH, TUESDAY, 24 JANUARY 2017 No. 21 SPECIAL**

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 12.30 PM

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# TOWN OF CAMBRIDGE

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LOCAL LAWS

## PRIVATE PROPERTY LOCAL LAW 2016

**LOCAL GOVERNMENT ACT 1995**

## TOWN OF CAMBRIDGE

**PRIVATE PROPERTY LOCAL LAW 2016**

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## LOCAL GOVERNMENT ACT 1995

## TOWN OF CAMBRIDGE

## PRIVATE PROPERTY LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and all other powers enabling it, the Council of the Town of Cambridge resolved on 22 November 2016 to make the following local law.

## PART 1—PRELIMINARY

**1.1 Title**

This is the *Town of Cambridge Private Property Local Law 2016*.

**1.2 Commencement**

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

**1.3 Purpose and Effect**

(1) The purpose of this local law is to provide for the regulation, control and management of dividing fences between private properties, fencing and lighting of tennis courts, outdoor lighting, street numbering, unsightly land, hazardous plants, sand drift, stormwater, nuisances, control of dust, control of refuse on building sites and swimming pool wastewater containment and disposal on private land within the district.

(2) The effect of this local law is to establish the standard of a sufficient fence according to land use, requirements to reduce the intrusive effects of tennis court and outdoor lighting, the orderly assignment of street numbers to each lot, requirements for the prevention of unsightly land and the accumulation of disused materials within the district, preventative measures for plants and trees becoming a hazard to a person or thing, control and prevention of dust and sand drift, control of nuisances; rubbish and refuse on building sites; and the containment and disposal of stormwater and swimming pool waste water.

**1.4 Repeal**

The *Town of Cambridge Private Property Local Law* published in the *Government Gazette* on 22 March 2002 and all amendments thereto are hereby repealed on the day this local law comes into operation.

**1.5 Application**

This local law applies throughout the district of the Town of Cambridge.

**1.6 Interpretation**

(1) In this Local Law, unless the context requires otherwise—

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

**AS or AS/NZS** means an Australian Standard or Australian/New Zealand Standard published by Standards Australia;

**AS 4282.1997** means the standard published by the Standards Association of Australia as AS 4282: 1997 and called “Control of the obtrusive effects of outdoor lighting”, as amended from time to time;

**AS/NZS 3500.2.2003** means the standard published by the Standards Association of Australia as AS 3500.2.2003 and called “Plumbing and Drainage—Sanitary Plumbing and Drainage”, as amended from time to time;

**AS/NZS 3500.3.2003** means the standard published by the Standards Association of Australia as AS 3500.3.2003 and called “Plumbing and Drainage—Stormwater Drainage”, as amended from time to time;

**Authorised Person** means a person appointed by the local government under section of the *Local Government Act 1995* to perform any of the functions of an Authorised Person under this local law;

**boundary fence** means a fence, other than a dividing fence, that separates the lands of different owners whether the fence is on the common boundary of adjoining lands or on a line other than a common boundary;

**builder** means the person or persons or firm or corporation who or which must be the holder of any building permit issued in respect of building works on a building site, and must also include any person or persons or firm or corporation who or which must be in effective control of such building site whether or not such person or persons or firm or corporation must be the holder of such permit;

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

**Building Code** means the latest edition of the Building Code of Australia published from time to time by, or on behalf of, the Australian Building Codes Board, as amended from time to time, but not including explanatory information published with the Code;

**building site** means any lot of land for which a building permit is current, but does not include a lot upon which there exists a commercial, industrial or residential building and—

- (a) the current building permit is issued in respect only of a pergola, patio, shed or other Class 10 building as classified by the Building Code; and
- (b) means of collection and removal of rubbish, satisfactory to the local government but other than that specified within this local law, is in place;

**Building Permit** means a building permit issued pursuant to the *Building Act 2011*;

**commercial lot** means a lot where a commercial or light industrial use is or may be permitted under the town planning scheme, and is or will be the predominant use of the lot;

**construction work** means any work involving the placement, fitting together, manufacture or erection of the components of a building, and includes pouring of footings and slabs and placement of stumps or other floor supports;

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

- (a) an electrified fence;
- (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;
- (d) a fence which in the opinion of the local government is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause; or
- (e) a fence that has become dangerous through lack of maintenance or repair;

**development** has the same meaning given to it in the *Planning and Development Act 2005*;

**development site** means and includes any lot or lots of land upon which there is current a development or subdivision approval, and any lot or lots upon which, construction work, earthworks, clearing of scrub, trees or overgrowth or any other site works are taking or have taken place, whether or not such works are subject to a development or subdivision approval;

