



WESTERN
AUSTRALIAN
GOVERNMENT
Gazette

ISSN 1448-949X (print)

ISSN 2204-4264 (online)

PRINT POST APPROVED PP665002/00041

759



PERTH, TUESDAY, 24 JANUARY 2017 No. 21 SPECIAL

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

© STATE OF WESTERN AUSTRALIA

TOWN OF CAMBRIDGE

LOCAL LAWS

ANIMALS LOCAL LAW 2016

HEALTH LOCAL LAW 2016

**LOCAL GOVERNMENT AND PUBLIC
PROPERTY LOCAL
LAW 2016**

**PRIVATE PROPERTY LOCAL
LAW 2016**

**TRADING IN PUBLIC PLACES LOCAL
LAW 2016**

WASTE LOCAL LAW 2016

**CAT ACT 2011
DOG ACT 1976
LOCAL GOVERNMENT ACT 1995**

TOWN OF CAMBRIDGE

ANIMALS LOCAL LAW 2016

CONTENTS

PART 1—PRELIMINARY

- 1.1 Title
- 1.2 Purpose and Effect
- 1.3 Commencement
- 1.4 Repeal
- 1.5 Application
- 1.6 Interpretation

PART 2—DOGS

- 2.1 Impounding Dogs
- 2.2 Dog Exercise Areas
- 2.3 Prohibited Areas
- 2.4 Fouling of Streets and Public Places
- 2.5 Fencing Requirements
- 2.6 Maximum Number of Dogs
- 2.7 No Breaking Into or Destruction of Pound
- 2.8 Cleanliness

PART 3—DOG KENNEL ESTABLISHMENT

- 3.1 Approved Kennel Establishment Licence
- 3.2 Notice of Application for Kennel Establishment Licence
- 3.3 Application for Kennel Establishment Licence
- 3.4 Determination of Application
- 3.5 Licence and Fees
- 3.6 Duties of Licence Holder
- 3.7 Limit on Number and Breed of Dogs
- 3.8 Kennel Establishment Requirements

PART 4—CATS

- 4.1 Interpretation
- 4.2 Keeping of Cats for which a licence is required
- 4.3 Cleanliness
- 4.4 Application for licence
- 4.5 Refusal to determine application
- 4.6 Factors relevant to determination of application
- 4.7 Decision on application
- 4.8 Conditions
- 4.9 Duration of licence
- 4.10 Revocation
- 4.11 Licence not transferable
- 4.12 Licence to be kept at the premises and available for view

PART 5—ANIMALS AND LIVESTOCK

- 5.1 Leaving Large Animal or Dog in Public Place or on Local Government Property
- 5.2 Prohibitions relating to Large Animal
- 5.3 Livestock Not to Stray
- 5.4 Property to be Fenced
- 5.5 Livestock may be Impounded
- 5.6 Fouling of Streets and Public Places
- 5.7 Keeping of Large Animals
- 5.8 Keeping a Miniature Horse
- 5.9 Keeping of Pigs
- 5.10 Keeping of Horses
- 5.11 Keeping of Small Animals
- 5.12 Manure Receptacle
- 5.13 Cleanliness
- 5.14 Disposal of Dead Animals

PART 6—POULTRY, PIGEONS AND MISCELLANEOUS BIRDS

- 6.1 Limitation on Numbers of Poultry and Pigeons
- 6.2 Conditions of Keeping Poultry
- 6.3 Conditions of Keeping Pigeons
- 6.4 Conditions of Keeping a Miscellaneous Bird
- 6.5 Removal of Non-Conforming Structure or Enclosure
- 6.6 Restrictions on Pigeons Nesting, Perching or Habitually Feeding
- 6.7 Restrictions on Feeding of Birds
- 6.8 Cleanliness of Poultry, Pigeon and Miscellaneous Bird Structures
- 6.9 Nuisance caused by Poultry, Pigeons and Miscellaneous Birds

