

LOCAL LAWS

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LOCAL GOVERNMENT ACT 1995

The Municipality of the

Shire of Toodyay

Thoroughfares and Trading in

Thoroughfares and Public

Places Local Law



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Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Toodyay resolved on September 27, 2001 to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the Shire of Toodyay Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.

1.2 Definitions

In this local law unless the context otherwise requires -

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

"**applicant**" means a person who applies for a permit;

"**authorized person**" means a person authorized by the local government under section 9.10 of the Act to perform any of the functions of an authorized person under this local law;

"**built-up area**" has the meaning given to it in the *Road Traffic Code 1975*;

"**bulk rubbish container**" means a bin or container designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance, but does not include a bin or container used in connection with the local government's regular domestic rubbish collection service;

"**carriageway**" means the paved or made portion of a thoroughfare used or intended for use by vehicles;

"**CEO**" means the Chief Executive Officer of the local government;

"**commencement day**" means the day on which this local law comes into operation;

"**Council**" means the council of the local government;

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"crossing" means a crossing giving access from a public thoroughfare to -

- (a) private land; or
- (b) a private thoroughfare serving private land;

"district" means the district of the local government;

"footpath" means the paved or made portion of a thoroughfare used or intended for use by pedestrians and cyclists;

"garden" means any part of a thoroughfare planted, developed or treated, otherwise than as a lawn, with one or more plants;

"intersection" has the meaning given to it in the *Road Traffic Code 1975*;

"kerb" includes the edge of a carriageway;

"lawn" means any part of a thoroughfare which is planted only with grass, or with a similar plant, but will include any other plant provided that it has been planted by the local government;

"liquor" has the meaning given to it in section 3 of the *Liquor Licensing Act 1988*;

"local government" means the Shire of Toodyay;

"local government property" means anything except a thoroughfare –

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

"lot" has the meaning given to it in the *Town Planning and Development Act 1928*;

"owner" or "occupier" in relation to land does not include the local government;

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"permissible verge treatment" means any one of the 4 treatments described in clause 2.8(2), and includes any reticulation pipes and sprinklers;

"permit" means a permit issued under this local law;

"permit holder" means a person who holds a valid permit;

"person" does not include the local government;

"premises" for the purpose of the definition of "public place" in both this clause and clause 6.1, means a building or similar structure, but does not include a carpark or a similar place;

"public place" includes any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include –

- (a) premises on private property from which trading is lawfully conducted under a written law; and
- (b) local government property;

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

"sign" includes a notice, flag, mark, structure or device on which may be shown words, numbers, expressions or symbols;

"town planning scheme" means a town planning scheme of the local government made under the *Town Planning and Development Act 1928*;

"townsite" means the townsite of Toodyay which is –

- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
- (b) referred to in clause 37 of Schedule 9.3 of the Act;

"vehicle" includes –

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
- (b) an animal being ridden or driven,

but excludes –

- (a) a wheel-chair or any device designed for use by a physically impaired person on a footpath; and
- (b) a pram, a stroller or a similar device; and

"**verge**" means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare, but does not include any footpath.

1.3 Application

This local law applies throughout the district.

1.4 Repeal

- (1) The following local laws are repealed –
 - (a) The Numbering of Houses and Buildings By law published in the Government Gazette on January 5, 1961.
 - (b) The Prevention of Damage to Streets No.15 By Law published in the Government Gazette on February 8, 1972.
 - (c) The Streets Lawns and Gardens No.11 By Law published in the Government Gazette on February 8, 1972.
 - (d) The Control of Hawkers By Law published in the Government Gazette on May 2, 1972.
 - (e) The Parks, Public Reserves, Sports Grounds, Recreation Grounds By Law published in the Government Gazette on June 16, 1978.
 - (f) The Depositing and Removal of Refuse, Rubbish and Litter By Law published in the Government Gazette February 15, 1980.
 - (g) The Road Reserves By Law published in the Government Gazette on December 2, 1983.
 - (h) The Parks, Reserves, Sports Grounds By Law published in the Government Gazette on June 16, 1989.

- (2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.
- (3) The Council may resolve that notwithstanding subclause (2) specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

PART 2 – ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES

Division 1 - General

2.1 General prohibitions

A person shall not -

- (a) plant any plant which exceeds or which may exceed 0.75m in height on a thoroughfare so that the plant is within 6m of an intersection;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless –
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;
- (c) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 2m of a carriageway;
- (d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (e) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;

- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare; or
- (g) within a mall, arcade or verandah of a shopping centre, ride any skateboard, rollerblades or similar device.

2.2 Activities allowed with a permit - general

- (1) A person shall not, without a permit –
 - (a) dig or otherwise create a trench through or under a kerb or footpath;
 - (b) subject to Division 3 of this Part, throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only during the period of time advertised in connection with that collection by the local government;
 - (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
 - (d) cause any obstruction to a water channel or a water course in a thoroughfare;
 - (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
 - (f) damage a thoroughfare;
 - (g) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose or under a permit issued under clause 5.13;
 - (h) fell any tree onto a thoroughfare;
 - (i) unless installing a permissible verge treatment -
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;

- (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
 - (k) on a public place use anything or do anything so as to create a nuisance;
 - (l) place or cause to be placed on a thoroughfare a bulk rubbish container; or
 - (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

2.3 No possession and consumption of liquor on thoroughfare

- (1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless –
- (a) that is permitted under the *Liquor Licensing Act 1988* or under another written law; or
 - (b) the person is doing so in accordance with a permit.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

Division 2 - Vehicle crossing
Subdivision 1 - Temporary crossings

2.4 Permit required

- (1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works shall obtain a permit for the construction of a temporary crossing to protect the existing carriageway, kerb, drains and footpath, where –
- (a) a crossing does not exist; or

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- (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.
- (2) The “person responsible for the works” in subclause (1) is to be taken to be –
- (a) the builder named on the building licence issued under the *Local Government (Miscellaneous Provisions) Act 1960*, if one has been issued in relation to the works; or
 - (b) the registered proprietor of the lot, if no building licence has been issued under the *Local Government (Miscellaneous Provisions) Act 1960* in relation to the works.
- (3) If the local government approves an application for a permit for the purpose of subclause (1), the permit is taken to be issued on the condition that until such time as the temporary crossing is removed, the permit holder shall keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

Subdivision 2 - Redundant vehicle crossings

2.5 Removal of redundant crossing

- (1) Where works on a lot will result in a crossing no longer giving access to a lot, the crossing is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the local government.
- (2) The local government may give written notice to the owner or occupier of a lot requiring her or him to –
- (a) remove any part of or all of a crossing which does not give access to the lot; and
 - (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal,

within the period of time stated in the notice, and the owner or occupier of the lot shall comply with that notice.

Division 3 - Verge treatments

Subdivision 1 - Preliminary

2.6 Interpretation

In this Division, unless the context otherwise requires -

"acceptable material" means any material which will create a hard surface, and which appears on a list of acceptable materials maintained by the local government.

2.7 Application

This Division only applies to the townsite.

Subdivision 2 - Permissible verge treatments

2.8 Permissible verge treatments

- (1) An owner or occupier of land which abuts on a verge may on that part of the verge directly in front of her or his land install a permissible verge treatment.
- (2) The permissible verge treatments are –
 - (a) the planting and maintenance of a lawn;
 - (b) the planting and maintenance of a garden provided that
 - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare; and
 - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
 - (c) the installation of an acceptable material; or
 - (d) the installation over no more than one third of the area of the verge (excluding any vehicle crossing) of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

2.9 Only permissible verge treatments to be installed

- (1) A person shall not install or maintain a verge treatment which is not a permissible verge treatment.
- (2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 2.10.

2.10 Obligations of owner or occupier

An owner or occupier who installs or maintains a permissible verge treatment shall -

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) not place any obstruction on or around the verge treatment;
and
- (c) not disturb a footpath on the verge.

2.11 Notice to owner or occupier

The local government may give a notice in writing to the owner or the occupier of a lot abutting on a verge to make good, within the time specified in the notice, any breach of a provision of this Division.

Subdivision 3 - Existing verge treatments

2.12 Transitional provision

- (1) In this clause –

"former provisions" means the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was repealed by this local law.

- (2) A verge treatment which –

- (a) was installed prior to the commencement day; and
- (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions,

is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions.

Subdivision 4 - Public works

2.13 Power to carry out public works on verge

Where the local government or an authority empowered to do so under a written law disturbs a verge, the local government or the authority -

- (a) is not liable to compensate any person for that disturbance;
- (b) may backfill with sand, if necessary, any garden or lawn; and
- (c) is not liable to replace or restore any –
 - (i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or
 - (ii) sprinklers, pipes or other reticulation equipment.

Division 4 - Property numbers

Subdivision 1 - Preliminary

2.14 Interpretation

In this Division, unless the context requires otherwise -

"Number" means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare.

Subdivision 2 - Assignment and marking of numbers

2.15 Assignment of numbers

The local government may assign a Number to a lot in the district and may assign another Number to the lot instead of that previously assigned.

Division 5 - Fencing

2.16 Public place – Item 4(1) of Division 1, Schedule 3.1 of Act

The following places are specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act –

- (a) a public place, as that term is defined in clause 1.2; and
- (b) local government property.

Division 6 - Signs erected by the local government

2.17 Signs

- (1) A local government may erect a sign on a public place specifying any conditions of use which apply to that place.
- (2) A person shall comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose of giving notice of the effect of a provision of this local law.

2.18 Transitional

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 2.17 if –

- (a) the sign specifies a condition of use relating to the public place which gives notice of the effect of a provision of this local law; and

- (b) the condition of use specified is not inconsistent with any provision of this local law.

Division 7 - Driving on a closed thoroughfare

2.19 No driving on closed thoroughfare

- (1) A person shall not drive or take a vehicle on a closed thoroughfare unless –
 - (a) that is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act;
or
 - (b) the person has first obtained a permit.
- (2) In this clause –

"closed thoroughfare" means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.

PART 3 – ADVERTISING SIGNS ON THOROUGHFARES

Division 1 - Preliminary

3.1 Interpretation

In this Part, unless the context otherwise requires -

"advertising sign" means a sign used for the purpose of advertisement and includes an "election sign";

"direction sign" means a sign which indicates the direction of another place, activity or event, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;

"election sign" means a sign or poster which advertises any aspect of a forthcoming Federal, State or Local Government election; and

"portable direction sign" means a portable free standing direction sign; and

"portable sign" means a portable free standing advertising sign.

Division 2 - Permit

3.2 Advertising signs and portable direction signs

- (1) A person shall not, without a permit –
 - (a) erect or place an advertising sign on a thoroughfare; or
 - (b) post any bill or paint, place or affix any advertisement on a thoroughfare.
- (2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which neither exceeds 500mm in height nor 0.5m² in area, provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.
- (3) Notwithstanding subclause (1), a person shall not erect or place an advertising sign -
 - (a) on a footpath;
 - (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5m;
 - (c) on or within 3m of a carriageway;
 - (d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
 - (e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

3.3 Matters to be considered in determining application for permit

In determining an application for a permit for the purpose of clause 3.2(1), the local government is to have regard to -

- (a) any other written law regulating the erection or placement of signs within the district;

- (b) the dimensions of the sign;
- (c) other advertising signs already approved or erected in the vicinity of the proposed location of the sign;
- (d) whether or not the sign will create a hazard to persons using a thoroughfare; and
- (e) the amount of the public liability insurance cover, if any, to be obtained by the applicant.

Division 3 – Conditions on permit

3.4 Conditions on portable sign

If the local government approves an application for a permit for a portable sign, the application is to be taken to be approved subject to the following conditions –

- (a) the portable sign shall -
 - (i) not exceed 1m in height;
 - (ii) not exceed an area of 1m² on any side;
 - (iii) relate only to the business activity described on the permit;
 - (iv) contain letters not less than 200mm in height;
 - (v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;
 - (vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
 - (vii) be secured in position in accordance with any requirements of the local government;
 - (viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
 - (ix) be maintained in good condition; and
- (b) no more than one portable sign shall be erected in relation to the one building or business.

3.5 Conditions on election sign

If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign –

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- (a) being erected at least 30m from any intersection;
- (b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;
- (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access to a place by any person;
- (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
- (e) being maintained in good condition;
- (f) not being erected until the election to which it relates has been officially announced;
- (g) being removed within 24 hours of the close of polls on voting day;
- (h) not being placed within 100m of any works on the thoroughfare;
- (i) being securely installed;
- (j) not being an illuminated sign;
- (k) not incorporating reflective or fluorescent materials; and
- (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

PART 4 – OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

Division 1 - Animals and vehicles

4.1 Leaving animal or vehicle in public place or on local government property

- (1) A person shall not leave an animal or a vehicle, or any part of a vehicle, in a public place or on local government property so that it obstructs the use of any part of that public place or local government property, unless that person has first obtained a permit or is authorized to do so under a written law.
- (2) A person will not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.
- (3) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

4.2 Prohibitions relating to animals

- (1) In subclause (2), "owner" in relation to an animal includes –
 - (a) an owner of it;
 - (b) a person in possession of it;
 - (c) a person who has control of it; and
 - (d) a person who ordinarily occupies the premises where the animal is permitted to stay.
- (2) An owner of an animal shall not –
 - (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
 - (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or

- (c) train or race the animal on a thoroughfare.
- (3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.

Division 2 - Shopping trolleys

4.3 Interpretation

In this Division –

"retailer" means a proprietor of a shop in respect of which shopping trolleys are provided for the use of customers of the shop; and

"shopping trolley" means a wheeled container or receptacle supplied by a retailer to enable a person to transport goods.

4.4 Shopping trolley to be marked

A retailer shall clearly mark its name or its trading name on any shopping trolley made available for the use of customers.

4.5 Person not to leave trolley in public place

A person shall not leave a shopping trolley in a public place other than in an area set aside for the storage of shopping trolleys.

4.6 Retailer to remove abandoned trolley

- (1) If a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, the local government may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.
- (2) A retailer shall remove a shopping trolley within 24 hours of being so advised under subclause (1), unless the retailer -
 - (a) requests the local government to collect and deliver the shopping trolley to the retailer; and
 - (b) pays any fee for that collection and delivery (imposed and determined under and in accordance with sections

6.16 to 6.19 of the Act) within the period specified by the local government.

4.7 Retailer taken to own trolley

In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the trolley.

PART 5 - ROADSIDE CONSERVATION

Division 1 - Preliminary

5.1 Interpretation

In this Part -

"MRWA" means Main Roads Western Australia;

"protected flora" has the meaning given to it in section 6(1) of the *Wildlife Conservation Act 1950*;

"rare flora" has the meaning given to it in section 23F of the *Wildlife Conservation Act 1950*;

"Roadside Conservation Committee" means the Roadside Conservation Committee established under the Land Resource Policy Council within the Office of Premier and Cabinet; and

"special environmental area" means an area designated as such under clause 5.7.

5.2 Application

This Part does not apply to the townsite.

Division 2 - Flora roads

5.3 Declaration of flora road

The local government may declare a thoroughfare which has, in the opinion of the local government, high quality roadside vegetation to be a flora road.

5.4 Construction works on flora roads

Construction and maintenance work carried out by the local government on a flora road is to be in accordance with the 'Code of Practice for Roadside Conservation and Road Maintenance' prepared by the Roadside Conservation Committee.

5.5 Signposting of flora roads

The local government may signpost flora roads with the standard MRWA 'flora road' sign.

5.6 Driving only on carriageway of flora roads

- (1) A person driving or riding a vehicle on a flora road shall only drive or ride the vehicle on the carriageway.
- (2) Subclause (1) does not apply where -
 - (a) conditions on the thoroughfare do not reasonably permit a vehicle to remain on the carriageway;
 - (b) there is no carriageway; or
 - (c) an exemption from the application of subclause (1) has been obtained from the local government.

Division 3 - Special environmental areas

5.7 Designation of special environmental areas

The local government may designate a thoroughfare, or any part of a thoroughfare, as a special environmental area which -

- (a) as protected flora or rare flora; or
- (b) in the opinion of the local government, has environmental, aesthetic or cultural significance.

5.8 Marking of special environmental areas

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The local government is to mark and keep a register of each thoroughfare, or part of a thoroughfare, designated as a special environmental area.

Division 4 – Planting in thoroughfares

5.9 Permit to plant

A person shall not plant any plant or sow any seeds in a thoroughfare without first obtaining a permit.

5.10 Relevant considerations in determining application

In determining an application for a permit for the purpose of clause 5.9, the local government is to have regard to -

- (a) existing vegetation within that part of the thoroughfare in which the planting is to take place; and
- (b) the diversity of species and the prevalence of the species which are to be planted or sown.

Division 5 - Clearance of vegetation

5.11 Permit to clear

A person shall not clear and maintain in a cleared state, the surface of a thoroughfare within 1m of that person's land without first obtaining a permit and any other approvals which may be required under any written law.

5.12 Application for permit

In addition to the requirements of clause 7.1(2), a person making an application for a permit for the purpose of clause 5.11 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.

Division 6 - Fire management

5.13 Permit to burn thoroughfare

A person shall not burn part of a thoroughfare without first obtaining a permit or unless acting under the authority of any other written law.

5.14 Application for permit

In addition to the requirements of clause 7.1(2), an application for a permit for the purposes of clause 5.13 shall –

- (a) include a sketch plan showing the portions of a thoroughfare which are proposed to be burned; and
- (b) advise of the estimated fire intensity and the measures to be taken to protect upper storey vegetation from the burn.

5.15 When application for permit can be approved

The local government may approve an application for a permit for the purpose of clause 5.13 only if the burning of the particular part of the thoroughfare will -

- (a) reduce a fire hazard and alternative means of reducing that hazard, such as slashing or the use of herbicides, are considered by the local government to be not feasible or more detrimental to native flora and fauna than burning; or
- (b) in the opinion of the local government, be beneficial for the preservation and conservation of native flora and fauna.

5.16 Prohibitions on burning

Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 5.13 is not to be approved by the local government -

- (a) for burning between 31 August and 1 May of the following year where the intensity of the burn could damage native flora and fauna; or
- (b) in any year to any person for any part of a thoroughfare which is on the opposite side of the carriageway to that portion of the thoroughfare for which a permit to burn has been approved in the same year.

Division 7 - Firebreaks

5.17 Permit for firebreaks on thoroughfares

A person shall not construct a firebreak on a thoroughfare without first obtaining a permit.

5.18 When application for permit cannot be approved

- (1) The local government is not to approve an application for a permit for the purpose of clause 5.17 where the thoroughfare is less than 20m wide.
- (2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

Division 8 - Commercial wildflower harvesting on thoroughfares

5.19 General prohibition on commercial wildflower harvesting

Subject to clause 5.20, a person shall not commercially harvest native flora on a thoroughfare.

5.20 Permit for revegetation projects

- (1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.
- (2) The local government may approve an application for a permit under subclause (1) only where-
 - (a) the seed is required for a revegetation project in any part of the district; and
 - (b) the thoroughfare, or the relevant part of it, is not a special environmental area.
- (3) Unless the local government specifically provides to the contrary on a permit, if the local government approves an application for a permit for the purpose of subclause (1) it is to be taken to be approved subject to the following conditions –
 - (a) the collection of the seed is to be carried out so as not to endanger the long time survival of the native flora on the thoroughfare; and
 - (b) any licence or approval which may be required under any other written law is to be obtained by the applicant.

PART 6 - TRADING IN THOROUGHFARES AND PUBLIC PLACES

Division 1 - Stallholders and traders
Subdivision 1 - Preliminary

6.1 Interpretation

In this Division, unless the context otherwise requires -

"Competition Principles Agreement" means the Competition Principles Agreement executed by each State and Territory of the Commonwealth and the Commonwealth of Australia on 11 April 1995;

"public place" includes -

- (a) any thoroughfare or place which the public are allowed to use whether or not the thoroughfare or place is on private property; and
- (b) local government property,

but does not include premises on private property from which trading is lawfully conducted under a written law.

"stall" means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold, hired or offered for sale or hire;

"stallholder" means a person in charge of a stall;

"stallholder's permit" means a permit issued to a stallholder;

"trader" means a person who carries on trading;

"trader's permit" means a permit issued to a trader; and

"trading" includes –

- (a) the selling or hiring of, the offering for sale or hire of or the soliciting of orders for goods or services in a public place;
- (b) displaying goods in any public place for the purpose of –
 - (i) offering them for sale or hire;
 - (ii) inviting offers for their sale or hire;
 - (iii) soliciting orders for them; or

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- (iv) carrying out any other transaction in relation to them;
and
- (c) the going from place to place, whether or not public places,
and –
 - (i) offering goods or services for sale or hire;
 - (ii) inviting offers or soliciting orders for the sale or the hire
of goods or services; or
 - (iii) carrying out any other transaction in relation to goods or
services,

but does not include –

- (d) the setting up of a stall or the conducting of a business at a
stall under the authority of a stallholder's permit;
- (e) the selling or the offering for sale of goods and services to, or
the soliciting of orders for goods and services from a person
who sells those goods or services;
- (f) the selling or the offering for sale or hire by a person of goods
of her or his own manufacture or services which he or she
provides; and
- (g) the selling or hiring or the offering for sale or hire of –
 - (i) goods by a person who represents a manufacturer of the
goods; or
 - (ii) services by a person who represents a provider of the
services,

which are sold directly to consumers and not through a shop.

Subdivision 2 - Permits

6.2 Stallholder's permit

- (1) A person shall not conduct a stall on a public place unless
that person is –
 - (a) the holder of a valid stallholder's permit; or
 - (b) an assistant specified in a valid stallholder's permit.
- (2) Every application for a stallholder's permit shall –

- (a) state the full name and address of the applicant;
- (b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;
- (c) specify the proposed location of the stall;
- (d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;
- (e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and
- (f) be accompanied by an accurate plan and description of the proposed stall.

6.3 Trader's permit

- (1) A person shall not carry on trading unless that person is –
 - (a) the holder of a valid trader's permit; or
 - (b) an assistant specified in a valid trader's permit.
- (2) Every application for a trader's permit shall –
 - (a) state the full name and address of the applicant;
 - (b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;
 - (c) specify the location or locations in which the applicant proposes to trade;
 - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;
 - (e) specify the proposed goods or services which will be traded; and
 - (f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.

- (3) The conditions subject to which the local government may approve an application for a trader's permit include that the permit holder is permitted to remain at a particular location for as long as there is a customer making a purchase, but if there is no customer making a purchase the permit holder must move on from that location within a reasonable time of the last purchase having been made.

6.4 No permit required to sell newspaper

Notwithstanding any other provision of this local law, a person who sells, or offers for sale, a newspaper is not required to obtain a permit.

6.5 Relevant considerations in determining application for permit

- (1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to –
 - (a) any relevant policies of the local government;
 - (b) the desirability of the proposed activity;
 - (c) the location of the proposed activity;
 - (d) the principles set out in the Competition Principles Agreement; and
 - (e) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds –
 - (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;
 - (b) that the applicant is not a desirable or suitable person to hold a permit;
 - (c) that –
 - (i) the applicant is an undischarged bankrupt or is in liquidation;

- (ii) the applicant has entered into any composition or arrangement with creditors; or
- (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property; or
- (d) such other grounds as the local government may consider to be relevant in the circumstances of the case.

6.6 Conditions of permit

- (1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include –
 - (a) the place, the part of the district, or the thoroughfare to which the permit applies;
 - (b) the days and hours during which a permit holder may conduct a stall or trade;
 - (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;
 - (d) the goods or services in respect of which a permit holder may conduct a stall or trade;
 - (e) the number of persons and the names of persons permitted to conduct a stall or trade;
 - (f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;
 - (g) whether and under what terms the permit is transferable;
 - (h) any prohibitions or restrictions concerning the -
 - (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;
 - (ii) the use of amplifiers, sound equipment and sound instruments;

- (iii) the use of signs; and
 - (iv) the use of any lighting apparatus or device;
- (a) the manner in which the permit holder's name and other details of a valid permit are to be displayed;
 - (b) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;
 - (c) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;
 - (d) the acquisition by the stallholder or trader of public risk insurance;
 - (e) the period for which the permit is valid; and
 - (f) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.
- (2) Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may at the request of that permit holder authorize another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit shall apply to the nominee as if he or she was the permit holder.

6.7 Exemptions from requirement to pay fee or to obtain a permit

- (1) In this clause –

"charitable organisation" means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium; and

"commercial participant" means any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit.

- (2) The local government may waive any fee required to be paid by an applicant for a stallholder's permit or a trader's permit on making an application for or on the issue of a permit, or may return any such fee which has been paid, if the stall is conducted or the trading is carried on –
 - (a) on a portion of a public place adjoining the normal place of business of the applicant; or
 - (b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of a stall or trading, and any assistants that may be specified in the permit are members of that charitable organisation.
- (3) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place, from the requirements of this Division.

Subdivision 3 - Conduct of stallholders and traders

6.8 Conduct of stallholders and traders

- (1) A stallholder while conducting a stall or a trader while trading shall –
 - (a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting a stall or trading;
 - (b) not display a permit unless it is a valid permit; and
 - (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the Weights and Measures Act 1915.
- (2) A stallholder or trader shall not –
 - (a) deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;
 - (b) act in an offensive manner;

- (c) use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or
- (d) in the case of a trader, carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading.

Division 2 - Street entertainers

Subdivision 1 - Preliminary

6.9 Interpretation

In this Division, unless the context otherwise requires –

"perform" includes to play a musical instrument, sing, mime, dance, give an acrobatic or aerobic display or entertain, but does not include public speaking;

"permit" means a permit issued for the purpose of clause 6.10;

"permitted area" means the area or areas, specified in a permit, in which the permit holder may perform; and

"permitted time" means the time or times, specified in a permit, during which the permit holder may perform.

Subdivision 2 - Permits

6.10 Permit required to perform

A person shall not perform in a public place without a permit.

6.11 Variation of permitted area and permitted time

(1) The local government may by notice in writing to a permit holder vary –

- (a) the permitted area;
- (b) the permitted time; or
- (c) both the permitted area and the permitted time,

(d) shown on a permit.

- (2) The local government may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

6.12 Duration of permit

A permit is valid for a period of 3 months after the date on which it is issued unless it is sooner cancelled under this local law.

6.13 Cancellation of permit

The local government may cancel a permit if in her or his opinion the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place, or if, in her or his opinion, or in the opinion of an authorized person, the performance otherwise constitutes a nuisance.

6.14 Obligations of permit holder

A permit holder shall not in a public place –

- (a) perform wearing dirty, torn or ragged clothing;
- (b) act in an offensive manner; or
- (c) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier -
 - (i) other than in the permitted area; and
 - (ii) unless the musical instrument or device is specified in the permit.

Division 3 - Outdoor eating facilities on public places

6.15 Interpretation

In this Division -

"**Facility**" means an outdoor eating facility or establishment on any part of a public place, but does not include such a facility or establishment on private land;

"**permit holder**" means the person to whom a permit has been issued for the purpose of clause 6.16; and

"**public place**" has the meaning given to it in clause 6.1.

6.16 Permit required to conduct Facility

A person shall not establish or conduct a Facility without a permit.

6.17 Matters to be considered in determining application

In determining an application for a permit for the purpose of clause 6.16, the local government may consider in addition to any other matter it considers relevant, whether or not -

- (a) the Facility is conducted in conjunction with and as an extension of food premises which abut on the Facility, and whether the applicant is the person conducting such food premises;
- (b) any abutting food premises are registered in accordance with the *Health Act 1911* and whether the use of the premises is permitted under the town planning scheme;
- (c) the Facility will comply with any local law made under section 172 of the *Health Act 1911*;
- (d) users of the Facility will have access to proper and sufficient sanitary and ablutionary conveniences;
- (e) the Facility would -
 - (i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or
 - (ii) impede pedestrian access; and

- (f) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

6.18 Obligations of permit holder

- (1) The permit holder for a Facility shall –
 - (a) ensure that the Facility is conducted at all times in accordance with the provisions of this local law and any local law made under section 172 of the *Health Act 1911*;
 - (b) ensure that the eating area is kept in a clean and tidy condition at all times;
 - (c) maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times;
 - (d) be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the Facility; and
 - (e) be solely responsible for all rates and taxes levied upon the land occupied by the Facility.
- (2) Whenever, in the opinion of the local government, any work is required to be carried out to a Facility, the local government may give a notice to the permit holder for the Facility to carry out that work within the time limited by the notice.
- (3) In subclause (2), “work” includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a Facility.

6.19 Removal of Facility unlawfully conducted

Where a Facility is conducted without a permit, or in contravention of a condition of a permit, any tables, chairs, umbrellas or other equipment may be removed by an authorized person and impounded in accordance with the Act.

6.20 Use of Facility by public

- (1) A person shall not occupy a chair or otherwise use the equipment in a Facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the Facility.
- (2) A person shall leave a Facility when requested to do so by the permit holder.

6.21 Temporary removal of Facility may be requested

- (1) The permit holder for a Facility is to temporarily remove the Facility when requested to do so on reasonable grounds by an authorized person or a member of the Police Service or an emergency service in the event of an emergency.
- (2) The permit holder may replace the Facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

PART 7 - PERMITS

Division 1 – Applying for a permit

7.1 Application for permit

- (1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law shall -
 - (a) be in the form determined by the local government;
 - (b) be signed by the applicant;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

- (4) The local government may require an applicant to give local public notice of the application for a permit.
- (5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

7.2 Decision on application for permit

- (1) The local government may –
 - (a) approve an application for a permit unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.
- (3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).
- (5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

Division 2 - Conditions

7.3 Conditions which may be imposed on a permit

The local government may approve an application for a permit subject to conditions relating to -

- (a) the payment of a fee;
- (b) the duration and commencement of the permit;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the approval of another application for a permit which may be required by the local government under any written law;
- (f) the area of the district to which the permit applies;
- (g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;
- (h) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government; and
- (i) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder.

7.4 Imposing conditions under a policy

- (1) In this clause –

"policy" means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 7.2(1)(a).

- (2) Under clause 7.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.

- (3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 7.2(2).
- (4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy is to be taken to be information within section 5.94(u)(i) of the Act.

7.5 Compliance with and variation of conditions

- (1) Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder shall comply with each of those conditions.
- (2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

Division 3 - General

7.6 Duration of permit

A permit is valid for one year from the date on which it is issued, unless it is –

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 7.10.

7.7 Renewal of permit

- (1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.
- (2) The provisions of –
 - (a) this Part; and
 - (b) any other provision of this local law relevant to the permit which is to be renewed,

shall apply to an application for the renewal of a permit *mutatis mutandis*.

7.8 Transfer of permit

- (1) An application for the transfer of a valid permit is to –
 - (a) be made in writing;
 - (b) be signed by the permit holder and the proposed transferee of the permit;
 - (c) provide such information as the local government may require to enable the application to be determined; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by –
 - (a) an endorsement on the permit signed by the CEO; or
 - (b) issuing to the transferee a permit in the form determined by the local government.
- (4) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

7.9 Production of permit

A permit holder is to produce to an authorized person her or his permit immediately upon being required to do so by that authorized person.

7.10 Cancellation of permit

- (1) Subject to clause 8.1, a permit may be cancelled by the local government on any one or more of the following grounds –

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- (a) the permit holder has not complied with a -
 - (i) condition of the permit; or
 - (ii) provision of any written law which may relate to the activity regulated by the permit; or
 - (b) if it is relevant to the activity regulated by the permit –
 - (i) the permit holder has become bankrupt, or gone into liquidation;
 - (ii) the permit holder has entered into any composition or arrangement with creditors; or
 - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the permit holder's undertakings or property.
- (2) On the cancellation of a permit the permit holder –
- (a) shall return the permit as soon as practicable to the local government; and
 - (b) is to be taken to have forfeited any fees paid in respect of the permit.

PART 8 - OBJECTIONS AND APPEALS

8.1 Application of Part 9 Division 1 of Act

When the local government makes a decision -

- (a) under clause 7.2(1); or
- (b) as to whether it will renew, vary, or cancel a permit,

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations apply to that decision.

PART 9 - MISCELLANEOUS NOTICES

9.1 Notice to redirect or repair sprinkler

Where a lawn or a garden is being watered with a sprinkler which is on the lawn or the garden, in a manner which causes or may cause an inconvenience or obstruction to any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the lawn or the garden, requiring the owner or the occupier or both to move or alter the direction of the sprinkler or other watering equipment.

9.2 Hazardous plants

- (1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.
- (2) Subclause (1) does not apply where the plant was planted by the local government.

9.3 Notice to repair damage to thoroughfare

Where any portion of a thoroughfare has been damaged, the local government may by notice to the person who caused the damage order the person to repair or replace that portion of the thoroughfare to the satisfaction of the local government.

9.4 Notice to remove thing unlawfully placed on thoroughfare

Where any thing is placed on a thoroughfare in contravention of this local law, the local government may by notice in writing to the owner or the occupier of the property which abuts on that portion of the thoroughfare where the thing has been placed, or such other person who may be responsible for the thing being so placed, require the relevant person to remove the thing.

PART 10 - ENFORCEMENT

Division 1 - Notices given under this local law

10.1 Offence to fail to comply with notice

Whenever the local government gives a notice under this local law requiring a person to do any thing, if the person fails to comply with the notice, the person commits an offence.

10.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 10.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

Division 2 - Offences and penalties

Subdivision 1 - General

10.3 Offences

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

Subdivision 2 - Infringement notices and modified penalties

10.4 Prescribed offences

- (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) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

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- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorized 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.

10.5 Forms

Unless otherwise specified, for the purposes of this local law -

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

SCHEDULE 1

PRESCRIBED OFFENCES

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
2.1(a)	Plant of 0.75m in height on thoroughfare within 6m of intersection	100
2.1(b)	Damaging lawn or garden	100
2.1(c)	Plant (except grass) on thoroughfare within 2m of carriageway	100
2.1(d)	Placing hazardous substance on footpath	100
2.1(e)	Damaging or interfering with signpost or structure on thoroughfare	300
2.1(f)	Playing games so as to impede vehicles or persons on thoroughfare	100
2.1(g)	Riding of skateboard or similar device on mall or verandah of shopping centre	100
2.2(a)	Digging a trench through a kerb or footpath without a permit	100
2.2(b)	Throwing or placing anything on a verge without a permit	100
2.2(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	100
2.2(d)	Causing obstruction to water channel on thoroughfare without a permit	200
2.2(e)	Placing or draining offensive fluid on thoroughfare without a permit	200
2.2(g)	Lighting a fire on a thoroughfare without a permit	300
2.2(h)	Felling tree onto thoroughfare without a permit	100
2.2(i)	Installing pipes or stone on thoroughfare without a permit	100
2.2(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	300
2.2(k)	Creating a nuisance on a thoroughfare without a permit	100
2.2(l)	Placing a bulk rubbish container on a thoroughfare without a permit	100
2.2(m)	Interfering with anything on a thoroughfare without a permit	100

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2.3(1)	Consumption or possession of liquor on thoroughfare	100
2.4(1)	Failure to obtain permit for temporary crossing	200
2.5(2)	Failure to comply with notice to remove crossing and reinstate kerb	300
2.9(1)	Installation of verge treatment other than permissible verge treatment	200
2.10	Failure to maintain permissible verge treatment or placement of obstruction on verge	100
2.11	Failure to comply with notice to rectify default	100
2.17(2)	Failure to comply with sign on public place	100
2.19(1)	Driving or taking a vehicle on a closed thoroughfare	300
3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	100
3.2(3)	Erecting or placing of advertising sign in a prohibited area	100
4.1(1)	Animal or vehicle obstructing a public place or local government property	100
4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	100
4.2(2)(b)	Animal on public place with infectious disease	100
4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	100
4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	100
4.5	Person leaving shopping trolley in public place other than trolley bay	100
4.6(2)	Failure to remove shopping trolley upon being advised of location	100
5.6(1)	Driving a vehicle on other than the carriageway of a flora road	200
5.9	Planting in thoroughfare without a permit	200
5.11	Failure to obtain permit to clear a thoroughfare	500
5.13	Burning of thoroughfare without a permit	500
5.17	Construction of firebreak on thoroughfare without a permit	500
5.19	Commercial harvesting of native flora on thoroughfare	500
5.20(1)	Collecting seed from native flora on thoroughfare without a permit	300

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6.2(1)	Conducting of stall in public place without a permit	300
6.3(1)	Trading without a permit	300
6.8(1)(a)	Failure of stallholder or trader to display or carry permit	100
6.8(1)(b)	Stallholder or trader not displaying valid permit	100
6.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	100
6.8(2)	Stallholder or trader engaged in prohibited conduct	100
6.10	Performing in a public place without a permit	100
6.11(2)	Failure of performer to move onto another area when directed	100
6.14	Failure of performer to comply with obligations	100
6.16	Establishment or conduct of outdoor eating facility without a permit	300
6.18	Failure of permit holder of outdoor eating facility to comply with obligations	100
6.20(1)	Use of equipment of outdoor eating facility without purchase of food or drink from facility	50
6.20(2)	Failure to leave outdoor eating facility when requested to do so by permit holder	50
7.5	Failure to comply with a condition of a permit	100
7.9	Failure to produce permit on request of authorized person	100
10.1	Failure to comply with notice given under local law	100

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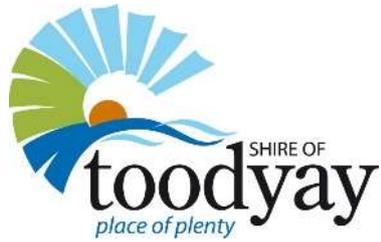
Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law

Dated this 28th day of September, 2001

The Common Seal of the }
Shire of Toodyay }
was affixed by authority of a }
resolution of the Council in the }
presence of: }

Cr A.E Henshaw
Shire President

Mr A.D.Smith
Chief Executive Officer



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Shire of Toodyay

Cat Local Law

2018

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ARRANGEMENT

DECLARATION

ARRANGEMENT

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Schedule 2 – Minimum conditions of a designated Cat Management Facility

Schedule 3 – Cat Prohibited Places

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Under the powers conferred by the *Cat Act 2011* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Toodyay resolved on September 25, 2018 to make the following local law.

PART 1 – PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Toodyay Cat Local Law 2018*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Interpretation

(1) In this local law, unless the context otherwise requires -

Act means the *Cat Act 2011*;

applicant means a person who applies for an approval under this local law;

application means an application for approval granted under this local law;

approved person means the person to whom an approval is granted under this local law;

authorised person means a person appointed by the local government to perform all or any of the functions conferred on an authorised person under this local law;

cat means an animal of the species *felis catus* or a hybrid of that species;

Cat Management Facility has the meaning given to it in the Act;

cat prohibited places means all land identified in Schedule 3.

cattery means any premises where more than 2 cats are boarded, housed or trained temporarily, usually for profit, and where the occupier of the premises is not the ordinary keeper of the cats;

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

keeper in relation to a cat means any of the following persons –

- (a) The owner of the cat as defined in the Act;
- (b) A person who has or appears to have immediate custody or control of the cat;
- (c) A person who keeps the cat, or has the cat in his or her possession for the time being;
- (d) A person who occupies any premises in which a cat is ordinarily kept or permitted to live and who has care and control of the cat;
- (e) A permit holder of a permit which relates to the cat;
- (f) The holder of an exemption issued in relation to the cat.

local government means the Shire of Toodyay;

microchip has the meaning given to it in the Act;

Regulations means the *Cat Regulations 2012*;

RSPCA means the Royal Society of the Prevention of Cruelty to Animals (Inc) of Western Australia;

sterilised has the meaning given to it in the Act;

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Schedule means a *Schedule* to this local law;

Town Planning Scheme means a *Town Planning Scheme* of the *local government* under the *Planning and Development Act 2005*, or a *Town Planning Scheme* which was made under the *Town Planning and Development Act 1928*.

- (2) A term that is used in this local law and is not defined in subclause (1) has the same meaning given to it in the Act or, if not defined in the Act, the same meaning given to it in the *Cat Regulations 2012*, the *Cat (Uniform Local Provisions) Regulations 2013* or the *Local Government Act 1995*.

PART 2 – NUMBER OF CATS THAT MAY BE KEPT

2.1 Interpretation

For the purposes of applying this Part, a cat does not include a cat less than 6 months old.

2.2 Standard number of cats

For the purposes of the definition of standard number of cats in regulation 4(1) of the *Cat (Uniform Local Provisions) Regulations 2013*, no more than three cats may be kept on premises at which a member of a **cat** organisation is not ordinarily resident.

2.3 Cats to which an approval is required

- (1) Subject to subclause (2) a person is required to have an approval -
- (a) to keep more than three cats on any premises; or
 - (b) to use any premises as a cattery.
- (2) An approval is not required under subclause (1) if the premises concerned are –
- (a) a refuge of the RSPCA;
 - (b) an animal pound which has been approved by the local government;
 - (c) a veterinary surgery; or
 - (d) a pet shop.

2.4 Application for approval

- (1) An application for approval to keep an additional number of cats at prescribed premises is dealt with in regulation 8 of the *Cat (Uniform Local Provisions) Regulations 2013*.
- (2) An application for approval must be accompanied by the application fee determined by the local government from time to time.

2.5 Determining an application

- (1) For the purposes of determining whether to grant approval for an application to keep an additional number of cats at prescribed premises, the local government must have regard to –
- (a) the suitability of the zoning of the premises under the local planning scheme which applies to the premises for the use;
 - (b) the physical suitability of the premises for the proposed use;
 - (c) the environmental sensitivity and general nature of the location surrounding the premises for the proposed use;

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- (d) the structural suitability of any enclosure in which any cat is to be kept;
 - (e) the likelihood of a cat causing a nuisance, inconvenience or annoyance to an occupier of adjoining land;
 - (f) the likely effect on the amenity of the surrounding area of the proposed use;
 - (g) the likely effect on the local environment including any pollution or other environmental damage, which may be caused by the proposed use;
 - (h) any other factors which the local government considers to be relevant in the circumstances of the application; and
 - (i) any submissions received under subclause (2) within the time specified in subclause (2).
- (2) The local government may –
- (a) consult with adjoining landowners; and
 - (b) advise the adjoining landowners that they may make submissions to the local government on the application for the approval within 14 days of receiving that advice, before determining the application for the permit.
- (3) The local government may –
- (a) approve an application for a permit in which case it shall approve it subject to the conditions in clause 2.6 and may approve it subject to any other conditions it considers fit; or
 - (b) refuse to approve the application for an approval.
- (4) If the local government approves an application under subclause (3), then it shall issue to the applicant an approval in the form determined by the CEO.
- (5) If the local government refuses to approve an application under subclause (3), then it is to advise the applicant accordingly in writing.

2.6 Conditions

- (1) For the purpose of ensuring that the premises to which an application relates are suitable for the additional number of cats, the local government may impose any condition that it considers to be reasonably necessary for that purpose, including –
- (a) that each cat on the premises to which the approval relates shall be registered under the Act;
 - (b) that the premises shall be maintained in good order and in a clean and sanitary condition;
 - (c) that the premises must have adequate enclosures;
 - (d) that there must be adequate space for the exercise of the cats;
 - (e) that, in the case of multiple dwellings where there is no suitable dividing fence, each current occupier of the adjoining multiple dwellings must give their written consent to the approval; and
 - (f) that, without the consent of the local government, the approved person must not substitute or replace any cat that dies or is permanently removed from the premises.
- (2) An approved person who does not comply with a condition of the approval, commits an offence.

Penalty: a fine of \$5,000.

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2.7 Renewal of an application

- (1) An application is to be renewed if –
 - (a) the approved person has not breached the conditions of the approval;
 - (b) the approval would have been granted if a fresh application for an approval had been made; and
 - (c) the renewal fee is paid in full, imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.
- (2) On the renewal of an approval, the conditions of the approval that applied immediately before the renewal continue to have effect.

2.8 Transfer of an approval

- (1) An approval relates only to the premises specified in the approval, and only to the approved person specified in the approval, and is transferrable only in accordance with this clause 2.8.
- (2) An application for the transfer of an approval from the approved person to another person must be –
 - (a) made in the form determined by the CEO;
 - (b) made by the proposed transferee;
 - (c) made with the consent of the approved person; and
 - (d) lodged with the local government together with the fee for the application for the transfer of an approval that is imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

2.9 Variation or cancellation of an approval

- (1) The local government may, at any time, vary the conditions of an approval by giving written notice to the approved person and specifying the date on which the changes will become effective.
- (2) The local government may cancel an approval –
 - (a) on the request of the approved person;
 - (b) if the approved person breaches the Act, the Regulations, the *Cat (Uniform Local Provisions) Regulations 2013* or this local law; or
 - (c) if the approved person is not a fit and proper person to provide for the health and welfare of the cats.
- (3) If an approval is cancelled, the fee paid for the approval is not refundable for the term of the approval that has not yet expired.

2.10 Objection and review rights

Any person who is aggrieved by the conditions imposed in relation to an approval, the cancellation of an approval, or by the refusal of the local government to grant an approval may object to or appeal against the decision under Division 1, Part 9 of the *Local Government Act 1995*.

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PART 3 – CONTROL OF CATS

3.1 Cat nuisance

The owner or occupier of premises on which a cat is ordinarily kept shall prevent the cat from creating a nuisance on other premises, to another person or exposing another person to health and/ or safety risk by:

- (a) the noise or odour generated by the presence of the cat;
- (b) the aggressive nature of the cat.

Penalty: a fine of \$2,000.

3.2 Cats in other places

- (1) A cat shall not be in any cat prohibited places listed in *Schedule 3*.
- (2) If a cat is at any time in a place in contravention of clause 3.2(1) –
 - (a) the keeper of the cat commits an offence; and
 - (b) an authorised person may seize and impound the cat and deal with the cat pursuant to the Act.

Penalty: a fine of \$2,000.

PART 4 – DESIGNATED CAT MANAGEMENT FACILITIES

4.1 Interpretation

In this part and in *Schedule 2* –

licence means a Cat Management Facility licence issued under this local law;

licensee means the holder of a licence issued under this local law;

premises, in addition to the meaning given to it in section 3 of the Act, means the premises described in the *application* to be licensed as a Cat Management Facility;

animal establishment has the meaning given to the term in the Town Planning Scheme;

transferee means a person who applies for the transfer of a licence to him or her under clause 4.13.

4.2 Operating a Cat Management Facility without a licence

Unless exempt as an organisation listed in the Regulations, a person who operates a premises as a Cat Management Facility within the district without a licence commits an offence.

Penalty: a fine of \$5,000 and a daily fine of \$100.

4.3 Application for a licence to be designated as a Cat Management Facility

An application for a licence must be made in the form of that in *Schedule 1*, and must be lodged with the local government together with –

- (a) plans and specifications of the premises, including a site plan;
- (b) proposed details of how the facility will be kept secure;
- (c) written evidence that either the applicant or another person who will have the charge of the cats, will reside on the premises or, in the opinion of the local government,

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sufficiently close to the premises so as to control the cats and ensure their health and welfare;

- (d) a written acknowledgement that the applicant has read and agrees to comply with any code of practise relating to the keeping of cats which may be nominated from time to time by the local government; and
- (e) the fee for the application for a licence referred to in clause 4.8(1).

4.4 Determination of an application

In determining an application to be designated as a Cat Management Facility, the local government is to have regard to –

- (a) the matters referred to in clause 4.5;
- (b) any written submissions received on the proposed use of the premises;
- (c) the effect which the Cat Management Facility may have on the environment or amenity of the neighbourhood;
- (d) whether the Cat Management Facility will create a nuisance for the owners and occupiers of adjoining premises; and
- (e) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the Cat Management Facility identified in the preceding paragraphs.

4.5 Where applications cannot be approved

The local government cannot approve an application for a licence where –

- (a) the facility is proposed to be located in an area where an animal establishment is not a permitted use under the Town Planning Scheme; or
- (b) an applicant or another person who will have the charge of the cats will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the cats and so as to ensure their health and welfare.

4.6 Conditions of approval

- (1) The local government may approve an application for a licence subject to the conditions contained in *Schedule 2* and to such other conditions as the local government considers appropriate.
- (2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in *Schedule 2*.
- (3) Operators of a Cat Management Facility must comply with their obligations as specified in Division 3 of Part 3 of the Act.

4.7 Compliance with conditions of approval

A licensee who does not comply with the conditions of a licence commits an offence.

Penalty: a fine of \$2,000 and a daily penalty of \$100.

4.8 Fees

- (1) On lodging an application for a licence, the applicant is to pay a fee to the local government.
- (2) On renewal of a licence, the licensee is to pay a fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.

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- (4) The fees referred to in subclause (1) to (3) are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

4.9 Exemption from requirement to pay fees

- (1) In this clause –

charitable organisation means –

- (a) An institution, association, club, society or body whether incorporated or not -
 - (i) Where its objectives are charitable, benevolent, educational, or other like nature concerned with the welfare of cats; and
 - (ii) From which any members does not receive any pecuniary profit.
- (2) The local government may waive any fee required to be paid by the applicant for a licence, or the fee for the renewal of a licence by a charitable organisation.