**district** means the district of the Town of Cambridge;

**disused** means in relation to anything, that the thing—

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

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

**dust** means and include any earth or other matter in fine or coarse dry particles, or any finely powdered substance;

**Dust Management Plan** is a written document that specifies how dust will be managed on the land and includes what must be done to minimise dust being created, the prevention of dust escaping from the land and who is responsible for managing and resolving any complaints which may arise as a result of the works being carried out;

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

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

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

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

- (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;

**kerb** means any structure, mark, marking or device to delineate or indicate the edge of a carriageway;

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

**local government** means the Town of Cambridge;

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

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

**natural ground level**, in relation to a development, means—

- (a) the level approved, for the purposes of the development, by the local government, under a town planning scheme; or
- (b) in any other case, the level which existed immediately before the commencement of the development, including any site works;

**notice** means a notice referred to in Part 4 of this local law;

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

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

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

**occupier** has the meaning given to it in the Act;

**owner** has the meaning given to it in the Act;

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

**person** means any person, company, public body, association or body of persons corporate or unincorporated and includes an owner, occupier, licensee and permit holder, but does not include the local government;

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

**public place** includes a street, way or place which the public are allowed to use, whether the street, way or place is in or on private property;

**refuse** means bricks, lime, cement, concrete, rubble, stones, iron, timber, tiles, bags, plastics, ashes, vegetation, timber, wood or metal shavings, sawdust, and waste food, and includes any broken, used, derelict or discarded matter whatsoever, whether of the same type as, or a different type from, those mentioned here;

**Refuse Management Plan** means a plan that describes the amount and type of refuse from a site and how it will be reused, recycled or disposed of;

**refuse receptacle** means a container for holding or facilitating the removal of refuse;

**residential lot** means a lot where a residential use is or may be permitted under the town planning scheme; and is or will be the predominant use of the lot;

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

**road** means a highway, road, thoroughfare or similar place which the public are allowed to use and includes all the land lying between the property line lines including the nature strip and paths appurtenant thereto;

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

**Sand Management Plan** is a written document that specifies how sand will be managed on the land and includes what must be done to minimise the prevention of sand escaping from the land and who is responsible for managing and resolving any complaints which may arise as a result of the works being carried out;

**Schedule** means a Schedule to this local law;

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

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

**street** has the same meaning as road;

**street number** means a number with or without an alphabetical suffix indicating the address of land as assigned by the local government from time to time, in accordance with this local law;

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

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

**thoroughfare** has the meaning given to it in the Act;

**unsightly** has the meaning given to it in and for the purposes of the Act; and

**written law** has the same meaning given to it by section 5 of the *Interpretation Act 1984* and includes this local law.

(2) Any other expression used in this local law and not defined herein must have the meaning given to it in—

- (a) the *Local Government Act 1995*;
- (b) the *Local Government (Miscellaneous Provisions) Act 1960*;
- (c) *Building Act 2011*;
- (d) *Planning and Development Act 2005*;
- (e) the Glossary of Building Terms published by Standards Australia; and
- (f) Australian Standard 4282—Control of the obtrusive effects of outdoor lighting,

unless the context requires otherwise.

## PART 2—FENCES

### *Division 1—Sufficient Fences*

#### **2.1 Sufficient fence**

- (1) A person must not erect a dividing fence or a boundary fence on a lot that is not a sufficient fence.
- (2) Subject to subclauses (3) and (4), a sufficient fence—
  - (a) on a Residential lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 1;
  - (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 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 1.
- (4) Unless an Authorised Person determines otherwise, a sufficient fence on a boundary between lots other than those specified in subclauses (2) and (3) is a dividing fence constructed in accordance with the specifications and requirements of Schedule 1.
- (5) Notwithstanding any other provisions in this local law—
  - (a) a fence constructed of brick or light weight concrete blocks must not exceed 1.8m in height unless the local government has approved such fence by way of a building permit;
  - (b) a fence constructed of stone, limestone or concrete, regardless of height, requires approval by way of a building permit.
- (6) Notwithstanding any other provisions in this local law, a sufficient fence, other than a fence referred to in subclause (5), must not exceed 2m in height unless the local government has approved such fence by way of a building permit.

### *Division 2—General*

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

A person must not erect or modify a fence within the street setback area of a Residential or Commercial lot without the written consent of the local government.

#### **2.3 Fences in relation to fill**

- (1) A free standing fence constructed of corrugated fibre reinforced pressed cement must not have more than 150mm difference in soil levels on each side.
- (2) Where land has been filled or retained to a height of more than 500mm above natural ground level at or within 1m of a boundary, a person must only erect a dividing fence that is a sufficient fence on the said fill or retaining wall if the applicant produces to the local government written agreement from all and any adjoining land owners.