PART 7—KEEPING OF BEES

- 7.1 Limitation on numbers of Hives
- 7.2 Restrictions on keeping Bees in Hives
- 7.3 Bees which cause a nuisance not to be kept

PART 8—MISCELLANEOUS*Division 1—General*

- 8.1 Pound
- 8.2 Pound Fees
- 8.3 Fees and Charges
- 8.4 False or Misleading Statement
- 8.5 Offence to fail to comply with notice
- 8.6 Local government may undertake requirements of notice

Division 2—Right of Appeal and Review

- 8.7 Appeal and review rights

PART 9—ENFORCEMENT

- 9.1 Offences and Penalties
- 9.2 Modified Penalties and Offence Description
- 9.3 Form of Notices

SCHEDULE 1—OFFENCES AND MODIFIED PENALTIES**SCHEDULE 2—LICENCE TO USE PREMISES AS A CATTERY**

**CAT ACT 2011
DOG ACT 1976
LOCAL GOVERNMENT ACT 1995**

TOWN OF CAMBRIDGE

ANIMALS LOCAL LAW 2016

Under the powers of the *Cat Act 2011*, *Dog Act 1976*, the *Local Government Act 1995* and all other powers enabling it, the Council of the Town of Cambridge resolved on 22 November 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Title

This is the *Town of Cambridge Animals Local Law 2016*.

1.2 Purpose and Effect

- (1) The purpose of this local law is to provide for the regulation, control and management of the keeping of dogs, cats, large animals, miniature horses and pigs, poultry, pigeons, and bees within the District.
- (2) The effect of this local law is to establish the requirements with which owners and occupiers of land within the district must comply in order to keep domestic animals and birds, large animals, miniature horses and pigs, and bees and provides the means of enforcing the local law.

1.3 Commencement

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

1.4 Repeal

- (1) The *Town of Cambridge Animals Local Law* published in the *Government Gazette* on 22 March 2002 and all amendments thereto are hereby repealed on the day this local law comes into operation.
- (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 Local government 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.

1.5 Application

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

1.6 Interpretation

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

Act means the *Local Government Act 1995*;

animal includes a fish, bird or reptile and may include cows, cattle, goats, horses, miniature horses, pigs, miniature pigs, poultry, peacock, peahen, llamas, alpacas, deer, sheep, ostriches and emus;

application means the completed form lodged by an applicant as required by this local law;

applicant means a person who has lodged an application for an approval, certificate or licence required for any activity by this local law;

Authorised Person means a person appointed by the local government under section 9.10 of the Act, to perform any of the functions of an Authorised Person under this local law and includes any Environmental Health Officer employed by the local government, and any member of the Western Australian Police Force;

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

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

certificate of registration means a certificate of registration to keep a miniature horse or miniature pig issued pursuant to this local law;

cow includes an ox, calf or bull;

district means the district of the Town of Cambridge;

Dog Act means the *Dog Act 1976*;

Cat Act means the *Cat Act 2011*;

Environmental Health Officer means an Environmental Health Officer appointed under the *Health Act 1911* and includes a principal, acting or assistant Environmental Health Officer;

premises means a premises where food is stored, kept, prepared, manufactured, processed, cooked or served or otherwise dealt with for subsequent sale to the public either directly or indirectly;

Health Act means the *Health Act 1911*;

horse includes an ass, mule, donkey, shetland pony or pony;

kennel establishment means the kennel, yards and premises which is used to house a dog for commercial purposes, gain or reward;

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

large animal includes a sheep, cow, goat, horse (excluding a miniature horse), deer, camel, llama, kangaroo, alpaca, pig (excluding a miniature pig), emu, ostrich or any other animal so classified by the local government;

licence means a licence issued by the local government;

licence holder means a person who holds a valid licence;

livestock means any horse, cattle, sheep, goat, swine, buffalo, deer, camel, emu, ostrich, llama and alpaca;

local government means the Town of Cambridge;