4.10 Form of licence

The licence is to be in the form determined by the local government and is to be issued to the licensee.

4.11 Period of licence

- (1) The period of effect of a licence is 12 months from the date of issue.
- (2) A licence is to be renewed if the fee referred to in clause 4.8(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

4.12 Variation or cancellation of licence

- (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence –
 - (a) on the request of the licensee;
 - (b) following a breach of the Act, the Regulations or this local law; or
 - (c) if, in the local government’s opinion, the licensee is not a fit and proper person to hold a licence.
- (3) The date a licence is cancelled is to be, in the case of –
 - (a) paragraph (a) of subclause (2), the date requested by the licensee; or
 - (b) paragraphs (b) and (c) of subclause (2), the date determined by an authorised person.
- (4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.13 Transfer

- (1) An application for the transfer of a valid licence from the licensee to another person must be –
 - (a) made in the form determined by the local government;
 - (b) made by the transferee;
 - (c) made with the written consent of the licensee; and
 - (d) lodged with the local government together with –

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- (i) written evidence that a person to whom the licence is proposed to be transferred will reside at or within reasonably close to the proximity to the premises subject to the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.8(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of the approval, unless otherwise specified in the notice issued under subclause 4.14(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.14 Notification

The local government is to give written notice to –

- (a) an applicant for a licence of the local government’s decision on her or his application;
- (b) a transferee of the local government’s decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.12(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.12(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.12(2).

4.15 Inspection of Cat Management Facility

Subject to the provisions of the power to enter premises within the Act, an authorised person may inspect an approved Cat Management Facility.

4.16 Record Keeping

All designated Cat Management Facilities are required to keep and maintain a register of all cats entering and leaving the facility, and where entry to the premises has been made under clause 4.15, an authorised officer may inspect the register.

PART 5 – ENFORCEMENT

5.1 Interpretation

In this Part –

infringement notice means the notice referred to in clause 5.3; and

notice of withdrawal means the notice referred to in clause 5.4.

5.2 Modified penalties

- (1) The offences contained in *Schedule 4* are offences in relation to which a modified penalty may be imposed.

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- (2) The amount appearing in the fourth column of *Schedule 4* directly opposite an offence is the modified penalty payable in respect of that offence.

5.3 Issue of infringement notice

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 6 of *Schedule 1* of the Regulations.

5.4 Withdrawal of an infringement notice

The form of withdrawal of an infringement notice is Form 7 of *Schedule 1* in the Regulations.

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**SCHEDULE 1 – APPLICATION FOR A LICENCE FOR A DESIGNATED CAT
MANAGEMENT FACILITY**

[clause 4.3]

APPLICANT/S DETAILS

Name of Applicant/s (in full)			
Residential Address			
Suburb		Post Code	
Postal Address (if different from above)			
Telephone	(H)	(W)	(M)
Fax		Email	

CAT MANAGEMENT FACILITY DETAILS

I/ We apply for a licence for a designated cat management facility at:			
Address of premises			
Suburb		Post Code	
For number of cats			
Person will reside (tick appropriate box) *evidence to be provided	<input type="checkbox"/>	At the premises	
	<input type="checkbox"/>	Sufficiently close to the premises so as to control the cats and so as to ensure their health and welfare	
Name of person (if not applicant/s)			
Address of residence (if not residing at the premises)			

Prior to approval the following must be attached:

- (a) A site plan of the premises showing the location of the cages and runs and all other building and structures and fences;
- (b) Plans and specifications of the Cat Management Facility;
- (c) Proposed details of how the facility will be kept secure;
- (d) Evidence that a person will reside –
 - i. at the premises; or
 - ii. sufficiently close to the premises so as to control the cats and so as to ensure their health and welfare; and
- (e) if the person in item (d) is not the applicant, evidence that the person is a person in charge of the cats.

Signature of applicant..... Date.....

Note: A licence, if issued, will have effect for a period of 12 months, effective from the date of issue unless and until is it revoked or it is determined by the local government non-compliance with the conditions of clause 4.6 of the Shire of Toodyay Cat Local Law 2018 justifies this.

APPLICATION FEE	
Cat Management Facility Establishment Fee	\$200.00

OFFICE USE ONLY				
Application No.	Date	Receipt No.	Amount Paid	Cashier

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**SCHEDULE 2 – MINIMUM CONDITIONS OF A DESIGNATED CAT
MANAGEMENT FACILITY**

[clause 4.6(1)]

An application for a licence within the district may be approved subject to the following conditions –

- (a) each Cat Management Facility must have a secure area where cats are housed and can exercise and must be at a distance of not less than 10 metres from the front boundary of the premises and 5 metres from any other boundary of the premises;
- (b) Adequate measures are to be in place to minimise the risk of unauthorised entry into the facility;
- (c) Where floor washing is required, washings must pass through the drains and must be piped to an approved apparatus for the treatment of sewage (as specified by the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*) and in accordance with the health requirements of the local government;
- (d) All external surfaces of each Cat Management Facility must be impervious and kept in good condition;
- (e) Sufficient ventilation to keep animal housing areas free of dampness, noxious odours and draughts, and prevent accumulation or concentrations of gases;
- (f) Supply of fresh air, or if animals are housed in a totally enclosed area where forced ventilation is the only form of air movement there should be adequate air change rate;
- (g) Located away from sources of excessive noise or pollution, and draughts that could cause injury or stress to animals;
- (h) Natural lighting or lighting that duplicates the characteristics of natural light including a simulated day/ night period;
- (i) All cages and outdoor enclosures are to have adequate shelter in the form of a roof constructed of impervious material;
- (j) Must have a mix of cages to provide for individual housing where required and cages or modules constructed of impervious, washable materials;
- (k) All cages, outdoor enclosures and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected or when so ordered by an authorised person;
- (l) All refuse, faeces and food waste must be disposed of daily to the satisfaction of an authorised person;
- (m) Noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (n) Suitable water both for cleaning and drinking must be available at the Cat Management Facility;
and
- (o) The licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside –
 - i. At the premises; or
 - ii. In the opinion of the local government, sufficiently close to the premises so as to control the cats, and to ensure their health and welfare.

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SCHEDULE 3 – CAT PROHIBITED PLACES

[clause 3.2(1)]

Reserve Name	Reserve Number	Location
Moondyne Nature Reserves	RV. 30191	Moondyne
Morangup Nature Reserve	RV. 38924	Morangup
Avon Valley National Park	RV. 30192	Morangup
Julimar Conservation Park	RV. 30192	Julimar
Poison Valley Gully Nature Reserve	RV. 19900	Dewars Pool
Flat Rocks Gully	RV. 22096	Culham
Bindoon Springs Nature Reserve	RV. 3156	Dewars Pool
Coondle West Nature Reserve	RV. 19904	Coondle
Rugged Hills Nature Reserve	RV. 21429	West Toodyay
Wongamine Nature Reserve	RV. 33697	Nunile
Wattening Springs Nature Reserve	RV. 2393	Wattening
Mavis Jefferys Nature Reserve	RV. 44729	Toodyay
Nanamoolan Nature Reserve	RV. 33254	Clackline
Drummond Nature Reserve	RV. 42808	Wattening
Camerer Nature Reserve	RV. 42370	Wattening
Bewmalling Nature Reserve	RV. 30306	Culham
Millards Pool Foreshore	RV. 49736 & RV. 35394	Dumbarton
Lloyds Reserve Foreshore Reserve	RV 46827	Toodyay
Weatherall Foreshore Reserve	RV. 24865	West Toodyay
Snake Gully Reserve	RV. 4669	Coondle
Dewars Pool Reserve (Toodyay Brook)	RV. 3156	Dewars Pool
West Toodyay Bridge Reserve	RV. 4155	West Toodyay
Dumbarton Bridge Reserve	RV. 224	Dumbarton
White Lakes Reserve	RV. 44099	Dumbarton
Balgaling Reserve	RV. 35279 & RV. 4668	Coondle
Coondle Reserve	RV. 35406	Coondle
Horseshoe Reserve	RV. 44424	Coondle
Dudley Chitty Reserve	RV. 3204	Dewars Pool
Julimar Crown Reserve West	RV 35299	Julimar
Keating Reserve	RV. 41983	Moondyne
Dawn Atwell Reserve	RV. 5273	Julimar
Malkup Brook Reserve	RV. 34308	Julimar

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Red brook Reserve	RV. 36589	Morangup
Wallaby Reserve	RV. 35789	Morangup
Grevillea Reserve	RV. 35790	Morangup
Gabidine Brook Reserve	RV. 2876	Majestic Heights
Pelham Reserve	RV. 35809	Toodyay
Majestic Heights Reserve - Hatfield Place	RV. 39803	Majestic heights
Majestic Heights Reserve - Stirlingia Dive	RV. 37786	Majestic Heights
Majestic Heights Reserve	RV. 39809	Majestic Heights
Majestic Heights Reserve - Sandplain Road	RV. 36597	Majestic Heights
Majestic Heights Reserve - Stirlingia Drive	RV - 37692	Majestic Heights

Note –

1. The list is correct at the time of publication in the Gazette.
2. Members of the public may inspect or obtain a copy of the Local Public Notice containing an up-to-date list of the specified lands and areas designated as Cat Prohibited Places in accordance with this local law, from the Shire of Toodyay's Administration Centre or public library during normal office hours.

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**SCHEDULE 4 – OFFENCES IN RESPECT OF WHICH A MODIFIED PENALTY
 APPLIES**

[clause 5.2]

	CLAUSE	NATURE OF OFFENCE	MODIFIED PENALTY
			\$
1	2.6	Failing to comply with the conditions of an <i>application</i> for additional <i>cats</i>	200
2	3.1	<i>Cat</i> creating a nuisance	200
3	3.2	Cat within a Prohibited Place	200
4	4.2	Operating a <i>Cat Management Facility</i> without a licence	200
5	4.7	Failing to comply with the conditions of a licence	200

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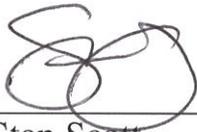
The Common Seal of the Shire of Toodyay was hereunto affixed by authority of a resolution of Council in the presence of –



Cr Brian Rayner
Shire President

25th September 2018

Date



Mr Stan Scott
Chief Executive Officer

25th September 2018

Date



CEMETERIES ACT 1986

SHIRE OF TOODYAY

CEMETERIES LOCAL LAW

MODEL LOCAL LAW



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 (CEMETERIES) 1998
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PART 1 - PRELIMINARY

1.1 Citation

This Local Law may be cited as the Cemeteries Local Law 1999.

1.2 Interpretation

In this Local Law unless the context otherwise requires:

“ashes” means so much of the remains of a dead body after the due processes of cremation as may be contained in a standard sized cremation urn;

“authorised officer” means an employee of the Board authorised by the Board for the purposes of performing any function or exercising any power conferred upon an authorised officer by this Local Law;

“CEO” means the chief executive officer for the time being, of the Board;

“Funeral Director” means a person holding a current funeral director’s licence;

“Board” means the Shire of Toodyay;

“mausoleum” means a building or construction wholly above or partially above and below ground level, so constructed as to allow the deposition of dead bodies into a compartment in the wall or floor and being sealed from view;

“monumental mason” means a person holding a current monumental mason’s licence;

“personal representative” means the administrator or executor of an estate of a deceased person;

“set fee” refers to fees and charges set by a resolution of the Board and published in the Government Gazette, under section 53 of the Act;

“single funeral permit” means a permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct at the cemetery a funeral of a person named in the permit.

“vault” means a below ground lined grave with one or more sealed compartments constructed to specifications approved from time to time by the Board.

1.3 Repeal

The following Local Laws are repealed:-

- (a) By-Laws for the Management of the Toodyay Public Cemetery - Reserve 22143 as published in the Government Gazette on July 26, 1940.
- (b) Toodyay and Jimperding Cemetery (Reserves 22143 and 20702) By-Laws as published in the Government Gazette on June 4, 1970.
- © Toodyay and Jimperding Cemetery (Reserves 22143 and 20702) By-Laws as published in the Government Gazette on October 14, 1983.

PART 2 - ADMINISTRATION

2.1 Powers and Functions of CEO

Subject to any directions given by the Board, the CEO shall exercise all the powers and functions of the Board in respect of the cemetery.

PART 3 - APPLICATION FOR FUNERALS

3.1 Application for Burial

- (1) A person may apply for approval to bury a dead body in the cemetery in the form determined by the Board from time to time.
- (2) An application under subclause (1) is to be accompanied by the set fee.

3.2 Application for Cremation

A person who desires to hold a funeral within the cemetery shall, in the case of the cremation of a dead body:

- (a) make an application to the Board in the form determined by the Board from time to time; and
- (b) lodge with the application referred to in paragraph (a), a permit to cremate issued in accordance with the Cremation Act 1929.

3.3 Applications to be Accompanied by Certificates etc

All applications referred to in clauses 3.1 and 3.2 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 3.4, in respect of the body.

3.4 Certificate of Identification

(1) After a dead body is placed in a coffin and prior to a dead body being removed to the cemetery, or crematorium within the cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification in the form determined by the Board from time to time, unless:

(a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed;

Or

(b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body.

(2) Where:

(a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed;

or

(b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body,

then the Funeral Director shall complete a certificate in the form determined by the Board from time to time.

3.5 Minimum Notice Required

All bookings to hold a funeral shall be made with the Board at least twenty four hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

PART 4 - FUNERAL DIRECTORS

4.1 Funeral Director's Licence Expiry

A funeral director's licence shall expire on the 30th day of June in each year.

4.2 Single Funeral Permits

Every application for a single funeral permit made under section 20 or 21 of the Act shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite, or crematorium.

4.3 Application Refusal

The Board may refuse an application for a single funeral permit if, in the opinion of the Board, either the coffin specifications or the details of the vehicle transporting the dead body to the gravesite or crematorium, are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

PART 5 - FUNERALS

Division 1 - General

5.1 Requirements for Funerals and Coffins

A person shall not bring a dead body into the cemetery unless:

- (a) the Board has approved an application for the burial or cremation of that dead body in accordance with Part 3 of this Local Law;
- (b) it is enclosed in a coffin which in the opinion of the Board is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin's lid;

And

- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 mm in height.

5.2 Funeral Processions

The time fixed by the Board for any burial or cremation shall be the time at which the funeral procession is to arrive at the cemetery gates, and, if not punctually observed, then the applicant who applied to hold the funeral under clause 3.1 or clause 3.2 shall pay the set fee for being late.

5.3 Vehicle Entry Restricted

- (1) Subject to clause 5.3(2), every funeral procession shall enter by the principal entrance, and no vehicle except the hearse, and official mourning coaches, shall be permitted to enter the cemetery.
- (2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs.

5.4 Vehicle Access and Speed Limitations

Vehicles shall proceed within the cemetery by the constructed roadway or other areas designated for the use of vehicles and shall not exceed the speed of 25km per hour.

5.5 Offenders may be Expelled

A person committing an offence under clause 5.4 may be expelled from the cemetery by the CEO or an authorised officer.

5.6 Conduct of Funeral by Board

When conducting a funeral under section 22 of the Act the Board may:

- a) require a written request for it to conduct a funeral to be lodged with it;
- b) in its absolute discretion, charge any person requesting it to conduct a funeral the set fee for the conduct of that funeral by it;
- c) where no fee or a reduced fee has been charged by it for the conduct of the funeral, determine the manner in which the funeral shall be conducted;
- d) bury or cremate that dead body but may cremate the dead body only when a permit to cremate has been obtained for that body under the Cremation Act 1929;
- e) specify an area in the cemetery where the dead body is to be buried or the ashes placed;
- f) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this Local Law;
- g) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

Division 2 - Cremation

5.7 Metal Coffins Prohibited

Metal or metal lined coffins shall not be accepted by the Board for cremation at the cemetery.

5.8 Polyvinyls, etc, Prohibited

The use of polyvinyl or its derivative, polyurethane, aerosol cans, other sealed containers, glass and/or other materials determined from time to time to be not appropriate to the cremation process by the Board, in or upon coffins presented for cremation at the cemetery is prohibited.

5.9 Depositing the Coffin

- (1) The Funeral Director shall deposit the coffin for cremation upon the catafalque in the Crematorium chapel or at such other position within the cemetery as may be determined from time to time by the Board.
- (2) Once the coffin has been deposited for cremation in accordance with sub-clause (1), all further services will be rendered by and be under the sole control of the Board.

5.10 Removal of the Name Plate and Lead Strip

The Board shall remove the name plate and lead strip from the coffin prior to cremation at a cemetery and the lead strip shall be placed in the container with the ashes.

5.11 Removal of Metal Fittings

The Board may remove any metal or other fittings on coffins presented for cremation at the cemetery which in the opinion of the Board could impede the cremation or cause damage to the cremation equipment.

Division 3 - Placement of Ashes

5.12 Disposal of Ashes

- (1) The personal representative of a deceased person whose body has been cremated may apply, in an application under clause 3.1 or otherwise, for permission to dispose of the ashes in the cemetery and upon payment of the set fee the Board may grant permission for the ashes to be disposed of by one of the following methods:

Niche Wall
Memorial Wall
Garden of Remembrance
Ground Niche
Memorial Rose, Tree or Shrub
Family Shrub
Memorial Desk
Granite Seat
Family Grave
Book of Remembrance
Scattering to the Winds

Memorial Gardens

Other memorials approved by the Board

- (2) Subject to sub-clauses (3) and (4), a person shall not place the ashes of a deceased person in the cemetery.
- (3) An authorised officer may place the ashes of a deceased person in a cemetery in accordance with the Board approval provided:
 - (a) the person requesting the placement of the ashes has the permission of the Board; and
 - (b) the ashes are placed within an area set aside for that purpose by the Board.
- (4) An authorised officer may place the ashes of a deceased person within a grave in accordance with the Board approval, provided the person requesting the placement of the ashes has the written permission of the Board and the approval of the holder of the right of burial of the grave.

5.13 Availability of Ashes

Subject to compliance with clause 5.12 and upon the payment of the set fee, the ashes of a deceased person that have not been placed within the cemetery will be made available to the personal representative of the deceased person during the normal office hours of the Board after the expiration of twenty four (24) hours after the completion of the cremation at the cemetery.

5.14 Ashes held by the Board

- (1) If at the expiration of six (6) months from the date of cremation at a cemetery:
 - (a) the ashes of the deceased person have not been claimed; or
 - (b) no arrangements have been made for the placement of the ashes of a deceased person by the personal representative, then the Board may dispose of the ashes in the cemetery by any of the methods listed in clause 5.12.
- (2) If prior to the expiration of six (6) months from the date of cremation the personal representative of the deceased person requests the Board to store the ashes of the deceased person, and pays to the Board the set fee monthly in advance for such storage, the Board shall store the ashes in safe custody.
- (3) Notwithstanding sub-clause (2), should the personal representative default in the payment of the fee referred to in sub-clause (2), the Board may dispose of the ashes in the cemetery by any of the methods listed in clause 5.12.

PART 6 - BURIALS

6.1 Depth of Graves

- (1) A person shall not bury a coffin within the cemetery so that the distance from the top of the coffin to the original surface of the ground is -
 - (a) subject to paragraph (b), less than 750mm, unless that person has the permission of an authorised officer; or
 - (b) in any circumstances less than 600mm.
- (2) The permission of the authorised officer in sub-clause (1)
 - (a) will only be granted where in the opinion of the authorised officer exceptional circumstances require granting of that permission.

6.2 Mausoleum, etc

- (1) A person other than the Board or a person or organisation duly authorized by the Board shall not construct a brick grave, crypt, vault or mausoleum within the cemetery.
- (2) A person may request the Board to construct a vault or mausoleum within the cemetery which vault or mausoleum shall at all times remain the property of the Board.
- (3) An application under subclause (2) shall be in writing and shall be accompanied by payment of the set fee.
- (4) A person shall not place a dead body in a mausoleum except:-
 - (a) in a closed coffin; and
 - (b) in a soundly constructed chamber; and
 - (c) in accordance with sub-clause (5).
- (5) The number of burials in a chamber must not exceed the number for which the chamber was designed.

PART 7 - MEMORIALS AND OTHER WORK

Division 1 - General

7.1 Application for Monumental Work

A Board may require the written consent of the holder of the right of burial of the grave to accompany an application under section 30 of the Act.

7.2 Placement of Monumental Work

Every memorial shall be placed on proper and substantial foundations.

7.3 Removal of Rubbish

All refuse, rubbish or surplus material remaining after memorial works are completed under a permit issued under section 30 of the Act shall be immediately removed from the cemetery by the person carrying out the same.

7.4 Operation of Work

All material required in the erection and completion of any work shall, as far as possible, be prepared before being taken to the cemetery, and all materials required by tradesmen shall be admitted at such entrance as the CEO or an authorised officer shall direct.

7.5 Removal of Sand, Soil or Loam

No sand, earth or other material shall be taken from any part of the cemetery for use in the erection of any memorial or work except with the written approval of the Board.

7.6 Hours of Work

Persons shall not be permitted to carry out memorial or other work on graves within the cemetery other than during the hours of 8.00am and 6.00pm on weekdays, and 8.00am and noon on Saturdays, without the written permission of the Board.

7.7 Unfinished Work

Should any work by masons or others be not completed before 6.00pm on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised officer.

7.8 Use of Wood

No wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave, other than as a temporary marker and with the prior approval of the Board.

7.9 Plants and Trees

No trees or shrubs shall be planted on any grave or within the cemetery except such as shall be approved by the CEO.

7.10 Supervision

All workers, whether employed by the Board or by any other person, shall at all times whilst within the boundaries of the cemetery be subject to the supervision of the CEO or an authorised officer and shall obey such directions as the CEO or an authorised officer may give.

7.11 Australian War Graves

Notwithstanding anything in this Local Law to the contrary, the Office of Australian War Graves:

- (a) may place a memorial on a military grave; and
- (b) is not required to pay the set fee for any memorial that is placed upon a military grave.

7.12 Placing of Glass Domes and Vases

A person shall not place glass domes, vases or other grave ornaments:

- (a) outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40 (2) of the Act; or
- (b) on the lawn in an area set aside by the Board as a lawn or a memorial plaque section.

Division 2 - Lawn Section

7.13 Specification of Monuments

- (1) All monuments in the lawn section of a cemetery shall:
 - (a) be made of natural stone; and
 - (b) be placed upon a base of natural stone; and
 - (c) comply with the following specifications:
 - (i) the overall height of the monument above the original surface of the grave shall not exceed 1.05m;
 - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150mm nor more than 450mm;
 - (iii) the width of the base of the monument shall not exceed 1.20m;
 - (iv) the depth of the base of the monument shall not exceed 300mm; and
 - (d) have foundations extending to the bottom of the grave unless concrete beam foundations are provided by the Board.
- (2) An admiralty bronze memorial plaque may be attached to a monument erected or being erected in the lawn section of the cemetery.
- (3) A person shall not display any trade names or marks upon any monument erected within the lawn section of the cemetery.

7.14 Headstones

In the lawn section of the cemetery, that part of a headstone above its base shall not extend horizontally beyond that base.

Division 3 - Memorial Plaque Section

7.15 Requirements of a Memorial Plaque

- (1) All memorial plaques placed in a memorial plaque section of the cemetery shall:
 - (a) be made of admiralty bronze or any other material approved by the Board; and
 - (b) not be less than the dimensions 380mm x 280mm, nor more than 560mm x 305mm; and
- (2) All memorial plaques made of admiralty bronze shall:
 - (a) not exceed 20mm in thickness; and
 - (b) be placed upon a base mounting approved by the Board.
- (3) All memorial plaques made of stone shall:
 - (a) not exceed 50mm in thickness placed upon a base mounting approved by the Board; or
 - (b) not be less than 100mm in thickness if it is not to be placed upon a base mounting.

Division 4 - Licensing of Monumental Masons

7.16 Monumental Mason's Licence

- (1) The Board may upon receipt of an application in writing by any person and upon payment of the set fee issue to the applicant a monumental mason's licence.
- (2) A licence issued under sub-clause (1) authorises the holder to carry out monumental works within the cemetery subject to the provisions of this Local Law and such conditions as the Board shall specify upon the issue of that licence.

7.17 Expiry Date, Non-Transferability

A monumental mason's licence:

- (a) shall, subject to clause 7.20, be valid from the date specified therein until the 30th day of June next following; and
- (b) is not transferable.

7.18 Carrying out Monumental Work

A person shall not carry out monumental work within the cemetery unless that person:

- (a) is the holder of a current monumental mason's licence issued pursuant to clause 7.16 or does so as the employee of a person who holds such a licence; or
- (b) is authorised by the Board to do so.

7.19 Responsibilities of the Holder of a Monumental Mason's Licence

The holder of a monumental mason's licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within the cemetery pursuant to that licence with all the requirements and conditions of the licence, this Local Law, the Act and any other written law which may affect the carrying out of monumental works.

7.20 Cancellation of a Monumental Mason's Licence

- (1) The Board may by notice in writing to the holder of a monumental mason's licence terminate the licence on any of the following grounds:
 - (a) that the holder of the licence has committed a breach of the requirements and conditions of the licence, this Local Law, the Act or any other written law which may affect the carrying out of monumental works;
 - (b) that, in the opinion of the Board, the conduct of the holder of the licence or any person in the employ of that holder in carrying out or attempting to carry out any works within the cemetery, is inappropriate or unbecoming; or
 - (c) that the holder of the licence has purported to transfer the licence issued to that holder.
- (2) Upon the termination of a monumental mason's licence under this clause no part of any fee paid for the issue of that licence is refundable by the Board.
- (3) An aggrieved person whose licence has been terminated under subclause (1) may appeal to a Local Court against a decision of the Board under this clause in the manner stated in section 19 (3) of the Act.

PART 8 - GENERAL

8.1 Animals

Subject to clause 8.2, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than with the approval of the CEO or an authorised officer.

8.2 Guide Dogs

Clause 8.1 shall not apply to a hearing impaired person or a person who is blind or partially blind and is accompanied by a hearing or guide dog.

8.3 Damaging and Removing of Objects

Subject to clause 8.4, a person shall not damage, remove or pick any tree, plant, shrub or flower in the cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.

8.4 Withered Flowers

A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Board for that purpose.

8.5 Littering and Vandalism

A person shall not:

- (a) break or cause to be broken any glass, ceramic or other material in or upon the cemetery;
- (b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in or upon the cemetery other than in a receptacle provided for that purpose.

8.6 Advertising

A person shall not carry on or advertise any trade, business or profession within the cemetery without the prior written approval of the Board which consent may be granted subject to such conditions as the Board thinks fit.

8.7 Obeying Signs and Directions

A person shall obey all signs displayed, marked, placed or erected by the Board within the cemetery and any other lawful direction by the CEO or an authorised officer.

8.8 Removal from the Cemetery

Any person failing to comply with any provisions of this Local Law or behaving in a manner that in the opinion of the Board, the CEO or an authorised officer is inappropriate in the cemetery may in

addition to any penalty provided by this Local Law be ordered to leave the cemetery by the Board, the CEO or an authorised officer.

PART 9 - OFFENCES AND MODIFIED PENALTIES

9.1 General

A person who commits a breach of any provisions of this Local Law commits an offence and shall on conviction be liable to a penalty not exceeding \$500.00 and if the offence is a continuing one to a further penalty not exceeding \$20.00 for every day or part of a day during which the offence has continued.

9.2 Modified Penalties

- (1) The offences specified in the First Schedule are offences which may be dealt with under section 63 of the Act.
- (2) The modified penalty payable in respect of an offence specified in the First Schedule is set out in the fourth column of the First Schedule.
- (3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in the Second Schedule.
- (4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in the Third Schedule.

First Schedule

Cemeteries Act, 1986

Shire of Toodyay
Cemeteries Local Laws

Modified Penalties

Item No.	Clause	Nature of Offence	Modified Penalty
1	5.4	Excessive speed	\$50.00
2	5.4	Unauthorised use-driving of vehicles	\$50.00
3	7.3	Placing and removal of rubbish and surplus materials	\$50.00
4	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
5	8.1	Animal at large	\$50.00
6	8.5	Dumping of Rubbish	\$50.00
7	8.6	Unauthorised advertising, and/or trading	\$50.00
8	8.7	Disobeying sign or lawful direction	\$50.00

Second Schedule

Cemeteries Act, 1986
Shire of Toodyay
Cemeteries Local Laws

Infringement Notice

TO: _____
(Name)

(Address)

It is alleged that at _____:_____ hours on _____ day
of _____ 19 _____ at _____

you committed the offence indicated below by an (x) in breach of clause
..... of the Cemeteries Local Law

(Authorised Person)

Offence

Animal at large

Dumping rubbish

Excessive speed in vehicle

Leaving uncompleted works in an untidy or unsafe condition

Non removal of rubbish

Unauthorised advertising or trading

Unauthorised vehicle use

Disobeying sign or lawful direction

Other Offence _____

\$ _____

CEMETERIES ACT 1986
SHIRE OF TOODYAY
CEMETERIES LOCAL LAW

You may dispose of this matter:

By payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the Shire of Toodyay at 15 Fiennes Street, Toodyay between the hours of 9.00am to 4.30pm Monday to Friday.

Please make cheques payable to Shire of Toodyay. Payments by mail should be addressed to:

The Chief Executive Officer
Shire of Toodyay
15 Fiennes Street, Toodyay WA 6566

If the penalty is not paid within the time specified, then a complaint of the alleged offence may be made and heard and determined by a court.

Third Schedule

Cemeteries Act, 1986

Shire of Toodyay

Cemeteries Local Law

Withdrawal of Infringement Notice

No. _____

_____ Date ____/____/____

To

(1) _____

Infringement Notice No _____ dated ____/____/____ for the alleged
offence of (2)

Penalty (3) \$ _____ is withdrawn.

(Delete whichever does not apply)

* No further action will be taken.

* It is proposed to institute court proceedings for the alleged offence.

(1) Insert name and address of alleged offender.

(2) Insert short particulars of offence alleged.

(3) Insert amount of penalty prescribed.

(Authorised Person)

Cemeteries Local Law

Form 1

CEMETERIES ACT 1986

GRANT OF RIGHT OF BURIAL

(cl 3.1)

By virtue of the Cemeteries Act 1986, the Shire of Toodyay, in consideration of the sum shown hereunder paid by the Payer indicated on behalf of the Grantee named in the Schedule, hereby grants to the said Grantee the **RIGHT of BURYING BODIES** in that piece of ground within the Compartment, Section and Number on the plan of the Cemetery as shown hereunder.

TO HOLD the same to the said Grantee for the period of twenty five (25) years from the date hereof, for purposes of burial only.

This Grant is issued subject to all Local Laws and Regulations now or hereafter in force, made, or to be made under the above Act, or any future Act or Acts.

SCHEDULE

GRANT NO:.....

GRANTEE:

Name.....

Address.....

.....

PAYER:

Name.....

Address.....

.....

SUM IN
CONSIDERATION.....
Dollars

OFFICE RECORDS

GRAVE SITE -

Compartment..... Deceased.....
Section..... Application Number.....
Number..... Register Folio.....

Signature of Issuing Officer Designation Date

NB: This grant is an important document and **MUST BE PRODUCED** before the grave can be reopened and to an authorised monumental mason for the establishment of any headstone.

Cemeteries Local Law

Form 2

CEMETERIES ACT 1986

**DECLARATION OF OWNERSHIP OF MISSING “GRANT OF
RIGHT OF BURIAL”**

I, (a)

of (b)

do solemnly and sincerely declare as follows -

1. I am the person described as (c)
in the Grant of Right of Burial numbered
issued by the Shire of Toodyay on the day
of One thousand
nine hundred and ninety
2. (d)
3. I have not transferred any of my rights under the said Grant
to any person.

And I make this solemn declaration by virtue of Section 106 of the
Evidence Act 1906.

Declared at in the State of Western Australia
this day of 199

before me -

Signature of Declarant _____

Witnessed by _____

(Print Name)

Signature of Witness _____

Address of Witness _____

- (a) Full name of Declarant
- (b) Address and Occupation of Declarant
- (c) State whether Grantee or Assignee
- (d) Set out circumstances leading to loss or destruction of Grant, and if lost, action
taken by Declarant to ascertain whereabouts of Grant.

Cemeteries Local Law

Form 3

CEMETERIES ACT 1986

ASSIGNMENT OF GRANT OF RIGHT OF BURIAL

(cl 3.4)

To the Shire of Toodyay

I,.....
of

.....
being the holder of a grant of right of burial numbered
.....
and issued by the Shire of Toodyay on
in respect of the Cemetery
for good and
valuable consideration assign all my rights under that grant
to

.....
(Full name)
of

.....
(address)

Dated this day of 19

.....
Signature of person assigning grant

.....
Signature of person to whom grant is assigned

.....
Signature of witness

Registered by the Shire of Toodyay on the day of 19

.....
Authorised Officer

Cemeteries Local Law

Form 4

CEMETERIES ACT 1986

APPLICATION FOR BURIAL AND INSTRUCTION FOR GRAVE

(cl 3.1)

APPLICATION No.....

SURNAME OF DECEASED:

OTHER NAMES:

OCCUPATION:

ADDRESS:

AGE: DATE OF DEATH: .../.../19

DATE & TIME OF BURIAL:/.../19...

RELIGIOUS AFFILIATION:

AREA: SECTION: GRAVE

NO:.....

LENGTH & WIDTH OF COFFIN:

DEPTH OF GRAVE:

SIZE OF GROUND: GRANT NO:

GRAVE TYPE:

PLACE "X" IN BOX IF:

FIRST INTERMENT

MALE:

FEMALE:

IS A GRANT REQUIRED: No:

Yes:

OTHER INTERMENT APPLICATION NUMBERS:

.....

.....

.....

**CEMETERIES ACT 1986
SHIRE OF TOODYAY
CEMETERIES LOCAL LAW**

**NAME AND ADDRESS OF APPLICANT FOR/OR CURRENT HOLDER
OF GRANT OF RIGHT OF BURIAL:**

.....
.....
.....

SIGNATURE:

DATE: .../.../19...

**NAME OF MINISTER OR PERSON
OFFICIATING:**

**NAME OF FUNERAL
DIRECTOR:**

.....

SIGNATURE:.....

SIGNATURE:.....

DATE: .../.../19...

DATE: .../.../19...

**NAME AND ADDRESS OF PERSON MAKING APPLICATION FOR
BURIAL:**

.....
.....

SIGNATURE:

DATE: .../.../19...

DOCTOR'S CERT, REQ'D: **CORONER'S ORDER**

REC'D:

GRANT OF BURIAL SENT:.../.../19...

RECEIPT No. ISSUED:

MONUMENTAL MASON:

DATE WORKS APPROVED: .../.../19...

Cemeteries Local Law

Form 5

CEMETERIES ACT 1986

**APPLICATION FOR CREMATION AND INSTRUCTION FOR
ASHES**

(cl 3.2)

APPLICATION No.....
SURNAME OF DECEASED:
OTHER NAMES:
OCCUPATION:
ADDRESS:

AGE: DATE OF DEATH: .../.../19...
DATE & TIME OF BURIAL:/.../19... RELIGIOUS
AFFILIATION:
AREA: SECTION: GRAVE
NO:.....
GRANT NUMBER:

GRAVE TYPE:
PLACE "X" IN BOX IF:
MALE:
FEMALE:

OTHER INTERMENT APPLICATION NUMBERS:

.....
.....
.....
.....

NAME AND ADDRESS OF ADMINISTRATOR:

.....
.....
SIGNATURE

DATE:
DISPOSAL DETAILS:

.....
.....

NAME OF MINISTER OR PERSON NAME OF FUNERAL
OFFICIATING: DIRECTOR:

.....

**CEMETERIES ACT 1986
SHIRE OF TOODYAY
CEMETERIES LOCAL LAW**

SIGNATURE:.....

SIGNATURE:.....

DATE: .../.../19...

DATE: .../.../19...

DATE CREMATION PERMIT ISSUED: .../.../19...

No. OF CREMATION PERMIT:

RECEIPT No:

TELEPHONE No:

CERT. OF CREMATION PREPARED: .../.../19...

LETTERS RE DISPOSAL OF ASHES SENT: .../.../19...

ORDERED: .../.../19...

COMPLETED: .../.../19...

Cemeteries Local Law
Form 6

CEMETERIES ACT
CERTIFICATE OF IDENTIFICATION

(cl 3.4(1))

I, of
.....

hereby certify that on the day of 19

At

I identified the body of a deceased person as that of
.....

The body was in a coffin bearing the name plate/inscription marked:

.....

SIGNED:

WITNESS:

Cemeteries Local Law

Form 7

CEMETERIES ACT 1986

CERTIFICATE DISPENSING WITH IDENTIFICATION

(cl 3.4(2))

I,
of
the funeral director engaged to arrange the funeral of the body of
.....

certify that -

(a) the body has not been identified because:

* in my opinion, the body is not in a fit state to be viewed

* after reasonable effort I have been unable to have an identification

made;

and

(b) the body is in a coffin bearing the name plate/inscription marked:
.....
.....

Dated this day of 19

Signed:

.....

Endorsed by the applicant for the funeral:
.....

(Full name)

Signed:

.....

(Signature)

(* delete if inapplicable)

**Cemeteries Local Law
Form 8**

**CEMETERIES ACT 1986
APPLICATION FOR FUNERAL DIRECTOR'S LICENCE**

(S 17 (1))

(i)
hereby applies for the issue of a licence for the period beginning
..... day of 19...
and ending the 30th day of June 19.... (ii) to undertake funerals within the
Cemetery and in support of such application supplies the following
particulars:-

1. To be completed by all Applicants:-
 - (a) Trading name of business
.....
 - (b) Address from which business will be carried out
.....Telephone No:
 - (c) Number of years for which Applicant has previously held a
Funeral Director's Licence .
 - (d) Details of offences under the Cemeteries Act, Cremation Act
or the Local Law of any Cemetery for which the Applicant or
persons employed by the applicant have been convicted
.....
 - (e) Full name, address and capacity of person completing this
application
(iii)

2. To be completed if Applicant is a Company:-
 - (a) Full names and address of:-
Director/s
Manager/s
Secretary
 - (b) Registered Office

3. To be completed if Applicant is A Partner:-
Full name and address of partner/s
.....
.....

4. To be completed if Applicant is neither Company nor Partnership:
Full name (iv)
Address

Signature of person completing application
.....

DIRECTIONS FOR COMPLETION

- (i) Name of Applicant or Company or business name
- (ii) The maximum period is one year
- (iii) State whether applying in person or own behalf, or
as a partner of a firm or a manager of a Company
- (iv) If this information has already been given under
item 1(e) write “as in item 1(e)”

OFFICE USE ONLY

Received

Referred to Council

Approved

Licence issued.....

Cemeteries Local Law

Form 9

CEMETERIES ACT 1986

FUNERAL DIRECTOR'S LICENCE

(S17 (2))

.....
of
is hereby licensed to undertake funerals within the
Cemetery from the
day of 19 until the 30th day of June 19
Place of
business.....
Conditions.....
.....
.....

Given this day of 19 ...
by authority of the Shire of Toodyay.

.....
CEO

Cemeteries Local Law

Form 10

CEMETERIES ACT 1986

APPLICATION FOR SINGLE FUNERAL PERMIT

(cl 4.2)

I, (name) of
(address).....
hereby make application for a SINGLE FUNERAL PERMIT for the
Late.....
to take place on (day) (month) 19
at (time) and in support of this application I hereby
submit -

1. Medical Certificate
Coroner's Certificate
Permit to Cremate
Application for Burial
Application for Cremation
2. I have permission to re-open the grave if required.
3. The deceased will be enclosed in a substantial casket having

the following dimensions-

Length Width Depth

4. The casket will be obtained from
5. There will be legible name stamped on a lead plate under the
name plate on the top of the coffin.
6. The vehicle used to transport the coffin within the cemetery
is a suitable vehicle of the following description:
Vehicle Make Type Year
7. If a permit is issued I will comply with the Cemetery Local
Law and conditions prescribed by the local government and
pay the required fees.

(Signature)

CEMETERIES ACT 1986
SHIRE OF TOODYAY
CEMETERIES LOCAL LAW

Office Use Only

Application No

Approval of Vehicle and Casket

Refer to Council:

Licence issued:

Cemeteries Local Law

Form 11

CEMETERIES ACT 1986

Application No.

AUTHORITY FOR PLACEMENT OF ASHES

(cl 5.12)

Of the Late
.....
Died Aged.....

Instructions for placement of ashes:-

Total amount payable
\$.
If second interment state name of first interment.....
Location (if known)
Name of personal representative:
Address
Telephone Home Work
Signature Date

Cemeteries Local Law

Form 12

CEMETERIES ACT 1986

APPLICATION FOR MONUMENTAL WORK

(cl 5.30)

Application No.

Grant No.

Name of Deceased

.....

Area Section

Grave No.

Name of Applicant

.....

Address of Applicant

.....

I HEREBY CERTIFY THAT I AM AUTHORISED AS/BY THE HOLDER OF THE GRANT OF RIGHT OF BURIAL FOR THE ABOVEMENTIONED GRAVE TO APPROVE ERECTION OF THE MEMORIAL DETAILED HEREIN AND I ACCEPT THAT THE APPROVAL ISSUED WILL BE SUBJECT TO CONDITIONS STIPULATED IN THE CEMETERIES ACT, THE GRANT OF RIGHT OF BURIAL AND THE LOCAL LAW AND REGULATIONS NOW OR HEREAFTER IN FORCE.

Signature Date

NOTE: THE SHIRE OF TOODYAY IS INDEMNIFIED AGAINST ANY LIABILITY ATTRIBUTED TO ANY INCORRECT STATEMENTS OR INFORMATION CONTAINED IN THIS FORM.

DETAILS OF MASON:

THIS SECTION TO BE COMPLETED BY THE MONUMENTAL MASON

Name of Firm

Quoted Cost Date

Address

Signature of Mason

Do You Wish To: (Please Tick)

Add Further Inscription

Renovate Or Add Further

CEMETERIES ACT 1986
SHIRE OF TOODYAY
CEMETERIES LOCAL LAW

Install A New Memorial

PLAN AND SPECIFICATIONS:

NOTE: ALL PLANS AND SPECIFICATIONS OF MEMORIALS SUBMITTED MUST BE CAREFULLY DRAWN AND FULLY DIMENSIONED AND ALL MATERIALS SPECIFIED. ALL DESCRIPTION TO BE IN BLOCK LETTERS, ALL ORNAMENTS ETC, TO BE SHOWN AND DIMENSIONED. SIZE OF DOWELS AND DOWEL HOLES TO BE SPECIFIED.

Cemeteries Local Law

Form 13

CEMETERIES ACT 1986

APPLICATION FOR MONUMENTAL MASON'S LICENCE

(cl 7.16)

I/We the undersigned hereby apply for the issue of a licence for the period beginning the day of 19 and ending the day of 19 to undertake and complete monumental work within the cemetery and in support of this application enclose a fee of \$ and provide the following particulars -

1. To be completed by all Applicants -

(a) Address from which business will be carried on:

.....

..... Telephone No:

.....

(b) Number of years for which Applicant has previously held a Monumental Mason's Licence:

(c) Full name, address and capacity of person completing this application:

.....

2. To be completed if the Applicant is a Company -

(a) Full names and addresses of -
Director/s

.....

.....
Manager/s

.....
Secretary

(b) Registered Office

3. To be completed if Applicant is a Partner -

(a) Full name and address of partner/s.....

.....

**CEMETERIES ACT 1986
SHIRE OF TOODYAY
CEMETERIES LOCAL LAW**

4. To be completed if Applicant is neither a Company nor Partnership

-

Full name:

Address:.....

Dated at this day of 19....

Signature:.....

Shire of Toodyay

MONUMENTAL MASON'S LICENCE

Date Received

Date Approved

Conditions:

.....

.....

Signature of Issuing Officer: Designation:

Date:



LOCAL GOVERNMENT ACT 1995

DOG ACT 1976

Shire of Toodyay

Dogs Local Law



Gazette Date: 05/05/2000, page 2135-2136

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Under the powers conferred by the Dog Act 1976 and under all other powers enabling it, the Council of the Shire of Toodyay resolved on October 28, 1999 to make the following local law.

PART 1 -PRELIMINARY

Citation

- 1.1 This local law may be cited as the Shire of Toodyay Dogs Local Law.

Repeal

The By Laws relating to Dogs published in the Government Gazette on December 13, 1929.

The By Laws relating to Dogs published in the Government Gazette on October 22, 1937.

The Draft Model By Law No.7 relating to Obstructing Animals and Vehicles published in the Government Gazette on February 20, 1966.

The By Laws relating to Control of Dogs published in the Government Gazette on October 12, 1979.

The By Laws relating to Dogs published in the Government Gazette on January 17, 1986.

The By Laws relating to Dogs published in the government Gazette on December 5, 1986.

The By Laws relating to the Control of Dogs published in the Government Gazette on December 8, 1989.

The By Laws relating to Dog Exercise Areas published in the Government Gazette on April 7, 1989.

The By-laws Relating to the Control of Dog published in the Government Gazette on 23 December, 1994, are repealed.

Definitions

- 1.3 In this local law unless the context otherwise requires –

"Act" means the Dog Act 1976;

"authorized person" means a person authorized by the local government to perform all or any of the functions conferred on an authorized person under this local law;

"CEO" means the Chief Executive Officer of the local government;

- "district" has the meaning given to it in section 3 of the Act;
- "local government" means the Shire of Toodyay;
- "owner" has the meaning given to it in section 3 of the Act;
- "person liable for the control of the dog" has the meaning given to it in section 3 of the Act;
- "pound keeper" means a person authorized by the local government to perform all or any of the functions conferred on a "pound keeper" under this local law;
- "premises" has the meaning given to it in section 3 of the Act;
- "Regulations" means the Dog Regulations 1976;
- "thoroughfare" has the meaning given to it in section 1.4 of the Local Government Act 1995; and
- "townsite" has the meaning given to it in section 3 of the Act.

Application

- 1.4 This local law applies throughout the district.

PART 2 -IMPOUNDING OF DOGS

Charges and costs

- 2.1 The following are to be imposed and determined by the local government under sections 6.16 -6.19 of the Local Government Act 1995 –
- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
 - (b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
 - (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

Attendance of pound keeper at pound

- 2.2 The pound keeper is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are determined by the CEO.

Release of impounded dog

2.3 (1) A claim for the release of a dog seized and impounded is to be made to the pound keeper or in the absence of the pound keeper, to the CEO.

(2) The pound keeper is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper, satisfactory evidence of her or his ownership of the dog or of her or his authority to take delivery of it.

No breaking into or destruction of pound

2.4 A person who –

- (a) unless he or she is the pound keeper or a person authorized to do so, releases or attempts to release a dog from a pound; or
- (b) destroys, breaks into, damages or in any way interferes with or renders not dog-proof-
 - (i) any pound; or
 - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog, commits an offence.

Penalty: \$2,000.

PART 3 -REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

Dogs to be confined

3.1 (1) An occupier of premises on which a dog is kept must –

- (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
- (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
- (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises and is fitted with a proper latch or other means of fastening it;
- (d) maintain the fence and all gates and doors in the fence in good order and condition; and
- (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.

(2) Where an occupier fails to comply with subclause (1), he or she commits an offence.

Penalty: Where the dog kept is a dangerous dog, \$2,000; otherwise \$1,000.

Limitation on the number of dogs

3.2 (1) This clause does not apply to premises which have been –

- (a) licensed under Part 4 as an approved kennel establishment; or
- (b) granted an exemption under section 26(3) of the Act.

- (2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act-

2 dogs over the age of 3 months and the young of those dogs under that age

- (3) In accordance with Section 76(4) of the Act Council may approve a greater number of dogs than that prescribed in Item 3.2(2) of the Local Law.

PART 4 -APPROVED KENNEL ESTABLISHMENTS

Interpretation

- 4.1 In this Part and in Schedule 2 –

"licence" means a licence to keep an approved kennel establishment on premises;

"licensee" means the holder of a licence; and

"premises", in addition to the meaning given to it in clause 1.3, means the premises described in the application for a licence.

Application for licence for approved kennel establishment

- 4.2 An application for a licence must be made in the form of that in Schedule 1, and must be lodged with the local government together with –

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;
- (c) the fee for the application for a licence referred to in clause 4.8(1).

Notice of proposed use

- 4.3 (1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged –

- (a) once in a newspaper circulating in the district; and

- (b) to the owners and occupiers of all premises adjoining the premises by registered mail or other proof of notification as deemed appropriate by the Chief Executive Officer.
- (2) The notices in subclause (1) must specify that –
- (a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
 - (b) the application and plans and specifications may be inspected at the offices of the local government.

