

# Information Sheet on Fences

## WHEN IS A BUILDING PERMIT REQUIRED FOR A FENCE

- For front fences, and fences on side or rear streets, (ie, a fence within 3.0m of a boundary abutting a street) constructed of masonry (brick) or concrete in excess of 1.2m in height above natural ground level.
- For front, side, and rear street fences that are not constructed in masonry or concrete in excess of 1.5m in height above natural ground level.
- For any fence, adjacent to a street and containing barbed wire or the like.
- For fences forming part of a safety barrier for a swimming pool or spa.
- For a fence exceeding 1.0m in height above footpath level when within 9.0m of a point of intersection of street alignments on corner allotments.
- For all other fences (except a chain wire fence surrounding a tennis court) in excess of 2.0m in height above natural ground level.

## WHAT IS CONSIDERED TO BE A FENCE

A fence by definition under the Building Regulations includes “a screen or a structure similar to a screen”. This means that all the regulations applicable to a fence, also apply to privacy screens, a trellis and trellis extensions to existing fences.

## THE BUILDING REGULATIONS FOR FENCES

### 1. Maximum Front Fence Heights

The maximum front fence height (ie, a fence within 3.0m of a street alignment at the front of an allotment) is 1.2m above natural ground level, unless the fence is on a declared street, in which case the maximum height is 2.0m.

The declared streets in the City of Bayside are Balcombe Road, Bay Road, Beach Road (including the Esplanade and St Kilda Street), Bluff Road, Centre Road, Cummins Road, Hampton Street, Hawthorn Road, Nepean Highway, North Road (excluding the western side of St Kilda Street) and South Road.

## 2. Maximum Fence Heights onto Side and Rear Streets

The maximum height of a fence on a side or rear street (including a fence onto a lane, footway, alley or right of way) is 2.0m above natural ground level.

## 3. Fences on Side and Rear Boundaries

A fence on or within 150mm of a side or rear boundary, which exceeds 2.0m in height above natural ground level must:

- not exceed a maximum average height of 3.0m, and in no part exceed a maximum height of 3.6m.
- not exceed a total length, with an adjoining neighbour's allotment, of 10m plus 25% of the remaining length of the boundary with the neighbour.

## 4. Fences Not Constructed on Side or Rear Boundaries

- A fence exceeding 2.0m in height, that is not constructed on a side or rear boundary, must be setback a minimum of 1.0m from a boundary
- A fence exceeding 3.6m in height must be setback 1.0m from a boundary plus 300mm for every metre of height over 3.6m.
- A fence exceeding 6.9m in height must be setback 2.0m from a boundary plus 1.0m for every metre of height over 6.9m.

## 5. Fences Near Intersections

A fence cannot exceed a height of 1.0m above footpath level if constructed within 9.0m of a point of intersection of street alignments on a corner allotment. Please note that right of ways, lanes etc are considered as streets in respect of this regulation.



## 6. Fences Opposite Neighbours Habitable Room Windows

- A fence more than 2.0m in height must be setback from habitable room windows in adjoining buildings to provide for a light court to the window with a minimum area of 3m<sup>2</sup>, with a minimum dimension of 1.0m clear to the sky, and
- A fence more than 3.0m in height must be setback at least 1/2 its height from an adjoining habitable room window if the fence is within a 55° angle in the horizontal plane about the vertical axis through the centre of the window.

## 7. Fences and Solar Access to Neighbours North Facing Habitable Room Windows

If a neighbour has a north facing habitable room window less than 3.0m to a boundary, the setback of the fence over 2.0m in height (for a distance of 3.0m from the edge of each side of the neighbours window) must be

- 1.0m for fences up to 3.6m in height
- 1.0m plus 600mm for every metre in height over 3.6m
- 2.0m plus 1.0m for every metre of height over 6.9m

Note: a north-facing window is a window with an axis perpendicular to its surface orientated north 20° west to north 30° east

## 8. Fences and Overshadowing of Neighbours Recreational Private Open Space

After a fence, that is more than 2.0m in height, is constructed, a minimum of 75% or 40m<sup>2</sup>, with a minimum dimension of 3.0m (whichever is the lesser), of an adjoining neighbours “recreational private open space” must receive a minimum of 5 hours of sunlight between the hours of 9am and 3pm on the 22 September.

If the adjoining allotment does not already receive the above amount of sunlight on the 22 September, then a fence construction on the adjoining allotments cannot further reduced sunlight to the neighbour’s secluded private open space.

Note: “**recreational private open space**” is any part of private open space which is primarily intended for outdoor recreational activity and is either at the side or rear of an existing dwelling, or in front of a dwelling if it is screened with a 1.5m high fences or walls (which are no more than 25% open) for at least 90 % of the perimeter of the private open space.

“**private open space**” is an unroofed area of land or a deck, terrace, patio, balcony, pergola, verandah, gazebo and a swimming pool.

## **BOUNDARY FENCES BETWEEN NEIGHBOURS**

The replacement of fences between neighbours requires the neighbours communicating with each other. This can result in issues arising between these neighbours. The following is a guide to some of the most common questions that can arise.

### **1. My neighbour won't talk to me about replacing the fence.**

Sometimes it's difficult to discuss the need to replace a fence with your neighbour. Writing to them and explaining the issues, as you see them, may be beneficial, although if possible a friendly chat is probably the way to go first.

### **2. My neighbour won't respond to any communication about the fence.**

If writing to your neighbour has not drawn a response, you may need to issue a "fencing notice". This is a legal document that any reputable fencing contractor should be able to issue to your neighbour. It contains a quote for the fencing works needed and requires a response from the owner of the neighbouring property within 30 days.

### **3. My neighbour and I cannot agree on issues concerning the fence**

There are many aspects of boundary fencing that neighbours have trouble reaching agreement on. If, after all attempts at discussion (verbally or written) have been tried and failed, you may need to seek outside help to reach a settlement.

There are professional mediators that can help to settle these or other domestic disputes, in a non-confrontational and inexpensive manner. One such service is the Dispute Settlement Centre under the Department of Justice ([www.justice.vic.gov.au/disputes](http://www.justice.vic.gov.au/disputes)). For this service to be effective, both parties would need to be willing to abide by any agreement reached.

Ultimately, to resolve the most intractable disputes, you may need to resort to the Magistrates' Court. This should be seen as an 'option of last resort', as this will inevitably be a drawn-out, expensive process that will add to difficulties in your relationship with your neighbour.

Remember, the issue of fencing between your neighbours is a civil matter, and needs to be addressed by you and your neighbour. Except in the most unusual circumstances, it would not involve either the City of Bayside or the police.