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

miniature horse means a horse that does not exceed 870mm in height as an adult and is classified as a miniature by the Miniature Horse Association of Australia;

miniature pig means a pig that does not exceed 650mm in height and does not exceed 55 kilograms in weight as an adult;

miscellaneous bird includes all birds other than poultry and pigeons;

nuisance means—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the nuisance;

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

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

pigeon means birds of the species *columba livia* and includes homing pigeon, racing pigeon and dove;

poultry means any domestic fowl or chicken, bantam, duck, goose, guinea fowl, pheasant, turkey, peahen or peacock and other birds kept for the production of eggs or meat for domestic consumption;

pound means a building or yard established by the local government or Authorised Person for the impounding of dogs or animals for the purposes of this local law;

public place means any thoroughfare or place which the public are allowed to use, whether the thoroughfare or place is or is not on private property and includes park lands, squares, reserves, beaches, and other lands set apart for the use and enjoyment of the public, including all lands which belong to or which are vested in, or are under the control or management of, the local government;

premises includes the following—

- (a) land (whether or not vacant);
- (b) the whole or part of a building or structure (whether of a permanent or temporary nature); and
- (c) a vehicle;

residential area means any land situated within a residential zone as classified by the town planning scheme and includes land predominantly used for residential purposes;

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

Schedule means a schedule to this local law;

small animal means small animals kept as pets such as rabbits, ferrets, guinea pigs, rats, mice and any other domestic rodents;

thoroughfare has the meaning given to it in the Act;

town planning scheme means any town planning scheme for the time being applying zoning or classification to land within the district;

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—
 - (i) a wheel-chair or any device designed for use by physically impaired persons;
 - (ii) a pram, a stroller or similar device; and
 - (iii) a boat;

vermin means rats, mice, flies, fleas, mites, cockroaches and any other animal, whether vertebrate or invertebrate, which is known to be a vector of disease or likely to cause damage to human food, habitation or possessions; and

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

(2) Any other expression used in this local law and not defined herein must have the meaning given to it in the *Local Government Act 1995*, the *Local Government (Miscellaneous Provisions) Act 1960* or the *Health Act 1911* unless the context requires otherwise.

(3) This local law is subject to any written law and law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992 (Cth)*.

PART 2—DOGS

2.1 Impounding Dogs

(1) A dog seized by a member of the Police Force or by an Authorised Person may be placed in a pound.

(2) The provisions of section 29 of the *Dog Act* will apply to dogs seized and placed in a pound in relation to—

- (a) Notification of owner;
- (b) Release of dogs from the pound;
- (c) Sale of dogs; and
- (d) Destruction of dogs.

2.2 Dog Exercise Areas

(1) The local government may, by resolution, approve pursuant to sections 31 and 32 of the *Dog Act* public places being places under the care, control and management of the local government, as approved dog exercise areas.

2.3 Prohibited Areas

(1) A person liable for the control of a dog must prevent that dog from entering or being in or on any prohibited place, public building, shop or business premises.

(2) The local government may, by resolution, approve pursuant to sections 31 and 32 of the *Dog Act* public places being places under the care, control and management of the local government, as prohibited places.

(3) Subclause (1) does not apply to—

- (a) a person with a vision impairment accompanied by a bona fide guide dog;
- (b) a person who is a trainer accompanied by a bona fide guide dog or an assistance animal, as defined in the *Disability Discrimination Act 1992 (Cth)*;
- (c) a shop or business premises where dogs are sold; or
- (d) veterinary premises.

2.4 Fouling of Streets and Public Places

Any person liable for the control of a dog, who permits that dog to excrete on any street or public place or on any land, within the local government without the consent of the occupier of that land commits an offence unless the excreta is removed forthwith and disposed of either on private land with the consent of the occupier or in such other manner as the local government may approve.