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

- (1) An owner and occupier 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 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, an Authorised Person may give notice in writing to the owner or occupier (as the case requires) of the land on 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.
- (3) A notice issued pursuant to subclause (2) may contain a condition requiring that the fence be treated with a non-sacrificial graffiti protection treatment, which protection treatment must be applied in accordance with the manufacturer's specifications.

**2.5 General discretion of the local government**

(1) Notwithstanding the provisions of clause 2.1, the local government may consent to the erection or repair of a fence which does not comply with the requirements of this local law where there is written agreement between the owners of the adjoining properties.

(2) In determining whether to grant its consent to the erection or repair of any fence which does not comply with the requirements of this local law, the local government may consider, in addition to any other matter that it is authorised to consider, whether the erection or retention of the fence would have an adverse effect on—

- (a) the safe or convenient use of any land;
- (b) the safety or convenience of any person; or
- (c) the visual amenity of the locality.

*Division 3—Fencing Materials***2.6 Pre-used fencing materials**

(1) A person must not construct a dividing fence on a Residential lot or a Commercial lot from pre-used materials without the written consent of the local government or an Authorised Person.

(2) Where the local government or an Authorised Person approves the use of pre-used materials in the construction of a fence under subclause (1), that approval must be conditional on the applicant painting or treating the pre-used material as directed by the local government or Authorised Person.

**2.7 Barbed wire fences**

(1) An owner or occupier of a Residential lot or a Commercial 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 prior written approval of an Authorised Person has been obtained.

(2) Where written approval has been obtained in accordance with subclause (1), an 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 150mm from the face of the fence and is at least 2m above ground level.

**2.8 Prohibited fencing materials**

(1) An owner or occupier of a lot must not have and use an electrified fence, or construct a fence wholly or partly of razor wire, on the lot.

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

*Division 4—Tennis Court Fencing***2.9 Tennis court fencing**

(1) A person must not erect or repair a fence around or partly around a tennis court on a lot unless—

- (a) the fence is not more than 3.6m in height;
- (b) the whole of the fence is at least 900mm from the boundary between the lot on which the tennis court is located and the adjoining lot or if it is less than 900mm, the owner of the adjoining lot has first been given the opportunity to make submissions to the local government on the location of the fence;
- (c) the fence is fabricated from 2.5mm poly-vinyl chloride coated or galvanised wire 50mm link mesh not more than 3.6m in height, and is erected in accordance with the manufacturer's specifications.

(2) A person must not erect a fence around or partly around any tennis court without the written approval of the local government.

*Division 5—Street Numbering***2.10 Assignment of street number**

(1) The local government or an Authorised Person must assign a street number to each lot in a street, thoroughfare or way in the district in accordance with its policy on street numbering so as to ensure unambiguous and easy identification of every individual lot.

(2) The local government or an Authorised Person may from time to time assign another street number to a lot instead of that which was previously assigned.

**2.11 Street number to be displayed**

(1) The owner or occupier of each lot must paint or affix and maintain the current street number assigned by the local government, in a conspicuous place on the front of the building, fence or gate adjacent to the street fronting the lot.

(2) A sign painted on the kerb adjacent to a lot depicting the street number is satisfactory for the purposes of subclause (1).

**2.12 Location of number not to be misleading**

(1) A person must not place or display the street number of the lot in such a location as to cause confusion or be misleading.

(2) A person must not adopt, use or display a street number other than that street number assigned by the local government.

(3) Where the location of a street number causes confusion or is misleading, or an unauthorised street number is being used or displayed on a lot, the local government or an Authorised Person may serve notice in writing on the owner or occupier of the land specifying remedial action to be taken.

#### *Division 6—Stormwater and Wastewater Disposal*

##### **2.13 Containment of stormwater**

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

##### **2.14 Guttering and downpipes**

(1) The owner or occupier of a lot must ensure that each building or house on the lot is provided with adequate guttering and downpipes sufficient to receive, without overflow, all rainwater from the roof of the building or house, in accordance with AS 3500.2.2003 and AS 3500.3.2003.

(2) The owner or occupier of a lot must ensure that all guttering and downpipes to each building or house on the lot are maintained in a good state of repair and free from obstruction.

##### **2.15 Rainwater disposal systems**

(1) The owner or occupier of a lot must ensure that all rainwater from the roof of each building or house on the lot, or the overflow from rainwater storage tanks is discharged into subsurface rainwater disposal systems, or by other methods approved by the local government, in accordance with AS 3500.3.2003

(2) The owner or occupier of a lot must ensure that all rainwater from paved areas of the lot is discharged into subsurface rainwater disposal systems of adequate capacity in accordance with AS 3500.3.2003.

(3) The owner or occupier of a lot must ensure that all subsurface rainwater disposal systems on the lot are maintained in a good state of repair and free from obstruction.