When application can be determined

- 4.4 An application for a licence is not to be determined by the local government until –
- (a) the applicant submits proof that the notices referred to in clause 4.3(1) have been given;
 - (b) the applicant has complied with clause 4.2; and
 - (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

Where application cannot be approved

- 4.5 The local government cannot approve an application for a licence where –
- (a) a kennel establishment is not permitted on the premises under a town planning scheme; or
 - (b) in the opinion of the local government, the kennel establishment would adversely affect the environment or amenity of the neighbourhood or be a nuisance to adjoining owners and occupiers.

Conditions of approval

- 4.6 (1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.

- (2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.

Compliance with conditions of approval

- 4.7 A licensee who does not comply with the conditions of a licence commits an offence.

Penalty: \$1,000 and a daily penalty of \$100.

Fees

- 4.8 (1) On lodging an application for a licence, the applicant is to pay a fee to the local government.
- (2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.
- (3) The fees referred to in subclauses (1) and (2) are to be imposed and determined by the local government under sections 6.16 -6.19 of the Local Government Act 1995.

Form of licence

- 4.9 The licence is to be in the form determined by the local government and is to be issued to the licensee.

Period of licence

- 4.10 The period of effect of a licence is set out in section 27(5) of the Act.

Variation or cancellation of licence

- 4.11 (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence –
- (a) on the request of the licensee;
 - (b) following a breach of the Act, the Regulations or this local law; or
 - (c) if the licensee is not a fit and proper person.

(3) The date a licence is cancelled is to be, in the case of –

- (a) paragraph (a) of subclause (2), the date requested by the licensee; or
- (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.

(4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

Notification

4.12 The local government is to give written notice to –

- (a) application; an applicant for a licence of the local government's decision on her or his application
- (b) a licensee of any variation made under clause 4.11 (1);
- (c) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (d) a licensee of the cancellation of a licence under clause 4.11(2)(a); and
- (e) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.11 (2), which notice is to be given in accordance with section 27(6) of the Act.

Inspection of kennel

4.13 With the consent of the occupier, an authorized person may inspect an approved kennel establishment at any time.

PART 5 -DOGS IN PUBLIC PLACES

Places where dogs are prohibited absolutely

5.1 (1) Dogs are prohibited absolutely from entering or being in any of the following places

- (a) where so indicated by a sign or a public building;
- (b) a theatre or picture gardens;
- (d) all premises or vehicles classified as food premises or food vehicles under the Health (Food Hygiene) Regulations 1993;
- (e) a public swimming pool; and
- (f) the following beaches, reserves and freehold land -Reserve 27015, Toodyay Street(Toodyay Showgrounds)

(2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

Places which are dog exercise areas

5.2 (1) Subject to clause 5.1 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, the following are dog exercise areas

Reserve Number 27015, Toodyay Street, Toodyay

5.2 (2) Subclause (1) does not apply to –

- (a) land which has been set apart as a children's playground;
- (b) an area being used for sporting or other activities, as permitted by the local government, during the times of such use; or
- (c) a car park.

PART 6 – MISCELLANEOUS

Offence to excrete

6.1 (1) A dog must not excrete on –

- (a) any thoroughfare or other public place; or
 - (b) any land which is not a public place without the consent of the occupier.
- (2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

Penalty: \$200.

- (3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

PART 7 – ENFORCEMENT

Interpretation

7.1 In this Part-

"infringement notice" means the notice referred to in clause 7.3;
and

"notice of withdrawal" means the notice referred to in clause 7.6(1).

Modified penalties

7.2 (1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.

- (2) The amount appearing in the third column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if –
- (a) the dog is not a dangerous dog; or
 - (b) the dog is a dangerous dog, but an amount does not appear in the fourth column directly opposite that offence.

- (3) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

Issue of infringement notice

- 7.3 Where an authorized person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 7 of the First Schedule of the Regulations.

Failure to pay modified penalty

- 7.4 Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

Payment of modified penalty

- 7.5 A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

Withdrawal of infringement notice

- 7.6 (1) Whether or not the modified penalty has been paid, an authorized person may withdraw an infringement notice by sending a notice in the form of Form 8 of the First Schedule of the Regulations.
- (2) A person authorized to issue an infringement notice under clause 7.3 cannot sign or send a notice of withdrawal.

Service

- 7.7 An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.

Schedule 1
(clause 4.2)
Local laws relating to dogs

Application for a licence for an approved kennel establishment

I/We (full name) of
(postal address)
(telephone number)
(facsimile number)
(E-mail address)

Apply for a licence for an approved kennel establishment at (address of premises)

.....

For (number and breed of dogs)

* (insert name of person) will be residing at the premises on and from (insert date)

* (insert name of person) will be residing in reasonably close proximity to the premises at (insert address of residence) on and from (insert date).

Attached are –

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) written evidence that a person will reside –
 - (i) at the premises; or
 - (ii) within reasonably close proximity to the premises; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

Signature of applicant

Date

* delete where inapplicable.

OFFICE USE ONLY

Application fee paid on [insert date].....

Schedule 2
(clause 4.5(1))

Conditions of a licence for an approved kennel establishment

An application for a licence for an approved kennel establishment may be approved subject to the following conditions –

- (a) each kennel must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than –
 - (i) 25m from any thoroughfare or other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard must be securely fenced, and must be kept securely fenced, with a fence –
 - (i) where there is one breed of dog, of a height not less than 4 times the average height of the breed of dog (when it is fully grown) to which the fence is applicable; or
 - (ii) where there is more than one breed of dog, of a height not less than 4 times the average height of the larger breed of a dog (when it is fully grown), but where the average height exceeds 500mm the minimum height shall be 2m; and
 - (iii) with a top of at least a 135° inward angle not less than 300mm in length,

and the height of a dog is to be determined by measuring from the floor to the uppermost tip of its shoulder while in a stationary upright position;

- (d) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (e) external gates and doors for each yard or kennel must be fitted with efficient self-closing and latching mechanisms;

- (f) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (g) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (h) the upper surface of the kennel floor must be at least 100mm above the surface of the surrounding ground and must be constructed of granolithic cement finished to a smooth impervious surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a 100mm diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government.
- (i) all kennel floor washings must pass through the drain in item (h) and must be piped to approved apparatus for the bacteriolytic treatment of sewage in accordance with the health requirements of the local government;
- (j) the kennel floor must have a concrete upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;
- (k) The floor of any yard must be constructed in the same manner as the floor of any kennel;
- (l) the lowest internal height of any kennel must be 2m from the floor;
- (m) the walls of each kennel must be constructed of concrete, brick, stone or framing sheathed internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other material approved by the local government;
- (n) all external surfaces of each kennel must be kept in good condition and if directed by an authorized person, are to be painted or re-painted with good quality paint;

- (o) the roof of each kennel must be constructed of impervious material;
- (p) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorized person;
- (q) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the bacteriolytic treatment of sewage;
- (r) noise, odours, fleas, flies and vermin must be effectively controlled;
- (s) water must be available at the kennel via a properly supported standpipe and tap; and
- (t) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside –
 - (i) at the premises; or
 - (ii) in reasonably close proximity to the premises,so as to keep the dogs under effective control.

Schedule 3
 (clause 7.2)

Offences in respect of which modified penalty applies

Offence	Nature of Offence	Modified Penalty \$	Modified Penalty \$
2.3(a)	Attempting to or causing the unauthorized release of a dog from a pound.	200	
2.4(b)&(c)	Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs.	200	
3.1	Failing to provide means for effectively confining a dog.	50	200
4.7	Failing to comply with the conditions of a licence.	100	
5.1(2)	Dog in place from which prohibited absolutely	200	400
6.1(2)	Dog excreting in prohibited place	40	

Dated this day of 199

The Common Seal of the)
 Shire of Toodyay was)
 affixed in the presence of:)

AJ.W. Bolton, President

A Smith, Chief Executive Officer



LOCAL GOVERNMENT ACT 1995

SHIRE OF TOODYAY

EXTRACTIVE INDUSTRIES

LOCAL LAW



Gazette Date: 01/11/1999, page 1368-9

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Under the powers conferred by the Local Government Act 1995 and by all other powers, the local government of the Shire of Toodyay resolved to make the following local laws on the 24th day of June 1999

Part 1 - Preliminary

DEFINITIONS

1.1 In this local law, unless the context otherwise requires -

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

“**carry on an extractive industry**” means quarrying and excavating for stone, gravel, sand and other material;

“**CEO**” means the Chief Executive Officer of the local government;

“**district**” means the district of the local government;

“**excavation**” includes quarry;

“**licence**” means a licence issued under this local law;

“**licensee**” means the person named in the licence as the licensee;

“**local government**” means the Shire of Toodyay;

“**secured sum**” means the sum required to be paid or the amount of a bond, guarantee or other security under clause 5.1;

“**site**” means the land specified by the local government in a licence.

APPLICATION

1.2 (1) The provisions of this local law –

- (a) subject to paragraphs (b), (c) and (d) -
 - (i) apply and have force and effect throughout the whole of the district; and
 - (ii) apply to every excavation whether commenced prior to or following the coming into operation of this local law;
- (b) do not apply to the extraction of minerals under the Mining Act 1978;
- (c) do not apply to the carrying on of an extractive industry on Crown land;
- (d) do not apply to the carrying on of an Extractive Industry on land by the owner or occupier of that land for use on that land.

- (e) do not affect the validity of any licence issued under the local law repealed by clause 1.3 of this local law if that licence is currently in force at the date of gazettal of this local law.
- (2) In Subclause 1 (d) 'land' includes adjoining lots or locations in the same occupation or ownership of the owner or occupier referred to in Subclause 1 (d).

REPEAL

- 1.3 The local laws of the Shire of Toodyay relating to Extractive Industries published in the Government Gazette on October 26, 1984; July 18, 1986; and November 12, 1993, are repealed.

Part 2 - Licensing Requirements for an Extractive Industry

EXTRACTIVE INDUSTRIES PROHIBITED WITHOUT LICENCE

- 2.1 A person must not carry on an extractive industry -
- (a) unless the person is the holder of a valid and current licence; and
 - (b) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

Penalty \$5000 and a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which an offence has continued.

APPLICANT TO ADVERTISE PROPOSAL

- 2.2 (1) Unless the local government first approves otherwise, a person seeking the issue of a licence must, before applying to the local government for a licence -
- (a) forward by registered mail a notice in the form determined by the local government from time to time to -
 - (i) the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the granting of a licence, advising of the application and specifying that they may, within twenty-one days from the date of service of the letter, object to or make representations in writing in respect of the issue of a licence by the local government.
 - (ii) every authority or person having control or jurisdiction over any of the things referred to in clause 2.3(1)(a)(vii)

and (viii) within 500 metres from the boundaries of the land, or within an area determined by the local government as likely to be affected by the granting of a licence; and

- (b) as soon as practicable after complying with the requirements of paragraph (a) -
 - (i) forward a copy of the notice to the CEO; and
 - (ii) publish the notice in a newspaper circulating in the area in which the proposed excavation is located.
- (2) The local government may, within 14 days after receiving a copy of a notice referred to in sub-clause (1), cause to be displayed, or require the proposed applicant to display, in a prominent position on the land one or more notices -
 - (a) in the form determined by the local government from time to time;
 - (b) the content, size and construction of which have been approved by the CEO;
 - (c) specifying particulars of the proposed excavation; and
 - (d) inviting objections or comments within 21 days from the placement of the notice.

APPLICATION FOR LICENCE

- 2.3 (1) A person seeking the issue of a licence in respect of any land must apply in the form determined by the local government from time to time and must forward the application duly completed and signed by both the applicant and the owner of the land to the CEO together with –
- (a) 3 copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing -
 - (i) the existing and proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;
 - (ii) the land on which the excavation site is to be located;
 - (iii) the external surface dimensions of the land;
 - (iv) the location and depth of the existing and proposed excavation of the land;
 - (v) the location of existing and proposed roads or other means of vehicle access to and egress from the land and to public roads in the vicinity of the land;
 - (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
 - (vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines,

- reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;
- (viii) the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;
 - (ix) the location and description of existing and proposed fences, gates and warning signs around the land; and
 - (x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;
- (b) 3 copies of a works and excavation programme containing -
- (i) the nature and estimated duration of the proposed excavation for which the licence is applied;
 - (ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;
 - (iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;
 - (iv) details of the depth and extent of the existing and proposed excavation of the site;
 - (v) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
 - (vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
 - (vii) a description of the means of access to the excavation site and the types of roads to be constructed;
 - (viii) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
 - (ix) a description of any proposed buildings, treatment plant, tanks and other improvements;
 - (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
 - (xi) a description of the measures to be taken to minimise dust nuisance, erosion, watercourse siltation and dangers to the general public;
 - (xii) a description of the measures to be taken to comply with the Environmental Protection (Noise) Regulations 1997;
 - (xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;

- (xiv) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation; and
 - (xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby roads or other areas;
- (c) 3 copies of a rehabilitation and decommissioning programme indicating -
- (i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
 - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
 - (iii) the method by which topsoil is to be replaced and revegetated;
 - (iv) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
 - (v) how rehabilitated areas are to be maintained and irrigated; and
 - (vi) the programme for the removal of buildings, plant, waste and final site clean up;
- (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public road or such other land in the vicinity;
- (e) a certificate from a licensed surveyor certifying the correctness of -
- (i) the plan referred to in paragraph (a); and
 - (ii) the datum peg and related point referred to in paragraph (d);
- (f) evidence that the requirements of clause 2.2(1) and (2) have been carried out;
- (g) copies of all land use planning approvals required under any planning legislation;
- (h) the consent in writing to the application from the owner of the excavation site;
- (i) any other information that the local government may require; and

- (j) the licence application fee specified by the local government from time to time.
- (2) All survey data supplied by an applicant for the purpose of sub clause (1) must comply with Australian Height Datum and Australian Map Grid standards.

Part 3 - Determination of Application

DETERMINATION OF APPLICATION

3.1 (1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 2.3, and in any event shall refuse an application for a licence where planning approval for an extractive industry use of the land has not first been obtained.

- (2) The local government may, in respect of an application for a licence -
 - (a) refuse the application; or
 - (b) approve the application -
 - (i) over the whole or part of the land in respect of which the application is made; and
 - (ii) on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for a licence, it must -
 - (a) determine the licence period, not exceeding 21 years from the date of issue; and
 - (b) approve the issue of a licence in the form determined by the local government from time to time.
- (4) Where the local government approves the issue of a licence, the CEO upon receipt by the local government of -
 - (a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 31st December next, determined by the local government from time to time;
 - (b) payment of the secured sum if any, imposed under clause 5.1; and
 - (c) the documents, if any, executed to the satisfaction of the CEO, under clause 5.1, shall issue the licence to the applicant.
- (5) Without limiting subclause (2), the local government may impose conditions in respect of the following matters -
 - (a) the orientation of the excavation to reduce visibility from other land;

- (b) the appropriate siting of access roads, buildings and plant;
- (c) the stockpiling of material;
- (d) the hours during which any excavation work may be carried out;
- (e) the hours during which any processing plant associated with, or located on, the site may be operated;
- (f) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the local government;
- (g) the depths below which a person must not excavate;
- (h) distances from adjoining land or roads within which a person must not excavate;
- (i) the safety of persons employed at or visiting the excavation site;
- (j) the control of dust and wind-blown material;
- (k) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
- (l) the prevention of the spread of dieback or other disease;
- (m) the drainage of the excavation site and the disposal of water;
- (n) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
- (o) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
- (p) requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation programme;
- (q) requiring the licensee to enter into an agreement with the local government in respect of any condition or conditions imposed under this local law; and
- (r) any other matter for properly regulating the carrying on of an extractive industry.

PAYMENT OF ANNUAL LICENCE FEE

- 3.2 On or before 31 December in each year, a licensee must pay to the local government the annual licence fee determined by the local government from time to time.

Part 4 - Transfer, Cancellation and Renewal of Licence

TRANSFER OF LICENCE

- 4.1 (1) An application for the transfer of a licence must -
- (a) be made in writing;
 - (b) be signed by the licensee and the proposed transferee of the licence;
 - (c) be accompanied by the current licence;
 - (d) be accompanied by the consent in writing to the transfer from the owner of the excavation site;
 - (e) include any information that the local government may reasonably require; and
 - (f) be forwarded to the CEO together with the fee determined by the local government from time to time.
- (2) Upon receipt of any application for the transfer of a licence, the local government may -
- (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for the transfer of a licence, the local government shall transfer the licence by an endorsement on the licence in the form determined by the local government from time to time, signed by the CEO.
- (4) Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

CANCELLATION OF LICENCE

- 4.2 (1) The local government may cancel a licence where the licensee has -
- (a) been convicted of an offence against -
 - (i) this local law; or
 - (ii) any other law relating to carrying on an extractive industry; or
 - (b) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government;
 - (c) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law;
 - (d) failed to pay the annual licence fee under clause 3.2; or
 - (e) failed to have a current public liability insurance policy under clause 7.1(1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 7.1(2).
- (2) Where the local government cancels a licence under this clause -
- (a) the local government shall advise the licensee in writing of the cancellation;
 - (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice; and
 - (c) the local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

RENEWAL OF LICENCE

- 4.3 (1) A licensee who wishes to renew a licence must apply in writing to the local government at least 45 days before the date of expiry of the licence and must submit with the application for renewal -
- (a) the fee determined by the local government from time to time;
 - (b) a copy of the current licence;
 - (c) a plan showing the contours of the excavation carried out to the date of that application;
 - (d) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 2.3(1) (b) and (c); and
 - (e) any other things referred to in clauses 2.3 and 3.1.
- (2) The local government may waive any of the requirements specified in clause 4.3 (1) (d) or (e).
- (3) If -
- (a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and
 - (b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application,
- then the applicant shall not be obliged, unless otherwise required by the local government to submit details of any of the things referred to in clauses 2.3 and 3.1.
- (4) Upon receipt of an application for the renewal of a licence, the local government may -
- (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.

Part 5 - Secured Sum and Application Thereof

SECURITY FOR RESTORATION AND REINSTATEMENT

5.1 (1) For the purpose of ensuring that an excavation site is properly restored or reinstated, the local government may require that -

- (a) as a condition of a licence; or
- (b) before the issue of a licence,

the licensee must give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government from time to time.

(2) A bond required under subclause (1) is to be paid into a fund established by the local government for the purposes of this clause.

USE BY THE LOCAL GOVERNMENT OF SECURED SUM

5.2 (1) If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions either -

- (a) within the time specified in those conditions; or
- (b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions,

then -

- (c) the local government may carry out the required restoration and reinstatement work or so much of that work as remains undone; and
- (d) the licensee must pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause.

(2) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 5.1 towards its costs under this clause.

(3) The liability of a licensee to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 5.1.

Part 6 - Limitations and Prohibitions

LIMITS ON EXCAVATION NEAR BOUNDARY

- 6.1 Subject to any licence conditions imposed by the local government, a person shall not, without the written approval of the local government, excavate within –
- (a) 50 metres of the boundary of any land on which the excavation site is located;
 - (b) 50 metres of any land affected by a registered grant of easement;
 - (c) 50 metres of any thoroughfare; or
 - (d) 100 metres of any watercourse.

Penalty \$2,000

PROHIBITIONS

- 6.2 A licensee must -
- (a) not remove any trees or shrubs within 100 metres (or such lesser distance as may be allowed, in writing, by the local government) of the boundary of any road reserve on land in respect of which a licence has been granted, except for the purpose of constructing access roads, erecting buildings or installing plant for use in connection with the excavation and then only with the express approval of the local government and subject to any conditions which the local government may impose in accordance with clause 3.1;
 - (b) where the local government so requires, securely fence the excavation to a standard determined by the local government and keep the gateways locked when not actually in use in order to prevent unauthorised entry;
 - (c) erect and maintain warning signs along each of the boundaries of the site to which the licence applies so that each sign –
 - (i) is not more than 200 metres apart;
 - (ii) is not less than 1.8 metres high and not less than 1 metre wide; and
 - (iii) bears the words “DANGER EXCAVATIONS KEEP OUT”;
 - (d) except where the local government approves otherwise, drain and keep drained to the local government’s satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;
 - (e) not store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than

- with the approval of the local government and the Department of Minerals and Energy;
- (f) not fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
 - (g) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
 - (h) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
 - (i) otherwise comply with the conditions imposed by the local government in accordance with clause 3.1.

Penalty \$5,000 for each offence, and if an offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

BLASTING

- 6.3 (1) A person must not carry out or permit to be carried out any blasting in the course of excavating unless -
- (a) the local government has otherwise given approval in respect of blasting generally or in the case of each blast;
 - (b) subject to sub-clause (2), the blasting takes place only between the hours of 8.00am and 5.00pm, or as determined by the local government, on Mondays to Fridays inclusive;
 - (c) the blasting is carried out in strict accordance with the AS2187 SAA Explosives Code, the Mines Safety and Inspection Act 1994, the Environment Protection Act 1986, and all relevant local laws of the local government; and
 - (d) in compliance with any other conditions imposed by the local government concerning-
 - (i) the time and duration of blasting;
 - (ii) the purposes for which the blasting may be used;
 - (iii) the methods of detonation and blasting;
 - (iv) the types of explosives to be used; and
 - (v) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.

Penalty \$5,000.00 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of

\$500.00 in respect of each day or part of a day during which the offence has continued.

- (2) A person must not carry out or permit to be carried out any blasting on a Saturday, Sunday or Public Holiday except with the prior approval of the local government.

Penalty \$2,000

Part 7 - Miscellaneous Provisions

PUBLIC LIABILITY

- 7.1 (1) A licensee must have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum of not less than \$10,000,000 in respect of any one claim relating to any of the excavation operations.
- (2) The licensee shall provide to the local government a copy of the policy taken out under sub-clause (1), within 14 days after the issue of that policy and shall provide to the local government evidence of renewal within 14 days of each renewal date.

MINES SAFETY AND INSPECTION ACT AND ENVIRONMENTAL PROTECTION ACT

- 7.2 (1) In any case where the Mines Safety and Inspection Act 1994 or the Environmental Protection Act 1986 applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site must -
- (a) comply with all applicable provisions of that Act or those Acts; and
 - (b) provide to the local government within 14 days full particulars of any inspection or report made under that Act or those Acts.
- (2) In this clause, the Mines Safety and Inspection Act 1994 and the Environmental Protection Act 1986 include all subsidiary legislation made under those Acts.

NOTICE OF CESSATION OF OPERATIONS

7.3 (1) Where a licensee intends to cease carrying on an extractive industry -

- (a) temporarily for a period in excess of 12 months; or
- (b) permanently,

the licensee must, as well as complying with clause 7.4, give the local government written notice of the cessation not later than 1 week after those operations have ceased.

- (2) Where a licensee has given written notice to the local government of the intention to permanently cease carrying on an extractive industry on the site to which the licence applies the licence is deemed to have expired on the date such cessation is so notified.
- (3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

WORKS TO BE CARRIED OUT ON CESSATION OF OPERATIONS

7.4 Where the carrying on of an extractive industry on the site permanently ceases or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee must, as well as complying with the provisions of clause 7.3 -

- (a) restore and reinstate the excavated site in accordance with the proposals approved by the local government or in such other manner as the local government may subsequently agree in writing with the licensee;
- (b) ensure that any face permitted to remain upon the excavation site is left safe with all loose materials removed and where the excavation site is -
 - (i) sand, the sides are sloped to a batter of not more than 1:3 (vertical:horizontal); and
 - (ii) limestone or material other than sand, the sides are sloped to a batter which, in the opinion of the local government, would enable the site to be left in a stable condition;
- (c) ensure that the agreed floor level of the excavation is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning programme approved by the local government;
- (d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor

- into any stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;
- (e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;
 - (f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and
 - (g) break up, scarify, cover with topsoil and plant with grass, trees and shrubs all parts of the site where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this local law.

Penalty \$5,000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

Part 8 - Objections & Appeals

- 8.1 When the local government makes a decision as to whether it will -
- (a) grant a person a licence under this local law; or
 - (b) renew, vary, or cancel a licence that a person has under this local law,

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 shall apply to that decision.



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Under the powers conferred by subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Toodyay resolved on 28 November 2017 to make the following local law.

PART 1 – PRELIMINARY

1.1.1 Citation

This local law may be cited as the *Shire of Toodyay Health Local Law 2017*.

1.1.2 Repeal

- (i) The Model By-Laws-Series "A" published in the *Government Gazette* on 20 November 1914 that were adopted at a meeting of the Toodyay Road Board on 15 July 1924 and published in the *Government Gazette* on 15 July 1924, and amended from time to time, are repealed;
- (ii) The Model By-Laws-Series "A" published in the *Government Gazette* on 4 December 1944 that were adopted at a meeting of the Toodyay Road Board on 17 May 1954 and published in the *Government Gazette* on 20 August 1954, and amended from time to time, are repealed;
- (iii) The Model By-Laws-Series "A" published in the *Government Gazette* on 9 August 1956 that were adopted at a meeting of the Toodyay District Road Board on 13 October 1956 and published in the *Government Gazette* on 12 December 1956, and amended from time to time, are repealed;
- (iv) The Model By-Laws-Series "A" published in the *Government Gazette* on 17 July 1963 that were adopted at a meeting of the Shire of Toodyay Council on 17 February 1964 and published in the *Government Gazette* on 29 April 1964, and amended from time to time, are repealed.

1.1.3 Commencement

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

1.1.4 Application

This local law applies throughout the district.

1.1.5 Interpretation

- (1) In this local law, unless the context otherwise requires –
 - Act* means *Health (Miscellaneous Provisions) Act 1911* and includes subsidiary legislation made under the *Health (Miscellaneous Provisions) Act 1911*;
 - adequate supply of water** means a flow of water of not less than 0.076 litres per second;
 - approved** means approved by the local government of the Shire of Toodyay;
 - AS or AS/NZS** means Australian Standard or Australian/New Zealand Standard published by the Standards Association of Australia as amended from time to time;
 - AS/NZS ISO 717.1:2004** means the standard published by the Standards Association of Australia as AS/NZS ISO 717.1:2004 as amended from time to time and called 'Acoustics – Rating of sound insulation in building and of building elements - Airborne sound insulation';
 - AS/NZS 3666.2:2011** means the standard published by the Standards Association of Australia as AS/NZS 3666.2:2011 as amended from time to time and called 'Air-

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handling and water systems of buildings – Microbial control operation and maintenance’;

AS 1668.2-2002 means the standard published by the Standards Association of Australia as AS 1668.2-2002 as amended from time to time and called ‘The use of ventilation and airconditioning in buildings – Ventilation design for indoor air contaminant control’;

AS 1668.2:2012 means the standard published by the Standards Association of Australia as AS 1668.2:2012 as amended from time to time and called ‘The use of ventilation and airconditioning in building – Mechanical ventilation in buildings’;

AS 1875-1976 means the standard published by the Standards Association of Australia as AS 1875-1976 as amended from time to time and called ‘Domestic incinerators (fire safety)’;

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 that Code;

Certificate of Registration means a certificate issued under clause 9.1.5;

CEO means the Chief Executive Officer of the Shire of Toodyay and includes an Acting Chief Executive Officer;

Council means the local government of the Shire of Toodyay;

district means the district of the Shire of Toodyay and included any area placed under the jurisdiction of the local government pursuant to section 22 of the Act;

dwelling house means a place of residence containing at least one sleeping room and includes a room or outbuilding separate from, but ancillary to, the building in which the sleeping room is located;

Energy Safety WA means the Energy Safety division of the Department of Mines, Industry Regulation and Safety;

Environmental Health Officer means an Environmental Health Officer appointed by the local government under the Act and included an Acting or Assistant Environmental Health Officer;

flies means any of the two-winged insects constituting the order Diptera commonly known as flies;

Food Standards Code means the *Australian New Zealand Food Standards Code* as defined in the *Commonwealth Food Standards Australia New Zealand Act 1991* as amended from time to time;

habitable room means a room used for normal domestic activities, and -

(a) includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, play-room, family room and sun-room; but

(b) excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, lobby, photographic dark room, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods;

hot water means at a temperature of at least 65 degrees Celsius;

local government means the Shire of Toodyay;

Local Planning Scheme has the meaning given to it by the *Planning and Development Act 2005*;

Medical Officer means the Medical Officer appointed by the local government under the Act and includes an Acting Medical Officer so appointed;

public place includes every place to which the public ordinarily have access, whether by payment of fee or not;

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

sanitary convenience includes urinals, water-closets, earth-closets, privies, sinks, baths, wash troughs, apparatus for the treatment of sewage, ash-pit, ash-tub, or other receptacle for the deposit of ashes, faecal matter, or refuse, and all similar conveniences;

sewage means any kind of sewage, nightsoil, faecal matter or urine, and any waste composed wholly or in part of liquid;

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sewer includes sewers and drains of every description, except drains to which the word “drain” as defined in the Act applies, also water channels constructed of stone, brick, concrete, or any other material, including the property of local government;

street includes any highway, and any public bridge, and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

toilet means a water closet, earth closet, privy or urinal and includes a room or cubicle in which one or more of these are located;

townsite means all townsites within the district which are –

- (a) constituted under Section 26(2) of the *Land Administration Act 1997*; or
- (b) referred to in clause 37 of Schedule 9.3 of the *Local Government Act 1995*;

vectors of disease mean an arthropod or rodent that transmits, by biological or mechanical means, an infectious agent from a source or reservoir to a person, and includes fleas, bedbugs, crab lice, body lice and head lice;

water means drinking water within the meaning of the Guidelines for Drinking Water Quality in Australia 2011 as published by the National Health and Medical Research Council; and

window means a glass panel, roof light, glass brick, glass louvre, glazed sash, glazed door, or other device which transmits natural light directly from outside the building to the room concerned when in the closed position.

- (2) Where in this local law, a duty or liability is imposed on an “owner or occupier”, the duty or liability shall be deemed to be imposed jointly and severally on each of the owner or occupier.
- (3) Where under this local law an act is required to be done or forbidden to be done in relation to any premises, the owner or occupier of these premises has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.

PART 2 – SANITATION

Division 1 – Sanitary Conveniences

2.1.1 Interpretation

In this Part, unless the context otherwise requires –

festival includes a fair, function or event;

organiser means a person –

- (a) to whom approval has been granted by the local government to conduct the festival; or
- (b) responsible for the conduct of the festival;

public sanitary convenience means a sanitary convenience to which the public ordinarily have access, whether by payment of a fee or not;

temporary sanitary convenience means a sanitary convenience, temporarily placed for use by –

- (a) patrons in conjunction with a festival; or
- (b) employees at construction sites or the like; and

urinal may be –

- (a) an individual stall or wall-hung urinal;
- (b) each 600mm length or a continuous urinal trough; or
- (c) a closet pan used in place of a urinal.

2.1.2 Dwelling house

- (1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house unless it has at least one toilet.
- (2) A room in which a toilet is located shall have adequate lighting.

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2.1.3 Premises other than a dwelling house

- (1) The owner of premises other than a dwelling house shall not use or occupy, or permit to be used or occupied, premises other than a dwelling house unless –
 - (a) the premises have sanitary conveniences in accordance with the Building Code and this Part;
 - (b) the toilets required by this local law are situated within close proximity and are easily accessible to the persons for whom they are provided; and
 - (c) the premises have hand wash basins –
 - (i) in accordance with the Building Code;
 - (ii) for the use of persons employed or engaged on the premises;
 - (iii) provided with an adequate supply of water supplied by taps located over each basin;
 - (iv) separate from any trough, sink or basin used in connection with any process carried out on the premises; and
 - (v) situated within a reasonable distance of the sanitary conveniences and easily accessible to the person for whom they are provided.
- (2) The occupier of premises other than a dwelling house shall ensure that –
 - (a) clean toilet paper is available at all times in each cubicle;
 - (b) a sanitary napkin disposal facility is provided in each toilet set aside for the use of females; and
 - (c) each hand wash basin is provided with –
 - (i) an adequate supply of soap or other hand cleaning substances; and
 - (ii) hand drying facilities, situated adjacent to and visible from the hand basin.

2.1.4 Outdoor festivals

- (1) The organiser of an outdoor festival must provide sanitary conveniences in accordance with the recommendations contained within the Department of Health's *Guidelines for concerts, events, and organised gatherings*.
- (2) Where, under subclause (1), the number of a particular sanitary convenience to be provided is not a whole number, that number shall be rounded up to the next higher whole number.

2.1.5 Toilets

- (1) Toilets on premises shall be maintained in accordance with the following requirements –
 - (a) the door to a toilet, other than an internal toilet, shall be properly screened to a continuous height of 1.8 metres from the floor; and
 - (b) a toilet or its entrance which is visible from overlooking windows shall be properly screened.
- (2) Toilets on premises other than a dwelling house shall be maintained in accordance with the following additional requirements –
 - (a) a toilet for the exclusive use of males shall not adjoin any toilet for the exclusive use of females unless the toilets are separated by a wall extending from the floor to ceiling and of sufficient density to have a sound transmission class of not less than 50 as required by AS/NZS ISO 717.1:2004; and
 - (b) where more than one toilet is provided on the premises, the entrance to each toilet shall bear a suitable sign indicating for which sex its use is intended.

2.1.6 Temporary works

A person who undertakes temporary work at any place shall ensure every temporary sanitary convenience is installed and maintained in accordance with the requirements of the *Health (Temporary Sanitary Conveniences) Regulations 1997*.

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2.1.7 Maintenance of sanitary conveniences and fittings

- (1) The occupier of premises shall –
 - (a) keep clean, in good condition and repair; and
 - (b) whenever required by an Environmental Health Officer, effectively disinfect and clean, all sanitary conveniences including sanitary fittings in or on the premises.
- (2) The owner of premises shall –
 - (a) keep or cause to be kept in good repair; and
 - (b) maintain an adequate supply of water to all sanitary conveniences including sanitary fittings in or on the premises.

2.1.8 Ventilation of toilet

A toilet in any premises shall be ventilated in accordance with the *Sewage (Lighting, Ventilation and Construction) Regulations 1971* and the Building Code.

2.1.9 Public sanitary conveniences

- (1) A person shall not –
 - (a) foul;
 - (b) damage or vandalise; or
 - (c) write on or otherwise deface,a public sanitary convenience or sanitary fittings on the premises in or on which the sanitary convenience is located.
- (2) A person shall not live or sleep in or on the premises in which a public sanitary convenience is located or use it for a purpose other than that for which it was intended.

2.1.10 Lighting

The owner and the occupier of a premises in which a sanitary convenience or a public sanitary convenience is located shall provide and maintain sufficient natural or a minimum of 80 lux of artificial lighting for persons using the convenience.

2.1.11 Installation

Every temporary sanitary convenience shall be installed in accordance with the requirements of the *Country Areas Water Supply Act 1947* and the *Water Services Act 2012* and shall have an adequate supply of water.

Division 2 – Bathrooms, Laundries and Kitchens

2.2.1 Bathrooms

- (1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a bathroom that –
 - (a) is adequately lined with an impervious material and has an adequate ceiling;
 - (b) complies with the *Health Act (Laundries and Bathrooms) Regulations*; and
 - (c) is equipped with –
 - (i) a hand wash basin; and
 - (ii) either a shower in a shower recess or a bath.
- (2) All baths, showers, hand wash basin and similar sanitary fittings shall be provided with an adequate supply of hot and cold water.

2.2.2 Laundries and toilets

- (1) A laundry must conform to the provisions of the Building Code.
- (2) Where, in any building, a laundry is situated adjacent to a kitchen or a room where food is stored or consumed, the laundry shall be separated from the kitchen or room where food is stored or consumed by a wall extending from the floor to the roof or ceiling.

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- (3) Where there is an opening in a wall between a laundry and a kitchen or room where food is prepared or consumed, the opening shall –
 - (a) not be more than 1220 millimetres wide; and
 - (b) have a door which when closed shall completely fill the opening.
- (4) Toilets not to be situated adjacent to a kitchen or a room where food is stored or consumed however if a toilet is situated adjacent to a kitchen or a room where food is stored or consumed it shall be separated by a self-closing door.

2.2.3 Kitchens

- (1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a kitchen equipped with –
 - (a) a cooking facility; and
 - (b) a sink which shall –
 - (i) be at least 380 millimetres long, 300 millimetres wide and 150 millimetres deep; and
 - (ii) have an adequate supply of hot and cold water.
- (2) The occupier of a dwelling house shall ensure that the cooking facility and sink are kept clean, in good order and repair and fit for use.
- (3) A cooking facility shall –
 - (a) be installed in accordance with the requirements of Energy Safety WA and the manufacturer's written specifications; and
 - (b) not be installed in any other room other than a kitchen.
- (4) Mechanical ventilation is to be provided in a kitchen and the exhaust air shall be –
 - (a) carried to the outside air as directly as practicable unless adequately filtered for recirculation; and
 - (b) boxed throughout.
- (5) In this clause, a **cooking facility** includes a stove, oven, facility or appliance used for or in connection with the cooking of food.

PART 3 – HOUSING AND GENERAL

Division 1 – Maintenance of Dwelling Houses

3.1.1 Dwelling house maintenance

The owner or occupier of a dwelling house shall maintain the dwelling house and/or any appurtenant buildings in sound condition and fit for use and, in particular, shall –

- (a) maintain all roofs and where required to be provided, guttering and downpipes in sound weatherproof conditions;
- (b) maintain any footing, foundations and walls, either external or internal, in a sound condition;
- (c) replace any missing, broken, decayed or termite-eaten timber or other deteriorated material in any verandah, roof, walls, steps, handrails, floors or their supports with material of sound quality;
- (d) comply with the directions of an Environmental Health Officer to treat the premises for the purpose of controlling any termites;
- (e) maintain any brick, stone, mortar or cement work in a sound condition;
- (f) maintain, repair or replace any flashings or ant caps which are missing or defective;
- (g) maintain all ventilators in good order and repair;
- (h) maintain all floors even in surface and free from cracks;
- (i) maintain all ceilings, internal wall finishes, skirtings, architraves and other fixtures and fittings complete and with smooth unbroken surfaces;
- (j) maintain all doors and windows in good working order and weatherproof condition;
- (k) retain all natural lighting free from any obstruction which would reduce the natural lighting below the ratio of 10% of the floor area;

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- (l) maintain all pipes, fittings and fixtures connected with water supply, drainage or sewerage so that they comply with all aspects with the provisions of the *Water Services Act 2012* and any other legal requirements to which they are subject; and
- (m) maintain all electric wiring, gas services and fittings to comply in all respects with the requirements of Energy Safety WA.

3.1.2 Maintenance of guttering and downpipes and disposal of rainwater

The owner or occupier of a dwelling house shall –

- (a) maintain all guttering, downpipes and drains on the premises in a good state of repair, clean and free from obstruction; and
- (b) take all reasonable and practicable steps to prevent any rainwater from the premises to discharge onto or over a footpath, street or other property.

Division 2 – Ventilation of Dwelling Houses

3.2.1 Exemption for short term hostels and recreation campsites

This Division shall not apply to short term hostels and recreational campsites referred to in Part 8 of this local law.

3.2.2 Overcrowding

The owner or occupier of a dwelling house shall not permit –

- (a) a room in the dwelling house that is not a habitable room to be used for sleeping purposes; or
- (b) a habitable room in the dwelling house to be used for sleeping purposes unless –
 - (i) for every person over the age of 10 years using the room there is at least 14 cubic meters of air space per person; and
 - (ii) for every person between the ages of 1 and 10 years there is at least 8 cubic meters of air space per person; or
- (c) any garage or shed to be used for sleeping purposes.

3.2.3 Calculate sufficient space

For the purposes of clause 3.2.2, in calculating the space required for each area –

- (a) each room shall be considered separately and sufficient space shall be allowed in each room for the number of persons present in the room at any one time; and
- (b) a deduction shall be made for the space occupied by furniture, fittings and projections of the walls into a room.

3.2.4 Ventilation

- (1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house unless the dwelling house is properly ventilated.
- (2) For the purposes of subclause (1) a dwelling house shall be deemed to be properly ventilated if it complies with the Building Code, including the provision of –
 - (a) natural ventilation; or
 - (b) a mechanical ventilation or air-conditioning system with AS 1668.2:2012.
- (3) The owner of a dwelling house provided with a mechanical ventilation or air-conditioning system as its only or prime means of ventilation shall ensure that the system is –
 - (a) maintained in good working condition in accordance with AS/NZS 3666.2:2011 as amended from time to time; and
 - (b) in use at all times the building is occupied.
- (4) If, in the opinion of an Environmental Health Officer, a dwelling house is not properly ventilated, the local government may by notice require the owner of the dwelling house to –
 - (a) provide a different, or additional method of ventilations; or
 - (b) cease using the dwelling house until it is properly ventilated.

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- (5) The owner shall comply with a notice under subclause (4).

3.2.5 Sub-floor ventilation

The owner or occupier of a dwelling house with sub-floors shall make provisions for sub-floor ventilation by ensuring that air bricks and other openings are kept clear of refuse, vegetation, building materials, dirt, excessive moisture and the like.

Division 3 – Water Supply

3.3.1 Water supply

- (1) The owner of a dwelling house shall provide a continuous supply of potable drinking water obtained from –
- (a) a licensed water service operator;
 - (b) an underground bore;
 - (c) a rainwater storage system with a storage capacity to the satisfaction of the local government; and
- such supply shall be reticulated for use in connection with all sewerage and drainage fixtures.
- (2) The water supply shall at all times be capable of delivering an adequate supply of drinking water to each tap in the dwelling house.
- (3) The water supply to toilets or for garden use may be from a source other than drinking water that will not create a health hazard.

3.3.2 Rainwater tanks

- (1) The owner or occupier of a dwelling house for which part of the water supply is drawn from a rainwater tank shall –
- (a) maintain in a clean condition –
 - (i) the roof forming the catchment for the tank; and
 - (ii) the guttering and downpipes appurtenant to the roof;
 - (b) ensure that each rainwater tank is fitted with tight-fitting mosquito proof cover or be otherwise sealed to prevent mosquitoes entering the tank which shall not be removed at any time except for the purpose of cleaning, repairing or maintaining the tanks;
 - (c) thoroughly clean and disinfect each tank when appropriate, or when directed by an Environmental Health Officer to do so.
- (2) The owner or occupier of any non-residential premises in which rainwater and/ or bore water is used for human consumption shall –
- (a) once every calendar month, and prior to first use, have the bacterial quality of each individual water source tested in accordance with the Australian Drinking Water Guidelines 2011, as amended from time to time, published by the National Health and Medical Research Council;
 - (b) disinfect the water supply prior to entry into the premises and monitor and record the level of disinfection and pH of the water on a daily basis;
 - (c) where chlorine is used as the method of disinfection, ensure a free residual chlorine level of between 0.2 milligrams per litre and 0.5 milligram per litre in the water received from any outlet used for drinking purposes; and
 - (d) ensure the pH of the water received from any outlet used for drinking purposes is maintained between 7.2 and 7.8.

3.3.3 Bores and wells

The owner or occupier of any premises shall not use or permit for human consumption the use of the water of any bore or well unless the bore or well is –

- (a) at least 30 metres from any soak well or other possible source of pollution unless otherwise approved by the Executive Director, Public Health;

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- (b) covered with a tight-fitting cover without openings of any sort other than those essential for the insertion of a pump; and
- (c) tested in accordance with the Australian Drinking Water Guidelines 2011, as amended from time to time, published by the National Health and Medical Research Council, for bacterial and chemical quality, or as directed by an Environmental Health Officer.

3.3.4 Pollution

A person shall not deposit on or under any land, any sewage, offensive matter or any other thing which may pollute or render unfit for human consumption, water from a well or other underground source.

Division 4 – Second-hand Furniture, Bedding and Clothing

3.4.1 Prohibition on sale

A person shall not offer for sale or sell any second-hand furniture, bedding or clothing which is filthy or infested with vectors of disease.

3.4.2 Prohibition of possession

A dealer in second-hand furniture, bedding or clothing shall not have on any premises used for the operation of the business any second-hand furniture, bedding or clothing which is filthy or infested with vectors of disease.

Division 5 – Morgues

3.5.1 Licensing of morgues

- (1) All morgues, other than those of any public hospital or any local government morgues or police morgue, shall be licensed annually in accordance with the requirements of this Division.
- (2) The annual fee for a licence for a place for the temporary reception and keeping of bodies of the dead awaiting burial or cremation shall be the fee as fixed from time to time by the local government under Section 344C of the Act.
- (3) An application for a morgue licence shall be in the form set out in Schedule 8.
- (4) A licence shall -
 - (a) be in the form set out in Schedule 9; and
 - (b) expire on 30 June next after the date of its issue.
- (5) A licence shall not be granted in respect of any premises unless –
 - (a) provision has been made for the keeping of bodies of the dead at temperature not exceeding zero degrees Celsius;
 - (b) the walls are constructed of stone or brickwork or other approved materials;
 - (c) the interior surface of all walls is covered with glazed tiles or is rendered impervious so as to be non-absorbent and washable;
 - (d) all floors are constructed of impervious material, having a fall to an outlet discharging over a trapped gully;
 - (e) the premises are adequately ventilated by direct communication with the outside air.

PART 4 – WASTE FOOD AND REFUSE

Division 1 – Liquid Refuse

4.1.1 Interpretation

In this Division, unless the context otherwise requires –

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approved carrier means a carrier licensed under the *Environmental Protection (Controlled Waste) Regulations 2004*;

liquid refuse includes all washings from the commercial cleaning of vehicles, overflow, bleed off, condensate, and drainage from air conditioning equipment including cooling towers and evaporative coolers and other liquid used for cooling purposes and swimming pool discharges; and

liquid waste means bathroom, kitchen, scullery and laundry wastes, all washings from animal and poultry pens and any other domestic or trade wastes that are discharged by means of a drain to a receptacle for drainage.

4.1.2 Drainage of liquid refuse

A person shall not deposit or cause or permit to be deposited liquid refuse or liquid waste –

- (a) on a street;
- (b) in a stormwater disposal system; and
- (c) on any land or place other than a place or depot duly authorised for that purpose.

4.1.3 Disposal of liquid waste

- (1) The owner or occupier of premises shall –
 - (a) provide, by one of the methods prescribed in this clause, for the disposal of all liquid waste produced on the premises; and
 - (b) at all times maintain in good working order and condition any apparatus used for the disposal of liquid waste.
- (2) Liquid waste shall be disposed of by one of the following methods –
 - (a) discharging it into the sewerage system of a licensed water service operator in a manner approved by the licensed water service provider;
 - (b) discharging it into an apparatus for the treatment of sewage and disposal of effluent and liquid waste approved by the Executive Director, Public Health; or
 - (c) collection and disposal at an approved liquid waste disposal site in a manner approved by the Executive Director, Public Health.

4.1.4 Approval for septic tank pump outs and removal of liquid waste

A person shall not –

- (a) unless he or she is an approved carrier;
- (b) without the written approval of the local government; and
- (c) except in accordance with any terms and conditions imposed by the local government or the Executive Director, Public Health in connection with the approval under paragraph (b),

collect, remove or dispose of the contents of a septic tank, the pump outs from holding tanks or an apparatus for the treatment of sewage and other liquid wastes.

Division 2 – Disposal of Refuse

4.2.1 Interpretation

In this division, unless the context otherwise requires –

collection time, where used in connection with any premises, means the time when rubbish or refuse is collected and removed from the premises by the local government or its contractors;

public place includes a street, way or place which the public are allowed to use, whether street, way or place is or is not on private property;

receptacle, where used in connection with any premises, means –

- (a) a polyethylene or other approved material cart fitted with wheels, a handle and a lid and having a capacity of at least 240 litres; or
- (b) a container provided by the local government or its contractor for the deposit, collection and recycling of specific materials;

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refuse disposal site means land set apart by the local government under the Act as a site for the deposit of rubbish or refuse;

rubbish or refuse includes any filth, dirt, ashes, waste material, waste food, sludge, offensive matter, cinders, wood or metal shavings and sawdust but does not include liquid waste or liquid refuse;

street includes –

- (a) a highway;
- (b) a thoroughfare;

which the public are allowed to use and included every part of the highway or thoroughfare, and other things including bridges and culverts, appurtenant to it; and

street alignment means the boundary between the land comprising a street and the land that abuts thereon, but where a new street alignment is prescribed under the *Local Government (Miscellaneous Provisions) Act 1960*, means the new street alignment so prescribed.

4.2.2 Receptacles

An owner or occupier of premises shall –

- (a) except for a reasonable period before and after collection time, keep the receptacle on the premises and located –
 - (i) behind the street alignment and so as not be visible from a street or public place; or
 - (ii) in such other position as is approved by the local government;
- (b) within a reasonable period prior to collection time, place the receptacle in the street as close as practicable to the street alignment of the premises but so that it does not obstruct any footpath, cycle way, right-of-way or carriage way;
- (c) ensure that the premises is provided with an adequate number of receptacles and maintain the receptacles in a serviceable condition.