2.5 Fencing Requirements

A person or occupier of premises on which a dog is kept must—

- (a) cause the portion of those premises on which the dog is kept to be fenced in a manner capable of confining the dog to that portion;
- (b) ensure the fence used to confine a dog and every gate or door in the fence is of a type, height and construction which, having regard to the species, age, size and physical condition of the dog, prevents the dog from passing over, under or through the fence;

- (c) ensure that every gate or door in a fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures that the dog remains confined);
- (d) ensure that every gate or door in a fence is fitted with an effective and operative latching mechanism or system;
- (e) maintain the fence, gates and doors in good working order and condition;
- (f) where no part of the premises consists of open space, yard or garden, or there is no open space, yard or garden to which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than tethering the dog) for effectively confining the dog within the premises.

2.6 Maximum Number of Dogs

A person must not keep or permit to be kept on any premises more than 2 dogs over the age of 3 months and the young of those dogs under that age; unless the premises are licensed as an approved kennel establishment or have been granted exemption pursuant to section 26 (3) of the *Dog Act*.

2.7 No Breaking Into or Destruction of Pound

A person must not—

- (a) unless he or she is the pound keeper or a person authorised to do so, release or attempt to release a dog from a pound; or
- (b) destroy, break into, damage or in any way interfere with or render not dog-proof
 - (i) any pound; or
 - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog.

2.8 Cleanliness

The owner or occupier of a premises where a dog or dogs are kept must take reasonable measures to—

- (a) keep the premises free from excrement, filth, food waste and all other matter that is likely to become offensive or injurious to health or to attract rats, vermin or insects;
- (b) when so directed by an Authorised Person, clean and disinfect the premises; and
- (c) keep the premises, so far as possible, free of flies or vermin and when directed by an Authorised Person, spray the premises with a residual insecticide or use any other effective means to kill and repel flies or vermin.

PART 3—DOG KENNEL ESTABLISHMENT

3.1 Approved Kennel Establishment Licence

A person must not keep a kennel establishment without having first obtained a licence under this local law and a planning approval under the town planning scheme.

3.2 Notice of Application for Kennel Establishment Licence

An applicant for a licence to keep an approved kennel establishment must—

- (a) publish in a newspaper circulating in the district a notice of their intention to submit an application for a licence, being in the form determined by the local government, specifying that any interested person may within 21 days after the date of such publication object to or make representations in respect of the application in writing directly to the local government; and
- (b) forward a notice, being in the form determined by the local government, to the owners and occupiers of all land within a radius of 500 m of the boundaries of the land upon which it is proposed to establish the kennel.

3.3 Application for Kennel Establishment Licence

An application for a licence to keep an approved kennel establishment must be in the form determined by the local government and must be accompanied by—

- (a) evidence that notice of the proposed use of the land has been given in accordance with clause 3.2 (a) and (b);
- (b) a plan showing the details and specifications of all kennels, adjacent yards and the distances from the kennels to the boundaries of the land the subject of the application and all buildings on the land together with such information as the local government may require;
- (c) a report of an acoustic consultant verifying that the various plant, machinery and operational noise levels will comply with the requirements of the *Environmental Protection (Noise) Regulations 1997*; and
- (d) payment of fees and charges as determined by the local government.

3.4 Determination of Application

(1) The local government may refuse an application for a licence—

- (a) that does not comply with the requirements of clause 3.3;
- (b) for which the processes required by clause 3.2 have not been completed;

- (c) after considering any submissions or representations received within the specified period in accordance with clause 3.2 (a);
 - (d) where planning approval for use of the land as an approved dog kennel establishment has not first been obtained under any relevant town planning scheme.
- (2) The local government may, in respect of an application for a licence—
- (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.

3.5 Licence and Fees

- (1) A licence to keep an approved kennel establishment, and the application to renew or transfer such licence, must be in the form determined by the local government.
- (2) A licence must be valid commencing on the date of its issue and expire on 30 June the following year, or on the cancellation of the licence by the local government.
- (3) Fees and charges as determined by the local government must be payable for licence applications, renewals and transfers.