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

(1) Wastewater and backwash water from swimming pool filtration systems must be contained within, and disposed onto or into the lot on which the swimming pool is located.

(2) A soakwell system having a minimum capacity of 140 litres, and located a minimum of 1.8m away from any building and lot boundaries satisfies the requirement of subclause (1).

### **PART 3—NUISANCES AND DANGEROUS MATTERS**

#### *Division 1—Outdoor Lighting*

##### **3.1 Tennis court lighting**

(1) A person must not erect floodlights or other outdoor lighting for the illumination of a tennis court on a lot without the written approval of the local government.

(2) In determining an application in respect of the erection or use of floodlights or other outdoor lighting for the illumination of a tennis court on a lot, the local government must not approve the application unless—

- (a) the owners of adjacent lots are given the opportunity to make submissions in respect of the application;
- (b) outdoor light fittings are mounted not more than 3.6m above natural ground level;
- (c) the outdoor light fittings are of a type mounted horizontally or of a type approved by the local government; and
- (d) the level of illumination from the floodlights or external lights on any land more than 1m from the lot boundary must not exceed 10 lux.

(3) A person must not permit floodlights or other outdoor lights for the illumination of a tennis court to cause a nuisance or to be operated between 10.00pm and 7.00am.

(4) Obtrusive or spill lighting on adjacent residential lots from floodlights or other outdoor lights used for the illumination of a tennis court on a lot must not exceed 10 lux when measured in a vertical plane parallel to the relevant adjacent lot, to a height commensurate with the height of the potentially affected dwellings.

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

(1) Where artificial light is emitted or reflected from anything on a lot so as to contravene the requirements of AS 4282.1997 entitled “Control of obtrusive effects of outdoor lighting”, then an owner or occupier of the lot commits an offence.

(2) An owner or occupier who fails to maintain all lighting installations, as specified in subclause (1), as defined within the Australian Standard AS 4282 entitled “Control of obtrusive effects of outdoor lighting”, in good working order and repair at all times, commits an offence.

(3) Obtrusive or spill lighting on adjacent residential lots from outdoor or security lights on a lot must not exceed 10 lux between the hours 7.00am to 10.00pm Western Standard time and 2 lux between

the hours of 10pm to 7am Western Standard Time when measured in a vertical plane parallel to the relevant adjacent lot, to a height commensurate with the height of the potentially affected dwellings.

(4) Obtrusive or spill lighting from outdoor or security lights located on commercial lots on adjacent residential lots must not exceed 25 lux between the hours 7am to 10pm Western Standard time and 5 lux between the hours of 10.00pm to 7.00am Western Standard Time when measured in a vertical plane parallel to the relevant adjacent residential lot, to a height commensurate with the height of the potentially affected dwellings.

### **3.3 Public lighting**

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

### **3.4 Use of Exterior Lights**

An owner or occupier of land on which floodlights or other exterior lights are erected or used must not allow the floodlights or other exterior lights to shine directly onto any other land.

### **3.5 Emission or reflection of light**

An owner or occupier of land must ensure that natural light is not reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare.

### **3.6 Notice may require specified action to prevent emission or reflection of light**

(1) Where—

- (a) floodlights or other exterior lights shine directly onto any other premises;
- (b) artificial light is emitted or reflected from anything on the land so as to illuminate premises outside the land to more than 50 lux or so as to cause or be a nuisance to any person; or
- (c) natural light is reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare,

an Authorised Person may by notice in writing direct the owner or occupier to take such actions as the Authorised Person considers necessary within the time specified in the notice.

(2) The notice referred to in subclause (1) may direct that—

- (a) floodlights or other exterior lights are used only during the hours specified in the notice;
- (b) the direction in which the lights shine be altered as specified in the notice; or
- (c) any reflective surfaces be painted or otherwise treated so as to abate the nuisance,

or any combination of these measures that an Authorised Person believes to be appropriate to the circumstances.

## *Division 2—Unsightly Land and Disused Materials*

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

(1) The owner or occupier of a lot must not keep, or permit to remain on the lot, any refuse, rubbish or disused material of whatsoever nature or kind which in the opinion of the local government or an Authorised Person is likely to give the lot an unsightly appearance and does not conform with the general appearance of other land in that particular part of the district.

(2) The local government or an Authorised Person may give notice in writing to the owner or occupier of a lot requiring the removal of refuse, rubbish or disused material from the lot within the time specified in the notice.

### **3.8 Removal of unsightly overgrowth of vegetation**

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

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

### **3.9 Storage of vehicles and machinery**

The owner or occupier of a lot must not—

- (a) store or allow to remain on any lot, a vehicle, part or body of a vehicle or machinery, in a state of disrepair;
- (b) wreck, dismantle or break up any vehicle, part or body of a vehicle or machinery; unless—
  - (i) inside a building; or
  - (ii) within an area enclosed by a fence or wall of not less than 2m in height and of such a nature as to screen all vehicles, parts or bodies of vehicles or machinery from the street and from adjoining properties; or
- (c) wreck, dismantle or break up a vehicle so as to cause a nuisance.