4.2.3 Exemption

- (1) An owner or occupier of premises may apply in writing to the local government for an exemption from compliance with the requirements of clause 4.2.2(b) and (c).
- (2) The local government may grant or refuse, with or without conditions, an application from exemption from compliance under this clause.
- (3) An exemption granted under this clause shall state –
 - (a) the premises to which the exemption applies;
 - (b) the period during which the exemption applies; and
 - (c) any conditions imposed by the local government.
- (4) The local government may rescind the exemption or from time to time vary conditions imposed by it under this clause by giving written notice of the variation to the person to whom the exemption was given.

4.2.4 Use of receptacles

An owner or occupier shall –

- (a) not deposit or permit to be deposited in a receptacle –
 - (i) more than 70 kilograms of rubbish or refuse;
 - (ii) hot or burning ashes;
 - (iii) oil, motor spirit or other flammable liquid;
 - (iv) liquid including liquid paint or other solvent;
 - (v) bricks, concrete, building rubble, earth or other like substances;
 - (vi) drugs, dressings, bandages, swabs or blood samples unless placed in a sealed impervious and leak-proof container;
 - (vii) hospital, medical, veterinary, laboratory or pathological substances containing blood unless placed in a sealed impervious leak-proof container;

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- (viii) syringes, needles, surgical hardware, broken glass, sharps or other sharp objects unless placed in a sealed impervious leak-proof and impenetrable container;
- (ix) cytotoxics, radioactive substances and dangerous chemicals;
- (x) sewage, manure, nightsoil, faeces or urine;
- (xi) any object which is greater in length, width, or breadth than the corresponding dimension of the receptacle or which will not allow the lid of the receptacle to be tightly closed;
- (xii) rubbish or refuse which is or is likely to become offensive or a nuisance, or give off an offensive or noxious odour, or to attract flies or cause fly breeding unless it is first wrapped in non-absorbent or impervious material or placed in a sealed impervious container; or
- (xiii) hazardous products including ammunition or flares;
- (b) take reasonable steps to keep the receptacle in a clean condition;
- (c) whenever directed to do so by an Environmental Health Officer, thoroughly clean, disinfect, deodorise and apply a residual insecticide to the receptacle;
- (d) take all reasonable steps to prevent –
 - (i) fly breeding and keep the receptacle free of flies, maggots, cockroaches, rodents and other vectors of disease; and
 - (ii) the emission of offensive and noxious odours from the receptacle; and
- (e) ensure that the receptacle does not cause a nuisance to the occupiers of adjoining premises.

4.2.5 Ownership of receptacles

- (1) A receptacle supplied by the local government or its contractor, remains the property of the local government or its contractor, as the case may be.
- (2) The owner or occupier of a premises supplied with a receptacle remains responsible for any rubbish or refuse placed or deposited in the receptacle until such time as it has been removed by local government or its contractor.

4.2.6 Damage to receptacles

A person, other than the local government or its contractor, shall not damage, destroy or interfere with a receptacle.

4.2.7 Use of other containers

- (1) In the case of premises consisting of more than 3 dwellings, any premises used for commercial or industrial purposes or as a food premises, the CEO may authorise rubbish or refuse to be deposited in a container other than a receptacle.
- (2) The owner or occupier of a premises who is authorised under this clause to deposit rubbish or refuse in a container shall –
 - (a) unless approved by the CEO, not deposit or permit to be deposited in the container anything specified in clause 4.2.4(a)(ii)-(xii);
 - (b) take all reasonable steps to prevent fly breeding in, and the emission of offensive or noxious odours from, the container;
 - (c) whenever directed by an Environmental Health Officer to do so, thoroughly clean, disinfect, deodorise and apply a residual insecticide to the container;
 - (d) cause the container to be located on the premises in an enclosure constructed and located as approved by the CEO;
 - (e) ensure that the container is not visible from the street but is readily accessible for the purpose of collection; and
 - (f) ensure that the container does not cause a nuisance to an occupier of adjoining premises.
- (3) An owner or occupier shall –
 - (a) provide a sufficient number of containers to contain all rubbish and refuse which accumulates or may accumulate in or from the premises;

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- (b) ensure that each container on the premises –
 - (i) has a close fitting lids; and
 - (ii) is constructed of non-absorbent and non-corrosive material;
- (c) keep or cause to be kept each container thoroughly clean and in good condition and repair;
- (d) place any rubbish or refuse in, and only in, a container marked for that purpose;
- (e) keep the cover on each container except when it is necessary to place something in, or remove something from it; and
- (f) ensure that the containers are emptied at least weekly or as directed by an Environmental Health Officer.

4.2.8 Suitable enclosure

- (1) An owner or occupier of premises –
 - (a) consisting of more than 3 dwelling that have not been provided with individual receptacles; or
 - (b) used for commercial, industrial, or as a food premises,shall, if required by the local government, provide a suitable enclosure for the storage and cleaning of receptacles on the premises.
- (2) An owner or occupier of premises required to provide a suitable enclosure under this clause shall keep the enclosure thoroughly clean and disinfected.
- (3) For the purposes of this clause, a “suitable enclosure” means an enclosure –
 - (a) a sufficient size to accommodate all receptacles used on the premises but in any event having a floor area not less than a size approved by the local government;
 - (b) constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness approved by the local government;
 - (c) having walls not less than 1.5 metres in height and having an access way of not less than 1 metre in width and fitted with a self-closing gate;
 - (d) containing a smooth, non-slip and impervious floor –
 - (i) of not less than 75 millimetres in thickness; and
 - (ii) which is evenly graded to an approved liquid refuse disposal system;
 - (e) which is easily accessible to allow for the removal of the receptacles; and
 - (f) provided with a tap connected to an adequate supply of water.

4.2.9 Building construction

- (1) During all periods of construction on any building site, the builder shall –
 - (a) when requested by an Environmental Health Officer, provide and maintain on such site a rubbish disposal bin, being either -
 - (i) a bin of not less than 4 cubic metres in capacity; or
 - (ii) a receptacle or other container approved by the CEO;
 - (b) keep such site free of rubbish and offensive matter; and
 - (c) maintain the street verge immediately adjacent to such site free of rubbish or offensive matter.
- (2) On completion of construction, the builder shall immediately clear the site and the adjacent street verge of all rubbish, waste materials and offensive matter and all rubbish bins provided by the builder.
- (3) In subclauses (1) and (2), “rubbish” includes all discarded stone, brick, lime, timber, metal, tiles, bags, plastics, and any broken, used, or discarded matter.

4.2.10 Deposit of refuse

- (1) A person shall not deposit or cause or permit to be deposited any rubbish or refuse in or on any street or on any land other than a refuse disposal site.
- (2) The driver of a vehicle, upon entering a refuse disposal site, shall present or display a current pass issued by the local government, to the attendant or person in charge of the site and shall not deposit any rubbish or refuse until authorised to do so by the attendant or person in charge.

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- (3) A person shall not deposit refuse or rubbish in or on a refuse disposal site except –
- (a) at such on the site as may be directed by the person in charge of the site; or
 - (b) if the person in charge is not in attendance at the site, as may be directed by a notice erected on the site.

4.2.11 Removal from refuse disposal site

- (1) A person shall not remove any rubbish or refuse from a refuse disposal site without the written approval of the local government.
- (2) A person who obtains approval from the local government shall comply with any conditions imposed by the local government and set out in the approval.

4.2.12 Removal of rubbish from premises or receptacle

- (1) A person shall not remove any rubbish or refuse from premises unless that person is –
- (a) the owner or occupier of the premises;
 - (b) authorised to do so by the owner or occupier of the premises; or
 - (c) authorised in writing to do so by the local government.
- (2) A person shall not, without the approval of the local government or the owner of a receptacle, remove any rubbish or refuse from the receptacle or other container provided for the use of the general public in a public place.

4.2.13 Burning or rubbish or refuse

- (1) A person shall not -
- (a) without the approval of the local government; and
 - (b) except in accordance with the terms and condition to which the approval is subject, set fire to, or cause to be set on fire, any rubbish or refuse either –
 - (i) in any incinerator; or
 - (ii) on the ground.
- (2) Subject to subclause (3), an approval of the local government is issued subject to the following conditions –
- (a) the material to be burnt –
 - (i) does not include any plastic, rubber, food scraps and other material which may become offensive when burnt; and
 - (ii) is of such quantity, or of such a nature, as to be unsuitable for removal by the local government’s refuse collection service; and
 - (b) there is no other appropriate means of disposal.
- (3) Burning shall not take place, unless approved by the local government, -
- (a) during any period for which an air dispersion alert for the area has been issued by the Bureau of Meteorology;
 - (b) where there is no current dispersion alert outside of the dwelling house between 10:00am to 3:00pm; or
 - (c) a Total Fire Ban has been declared by Department of Fire and Emergency Services.
- (4) An incinerator used for burning must meet the standards specified in AS 1875-1976; and
- (a) be located at least 3 metres from any boundary, building or inflammable matter; and
 - (b) in such a position so as not to create a nuisance or be offensive to other persons.
- (5) Notwithstanding, Part 3 of the *Bush Fires Act 1954* must be adhered to at all times and does not apply to approved bushfire fuel load reduction activities.

Division 3 – Transport of Butchers’ Waste

4.3.1 Interpretation

In this Division, unless the context otherwise requires –

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butchers' waste includes animal skeletons and rib cages from a boning room and the inedible products from an abattoir.

4.3.2 Restriction of vehicles

A person shall not use, for the transport of butcher' waste –

- (a) a vehicle or container other than a vehicle or container which meets the requirements of clause 4.3.3;
- (b) a vehicle used for the transport of food or drugs; or
- (c) anything intended to be used for the packing or handling of food or drugs.

4.3.3 Transport of butchers' waste

- (1) A person shall not transport butchers' waste otherwise than in –
 - (a) a compartment complying with the following specifications –
 - (i) all internal surfaces to be constructed of an approved, smooth, impervious material not less than 910 millimetres high;
 - (ii) all joints to be sealed and made watertight;
 - (iii) the loading door, if any, to be water-tight and kept closed at all times except when loading; and
 - (iv) the top to be completely covered by a tarpaulin or other impervious sheet material approved by an Environmental Health Officer, carried over, and secured to the outside of the walls at least 300 millimetres from the top so as to keep the load out of sight of the public;
 - (b) a water-tight metal container fitted with a lid which can be tightly closed.
- (2) A person shall not transport any butchers' waste in a vehicle unless the vehicle and its fittings, including the compartment or container referred to in this clause, are –
 - (a) maintained in good working order and condition; and
 - (b) thoroughly cleaned at the conclusion of each day's work.
- (3) A person shall not load, transport, or unload butchers' waste in a manner that is or may be offensive due to –
 - (a) the sight of animal skeletons, bones, offal, or waste matter;
 - (b) the odour of putrefaction, offal or waste matter; or
 - (c) the presence of blood and particles of flesh or fat dropping onto the surface of the street pavement or ground.

PART 5 – NUISANCES AND GENERAL

Division 1 – Nuisances

5.1.1 Interpretation

In this division, unless the context otherwise requires –

fertiliser includes manure; and

public vehicle means any vehicle to which the public ordinarily has access, whether by payment of a fee or not and includes a taxi or bus.

5.1.2 Footpaths etc. to be kept clean

An owner or occupier of premises shall take reasonable steps to keep any footpath, pavement, area or right of way immediately adjacent to the premises, clear of any rubbish, matter or other things coming from or belonging to the premises.

5.1.3 Escape of smoke etc.

An owner or occupier shall take reasonable steps to not cause or permit the escape of smoke, dust, sand, fumes, offensive or foul odours, liquid waste or liquid refuse from the premises in such quantity or of such a nature as to cause or to be a nuisance.

5.1.4 Public vehicles to be kept clean

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The owner or person in control of a public vehicle shall –

- (a) maintain the vehicle at all time –
 - (i) in a clean condition; and
 - (ii) free from vectors of disease; and
- (b) whenever directed to do so by an Environmental Health Officer, thoroughly clean and disinfect the vehicle as directed.

5.1.5 Transportation, use and storage of offal or blood

A person shall not transport or store offal or blood, for the purpose of being used as manure, unless it has been sterilised by steam and properly dried.

5.1.6 Use or storage of fertiliser

An owner or occupier of premises shall not use or keep for the purpose of use, as fertiliser any –

- (a) pig manure;
- (b) human faeces; or
- (c) urine.

5.1.7 Storage and dispatch of artificial fertiliser

An owner or occupier of premises where artificial fertiliser is stored in bulk for sale shall –

- (a) keep all artificial fertiliser in a building -
 - (i) of which all internal surfaces are constructed of durable and non-absorbent materials finished internally with a smooth surface;
 - (ii) that protects it from the absorption of moisture;
 - (iii) that is adequately ventilated;
- (b) take proper precautions to prevent the emissions of dust or offensive effluvia from the building; and
- (c) ensure that all artificial fertiliser dispatched from the premises is packed in such a manner as to prevent any nuisance arising during transit.

5.1.8 Storage of fertiliser in a dwelling house

The owner or occupier of a dwelling house where fertiliser or compost is stored or used shall –

- (a) prevent the escape of odours, dust or particles of fertiliser or compost;
- (b) treat the fertiliser or compost in such a manner as to effectively prevent it attracting or being a breeding place for flies or other vectors of disease; and
- (c) store only such amounts of fertiliser or compost –
 - (i) as can be readily used within a reasonable period; or
 - (ii) as may be directed by an Environmental Health Officer.

Division 2 – Keeping of Animals and Birds

5.2.1 Interpretation

In this Division, unless the context otherwise requires –

animal includes cats, dogs, rabbits and ferrets; and

bird includes galahs, parrots, budgerigars, finches, pigeons and doves and other domesticated birds.

5.2.2 Cleanliness

An owner or occupier of premises in or on which an animal or bird is kept shall –

- (a) keep the premises free of excrement, filth, food waste and all other matter which is or is likely to become offensive or injurious to health or to attract rats or other vectors of disease;

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- (b) when so directed by an Environmental Health Officer, clean and disinfect the premises;
- (c) keep the premises, so far from flies or other vectors of disease by spraying with a residual insecticide or other effective means; and
- (d) ensure the animal or bird kept is not causing a nuisance or is injurious, offensive or dangerous to health.

5.2.3 Animal enclosures

- (1) A person shall not keep or cause or permit to be kept any animals or birds on premises which are not effectively drained.
- (2) The owner or occupier of premises, where animals or birds are kept shall, when directed by an Environmental Health Officer, pave, grade and drain the floors of all structures and the surface of the ground of all enclosures used for the keeping of animals and birds.

5.2.4 Slaughter of animals

- (1) Subject to subclause (2), a person, unless exempted under the Regulation 20 of the *Food Regulations 2009*, shall not slaughter any animal within the district.
- (2) Subclause (1) does not apply to –
 - (a) euthanasia of animals by veterinarians or other duly authorised persons;
 - (b) farmers, pastoralists and the like who slaughter for their own consumption;
 - (c) slaughter of animals for the purposes of pet meat and game meat operations; and
 - (d) slaughter of animals for human consumption in abattoirs approved by the local government.

5.2.5 Disposal of dead animals

- (1) An owner or occupier of premises, other than a veterinary practise, on which there is a dead animal shall immediately remove the carcass as soon as possible, for its disposal at a local government approved disposal site.
- (2) An owner or operator of a veterinary practice where dead animals are kept for more than 12 hours shall refrigerate the carcasses prior to their removal and disposal, at a local government approved disposal site.
- (3) An owner, or a person having the care of any animal that dies or is killed in a public or private place shall, as soon as possible, remove the carcass and arrange for its disposal at an approved disposal site, except where it may be buried on broadacre farmland by the owner or occupier.

Division 3 – Keeping of Large Animals

5.3.1 Interpretation

In this Division, unless the context otherwise requires –
cow includes an ox, calf or bull;
horse includes an ass, mule, donkey or pony; and
large animal includes an alpaca, cow, horse, sheep, goat, pig, deer, camel, llama, emu, ostrich, kangaroo or the like.

5.3.2 Keeping of pigs

An owner or occupier of premises within a townsite shall not keep a pig.

5.3.3 Keeping of large animals and provision of stables

- (1) An owner or occupier of premises within a townsite shall –

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- (a) keep large animals in a manner so as not to create a nuisance and in this respect the local government may limit or vary the number of large animals that may be kept on an allotment;
 - (b) not keep a horse or cow on those premises without the written approval of the local government and such approval notice shall prescribe the number of horses or cows permitted to be kept; and
 - (c) not keep a horse or cow on an allotment of less than 2000m² save that local government may, at its discretion, waive strict compliance with this requirement with respect to any stable in existence prior to the day of this clause coming into force.
- (2) Subject to subclause (3) an owner or occupier of premises shall not permit a large animal to be kept within 15 metres of a dwelling house.
- (3) Local government may permit the keeping of native animals within 15 metres of a dwelling house, if it is satisfied the keeping of such animal(s) would not adversely affect the health or amenity of residents in the area.
- (4) An owner or occupier of premises who is required to and has obtained approval to keep a horse shall provide for its use a stable which shall –
- (a) not be situated within 15 metres of a dwelling house or other premises;
 - (b) have a proper separate stall for each horse or cow and the floor area of which shall be a minimum of 11 square metres;
 - (c) have each wall and roof constructed of an impervious material;
 - (d) have on all sides of the building between the wall and the roof a clear opening of at least 150 millimetres in height; and
 - (e) subject to subclause (3), have a floor, the upper surface of which shall –
 - (i) be raised at least 75 millimetres above the surface of the ground;
 - (ii) be constructed of approved material; and when required
 - (iii) have a fall of 1 in 100 to a drain which shall empty in a trapped gully outside the stable and shall discharge in a manner approved by the local government.
- (5) The construction of any stable with a sand floor may be permitted by local government, subject to the following conditions -
- (a) the site must be well drained with the highest known water table no closer than 1.5 metres off the ground or sand floor level, which may be achieved artificially;
 - (b) whether natural or imported sand, it must be clean, coarse and free of dust;
 - (c) footings to each stable shall be a minimum of 450mm below ground level;
 - (d) the stable design must allow for the access of small machinery, such a bobcat, into each individual stall to maintain the correct floor height;
 - (e) the minimum floor area of each stall shall not be less than 28 metres and wall shall not be less than 50% of the floor area; and
 - (f) in all other respects, subclause (2) shall apply to the stable building.
- (6) The owner or occupier of premises on which a stable is located shall –
- (a) maintain the stable in a clean condition and clean, wash and disinfect it when so directed by an Environmental Health Officer;
 - (b) keep all parts of the stable so far as possible free from flies or other vectors of disease by spraying a residual insecticide or other effective means; and
 - (c) when so ordered by an Environmental Health Officer, spray the stable or such parts as may be directed, with a residual insecticide.
- (7) In areas other than residential areas, the local government may vary the requirements to provide a stable.

5.3.4 Manure receptacle

An owner or occupier of premises on which an approved animal is kept shall –

- (a) provide in a position convenient to the stable a receptacle for manure, constructed of smooth, impervious, durable material that is easily cleanable and provided with a

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tight-fitting cover, and with no part of the receptacle base being lower than the adjoining ground;

- (b) keep the lid of the receptacle closed except when manure is being deposited or removed;
- (c) cause the receptacle to be emptied at least once a week and as often as may be necessary to prevent it becoming offensive or a breeding place for flies or other vectors of disease;
- (d) keep the receptacle so far as possible free from flies or other vectors of disease by spraying with a residual insecticide or other effective means; and
- (e) cause all manure produced on the premises to be collected daily and placed in the receptacle.

Division 4 – Keeping of Poultry and Pigeons

5.4.1 Interpretation

In this Division, unless the context otherwise requires –

affiliated person means any person who is a member of –

- (a) The Pigeon Racing Federation of Western Australia;
 - (b) The Fancy Utility Pigeon Club of Western Australia; or
 - (c) any other properly constituted Pigeon Club, Bantam Club and the like; and
- poultry** includes fowls, peafowls, turkeys, geese, ducks and other domestic fowls.

5.4.2 Limitation on numbers of poultry

An owner or occupier of premises within a townsite shall not keep a combined total of more than 6 poultry without the approval of local government, on any one lot of land.

5.4.3 Conditions of keeping poultry in limited numbers

A person who keeps poultry or permits poultry to be kept shall ensure that –

- (a) no poultry is able to approach within 15 metres of a dwelling house, public building or premises where people are employed or where food is stored, prepared, manufactured or sold;
- (b) all poultry is kept in properly constructed and securely fastened structure or enclosure;
- (c) the structure or enclosure is in the yard having an otherwise obstructed area of at least 30 square metres;
- (d) all enclosure or cages within which poultry are kept shall be maintained at all times in a clean condition and shall be disinfected or otherwise dealt with in a way as directed by an Environmental Health Officer; and
- (e) no poultry is able to approach within 1 metre of boundary of the premises.

5.4.4 Keeping of poultry within a townsite

- (1) An owner or occupier of premises within a townsite, shall not without the written approval of the local government, keep or permit to be kept on those premises, any one or more of the following fowl –
 - (a) a goose or gander;
 - (b) a turkey;
 - (c) a peacock or peahen; or
 - (d) a gamebird (includes emus and ostriches).
- (2) The local government may upon written application, grant approval with or without conditions to the owner or occupier of premises to keep any one or more birds as specified in subclause (1).
- (3) A person who has been granted approval under this clause to keep a bird may keep the bird on the premises only while he is the occupier thereof.

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- (4) The local government may revoke an approval granted under this clause if it is of the opinion that the keeping of birds specified in the approval is causing a nuisance or is injurious, offensive or dangerous to health.

5.4.5 Roosters

- (1) An owner or occupier of premises shall not –
- (a) without the written approval of the local government; or
 - (b) except in accordance with any conditions imposed by the local government in connection with the approval under paragraph (a), or
- keep or permit a rooster to be kept on the premises.
- (2) The local government may, upon written application, grant approval with or without conditions to the owner or occupier of premises to keep on the premises a specified number of roosters.

5.4.6 Pigeons or doves

- (1) A person who keeps, or permits to be kept, pigeons or doves shall ensure that –
- (a) none is able to approach within 15 metres of a dwelling, public building or premises where people are employed or where food is stored, prepared, manufactured or sold; and
 - (b) except where registered homing pigeons are freed for exercise, the pigeons or doves are kept in properly constructed pigeon lofts or dovecote that –
 - (i) is in a yard having an otherwise unobstructed area of at least 30 metres; and
 - (ii) is maintained in such a manner as not to create a nuisance by emission of dust, effluvia or odours.
 - (c) where pigeons are kept in accordance with the Code of Practice – and where there is any inconsistency with this local law and the Code of Practice, the provisions of this local law shall prevail.
- (2) An owner or occupier of a premises in prescribed areas -
- (a) who is not an Affiliated Person, shall not keep a combined total of more than 6 pigeons or doves; and
 - (b) who is an Affiliated Person, shall not keep a combined total of more than 20 pigeons or doves.

5.4.7 Removal of non-conforming structures or enclosures

- (1) If a structure or enclosure is used for the keeping of poultry or pigeons or doves contrary to the provision of clause 5.4.3 and 5.4.6, the local government may direct the owner or occupier to remove it.
- (2) An owner or occupier shall comply with a direction from the local government under this clause.

5.4.8 Restrictions on pigeons and swallows nesting or perching

- (1) The local government may order an owner or occupier of a residential, industrial or commercial property in or on which pigeons and swallows are, or are in the habit of, nesting or perching to take adequate steps to prevent them continuing to do so.
- (2) An owner or occupier shall comply with the local government order under this clause.

Division 5 – Car Parks

5.5.1 Interpretation

In this division, unless the context otherwise requires –

car parks means premises, or part of premises, set aside for temporary parking or 3 or more vehicles; and

occupier means a person having charge, management or control of a car park.

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5.5.2 Ventilation

- (1) A person shall not use or occupy, or permit to be used or occupied, a car park unless it is ventilated by either –
 - (a) natural ventilation; or
 - (b) mechanical ventilation,
in accordance with AS1688.2 – 2002 as amended from time to time.
- (2) If, in the opinion of the local government, a car park is not properly ventilated, the local government may by notice require the occupier within a specified time to –
 - (a) provide a different or additional method of ventilation; and
 - (b) cease using the car park until it is properly ventilated.
- (3) An occupier shall comply with a notice under subclause (2).

5.5.3 Exhaust air discharge points and exhaust registers

An owner or occupier shall ensure that –

- (a) all exhaust air that is discharged from a car park shall be discharged
 - (i) at discharge points
 - (A) in accordance with AS1688.2 – 2002 as amended from time to time; and
 - (B) located so that the hourly average exhaust flow rate is not reduced below the minimum requirements of AS1688.2 – 2002 as amended from time to time.
 - (ii) at a velocity and in a direction so as not to be a danger to health or a nuisance.
- (b) exhaust registers are located as far as possible from the source of supply air;
- (c) in the case of a car park having a floor level below that of the external ground level, at least 50% of the required air is drawn into exhaust registers having their bottom edge located within 100 millimetres of the floor level; and
- (d) any mechanical ventilation is –
 - (i) maintained in good working condition; and
 - (ii) in operation at all times when the car park is in use.

PART 6 – PEST CONTROL

Division 1 – Flies

6.1.1 Interpretation

In this division, unless the context otherwise requires –

flies means any of the two-winged insects constituting the order Diptera commonly known as flies.

6.1.2 Fly breeding matter not to be left on premises unless covered or treated

An owner or occupier of premises shall not place, throw or leave, or permit or cause to be placed, thrown or left in, on or about the premises any matter or thing which is liable to attract or be a breeding place for flies, unless the matter or thing is covered, protected, treated or dealt with in such a manner as to effectively prevent it from attracting or being a breeding place for flies.

6.1.3 Measures to be taken by an occupier

An owner or occupier of premises shall ensure that –

- (a) rubbish receptacles are kept clean and tightly sealed at all times except when refuse is being deposited or emptied;
- (b) food scraps and uneaten pet food are wrapped tightly and deposited in a rubbish receptacle without delay;
- (c) lawn clippings used on gardens as mulch are raked thinly out;
- (d) fertilisers are dug well into soil
- (e) compost heaps are kept well covered;

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- (f) barbecues are kept clean and free from food scraps;
- (g) anything that is buried and may attract or be a breeding place for flies is covered with at least 100 millimetres of soil; and
- (h) excrement from pets is collected and properly disposed of without delay.

6.1.4 Officer may give notice directing measures to be taken

Where in the opinion of an Environmental Health Officer, flies are prevalent or are breeding on any premises, the Environmental Health Officer may give to the owner or occupier notice in writing directing him or her to take, within the time specified in the notice, such measures as in the opinion of the Environmental Health Officer are necessary to –

- (a) control the prevalence;
- (b) effect the eradication; or
- (c) effectively prevent the breeding of flies.

6.1.5 Local government may execute work and recover costs

- (1) Where -
 - (a) a person is required under this Division or directed by a notice under clause 6.1.4, to execute any work; and
 - (b) that person fails or neglects to comply with the requirement, the local government may execute the work and recover from the person the cost of executing the work, in addition to any penalty for which that person may be liable under this local law.
- (2) The costs and expenses incurred by the local government in the execution of a power under subclause (1) may be recovered in a court of competent jurisdiction from the person referred to in subclause (1).
- (3) The local government shall not be liable to pay compensation or damages of any kind to the person referred to in subclause (1) in relation to any action taken by the local government under this clause.

Division 2 – Mosquitoes

6.2.1 Interpretation

In the Division, unless the context otherwise requires –
mosquitoes means any of the two-winged insects constituting the family Diptera Culicidae commonly known as mosquitoes.

6.2.2 Premises to be kept free of mosquito breeding matter

An owner or occupier of premises shall keep the premises free of –

- (a) refuse; and
- (b) water located as to be, liable to become the breeding place of mosquitoes.

6.2.3 Measures to be taken to prevent mosquito breeding

- (1) An owner or occupier of premises shall ensure that the premises is kept free from possible mosquito breeding sites and shall –
 - (a) follow any direction of an Environmental Health Officer for the purpose of
 - (i) controlling the prevalence of mosquitoes;
 - (ii) eradication; or
 - (iii) effectively preventing the breeding of mosquitoes.
 - (b) assist the Environmental Health Officer to locate any possible mosquito breeding sites that may be present in or about the premises.
- (2) An owner or occupier of premises where water is kept in a horse trough, poultry drinking vessel or other receptacle shall –
 - (a) frequently change the water; and

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- (b) keep the water clean and free from vegetable matter and slime.
- (3) An owner or occupier of premises where a septic tank is installed shall ensure the fixture is in sound condition at all times, and mesh having openings no larger than 1.2mm covers any educt vent to the system.
- (4) An owner or occupier of land shall cause all drains and channels in or on the land to be kept in good order and free from obstruction.

6.2.4 Local government may execute and recover costs

- (1) Where –
 - (a) a person is required under this division or directed by a notice under 6.2.2 to execute any work; and
 - (b) that person fails or neglects to comply with the requirement;the local government may execute the work and recover from that person the cost of executing the work, in addition to any penalty for which that person may be liable.
- (2) The costs and expenses incurred by the local government in the execution of a power under subclause (1) may be recovered in a court of competent jurisdiction from that person.
- (3) The local government shall not be liable to pay compensation or damages of any kind to the person referred to in subclause (1) in relation to any action taken by the local government.

Division 3 – Rodents

6.3.1 Interpretation

In this division, unless the context otherwise requires –
rodents means those animals belonging to the order Rodentia and includes rats and mice but does not include animals (other than rats) kept as pets in an enclosure designed for the purpose of keeping as pet animals of that kind.

6.3.2 Measures to be taken to eradicate rodents

- (1) An owner or occupier of premises shall at all times take effective measures to eradicate any rodents in or on the premises.
- (2) An Environmental Health Officer may direct, orally or in writing, an owner or occupier of premises to take whatever action, in the opinion of the Environmental Health Officer, is necessary or desirable to prevent or deter the presence of rodents in or on the premises.
- (3) An owner or occupier shall within the time specified comply with any direction given by an Environmental Health Officer under this clause.

6.3.3 Food and wastes to be kept in rodent proof receptacles

A person shall not place or caused to be placed in or on any premises, and an owner or occupier of premises shall not permit to remain in or on the premises -

- (a) any waste food, refuse, or other waste matter which might attract rodents to the premises or which might afford harbourage for rodents; or
 - (b) any food intended for birds or other animals,
- unless it is contained in a rodent proof receptacle or a compartment which is kept effectively protected against access by rodents.

6.3.4 Restrictions on the keeping of rats

A person or body which keeps rodents shall –

- (a) at all times ensure that all live rodents are kept in the effective control of a person or locked in cages;

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- (b) if a rodent escapes, forthwith comply with the requirements of clause 6.3.2 and ensure that all reasonable steps are taken to destroy or recapture the rodent; and
- (c) not keep a combined total of more than 6 rats at any one time.

6.3.5 Food Premises etc. to be cleaned after use

An owner or occupier of a food premises, theatre or place of entertainment, whether indoor or outdoor, shall cause the premises to be cleaned immediately after the last occasion on which the premises has been used on that day, or, if the use extends after midnight, then immediately after that use.

Division 4 – Cockroaches

6.4.1 Interpretation

In this division, unless the context otherwise requires –
cockroach means any of the various orthopterous insects commonly known as cockroaches.

6.4.2 Measures to be taken to eradicate cockroaches

- (1) An owner or occupier of premises shall take effective measures to eradicate any cockroaches in or on the premises.
- (2) An Environmental Health Officer may direct, orally or in writing, an owner or occupier of premises to take whatever actions that, in the opinion of the Environmental Health Officer, is necessary or desirable to prevent or deter the presence of cockroaches in or on the premises.
- (3) An owner or occupier shall within the specified time comply with any direction given by an Environmental Health Officer under this clause.

Division 5 – Argentine Ants

6.5.1 Interpretation

In this division, unless the context otherwise requires –
Argentine Ants means an ant belonging to the species *Irdomyrmex humilis*.

6.5.2 Measures to be taken to keep premises free from Argentine ants

An owner or occupier of premises shall ensure that premise are kept free from Argentine Ants colonies and shall –

- (a) take all steps to locate any nests, if Argentine Ants are noticed in, on or about the premises;
- (b) properly treat all nests of Argentine Ants with an approved residual based insecticide; and
- (c) whenever directed by an Environmental Health Officer –
 - (i) treat any area or infestation with an insecticide referred to in paragraph (b); and
 - (ii) remove any objects, including timber, firewood, compost or pot plants in accordance with a direction from the Environmental Health Officer.

Division 6 – European Wasps

6.6.1 Interpretation

In this division, unless the context otherwise requires –
European Wasps means a wasp *Vespula germanica*.

6.6.2 Measures to be taken to keep premises free from European Wasp nests

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An owner or occupier of premises shall ensure that the premises are kept free from European Wasp nests and shall –

- (a) follow any direction of an Environmental Health Officer for the purpose of destroying the wasps and their nest; and
- (b) assist an Environmental Health Officer to trace any nest that may be present in, on or about the premises.

Division 7 – Bee Keeping

6.7.1 Interpretation

In this division, unless the context otherwise requires –

bees means an insect belonging to any of the various hymenopterous insects of the super family Apoidea and commonly known as a bee;

footpath includes a path used by, or set aside or intended for use by, pedestrians, cyclists or both pedestrians and cyclists;

hive means a moveable or fixed structure, container or object in which a colony of bees is kept;

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

private street has the meaning given to it by the *Local Government (Miscellaneous Provisions) Act 1960*.

6.7.2 Limitation on number of hives

- (1) A person shall not keep or permit the keeping of bees except on a lot in accordance with this division.
- (2) Subject to subclauses (3) and (4), a person shall not keep or permit the keeping of bees in more than 2 hives on a lot.
- (3) The local government may, upon written application, consent, with or without conditions, to a person keeping bees in more than 2 hives on a lot which is not zoned for residential purposes.
- (4) A person shall comply with any conditions imposed by the local government under subclause (3).

6.7.3 Restrictions on keeping of bees in hives

A person shall not keep or permit the keeping of bees in a hive on a lot unless, at all times –

- (a) an adequate and permanent supply of water is supplied on the lot within 10 metres of the hives;
- (b) the hive is kept –
 - (i) outside, and at least 10 metres from, any building other than a fence;
 - (ii) at least 10 metres from any footpath, street, private street or public place; and
 - (iii) at least 5 metres from the boundary of the lot; and
- (c) the hive is enclosed on all sides by a fence, wall or other enclosure.

6.7.4 Bees which cause a nuisance are not to be kept

- (1) A person shall not keep, or permit the keeping of, bees which cause a nuisance.
- (2) If, in the opinion of an Environmental Health Officer, the approved hives are causing a nuisance, the local government may direct any bees or approved hives to be removed.
- (3) A person shall comply with a direction within the time specified.

Division 8 – Arthropod Vectors of Disease

6.8.1 Interpretation

In this division, unless the context otherwise requires –

arthropod vectors of disease includes –

- (a) fleas (Siphonaptera);

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- (b) bedbugs (*Cimex lectularius*);
- (c) crab lice (*Phthirus pubis*);
- (d) body lice (*Pediculus humanus var. corporis*);
- (e) head lice (*Pediculus humanus var. capitis*); and
- (f) any other insect prescribed by the local government.

6.8.2 Responsibility of the owner or occupier

The owner or occupier of premises shall –

- (a) keep the premises and any person residing in or on the premises free from any vectors of disease; and
- (b) comply with the direction of an Environmental Health Officer to treat the premises, or anything on the premises, for the purposes of destroying any vectors of disease.

PART 7 – INFECTIOUS DISEASES

Division 1 – General Provisions

7.1.1 Requirement for an owner or occupier to clean, disinfect and disinfest

- (1) The local government or an Environmental Health Officer may, by notice in writing, direct an owner or occupier of premises, within the time and in the manner specified in the notice, to clean, disinfect and disinfest –
 - (a) the premises; or
 - (b) such things in or on the premises as are specified in the notice, or both, to the satisfaction of an Environmental Health Officer.
- (2) An owner or occupier shall comply with a notice given under subclause (1).

7.1.2 Environmental Health Officers may disinfect or disinfest premises

- (1) Where the local government or the Medical Officer is satisfied that any case of infectious disease has occurred on any premises, the local government or the Medical Officer may direct an Environmental Health Officer, other local government officer or other person to disinfect and disinfest the premises or any part of the premises and anything in or on the premises.
- (2) An owner or occupier shall permit, and provide access to enable, an Environmental Health Officer, other local government officer or other person to carry out the direction given under subclause (1).
- (3) The local government may recover, in a court of competent jurisdiction, the cost of carrying out the work under this clause from the owner or occupier of the premises in or on which the work was carried out.
- (4) The local government shall not be liable to pay compensation or damages of any kind to the owner or occupier of premises in relation to any action taken by the local government or any of its staff or employees under this clause.

7.1.3 Insanitary dwelling houses, premises and things

- (1) An owner or occupier of any dwelling house or premises shall maintain the dwelling house or premises free from any insanitary condition or thing.
- (2) Where an Environmental Health Officer considers that a dwelling house is insanitary, the officer may, by notice in writing, direct an owner of the dwelling house, within the time and in the manner specified in the notice, to amend the dwelling house.
- (3) Where an Environmental Health Officer considers that –
 - (a) a dwelling house or premises is not being maintained in a sanitary condition; or
 - (b) any thing is insanitary,the officer may, by notice in writing, direct, as the case may be –
 - (i) the owner or occupier of the dwelling house or premises to amend any insanitary condition; or

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- (ii) the owner or occupier of the thing to destroy or amend it, within the time and in the manner specified in the notice.
- (4) A person to whom a notice has been given under subclauses (2) or (3) shall comply with the terms of the notice.

7.1.4 Medical Officer may authorise disinfecting

- (1) Where the Medical Officer believes that a person is or may be infected by an infectious disease, the Officer may direct the person to have his or her body, clothing and effects disinfected at a place and manner directed by the Medical Officer.
- (2) A person shall comply with any direction of the Medical Officer under this clause.

7.1.5 Persons in contact with an infectious disease sufferer

If a person in any dwelling house is, or is suspected of, suffering from an infectious disease, any occupant of the dwelling house or any person who enters or leaves the dwelling house –

- (a) shall obey such instructions or directions as the local government or the Medical Officer may issue;
- (b) may be removed, at the direction of the local government or the Medical Officer to isolation in an appropriate place to prevent or minimise the risk of the infection spreading and if so removed, shall remain in that place until the Medical Officer otherwise directs.

7.1.6 Declaration of infected dwelling house or premises

- (1) To prevent or check the spread of infectious disease, the local government or the Medical Officer may from time to time declare any dwelling house or premises to be infected.
- (2) A person shall not enter or leave any dwelling house or premises declared to be infected without the written consent of the Medical Officer or an Environmental Health Officer.

7.1.7 Destruction of infected animals

- (1) An Environmental Health Officer, upon being satisfied that an animal is or may be infected or is liable to be infected or to convey infection may, by notice in writing, direct that the animal be examined by a registered veterinary officer and all steps taken to enable the condition to be controlled or eradicated or the animals destroyed and disposed of –
 - (a) in the manner and within the time specified in the notice; and
 - (b) by the person in whose possession, or upon whose premises, the animal is located.
- (2) A person who has in his or her possession or upon premises occupied by him or her, an animal which is the subject of a notice under subclause (1) shall comply with the terms of the notice.

7.1.8 Disposal of a body

- (1) An occupier of premises in or on which is located the body of a person who has died of an infectious disease shall, subject to subclause (2), cause the body to be buried or disposed of in such a manner, within such time and with such precautions as may be directed by the Medical Officer.
- (2) A body shall not be removed from premises where death occurred except to a cemetery or morgue.

7.1.9 Local government may carry out work and recover costs

- (1) Where –
 - (a) a person is required under this division or by a notice given under this division, to carry out any work; and
 - (b) that person fails or neglects to comply with the requirement,

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that person commits an offence and the local government may carry out the work or arrange for the work to be carried out by another.

- (2) The costs and expenses incurred by the local government in the execution of a power under this clause may be recovered in a court of competent jurisdiction from the persons referred to in subclause (1).
- (3) The local government shall not be liable to pay compensation or damaged of any kind to the person referred to in subclause (1) in relation to any action taken by the local government under this clause.

Division 2 – Disposal of used condoms and needles

7.2.1 Disposal of used condoms

- (1) An occupier of premises on or from which used condoms are produced shall ensure that the condoms are –
 - (a) placed in a sealed impervious container and disposed of in a sanitary manner;
or
 - (b) disposed of in such a manner as may be directed by the local government.
- (2) A person shall not dispose of a used condom in a public place except in accordance with subclause (1).

7.2.2 Disposal of used needles

A person shall not dispose of a used hypodermic syringe or needle in a public place unless it is placed in an impenetrable, leak-proof container and deposited in a refuse receptacle.

PART 8 – LODGING HOUSES

Division 1 – Registration

8.1.1 Interpretation

- (1) In this Part, unless the context otherwise requires –
 - bed** means a single sleeping berth only. A double bed provided for the use of couples, shall have the same floor space requirements as two single beds;
 - bunk** means a sleeping berth comprising one of two arranged vertically;
 - dormitory** means a building or room utilised for sleeping purposes at a short term hostel or recreational campsite;
 - keeper** means a person whose name appears on the register of keepers, in respect of a lodging house, as the keeper of that lodging house;
 - lodging house** as defined in the Act and includes a recreational campsite, a serviced apartment and a short term hostel;
 - manager** means a person duly appointed by the keeper in accordance with this division to reside in, and have the care and management of, a lodging house;
 - recreational campsite** means a lodging house –
 - (a) situated on a campsite principally used for –
 - (i) recreational, sporting, religious, ethnic or educational pursuits; or
 - (ii) conferences or conventions; and
 - (b) where the period of occupancy of any lodger is not more than 14 consecutive days, and includes youth camps, youth education camps, church camps and riding schoolsbut does not include a camp or caravan within the meaning of the *Caravan Parks and Camping Grounds Act 1995*;
 - register of keepers** means the register kept in accordance with Section 147 of the Act and this Part;
 - register of lodgers** means the register kept in accordance with Section 157 of the Act and this Part;

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resident means a person, other than a lodger, who resides in a lodging house;

serviced apartment means a lodging house in which each sleeping apartment, or group of sleeping apartments in common occupancy, is provided with its own sanitary conveniences and may have its own cooking facilities;

short term hostel means a lodging house where the period of occupancy of any lodger is not more than 14 consecutive days and shall include youth hostels and backpackers hostels; and

vectors of disease means an arthropod or rodent that transmits, by biological or mechanical means, an infectious agent from a source or reservoir to a person, and includes fleas, bedbugs, crab lice, body lice and head lice.

- (2) Where in this Part an act is required to be done or forbidden to be done in relation to any lodging house, the keeper of the lodging house has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.

8.1.2 Lodging house not to be kept unless registered

A person shall not keep or cause, suffer or permit to be kept a lodging house unless –

- (a) the lodging house is constructed in accordance with the requirements of this Part;
- (b) the lodging house is registered by the local government under clause 8.1.4;
- (c) the name of the person keeping or proposing to keep the lodging house is entered in the register of keepers; and
- (d) either –
 - (i) the keeper; or
 - (ii) a manager who, with the written approval by an Environmental Health Officer, has been appointed by the keeper to have the care and management of the lodging house;

resides or intends to reside continuously in the lodging house whenever there is one or more lodgers in the lodging house.

8.1.3 Application for registration

An application for registration of a lodging house shall be –

- (a) in the form prescribed in Schedule 1;
- (b) duly completed and signed by the proposed keeper; and
- (c) accompanied by –
 - (i) the fee as fixed from time to time by the local government under Section 344C of the Act; and
 - (ii) detailed plans and specifications of the lodging house.

8.1.4 Approval of application

The local government may approve, with or without conditions, an application under clause 8.1.4 by issuing to the applicant a certificate in the form prescribed in Schedule 2.

8.1.5 Renewal of registration

A person who keeps a lodging house which is registered under this Part shall –

- (a) during the month of June in each year apply to the local government for the renewal of the registration of the lodging house; and
- (b) pay the fee, as fixed from time to time by the local government under Section 344C of the Act, at the time of making each application for renewal.

8.1.6 Notification upon sale or transfer

If the owner of a lodging house sells or transfers or agrees to sell or transfer the lodging house to another person, he or she shall, within 14 days of the date of sale, transfer or agreement, give to the local government written notice in the form prescribed in Schedule 3 or the full name, address and occupation of the person to whom the lodging house has been, or is to be sold or transferred.

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8.1.7 Revocation of registration

- (1) Subject to subclause (3), the local government may, at any time, revoke the registration of a lodging house for any reason which, in the opinion of the local government, justifies the revocation.
- (2) Without limiting the generality of subclause (1), the local government may revoke a registration upon one or more of the following ground –
 - (a) that the lodging house has not, to the satisfaction of the local government, been kept free from vectors of disease or in a clean, wholesome and sanitary condition;
 - (b) that the keeper has –
 - (i) been convicted of an offence against this local law in respect of the lodging house;
 - (ii) not complied with a requirement of this Part; or
 - (iii) not complied with a condition of registration;
 - (c) that the local government, having regards to a report from the Police Service, is satisfied that the keeper or manager is not a fit and proper person; and
 - (d) that, by reason of alterations or additions or neglect to repair and renovate, the condition of the lodging house is such as to render it, in the opinion of an Environmental Health Officer, unfit to remain registered.
- (3) Before revoking the registration of a lodging house under this clause, the local government shall give notice to the keeper requiring him or her, within a time specified in the notice, to show cause why the registration should not be revoked.
- (4) Whenever the local government revoked the registration of a lodging house, it shall give the keeper notice of revocation and the registration shall be revoked as from the date on which the notice is served on the keeper.

Division 2 – Construction and Use Requirements

8.2.1 General construction requirements

The general construction requirements of a lodging house shall comply with the Building Code and the Act.

8.2.2 Insect Screening

The keeper shall provide and maintain in good working order and conditions windows and external doors that are screened with wire mesh having openings no larger than 1.2 millimetres.

8.2.3 Sanitary conveniences

- (1) A keeper shall maintain in good working order and condition and in convenient position on the lodging house premises –
 - (a) toilets; and
 - (b) bathrooms, each fitted with a shower, bath and wash basin, in accordance with the requirements of the Building Code.
- (2) A bathroom or toilet which is used as a private bathroom or toilet to the exclusion of other lodgers or residents shall not be counted for the purposes of subclause (1).
- (3) Each bath, shower and hand wash basin shall be provided with an adequate supply of hot and cold water.
- (4) The walls of each shower or bath shall be of an impervious material to a minimal height of 1.8 metres above the floor level.
- (5) Each toilet and bathroom shall –
 - (a) be so situated, separated and screened as to ensure privacy;
 - (b) be apportioned to each sex;
 - (c) have a distinct sign displayed in a prominent position denoting the sex for which the toilet or bathroom is provided; and
 - (d) be provided with adequate electric lighting.

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- (6) Paragraphs 5(b) and 5(c) do not apply to a serviced apartment.

8.2.4 Laundry

- (1) A keeper shall –
- (a) subject to subclause (2) –
 - (i) in the case of a recreational campsite, provide on the premises a laundry consisting of at least 45 litre stainless steel trough; and
 - (ii) in any other case, provide a laundry unit for each 15 lodgers;
 - (b) at all times maintain each laundry in a proper sanitary condition and in good repair;
 - (c) provide an adequate supply of hot and cold water to each wash trough, sink, copper and washing machine; and
 - (d) ensure that the floor area of each laundry is properly surfaced with an even fall to a floor waste or other appropriate means of disposal.
- (2) An Environmental Health Officer may approve the provision of a reduced number of laundry units if suitable equipment of a commercial type is installed.
- (3) In this clause –
- laundry unit** means a group of facilities consisting of –
- (a) a washing machine with a capacity of not less than 4 kilograms of dry clothing;
 - (b) one wash trough of not less than 35 litres capacity, connected to both hot and cold water; and
 - (c) either an electric drying cabinet or not less than 30 metres of clothes line, and for which a hot water system is provided that –
 - (d) is capable of delivering 136 litres of water per hour at a temperature of at least 75 degrees Celsius for each washing machine provided with the communal facilities; and
 - (e) has a delivery rate of not less than 18 litres per minute to each washing machine.

8.2.5 Kitchen

The keeper of a lodging house shall provide in that lodging house a kitchen which –

- (a) has a minimum floor area of –
 - (i) where lodgers prepare their own meals – 0.65 square metres per person;
 - (ii) where meals are provided by the keeper of manager – 0.35 square metres per person; or
 - (iii) where a kitchen and dining room are combined – 1 square metre per person, but in any case not less than 16 square metres;
- (b) has adequate -
 - (i) food storage facilities and cupboards to prevent contamination of food, or cooking or eating utensils, by dirt, dust, flies or other vectors of disease of any kind; and
 - (ii) refrigerator space for storage of perishable goods;
- (c) complies with the requirements of Standard 3.2.3 of the Food Standards Code; and
- (d) has a hand wash basin and a double bowl sink, each provided with an adequate supply of hot and cold water.