3.6 Duties of Licence Holder

The holder of a licence to keep an approved kennel establishment must—

- (a) maintain the establishment in a clean, sanitary and tidy condition;
- (b) dispose of all refuse, excreta and food waste daily in a manner approved by the local government; and
- (c) take all practical measures for the destruction of fleas, flies and other vermin.

3.7 Limit on Number and Breed of Dogs

A person who conducts an approved kennel establishment must not keep or permit to be kept thereon, more than the number of dogs specified in the licence, or dogs of a breed different to the breed or breeds (if any) specified in the licence without the written approval of the local government.

3.8 Kennel Establishment Requirements

Dogs in an approved kennel establishment must be kept in kennels and yards appropriate to the breed or kind in question, be sufficiently secured, sited and maintained to a standard not less than the following—

- (a) each kennel must have an adjacent yard;
- (b) each kennel and each yard and every part thereof must be at a distance of not less than 15m from the boundaries of the land in the occupation of the occupier;
- (c) each kennel and each yard and every part thereof must be at a distance of not less than 25m from the front road or street;
- (d) each kennel and each yard and every part thereof must be at a distance of not less than 20m from any dwelling house;
- (e) each yard must be secured with a fence not less than 1.8m in height;
- (f) the upper surface of the floor of each kennel must be set at least 100mm above the surface of the surrounding ground and must be constructed of granolithic cement finished to a smooth surface and must have a fall of not less than 1 in 100. The entire yard must be surrounded by a drain which must be properly laid, ventilated and trapped. Floor washing must pass through this drain and must be disposed of in accordance with the health requirements of the local government;
- (g) the floor of any yard must be constructed in the same manner as the floor of any kennel and as provided in paragraph (f);
- (h) for each dog kept therein every kennel must have not less than 1.8m² of floor space and every yard not less than 2.5m²;
- (i) all kennels and yards, and all feeding and drinking vessels, must be maintained in a clean condition and cleaned and disinfected when so ordered by an Authorised Person.

PART 4—CATS

4.1 Interpretation

- (1) In this Part, unless the context otherwise requires—

Act means the *Cat Act 2011*;

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

cat management facility means—

- (a) a facility operated by a local government that is, or may be, used for keeping cats; or
- (b) a facility for keeping cats that is operated by a person or body prescribed; or
- (c) a facility for keeping cats that is operated by a person or body approved in writing by a local government;

cattery means any premises where more than 3 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;

effective control in relation to a cat means any of the following methods—

- (a) held by a person who is capable of controlling the cat;
- (b) securely tethered;
- (c) secured in a cage; or
- (d) any other means of preventing escape;

owner 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 by whom the cat is ordinarily kept;
- (c) a person who has or appears to have immediate custody or control of the cat;
- (d) a person who keeps the cat, or has the cat in her or his possession for the time being;
- (e) a person who occupies any premises in which a cat is ordinarily kept or ordinarily permitted to live; or
- (f) a holder of a licence which relates to the cat; or
- (g) the holder of an exemption issued in relation to the cat.

(2) In this Part, and for the purposes of applying the definition of “cattery” in Part 4—a cat does not include a cat less than 6 months old.

4.2 Keeping of Cats for which a licence is required

(1) Subject to subclause (3) and the *Cat (Uniform Local Provisions) Regulations 2013*, a person is required to have a licence to—

- (a) keep more than 3 cats; or
- (b) use any premises as a cattery.

(2) A person who breeds cats may, with the written approval of the local government, keep up to 6 adult breeding cats on any land in the district, subject to—

- (a) each cat being permanently confined in an effective cage system on the property; and
- (b) under such terms and conditions that may be imposed by the local government from time to time.

(3) A licence is not required under subclause (1) if the premises concerned are—

- (a) a refuge of the RSPCA or any other incorporated animal welfare organisation;
- (b) a cat management facility which has been approved by the local government;
- (c) a veterinary surgery; or
- (d) a pet shop.