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

A person must not place, leave or dispose of a disused refrigerator, ice-chest, ice-box, trunk, chest or other similar article having a compartment which has a capacity of 0.04m<sup>2</sup> or more on any land without first removing every door and lid and every lock, catch and hinge attached to a door or lid, or rendering every door and lid incapable of being fastened.

*Division 3—Hazardous Plants and Trees***3.11 Hazardous plants and trees**

(1) Where a plant or tree in a lot presents a hazard, or endangers or may endanger any person or thing on an adjoining lot, thoroughfare, public place or reserve, the local government or an Authorised Person may give a notice to the owner or the occupier of the lot to remove, cut, move or otherwise deal with that plant or tree so as to remove the danger or hazard.

(2) Where a plant or tree in a lot presents a serious and immediate danger to any person or thing in a thoroughfare, public place or reserve, the local government or an Authorised Person may take any remedial action it considers appropriate in order to make a plant or tree safe without having given the owner or occupier notice as required by Part 11 of this local law.

(3) Any costs incurred by the local government for remedial action taken in terms of subclause (2) cannot be recovered by the local government.

*Division 4—Sand Drift***3.12 Abatement of Sand Drift**

An owner or occupier of land or premises, from which any sand is released or escapes or causes a nuisance, whether by means of wind, water or any other cause, commits an offence.

**3.13 Management of Sand Drift**

(1) An owner or occupier who intends, for any purposes, to undertake any works or activities involving the clearing, excavation or filling of any land or premises, and having the potential to cause sand drift release from the land or premises, must when requested by the local government—

- (a) submit an application for approval of a Sand Management Plan, which must be lodged in a format approved by the local government; and
- (b) obtain written approval of the Sand Management Plan before the commencement of any such works or activities.

(2) An Authorised Person may apply to the approval of a Sand Management Plan such conditions regarding the control of dust or sand on the premises as is deemed fit.

(3) An owner or occupier who commences any works or activities which causes any sand to be released or escape from the land or lot or to create a nuisance, without obtaining written approval for a Sand Management Plan, when requested by an Authorised Person pursuant to subclause (1), commits an offence.

(4) If an owner or occupier fails to comply with the Sand Management Plan approval or any associated approval conditions as issued pursuant to subclause (2) or when requested to cease an activity or works which generate sand escaping from the land or lot or which causes a nuisance—

- (a) the owner or occupier commits an offence; and
- (b) where, as a result of that non-compliance, sand has been released from the site or causes a nuisance, the works or activity must promptly cease until the local government or an Authorised Person is satisfied that the non-compliance is rectified.

**3.14 Issue of a Notice**

(1) An owner or occupier of a lot on which any sand or other material is deposited must not permit the release or escape of such sand, or other material from the land or lot, whether by means of wind, water or any other cause, so as to cause a nuisance to any adjacent lot, thoroughfare, public place or reserve.

(2) Where the local government or an Authorised Person is of the opinion that, as a result of any activity occurring on, or likely to occur on a lot, sand, or other material may be released or escape, the local government or an Authorised Person may give a notice to the owner or occupier specifying that the activity may only occur subject to conditions specified in that notice.

(3) Where the local government or an Authorised Person is of the opinion that as a result of wind, water or any other cause, sand, or other material may be released or escape from a lot or land, the local government or an Authorised Person may give a notice to the owner or occupier requiring that the sand, or other material be stabilised as specified in that notice.

(4) Where sand, or other material has been released or escaped from a lot or causes a nuisance, the local government or an Authorised Person may give a notice to the owner or occupier of the lot requiring the owner or occupier to—

- (a) clean up and remove the sand or other material;
- (b) cease the activity causing the escape of sand;
- (c) submit a Sand Management Plan to the local government; or
- (d) repair or make good any damage resulting from that release or escape, within the time specified in the notice.

*Division 5—Nuisances***3.15 Prevention of nuisances**

(1) A person must not—

- (a) engage in any undertaking or activity or conduct any business in such a manner as to cause or permit the emission of dust, fumes, light, liquid waste, odour or smoke; or

(b) do any other thing,  
so as to create a nuisance.

(2) Where the local government or an Authorised Person is satisfied that as a result of such an undertaking or activity—

- (a) a nuisance exists; or
- (b) the escape of smoke, air borne particles, fumes, odours, dust or other emissions in such quantity or of such nature as to cause a nuisance to any person exists; or
- (c) the escape of any matter which may enter surface or ground waters exists; or
- (d) an inadequate management of wastewater exists;

an Authorised Person may by notice in writing direct the owner or occupier or person to take such actions necessary to abate the nuisance within a time specified in the notice; or to prevent or minimise the escape of the smoke, air borne particles, fumes, odours, dust or other emissions or correct the inadequate management, as the case may be, within the time specified in the notice.