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8.2.6 Cooking facilities

- (1) The keeper of a lodging house where lodgers prepare their own meals shall provide a kitchen with electrical, gas or other stoves and oven approved by the Environmental Health Officer in accordance with the following table –

NO. OF LODGERS	OVENS	4 BURNER STOVES
1 – 15	1	1
16 – 30	1	2
31 – 45	2	3
46 – 60	2	4
Over 60	2	4 + 1 for each additional 15 lodgers (or part thereof) over 60

- (2) The keeper of a lodging house where meals are provided by the keeper or manager shall provide a kitchen with cooking appliances of a number and type approved by the Environmental Health Officer.

8.2.7 Dining room

The keeper of a lodging house shall provide in that lodging house a dining room –

- (a) located in close proximity to, or combined with, the kitchen;
- (b) the floor area of which shall be not less than the greater of –
 - (i) 0.5 square meters per person; or
 - (ii) 10 square metres; and
- (c) which shall be -
 - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
 - (ii) provided with a suitable floor covering.

8.2.8 Lounge room

The keeper of a lodging house shall provide in that lodging house a lounge room –

- (a) with a floor area of –
 - (i) where the lounge room is not combined with the dining room – not less than 0.6 square metres per person; or
 - (ii) where the lounge room is combined with the dining room – not less than 1.2 square metres per person,
 but in either case having a minimum of 13 square metres; and
- (b) which shall be -
 - (i) adequately furnished to accommodate, at any one time, half the number of lodgers; and
 - (ii) provided with a suitable floor covering.

8.2.9 Fire prevention and control

- (1) A keeper shall –
- (a) in each passage in the lodging house provide an emergency light –
 - (i) in such a position and of such a pattern, as approved by the Environmental Health Officer; and
 - (ii) which shall be kept separate from the general lighting system and kept illuminated during the hours of darkness;
 - (b) provide an approved fire blanket positioned within 2 metres of the cooking area in each kitchen; and
 - (c) ensure that each exit sign and firefighting appliance is clearly visible, accessible and maintained in good working order at all times.

8.2.10 Obstruction of passages and stairways

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A keeper shall not cause, suffer or permit furniture, fittings or other things to be placed either temporarily or permanently in or on –

- (a) a stairway, stair landing, fire-escape, window or common passageway; or
- (b) part of the lodging house in common use or intended or adapted for common use, in such a manner as to form an obstruction to the free passage of lodgers, residents or persons occupying the lodging house.

8.2.11 Fitting of locks

A person shall not fit, or cause or permit to be fitted, to an exit door a lock or other device which prevents the door being opened from within a lodging house.

8.2.12 Restrictions on use of rooms for sleeping

- (1) Subject to subclause (3) and clause 8.3.12, a keeper shall not use or permit to be used as a sleeping apartment a room in a lodging house –
 - (a) which contains food;
 - (b) which contains or is fitted with a cooking appliance or kitchen sink;
 - (c) which is used as a kitchen, scullery, store room, dining room, general sitting room or lounge room or for the preparation or storage of food;
 - (d) which is not reasonably accessible without passing through a sleeping or other room in the private occupation of another person;
 - (e) which, except in the case of short term hostel or a recreational campsite, contains less than 5.5 square metres of clear space for each lodger occupying the room;
 - (f) which is naturally illuminated by windows having a ratio of less than 0.1 square metre or unobstructed glass to every 1.0 square metres of floor area;
 - (g) which is ventilated at a ratio of less than 0.5 square metre of unobstructed ventilating area to every 10 square metres of floor area;
 - (h) in which the lighting or ventilation referred to in paragraphs (f) and (g) is obstructed or is not in good working order;
 - (i) which is not free from internal dampness;
 - (j) of which any part of the floor is below the level of the adjoining ground; or
 - (k) the floor of which is not fitted with an approved carpet or vinyl floor covering or other floor treatment approved by an Environmental Health Officer.
- (2) For the purposes of this clause two children under the age of 10 years shall be counted as one lodger.
- (3) Paragraphs (a), (b) and (c) of subclause (1) shall not apply to a serviced apartment.

8.2.13 Sleeping accommodation, short term hostels and recreational campsites

- (1) A keeper of a short term hostel or recreational campsite shall provide clear floor space of not less than –
 - (a) 4 square metres per person in each dormitory utilising beds; and
 - (b) 2.5 square metres per person in dormitories utilising bunks.
- (2) The calculation of floor space in subclause (1) shall exclude the area occupied by any large items of furniture, such as wardrobes, but may include the area occupied by beds.
- (3) The minimum height of any ceiling in a short term hostel or recreational campsite shall be 2.4 metres in any dormitory utilising beds and 2.7 metres in any dormitory utilising bunks.
- (4) The minimum floor area requirements in subclause (1) will only apply if there is ventilation, separation distances, fire egress and other safety requirements in accordance with the Building Code.
- (5) The keeper of any short term hostel or recreational campsite shall provide:
 - (a) fixed outlet ventilation at a ratio of 0.15 square metres to each 10 square metres of floor area of the dormitories. Dormitories shall be provided with direct ventilation to the open air from a point within 230 millimetres of the ceiling level through a fixed open window or vents, carried as direct to the open air as is practicable; or

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- (b) mechanical ventilation in lieu of fixed ventilation, subject to local government approval.
- (6) The keeper of any short term hostel or recreational campsite shall provide –
 - (a) beds with a minimum size of –
 - (i) in short term hostels – 800 millimetres x 1.9 metres; or
 - (ii) in recreational campsites – 750 millimetres x 1.85 metre; and
 - (b) storage space for personal effects, including backpacks, so that cleaning operations are not hindered and access spaces are not obstructed.
- (7) The keeper of any short term hostel or recreational campsite shall:
 - (a) arrange at all times a distance of 750 millimetres between beds and a distance of 900 millimetres between bunks;
 - (b) ensure where bed or bunk heads are placed against the wall on either side of a dormitory, there is a passageway of at least 1.35 metres between each row of beds and a passageway of at least 2 metres between each row of bunks. The passageway shall be kept clear of obstruction at all times; and
 - (c) ensure all doors, windows and ventilators are kept free of obstruction.
- (8) The keeper of a short term hostel or recreational campsite shall ensure that –
 - (a) materials used in dormitory areas comply with AS 1530.2 and AS 1530.3, as amended from time to time, as follows –
 - (i) drapes, curtains, blinds and bed covers - a maximum Flammability Index of 6;
 - (ii) upholstery and bedding - a maximum Spread of Flame Index of 6;
- a maximum Smoke Developed Index of 5;
 - (iii) floor coverings - a maximum Spread of Flame Index of 7;
- a maximum Smoke Developed Index of 5;Fire retardant coating used to make a material comply with these indices must be –
 - (iv) certified by the manufacturer as approved for use with the fabric to achieve the required indices;
 - (v) certified by the manufacturer to retain its fire retardancy effect after a minimum of 5 commercial dry cleaning or laundering operations carried out in accordance with AS 2001.5.4-1997, Procedure 7A, using ECE reference detergent; and
 - (vi) certified by the applicator as having been carried out in accordance with the manufacturer's specifications;
 - (b) emergency lighting is provided in accordance with the Building Code;
 - (c) no person shall smoke in any dormitory, kitchen or dining room, within a short term hostel or recreational campsite however the keeper may permit smoking in a meeting or assembly hall area, within a short term hostel; and
 - (d) all mattresses are fitted with mattress protectors.

8.2.14 Furnishing etc. of sleeping apartments

- (1) A keeper shall –
 - (a) furnish each sleeping apartment with a sufficient number of beds and sufficient bedding of good quality;
 - (b) ensure that each bed –
 - (i) has a bed head, mattress and pillow; and
 - (ii) is provided with a pillow case, mattress cover, two sheets, two blankets or equivalent; and
 - (c) furnish each bedroom so that there are adequate storage facilities for belongings within the room.
- (2) A keeper shall not cause, suffer or permit any tiered beds or bunks to be used as sleeping apartments other than in a lodging house used exclusively as a short term hostel or recreational campsite.

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8.2.15 Ventilation

- (1) If, in the opinion of an Environmental Health Officer, a kitchen, bathroom, toilet, laundry or habitable room is not adequately or properly ventilated, he or she may direct the keeper to provide a different or additional method of ventilation.
- (2) The keeper shall comply with any direction given under subclause (1) within such time as directed.

8.2.16 Numbers to be placed on doors

- (1) A keeper shall place or cause to be placed on the outside of the doors of all rooms available to lodgers in the lodging house, serial numbers so that –
 - (a) the number “1” is placed on the outside of the door of the room nearest to the front or main entry door of the lodging house; and
 - (b) the number continue in sequence throughout each floor (if there is more than one) of the lodging house.
- (2) The numbers are to be placed on the doors under subclause (1) shall be –
 - (a) not less than 40 millimetres in height;
 - (b) 1.5 metres from the floor; and
 - (c) permanently fixed either by being painted on the doors or by other legible means.

Division 3 – Management and Care

8.3.1 Keeper or manager to reside in the lodging house

Whenever there is one or more lodgers in a lodging house, a keeper or manager shall –

- (a) reside continuously in the lodging house; and
- (b) not be absent from the lodging house unless he or she arranges for a reputable person to have the care and management of the lodging house.

8.3.2 Register of lodgers

- (1) A keeper shall keep a register of lodgers in the form prescribed in Schedule 4.
- (2) The register of lodgers shall be –
 - (a) kept in the lodging house; and
 - (b) open to inspection at any time on demand by any member of the Police Service or by an Environmental Health Officer.

8.3.3 Keeper report

A keeper shall, whenever required by the local government, report to the local government in the form prescribed in Schedule 5, the name of each lodger who lodged in the lodging house during the preceding day or night.

8.3.4 Certificate in respect of sleeping accommodation

- (1) An Environmental Health Officer may issue to a keeper a certificate, in respect of each room, which shall be in the form prescribed in Schedule 6 or Schedule 7 if over 20 sleeping apartments.
- (2) The certificate issued under subclause (1) shall specify the maximum number of persons who shall be permitted to occupy each room as a sleeping apartment at any one time.
- (3) When required by an Environmental Health Officer, a keeper shall exhibit the certificate issued under this clause in a conspicuous place.
- (4) A person shall not cause, suffer or permit a greater number of persons than is specified on a certificate issued under this clause to occupy the room to which it refers.

8.3.5 Duplicate keys and inspection

Each keeper and manager of a lodging house shall –

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- (a) retain possession of a duplicate key to the door of each room; and
- (b) when required by an Environmental Health Officer, open the door of any room for the purposes of inspection by the Officer.

8.3.6 Room occupancy

- (1) A keeper shall not –
 - (a) cause, suffer or permit more than the maximum numbers of persons permitted by the Certificate of Registration of the lodging house to be lodged at any one time in the lodging house;
 - (b) cause, suffer or permit to be placed or kept in any sleeping apartments –
 - (i) a larger number of beds; or
 - (ii) a larger quality of bedding,than is required to accommodate and provide for the maximum number of persons permitted to occupy the sleeping apartment at any one time; and
 - (c) use or cause, suffer or permit to be used for sleeping purposes a room that -
 - (i) has not been certified for that purpose; and
 - (ii) the local government or the Medical Officer has forbidden to be used as a sleeping apartment.
- (2) For the purpose of this clause, two children under 10 years of age shall be counted as one lodger.

8.3.7 Infectious disease

A keeper shall immediately after becoming aware that a lodger or resident is suffering from a notifiable disease notify an Environmental Health Officer.

8.3.8 Maintenance of a room by a lodger or resident

- (1) A keeper may permit, or contract with, a lodger or resident to service, clean or maintain the room or rooms occupied by the lodger or resident.
- (2) Where permission is given or a contract entered into under subclause (1), the keeper shall –
 - (a) inspect each room the subject of the permission or agreement at least once a week; and
 - (b) ensure that each room is being maintained in a clean condition.
- (3) A lodger or resident who contracts with a keeper to service, clean or maintain a room occupied by him or her, shall maintain the room in a clean condition.

8.3.9 Cleaning and maintenance requirements

- (1) In this clause –
bed linen includes sheets, pillow cases, mattress protectors and mattress covers.
- (2) A keeper of a lodging house shall –
 - (a) maintain in a clean, sound and undamaged condition –
 - (i) the floors, walls, ceilings, woodwork and painted surfaces;
 - (ii) the floor coverings and window treatments; and
 - (iii) the toilet seats;
 - (b) maintain in a clean condition and in a good working order -
 - (i) all fixtures and fittings; and
 - (ii) windows, doors and furniture;
 - (c) ensure that the internal walls of each bathroom and toilet have a smooth impervious washable surface;
 - (d) whenever there is one or more lodgers in a lodging house, ensure that the laundry floor is cleaned daily;
 - (e) ensure that –
 - (i) all bed linen, towels, and house linen in use is washed at least once a week;

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- (ii) within a reasonable time of a bed having been vacated by a lodger or resident, the bed linen is removed and washed;
- (iii) a person does not occupy a bed which has been used by another person unless the bed has been provided with clean bed linen;
- (iv) all beds, bedsteads, blankets, rugs, covers, bed linen, towels and house linen are kept in clean, in good repair and free from vectors of disease;
- (v) when any vectors of disease are found in bed, furniture, room or a sleeping apartment, immediate effective action is taken to eradicate the vectors of disease; and
- (vi) a room which is not free from vectors of disease is not used as a sleeping apartment;
- (f) when so directed by an Environmental Health Officer, ensure that -
 - (i) a room, together with its contents, and any other part of the lodging house, is cleaned and disinfected; and
 - (ii) a bed or other article of furniture is removed from the lodging house and properly disposed of;
- (g) ensure that the yard is kept clean at all times;
- (h) provide all bedrooms, passages, common areas, toilets, bathrooms and laundries with adequate lighting; and
- (i) comply with any direction, whether orally or in writing, given by an Environmental Health Officer.

8.3.10 Responsibilities of lodgers and residents

A lodger or resident shall not –

- (a) use any room available to lodgers –
 - (i) as a shop, store or factory; or
 - (ii) for manufacturing or trading services;
- (b) keep or store in or on the lodging house any goods or materials which are inflammable or offensive;
- (c) use a bath or hand wash basin other than for ablutionary purposes;
- (d) use a bathroom facility or fitting for laundry purposes;
- (e) use a sink installed in a kitchen or scullery or any purposes other than the washing and cleaning of cooking and eating utensils, other kitchenware and culinary purposes;
- (f) deposit rubbish or waste food other than into proper rubbish receptacle;
- (g) in a kitchen or other place where food is kept –
 - (i) wash or permit the washing of clothing or bedding; or
 - (ii) keep or permit to be kept any soiled clothing or bedding;
- (h) subject to clause 8.3.11 -
 - (i) keep, store, prepare or cook food in any sleeping apartment; or
 - (ii) unless sick or invalid and unable to leave a sleeping apartment for that reason, use a sleeping apartment for dining purposes;
- (i) place or keep, in any part of a lodging house, any luggage, clothing, bedding or furniture, that is infested with vectors of disease;
- (j) store or keep such a quantity of furniture, materials or good within the lodging house –
 - (i) in any kitchen, living or sleeping apartment so as to prevent the cleaning of the floors, walls, fittings or fixtures; or
 - (ii) in a sleeping apartment so as to decrease the air space to less than the minimum required by this Part;
- (k) obstruct or prevent the keeper or manager from inspecting or examining the room or rooms occupied by the lodger or resident; and
- (l) fix any fastener or change any lock to a door or room within the written approval of the keeper.

8.3.11 Approval for storage of food

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- (1) An Environmental Health Officer may –
 - (a) upon written application from a keeper, approve the storage of food within a refrigerator or sealed container in a sleeping apartment; and
 - (b) withdraw the approval if a nuisance or vector of disease infestation is found to exist in the lodging house.
- (2) The keeper or a serviced apartment may permit the storage and consumption of food within that apartment if suitable storage and dining facilities are provided.

PART 9 – OFFENSIVE TRADES

Division 1 – General

9.1.1 Interpretation

In this Part, unless the context otherwise requires –
occupier in relation to premises includes the person registered as the occupier of the premises specified in the Certificate of Registration;
offensive trades means any trades as defined by Section 186 of the Act; and
premises includes dwelling houses.

9.1.2 Consent to establish an offensive trade

A person seeking the consent of the local government under Section 187 of the Act to establish an offensive trade shall make an application in the form prescribed in Schedule 10 and in accordance with the local government’s Town Planning Scheme.

9.1.3 False statement

A person who makes a false statement in an application under clause 9.1.2 shall be guilty of an offence.

9.1.4 Registration of premises

An application for the registration of premises pursuant to Section 191 of the Act shall be –

- (a) in the form prescribed in Schedule 11;
- (b) accompanied by:
 - (i) the fee prescribed in the *Health (Offensive Trades Fees) Regulations 1976*; and
 - (ii) a comprehensive management plan; and
- (c) lodged with the Chief Executive Officer.

9.1.5 Certificate of registration

Upon the registration of premises for the carrying on of an offensive trade, the local government shall issue to the applicant a certificate in the form prescribed in Schedule 12.

9.1.6 Change of occupier

Where there is a change of occupier of the premises registered pursuant to this Division, the new occupier shall forthwith notify the Chief Executive Officer in writing of such change.

9.1.7 Alterations to premises

While any premises remain registered under the Division, a person shall not, without the written permission of the local government, make or permit any change or alteration whatsoever to the premises; this excludes minor repairs, installations or interior refurbishment.

Division 2 – General Duties of an Occupier

9.2.1 Interpretation

In this division, unless the context otherwise requires –

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occupier means the occupier or where there is more than one occupier, each of the occupiers of the premises in or upon which an offensive trade is carried on; and

premises means those premises in or upon which an offensive trade is carried on.

9.2.2 Cleanliness

The occupier shall –

- (a) keep or cause to be kept in a clean and sanitary condition and in a state of good repair the floors, walls and ceilings and all other portions of the premises;
- (b) keep or cause to be kept in a clean and sanitary condition and in a state of good repair all fittings, fixtures, appliances, machinery, implements, shelves, counters, tables, benches, bins, cabinets, sinks, drain boards, drains, grease traps, tubs, vessels and other things used on or in connection with the premises;
- (c) keep the premises free from any unwholesome or offensive odour arising from the premises;
- (d) maintain in a clean and tidy condition all yards, footpaths, passage ways, paved areas, stores or outbuildings used in connection with the premises; and
- (e) clean daily and at all times keep and maintain all sanitary conveniences and all sanitary fittings and grease traps on the premises in a clean and sanitary condition.

9.2.3 Rats and other vectors of disease

The occupier shall –

- (a) ensure that the premises are kept free from rodents, cockroaches, flies and other vectors of disease; and
- (b) provide in and on the premises all effective means and methods for the eradication and prevention of rodents, cockroaches, flies and other vectors of disease.

9.2.4 Sanitary conveniences and hand wash basins

The occupier shall provide on the premises in an approved position sufficient sanitary conveniences and hand wash basins, each with an adequate supply of hot and cold water for use by employees and by all other persons lawfully upon the premises.

9.2.5 Painting of walls etc.

The occupier shall cause the internal surface of every wall, the underside of every ceiling or roof and all fittings as may be directed in and on the premises to be cleaned and painted when instructed by an Environmental Health Officer.

9.2.6 Effluvia, vapours or gases

The occupier shall provide, use and maintain in a state of good repair and working order, appliances and preventive measures capable of effectively destroying or of rendering harmless all offensive effluvia, vapours, dust or gases arising in any process of his business or from any material, residue or other substance which may be kept or stored upon the premises.

9.2.7 Offensive material

The occupier shall –

- (a) provide on the premises impervious receptacles of sufficient capacity to receive all offensive material and trade refuse produced upon the premises in any one day;
- (b) keep air-tight covers on the receptacles, except when it is necessary to place something in or remove something from them;
- (c) cause all offensive material and trade refuse to be placed immediately in the receptacles;
- (d) cause the contents of the receptacle to be removed from the premises at least once in every working day at such more frequent intervals as may be directed by an Environmental Health Officer; and

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- (e) cause all receptacles after being emptied to be cleaned immediately with an efficient disinfectant.

9.2.8 Storage of materials

The occupier shall cause all material on the premises to be stored so as not to be offensive or injurious to health whether by smell or otherwise and so as to prevent the creation of a nuisance.

9.2.9 Specified offensive trade

- (1) For the purposes of this clause, ***specified offensive trade*** means one or more of the offensive trades carried on, in or connected with the following works or premises –
 - (a) fish processing premises, fish curing premises, and shellfish and crustacean processing establishments; and
 - (b) laundries, dry cleaning premises and dye works.
- (2) Where premises are used for or in relation to a specified trade, the occupier shall –
 - (a) cause the floor of the premises to –
 - (i) be properly paved and drained with impervious material;
 - (ii) have a smooth surface; and
 - (iii) have a fall to a bucket trap or spoon drain in such a way that all liquids falling on the floor shall be conducted by the trap or drain to a drain inlet situated inside the building where the floor is situated;
 - (b) cause the angles formed by the walls with any other wall, and by the wall with the floor, to be covered to a radius of not less than 25 millimetres; and
 - (c) cause all liquid refuse to be –
 - (i) cooled to a temperature not exceeding 26 degrees Celsius and by in accordance with the *Metropolitan Water Supply, Sewerage and Drainage Board By-Laws 1981* before being discharged into any drain outlet from any part of the premises; and
 - (ii) directed through such screening or purifying treatment as an Environmental Health Officer may from time to time direct.

9.2.10 Directions

- (1) An Environmental Health Officer may give to the occupier directions to prevent or diminish the offensiveness of a trade or to safeguard the public health.
- (2) The occupier shall comply with any directions given under this clause.

9.2.11 Other duties of occupier

In addition to the requirements of this Division, the occupier shall comply with all other requirements of this Part that apply to the particular offensive trade or trades conducted on the premises.

Division 3 – Fish Premises

9.3.1 Interpretation

In this Division, unless the context otherwise requires –
fish premises may include a fish processing establishment, fish curing establishment and a shellfish and crustacean processing establishment.

9.3.2 Duties of an occupier

The occupier of a fish premises shall –

- (a) not suffer or permit any decomposing fish to be kept on the premises where his trade is carried on for a longer period than is reasonably necessary to dispose of them;
- (b) cause all decomposing fish, to be immediately deposited in an impervious receptacle furnished with an airtight cover; and

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- (c) cause the brine of pickle to be removed as often as is necessary to prevent it from becoming offensive.

9.3.3 Disposal of waste

The occupier of a fish premises shall cause all offal and wastes, all rejected and unsaleable fish and any rubbish or refuse which is likely to be offensive or a nuisance to be –

- (a) placed in the receptacles referred to in 9.2.7 and disposed of in accordance with that clause; or
- (b) kept in a frozen state in an approved enclosure before its removal from the premises.

9.3.4 Fish containers

The occupier of a fish premises shall not allow any container used for the transport of fish to –

- (a) remain on the premises longer than is necessary for it to be emptied; or
- (b) be kept so as to cause a nuisance or to attract flies.

Division 4 – Laundries, Dry Cleaning Establishments and Dye Works

9.4.1 Interpretation

In this Division, unless the context otherwise requires –

dry cleaning establishment –

- (i) means premises where clothes or other articles are cleaned by use of solvents without using water; but
- (ii) does not include premises in which perchlorethylene or arklone is used as dry cleaning fluid in a fully enclosed machine operating on a full cycle;

dye works means a place where articles are commercially dyed, but does not include dye works in which provision is made for the discharge of all liquid waste there from, into a public sewer;

exempt laundromat means a premises in which –

- (a) laundering is carried out by members of the public using, machines or equipment provided by the owners or occupiers of those establishments;
- (b) laundering is not carried out by those owners or occupiers for or on behalf of other persons;
- (c) provision is made for the discharge of all liquid waste therefrom into a public sewer;

laundromat means a public place with coin operated washing machines, spin dryers or dry cleaning machines; and

laundry means any places where articles are laundered for the purpose of trade but does not include an exempt laundromat.

9.4.2 Receiving depot

An owner or occupier of premises shall not use or permit the premises to be used as a receiving depot for a laundry, dry cleaning establishment or dye works except with the written permission of the local government who may at any time by written notice withdraw such permission.

9.4.3 Reception room

- (1) The occupier of a laundry or dry cleaning establishment or dye works shall –
 - (a) provide a reception room in which all articles brought to the premises for treatment shall be received and shall not receive or permit to be received any such articles except in that room; and
 - (b) cause such articles as may be directed by an Environmental Health Officer to be thoroughly disinfected to the satisfaction of that officer.
- (2) A person shall not bring or permit food to be brought into the reception room referred to in this clause.

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9.4.4 Walls and floors

The occupier of a laundry, dry cleaning establishments or dye works shall cause –

- (a) the internal surfaces of all walls to be rendered with a cement plaster with a steel float finish or other approved to a height of 2 metres with a smooth impervious surface;
- (b) the floor to be constructed of concrete and finished with a smooth impervious surface; and
- (c) every floor and wall of any building on the premises to be kept at all times in good order and repair, so as to prevent the absorption of any liquid which may be splashed or spilled or may fall or be deposited on it.

9.4.5 Laundry floor

The occupier of a laundry shall provide in front of each washing machine a non-corrosive grating, at least 910 millimetres in width and so constructed as to prevent any person from standing in water on the floor.

9.4.6 Escape of dust

The occupier of a dry cleaning establishment shall provide effective means to prevent the escape into the open air of all dust or other material from the premises.

9.4.7 Precautions against combustion

The occupier of a dry cleaning establishment where volatile liquids are used shall take all proper precautions against combustion and shall comply with all directions given by an Environmental Health Officer for that purpose.

9.4.8 Trolleys

The occupier of a dry cleaning establishment shall –

- (a) provide trolleys for the use of transporting dirty and clean linen; and
- (b) ensure that each trolley is –
 - (i) clearly designated to indicate the use for which it is intended;
 - (ii) lined internally with a smooth impervious non-absorbent material that is easily cleaned; and
 - (iii) thoroughly cleaned and disinfected on a regular basis.

9.4.9 Sleeping on premises

A person shall not use or permit any room in a laundry, dry cleaning establishment or dye works to be used for sleeping purposes.

Division 5 – Piggeries

9.5.1 Interpretation

In this Division, unless the context otherwise requires –

piggery means any building, enclosure or yard, in which one or more pigs are kept, bred, reared or fattened for purposes of trade, and shall include any portion of the premises to which pigs have access.

9.5.2 Limitation to registration

No premises shall be registered as a piggery unless every portion of such piggery is –

- (a) greater than 200 metres from the lot boundary of the lot upon which the piggery is to be situated;
- (b) greater than 100 metres from any dwelling house, dairy or other premises where food for human consumption is prepared, stored or sold;

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HEALTH LOCAL LAW 2017

- (c) outside the gazetted townsite of Toodyay and an area of 5 km wide surrounding and contiguous to the boundary of this townsite; and
- (d) outside that land described as being of the rural living zones in the local government's Town Planning Scheme and an area 1 km wide surrounding and contiguous to the boundaries of the rural living zones.

9.5.3 Conditions of registration

- (1) Any person intending to establish a piggery within the district shall ensure the application made in the form of Schedule 10 is accompanied by plans and specifications in duplicate of the proposed piggery including –
 - (i) details of the approximate number of pigs to be kept;
 - (ii) details of the drainage and effluent disposal system to be installed; and
 - (iii) details of the method by which cleanliness of the piggery shall be maintained.

9.5.4 Sties, enclosures or sheds

- (1) The occupier of every piggery shall provide either –
 - (i) sties and enclosures;
 - (ii) enclosures; or
 - (iii) sheds,within which pigs shall be kept.
- (2) Where sties and enclosures are provided –
 - (a) the floor of every sty shall be properly paved with impervious materials, and every such floor shall have sufficient fall to a surface gutter, which shall –
 - (i) be constructed of similar materials;
 - (ii) be not less than 300 millimetres wide and 75 millimetres deep in the centre of its width;
 - (iii) extend the whole length of the sty;
 - (iv) have sufficient fall so that it shall discharge all liquids falling upon the floor or upon the gutter into an impervious sump of sufficient capacity to receive at least one day's drainage; and
 - (b) the area of every enclosure appurtenant to a sty or group of sties shall be not less than three times the area of the sty or group of sties to which it is appurtenant.
- (3) Where enclosures only are provided, then –
 - (a) the fences of such enclosures shall be movable; and
 - (b) the fences shall be moved and re-erected to enclose a new site whenever –
 - (i) the ground within a site is becoming offensive; or
 - (ii) the occupier is directed to do so by an Environmental Health Officer.
- (4) Where sheds are provided, then –
 - (a) the floor of the shed shall comply with subclause 2(a);
 - (b) all buildings and yards shall be maintained in a structurally sound and clean condition free of infestation with flies and other vectors of disease;
 - (c) drainage and treatment of effluent waste shall be carried out and maintained so as to prevent a nuisance.

9.5.5 Slaughtering

The occupier of any piggery shall not permit any slaughtering of animals on the premises unless the piggery is located on the same premises as an abattoir that is approved by the Western Australian Meat Industry Authority.

9.5.6 Feed

The occupier of any piggery shall –

- (a) not receive, or allow to be received on such premises, any carcase or part of a carcase of a diseased animal;

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- (b) not feed the pigs upon the flesh or offal of diseased animals;
- (c) not receive or suffer or permit to be received on the premises, putrid matter for any purpose; and
- (d) not receive or suffer or permit to be received on the premises, any kitchen, slaughter-house or butcher's wastes or other putrescible pig feed.

9.5.7 Fencing

Every piggery occupier shall securely fence all the enclosures.

9.5.8 Water supply

Every piggery occupier shall provide a sufficient and constant supply of clean water, which shall be properly protected against pollution and always available for cleansing purposes.

9.5.9 Feeding troughs

- (1) Every such occupier shall –
 - (a) where sties and enclosures are provided under the provisions of subclause 9.6.4(2), provide feeding troughs in every sty, situated near to the drainage gutter or positioned to be accessible to the pigs in two or more sites or enclosures;
 - (b) where enclosures are provided under the provisions of subclause 9.6.4(3), provide feeding troughs in every such enclosure;
 - (c) cause all feeding troughs, other than those provided in connection with movable enclosures, to be fixed upon a cement floor extending 1.2 metres in all directions from such trough, and designed to permit ready drainage; and
 - (d) not permit pigs to be fed other than at the feeding troughs provided in accordance with this clause.
- (2) Notwithstanding the provisions of subclause (1), where pigs are kept continually confined in fully enclosed pens, floor feeding with pellets or dry meal shall be permitted, in which case feeding troughs are not required to be provided.

9.5.10 Prevention of nuisances

An owner or occupier must ensure that odours, dust, and effluent are adequately prevented from becoming a nuisance to health or amenity.

PART 10 – ENFORCEMENT

10.1.1 Interpretation

In this Part –

authorised person is given the definition under Section 9.15 of the *Local Government Act 1995*;

infringement notice means the notice referred to in clause 10.1.4; and

notice of withdrawal means the notice referred to in clause 10.1.7(1).

10.1.2 Offences and penalties

- (1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) A person who commits an offence under subclause (1) is liable to –
 - (a) a penalty which is not more than \$2,500 and not less than –
 - (i) in the case of a first offence, \$250;
 - (ii) in the case of a second such offence, \$500; and
 - (iii) in the case of a third or subsequent offence, \$1,250; and
 - (b) if the offence is a continuing offence, a daily penalty which is not more than \$250 and not less than \$100 for each day during which, the offence continues.

10.1.3 Modified penalties

LOCAL GOVERNMENT ACT 1995
Shire of Toodyay
HEALTH LOCAL LAW 2017

- (1) The offences contained in Schedule 13 are offences in relation to which a modified penalty may be imposed.
- (2) The amount appearing in the fourth column of Schedule 13 directly opposite an offence is the modified penalty payable in respect of that offence.

10.1.4 Issue of an infringement notice

- (1) Where an authorised person has reason to believe a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue that person an infringement notice in the form specified under subclause (2).
- (2) Unless otherwise specified, for the purposes of this local law –
 - (a) where a vehicle is involved in the commission of an offence referred to in section 9.13 of the *Local Government Act 1995* is that of Form 1 in Schedule 1 of the Regulations; and
 - (b) the form of the infringement notice given under section 9.16 of the *Local Government Act 1995* is that of Form 2 in Schedule 1 of the Regulations.

10.1.5 Failure to pay modified penalty

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

10.1.6 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case, be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

10.1.7 Withdrawal of an infringement notice

- (1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice.
- (2) A person authorised to issue an infringement notice under clause 10.1.4 cannot sign or send a notice of withdrawal.
- (3) A withdrawal notice is to be in the form of Form 3 in Schedule 1 of the Regulations.

10.1.8 Service

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to his or her address as ascertained from her or him, or as ascertained from inquiries by the local government.

LOCAL GOVERNMENT ACT 1995
 Shire of Toodyay
HEALTH LOCAL LAW 2017

Schedule 1
APPLICATION FOR REGISTRATION OF A LODGING HOUSE
 (clause 8.1.3(a))

To: Chief Executive Officer
 Shire of Toodyay

I/We
 (Full name of Applicant/s)

of.....

 (Residential Address of Applicant/s)

apply for the registration of premises situated (or to be situated) at

as a lodging house to be classified as –

- a lodging house;
- a short term hostel;
- serviced apartments;
- a recreational campsite; or
- other, (specify)
-

and for my name to be entered in the Register as the keeper of the lodging house.

DESCRIPTION OF LODGING HOUSE

Number of storeys

Rooms for private use

	Number	Area
Laundries/toilets/bathrooms
Bedrooms
Dining Rooms
Kitchens
Sitting Areas
Other (Specify)

Rooms for lodgers

	Number	Area
Bedrooms
Dining Rooms
Kitchens
Sitting Rooms
Other (Specify)

Sanitary Conveniences for male lodgers

Toilets
Urinals

LOCAL GOVERNMENT ACT 1995
Shire of Toodyay
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Baths
Showers
Hand Wash Basins

Sanitary Conveniences for female lodgers

Toilets
Baths
Showers
Hand Wash Basins

Laundry Facilities

Coppers
Wash troughs
Washing machines
Drying cabinets or
Clothes lines

Additional Details

- (a) Lodgers' meals will be provided by the managers/ keepers/ lodgers.
- (b) The keeper will/ will not reside continuously on the premises.
- (c) Name and occupation of proposed manager if keeper resides elsewhere –
.....
- (d) There will be Family members residing on the premises with the keeper/
manager.

Application fee of \$...... is attached

.....
(Signature of Applicant/s)

.....
(Date)

LOCAL GOVERNMENT ACT 1995
Shire of Toodyay
HEALTH LOCAL LAW 2017

Schedule 2
CERTIFICATE OF REGISTRATION OF A LODGING HOUSE
(clause 8.1.4)

THIS is to certify that the premises situated at

.....
.....

Is registered as a

Lodging House and classified as –

- a lodging house
- a short term hostel
- serviced apartments
- a recreational campsite
- other (specify)
-

Until 30 June 20....., on the following conditions –

1. that, whose name is entered on the register of keepers of the Shire of Toodyay, continues to be the keeper of the lodging house;
2. that, appointed by the keeper to be the manager of the lodging house, continues to be the manager of the lodging house;
3. that the Certificate of Registration is not sooner cancelled or revoked;
4. that the maximum number of rooms to be used as sleeping compartments for lodgers is; and
5. That the maximum number of lodgers accommodated on the premises shall not exceed

This Certificate of Registration is issued subject to the *Health (Miscellaneous Provisions) Act 1911* and Health Local Law of the Shire of Toodyay and is not transferable.

Dated 20.....

.....
Environmental Health Officer
Shire of Toodyay

Fee received: \$..... _____

LOCAL GOVERNMENT ACT 1995
Shire of Toodyay
HEALTH LOCAL LAW 2017

Schedule 3
APPLICATION FOR REGISTRATION OF A LODGING HOUSE
(clause 8.1.6)

To: Chief Executive Officer
Shire of Toodyay

I/We
(Full name of Applicant/s)

of.....
.....
(Residential Address of Applicant/s)

am/are the new owner/s of the premises situated at
.....
.....

which are registered in the name of
.....
.....

For the carrying on of the lodging house business.

.....
(Signature of Applicant/s)

.....
(Date)

LOCAL GOVERNMENT ACT 1995
Shire of Toodyay
HEALTH LOCAL LAW 2017

Schedule 4
REGISTER OF LODGERS
(clause 8.3.2(1))

Location of Lodging House:

.....
.....
.....

Date of Arrival	Name	Previous Address	Signature	Room No.	Date of Departure
--------------------	------	---------------------	-----------	----------	----------------------

.....
.....
.....
.....
.....

LOCAL GOVERNMENT ACT 1995
Shire of Toodyay
HEALTH LOCAL LAW 2017

Schedule 5
LIST OF LODGERS
(clause 8.3.3)

The Chief Executive Officer
Shire of Toodyay

The following is the name of every person who resided in the lodging house at

.....
.....
.....
.....

on the day of 20.....

(Signed).....
(Keeper)

Date:

LOCAL GOVERNMENT ACT 1995
Shire of Toodyay
HEALTH LOCAL LAW 2017

Schedule 6
CERTIFICATE OF SLEEPING ACCOMMODATION
(clause 8.3.4(1))

To:
(Name of Keeper)

of.....
(Address of Keeper)

For the registered lodging house situated at:

.....
.....

The rooms listed below are not to be occupied by more than the number of lodgers or residents indicated below.

ROOM NUMBER:

MAXIMUM OCCUPANCY:

Date:

.....
Principal Environmental Health Officer
Shire of Toodyay

LOCAL GOVERNMENT ACT 1995
Shire of Toodyay
HEALTH LOCAL LAW 2017

Schedule 7
CERTIFICATE OF SLEEPING ACCOMMODATION FOR A LODGING HOUSE WITH
MORE THAN 20 SLEEPING APARTMENTS
(clause 8.3.4(1))

To:
(Name of Keeper)

of
(Address of Keeper)

for the registered lodging house situated
at:
.....

The rooms listed below are not to be occupied by more than the number of lodgers or residents indicated below.

ROOM NUMBER:

MAXIMUM OCCUPANCY:

Date:

.....
Environmental Health Officer
Shire of Toodyay

LOCAL GOVERNMENT ACT 1995
Shire of Toodyay
HEALTH LOCAL LAW 2017

Schedule 8
APPLICATION FOR LICENCE OF A MORGUE
(clause 3.5.1(3))

To: Chief Executive Officer

Shire of Toodyay

I
(Full name in block letters)

of.....
(Full residential address)

apply to licence the premises listed below as a Morgue

Address of premises:

.....
.....

Name of premises:

.....

Dated this..... day of 20.....

.....
(Signature of Applicant)

LOCAL GOVERNMENT ACT 1995
Shire of Toodyay
HEALTH LOCAL LAW 2017

Schedule 9
CERTIFICATE OF LICENCE OF A MORGUE
(clause 3.5.1(4)(a))

This is to certify that the following premises is licenced as a Morgue from the
..... day of 20..... Until 30th day of June 20.....

Address of premises:

.....
.....

Name of premises:

.....
.....

Dated this..... day of 20.....

.....
Environmental Health Officer
Shire of Toodyay

LOCAL GOVERNMENT ACT 1995
Shire of Toodyay
HEALTH LOCAL LAW 2017

Schedule 10
APPLICATION FOR CONSENT TO ESTABLISH AN OFFENSIVE TRADE
(clause 9.1.2)

I/We,
(Full name of Applicant/s)

of.....
.....
(Residential Address of Applicant/s)

apply for consent to establish an offensive trade being
.....
(Description of Offensive Trade)

In or upon
.....
(Location of the House or Premises)

Notice of my/ our intention to make this application was advertised
in.....
on.....
(Date of Advertisement)

Plans and specifications of the buildings proposed to be used or erected in connection with the
proposed offensive trade are attached.

.....
(Signature of Applicant/s)

.....
(Date)

LOCAL GOVERNMENT ACT 1995
Shire of Toodyay
HEALTH LOCAL LAW 2017

Schedule 11
APPLICATION FOR REGISTRATION OF PREMISES FOR OFFENSIVE TRADE
(clause 9.1.4(a))

I/We,
(Full name of Applicant/s)

of.....
.....
(Residential Address of Applicant/s)

apply for registration, for the year ended.....

of.....
(Location of Premises)

being premises in or upon which there is (or is to be) carried on an offensive trade, namely

.....
.....
(Description of Offensive Trade)

under the business name of.....

The prescribed registration fee of \$..... is attached.

.....
(Signature of Applicant/s)

.....
(Date)

LOCAL GOVERNMENT ACT 1995
Shire of Toodyay
HEALTH LOCAL LAW 2017

Schedule 12
CERTIFICATE OF REGISTRATION OF PREMISES FOR OFFENSIVE TRADE
(clause 9.1.5)

This is to certify that the premises situated at
.....
..... of which
..... is the occupier, registered for the carrying on of the
..... trade
of

Trade name

This registration expires on the 20.....

Dated this..... day of.....20.....

.....
Environmental Health Officer
Shire of Toodyay

LOCAL GOVERNMENT ACT 1995
 Shire of Toodyay
HEALTH LOCAL LAW 2017

Schedule 13
OFFENCES IN RESPECT OF WHICH A MODIFIED PENALTY APPLIES
 (clause 10.1.3(1))

	CLAUSE	NATURE OF OFFENCE	MODIFIED PENALTY \$
1	2.1.7(1)(b)	Failing to comply with a direction	250
2	2.1.9(1)	Damaging, defacing, fouling or vandalising any part of a public sanitary convenience	250
3	3.1.1	Failing to sufficiently maintain the dwelling house or appurtenant buildings in sound condition and fit for use	250
4	3.1.2(a)	Failing to maintain guttering, downpipes or drains	250
5	3.1.2 (b)	Causing or permitting rainwater to discharge onto footpath, street or other property	250
6	3.3.4	Polluting or rendering unfit for human consumption water from a well or other underground source	250
7	3.4.1	Sale of second-hand furniture, bedding or clothing that is filthy or infested with vectors of disease	250
8	3.4.2	Possessing second-hand furniture, bedding or clothing that is filthy or infested with vectors of disease	250
9	3.5.1(1)	Failing to licence morgue	250
10	3.5.1(5)	Failing to comply with condition of licence of morgue	250
11	4.1.2	Depositing or causing or permitting to be deposited liquid refuse or liquid waste	250
12	4.2.2(a)	Failing to keep receptacles behind street alignment or in position approved by local government	250
13	4.2.4(a)	Depositing or permitting to be deposited any materials listed from 4.2.4(a)(i) to (xiii)	250
14	4.2.6	Damaging, destroying or interfering with a receptacle	250
15	4.2.9(1)(a)	Failing to provide a rubbish disposal bin on a building site	250
16	4.2.9(1)(b)	Failing to maintain a building site free of rubbish and offensive matter	250
17	4.2.13(1)	Causing or permitting rubbish or refuse to be set fire to or caused to be set on fire in an incinerator or on the ground without approval	250
18	4.2.13(2), (3), (4) and (5)	Failing to comply with conditions of approval	250
19	4.3.2(a), (b) and (c)	Failing to comply with requirements for transporting butchers waste	250
20	5.1.2	Failing to keep footpath, pavement, area or right of way adjacent premise clear of rubbish, matter or any other things belonging from the premises	250
21	5.1.3	Causing or permitting the escape of smoke, dust, sand, fumes, offensive or foul odours, liquid waste or liquid refuse from the premises in such a quantity or of such a nature to cause or to be a nuisance	250
22	5.1.4	Failing to maintain a public vehicle	250
23	5.1.5	Transporting or storing of unsterilized offal or blood	250
24	5.1.6(a), (b) and (c)	Using or keeping pig manure, human faeces or urine for the use as fertiliser	250

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25	5.1.7(a), (b) and (c)	Failing to comply with conditions of keeping artificial fertiliser	250
26	5.1.8(a), (b) and (c)	Failing to comply with conditions of keeping fertiliser in a dwelling house	250
27	5.2.2(a), (b), (c) and (d)	Failing to keep an animal or bird in a clean and sanitary condition	250
28	5.3.2	Keeping a pig in a premises within a townsite	250
29	5.3.3(1)(a)	Keeping a large animal that creates a nuisance	250
30	5.4.2	Keeping more than 6 poultry on a premises within a townsite without approval	250
31	5.4.3(a), (b), (c), (d) and (e)	Failing to comply with conditions of keeping and permitting poultry to be kept	250
32	5.4.4(1)	Keeping or permitting to be kept any unapproved fowl within a premises in a townsite	250
33	5.4.5(1)	Keeping or permitting to be kept a rooster without approval	250
34	5.4.6(1)(a), (b) and (c)	Failing to comply with conditions of keeping or permitting to be kept pigeons or doves	250
35	5.4.8(2)	Failing to comply with an order	250
36	6.1.2	Causing or permitting any matter or thing to attract or be a breeding place for flies	250
37	6.1.4	Failing to comply with a notice	250
38	6.2.3(1)(a)	Failing to comply with a direction	250
39	6.3.2(2)	Failing to comply with a direction	250
40	6.4.2(2)	Failing to comply with a direction	250
41	6.5.2(c)	Failing to comply with a direction	250
42	6.6.2(a)	Failure to comply with a direction	250
43	6.7.2(4)	Failing to comply with a condition	250
44	6.7.4(3)	Failing to comply with a direction	250
45	6.8.2(b)	Failing to comply with a direction	250
46	7.1.1(2)	Failing to comply with a notice	250
47	7.1.3(4)	Failing to comply with a notice	250
48	7.1.4(2)	Failing to comply with a direction	250
49	7.1.5(a)	Failing to comply with instruction or a direction	250
50	7.1.6(2)	Entering or leaving any dwelling house or premises declared to be infected without written consent	250
51	7.1.7(2)	Failing to comply with a notice	250
52	7.2.1(2)	Failing to dispose of a used condom in accordance with clause 7.2.1(1)	250
53	7.2.2	Failing to dispose of used syringe or needle in correct manner	250

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Shire of Toodyay
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The Common Seal of the Shire of Toodyay was hereunto affixed by authority
of a resolution of the Council in the presence of—
On this 7th day of December 2017.

Cr Brian Rayner
Shire President

Mr Stan Scott
Chief Executive Officer



LOCAL GOVERNMENT ACT 1995

SHIRE OF TOODYAY

LOCAL LAWS RELATING TO

FENCING



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Under the powers conferred by the *Local Government Act 1995* and by all other powers the Council of the Shire of Toodyay resolved to make the following local laws on the 22nd day of July 1999.

PART 1 - PRELIMINARY

Citation

1. These Local Laws may be cited as the Shire of Toodyay Local Laws Relating to Fencing.

Repeal

2. The Shire of Toodyay By-laws Relating to Fencing published in the Government Gazette of 12 July 1972, are repealed.

Interpretation

3. In these Local Laws, unless the context requires otherwise:

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

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

"boundary fence" has the meaning given to it for the purposes of the Act;

"Building Surveyor" means a Building Surveyor of the local government;

"CEO" means the Chief Executive Officer of the local government;

"Commercial Lot" means a lot where a commercial use -

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

"dangerous" in relation to any fence means;

- (a) an electrified fence other than a fence in respect of which a licence under Part 6 of these Local Laws has been issued and is current;
 - (b) a fence containing barbed wire other than a fence erected and maintained in accordance with these Local Laws;
 - (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material;
- or

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(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 given to it in and for the purposes of the Act;

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

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

"frontage" means the boundary line between a lot and the thoroughfare upon which that lot abuts;

"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 where an industrial use -

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

"lot" has the meaning given to it in and for the purposes of the Town Planning and Development Act 1928;

"notice of breach" means a notice referred to in clause 15(1);

"Residential Lot" means a lot where a residential use -

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

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

"Rural Lot" means a lot where a rural use -

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

"Schedule" means a Schedule to these Local Laws;

"setback area" has the meaning given to it for the purposes of the town planning scheme;

"Special Rural Lot" means a lot where a special rural use -

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

"sufficient fence" means a fence described in clause 4; and

"town planning scheme" means a town planning scheme of the local government made under the Town Planning and Development Act 1928.