4.3 Cleanliness

The owner or occupier of a premises where a cat or cats are kept must take reasonable measures to—

- (a) keep the premises free from excrement, filth, food waste and all other matter that is likely to become offensive or injurious to health or to attract rats, vermin or insects;
- (b) when so directed by an Authorised Person, clean and disinfect the premises; and
- (c) keep the premises, so far as possible, free of flies and when directed by an Authorised Person, spray the premises with a residual insecticide or use any other effective means to kill and repel flies.

4.4 Application for licence

An application for a licence under clause 4.2 must be—

- (a) be made in writing, by an occupier of premises in relation to those premises;
- (b) in a form approved by the local government, describing and specifying the number of cats to be kept on the premises;
- (c) accompanied by a brief reason and justification for the request;
- (d) accompanied by the plans of the premises to which the application relates, to the specification and satisfaction of the local government;
- (e) accompanied by the consent in writing of the owner of the premises, where the occupier is not the owner of the premises to which the application relates;
- (f) accompanied by the application fee for the licence determined by the local government from time to time.

4.5 Refusal to determine application

The local government may refuse to determine an application for a licence if it is not made in accordance with clause 4.4.

4.6 Factors relevant to determination of application

(1) In determining an application for a licence the local government may have regard to—

- (a) the reasons and justification provided for the request;
- (b) the physical suitability of the premises for the proposed use;
- (c) the suitability of the zoning of the premises under any town planning scheme which applies to the premises for the use;

- (d) the environmental sensitivity and general nature of the location surrounding the premises for the proposed use;
 - (e) the structural suitability of any enclosure in which any cat is to be kept;
 - (f) the likelihood of a cat causing a nuisance, inconvenience or annoyance to the occupiers of adjoining land;
 - (g) the likely effect on the amenity of the surrounding area of the proposed use;
 - (h) the likely effect on the local environment, including any pollution or other environment damage which may be caused by the use;
 - (i) any submissions received under subclause (2) within the time specified in subclause (2); and
 - (j) such other factors which the local government may consider to be relevant in the circumstances of the particular case.
- (2) The local government may require an applicant to—
- (a) consult with other nearby landowners; and
 - (b) advise other adjoining landowners that they may make submissions to the local government on the application for the licence within 14 days of receiving that advice, before determining the application for the licence.
- (3) The local government may specify the extent of the consultation with nearby residents and may specify which properties should be consulted.

4.7 Decision on application

- (1) The local government may—
- (a) approve an application for a licence, as it was submitted, in which case it must approve it subject to the conditions in clause 4.8 and may approve it subject to any other conditions it considers fit;
 - (b) approve an application, but specify an alternative number of cats permitted to be housed at the address; or
 - (c) refuse to approve an application for a licence.
- (2) If the local government approves an application under subclause (1), then it must issue to the applicant a licence in the form determined by the local government.
- (3) If the local government refuses to approve an application under subclause (1), then it must advise the applicant accordingly in writing.

4.8 Conditions

- (1) Every licence is issued subject to the following conditions—
- (a) each cat kept on the premises to which the licence relates must comply with the requirements of the Act;
 - (b) each cat must be contained on the premises unless under the effective control of a person;
 - (c) the licence holder will provide adequate space for the exercise of the cats;
 - (d) the premises must be maintained in good order and in a clean and sanitary condition; and
 - (e) those conditions contained in Schedule 2.
- (2) In addition to the conditions subject to which a licence is to be issued under this clause, a licence may be issued subject to other conditions, as the local government considers appropriate.
- (3) The licence holder who fails to comply with a condition of a licence commits an offence.

4.9 Duration of licence

Unless otherwise specified, in a condition on a licence, a licence commences on the date of issue and is valid for a period of 12 months from the date of issue unless and until—

- (a) it is revoked; or
- (b) the licence holder ceases to reside at the premises to which the licence relates.

4.10 Revocation

The local government may revoke a licence if the licence holder fails to observe any provision of this local law or a condition of a licence.

4.11 Licence not transferable

A licence is not transferable either in relation to the licence holder or the premises.