#### *Division 6—Dust*

### **3.16 Abatement of Dust**

An owner or occupier of land or premises, from which any dust is released or escapes or causes a nuisance, whether by means of wind, water or any other cause, commits an offence.

### **3.17 Dust Management**

(1) An owner or occupier who intends, for any purposes, to undertake any works or activities involving the clearing, excavation, demolition works, construction, alteration or addition to any building or structure on the land or filling of any land or premises, and having the potential to cause dust release from the land or premises or cause a nuisance must—

- (a) submit an application for approval of a Dust Management Plan, which must be lodged in a form approved by the local government;
- (b) obtain written approval of the Dust Management Plan before commencement of any such works or activities;
- (c) erect a sign of not less than 1m by 1m in size in a conspicuous position on the land so that it is clearly visible from the street and include in lettering not less than 100mm in size, the following information—
  - (i) site supervisor's Name;
  - (ii) site supervisor's contact mobile phone number; and
  - (iii) estimated dates for commencement and completion of the works or activities.
- (d) notify the owners or occupiers of adjoining land in writing at least 72 hours prior to the commencement of any activity that has the potential to cause the release or escape of dust from the land or premises giving details of—
  - (i) the nature of the activity;
  - (ii) the proposed time and location of the activity; and
  - (iii) the name of the person responsible for carrying out the activity and how and where that person may be contacted.

(2) An Authorised Person may apply to the approval of a Dust Management Plan such conditions regarding the control of dust on the premises as is deemed fit.

(3) An owner or occupier who commences any works or activities referred to in subclause (1), without obtaining a written approval for a Dust Management Plan, commits an offence.

(4) If an owner or occupier fails to comply with the Dust Management Plan approval or any associated approval conditions as issued pursuant to subclause (2)—

- (a) the owner or occupier commits an offence; and
- (b) where, as a result of that non-compliance, sand or dust has been released from the site or in the opinion of an Authorised Person causes a nuisance, the works or activity must immediately cease until the local government or Authorised Person is satisfied that the non-compliance is rectified.

### **3.18 Dust Management Plan**

(1) Where the local government or Authorised Person is of the opinion that there is a high risk of dust release as a result of the use of any premises, or from any works or activities being carried out or likely to be carried out on any land or premises, the local government may cause to be served on the owner or occupier a notice providing that the use, works or activities may only occur subject to conditions, which may include a Dust Management Plan, and the notice must specify these conditions.

(2) If an owner or occupier fails to comply with a notice issued pursuant to subclause (1)—

- (a) the owner or occupier commits an offence; and
- (b) where, as a result of that non-compliance, sand or dust has been released from the site or a nuisance is created, the works or activity must cease until the local government is satisfied that the non-compliance is rectified.

*Division 7—Rubbish and Refuse from Building and Construction Sites***3.19 Responsibilities of the builder, owner or occupier**

(1) From the time of commencement of—

- (a) construction work on a building site until the time of completion of such work, the builder; or
  - (b) work likely to generate refuse on a development site until the time of completion of such work, the owner or occupier;
- must—
- (i) ensure all refuse arising on the building or development site is contained in and prevented from being blown from the site by wind.
  - (ii) keep the building or development site as free as is practicable of any refuse;
  - (iii) keep the street verge immediately adjacent to the building or development site free of refuse arising from the building site; and
  - (iv) ensure any refuse receptacle is emptied when full.

(2) In the case of—

- (a) a building site, the builder; or
- (b) a development site, the owner or occupier

must ensure that, within three days of completion of construction or development works, as the case may be, the site and the street verge immediately adjacent to it is cleared of all refuse and all refuse receptacles are removed from the building or development site.

**3.20 Provision of Refuse Receptacles or a Refuse Management Plan for a building site**

Before commencement of—

- (a) any construction work on a building site, the builder; or
  - (b) any work likely to generate refuse on a construction site, the owner or occupier,
- must provide and make available for use on the site—
- (i) a refuse receptacle of a capacity not less than 4 cubic metres; or
  - (ii) a Refuse Management Plan approved by the local government.

**PART 4—MISCELLANEOUS***Division 1—Notices***4.1 Notices**

(1) Where a breach of any provision of this local law has occurred in relation to private property, the local government may give a notice in writing to the owner or occupier of that land or lot.

(2) The notice 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 or occupier of the lot is required to remedy the breach within the time specified in the notice.