PART 2 - SUFFICIENT FENCES

Sufficient Fences

- 4. (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Subject to sub-clauses (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 the First Schedule.
 - (b) on a Commercial Lot and on an Industrial Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Second Schedule;
 - (c) on a Rural Lot and on a Special Rural Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule;
- (3) Where a fence is erected on or near the boundary between:
 - (a) a Residential Lot and an Industrial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;
 - (b) 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 the Second Schedule;
 - (c) a Residential Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule;
 - (d) a Residential Lot and a Special Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance

- with the specifications and requirements of the Third Schedule; and
- (e) a Special Rural Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule.
- (4) Unless the Building Surveyor specifies otherwise, a sufficient fence on a boundary between lots other than those specified in subclause (3) is a dividing fence constructed in accordance with the specifications and requirements of the Second Schedule.
 - (5) Notwithstanding any other provisions in these Local Laws, a fence constructed of stone or concrete shall be a sufficient fence only if it is designed by a structural engineer where:
 - (a) it is greater than 1800mm in height; or
 - (b) the Building Surveyor so requires.

PART 3 - GENERAL

Dividing Fences

- 5. (1) In determining an application for a building licence in respect of a fence, the Building Surveyor may approve the erection of a fence of a height greater than 750mm in the front setback area of a Residential Lot only if the fence on each side of the driveway into the Lot across the front boundary is to be angled into the Lot for a distance of not less than 1500mm along the frontage to a distance of not less than 1500mm from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.
- (2) The provision of sub-clause (1) shall not apply to a fence:
 - (a) of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare; or
 - (b) that does not adjoin a footpath.

Fences Within Front Setback Areas

- 6. A person shall not, without the written consent of the Building Surveyor erect, or repair a freestanding fence constructed of corrugated fibre reinforced cement sheeting within the front setback area of a lot within the district.

Fences on a Rural Lot

7. A person shall not without the written consent of the Building Surveyor, erect a fence on a Rural Lot, within 7.5m of a thoroughfare of a height exceeding 1500mm.

Maintenance of Fences

8. An owner and occupier of a lot on which a fence is erected shall maintain the fence in good condition and so as to prevent it from becoming dangerous, dilapidated, or unsightly.

General Discretion of the Local Government

9. (1) The local government may consent to the erection or repair of a fence which does not comply with the requirements of these Local Laws.
- (2) In determining whether to grant its consent to the erection or repair of any fence, the local government may consider, in addition to any other matter that it is authorized 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; or
 - (b) the safety or convenience of any person.

PART 4 - FENCING MATERIALS

Fencing Materials

10. (1) A person shall construct a fence on a Residential Lot, a Commercial Lot or an Industrial Lot from only brick, stone, concrete, wrought iron, tubular steel framed, link mesh, timber, plastic coated or galvanised link mesh, corrugated fibre reinforced cement sheeting, colour bonded metal or a material approved by the Building Surveyor.
- (2) Where the Building Surveyor approves the use of pre-used materials in the construction of a fence under subclause (1), that approval shall be conditional on the applicant for approval, painting or treating the pre-used material as directed by the Building Surveyor.

Barbed Wire and Broken Glass Fences

11. (1) clause does not apply to a fence constructed wholly or partly of razor wire.
- (2) An owner or occupier of a Residential Lot or a Commercial Lot shall not erect or affix to or allow to remain on or as part of any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of the Building Surveyor has been obtained.
- (3) An owner or occupier of an Industrial Lot shall not erect or affix or allow to remain as part of any fence bounding that Lot any barbed wire or other materials with spiked or jagged projections unless the wire or materials are carried on posts bent back into the lot from the boundary at an angle of 45 degrees, and unless the bottom row of wire or other materials is set back 150mm from the face of the fence and is not nearer than 2000mm from the ground level.
- (4) An owner or occupier of a lot shall not affix or allow to remain as part of any fence or wall, whether internal or external, on that lot any broken glass.
- (5) An owner or occupier of a Rural Lot shall not place or affix barbed wire upon a fence on that Lot where the fence is adjacent to a thoroughfare or other public place unless the barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.

PART 5 - ELECTRIFIED AND RAZOR WIRE FENCES

Requirement for a Licence

12. (1) An owner or occupier of a lot, other than a Rural Lot, shall not:
- (a) have and use an electrified fence on that lot without first obtaining a licence under subclause (2); or
- (b) have a fence constructed wholly or partly of razor wire on that lot without first obtaining a licence under subclause (3).
- (2) A licence to have and use an electrified fence shall not be issued:
- (a) in respect of a lot which is or which abuts a Residential Lot;
- (b) unless the fence complies with AS/NZS 3016:1994; and
- (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.

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- (3) A licence to have a fence constructed wholly or partly of razor wire shall not be issued:
 - (a) if the fence is within 3m of the boundary of the lot;
 - (b) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above the ground level.

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

- (5) An application for a licence referred to in subclauses (2) or (3) may be:
 - (a) approved by the local government;
 - (b) approved by the local government subject to such conditions as it thinks fit; or
 - (c) refused by the local government.

Transfer of a Licence

13. (1) The holder of a licence referred to in clause 12 may transfer that licence to another occupier or owner of the lot where the licence is to be used only on that property for which the licence was approved;

Cancellation of a Licence

14. Subject to Division 1 Part 9 of the Local Government Act 1995, the local government may cancel a licence issued under this Part if -
- (a) the fence no longer satisfies the requirements specified in clause 12(2) or 12(3) as the case may be; or
 - (b) the licence holder breaches any condition upon which the licence has been issued.

PART 6 - NOTICES OF BREACH

Notices of Breach

15. (1) Where a breach of any provision of these Local Laws has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner or occupier of that lot ('notice of breach').
15. (2) A notice of breach shall:
- (a) specify the provision of these Local Laws which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state that the owner or occupier of the lot is required to remedy the breach within 28 days from the giving of the notice.
15. (3) Should an owner or occupier fail to comply with a notice of breach, the local government may by its employees, agents or contractors enter upon the 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 lot, as the case may be, in a court of competent jurisdiction.

PART 7 - OFFENCES

Offences and Penalties

16. (1) An owner or occupier who fails to comply with a notice of breach commits an offence and is liable upon conviction to a maximum penalty of \$5000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.
16. (2) A person who fails to comply with or who contravenes any provision of these Local Laws commits an offence and is liable to a maximum penalty of \$5000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

Modified Penalties

17. (1) An offence against any provision of these local laws is a prescribed offence for the purposes of section 9.16 (1) of the Local Government Act 1995.
17. (2) Unless otherwise specified, the amount of the modified penalty for an offence against any provision of these local laws is \$100.

Form of Notices

18. For the purposes of these local laws –
 - (a) the form of the infringement notice referred to in section 9.17 of the Local Government Act 1995 is to be in or substantially in the form of Form 2 of 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 Local Government Act 1995 is to be in or substantially in the form of Form 3 in Schedule 1 of the Local Government (Functions and General) Regulations 1996.

First Schedule
Clause 4(2)(a)

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

Each of the following is a "sufficient fence" on a Residential Lot:

- A. A picket timber fence which satisfied the following specifications:
- (a) corner posts to be 125mm x 125mm x 75mm x 1800mm and intermediate posts to be 125mm x 75mm x 1800mm spaced at 2400mm centres;
 - (b) corner posts to be strutted two ways with 100mm x 50mm x 450mm sole plates and 75mm x 50mm struts;
 - (c) intermediate posts to be doubled yankee strutted with 150mm x 25mm x 450mm struts;
 - (d) all posts to have tops with a 60mm weather cut and to be sunk at least 600mm into the ground;
 - (e) rails to be 75mm x 50mm with each rail spanning two bays of fencing double railed or bolted to each post with joints staggered;
 - (f) the fence to be covered with 75mm x 20mm sawn pickets, 1200mm in height placed 75mm apart and affixed securely to each rail; and
 - (g) the height of the fence to a minimum of 1800mm.
- B. A fence constructed of corrugated fibre reinforced pressed cement sheeting 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 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 manufacturers written instructions; and
 - (d) the height of the fence to be a minimum of 1200mm.
- C. A fence constructed of brick, stone or concrete, which satisfies the following specifications:
- (a) footings of minimum 225mm x 150mm concrete 15MPA or 300mm x 175mm brick laid in cement mortar;

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- (b) fences to be offset a minimum of 200mm at maximum 3000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3000mm centres;
 - (c) expansion joints in accordance with the manufacturer's written instructions; and
 - (d) the height of the fence to be a minimum of 1200mm.
- D. A composite fence which satisfies the following specifications for the brick construction:
- (1)
 - (a) brick piers of minimum 345mm x 345mm at 1800mm centres bonded to a minimum height base wall of 514mm;
 - (b) each pier shall be reinforced with one R10 galvanised starting rod 900mm high with a 250mm horizontal leg bedded into a 500mm x 200mm concrete footing and set 65mm above the base of the footing. The top of the footing shall be 1 course (85mm) below ground level;
 - (c) the minimum ultimate strength of brickwork shall be 20MPA. Mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
 - (d) the ground under the footings is to be compacted to 6 blows per 300mm and checked with a standard falling weight penetrometer; and
 - (e) control joints in brickwork shall be provided with double piers at a maximum of 6 metre centres; or
 - (2)
 - (a) brick piers of a minimum 345mm x 345mm x 2700mm centres bonded to the base wall; and
 - (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified;

Second Schedule
Clause 4(2)(b)

**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A
COMMERCIAL LOT AND AN INDUSTRIAL LOT**

Each of the following is a "sufficient fence" on a Commercial Lot and an Industrial Lot:

- A. A fence constructed of galvanised or PVC coated rail-less link mesh, chain mesh or steel mesh which satisfies the following specifications:
- (a) corner posts to be minimum 50mm nominal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
 - (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5m centres and with footings of a 225mm diameter x 600mm;
 - (c) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and two at each corner post and with footings 225mm x 600mm;
 - (d) cables to be affixed to the top, centre and bottom of all posts and to consist of two or more 3.15mm wires twisted together or single 4mm wire;
 - (e) rail-less link, chain or steel mesh is to be to a height of 2000mm on top of which are to be three strands of barbed wire carrying the fence to a height of 2400mm in accordance with Part 4, Section 11(3) of the Local Law; and
 - (f) galvanised link mesh wire to be 2000mm in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than 3.6m and shall be constructed of 25mm tubular framework with one horizontal and one vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.
- B. A fence of fibre reinforced cement sheet constructed to the minimum specifications referred to in Item B of the First Schedule.
- C. A fence constructed of painted or galvanised steel or aluminium sheeting provided that this is used behind the building line to maximum height of 2400mm when supported on posts and rails.
- D. Fences of timber, brick, stone or concrete constructed to the minimum specifications referred to in the First Schedule.

Third Schedule
Clause 4(2)(c)

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT

A sufficient fence on a Rural Lot is a fence of posts and wire construction, the minimum specifications for which are:

- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of five wires shall be used, these to be spaced equally and connected to posts for all fences;
- (b) posts shall be of indigenous timber or other suitable material including timber impregnated with a termite and fungicidal preservative cut not less than 1800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn. Posts to be set minimum 600mm in the ground and 1200mm above the ground; and
- (c) strainer posts shall be not less than 2250mm long and 50mm diameter at the small end and shall be cut from indigenous timber or other suitable material.



LOCAL GOVERNMENT ACT 1995

Shire of Toodyay

Local Government Property

Local Law



Gazette Date: 25/10/2001, page 5681-5683

Local Government Act 1995

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LOCAL GOVERNMENT PROPERTY LOCAL LAW

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Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Toodyay resolved on September 27, 2001 to make the following local law.

PART 1 - PRELIMINARY

1.1. This local law may be cited as the Shire of Toodyay Local Government Property Local Law.

1.2. In this local law unless the context otherwise requires -

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

"applicant" means a person who applies for a permit under clause 3.2;

"authorized person" means a person authorized by the local government under section 9.10 of the Act to perform any of the functions of an authorized person under this local law;

"building" means any building which is local government property and includes a –

- (a) hall or room;
- (b) corridor, stairway or annexe of any hall or room; and
- (c) jetty;

"CEO" means the chief executive officer of the local government;

"commencement day" means the day on which this local law comes into operation;

"Council" means the council of the local government;

"date of publication" means, where local public notice is required to be given of a matter under this local law, the date on which notice of the matter is published in a newspaper circulating generally throughout the district;

"determination" means a determination made under clause 2.1;

"district" means the district of the local government;

"function" means an event or activity characterised by all or any of the following –

- (a) formal organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;
- (c) organisation by or on behalf of a club;
- (d) payment of a fee to attend it; and
- (e) systematic recurrence in relation to the day, time and place;

"liquor" has the same meaning as is given to it in section 3 of the *Liquor Licensing Act 1988*;

"local government" means the Shire of Toodyay;

"local government property" means anything except a thoroughfare –

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

"Manager" means the person for the time being employed by the local government to control and manage a pool area or other facility which is local government property and includes the person's assistant or deputy;

"permit" means a permit issued under this local law;

"permit holder" means a person who holds a valid permit;

"person" does not include the local government;

"pool area" means any swimming and wading pools and spas and all buildings, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of or used in connection with such swimming and wading pools and spas which are local government property;

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

"sign" includes a notice, flag, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols;

"trading" means the selling or hiring, or the offering for sale or hire of goods or services, and includes displaying goods for the purpose of –

- (a) offering them for sale or hire;
- (b) inviting offers for their sale or hire;
- (c) soliciting orders for them; or
- (d) carrying out any other transaction in relation to them; and

"vehicle" includes –

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
- (b) an animal being ridden or driven,

but excludes –

- (c) a wheel-chair or any device designed for use, by a physically impaired person on a footpath;
- (d) a pram, a stroller or a similar device; and

1.3. In this local law unless the context otherwise requires a reference to local government property includes a reference to any part of that local government property.

1.4. (1) This local law applies throughout the district.

(2) Notwithstanding anything to the contrary in this local law, the local government may -

- (a) hire local government property to any person; or
- (b) enter into an agreement with any person regarding the use of any local government property.

1.5. (1) The following local laws are repealed –

The Toodyay Memorial Hall By Laws published in the Government Gazette on October 12, 1979.

The Management and Use of Toodyay Memorial Hall By Laws published in the Government Gazette on October 14, 1983.

The Toodyay Memorial Hall By Laws published in the Government Gazette on March 17, 1989.

- (2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.
- (3) The Council may resolve that notwithstanding subclause (2), specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

**PART 2 - DETERMINATIONS IN RESPECT OF LOCAL
GOVERNMENT PROPERTY**

Division 1 - Determinations

- (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
 - (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
 - (c) as to the matters in clauses 2.7(2) and 2.8(2); and
 - (d) as to any matter ancillary or necessary to give effect to a determination.
- (2) The determinations in Schedule 2 –
- (a) are to be taken to have been made in accordance with clause 2.2;
 - (b) may be amended or revoked in accordance with clause 2.6; and
 - (c) have effect on the commencement day.
- (2) The local public notice referred to in subclause (1) is to state that –
- (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
 - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
 - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.

- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to –
 - (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
 - (b) amend the proposed determination, in which case subclause (5) will apply; or
 - (c) not continue with the proposed determination.
- 2.2 (4) If submissions are received in accordance with subclause (2)(c) the Council is to –
 - (a) consider those submissions; and
 - (b) decide –
 - (i) whether or not to amend the proposed determination; or
 - (ii) not to continue with the proposed determination.
- 2.2 (5) If the Council decides to amend the proposed determination, it is to give local public notice –
 - (a) of the effect of the amendments; and
 - (b) that the proposed determination has effect as a determination on and from the date of publication.
- 2.2 (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- 2.2 (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- 2.2 (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

- 2.5 (2) Sections 5.94 and 5.95 of the Act are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.
- 2.6 (2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- 2.6 (3) If the Council revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

Division 2 - Activities which may be pursued or prohibited under a determination

- (a) bring, ride or drive an animal;
 - (b) take, ride or drive a vehicle, or a particular class of vehicle;
 - (c) fly or use a motorised model aeroplane;
 - (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
 - (e) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
 - (f) play or practice –
 - (i) golf or archery;
 - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
 - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
 - (g) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and
 - (h) wear no clothing.
- 2.7 (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular –
- (a) the days and times during which the activity may be pursued;

- (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
 - (d) may limit the activity to a class of vehicles, equipment or things, or may extend it to all vehicles, equipment or things;
 - (e) may specify that the activity can be pursued by a class of persons or all persons; and
 - (f) may distinguish between different classes of the activity.
-
- (a) smoking on premises;
 - (b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
 - (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
 - (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
 - (f) the playing or practice of -
 - (i) golf, archery, pistol shooting or rifle shooting; or
 - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
 - (g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and

- (h) the traversing of sand dunes or land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.

2.8 (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular –

- (a) the days and times during which the activity is prohibited;
- (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
- (c) that an activity is prohibited in respect of a class of vehicles, equipment or things, or all vehicles, equipment or things;
- (d) that an activity is prohibited in respect of a class of persons or all persons; and
- (e) may distinguish between different classes of the activity.

2.8 (3) In this clause –

"premises" means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

Division 3 - Transitional

- 2.9 (2) Clause 2.5 does not apply to a sign referred to in subclause (1).

PART 3 - PERMITS

Division 1 - Preliminary

Division 2 - Applying for a permit

- 3.2 (2) An application for a permit under this local law shall -
- (a) be in the form determined by the local government;
 - (b) be signed by the applicant;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- 3.2 (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- 3.2 (4) The local government may require an applicant to give local public notice of the application for a permit.
- 3.2 (5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).
- (a) approve an application for a permit unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a permit.
- 3.3 (2) If the local government approves an application for a permit, it is to issue to the applicant, a permit in the form determined by the local government.
- 3.3 (3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

Division 3 - Conditions

- (a) the payment of a fee;
- (b) compliance with a standard or a policy of the local government adopted by the local government;
- (c) the duration and commencement of the permit;
- (d) the commencement of the permit being contingent on the happening of an event;
- (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (f) the approval of another application for a permit which may be required by the local government under any written law;
- (g) the area of the district to which the permit applies;
- (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
- (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government.

3.4. (2) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued –

- (a) when fees and charges are to be paid;
- (b) payment of a bond against possible damage or cleaning expenses or both;
- (c) restrictions on the erection of material or external decorations;
- (d) rules about the use of furniture, plant and effects;

- (e) limitations on the number of persons who may attend any function in or on local government property;
- (f) the duration of the hire;
- (g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;
- (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the Liquor Licensing Act 1988;
- (i) whether or not the hire is for the exclusive use of the local government property;
- (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
- (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

"policy" means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 3.3(1)(a).

- 3.5 (2) Under clause 3.3(1)(a) the local government may approve an application subject to conditions by reference to a policy.
- 3.5 (3) The local government shall give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 3.3(2).
- 3.5 (4) An application for a permit shall be deemed not to have been approved subject to the conditions contained in a

policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.

3.5 (5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy shall be deemed to be information within section 5.94(u)(i) of the Act.

3.6 (2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

Division 4 - General

- (a) otherwise stated in this local law or in the permit; or
 - (b) cancelled under clause 3.12.
- 3.9 (2) The provisions of this Part shall apply to an application for the renewal of a permit mutatis mutandis.
- (a) be made in writing;
 - (b) be signed by the permit holder and the proposed transferee of the permit;
 - (c) provide such information as the local government may require to enable the application to be determined; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- 3.10 (2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- 3.10 (3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by an endorsement on the permit signed by the CEO.
- 3.10 (4) Where the local government approves the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

- (a) condition of the permit; or
- (b) determination or a provision of any written law which may relate to the activity regulated by the permit.

3.12 (2) On the cancellation of a permit the permit holder -

- (a) shall return the permit as soon as practicable to the CEO; and
- (b) is to be taken to have forfeited any fees paid in respect of the permit.

Division 5 - When a permit is required

- (a) subject to subclause 3, hire local government property;
- (b) advertise anything by any means on local government property;
- (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
- (d) teach, coach or train, for profit, any person in a pool area or an indoor recreation facility which is local government property;
- (e) plant any plant or sow any seeds on local government property;
- (f) carry on any trading on local government property unless the trading is conducted –
 - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
 - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
- (g) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose –
 - (i) drive or ride or take any vehicle on to local government property; or
 - (ii) park or stand any vehicle on local government property;
- (h) conduct a function on local government property ;
- (i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
- (j) light a fire on local government property except in a facility provided for that purpose;

- (k) parachute, hang glide, abseil or base jump from or on to local government property;
 - (l) erect a building or a refuelling site on local government property;
 - (m) make any excavation on or erect or remove any fence on local government property;
 - (n) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person; or
 - (o) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property.
- 3.13 (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- 3.13 (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).
- "facility"** has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.
- 3.14 (2) This clause does not apply to a facility operated by the local government.
- 3.14 (3) A person shall not without a permit -
- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or
 - (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.

- 3.14 (4) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the Caravan Parks and Camping Grounds Regulations 1997.
- (a) that is permitted under the *Liquor Licensing Act 1988*; and
- (b) a permit has been obtained for that purpose.
- 3.15 (2) Subclause (1) does not apply where the liquor is in a sealed container.

Division 6 - Responsibilities of permit holder

- (a) ensure that an authorized person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (b) leave the local government property in a clean and tidy condition after its use;
- (c) report any damage or defacement of the local government property to the local government; and
- (d) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Licensing Act 1988* for that purpose.

PART 4 - BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

Division 1 - Behaviour on and interference with local government property

- (a) is likely to interfere with the enjoyment of a person who might use the property; or

- (b) interferes with the enjoyment of a person using the property.

4.2 (2) In subclause (1) –

'detrimental to the property' includes –

- (a) removing any thing from the local government property such as a rock, a plant or a seat provided for the use of any person; and
- (b) destroying, defacing or damaging any thing on the local government property, such as a plant, a seat provided for the use of any person or a building.

In this clause –

"animal" means any living thing that is not a human being or plant; and

"fauna" means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes in relation to any such animal –

- (a) any class of animal or individual member;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur.

Division 2 - Signs

- 4.6 (2) A person shall comply with a sign erected under subclause (1).
- 4.6 (3) A condition of use specified on a sign erected under subclause (1) is –

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- (a) not to be inconsistent with any provision of this local law or any determination; and
- (b) to be for the purpose of giving notice of the effect of a provision of this local law.

**PART 5 – MATTERS RELATING TO PARTICULAR LOCAL
GOVERNMENT PROPERTY**

Division 1 - Swimming pool areas

- (a) in her or his opinion is -
 - (i) under the age of 6 years and who is unaccompanied by a responsible person over the age of 14 years;
 - (ii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
 - (iii) under the influence of liquor or a prohibited drug;
or
- (b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.

Division 2 - Fenced or closed property

Division 4 - Toilet blocks and change rooms

- (a) females, then a person of the male gender shall not use that entry of the toilet block or change room; or
- (b) males, then a person of the female gender shall not use that entry of the toilet block or change room.

**PART 6 - FEES FOR ENTRY ON TO LOCAL GOVERNMENT
PROPERTY**

- (a) through the proper entrance for that purpose; and
 - (b) on payment of the fee chargeable for admission at the time.
- 6.1 (2) The local government may exempt a person from compliance with subclause (1)(b).

PART 7 - OBJECTIONS AND APPEALS

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

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations apply to that decision.

PART 8 - SALEYARDS

Division 1 - Preliminary

"**auction**" has the meaning given to it in the *Auction Sales Act 1973*;

"**sale**" means a sale by way of auction;

"**saleyard**" means local government property which is used for the sale of stock;

"**stock**" has the meaning given to "livestock" in the *Auction Sales Act 1973*; and

"**stock agent**" means any person appointed by the owner of stock to sell that stock at a saleyard.

Division 2 - Sale of stock

Division 3 - Care of and responsibility for stock

- (a) offer for sale any stock which is diseased, emaciated, injured or suffering from ill health for sale at a saleyard; or
 - (b) deliver to any saleyard any stock which is diseased, emaciated, injured or suffering from ill health.
- 8.5 (2) Where in the opinion of an authorized person stock at a sale yard is diseased, emaciated, injured or suffering from ill health, the authorized person may direct the stock agent of the stock, or if there is no stock agent, the owner or the person apparently in control of that stock, to remove that stock immediately from the saleyard.
 - (a) ensure that the stock is properly cared for; and
 - (b) if the stock is kept yarded for more than 24 hours, provide the stock with adequate food and water.
- (a) are unsold, by the stock agent, or if there is no stock agent, the owner; or
 - (b) have been sold, by the purchaser.

Division 4 - Payment of fees

- (a) within 7 days of bringing the stock into a saleyard, give the local government a written statement signed by the stock agent or owner advising -
 - (i) the total number of stock by class brought into the saleyard; and

- (ii) the date on which the stock was brought into the saleyard; and
- (b) within 28 days of bringing the stock into a saleyard, pay the local government the applicable yard fees set by the local government.

Division 5 - Control of dogs

PART 9 - MISCELLANEOUS

- (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
 - (b) replacing that property.
- 9.4 (2) Unless there is proof to the contrary, a person is to be taken to have damaged local government property within subclause (1) where –
 - (a) a vehicle or a boat caused the damage, the person was the person responsible, at the time the damage occurred, for the control of the vehicle or the boat; or
 - (b) the damage occurred under a permit, the person is the permit holder in relation to that permit.
- 9.4 (3) On a failure to comply with a notice issued under subclause (1), the local government may recover the costs referred to in the notice as a debt due to it.

PART 10 - ENFORCEMENT

Division 1 - Notices given under this local law

Division 2 - Offences and penalties

Subdivision 1 - General

- 10.3 (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

Subdivision 2 - Infringement notices and modified penalties

- 10.4 (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.
- 10.4 (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorized 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.
-
- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
 - (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
 - (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.
- 10.5 (2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

Division 3 – Evidence in legal proceedings

- 10.6 (2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.
- 10.6 (3) Subclause (2) does not make valid a determination that has not been properly made.

SCHEDULE 1

PRESCRIBED OFFENCES

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
2.4	Failure to comply with determination	100
3.6	Failure to comply with conditions of permit	100
3.13(1)	Failure to obtain a permit	100
3.14(3)	Failure to obtain permit to camp outside a facility	100
3.15(1)	Failure to obtain permit for liquor	100
3.16	Failure of permit holder to comply with responsibilities	100
4.2(1)	Behaviour detrimental to property	100
4.4	Under influence of liquor or prohibited drug	100
4.6(2)	Failure to comply with sign on local government property	100
5.5	Unauthorized entry to fenced or closed local government property	100
5.6	Gender not specified using entry of toilet block or change room	100
6.1(1)	Unauthorized entry to function on local government property	100
8.2	Selling by way of auction without licence	100
8.8	Failure to remove stock	200
8.10	Failure to immediately remove dead or maimed stock	200
8.11	Failure to give statement or pay fees to local government	200
8.12	Failure to produce documents for inspection by local government	200
8.13	Unauthorized entry of dog into saleyard	100
11.1	Failure to comply with notice	200

SCHEDULE 2

DETERMINATIONS

The following determinations are to be taken to have been made by the local government under clause 2.1.

PART 1 – PRELIMINARY

Definitions

1.1 In these determinations unless the context otherwise requires –

"local law" means the *Local Government Property Local Law* made by the local government;

Interpretation

1.2 Unless the context otherwise requires, where a term is used but not defined in a determination and that term is defined in the local law then the term shall have the meaning given to it in the local law.

Dated this 28th day of September ,2001

The Common Seal of the)
Shire of Toodyay was affixed by)
authority of a resolution)
of the Council in the)
presence of -)

Mr. A.D Smith
Chief Executive Officer

Cr. A.E Henshaw
Shire President



LOCAL GOVERNMENT ACT 1995

Shire of Toodyay

Parking and Parking

Facilities Local Law



Gazette Date: 05/05/2000, page 2136

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Under the powers conferred by the Local Government Act 1995 and under all other powers, the Council of the Shire of Toodyay resolved to make the following Local Law on the 27th day of April 2000

Part 1 - Definition and Operation

1.1 Commencement

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

1.2 Repeal

The Shire of Toodyay Local Law Relating to Parking Facilities published in the Government Gazettes of 2 December 1983 and 12 May 1995, are repealed.

The Shire of Toodyay Local Law Order in Council - Vehicles on roads published in the Government Gazette of March 22, 1951.

The Shire of Toodyay Local Law Order in Council - Stands and parking for vehicles published in the Government Gazette of November 9, 1956.

The Shire of Toodyay Local Law Commercial vehicles on street verges No.20 published in the Government Gazette of February 8, 1972.

1.3 Interpretation

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

"Act" means the Local Government Act 1995;

"Authorized Person" means a person authorized by the local government under section 9.10 of the Act, to perform any of the functions of an Authorized Person under this Local Law;

"authorized vehicle" means a vehicle authorized by the local government, Chief Executive Officer, Authorized Person or by any written law to park on a thoroughfare or parking facility;

"bicycle" means any wheeled vehicle that is designed to be propelled solely by human power;

"bus" means an omnibus as defined by the Road Traffic Act;

"bus embayment" has the meaning given to it in the Code;

"caravan" means a vehicle that is fitted or designed to allow human habitation and which is drawn by another vehicle, or which is capable of self-propulsion;

"carriageway" means a portion of thoroughfare that is improved, designed or ordinarily used for vehicles and includes the shoulders and areas including embayments at the side or centre of the carriageway, used for the parking of vehicles; and where a thoroughfare has two or more of those portions divided by a median strip, the expression means each of those portions, separately;

"centre" in relation to a carriageway, means a line or a series of lines, marks or other indications placed at, or near, the middle of the carriageway or, in the absence of any such lines, marks or other indications, the middle of the main travelled portion of the carriageway;

"children's crossing" has the meaning given to it in the Code;

"CEO" means the Chief Executive Officer of the local government;

"Code" means the Road Traffic Code 1975;

"commercial vehicle" means a motor vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a motor vehicle for the conveyance of passengers, and includes any motor vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

"district" means the district of the local government;

"driver" means any person driving or in control of a vehicle;

"emergency vehicle" has the meaning given to it in the Code;

"footpath" includes every footpath, pedestrian access way or other place -

- (a) intended for the use of pedestrians only, or in the case of a dual use path, for the use of pedestrians and bicyclists only; or

- (b) habitually used by pedestrians and not by vehicles or, in the case of a dual use path, by pedestrians and bicyclists and not by vehicles other than bicycles;

"Loading Zone" means a parking stall which is set aside for use by commercial vehicles if there is a sign referable to that stall marked 'Loading Zone';

"local government" means the [Shire of Toodyay];

"median strip" has the meaning given to it in the Code;

"metered space" means a section or part of a metered zone that is adjacent to a parking meter and that is marked or defined by painted lines or by metallic studs or similar devices for the purpose of indicating where a vehicle may be parked on payment of a fee or charge;

"metered zone" means any thoroughfare or reserve, or part of any thoroughfare or reserve, in which parking meters regulate the parking of vehicles;

"motorcycle" means a motor vehicle that has two wheels or, where a sidecar is attached, three wheels;

"motor vehicle" means a self-propelled vehicle that is not operated on rails; and the expression includes a trailer, semi-trailer or caravan while attached to a motor vehicle, but does not include a power assisted pedal cycle;

"no parking area" means a portion of a carriageway that lie

-

- (a) between two consecutive signs inscribed with the words "No Parking" or with an equivalent symbol depicting this purpose and each with an arrow pointing generally towards the other of them; or
- (b) between a sign inscribed with the words "No Parking" or with an equivalent symbol depicting this purpose, and the end of the carriageway or an area in which parking is prohibited and that lies in the general direction indicated by an arrow inscribed on the sign;

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

"owner" where used in relation to a vehicle, means a person who is the registered holder of the requisite vehicle licence under the Road Traffic Act in respect of that vehicle, or if the vehicle is not licensed under that Act, the person who owns the vehicle or is entitled to its possession; and where used in relation to land has the meaning given to it by the Act;

"park", in relation to a vehicle, means to permit a vehicle, whether occupied or not by any person, to remain stationary for any period of time except for the purpose of - avoiding conflict with other traffic; or complying with the provisions of any law when the vehicle is being driven;

"parking area" means a portion of a carriageway-

- (a) between two consecutive signs inscribed with the word "Parking" or with an equivalent symbol depicting this purpose and each with an arrow pointing generally towards the other of them; or
- (b) extending from a sign inscribed with the word "Parking" or with an equivalent symbol depicting this purpose in the general direction indicated by the arrow inscribed on the sign. to any other sign inscribed with the words "No Parking" or with an equivalent symbol depicting this purpose, or to the end of the carriageway or an area in which the parking of vehicles is prohibited. and is on that side of the carriageway of the thoroughfare nearest the sign;

"parking facilities" includes land, buildings, shelters, metered zones, metered spaces, parking stalls and other facilities open to the public generally for the parking of vehicles with or without charge, and signs, notices and facilities used in connection with the parking of vehicles;

"parking meter" includes the stand on which the meter is erected and a ticket issuing machine;

"parking region" means the area described in the First Schedule;

"parking stall" means a section or part of a thoroughfare or of a parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked, but does not include a metered space;

"parking station" means any land, or structure provided for the purpose of accommodating vehicles with or without charge, but does not include a metered zone or metered space;

"pedestrian crossing" has the meaning given to it in the Code;

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

"reserve" means any land -which belongs to the local government; of which the local government is the

management body under the Land Administration Act 1997; or which is an "otherwise unvested facility" within section 3.53 of the Act;

"Road Traffic Act" means the Road Traffic Act 1974;

"Schedule" means a Schedule to this Local Law;

"sign" includes a traffic sign, inscription, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols, and which is placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking of vehicles; "special purpose vehicle" means a public utility service truck, a tow truck, a vehicle being used for official duties by a member of the Police Service, a motor breakdown service vehicle or a vehicle being used by a government authority or a local government in connection with its functions, but does not include an emergency vehicle;

"symbol" includes any symbol specified by Australian Standard 1742.11-1989 and any symbol specified from time to time by Standards Australia for use in the regulation of parking and any reference to the wording of any sign in this Local Law shall be also deemed to include a reference to the corresponding symbol;

"taxi" has the same meaning as "taxi-car" in section 47Z of the Transport Co-ordination Act 1966;

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

"ticket issuing machine" means a parking meter which issues, as a result of money being inserted in the machine or such other form of payment as may be permitted to be made, a ticket showing the period during which it shall be lawful to remain parked in a metered space to which the machine is referable;

"trailer" means any vehicle without motive power of its own, designed for attachment to a motor vehicle for the purpose of being towed, but does not include the rear portion of an articulated vehicle, or a side car;

"vehicle" includes every conveyance not being a train, vessel or aircraft, and every object capable of being propelled or drawn on wheels by any means; and

"verge" means the portion of a thoroughfare which lies between the boundary of a carriageway and the adjacent property line but does not include a footpath.

- (2) For the purposes of the application of the definitions "**no parking area**" and "**parking area**" an arrow inscribed on a traffic sign erected at an angle to the boundary of the carriageway is deemed to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the boundary.
- (3) Unless the context otherwise requires, where a term is used, but not defined, in this Local Law, and that term is defined in the Road Traffic Act or in the Code, then the term shall have the meaning given to it in that Act or the Code.

1.4 Application and pre-existing signs

Subject to subclause (2), this Local Law applies to the parking region. This Local Law does not apply to a parking facility or a parking station that is not occupied by the local government, unless the local government and the owner or occupier of that facility or station have agreed in writing that this Local Law will apply to that facility or station.

The agreement referred to in subclause (2) may be made on such terms and conditions as the parties may agree.

Where a parking facility or a parking station is identified in the Fourth Schedule, then the facility or station shall be deemed to be a parking station to which this Local law applies and it shall not be necessary to prove that it is the subject of an agreement referred to in subclause (2).

A sign that-

- (a) was erected by the local government or the Commissioner of Main Roads prior to the coming into operation of this Local Law; and
 - (b) relates to the parking of vehicles within the parking region, shall be deemed for the purposes of this Local Law to have been erected by the local government under the authority of this Local Law.
- (6) An inscription or symbol on a sign referred to in subclause (5) operates and has effect according to its tenor, and where the inscription or symbol relates to the standing of vehicles, it shall be deemed for the purposes of this Local Law to operate and have effect as if it related to the parking of vehicles.

1.5 Classes of vehicles

For the purpose of this Local Law, vehicles are divided into classes as follows-

- (a) buses;
- (b) commercial vehicles;
- (c) motorcycles and bicycles;
- (d) taxis; and
- (e) all other vehicles.

1.6 Part of thoroughfare to which sign applies

Where under this Local Law the parking of vehicles in a thoroughfare is controlled by a sign. the sign shall be read as applying to that part of the thoroughfare which –

- (a) lies beyond the sign;
- (b) lies between the sign and the next sign beyond that sign; and
- (c) is on that side of the thoroughfare nearest to the sign.

Part 2 -Metered Zones

2.1 Determination of metered zones

- (1) The local government may by resolution constitute, determine and vary and also indicate by signs, metered spaces and metered zones.
- (2) In respect of metered spaces and metered zones the local government may by resolution determine, and may indicate by signs –
 - (a) permitted times and conditions of parking depending on and varying with the locality;
 - (b) classes of vehicles which are permitted to park;
 - (c) the amount payable for parking; and
 - (d) the manner of parking.

2.2 Parking fee to be paid

Subject to clause 2.5, a person shall not park a vehicle in a metered space unless the appropriate fee as indicated by a sign on the parking meter referable to the space is inserted into the parking meter.

2.3 Limitation on parking in metered space

The payment of a fee under clause 2.2 shall entitle a person to park the vehicle in a metered space for the period shown on the parking meter, but does not authorize the parking of the vehicle during any time when parking in that space may be prohibited in accordance with this Local Law.

2.4 No parking when meter is expired

Subject to clause 2.5, a person shall not leave or permit a vehicle to remain parked in a metered space during the hours when a fee is payable to park the vehicle in the space when the parking meter referable to that space exhibits the sign "Expired" or a negative time.

2.5 Suspension of requirement to pay fee

The local government may from time to time by a resolution declare that the provisions of clauses 2.2 and 2.4 shall not apply during the periods and days specified in the resolution.

2.6 Vehicles to be within metered space

A person shall not park a vehicle in a metered space in a thoroughfare otherwise than parallel to and as close to the kerb as practicable and wholly within the space, provided that where a metered space is set out otherwise than parallel to the kerb the vehicle need only park wholly within the space.

2.7 Permitted insertions in parking meters

2.7 (1) A person shall not insert into a parking meter anything other than the designations of coin or banknote or such other permitted form of payment indicated by a sign on the parking meter.

2.7 (2) The insertion of a coin or banknote into any parking meter or the making of payment in such other form as

may be permitted shall be effected only in accordance with the instructions printed on that particular meter.

2.8 Parking ticket to be clearly visible

A driver of a vehicle left parked in a metered zone which is regulated by a ticket issuing machine shall on purchasing a ticket from the machine for a period of parking, place the ticket inside the vehicle in such a position that the ticket is clearly visible to and the expiry time or time for which the ticket remains valid is able to be read by an Authorized Person examining the ticket from outside the vehicle.

2.9 One vehicle per metered space

A person shall not park or attempt to park a vehicle in a metered space in which another vehicle is parking.

2.10 No parking when hood on meter

Notwithstanding any other provision of this Local Law and notwithstanding any other sign or notice, a person shall not park a vehicle in a metered space if the parking meter referable to such metered space has a hood marked "No Parking", "Reserved Parking" or "Temporary Bus Stand" or equivalent symbols depicting these purposes except with the permission of the local government or an Authorized Person.

Part 3 -Parking Stalls and Parking Stations

3.1 Determination of parking stalls and parking stations

The local government may by resolution constitute, determine and vary and also indicate by signs –

- (a) parking stalls;
- (b) parking stations;
- (c) permitted time and conditions of parking in parking stalls and parking stations which may vary with the locality;
- (d) permitted classes of vehicles which may park in parking stalls and parking stations;
- (e) permitted classes of persons who may park in specified parking stalls or parking stations; and
- (f) the manner of parking in parking stalls and parking stations.

3.2 Vehicles to be within parking stall on thoroughfare

- (1) Subject to subclause (2), a person shall not park a vehicle in a parking stall in a thoroughfare otherwise than –
 - (a) parallel to and as close to the kerb as is practicable;
 - (b) wholly within the stall; and
 - (c) headed in the direction of the movement of traffic on the side of the thoroughfare in which the stall is situated.
- (2) Where a parking stall in a thoroughfare is set out otherwise than parallel to the kerb, then a person must park a vehicle in that stall wholly within it.

3.3 Payment of fee to park in parking station

A person shall not park a vehicle or permit a vehicle to remain parked in any parking station during any period for which a fee is payable unless –

- (a) in the case of a parking station having an Authorized Person on duty, the appropriate fee is paid when demanded; or
- (b) in the case of a parking station equipped with parking meters, the appropriate fee is inserted in the meter or the required payment is made in such other form as may be permitted.

3.4 Suspension of parking station restrictions

The local government may by resolution declare that the provisions of clause 3.3 do not apply during periods on particular days in relation to particular parking stations as specified in such resolution.

3.5 Vehicle not to be removed until fee paid

A person shall not remove a vehicle which has been parked in a parking station until there has been paid the appropriate fee for the period for which the vehicle has been parked.

3.6 Entitlement to receipt

A person paying a fee at a parking station is to be entitled to receive a receipt on demand showing the period of parking covered by such payment.

3.7 Parking ticket to be clearly visible

A driver of a vehicle in a parking station which is equipped with a ticket issuing machine shall on purchasing a ticket from the machine for a period of parking, place the ticket inside the vehicle in such a position that the ticket is clearly visible to and the expiry time or time for which the ticket remains valid is able to be read by an Authorized Person examining the ticket from outside the vehicle.

3.8 Vehicles to be within parking stall in parking station

Unless otherwise directed by an Authorized Person, a person shall not park a vehicle in a parking station otherwise than wholly within a parking stall

3.9 Parking prohibitions and restrictions

- (1) A person shall not-
 - (a) park a vehicle so as to obstruct an entrance to, or an exit from a parking station, or an access way within a parking station;
 - (b) except with the permission of the local government or an Authorized Person park a vehicle on any part of a parking station contrary to a sign referable to that part;
 - (c) permit a vehicle to park on any part of a parking station, if an Authorized Person directs the driver of such vehicle to move the vehicle; or
 - (d) park or attempt to park a vehicle in a parking stall in which another vehicle is parked but this paragraph does not prevent the parking of a motorcycle and a bicycle together in a stall marked "M/C", if the bicycle is parked in accordance with subclause (2).

- (2) No person shall park any bicycle –
 - (a) in a parking stall other than in a stall marked "M/C";
and
 - (b) in such stall other than against the kerb.

Part 4 -Parking Generally

4.1 Prohibition and regulation of parking by signs

The local government may by resolution prohibit or regulate by signs or otherwise the parking of any vehicle or class of vehicles in any part of the parking region but must do so consistently with the provisions of this Local Law.

4.2 Restrictions on parking in particular areas

- (1) A person shall not park a vehicle in a thoroughfare or part of a thoroughfare, or part of a parking station –
 - (a) if by a sign it is set apart for the parking of vehicles of a different class;
 - (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
 - (c) during any period when the parking of vehicles is prohibited by a sign.
- (2) A person shall not park a vehicle –
 - (a) in a no parking area;
 - (b) in a parking area, except in accordance with both the signs associated with the parking area and with this Local Law;
 - (c) in a stall marked "M/C" unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.
- (3) A person shall not park a motorcycle without a sidecar or a trailer, or a bicycle in a parking stall unless the stall is marked "M/C".

A person shall not, without the prior permission of the local government, the CEO, or an Authorized Person, park a

vehicle in an area designated by a sign stating "Authorized Vehicles Only",

- (5) In a Loading Zone, a person shall not -park a vehicle other than a commercial vehicle which is being loaded or unloaded with goods; or park a commercial vehicle which is being loaded or unloaded with goods for more than 30 minutes.
- (6) In paragraph (b) of subclause (5) "goods" means an article or collection of articles weighing at least 13.6kg and of which the cubic measurement is not less than 0.17m³.

4.3 Parking vehicle on a carriageway

A person parking a vehicle on a carriageway shall park it –

- (a) in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (b) in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (c) so that at least 3 metres of the width of the carriageway lies between the vehicle and the farther boundary of the carriageway, or between the vehicle and a vehicle parked on the farther side of the carriageway;
- (d) so that it is not less than 1.2 metres from any other vehicle, except a motorcycle without a trailer, or a bicycle parked in accordance with this Local Law;
- (e) so that it does not obstruct any vehicle on the carriageway; and
- (f) so that it is entirely within the confines of any parking stall marked on the carriageway.

4.4 Vehicle to be wholly within parking area

A person shall not park a vehicle partly within and partly outside a parking area.

4.5 When parallel and right-angled parking apply

Where a traffic sign associated with a parking area is not inscribed with the words "angle parking" (or with an equivalent symbol depicting this purpose), then unless a sign associated with the parking area indicates or marks on the carriageway indicate that vehicles have to park in a different position where the parking area is –

- (a) adjacent to the boundary of a carriageway, a person parking a vehicle in the parking area shall park it as near as practicable to and parallel with that boundary; and
- (b) at or near the centre of the carriageway, a person parking a vehicle in that parking area shall park it at approximately right angles to the centre of the carriageway.

4.6 When angle parking applies

(1) This clause does not apply to-

- (a) a passenger vehicle or a commercial vehicle with a mass including any load, of over three tonnes; or
- (b) a person parking either a motor cycle without a trailer or a bicycle.

(2) Where a sign associated with a parking area is inscribed with the words "angle parking" (or with an equivalent symbol depicting this purpose), a person parking a vehicle in the area shall park the vehicle at an angle of approximately 45 degrees to the centre of the carriageway unless otherwise indicated by the inscription on the parking sign or by marks on the carriageway.

4.7 General prohibitions on parking

(1) (a) This clause does not apply to a vehicle parked in a metered space or a parking stall nor to a bicycle in a bicycle rack.

(b) Paragraphs (c), (e) and (g) of subclause (2) do not apply to a vehicle which parks in a bus embayment.

(2) A person shall not park a vehicle so that any portion of the vehicle is –

- (a) between any other stationary vehicles and the centre of the carriageway;

- (b) on or adjacent to a median strip;
 - (c) obstructing a right of way, private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway;
 - (d) alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic;
 - (e) on or within 9 metres of any portion of a carriageway bounded by a traffic island;
 - (f) on any footpath or pedestrian crossing;
 - (g) on a bridge or other elevated structure or within a tunnel or underpass;
 - (h) between the boundaries of a carriageway and any double longitudinal line consisting of two continuous lines or between a double longitudinal line consisting of a continuous line and a broken or dotted line and the boundary of a carriageway nearer to the continuous line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;
 - (i) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;
 - (j) within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug;
 - (k) within 3 metres of a public letter pillar box, unless the vehicle is being used for the purposes of collecting postal articles from the pillar box; or
 - (l) within 6 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked.
- (3) A person shall not park a vehicle so that any portion of the vehicle is within 9 metres of the departure side of –
- (a) a sign inscribed with the words "Bus Stop" or "Hail Bus Here" (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers;

- (b) a children's crossing established on a two-way carriageway; or
 - (c) the nearest rail of a railway level crossing.
- (4) A person shall not park a vehicle so that any portion of the vehicle is within 18 metres of the approach side of –
- (a) a sign inscribed with the words "Bus Stop" or "Hail Bus Here" (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers;
 - (b) a pedestrian crossing or children's crossing; or
 - (c) the nearest rail of a railway level crossing.

4.8 Parking on verges

A person shall not-

- (1) (a) park a vehicle
- (b) park a commercial vehicle or bus, or a trailer or caravan unattached to a motor vehicle;
- (c) or park a vehicle during any period when the parking of vehicles on that verge is prohibited by a sign adjacent and referable to that verge, so that any portion of it is on a verge.

Subclause 1 (a) does not apply to the person if he or she is the owner or occupier of the premises adjacent to that verge, or is a person authorised by the occupier of those premises to park the vehicle so that any portion of it is on the verge.

Subclause 1 (b) does not apply to a commercial vehicle when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials collected from or delivered to the premises adjacent to the portion of the verge on which the commercial vehicle is parked, provided no obstruction is caused to the passage of any vehicle or person using a carriageway or a footpath.

4.9 Limitation on parking of vehicles with tare in excess of 3,000 kg's on carriageway

A person shall not park a vehicle having a tare in excess of 3,000 kg's on a carriageway for more than two hours consecutively.

4.10 Limitation on parking of over length vehicles on carriageway

A person shall not park a vehicle or any combination of vehicles that together with anything in or on that vehicle is more than 8 metres in length, on a carriageway for more than two hours consecutively.

4.11 Authorized person may order vehicle on thoroughfare to be moved

The driver of a vehicle shall not park that vehicle on any part of a thoroughfare in contravention of this Local Law after an Authorized Person has directed the driver to move it.

4.12 Authorized person may mark tyres

- (1) An Authorized Person may mark the tyres of a vehicle parked in a parking facility with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties or powers.
- (2) A person shall not remove a mark made by an Authorized Person so that the purpose of the affixing of such a mark is defeated or likely to be defeated.