4.12 Licence to be kept at the premises and available for view

A licence issued by the local government must be kept at the premises to which it applies and must be provided to an Authorised Person on demand. In the case of a registered cattery, the licence must be displayed in a prominent place within the premises.

PART 5—ANIMALS AND LIVESTOCK

5.1 Leaving Large Animal or Dog in Public Place or on Local Government Property

- (1) A person must not leave a large animal or a dog 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 authorised to do so under a written law.

(2) A person contravenes subclause (1) where the large animal or dog is secured or tethered for a period exceeding 1 hour.

5.2 Prohibitions relating to Large Animal

(1) In subclause (2), "owner" in relation to a large animal includes—

- (a) an owner of it;
- (b) a person over the age of 16 years in possession of it;
- (c) a person over the age of 16 years who has control of it; and
- (d) a person over the age of 16 years who ordinarily occupies the premises where the animal is permitted to stay.

(2) An owner of a large animal must not—

- (a) subject to subclause (2) (e), allow the large 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 a large animal which has a contagious or infectious disease to be led, ridden or driven in a public place;
- (c) train or race the large animal on a thoroughfare;
- (d) ride, drive, lead or bring a large animal onto any reserve, park or foreshore, unless that person does so under a permit or under the authority of a written law; or
- (e) ride, drive or lead any large animal onto, or over any lawn or garden planted or maintained in any thoroughfare, unless that person does so under a permit or under the authority of a written law.

5.3 Livestock Not to Stray

A person in charge of livestock must not permit that livestock to stray or to be at large in a street, public place or upon private property without the consent of the property owner.

5.4 Property to be Fenced

The owner or occupier of a property on which livestock is kept, must cause the property or a portion of the property to be fenced in a manner capable of confining the livestock to that portion where the livestock is kept.

5.5 Livestock may be impounded

(1) An Authorised Person may impound livestock found at large or straying in contravention of clause 5.3.

(2) Impounded livestock must be placed in—

- (a) a pound established and maintained by the local government; or
- (b) a secured portion of private property with the consent of the property owner.

(3) The owner of impounded livestock must pay the impounding and maintenance fees determined by the local government prior to the recovery of any impounded livestock.

(4) Where impounded livestock are not reclaimed within 3 days, and the local government has made all reasonable endeavors to contact the owner of the livestock, the local government may sell or otherwise dispose of the impounded livestock as it deems appropriate.

5.6 Fouling of Streets and Public Places

Any person liable for the control of livestock who permits that livestock to excrete on any public place or on any land within the local government without the consent of the occupier of that land commits an offence unless the excreta is removed forthwith and disposed of either on private land with the consent of the occupier or in such other manner as the local government may approve.

5.7 Keeping of Large Animals

An owner or occupier of premises must—

- (a) not keep a large animal on any land less than 2000m² in area;
- (b) not permit any large animal to approach within 10m of a habitable room, shop, church or any premises where food is stored, manufactured or sold.

5.8 Keeping a Miniature Horse

(1) An owner or occupier of a premises may keep a sterilised miniature horse on land of not less than 1000m² in area, provided it is registered with the local government and the approved annual registration fee is paid.

(2) An owner or occupier of premises must—

- (a) not keep more than one miniature horse on land zoned residential, without the written approval of the local government; and
- (b) not permit a miniature horse within 10m of any house.

(3) The local government may prohibit the keeping of a miniature horse on any land or may state the conditions under which a miniature horse may be kept.

5.9 Keeping of Pigs

(1) Except for a miniature pig, a person must take reasonable measures to not keep a pig or pigs on any land in the district.

- (2) The local government may prohibit the keeping of a miniature pig on any land or state the conditions under which they may be kept.
- (3) A person may keep one miniature pig in any residential area provided it is registered with the local government and the approved annual registration fee is paid.
- (4) The occupier of any premises where a miniature pig is kept must—
- only keep a sterilised animal and retain written proof of its sterilisation;
 - confine the animal on the property at all times;
 - ensure the animal does not cause a nuisance to any neighbour regarding noise, dust or odour; and
 - maintain documentary evidence that the animal's veterinary treatment against roundworm and tapeworm is current.