(3) Should an owner or occupier of a lot fail to comply with a notice, the local government may by its employees, agents or contractors enter upon the land or lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner or occupier of the land or lot in a court of competent jurisdiction.

(4) Any action taken in subclause (3) shall be in accordance with Part 3, Division 3, Subdivision 2 of the Act.

(5) A person who fails to comply with a notice issued pursuant to this local law commits an offence.

*Division 2—Objection and Reviews***4.2 Right of Appeal and Review**

When the local government makes a decision as to whether it will—

- (a) grant a person a permit or licence under this local law;
- (b) renew, vary, or cancel a permit or licence, that a person has under this local law, or
- (c) give a person a notice,

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

**PART 5—ENFORCEMENT****5.1 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 \$5,000 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 penalty of not less than \$500 and not exceeding \$5,000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

### 5.2 Modified penalties

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

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 3.

(3) 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.

### 5.3 Form of notices

For the purposes of this Local Law—

- (a) the form of the infringement notice referred to in section 9.17 of the Act is to be in or substantially in the form of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (b) the form of the notice referred to in section 9.20 of the Act is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (c) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

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### Schedule 1

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

[Clause 2.1 (2) (a)]

Each of the following is a “sufficient fence” on a residential lot—

1. A fully closed picket timber fence constructed to manufacturer’s specifications or in accordance with established construction techniques to a height of 1.8m, except with respect to the street setback area.
2. A fence constructed of corrugated fibre reinforced pressed cement constructed to the manufacturer’s specifications or which otherwise satisfies the following specifications—
  - (a) A minimum in-ground of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground of 600mm;
  - (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement sheet;
  - (c) the sheets to be lapped and capped with extruded “snap-fit” type capping in accordance with the manufacturer’s written specifications; and
  - (d) the height of the fence to be 1.8m, except with respect to the street setback area.
3. A fence constructed of bricks, stone, concrete or light weight concrete blocks, which satisfies the following specifications—
  - (a) footings to be a minimum of 225mm wide by 150mm deep in 15 MPA concrete;
  - (b) 225mm x 100mm engaged piers to be provided at 3m centres maximum;
  - (c) expansion joints in accordance with the manufacturer’s written specifications; and
  - (d) the height of the fence to be 1.8m, except with respect to the street setback area.
4. A fence constructed of steel sheeting metal fencing systems erected in accordance with the manufacturer’s specifications and instructions.
5. The height of the fence to be up to 1.8m, except with respect to the street setback area.

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### Schedule 2

#### SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT

[Clause 2.1 (2) (b)]

Each of the following is a “sufficient fence” on a commercial lot—

1. A fence constructed of galvanised or PVC coated rail-less link mesh, chain mesh or steel mesh to a height of 2m, except with respect to the street setback area.
2. A fence of fibre reinforced cement sheet referred to in Schedule 2, except with respect to the street setback area.

3. A fence constructed of steel or aluminium sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1.8m but no greater than 2.4m.
4. Fences of timber, brick, stone or concrete referred to in Schedule 2, except with respect to the street setback area.

Schedule 3

**OFFENCES AND MODIFIED PENALTIES**

[clause 5.2]

Item No.	Clause No.	Nature of offence	Modified Penalty \$
1.	2.1(1)	Erect a fence which is not a sufficient fence	250
2.	2.2	Erect or modify a fence within the street setback area without written consent of the local government	250
3.	2.4(1)	Failing to maintain a fence in good condition or preventing a fence from becoming dangerous, dilapidated or unsightly	250
4.	2.6(1)	Construct a dividing fence on a residential or commercial lot from pre-used materials without written consent	250
5.	2.7(1)	Erect a fence using barbed wire or other material with spiked or jagged projections in fence construction without written approval	500
6.	2.8(1)	Have or use razor wire in a fence or electrify a fence	500
7.	2.8(2)	Affix, or allow to remain, any broken glass in a fence or wall	500
8.	2.9(1)(a)	Erect or repair a tennis court fence higher than 3.6m	250
9.	2.9(1)(b)	Erect tennis court fence less than 900mm from boundary of adjoining lot without permission of owner of adjoining lot	250
10.	2.9(1)(c)	Erect or repair chain link mesh fence higher than 3.6m not in accordance with manufacturer's specification	250
11.	2.9(2)	Erect tennis court fence without written approval of the local government	250
12.	2.11(1)	Failing to paint, affix or maintain current street number in a conspicuous place on the building, fence or gate to street	250
13.	2.12(1)	Place or display a street number so as to cause confusion or be misleading	250
14.	2.12(2)	Adopt, use or display a street number other than that street number assigned by the local government	250
15.	2.12(3)	Failing to comply with a notice to remedy a confusing or misleading street number, or use/display an unauthorised street number	500
16.	2.13	Failing to ensure that all rainwater or stormwater received by a lot and any building or house on the lot, is contained within the lot	250
17.	2.14(2)	Failing to maintain all guttering and downpipes in a good state of repair and free from obstruction	250
18.	2.15(3)	Failing to maintain all subsurface rainwater disposal systems in a good state of repair and free from obstruction	250
19.	2.16(1)	Failing to contain or dispose of swimming pool wastewater on the lot on which the swimming pool is located	250
20.	3.1(1)	Erect floodlights or other outdoor lighting for illumination of a tennis court without written approval	250
21.	3.1(3)	Permit floodlights or other outdoor lights to illuminate a tennis court to remain lit so as to cause a nuisance or operated between the hours of 2200hours and 0700 hours	250
22.	3.1(4)	Erect or maintain on private land tennis court lighting which spills 10 lux or more illumination into adjacent land/building	250
23.	3.2(1)	Emitting light which contravenes AS 4282 "Control of obtrusive effects of outdoor lighting"	250