4.13 No movement of vehicles to avoid time limitation

- (1) Where the parking of vehicles in a parking facility is permitted for a limited time, a person shall not move a vehicle within the parking facility so that the total time of parking exceeds the maximum time allowed for parking in the parking facility.
- (2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person shall not move a vehicle along that thoroughfare so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from the thoroughfare for at least two hours.

4.14 No parking of vehicles exposed for sale and in other circumstances

A person shall not park a vehicle on any portion of a thoroughfare

-
- (a) for the purpose of exposing it for sale;
- (b) if that vehicle is not licensed under the Road Traffic Act;
- (c) if that vehicle is a trailer or a caravan unattached to a motor vehicle; or
- (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

4.15 Parking on private land

In this clause a reference to "land" does not include land-which belongs to the local government; of which the local government is the management body under the Land Administration Act 1997; which is an "otherwise unvested facility" within section 3.53 of the Act; which is the subject of an agreement referred to in clause 1.4 (2); or which is identified in the Fourth Schedule.

- (2) A person shall not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.
- (3) Where the owner or occupier of the land, by a sign referable to that land or otherwise, consents to the parking of vehicles of a specified class or classes on the land for a limited period, a person shall not park a vehicle on the land otherwise than in accordance with the consent.

4.16 Parking on reserves

No person other than an employee of the local government in the course of his or her duties or a person authorized by the local government shall drive or park a vehicle upon or over any portion of a reserve other than upon an area specifically set aside for that purpose.

4.17 Suspension of parking limitations for urgent, essential or official duties

- (1) Where by a sign the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the local government, the CEO or an Authorized Person may, subject to the Code, permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time in order that the person may carry out urgent, essential or official duties.
- (2) Where permission is granted under subclause (1), the local government, the CEO or an Authorized Person may prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates, for the duration of that permission.

Part 5 -Residential Parking Permits

5.1 Residential parking permit

- (1) A person may apply for a permit to park a vehicle on a thoroughfare if the person is-an occupier of a lot fronting the thoroughfare; the holder of the requisite vehicle licence under the Road Traffic Act for the vehicle; and subject to subclause (2), described on the vehicle licence as residing at the lot.
- (2) An applicant for a permit who is not described in accordance with subclause (1)(c), may apply for a temporary permit by stating (by way of statutory declaration) on an application for such that he or she resides at that lot.
- (3) An application for a permit shall be made in the form determined by the local government.
- (4) The local government may in respect of an application for a permit for the purpose of subclause (1) or (2)-

approve it;
approve it subject to such conditions as the local government considers appropriate;
or refuse to approve it.
- (5) Where the local government makes a decision under paragraph (a) or (b) of subclause (4), it shall issue a permit

in the form determined by it to the person who applied for the permit.

- (6) A temporary permit issued for the purpose of subclause (2)- will expire 3 months after it is issued; and is not renewable.
- (7) A permit issued for the purpose of subclause (1) may be either-an annual permit, issued for a period not exceeding one year and expiring on 31 December in the year of issue; or a temporary permit, issued for a period not exceeding 6 months from the date of issue.
- (8) Every permit issued for the purpose of subclause (1) is to specify-
 - a permit number;
 - the registration number of the vehicle;
 - the name of the thoroughfare to which the exemption granted by clause 5.2 applies; and
 - the date on which it expires.

5.2 Conditions of exemption for residential parking permits

Where parking of a vehicle on any part of a thoroughfare within the district is prohibited for more than a specified time, or without an unexpired parking ticket being displayed within the vehicle, the holder of a permit issued under clause 5.1 is exempted from such prohibitions if:-

the vehicle is parked on a thoroughfare specified in the permit, but not adjacent to retail premises where the parking of all vehicles is subject to a time restriction; the permit is affixed to the windscreen of the vehicle in a prominent position; the period in respect of which the permit was issued has not expired; and if the holder of the permit at the time of parking the vehicle still resides at the lot in respect of which the permit was issued.

5.3 Removal and cancellation of residential parking permit

The holder of a permit issued under clause 5.1 who changes residence shall remove the permit from the vehicle to which it is affixed, and the permit shall be deemed to be cancelled on and from the date the holder changes residence.

Part 6 –Miscellaneous

6.1 Removal of notices on vehicle

A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle, shall not remove from the vehicle any notice put on the vehicle by an Authorized Person.

6.2 Unauthorized signs and defacing of signs

A person shall not without the authority of the local government –

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government under this Local Law;
- (b) remove, deface or misuse a sign or property, set up or exhibited by the local government under this Local Law or attempt to do any such act; or
- (c) affix a board, sign, placard, notice or other thing to or paint or write upon any part of a sign set up or exhibited by the local government under this Local Law.

6.3 Signs must be complied with

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this Local Law.

6.4 General provisions about signs

- (1) A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary presumed to be a sign marked, erected, set up, established or displayed under the authority of this Local Law.
- (2) The first three letters of any day of the week when used on a sign indicate that day of the week.

6.5 Special purpose and emergency vehicles

Notwithstanding anything to the contrary in this Local Law, the driver of-

- (a) a special purpose vehicle may, only in the course of his or her duties and when it is expedient and safe to do so, stop, or park the vehicle in any place, at any time; and
- (b) an emergency vehicle may, in the course of his or her duties and when it is expedient and safe to do so or where he or she honestly and reasonably believes that it is expedient and safe to do so, stop, or park the vehicle at any place, at any time.

6.6 Vehicles not to obstruct a public place

A person shall not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place without the permission of the local government or unless authorized under any written law.

A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

Part 7 • Penalties

7.1 Offences and penalties

- (1) Any person who fails to do anything required or directed to be done under this Local Law, or who does anything which under this Local Law that person is prohibited from doing, commits an offence.
- (2) An offence against any provision of this Local Law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) Any person who commits an offence under this Local Law shall be liable, upon conviction, to a penalty not exceeding \$1,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$100 for each day or part of a day during which the offence has continued.
- (4) The amount appearing in the final column of the Second Schedule directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

7.2 Averment on complaint as to clause 1.4 (2) agreement

An averment on a complaint that this Local Law applies to a parking facility or a parking station under an agreement referred to in clause 1.4 (2), shall be sufficient proof that this Local Law applies to that facility or station, unless there is proof to the contrary that such an agreement does not exist.'

7.3 Form of notices

For the purposes of this Local Law –

- (a) the form of the notice referred to in section 9.13 of the Act is that of Form 1 in the Third Schedule;
- (b) the form of the infringement notice referred to in section 9.17 of the Act is that of Form 2 in the Third Schedule;
- (c) the form of the infringement notice referred to in section 9.17 of the Act which incorporates the notice referred to in section 9.13 of the Act, is that of Form 3 in the Third Schedule; and
- (d) the form of the notice referred to in section 9.20 of the Act is that of Form 4 in the Third Schedule.

FIRST SCHEDULE - PARKING REGION

The parking region is the whole of the district, but excludes the following portions of the district –

- (a) the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;
- (b) prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
- (c) any thoroughfare which comes under the control of the Commissioner of Main Roads unless the control of parking and parking facilities on that thoroughfare has been delegated by the Commissioner of Main Roads to the local government.

SECOND SCHEDULE - PRESCRIBED OFFENCES

PARKING AND PARKING FACILITIES LOCAL LAW

ITEM NO	CLAUSE NO	NATURE OF OFFENCE	MODIFIED PENALTY \$
1	2.2	Failure to pay fee for metered space	50
2	2.4	Parking when meter has expired	50
3	2.8	Failure to display ticket clearly in metered zoned	50
4	2.1	Parking contrary to a meter hood	50
5	3.3	Failure to pay parking station fee	50
6	3.5	Leaving without paying parking station fee	50
7	3.7	Failure to display ticket clearly in parking station	50
8	3.9 (1) (a)	Causing obstruction in parking station	50
9	3.9 (1) (b)	Parking contrary to sign in parking station	50
10	3.9 (1) (c)	Parking contrary to directions of Authorised Person	50
11	4.2 (1) (a)	Parking wrong class of vehicle	40
12	4.2 (1) (b)	Parking by persons of a different class	40
13	4.2 (1) (c)	Parking during prohibited period	60
14	4.2 (2) (a)	Parking in no parking area	60
15	4.2 (2) (b)	Parking contrary to signs or limitations	60
16	4.2 (2) (c)	Parking vehicle in motor cycle only area	40
17	4.2 (3)	Parking motor cycle in stall not marked "M/C"	40
18	4.2(5) (a)	Parking in Loading Zone	60
19	4.3 (a)	Fail to park on the left of two-way carriageway	60
20	4.3 (b)	Fail to park on boundary of one-way carriageway	60
21	4.3 (a) + (b)	Parking against the flow of traffic	60
22	4.3 (c)	Parking when distance from farther boundary less than 3 metres	50
23	4.3 (e.)	Causing obstruction.	100
24	4.7 (2) (a)	Double parking.	60
25	4.7 (2) (c)	Denying access to private drive or right of way	100
26	4.2 (2) (d)	Parking beside excavation or obstruction so as to obstruct traffic	50

LOCAL GOVERNMENT ACT 1995
Shire of Toodyay.
Parking and Parking Facilities Local Law

27	4.7 (2) (e)	Parking within 9 metres of traffic island	50
28	4.7 (2) (f)	Parking on footpath / pedestrian crossing	100
29	4.7 (2) (g)	Parking on bridge or in tunnel	50
30	4.7 (2) (i)	Parking on intersection	60
31	4.7 (2) (l)	Parking within 6 metres of intersection	60
32	4.7 (3) (a)	Parking vehicle within 9 metres of departure side of bus stop	60
33	4.7 (4) (a)	Parking vehicle within 18 metres of approach side of bus stop	50
34	4.7 (4) (b)	Parking vehicle within 18 metres of approach side of pedestrian/children's crossing	50
35	4.8 (1) (b)	Parking commercial vehicle, bus or caravan on verge	40
36	4.8 (1) (c)	Parking on verge contrary to sign	60
37	4.9	Parking vehicle with tare of over 2000kgs for over 2 hours	50
38	4.10.	Parking over length vehicle in excess of 2 hours	50
39	4.11	Parking contrary to direction of Authorised Person	50
40	4.14 (c)	Parking a trailer/caravan on a thoroughfare	40
41	4.15 (2)	Parking on land that is not a parking facility without consent	50
42	4.15 (3)	Parking on land not in accordance with consent	40
43	4.16	Driving or parking on reserve	50
44	5.3	Failure to remove permit when residence changed	40
45	6.6 (1)	Leaving vehicle so as to obstruct a public place	60
46		All other offences not specified	40

THIRD SCHEDULE - FORM 1

**PARKING AND PARKING FACILITIES LOCAL LAW NOTICE TO
OWNER OF VEHICLE INVOLVED IN OFFENCE**

To: (1) Date / /

.....

of: (2)

It is alleged that on / / at (3)

.....

at (4) your vehicle:

make:

model:

registration:

was involved in the commission of the following offence –

.....

.....

.....

contrary to clause of the **Parking and Parking Facilities Local Law**.

You are required under section 9.13 of the Local Government Act 1995 to identify the person who was the driver or person in charge of the vehicle at the time when the offence is alleged to have been committed.

If you do not prove otherwise, you will be deemed to have committed the offence unless:

- (a) within 28 days after being served with this notice;
 - (i) you inform the Chief Executive Officer or another authorized officer of the local government as to the identity and address of the person who was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed; and
 - (ii) you satisfy the Chief Executive Officer that the vehicle had been stolen, or was being unlawfully used, at the time the offence is alleged to have been committed; or
- (b) you were given an infringement notice for the alleged offence and the modified penalty specified in it is paid within 28 days after the notice was given or such further time as is allowed.

(5)

(6)

Insert:

- (1) Name of owner or "the owner"
- (2) Address of owner (not required if owner not named)
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Signature of authorized person
- (6) Name and title of authorized person giving notice

THIRD SCHEDULE - FORM 2
PARKING AND PARKING FACILITIES LOCAL LAW
INFRINGEMENT NOTICE

To: (1) Serial No
Date / /

.....
of: (2)

It is alleged that on / / at (3)

at (4)

in respect of vehicle:

make: ;

model: ;

registration: ,

you committed the following offence -

.....
.....
.....

contrary to clause of the **Parking and Parking Facilities Local Law**.

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorized person at (5) within a period of 28 days after the giving of this notice.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver's licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

(6)

(7)

Insert:

- (1) Name of alleged offender or "the owner"
- (2) Address of alleged offender
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Place where modified penalty may be paid
- (6) Signature of authorized person
- (7) Name and title of authorized person giving notice

THIRD SCHEDULE - FORM 3

PARKING AND PARKING FACILITIES LOCAL LAW
INFRINGEMENT NOTICE

Serial No

To: (1)

Date / /

.....
of: (2)
.....

It is alleged that on / / at (3)

.....
at (4)
.....

in respect of vehicle:

make:

model:

registration:

you committed the following offence -

.....
.....
.....

contrary to clause of the **Parking and Parking Facilities Local Law**.

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorized person at (5) within a period of 28 days after the giving of this notice.

Unless within 28 days after being served with this notice -(a) you pay the modified penalty; or (b) (i) you: inform the Chief Executive Officer or another authorized officer of the local government as to the identity and address of the person who was the driver or person in charge of the above vehicle at the time the offence is alleged to have been committed; or (ii) satisfy the Chief Executive Officer that the above vehicle had been stolen or was being unlawfully used at the time the offence is alleged to have been committed, you will, in the absence of proof to the contrary, be deemed to have committed the above offence and court proceedings may be instituted against you.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver's licence or any vehicle licence held

LOCAL GOVERNMENT ACT 1995
Shire of Toodyay.
Parking and Parking Facilities Local Law

by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

(6)

(7)

Insert:

- (1) Name of owner or "the owner"
- (2) Address of owner (not required if owner not named)
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Place where modified penalty may be paid
- (6) Signature of authorized person
- (7) Name and title of authorized person giving notice



LOCAL GOVERNMENT ACT 1995

AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976

Shire of Toodyay

Local Laws Relating to Pest

Plants



Gazette Date: 31/12/1999, page 7077

LOCAL GOVERNMENT ACT, 1960 - 1982
AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976
Shire of Toodyay.
Local Laws Relating to Pest Plants

FIRST SCHEDULE 5
PEST PLANTS 5
SECOND SCHEDULE 6
PEST PLANT NOTICE 6

In pursuance of the powers conferred upon it by the abovementioned Acts and of all other powers enabling it, the Council of the Shire of Toodyay hereby records having resolved on the 19th day of February, 1979 and 20 September 1982, to make and submit for confirmation by the Governor, the following local laws—

1. These local laws may be cited as the Shire of Toodyay Pest Plant Local Laws 1979.

2. In these local laws, unless the contrary intention appears—

“district” means the district of the local government;

“local government” means the Shire of Toodyay;

“Pest Plant” means a plant described as a pest plant by clause 4 of these local laws.

3. These local laws apply in respect of the district.

4. Every plant described in the First Schedule to these local laws is a pest plant.

5. (a) The local government may serve on the owner or occupier of private land within the district, a duly completed notice in the form of the Second Schedule to these local laws requiring him to destroy, eradicate or otherwise control any pest plant on that land.

(b) A person served with a notice under subclause (a) of this clause shall comply with that notice within the time and in the manner specified therein.

6. Where a person fails to comply with a notice under clause 5 of these local laws served upon him, the local government may—
 - (a) Without payment of any compensation in respect thereof, destroy, eradicate or control, as the case may be, any pest plant, the destruction, eradication or control of which was required by the notice; and
 - (b) Recover in a court of competent jurisdiction from the person to whom the notice is directed, the amount of the expense of such destruction, eradication or control.

FIRST SCHEDULE
PEST PLANTS

Common Name	Scientific Name
Afghan Thistle	Solanum hystrix
	Solanum hoplopetalum
Caltrop	Tribulus terrestris L

LOCAL GOVERNMENT ACT, 1960 - 1982
AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976
Shire of Toodyay.
Local Laws Relating to Pest Plants

Upon failure to comply with this notice within the times specified, the local government may destroy, eradicate or control, as the case may be, any specified pest plant at your expense, and if necessary recover the same in a Court of competent jurisdiction.

Date of service of notice.....

.....
Signature of authorized person

Dated this 9th day of May, 1979.

The Common Seal of the of the Shire of Toodyay was hereunto affixed in the presence of—

A. J. W. BOLTON, President.

A. D. SMITH, Chief Executive Officer.



LOCAL GOVERNMENT ACT 1995

Shire of Toodyay

Repeal Local Law 2014



Gazette Date: 12 September 2014

LOCAL GOVERNMENT ACT 1995
Shire of Toodyay
Repeal Local Law 2014

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Shire of Toodyay resolved on 26 August 2014 to make the following local law.

1. Citation

This local law is cited as the *Shire of Toodyay Repeal Local Law 2014*.

2. Commencement

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

3. Repeal

The *By-laws Relating to Stalls* as published in the *Government Gazette* on 11 March 1983 is repealed.

Dated: 26 August 2014

The Common Seal of the Shire of Toodyay was affixed by authority of a resolution of the Council in the presence of—

Cr David Dow
Shire President

Mr Stan Scott
Chief Executive Officer



LOCAL GOVERNMENT ACT, 1960 - 1982

The Municipality of the

Shire of Toodyay

By-Laws Relating to Stalls



Gazette Date: 11/03/1983, page 854/6

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IN pursuance of the powers conferred upon it by the above-mentioned Act and all other powers enabling it, the Council of the above-mentioned Municipality hereby records having resolved on 19 October 1981, to make and submit for confirmation by the Governor the following By-laws: -

- 1 In these By-laws unless the context otherwise requires the following expressions shall have the meaning set out against them hereunder respectively-

"Council" means the Council of the Shire of Toodyay.

"District" means the municipal district of the Shire of Toodyay.

"Clerk" means the Shire Clerk or the person acting for the time being in that position.

"Licence" means a stall holders Licence issued pursuant to the By-laws.

"Licensee" means a person to whom a Licence is granted under these By-laws.

"Stall" means a moveable or temporarily fixed stall for the sale of goods, wares, merchandise or services.

"Stall Holder" means a person in charge of a stall.

"Voluntary Organisation" means a charitable benevolent religious, literary, cultural recreational sporting or other voluntary institution association club society or body whether incorporated or not whose members are not entitled nor permitted to receive any profit pecuniary or otherwise from the transactions thereof.

- 2 A person shall not set up or conduct a stall in on or near any street or way within the District unless he is the holder of a current licence issued to him by the Council in accordance with these By-laws.
- 3 A person who desires to obtain a licence to set up and conduct business at a stall shall make application in writing to Council in the form of Form 1 as set out in the First Schedule of these By-laws.
- 4 A licence shall:-
 - a. State the type of goods or services which are authorised to be sold at the stall;
 - b. Specify the size of the stall;

- c. Specify the date and times the stall may be set up;
 - d. Specify the place in which the stall may be set up;
 - e. Specify the condition (if any) on which the licence is issued;
 - f. Be in the form of Form 2 as set out in the First Schedule of these By-laws.
- 5 Unless otherwise specified, a licence granted by the Council shall remain valid until the 31st day of December next after the issue thereof unless previously revoked.
- 6 A licence shall not be transferable.
- 7 A stall licence fee shall be as prescribed in the Second Schedule to these Bylaws and shall be paid by the Licensee prior to the issue to him of a licence.
- 8 The Council may revoke a licence on any of the following grounds:-
- a. That the stall holder has committed a breach of these By-laws;
 - b. That the stall holder has committed a breach of any condition on which the licence held by him was issued;
 - c. That the stall holder has engaged in dishonest practices in or on respect of the sale of goods at the stall '
 - d. That the stall holder is not conducting his business in a respectable or sober manner;
 - e. That the stall holder has transferred the licence issued to him or does not himself carry on the business.
- 9 No person shall set up or conduct a business at a stall :-
- a. Except at the place specified in the licence issued to him; or
 - b. In a street way footpath or other public place or within 20 metres thereof or at a distance nearer than 5 metres to another stall set up in the street way or footpath or other public place.
- 10 10. A stall holder shall not:-

LOCAL GOVERNMENT ACT, 1960 - 1982
The Municipality of the Shire of Toodyay.
By-laws Relating to Stalls

- a. Conduct business at a stall except between the hours specified in the licence;
 - b. Deposit any box basket or receptacle (except a receptacle for litter) outside his stall;
 - c. Make any noise or disturbance to the annoyance of neighbouring residents or passers-by;
 - d. Obstruct the free passage of pedestrians or vehicles on any footpath or roadway;
 - e. Act in an offensive manner.
- 11 A stall holder shall carry his licence with him and produce it upon demand to an Officer or employee of the Council.
- 12 A stall holder shall have his name legibly displayed on every stall operated by him.
- 13 A person who commits an offence against these By-laws shall be liable to a maximum penalty of \$200 and to a maximum daily penalty during the breach of \$20 per day.

Form 2

Shire of Toodyay

Licence No.....

STALL HOLDER'S LICENCE

..... of
is hereby licensed to be a stall holder within the district, as specified herein, of the Shire of Toodyay subject to the By-laws relating to Stalls from time to time in force in the said di strict.

Type of goods or services authorised to be sold:

Size of the stall:

Location of the stall:

Period of operation:

Special conditions:

Dated the day of 19

.....
SHIRE CLERK

Second Schedule.

FEEES

	\$
1 Voluntary Organisations	Nil.
2 All Other	
a. Annual Licence	40.00
A licence issued after the first day of July in each year shall be 50% of the annual fee.	
b. Weekly Licence	5.00
c. Daily Licence	3.00

Dated the 1st day of February 1983

The Common Seal of the Shire of Toodyay was affixed hereunto in the presence of-

[L.S.]

G. L. LUDEMANN
President

B. F. HARRIS
Shire Clerk

JEFF CARR,
Minister for Local Government

Approved by His Excellency the Governor in Executive Council this 8th day of March 1983.

R.D. DAVIES,
Clerk of the Council



LOCAL GOVERNMENT ACT 1995

Shire of Toodyay

Standing Orders Local Law

2008



Gazette Date: 21/05/2008, pages 1959-1983

WESTERN AUSTRALIA

Shire of Toodyay Standing Orders Local Law 2008

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Shire of Toodyay.
STANDING ORDERS LOCAL LAW 2008

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Under the powers conferred upon it by the *Local Government Act 1995*, and under all other powers enabling it, the Council of the Shire of Toodyay resolved on the 27th day of March 2008 to make this local law.

PART 1 - PRELIMINARY

1.1 Citation

- (1) This local law may be cited as the *Shire of Toodyay Standing Orders Local Law 2008*.
- (2) In the clauses to follow, this local law is referred to as “these Standing Orders”.

1.2 Commencement

By virtue of section 3.14 of the Act, these Standing Orders come into operation 14 days after the date of their publication in the Government Gazette.

1.3 Application and intent

- (1) These Standing Orders provide rules and guidelines which apply to the conduct of meetings of the Council and its committees and to meetings of electors.
- (2) All meetings are to be conducted in accordance with the Act, the Regulations and these Standing Orders.
- (3) These Standing Orders are intended to result in:
 - (a) better decision making by the Council and committees;
 - (b) the orderly conduct of meetings dealing with Council business;
 - (c) better understanding of the process of conducting meetings; and
 - (d) the more efficient and effective use of time at meetings.

1.4 Interpretation

- (1) In these Standing Orders, unless the context otherwise requires:

“**absolute majority**” has the same meaning as given to it

in the Act;

"absolute majority" means:
(a) in relation to a council, means a majority comprising enough of the members for the time being of the council for their number to be more than 50% of the number of offices (whether vacant or not) of member of the council;
(b) in relation to any other body, means a majority comprising enough of the persons for the time being constituting the body for their number to be more than 50% of the number of offices (whether vacant or not) on the body.
[Section 1.4 of the Act]

"75% majority" has the same meaning as given to it in the Act;

"75% majority", in relation to a council, means a majority comprising enough of the members for the time being of the council for their number to be at least 75% of the number of offices (whether vacant or not) of member of the council.
[See section 1.4 of the Act]

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

"CEO" means the Chief Executive Officer of the Shire;

"clause" means a clause of these Standing Orders;

"committee" means a committee of the Council established under section 5.8 of the Act;

"Council" means the Council of the Shire;

"Councillor" has the same meaning as is given to it in the Act;

"Councillor" means a person who holds the office of councillor on a council (including a person who holds another office under section 2.17(2)(a) or (b) as well as the office of councillor).
[See section 1.4 of the Act]

"employee" has the same meaning as is given to it in the Act;

"employee" means a person employed by a local government under section 5.36.

1.4 of the Act]

[See section

"**meeting**" means a meeting of the Council or a committee, as the context requires;

"**Member**" has the same meaning as given to it in the Act:

"member" means:
in relation to the council of the local government -
(a) an elector mayor or president of the local government; or
(b) a councillor on the council (including a councillor who holds another office under section 2.17(2)(a) or (b) as well as the office of councillor.
[Section 1.4 of the Act]

"**Minister**" means the Minister responsible for administering the Act;

"**minor amendment**", has the meaning referred to in clause 4.4(8) and (9):

"**ordinary meeting**" has the same meaning as in section 5.3 of the Act and clause 2.1(2);

"**President**" means the President of the Shire or other Presiding Member at a Council meeting under section 5.6 of the Act (see clause 3.1) ;

"**Presiding Member**" means:

- (a) in respect of the Council, the person presiding under section 5.6 of the Act (see clause 3.1); and
- (b) in respect of a committee, the person presiding under sections 5.12, 5.13 and 5.14 of the Act (see clauses 3.4 and 3.5);

"**Regulations**" means the *Local Government (Administration) Regulations 1996*.

"**section**" means a section of the Act;

"**Shire**" means the Shire of Toodyay;

“**simple majority**” means more than 50% of the Members present and voting;

“**special meeting**” has the same meaning as in section 5.3 of the Act and clause 2.1(3); and

“**substantive motion**” means an original motion, or an original motion as amended, but does not include an amendment motion or a procedural motion.

- (2) Unless otherwise defined, the terms and expressions used in these Standing Orders are to have the meaning given to them in the Act and Regulations.

1.5 Repeal

The *Shire of Toodyay Standing Orders Local Law 1999*, published in the *Government Gazette* on 1 November 1999, is repealed.

1.6 Provisions of the Act, Regulations and other legislation

- (1) Throughout these Standing Orders, provisions of the Act and Regulations, and of other legislation, are reproduced in a boxed format.
- (2) The purpose of reproducing these provisions is to assist the reader by giving a fuller picture of related legislative provisions that also apply to meetings of the Council, committees and electors.
- (3) The reproduced provisions of the Act and Regulations and other legislation:
 - (a) are to be treated as footnotes and are not part of these Standing Orders (see section 32(2) of the Interpretation Act 1984); and
 - (b) reproduce only the provisions that were in force at the time that the Council resolved to adopt these Standing Orders and, therefore, may not necessarily be accurate at a future date.

PART 2 - MEETINGS OF THE COUNCIL

2.1 Ordinary and special Council meetings

- (1) Ordinary and special Council meetings are dealt with in the Act.

<p>(1) A council is to hold ordinary meetings and may hold special meetings.</p> <p>(2) Ordinary meetings are to be held not more than 3 months apart.</p> <p>(3) If a council fails to meet as required by subsection (2) the CEO is to notify the Minister of that failure.</p> <p>[Section 5.3 of the Act]</p>

- (2) An ordinary meeting of the Council, held on a monthly basis or otherwise as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.
- (3) A special meeting of the Council is held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

2.2 Calling Council meetings

The calling of Council meetings is dealt with in the Act.

<p>An ordinary or a special meeting of a council is to be held –</p> <p>(a) if called for by either –</p> <p>(i) the mayor or president; or</p> <p>(ii) at least 1/3 of the councillors, in a notice to the CEO setting out the date and purpose of the proposed meeting; or</p> <p>(b) if so decided by the council.</p> <p>[Section 5.4 of the Act]</p>

2.3 Convening Council meetings

- (1) The convening of a Council meeting is dealt with in the Act.

<p>(1) The CEO is to convene an ordinary meeting by giving each council member at least 72 hours' notice of the date, time and place of the meeting and an agenda for the meeting.</p>
--

(2) The CEO is to convene a special meeting by giving each council member notice, before the meeting, of the date, time, place and purpose of the meeting. [Section 5.5 of the Act]

Sections 9.50 to 9.54 of the *Local Government Act 1995* and sections 75 and 76 of the *Interpretation Act 1984* deal with how documents can be given to a person. Under these provisions, notice of a meeting may be given to a council member by –

- (a) personally handing the notice to the member;
- or
- (b) sending it by post to the last known address of the member.

- (2) Subject to subclause (3), the CEO is to give at least 72 hours' notice, for the purposes of section 5.5, in convening a special meeting of the Council.
- (3) Where, in the opinion of the President or at least one-third of the Members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special Council meeting.

2.4 Public notice of meetings

Public notice of meetings is dealt with in the Regulations.

- (1) At least once each year a local government is to give local public notice of the dates on which and the time and place at which –
 - (a) the ordinary council meetings; and
 - (b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public,are to be held in the next 12 months.
- (2) A local government is to give local public notice of any change to the date, time or place of a meeting referred to in subregulation (1).
- (3) Subject to subregulation (4), if a special meeting of a council is to be open to members of the public then the local government is to give local public notice of the date, time, place and purpose of the special meeting.
- (4) If a special meeting of a council is to be open to members of the public but, in the CEO's opinion, it is not practicable to give local public notice of the matters referred to in subregulation (3), then the local government is to give public notice of the date, time, place and purpose of the special meeting in the manner and to the extent that, in the CEO's opinion, is practicable.

[Regulation 12 of the Regulations]

PART 3 - PRESIDING MEMBER AND QUORUM

Division 1: Who presides

3.1 Who presides

Who presides at a Council meeting is dealt with in the Act.

- (1) The mayor or president is to preside at all meetings of the council.
- (2) If the circumstances mentioned in section 5.34(a) or (b) apply the deputy mayor or deputy president may preside at a meeting of the council in accordance with that section.
- (3) If the circumstances mentioned in section 5.34(a) or (b) apply and –
 - (a) the office of deputy mayor or deputy president is vacant; or
 - (b) the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president,then, the council is to choose one of the councillors present to preside at the meeting.

[Section 5.6 of the Act]

3.2 When the Deputy President can act

When the Deputy President can act is dealt with in the Act.

- If –
- (a) the office of mayor or president is vacant; or
 - (b) the mayor or president is not available or is unable or unwilling to perform the functions of the mayor or president,
- then the deputy mayor may perform the functions of mayor and the deputy president may perform the functions of president, as the case requires.
- [Section 5.34 of the Act]

3.3 Who acts if no President

Who acts if there is no President is dealt with in the Act.

- (1) If the circumstances mentioned in section 5.34(a) or (b) apply and –
- (a) the office of deputy mayor or deputy president is vacant; or
 - (b) the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president, and the mayor or president or deputy will not be able to perform the functions of the mayor or president for a time known to the council, then the council may appoint a councillor to perform during that time the functions of the mayor or president, as the case requires.
- (2) If the circumstances mentioned in section 5.34(a) or (b) apply and - (a) the office of deputy mayor or deputy president is vacant; or (b) the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president, and a person has not been appointed under subsection (1), the CEO, after consultation with, and obtaining the agreement of, 2 councillors selected by the CEO, may perform the functions of mayor or president, as the case requires.
- [Section 5.35 of the Act]

3.4 Election of Presiding Members of committees

The election of Presiding Members of committees and their deputies is dealt with in the Act.

- (1) The members of a committee are to elect a presiding member from amongst themselves in accordance with Schedule 2.3, Division 1 as if the references in that Schedule –
- (a) to 'office' were references to 'office of presiding member';
 - (b) to 'council' were references to 'committee'; and
 - (c) to 'councillors' were references to 'committee members.
- [Section 5.12(1) of the Act]

Clauses 2 to 5 inclusive of Schedule 2.3 provide as follows:

2. When the council elects the mayor or president

- (1) The office is to be filled as the first matter dealt with —
 - (a) at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and
 - (b) at the first meeting of the council after an extraordinary vacancy occurs in the office.
- (2) If the first ordinary meeting of the council is more than 3 weeks after an extraordinary vacancy occurs in the office, a special meeting of the council is to be held within that period for the purpose of filling the office.

3. CEO to preside

The CEO is to preside at the meeting until the office is filled.

4. How the mayor or president is elected

- (1) The council is to elect a councillor to fill the office.
- (2) The election is to be conducted by the CEO in accordance with the procedure prescribed.
- (3) Nominations for the office are to be given to the CEO in writing before the meeting or during the meeting before the close of nominations.
- (3a) Nominations close at the meeting at a time announced by the CEO, which is to be a sufficient time after the announcement by the CEO that nominations are about to close to allow for any nominations made to be dealt with.
- (4) If a councillor is nominated by another councillor the CEO is not to accept the nomination unless the nominee has advised the CEO, orally or in writing, that

he or she is willing to be nominated for the office.

- (5) The councillors are to vote on the matter by secret ballot as if they were electors voting at an election.
- (6) Subject to clause 5(1), the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with the procedures set out in Schedule 4.1 (which deals with determining the result of an election) as if those votes were votes cast at an election.
- (7) As soon as is practicable after the result of the election is known, the CEO is to declare and give notice of the result in accordance with regulations, if any.

5. Votes may be cast a second time

- (1) If when the votes cast under clause 4(5) are counted there is an equality of votes between 2 or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued and the meeting is to be adjourned for not more than 7 days.
- (2) Any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes.
- (3) When the meeting resumes the councillors are to vote again on the matter by secret ballot as if they were electors voting at an election.
- (4) The votes cast under subclause (3) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.

[Clauses 2 to 5 inclusive of
Schedule 2.3]

3.5 Election of Deputy Presiding Members of committees

The election of Deputy Presiding Members of committees is dealt with in the Act.

The members of a committee may elect a deputy presiding member from amongst themselves but any such election is to be in accordance with Schedule 2.3, Division 2 as if the references in that Schedule –

- (a) to 'office' were references to 'office of deputy presiding member';
- (b) to 'council' were references to 'committee';
- (c) to 'councillors' were references to 'committee members'; and
- (d) to 'mayor or president' were references to 'presiding member'".

[Section
5.12(2)]

Division 2 (clauses 6, 7 and 8) of Schedule 2.3 provides as follows:

6. Definitions

In this Division —

“extraordinary vacancy” means a vacancy that occurs under section 2.34(1);

“the office” means the office of deputy mayor or deputy president.

7. When the council elects the deputy mayor or deputy president

(1) If the local government has an elector mayor or president the office of deputy mayor or deputy president is to be filled as the first matter dealt with —

- (a) at the first meeting of the council after an inaugural election or section 4.13 or 4.14 election or after an ordinary elections day; and
- (b) at the first meeting of the council after an extraordinary vacancy occurs in the office.

(2) If the local government has a councillor mayor or president the office of deputy

mayor or deputy president is to be filled

- (a) as the next matter dealt with after the mayor or president is elected at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and
- (b) subject to subclause (3), as the first matter dealt with at the first meeting of the council after an extraordinary vacancy occurs in the office.

- (3) If at a meeting referred to in clause 2(1)(b) the deputy mayor or deputy president is elected to be the mayor or president, the resulting extraordinary vacancy in the office is to be filled as the next matter dealt with at the same meeting.

8. How the deputy mayor or deputy president is elected

- (1) The council is to elect a councillor (other than the mayor or president) to fill the office.
- (2) The election is to be conducted in accordance with the procedure prescribed by the mayor or president, or if he or she is not present, by the CEO.
- (3) Nominations for the office are to be given to the person conducting the election in writing before the meeting or during the meeting before the close of nominations.
- (3a) Nominations close at the meeting at a time announced by the person conducting the election, which is to be a sufficient time after the announcement by that person that nominations are about to close to allow for any nominations made to be dealt with.
- (4) If a councillor is nominated by another councillor the person conducting the election is not to accept the nomination unless the nominee has advised the person conducting the election, orally or

- in writing, that he or she is willing to be nominated for the office.
- (5) The council members are to vote on the matter by secret ballot as if they were electors voting at an election.
- (6) Subject to clause 9(1) the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.
- (7) As soon as is practicable after the result of the election is known, the person conducting the election is to declare and give notice of the result in accordance with regulations, if any.

[Division 2 (clauses 6, 7 and 8) of Schedule 2.3]

3.6 Functions of Deputy Presiding Members

The functions of Deputy Presiding Members are dealt with in the Act.

If, in relation to the presiding member of a committee –

(a) the office of presiding member is vacant; or

(b) the presiding member is not available or is unable or unwilling to perform the functions of presiding member,

then the deputy presiding member, if any, may perform the functions of presiding member.

[Section 5.13 of the Act]

3.7 Who acts if no Presiding Member

Who acts if no Presiding Member is dealt with in the Act.

If, in relation to the presiding member of a committee –

(a) the office of presiding member and the office of deputy presiding member are vacant; or

(b) the presiding member and the deputy presiding member, if any, are not available or are unable or unwilling to perform the functions of presiding member, then the committee members

present at the meeting are to choose one of themselves to preside at the meeting.
[Section 5.14 of the Act]

Division 2 – Quorum

3.8 Quorum for meetings

The quorum for meetings is dealt with in the Act.

The quorum for a meeting of a council or committee is at least 50% of the number of offices (whether vacant or not) of member of the council or the committee.
[Section 5.19 of the Act]

3.9 Reduction of quorum for Council meetings

The power of the Minister to reduce the number for a quorum and certain majorities is dealt with in the Act.

- (1) The Minister may reduce the number of offices of member required for a quorum at a council meeting specified by the Minister if there would not otherwise be a quorum for the meeting.
- (2) The Minister may reduce the number of offices of member required at a council meeting to make a decision specified by the Minister if the decision is one which would otherwise be required to be made by an absolute majority and a sufficient number of members would not otherwise be present at the meeting.
[Section 5.7 of the Act]

3.10 Reduction of quorum for committee meetings

The reduction of a quorum for committee meetings is dealt with in the Act.

The local government may reduce* the number of offices of committee member required for a quorum at a committee meeting specified by the local government if there would not otherwise be a quorum for the meeting.

**Absolute majority required.*

5.15 of the Act]

[Section

3.11 Procedure where no quorum to begin a meeting

The procedure where there is no quorum to begin a meeting is dealt with in the Regulations.

If a quorum has not been established within the 30 minutes after a council or committee meeting is due to begin then the meeting can be adjourned –

- (a) in the case of a council, by the mayor or president or if the mayor or president is not present at the meeting, by the deputy mayor or deputy president;
- (b) in the case of a committee, by the presiding member of the committee or if the presiding member is not present at the meeting, by the deputy presiding member;
- (c) if no person referred to in paragraph (a) or (b), as the case requires, is present at the meeting, by a majority of members present;
- (d) if only one member is present, by that member; or
- (e) if no member is present or if no member other than the CEO is present, by the CEO or a person authorized by the CEO.

[Regulation 8 of
the Act]

3.12 Procedure where quorum not present during a meeting

If at any time during a meeting a quorum is not present, the Presiding Member is:

- (a) immediately to suspend the proceedings of the meeting for a period of up to 15 minutes;
- (b) if a quorum is not present at the expiry of the suspension period under paragraph (a), the Presiding Member may either adjourn the meeting to some future time or date or may extend the extension period for a further period of 30 minutes; and
- (c) if a quorum is not present at the expiry of the extended period of suspension under paragraph (b), the Presiding

Member is to adjourn the meeting to some future time or date.

3.13 Names to be recorded

At any meeting:

- (a) at which there is not a quorum present to begin the meeting;
or
- (b) which is adjourned for want of a quorum,

the names of the Members then present are to be recorded in the minutes.

Note: Other provisions relating to the procedures to apply where a meeting is adjourned for want of a quorum are set out at Part 14 below.

PART 4 - BUSINESS OF A MEETING

4.1 Business to be specified

- (1) No business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda, without the approval of the the Council.
- (2) No business is to be transacted at a special meeting of the Council other than that specified in the notice as the purpose of the meeting.
- (3) No business is to be transacted at a committee meeting other than that specified in the agenda, or in the notice as the purpose of the meeting, without the approval of the committee.
- (4) Subject to subclause (5), no business is to be transacted at an adjourned meeting of the Council or a committee other than that :
 - (a) specified in the notice of the meeting which had been adjourned; and
 - (b) which remains unresolved.
- (5) Where a meeting is adjourned to the next ordinary meeting of the Council then, unless the Council resolves otherwise, the business unresolved at the adjourned meeting is to be

dealt with under item 7 (of clause 4.2(1)) at that ordinary meeting.

4.2 Order of business

- (1) Unless otherwise decided by the Council, the order of business at any ordinary meeting of the Council is to be as follows:
 1. Declaration of opening [and announcement of visitors].
 2. Attendance:
 - 2.1 Apologies
 - 2.2 Approved leave of absence
 - 2.3 Applications for leave of absence
 3. Disclosure of interests
 4. Public questions:
 - 4.1 Responses to previous public questions taken on notice
 - 4.2 Public question time
 5. Confirmation of Minutes
 6. Petitions, deputations, presentations and submissions
 7. Business left over from previous meeting (if adjourned)
 8. Announcements from the Presiding Member
 9. Reports of committees and employee reports
 10. Motions of which previous notice has been given
 11. Notices of motion given at the meeting for consideration at next meeting
 12. Questions of Members of which due notice has been given

13. New business of an urgent nature introduced by decision of meeting:

13.1 Members

13.2 Employees

14. Confidential business

15. Closure.

(2) Unless otherwise decided by the Council, the order of business at any special meeting of the Council is to be the order in which that business stands in the notice of, or agenda for, the meeting.

(3) In determining the order of business for any meeting of the Council, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.

Note: see clauses 5.3, 5.5 and 5.6 of these Standing Orders.

4.3 Announcements from the Presiding Member

Announcements by the Presiding Member under item 8 of clause 4.2(1) are:

- (a) to inform the Council of official duties performed, or functions attended, by the President, or of other matters of importance to the Council, of which the Council has not previously been informed;
- (b) to be brief and concise;
- (c) to be completed within 10 minutes; and
- (d) not to be the subject of any discussion.

4.4 Motions of which previous notice has been given

(1) Unless the Act, Regulations or these Standing Orders otherwise provide, a Member may raise at a meeting such Shire business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included in the agenda.

(2) A notice of motion under subclause (1) is to be given:

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- (a) at the preceding Council meeting; or
 - (b) at least 6 clear working days before the meeting at which the motion is to be moved.
- (3) A notice of motion must relate to the good governance of the Shire.
- (4) The CEO -
 - (a) with the concurrence of the President, may exclude from the agenda any notice of motion that is considered to be, or may involve, a breach of any of these Standing Orders (such as clauses 7.8 and 7.15) or any other written law; or,
 - (b) may make such amendments to the form but not the substance as will bring the notice of motion into due form; and
 - (c) may provide to the Council relevant and material facts and circumstances pertaining to the notice of motion on matters such as policy, budget and law.
- (5) If a notice of motion is excluded under subclause (4), the CEO is to provide the reason for its exclusion to all Members as soon as practicable.
- (6) A motion of which notice has been given is to lapse unless:
 - (a) the Member who gave notice of it, or some other Member authorised by the originating Member in writing, moves the motion when called on; or
 - (b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.
- (7) If a notice of motion is given and lapses under subclause (6), notice of a motion in the same terms or to the same effect is not to be given again for at least 3 months from the date of such lapse.
- (8) An amendment, other than a minor amendment, to a motion of which notice has been given under this clause, is not to be considered at a meeting unless written notice of the amendment is received by the CEO no later than 12:00 noon on the last working date preceding the day of the meeting at which the relevant motion is to be considered.

- (9) The Presiding Member:
 - (a) is to determine whether an amendment is a minor amendment for the purposes of subclause (8); and
 - (b) is to make that determination on the basis that a minor amendment is one which, in his or her opinion, does not alter the basic intent of the primary motion.

4.5 New business of an urgent nature

- (1) In cases of extreme urgency or other special circumstances, matters may, on a motion that is carried by the meeting, be raised without notice and decided by the meeting.
- (2) In subclause (1), 'cases of extreme urgency or other special circumstances' means matters that have arisen after the preparation of the agenda that are considered by the meeting to be of such importance and urgency that they are unable to be dealt with administratively by the Shire and must be considered and dealt with by the Council before the next meeting.
- (3) Before debate begins on a matter under this clause that is not the subject of a written employee report to the meeting:
 - (a) the Presiding Member is to ask the CEO to give; and
 - (b) the CEO, or the CEO's nominee, is to give, a verbal report to the meeting.
- (4) The minutes of the meeting are to include:
 - (a) a summary of the verbal report and any recommendations of the CEO or the CEO's nominee; and
 - (b) the reasons for any decision made at the meeting that is significantly different from any recommendations of the CEO or the CEO's nominee.

4.6 Adoption by exception resolution

- (1) In this clause 'adoption by exception resolution' means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the employee recommendation as the Council resolution.

- (2) Subject to subclause (3), the Shire may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter:
 - (a) that requires a 75% majority or a special majority;
 - (b) in which an interest has been disclosed;
 - (c) that has been the subject of a petition or deputation;
 - (d) that is a matter on which a Member wishes to make a statement; or
 - (e) that is a matter on which a Member wishes to move a motion that is different to the recommendation.

4.7 Closure – time limits for Council meetings

If a meeting of the Council is in progress 4 hours after its commencement:

- (a) the Presiding Member is to enable the Council to decide whether the meeting should continue;
- (b) the meeting may continue for up to 1 more hour:
 - (i) only if a motion that the meeting continue is carried; and
 - (ii) only for the time (up to 1 more hour) specified in that motion; and
- (c) the Presiding Member is to adjourn the meeting:
 - (i) if the motion under paragraph (b) is not carried; or
 - (ii) at the conclusion of any extension specified in a motion that is carried under paragraph (b).

Note: a Council meeting may continue beyond 5 hours by suspending this Standing Order under clause 16.1 below.

PART 5 - PUBLIC PARTICIPATION

5.1 Meetings generally open to the public

Meetings being generally open to the public is dealt with in the Act.

- (1) Subject to subsection (2), the following are to be open to members of the public—
 - (a) all council meetings; and
 - (b) all meetings of the committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —
 - (a) a matter affecting an employee or employees;
 - (b) the personal affairs of any person;
 - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
 - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
 - (e) a matter that if disclosed, would reveal —
 - (i) a trade secret;
 - (ii) information that has a commercial value to a person; or
 - (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;
 - (f) a matter that if disclosed, could be reasonably expected to —
 - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;

- (ii) endanger the security of the local government's property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
 - (g) information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and
 - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.
- [Section 5.23 of
the Act]

5.2 Meetings not open to the public

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried:
 - (a) the Presiding Member is to direct everyone to leave the meeting except:
 - (i) the Members;
 - (ii) the CEO; and
 - (iii) any employee specified by the Presiding Member; and
 - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3) may, by order of the Presiding Member, be removed from the meeting.
- (5) While the resolution under subclause (2) remains in force, the operation of clause 7.9 is to be suspended until the Council or the committee, by resolution, decides otherwise.

- (6) A resolution under this clause may be made without notice of the relevant motion.
- (7) Unless the Council or committee resolves otherwise, once the meeting is reopened to members of the public the Presiding Member is to ensure that any resolution of the Council or committee made while the meeting was closed is to be read out.

Note: restrictions on the disclosure of information considered at a meeting closed to the public are set out in clause 5.15 below.

5.3 Question time for the public

Question time for the public is dealt with in the Act.

- (1) Time is to be allocated for questions to be raised by members of the public and responded to at –
 - (a) every ordinary meeting of a council; and
 - (b) such other meetings of councils or committees as may be prescribed.
 - (2) Procedures and the minimum time to be allocated for the asking of and responding to questions raised by members of the public at council or committee meetings are to be in accordance with regulations.
- [Section 5.24 of the Act]

5.4 Question time for the public at certain meetings

Question time for the public at certain meetings is dealt with in the Regulations.

- For the purposes of section 5.24(1)(b), the meetings at which time is to be allocated for questions to be raised by members of the public and responded to are –
- (a) every special meeting of a council;
 - (b) every meeting of a committee to which the local government has delegated a power or duty.
- [Regulation 5 of the Regulations]

5.5 Minimum question time for the public

Minimum question time for the public is dealt with in the Regulations.

- (1) The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of councils and meetings referred to in regulation 5 is 15 minutes.
- (2) Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in subregulation (1), nothing in these regulations prevents the unused part of the minimum question time period from being used for other matters.
[Regulation 6 of the Regulations]

5.6 Procedures for question time for the public

Procedures for question time for the public are dealt with in the Regulations.