Item No.	Clause No.	Nature of offence	Modified Penalty \$
24.	3.2(2)	Failing to maintain outdoor lighting installations in good working order and repair at all times	250
25.	3.4	Failing to prevent exterior lights from shining onto other land	250
26.	3.5	Failing to prevent natural light being reflected onto other land or onto a thoroughfare	250
27.	3.7(1)	Keeping or permitting refuse, rubbish or disused materials on a lot	250
28.	3.8(1)	Permitting unsightly overgrowth or vegetation on a lot	250
29.	3.9(a)	Store or allow to remain on land any vehicle, part or body of vehicle or machinery in state of disrepair	250
30.	3.9(b)(i)	Wreck, dismantle or break up any vehicle part or body or machinery not in a building	250
31.	3.9(b)(ii)	Wreck, dismantle or break up any vehicle, part or body or machinery not behind fence or screen from street	250
32.	3.9(c)	Wreck, dismantle or break up a vehicle so as to cause a nuisance	500
33.	3.10	Disposing of disused refrigerator or similar container with door or lid that can be fastened, or with door or lid still fitted	250
34.	3.12	Permit the release or escape of sand or other material from a lot so as to cause a nuisance	500
35.	3.13(1)(a)	Failing to submit a Sand Management Plan for approval, when requested to do so	500
36.	3.13(1)(b)	Failing to obtain approval, when requested to do so, before commencing works or activities requiring a Sand Management Plan	500
37.	3.13(3)	Commencing works or activities without obtaining the prior approval of an Authorised Person	250
38.	3.13(4)	Failing to comply with conditions specified in a Sand Management Plan	250
39.	3.15(1)(a)	Engaging in an activity so as to cause a nuisance	500
40.	3.15(1)(b)	Doing anything to cause a nuisance	500
41.	3.16	Permit the release or escape of dust or other material from a lot so as to cause a nuisance	500
42.	3.17(1)(a)	Failing to submit a Dust Management Plan for approval, when requested to do so	500
43.	3.17(1)(b)	Failing to obtain approval, when requested to do so, before commencing works or activities requiring a Dust Management Plan	500
44.	3.17(1)(c)	Failing to erect a sign in a conspicuous position	250
45.	3.17(1)(d)	Failing to notify adjoining owners or occupiers prior to commencing works	250
46.	3.17(3)	Commencing works or activities without obtaining the prior approval of an Authorised Person	250
47.	3.17(4)	Failing to comply with conditions specified in a Dust Management Plan	250
48.	3.18(2)	Failing to comply with a notice	500
49.	3.19(1)(b)(i)	Failing to ensure all refuse arising from building site is contained and prevented from escaping from the building site	500
50.	3.19(1)(b)(ii)	Failing to keep or ensure a building or development site as free as practicable of refuse	250
51.	3.19(1)(b)(iii)	Failing to keep a street verge adjacent to a building or development site free from refuse	250
52.	3.19(1)(b)(iv)	Failing to ensure a receptacle is emptied when full	250
53.	3.19(2)	Failing to clear building or development site within 3 days after completion of construction work	250
54.	3.20(a) or (b)(i)	Failing to provide a refuse receptacle on a building site	250

<b>Item No.</b>	<b>Clause No.</b>	<b>Nature of offence</b>	<b>Modified Penalty \$</b>
55.	3.20(a) or (b)(ii)	Failing to provide a Refuse Management Plan for a building site	250
56.	4.1(5)	Failing to comply with requirements of a notice	500
57.	5.1(2)	All other offences not specified	250

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Dated this 30th day of November 2016

The Common Seal of the Town of Cambridge was affixed by authority of a resolution of the Council in the presence of—

KERI SHANNON, Mayor.

JASON BUCKLEY, Chief Executive Officer.

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