- (1) Procedures for the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) are to be determined –
 - (a) by the person presiding at the meeting; or
 - (b) in the case where the majority of members of the council or committee present at the meeting disagree with the person presiding, by the majority of those members, having regard to the requirements of subregulations (2) and (3).
- (2) The time allocated to the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) is to precede the discussion of any matter that requires a decision to be made by the council or the committee, as the case may be.
- (3) Each member of the public who wishes to ask a question at a meeting referred to in regulation 6(1) is to be given an equal and fair opportunity to ask the question and receive a response.
- (4) Nothing in subregulation (3) requires –
 - (a) a council to answer a question that does not relate to a matter affecting the local government;

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| <p>(b) a council at a special meeting to answer a question that does not relate to the purpose of the meeting; or</p> <p>(c) a committee to answer a question that does not relate to a function of the committee.</p> <p>[Regulation 7 of the Regulations]</p> |
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5.7 Other procedures for question time for the public

- (1) A member of the public who wishes to ask a question during question time is to:
 - (a) first state his or her name and whether or not he or she is an elector, ratepayer or resident of the Shire;
 - (b) direct the question to the Presiding Member;
 - (c) ask the question as briefly and concisely;
 - (d) limit any preamble to matters directly relevant to the question; and
 - (e) ensure that the question is not accompanied by any expression of opinion, statement of fact or other comment, except sofar as may be necessary to explain the question.
- (2) Each member of the public with a question is entitled to ask up to 2 questions before other members of the public will be invited to ask their questions.
- (3) A member of the public is to have up to 2 minutes to ask a question.
- (4) A member of the public may give prior written notice to the CEO of the text or substance of a question that he or she wishes to ask at a meeting.
- (5) Unless the Presiding Member determines otherwise, a question of which prior written notice has been given to the CEO is to be given priority in question time.
- (6) Where a member of the public gives written notice of a question, the Presiding Member may determine that the question is to be responded to as normal business correspondence.

LOCAL GOVERNMENT ACT 1995
Shire of Toodyay.
STANDING ORDERS LOCAL LAW 2008

- (7) A question may be taken on notice by the Council or committee for later response.
- (8) When a question is taken on notice, the CEO is to ensure that:
 - (a) a written response is given to the person who asked the question; and
 - (b) a summary of the response is included in the agenda for the next meeting of the Council or committee.
- (9) Where a question relating to a matter in which a person has an interest is directed to that person, that person is to:
 - (a) declare that he or she has an interest in the matter; and
 - (b) allow another person to respond to the question.
- (10) A response to a question:
 - (a) is to be brief and concise; and
 - (b) is not to be the subject of any discussion, except that if in the opinion of a Member, false information or any adverse reflection is contained in any question asked or comments made by a member of the public, then (through the Presiding Member) the Member may correct or clarify the matter.
- (11) Where a response to a question is given at a meeting, a summary of the question and the response is to be included in the minutes.
- (12) The Presiding Member may decide that a question is not to be responded to where:
 - (a) the same or similar question was asked at a previous meeting, a response was provided and the person who asked the question is directed to the minutes of the meeting at which the response was provided;
 - (b) it is in the form of a statement, provided that the Presiding Member has taken reasonable steps to assist the person to phrase the statement as a question; or

- (c) the question is offensive or defamatory in nature, or is one which, if asked by a Member, would be in breach of these Standing Orders or any other law.
- (13) Where the Presiding Member decides, under subclause (12), that a question is not to be responded to, the minutes are to record the substance of the question and the reasons for the Presiding Member's decision.
- (14) The Council or committee, by resolution, may agree to extend public question time.

5.8 Petitions

- (1) A petition is to:
 - (a) be addressed to the President;
 - (b) be made by electors of the district;
 - (c) state the request on each page of the petition;
 - (d) contain the name, address and signature of each elector making the request, and the date each elector signed;
 - (e) contain a summary of the reasons for the request;
 - (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given;
 - (g) be respectful and temperate in its language; and
 - (h) comply with any form prescribed by the Act and any other written law, such as the *Local Government (Constitution) Regulations 1996* if, for example, it is:
 - (i) a proposal to change the method of filling the office of President;
 - (ii) a proposal to create a new district or boundaries of the Shire;
 - (iii) a request for a poll on a recommended amalgamation; or

- (iv) a submission about changes to wards, the name of a district or ward or the number of Councillors for a district or ward.
- (2) On the presentation of a petition:
- (a) the Councillor presenting it is confined to reading the petition; and
 - (b) the only motion that is in order is that the petition be received and, if necessary, that it be referred for an employee's report.
- (3) At any meeting, the Council or committee is not to vote on any matter that is the subject of a petition presented to that meeting, unless:
- (a) the matter is the subject of a report included in the agenda; and
 - (b) the Council or committee has considered the issues raised in the petition.

5.9 Deputations

- (1) Any person or group wishing to be received as a deputation by the Council or committee is to:
- (a) apply in writing, at least 5 clear working days before the meeting, to the CEO for approval; and
 - (b) include with the application information relating to the subject matter to be raised by the deputation in concise terms, but in sufficient detail to provide a general understanding of the purpose of the deputation.
- (2) The CEO is to refer to the Presiding Member:
- (a) a copy or a summary of the application; and
 - (b) the CEO's recommendation, with reasons, whether or not the application should be approved.
- (3) The Presiding Member may:
- (a) grant or refuse the application, with or without conditions; or

- (b) refer it to the Council or committee (as the case may be) for determination.
- (4) If the Presiding Member refuses an application, he or she is to report to the Council or committee (as the case may be), at its next meeting, the details of the application and the reasons for its refusal.
- (5) Unless the Council or committee resolves otherwise, a deputation invited to attend a Council or committee meeting:
 - (a) is not to exceed 3 persons;
 - (b) may address the Council or committee for up to 5 minutes each (or for up to 10 minutes if only one person speaks), unless the time is extended by the Council or committee; and
 - (c) may also respond to questions from Members.
- (6) For the purpose of determining who may address the Council or committee on an issue, all those people either in favour of or opposed to an item for consideration are deemed to comprise a single deputation.
- (7) Any matter which is the subject of a deputation to the Council or committee is not to be decided by the Council or committee until the deputation has completed its presentation.

5.10 Presentations

- (1) In this clause, a 'presentation' means the acceptance of a gift or an award by the Council on behalf of the Shire or the community.
- (2) A presentation may be made to the Council at a meeting only with the prior approval of the President or the CEO.

5.11 Submissions

- (1) Subject to this clause, a member of the public may make a submission to the Council after any petitions, deputations or presentations.
- (2) A member of the public who wishes to make a submission at a meeting, and who is invited to do so by the Presiding Member, is to:

- (a) first state his or her name and whether or not he or she is an elector, ratepayer or resident of the Shire;
 - (b) ensure that the subject of the submission is relevant to one or more of the agenda items for that meeting;
 - (c) comply with any direction from the Presiding Member; and
 - (d) complete the submission within 5 minutes.
- (3) A member of the public may give prior written notice to the CEO of the text or substance of a submission that he or she wishes to make at a meeting.
- (4) Unless the Presiding Member determines otherwise, a submission of which prior notice has been given to the CEO is to be given priority among the submissions to be made.
- (5) Any matter which is the subject of a submission to the Council under this clause is not to be decided by the Council until after the submission has been made.

5.12 Distinguished visitors

If a distinguished visitor is present at a meeting of the Council, the Presiding Member:

- (a) may invite the distinguished visitor to sit beside the Presiding Member or at the Council table;
- (b) may acknowledge the presence of the distinguished visitor at an appropriate time during the meeting; and
- (c) may direct that the presence of the distinguished visitor be recorded in the minutes.

5.13 Participation at committee meetings

- (1) In this clause a reference to a person is to a person who:
- (a) is entitled to attend a committee meeting;
 - (b) attends a committee meeting; and
 - (c) is not a Member of that committee.

A member of the public is entitled to attend a committee meeting only where a local government
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power or duty has been delegated to that committee:
see section 5.23(1)(b) of the Act.

- (2) A Member may attend, as an observer, any meeting of a committee of which he or she is not a Member or the deputy of a Member, but is to sit in an area set aside by the CEO for observers separated from the committee members.
- (3) No person is to address a committee meeting unless he or she has the consent of the Presiding Member.
- (4) The Presiding Member of a committee may allow a person to make an oral submission to the committee for up to 5 minutes.
- (5) A person addressing the committee with the consent of the Presiding Member is to cease that address immediately after being directed to do so by the Presiding Member.
- (6) A person who fails to comply with a direction of the Presiding Member under subclause (5) may, by order of the Presiding Member, be removed from the committee room.
- (7) The Council may approve the circumstances in which a person may be given consent to address a committee meeting.

5.14 Public inspection of agenda materials

The right of the public to inspect the documents referred to, and in accordance with, regulation 14 of the Regulations may be exercised at the Shire offices and on the Shire's website.

- (1) A local government is to ensure that notice papers and agenda relating to any council or committee meeting and reports and other documents which
 - (a) are to be tabled at the meeting; or
 - (b) have been produced by the local government or a committee for presentation at the meeting,and which have been made available to members of the council or committee for the meeting are available for inspection by members of the public from the time the notice papers, agenda or documents were made available to the members of the council or committee.

<p>(2) Nothing in subregulation (1) entitles members of the public to inspect the information referred to in that subregulation if, in the CEO's opinion, the meeting or that part of the meeting to which the information refers is likely to be closed to members of the public.</p> <p>[Regulation 14 of the Regulations]</p>
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5.15 Confidentiality of information withheld

- (1) Information withheld by the CEO from the public under regulation 14(2) of the Regulations is to be:
 - (a) identified in the agenda of a Council or committee meeting under the item “Matters for which meeting may be closed”;
 - (b) marked “Confidential” in the agenda; and
 - (c) kept confidential by Members and employees until the Council or committee resolves otherwise.
- (2) A Member or an employee who has been given:
 - (a) confidential information under subclause (1); or
 - (b) information that is provided or disclosed for the purposes of or during a meeting or part of a meeting that is closed to the public,

is not to disclose any of that information to any person other than another Member or an employee to the extent necessary for the purpose of carrying out his or her duties.
- (3) Subclause (2) does not apply where a Member or employee discloses the information to his or her lawyer or government officer for the purpose of seeking advice in order to lawfully fulfil his or her roles and responsibilities.

5.16 Recording of proceedings

- (1) Unless authorised by the Council or the relevant committee, a person (including a Member) is not to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council or committee without the permission of the Presiding Member or the CEO.

- (2) If the Presiding Member or the CEO gives permission under subclause (1), he or she is to advise the meeting, immediately before the recording is commenced, that permission has been given and the nature and extent of that permission.

5.17 Prevention of disturbance

- (1) A reference in this clause to a person is to a person other than a Member.
- (2) A person addressing the Council or committee must extend due courtesy and respect to the Council or committee and the processes under which it operates and must comply with any direction by the Presiding Member.
- (3) A person present at a meeting must not create a disturbance, by interrupting or interfering with the orderly conduct of the proceedings, whether by expressing approval or dissent, by conversing or by any other means.
- (4) Without the consent of the Presiding Member or the Council, a person must ensure that his or her mobile telephone or audible pager is not switched on or used during any meeting of the Council or a committee.

Note: A person shall not behave in a manner that is contrary to section 75 of the Criminal Code.

Any person who by violence, or by threats or intimidation of any kind, hinders or interferes with the free exercise of any political right by another person, is guilty of a crime, and is liable to imprisonment for 3 years.

[Section 75 of the Criminal Code]

PART 6 - QUESTIONS BY MEMBERS

6.1 Questions on notice

- (1) A Member who wishes to ask a question at a meeting of the Council is to give to the CEO written notice of the text of the question at least 6 clear working days before the meeting.
- (2) If the CEO considers that the question breaches or may breach these Standing Orders or any other law:
 - (a) the CEO is to refer the question to the President;
 - (b) the President is to exclude the question if he or she concurs with the view of the CEO; and
 - (c) if the question is excluded, the CEO is to give all Members, as soon as practicable but not later than the next ordinary meeting, the reasons for the exclusion.
- (3) Notice of a question that is not excluded is to be included, if practicable, in the agenda, or is otherwise to be tabled at the meeting.

6.2 Questions during debate

At any time during the debate on a motion before the motion is put, a Member may ask a question and, with the consent of the Presiding Member, may ask one or more further questions.

6.3 Restrictions on questions and answers

- (1) Questions asked by a Member, and responses given by a Member or an employee:
 - (a) are to be brief and concise; and
 - (b) are not to be accompanied by:
 - (i) expression of opinion, statement of fact or other comment, except so far as may be necessary to explain the question or answer; or
 - (ii) any discussion or further question, except with the consent of the Presiding Member.

- (2) In answering any question, a Member or an employee may qualify his or her answer and may at a later time in the meeting or at a later meeting alter, correct, add to or otherwise amend his or her original answer.

PART 7 - CONDUCT OF MEMBERS

7.1 Members to be in their proper places

- (1) At the first meeting held after each ordinary election day:
 - (a) the CEO is to allot a position at the Council table to each Member; and
 - (b) the allotment is to be determined by the CEO by random draw.
- (2) The allotted positions remain unless and until the Council determines otherwise.
- (3) Each Member is to occupy his or her allotted position at each Council meeting.

7.2 Respect to the Presiding Member

After the business of a meeting has commenced, a Member is not to enter or leave the meeting without first paying due respect to the Presiding Member.

7.3 Titles to be used

A speaker, when speaking or referring to the President, Deputy President or Presiding Member, or to a Member or employee, is to use the title of that person's office.

7.4 Entering or leaving a meeting

During the course of a meeting, a Member is not to enter or leave the meeting without first advising the Presiding Member, in order to facilitate the recording in the minutes of the time, and the specific place within an agenda item, of the Member's entry or departure.

7.5 Member to indicate intention to speak

- (1) A Member who wishes to speak:
 - (a) is to indicate his or her intention to speak by raising his or her hand; and

(b) when invited by the Presiding Member to speak, and unless otherwise decided by the Council, is to stand and address the meeting through the Presiding Member.

(2) A Member who is unable to stand conveniently because of sickness or disability is to be permitted to sit while speaking.

7.6 Priority of speaking

(1) Where two or more Members indicate, at the same time, their intention to speak, the Presiding Member is to decide which Member is entitled to be heard first.

(2) A decision of the Presiding Member under subclause (1) is not open to discussion or dissent.

(3) A Member is to cease speaking immediately after being asked to do so by the Presiding Member.

7.7 Presiding Member may take part in debates

Unless otherwise prohibited by the Act, subject to compliance with these Standing Orders, the Presiding Member may take part in a discussion of any matter before the meeting.

7.8 Relevance

(1) A Member is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.

(2) The Presiding Member, at any time, may:

(a) call the attention of the meeting to:

(i) any irrelevant, repetitious, offensive or insulting language by a Member; or

(ii) any breach of order or decorum by a Member; and

(b) direct that Member, if speaking, to discontinue his or her speech.

(3) A Member is to comply with the direction of the Presiding Member under subclause (2) by immediately ceasing to speak.

7.9 Speaking twice

- (1) A Member is not to address the Council more than once on any motion or amendment except:
 - (a) as the mover of a substantive motion, to exercise a right of reply;
 - (b) to raise a point of order; or
 - (c) to make a personal explanation.
- (2) A Member who asks a question before speaking has not addressed the Council for the purposes of this clause.

7.10 Duration of speeches

- (1) A Member is not to speak on any matter for more than 5 minutes without the consent of the Council which, if given, is to be given without discussion.
- (2) An extension under this clause cannot be given to allow a Member's total speaking time to exceed 10 minutes.

7.11 No speaking after conclusion of debate

A Member is not to speak on any motion or amendment:

- (a) after the mover has replied; or
- (b) after the question has been put.

7.12 No interruption

A Member is not to interrupt another Member who is speaking unless:

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 7.13; or
- (d) to move a procedural motion that the Member be no longer heard (see clause 10.1(b)).

7.13 Personal explanations

- (1) A Member who wishes to make a personal explanation relating to a matter referred to by another Member who is then speaking is to indicate to the Presiding Member his or her intention to make a personal explanation.
- (2) The Presiding Member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other Member.
- (3) A Member making a personal explanation is to confine his or her observations to a succinct statement relating to the specific part of the speech at which he or she may have been misunderstood.

7.14 No reopening of discussion

A Member is not to reopen discussion on any Council decision, except to move that the decision be revoked or changed (see Part 15).

7.15 Adverse reflection

- (1) A Member is not to reflect adversely on a decision of the Council except on a motion that the decision be revoked or changed (see Part 15).
- (2) A Member is not:
 - (a) to reflect adversely on the character or actions of another Member or employee; or
 - (b) to question any motive of, or impute any motive to, a Member or employee,unless the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.
- (3) A Member is not to use offensive or objectionable expressions in reference to any Member, employee or other person.
- (4) If a Member specifically requests, immediately after their use, that any particular words used by a Member be recorded in the minutes:

- (a) the Presiding Member is to cause the words used to be recorded in writing and read to the meeting for verification; and
 - (b) the Council may, by resolution, decide to record those words in the minutes.
- (5) Subclauses (2) and (3) do not apply to conduct that would constitute a minor breach under regulation 10 of the *Local Government (Rules of Conduct) Regulations 2007*.

7.16 Withdrawal of offensive language

- (1) A Member who, in the opinion of the Presiding Member, uses an expression which:
- (a) in the absence of a resolution under clause 7.15:
 - (i) reflects adversely on the character or actions of another Member or employee; or
 - (ii) questions any motive of, or imputes any motive to, a Member or employee; or
 - (b) is offensive or insulting,
- must, when directed by the Presiding Member, withdraw the expression and make a satisfactory apology.
- (2) If a Member fails to comply with a direction of the Presiding Member under subclause (1), the Presiding Member may refuse to hear the Member further on the matter then under discussion and call on the next speaker.

PART 8 - PRESERVING ORDER

8.1 Presiding Member to preserve order

- (1) The Presiding Member is to preserve order, and, whenever he or she considers it necessary, may call any Member to order.
- (2) When the Presiding Member speaks during a debate, any Member then speaking, or indicating that he or she wishes to speak, is immediately to sit down and every Member present is to preserve strict silence so that the Presiding Member may be heard without interruption.

- (3) Subclause (2) is not to be used by the Presiding Member to exercise the right provided in clause 7.7, but to preserve order.

8.2 Point of order

- (1) A Member may object, by way of a point of order, only to a breach of:
 - (a) any of these Standing Orders; or
 - (b) any other written law.
- (2) Examples of valid points of order are:
 - (a) a speaker's remarks not being relevant to the motion or amendment being debated (see clause 7.8); and
 - (b) a speaker's use of offensive or objectionable expressions or adverse reflection on a decision of the Council (see clause 7.15).
- (3) Despite anything in these Standing Orders to the contrary, a point of order:
 - (a) takes precedence over any discussion; and
 - (b) until determined, suspends the consideration or discussion of any other matter.

8.3 Procedures on a point of order

- (1) A Member who is addressing the Presiding Member is not to be interrupted except on a point of order.
- (2) A Member interrupted on a point of order is to resume his or her seat until:
 - (a) the Member raising the point of order has been heard; and
 - (b) the Presiding Member has ruled on the point of order,

and, if permitted, the Member who has been interrupted may then proceed.

8.4 Calling attention to breach

A Member may, at any time, draw the attention of the Presiding Member to any breach of these Standing Orders.

8.5 Ruling by the Presiding Member

- (1) The Presiding Member is to rule on any point of order which is raised by either upholding or rejecting the point of order.
- (2) A ruling by the Presiding Member on a point of order:
 - (a) is not to be the subject of debate or comment; and
 - (b) is to be final unless the majority of Members then present and voting, on a motion moved immediately after the ruling, dissent from the ruling.
- (3) Subject to a motion of dissent being carried under subclause (2), if the Presiding Member rules that:
 - (a) any motion, amendment or other matter before the meeting is out of order, it is not to be considered further; and
 - (b) a statement made or act done by a Member is out of order, the Presiding Member may require the Member to make an explanation, retraction or apology.

8.6 Right of Presiding Member to adjourn

- (1) For the purpose of preserving or regaining order, the Presiding Member may adjourn the meeting for a period of up to 15 minutes.
- (2) On resumption, the debate is to continue at the point at which the meeting was adjourned.
- (3) If, at any one meeting, the Presiding Member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a later time on the same day or to another day.

PART 9 - DEBATE OF SUBSTANTIVE MOTIONS

9.1 Motions to be stated and in writing

- (1) A Member who wishes to move a substantive motion or an amendment to a substantive motion:
 - (a) is to state the substance of the motion before speaking to it; and
 - (b) is to put the motion or amendment in writing if:
 - (i) in the opinion of the Presiding Member, the motion or amendment is significantly different to the relevant written recommendation of a committee or an employee (including a person who, under a contract for services with the Shire, provides advice or a report on the matter); or
 - (ii) he or she is otherwise required to do so by the Presiding Member.
- (2) The written terms of the motion or amendment are to be given to the CEO who is to ensure that they are recorded in the minutes.

9.2 Motions to be supported

- (1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.
- (2) A motion to revoke or change a decision made at a Council meeting is not open to debate unless the motion has the support required under regulation 10 of the Regulations (see clause 15.1).

9.3 Unopposed business

- (1) Immediately after a substantive motion has been moved, the Presiding Member may ask the meeting if any Member opposes it.
- (2) If no Member opposes the motion, the Presiding Member may declare it carried without debate and without taking a vote.

- (3) A motion declared carried under this clause is to be recorded in the minutes as a unanimous decision of the Council.
- (4) If a Member opposes a motion, the motion is to be dealt with under this Part.

Note: a motion that has been opposed cannot be debated until it has been seconded (clause 9.2(1)) and any debate is subject to clause 9.6 and the other clauses in this Part.

- (5) This clause does not apply to a motion to revoke or change a decision which has been made at a Council meeting (see Part 15).

9.4 Only one substantive motion at a time

The Council or a committee:

- (a) is not to accept a substantive motion while another substantive motion is being debated; and
- (b) is not to consider more than one substantive motion at any time.

9.5 Complex motions

The Presiding Member may require that a complex substantive motion, or a complex amendment to a substantive motion, is to be broken down and put in the form of more than one motion, each of which is to be put in sequence.

9.6 Order of call in debate

The Presiding Member is to call speakers to a substantive motion in the following order:

- (a) the mover to state the motion;
- (b) a seconder to the motion;
- (c) the mover to speak to the motion;
- (d) a speaker against the motion;
- (e) the seconder to speak to the motion;
- (f) other speakers against and for the motion, alternating where possible; and

(g) mover takes right of reply which closes debate.

9.7 Limit of debate

The Presiding Member may offer the right of reply and put a substantive motion to the vote if he or she believes that sufficient discussion has taken place even though all Members may not have spoken.

9.8 Member may require question to be read

A Member may require the question or matter under discussion to be read at any time during a debate, but not so as to interrupt any other Member who is speaking.

9.9 Consent of seconder required for alteration

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

9.10 Order of amendments

Any number of amendments may be proposed to a substantive motion, but when an amendment is moved to a substantive motion, no second or subsequent amendment is to be moved or considered until the first amendment has been withdrawn, carried or lost.

9.11 Amendment must not negate original motion

An amendment to a substantive motion cannot negate the original motion or the intent of the original motion.

9.12 Relevance of amendments

An amendment must be relevant to the motion in respect of which it is moved.

9.13 Mover of motion may speak on amendment

Any Member may speak during debate on an amendment.

9.14 Effect of an amendment

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any Member may speak and any further amendment may be moved.

9.15 Withdrawal of motion or amendment

- (1) Subject to subclause (2), the Council may, without debate, grant leave to withdraw a motion or amendment on the request of the mover of the motion or amendment and with the approval of the seconder.
- (2) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of Members present, until the amendment proposed has been withdrawn or lost.

9.16 Right of reply

- (1) Unless sub-clause (2) applies, the mover of a substantive motion has the right of reply.
- (2) The mover of an amendment to a substantive motion has a right of reply (in place of the mover of the substantive motion) where:
 - (a) the amendment is not a minor amendment; and
 - (b) the mover of the substantive motion speaks to the amendment.
- (3) The Presiding Member:
 - (a) is to determine whether an amendment is a minor amendment for the purposes of sub-clause (2); and
 - (b) is to make that determination on the basis that a minor amendment is one which, in his or her opinion, does not alter the basic intent of the primary motion.
- (4) The right of the reply may be exercised only:
 - (a) where no amendment is moved to the substantive motion – at the conclusion of the discussion on the motion; or
 - (b) where one or more amendments have been moved to the substantive motion – at the conclusion of the discussion on the substantive motion and any amendments.
- (5) After the mover of the substantive motion has commenced the reply:

- (a) no other Member is to speak on the question; and
 - (b) there is to be no further discussion on, or any further amendment to, the motion.
- (6) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.
- (7) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

PART 10 - PROCEDURAL MOTIONS

10.1 Permissible procedural motions

In addition to the right to move an amendment to a substantive motion (under Part 9), a Member may move any of the following procedural motions:

- (a) that the meeting proceed to the next item of business;
- (b) that the Member be no longer heard;
- (c) that the debate be adjourned;
- (d) that the question be now put;
- (e) that the meeting be closed to the public (see clause 5.2);
- (f) that the meeting now adjourn; and
- (g) that the ruling of the Presiding Member be disagreed with.

10.2 No debate

- (1) The mover of a motion specified in paragraph (a), (c), (e), (f) or (g) of clause 10.1 may speak to the motion for not more than 5 minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.
- (2) The mover of a motion specified in paragraph (b) or (d) of clause 10.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

10.3 Who may move

A Member who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, cannot move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

10.4 Procedural motions - right of reply on substantive motion

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

10.5 Meeting to proceed to the next business

The motion “that the meeting proceed to the next business”, if carried, has the effect that:

- (a) the debate on the substantive motion or amendment ceases immediately;
- (b) no decision is made on the substantive motion;
- (c) the Council moves to the next item of business; and
- (d) there is no requirement for the matter to be raised again for consideration.

10.6 Member to be no longer heard

If the motion “that the member be no longer heard”, is carried, the speaker against whom the motion has been moved cannot speak further on the current substantive motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the substantive motion.

10.7 Debate to be adjourned

A motion “that the debate be adjourned”:

- (a) is to state the time to which the debate is to be adjourned; and
- (b) if carried:
 - (i) has the effect that all debate on the substantive motion or amendment ceases immediately, but continues at the time stated in the motion;

- (ii) the names of Members who have spoken on the matter are to be recorded in the minutes; and
- (iii) the provisions of clause 7.9 apply when the debate is resumed as if there had been no adjournment.

10.8 Question to be put

- (1) If the motion “that the question be now put”, is carried during debate on a substantive motion without amendment, the Presiding Member is to offer the right of reply and then put the motion to the vote without further debate.
- (2) If the motion "that the question be now put" is carried during discussion of an amendment, the Presiding Member is to put the amendment to the vote without further debate.

10.9 Meeting be closed to the public

Provisions dealing with the closure of a meeting to the public are set out in clause 5.2.

10.10 Meeting now adjourn

- (1) A Member is not to move or second more than one motion of adjournment during the same meeting of the Council.
- (2) Before putting the motion for the adjournment of the Council, the Presiding Member may seek leave of the Council to deal first with matters that may be the subject of an adoption by exception resolution (see clause 4.6).
- (3) A motion “that the meeting now adjourn”:
 - (a) is to state the time and date to which the meeting is to be adjourned; and
 - (b) if carried, has the effect that the meeting is adjourned to the time and date specified in the motion.
- (4) A meeting adjourned under subclause (3) is to continue from the point at which it was adjourned, unless the Presiding Member or the Council determines otherwise.

10.11 Ruling of the Presiding Member to be disagreed with

If the motion “that the ruling of the Presiding Member be disagreed with”, is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

PART 11 - DISCLOSURE OF INTERESTS

11.1 Disclosure of interests

Members and officers must deal with all interests and potential conflicts of interest in accordance with the requirements of the Act, the *Local Government (Rules of Conduct) Regulations 2007*, the Shire's Code of Conduct and all other legal obligations.

Provisions relating to the disclosure of financial interest at meetings are contained in Part 5, Division 6 of the Act (sections 5.59-5.73) and in the Regulations.

Provisions relating to the disclosure of ‘impartiality’ interests are contained in regulation 11 of the Local Government (Rules of Conduct) Regulations 2007.

PART 12 - VOTING

12.1 Question - when put

- (1) Immediately after the debate on any question is concluded and the right of reply has been exercised, the Presiding Member:
 - (a) is to put the question to the Council or the committee; and
 - (b) if requested by any Member, is to again state the terms of the question.
- (2) A Member is not to leave the meeting when the Presiding Member is putting any question.

12.2 Voting

Voting is dealt with in the Act and the Regulations.

- (1) Each council member and each member of a committee who is present at a meeting of the council or committee is entitled to one vote.
 - (2) Subject to section 5.67, each council member and each member of a committee to which a local government power or duty has been delegated who is present at a meeting of the council or committee is to vote.
 - (3) If the votes of members present at a council or a committee meeting are equally divided, the person presiding is to cast a second vote.
 - (4) If a member of a council or a committee specifically requests that there be recorded —
 - (a) his or her vote; or
 - (b) the vote of all members present,on a matter voted on at a meeting of the council or the committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes.
 - (5) A person who fails to comply with subsection (2) or (3) commits an offence.
- [Section 5.21 of
the Act]

Regulation 9 provides as follows:

Voting at a council or committee meeting is to be conducted so that no voter's vote is secret.

[Regulation 9 of the
Regulations]

12.3 Majorities required for decisions

The majorities required for decisions of the Council and committees are dealt with in the Act.

- (1) A decision of a council does not have effect unless it has been made by a simple majority or, if another kind of majority is required under any provision of this Act or has been prescribed by regulations or a local law for the particular kind of decision, by that kind of majority.
- (2) A decision of a committee does not have effect unless it has been made by a simple majority or, if another kind of majority has been prescribed

- by regulations or a local law for the particular kind of decision, by that kind of majority.
- (3) This section does not apply to elections —
- (a) by a council of the local government's mayor or president under section 2.11;
 - (b) by a council of the local government's deputy mayor or president under section 2.15; or
 - (c) by a committee of the committee's presiding member or deputy presiding member under section 5.12.
- [Section 5.20 of the
Act]

12.4 Method of taking vote

- (1) In taking the vote on any motion or amendment, the Presiding Member:
- (a) is to put the question, first in the affirmative, and then in the negative;
 - (b) may put the question in this way as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes;
 - (c) may accept a vote on the voices or may require a show of hands; and
 - (d) is, subject to this clause, to declare the result.
- (2) If a Member calls for a show of hands, the result of the vote is to be determined on the count of raised hands.
- (3) If a Member calls for a division:
- (a) those voting in the affirmative are to pass to the right of the Chair; and
 - (b) those voting in the negative are to pass to the left of the Chair.
- (4) For every division, the CEO is to ensure that the minutes record:
- (a) the name of each Member who voted; and

- (b) whether he or she voted in the affirmative or negative.

PART 13 - MINUTES OF MEETINGS

13.1 Keeping of minutes

The keeping and confirmation of minutes are dealt with in the Act.

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| <p>(1) The person presiding at a meeting of a council or a committee is to cause minutes to be kept of the meeting's proceedings.</p> <p>(2) The minutes of a meeting of a council or a committee are to be submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.</p> <p>(3) The person presiding at the meeting at which the minutes are confirmed is to sign the minutes and certify the confirmation.</p> <p style="text-align: right;">[Section 5.22 of the Act]</p> |
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13.2 Content of minutes

- (1) The content of minutes is dealt with in the Regulations.

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| <p>The content of minutes of a meeting of a council or a committee is to include —</p> <p>(a) the names of the members present at the meeting;</p> <p>(b) where a member enters or leaves the meeting during the course of the meeting, the time of entry or departure, as the case requires, in the chronological sequence of the business of the meeting;</p> <p>(c) details of each motion moved at the meeting, the mover and the outcome of the motion;</p> <p>(d) details of each decision made at the meeting;</p> <p>(da) written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70 (but not a decision to only note the matter or to return the recommendation for further consideration);</p> <p>(e) a summary of each question raised by members of the public at the meeting and</p> |
|--|

a summary of the response to the question; and
(f) in relation to each disclosure made under section 5.65 or 5.70 in relation to the meeting, where the extent of the interest has also been disclosed, the extent of the interest".
[Regulation 11 of the Regulations]

- (2) In addition to the matters required by regulation 11, the minutes of a Council meeting are to include, where an application for approval is refused or the authorisation of a licence, permit or certificate is withheld or cancelled, the reasons for the decision.

13.3 Public inspection of unconfirmed minutes

The public inspection of unconfirmed minutes is dealt with in the Regulations.

A local government is to ensure that unconfirmed minutes of each council and committee meeting are available for inspection by members of the public —
(a) in the case of a council meeting, within 10 business days after the meeting; and
(b) in the case of a committee meeting, within 5 business days after the meeting.
[Regulation 13 of the Regulations]

13.4 Confirmation of minutes

- (1) The CEO is to give to each Member:
- (2) the unconfirmed minutes of each Council meeting – within 9 business days after the meeting; and
- (a) the unconfirmed minutes of a committee meeting – within 4 business days after the meeting.
- (3) If a Member is dissatisfied with the accuracy of the draft minutes, he or she is to provide to the CEO a written copy of the alternative wording to amend the draft minutes no later than 3 clear working days before the meeting where the minutes are to be confirmed.
- (4) At that meeting, the Member who provided the alternative wording shall, at the time for confirmation of minutes:

- (a) state the item or items with which he or she is dissatisfied; and
- (b) propose a motion clearly outlining the alternative wording to amend the minutes.

13.5 Preservation of minutes

Documents recording minutes are to be stored and retained in accordance with the requirements of the *State Records Act 2000*.

PART 14 - ADJOURNMENT OF MEETING

14.1 Meeting may be adjourned

The Council or a committee may adjourn any meeting:

- (a) to a later time on the same day; or
- (b) to any other time on any other day, including a time which coincides with the conclusion of another meeting or event.

14.2 Effect of adjournment

Where any matter, motion, debate or meeting is adjourned under these Standing Orders:

- (a) the names of Members who have spoken on the matter prior to the adjournment are to be recorded in the minutes;
- (b) debate is to be resumed at the next meeting at the point where it was interrupted; and
- (c) the provisions of clause 7.9 apply when the debate is resumed as if there had been no adjournment.

PART 15 - REVOKING OR CHANGING DECISIONS

15.1 Requirements to revoke or change decisions

The requirements to revoke or change a decision made at a meeting are dealt with in regulation 10 of the Regulations.

- (1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported -

- (a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or
 - (b) in any other case, by at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.
- (1a) Notice of a motion to revoke or change a decision referred to in subregulation (1) is to be signed by members of the council or committee numbering at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.
- (2) If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made -
- (a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or
 - (b) in any other case, by an absolute majority.
- (3) This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.
- [Regulation 10 of the
Regulations]

15.2 Limitations on powers to revoke or change decisions

- (1) Subject to subclause (2), the Council or a committee is not to consider a motion to revoke or change a decision:
- (a) where, at the time the motion is moved or notice is given, any action has been taken under clause 15.3 to implement the decision; or
 - (b) where the decision is procedural in its form or effect.
- (2) The Council or a committee may consider a motion to revoke or change a decision of the kind described in subclause (1)(a) if the motion is accompanied by a written statement of the legal and financial consequences of carrying the motion.

15.3 Implementing a decision

- (1) In this clause:
 - (a) **"authorisation"** means a licence, permit, approval or other means of authorising a person to do anything;
 - (b) **"implement"**, in relation to a decision, includes:
 - (i) communicate notice of the decision to a person affected by, or with an interest in, the decision; and
 - (ii) take any other action to give effect to the decision; and
 - (c) **"valid notice of revocation motion"** means a **notice** of a motion to revoke or change a decision that complies with the requirements of the Act, Regulations and the Standing Orders and may be considered, but has not yet been considered, by the Council or a committee as the case may be.
- (2) Subject to subclause (4), and unless a resolution is made under subclause (3), a decision made at a meeting is not to be implemented by the CEO or any other person until the afternoon of the first business day after the commencement of the meeting at which the decision was made.
- (3) The Council or a committee may, by resolution carried at the same meeting at which a decision was made, direct the CEO or another person to take immediate action to implement the decision.
- (4) A decision made at a meeting is not to be implemented by the CEO or any other person:
 - (a) if, before commencing any implementation action, the CEO or that person is given a valid notice of revocation motion; and
 - (b) unless and until the valid notice of revocation motion has been determined by the Council or the committee as the case may be.

- (5) The CEO is to ensure that members of the public attending the meeting are informed, by an appropriate notice, that a decision to grant an authorisation:
- (a) is to take effect only in accordance with this clause; and
 - (b) cannot be acted upon by the person who has been granted the authorisation unless and until the decision has been implemented in accordance with this clause.

PART 16 - SUSPENSION AND NON-APPLICATION OF STANDING ORDERS

16.1 Suspension of Standing Orders

- (1) A Member may, at any time, move that the operation of one or more of the provisions of these Standing Orders be suspended.
- (2) A Member moving a motion under subclause (1) is to state the reasons for the motion, but no other discussion is to take place.
- (3) A motion under subclause (1) which is:
- (a) seconded; and
 - (b) carried by a simple majority,

is to suspend the operation of the clause or clauses to which the motion relates for the duration of the meeting, unless the meeting earlier resolves otherwise.

16.2 Where Standing Orders do not apply

- (1) In situations where:
- (a) these Standing Orders have been suspended; or
 - (b) a matter is not regulated by the Act, the Regulations or these Standing Orders,

the Presiding Member is to decide questions relating to the conduct of the meeting.

- (2) The decision of the Presiding Member under subclause (1) is final, except where a motion of dissent is moved and carried under clause 10.11.

PART 17 - COMMITTEES

17.1 Establishment of committees

- (1) The establishment of committees is dealt with in the Act.

A local government may establish* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees. **Absolute majority required.*

[Section 5.8 of the Act]

- (2) A Council resolution to establish a committee under section 5.8 of the Act is to include:

- (a) the terms of reference of the committee;
- (b) the number of Council Members, officers and other persons to be appointed to the committee;
- (c) the names or titles of the Council Members and officers to be appointed to the committee;
- (d) the names of other persons to be appointed to the committee or an explanation of the procedure to be followed to determine the appointments; and
- (e) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.

17.2 Types of committees

The types of committees are dealt with in the Act.

(1) In this section –
'other person' means a person who is not a council member or an employee.

“(2) A committee is to comprise –

- (a) council members only;
- (b) council members and employees;
- (c) council members, employees and other persons;
- (d) council members and other persons;
- (e) employees and other persons; or

(f) other persons only. [Section
5.9 of the Act]

17.3 Delegation of some powers and duties to certain committees

The delegation of some powers and duties to certain committees is dealt with in the Act.

- (1) Under and subject to section 5.17, a local government may delegate* to a committee any of its powers and duties other than this power of delegation.
**Absolute majority required.*
 - (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
 - (3) Without limiting the application of sections 58 and 59 of the *Interpretation Act 1984* –
 - (a) a delegation made under this section has effect for the period of time specified in the delegation or if no period has been specified, indefinitely; and
 - (b) any decision to amend or revoke a delegation under this section is to be by an absolute majority.
 - (4) Nothing in this section is to be read as preventing a local government from performing any of its functions by acting through another person.
- [Section 5.16 of the Act]

17.4 Limits on delegation of powers and duties to certain committees

The limits on the delegation of powers and duties to certain committees are dealt with in the Act.

- (1) A local government can delegate –
 - (a) to a committee comprising council members only, any of the council's powers or duties under this Act except –
 - (i) any power or duty that requires a decision of an absolute majority or a

- 75% majority of the local government;
and
- (ii) any other power or duty that is prescribed;
- (b) to a committee comprising council members and employees, any of the local government's powers or duties that can be delegated to the CEO under Division 4; and
 - (c) to a committee referred to in section 5.9(2)(c), (d) or (e), any of the local government's powers or duties that are necessary or convenient for the proper management of –
 - (i) the local government's property; or
 - (ii) an event in which the local government is involved.
- (2) A local government cannot delegate any of its powers or duties to a committee referred to in section 5.9(2)(f).
- [Section 5.17 of the Act]

17.5 Register of delegations to committees

The register of delegations to committees is dealt with in the Act.

A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year.

[Section 5.18 of the Act]

17.6 Appointment of committee Members

The appointment of committee Members is dealt with in the Act.

- (1) A committee is to have as its members –
 - (a) persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and
 - (b) persons who are appointed to be members of the committee under subsection (4) or (5).

* *Absolute majority required.*
- (2) At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include

- that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.
- (3) Section 52 of the *Interpretation Act 1984* applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.
- (4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.
- (5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish –
- (a) to be a member of the committee; or
 - (b) that a representative of the CEO be a member of the committee,
- the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

[Section 5.10 of the Act]

17.7 Tenure of committee membership

Tenure of committee membership is dealt with in the Act.

- (1) Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until –
- (a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be;
 - (b) the person resigns from membership of the committee;
 - (c) the committee is disbanded; or

<p>(d) the next ordinary elections day, whichever happens first.</p> <p>(2) Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until –</p> <p>(a) the term of the person's appointment as a committee member expires;</p> <p>(b) the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant;</p> <p>(c) the committee is disbanded; or</p> <p>(d) the next ordinary elections day, whichever happens first.</p>	<p>[Section 5.11 of the Act]</p>
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17.8 Appointment of deputies

- (1) The Council may appoint one or more Members to be a deputy or deputies for a committee member and, where two or more deputies for the same Member are appointed, the Council is to determine the order of priority among those deputies.
- (2) A deputy may act temporarily in place of the committee member for whom he or she was appointed as a deputy on any occasion on which, or during any period in which, the committee member is unable to perform the functions of the position.
- (3) A member of a committee is not eligible to be appointed as a deputy in respect of the same committee.
- (4) Whenever a committee member is unable to attend a committee meeting, or part of a committee meeting, his or her deputy may:
 - (a) attend the meeting, or that part of the meeting, in place of the committee member; and
 - (b) exercise all the rights, powers and privileges of the committee member.
- (5) In any case where more than one deputy is available to act in place of the committee member, the deputy with the

higher priority, as determined by the Council under subclause (1), is to act.

17.9 Resignation of committee Members

The resignation of committee Members is dealt with in the Regulations.

A committee member may resign from membership of the committee by giving the CEO or the committee's presiding member written notice of the resignation.

[Regulation 4 of the Regulations]

17.10 Calling committee meetings

A meeting of a committee is to be held:

- (a) if called for in a verbal or written request, to the CEO by the Presiding Member of the committee, identifying the date and purpose of the proposed meeting;
- (b) if called for by at least one third of the members of the committee in a notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (c) if so decided by the committee.

17.11 Standing Orders to apply

These Standing Orders are to apply to the conduct of committee meetings, with the exception of:

- (a) clause 7.1 in relation to seating;
- (b) clause 7.5(1)(b) in relation to the requirement to rise; and
- (c) clause 7.9 in relation to speaking twice.

17.12 Committee to report

A committee:

- (a) is answerable to the Council;
- (b) is to report on its activities when, and to the extent, required by the Council; and

- (c) as soon as possible after it has decided on a matter referred to it by the Council, is to prepare a report containing recommendations and submit it to the Council.

PART 18 - MEETINGS OF ELECTORS

18.1 Electors' general meetings

Electors' general meetings are dealt with in the Act.

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| (1) A general meeting of the electors of a district is to be held once every financial year. |
| (2) A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year. |
| (3) The matters to be discussed at general electors' meetings are to be those prescribed. |
| [Section 5.27 of
the Act] |

18.2 Matters for discussion at general electors' meeting

The matters to be discussed at a general electors' meeting are dealt with in the Regulations.

For the purposes of section 5.27(3), the matters to be discussed at a general electors' meeting are, firstly, the contents of the annual report for the previous financial year and then any other general business.
[Regulation 15 of the Regulations]

18.3 Electors' special meetings

Electors' special meetings are dealt with in the Act.

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|---|
| (1) A special meeting of the electors of a district is to be held on the request of not less than – |
| (a) 100 electors or 5% of the number of electors
- whichever is the lesser number; or |
| (b) 1/3 of the number of council members. |
| (2) The request is to specify the matters to be discussed at the meeting and the form or content |

- of the request is to be in accordance and regulations.
- (3) The request is to be sent to the mayor or president.
 - (4) A special meeting is to be held on a day selected by the mayor or president but not more than 35 days after the day on which he or she received the request.
- [Section 5.28 of
the Act]

18.4 Requests for electors' special meetings

Requests for electors' special meetings are dealt with in the Regulations.

- A request for a special meeting of the electors of a district is to be in the form of Form 1.
- [Regulation 16 of the
Regulations]

18.5 Convening electors' meetings

Convening electors' meetings is dealt with in the Act.

- (1) The CEO is to convene an electors' meeting by giving –
 - (a) at least 14 days' local public notice; and
 - (b) each council member at least 14 days' notice,
of the date, time, place and purpose of the meeting.
 - (2) The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.
- [Section 5.29 of
the Act]

18.6 Who presides at electors' meetings

Who presides at electors' meetings is dealt with in the Act.

- (1) The mayor or president is to preside at electors' meetings.
- (2) If the circumstances mentioned in section 5.34(a) or (b) apply the deputy mayor or deputy president may preside at an electors' meeting in accordance with that section.
- (3) If the circumstances mentioned in section 5.34(a) or (b) apply and –
 - (a) the office of deputy mayor or deputy president is vacant; or
 - (b) the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president, then the electors present are to choose one of the councillors present to preside at the meeting but if there is no councillor present, able and willing to preside, then the electors present are to choose one of themselves to preside.

[Section 5.30 of
the Act]

18.7 Procedure for electors' meetings

- (1) The procedure for electors' meetings is dealt with in the Act and the Regulations.

The procedure to be followed at, and in respect of, electors' meetings and the methods of voting at electors' meetings are to be in accordance with regulations.

[Section 5.31 of
the Act]

Subject to regulations 15 and 17, the procedure to be followed at a general or special meeting of electors is to be determined by the person presiding at the meeting.

[Regulation 18 of the
Regulations]

- (2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the Presiding Member is to have regard to these Standing Orders.

18.8 Participation of non-electors

A person who is not an elector of the Shire must not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits him or her to do so.

Note: A person who is not an elector of the Shire cannot vote at an electors' meeting (see clause 18.9).

18.9 Voting at electors' meetings

Voting at electors' meetings is dealt with in the Regulations.

- (1) Each elector who is present at a general or special meeting of electors is entitled to one vote on each matter to be decided at the meeting but does not have to vote.
 - (2) All decisions at a general or special meeting of electors are to be made by a simple majority of votes.
 - (3) Voting at a general or special meeting of electors is to be conducted so that no voter's vote is secret.
- [Regulation 17 of the
Regulations]

18.10 Minutes of electors' meetings

Minutes of electors' meetings are dealt with in the Act.

- The CEO is to –
- (a) cause minutes of the proceedings at an electors' meeting to be kept and preserved; and
 - (b) ensure that copies of the minutes are made available for inspection by members of the public before the council meeting at which decisions made at the electors' meeting are first considered.
- [Section 5.32 of
the Act]

18.11 Decisions made at electors' meetings

Decisions made at electors' meetings are dealt with in the Act.

- (1) All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable –
- (a) at the first ordinary council meeting after that meeting; or
 - (b) at a special meeting called for that purpose, whichever happens first.
- (2) If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.
- [Section 5.33 of
the Act]

PART 19 - ENFORCEMENT

19.1 Penalty for breach

A person who breaches a provision of these Standing Orders, other than clause 11.1, commits an offence.

Penalty: \$5,000, and a daily penalty of \$500

19.2 Who can prosecute

Who can prosecute is dealt with in the Act.

- A prosecution for an offence against a local law may be commenced by —
- (a) a person who is acting in the course of his or her duties as an employee of the local government or regional local government that made the local law; or
 - (b) a person who is authorised to do so by the local government or regional local government that made the local law.
- [Section 9.24(2) of
the Act]

PART 20 - SHIRE'S COMMON SEAL

20.1 Shire's Common Seal

- (1) The CEO is to have charge of the common seal of the Shire, and is responsible for its safe custody and proper use.
- (2) The common seal may be used only on the authority of the Council, given either generally or specifically, and every document to which the seal is affixed must be signed by the President (unless otherwise authorised by the Council) and by the CEO or a senior employee authorised by the CEO.
- (3) The common seal of the Shire is to be affixed to any local law which is made by the Shire.
- (4) The CEO is to record in a register each date on which the common seal of the Shire was affixed to a document, the nature of the document, and the parties to any agreement to which the common seal was affixed.
- (5) A person who, without authority, uses the common seal of the Shire, or a replica of it, commits an offence.