5.10 Keeping of Horses

The owner or occupier of any land where a stable is erected for the keeping of horses must—

- not permit a stable within 10m of a house or other building;
- have a floor area of 6m² per animal;
- ensure the stable has walls and a roof, constructed of impervious material;
- have on all sides of the building between the walls and the roof, a clear opening of at least 50mm in height; and
- provide a floor, which must have an upper surface—
 - at least 75mm above the ground; and
 - be constructed of cement, concrete, compacted limestone or similar approved material.

5.11 Keeping of Small Animals

A person who keeps a small animal or permits a small animal to be kept must—

- not permit that small animal to stray or to be at large in a street, public place or upon private property without the consent of the property owner;
- ensure that the small animal is kept in a properly constructed and securely fastened structure or enclosure.

5.12 Manure Receptacle

An owner or occupier of premises where a large animal, miniature horse or miniature pig is kept must take reasonable measures to—

- provide in a convenient position, an impervious receptacle with a tight fitting lid, for storage of manure;
- keep the lid of the receptacle closed except when manure is being deposited or removed;
- cause the receptacle to be emptied at least once a week and more often as necessary to prevent it becoming offensive or a breeding place for vermin, flies or other insects; and
- cause all manure produced on the premises to be collected daily and placed in the receptacle.

5.13 Cleanliness

The owner or occupier of premises where a large animal or other animal is kept must take reasonable measures to—

- keep the premises free from excrement, filth, food waste and all other matter that is likely to become offensive or injurious to health or to attract rats, vermin or insects;
- when so directed by an Authorised Person, clean and disinfect the premises; and
- keep the premises, so far as possible, free of flies or vermin and when directed by an Authorised Person, spray the premises with a residual insecticide or use any other effective means to kill and repel flies or vermin.

5.14 Disposal of Dead Animals

(1) The owner or occupier must immediately remove and dispose the carcass of any dead livestock, miniature horse or pig, dog, cat, poultry, pigeon or bird at an approved disposal site.

(2) An owner or a person having care of any animal or bird that dies or is killed in a public or private place must immediately remove and dispose of the carcass of the dead animal or bird at an approved disposal site.

PART 6—POULTRY, PIGEONS AND MISCELLANEOUS BIRDS

6.1 Limitation on Numbers of Poultry and Pigeons

(1) In this clause, "Affiliated Person" means a person who is a member of a properly constituted Poultry or Pigeon Club.

(2) An owner or occupier of land—

- who is not an Affiliated Person, must not keep a total of more than 6 poultry and 6 pigeons; and
- who is an Affiliated Person, must not keep a total of more than 50 pigeons and 12 poultry, on any one lot of land.

(3) An owner or occupier of land must not keep or suffer to remain in a residential area a rooster, turkey, goose, peacock or peahen.

6.2 Conditions of Keeping Poultry

A person who keeps poultry or permits poultry to be kept must ensure that—

- (a) no poultry is able to approach within 10m of a dwelling, public building or food premises;
- (b) no poultry is able to approach within 10m of a public place other than a right of way unless, in the case of land at the junction of two or more streets, the local government has approved a lesser distance;
- (c) all poultry are kept in a properly constructed and securely fastened structure or enclosure;
- (d) no poultry is able to approach within 1m of any boundary;
- (e) the structure or enclosure does not exceed 2m in height;
- (f) there is a floor beneath the roofed area of the structure or enclosure which is constructed of smooth, impervious material and with a gradient of at least 1 in 50 to the front of the structure or enclosure;
- (g) the structure and enclosure is kept in a clean condition and good repair at all times;
- (h) all feed for the poultry is stored in vermin proof containers; and
- (i) the structure or enclosure must be in the yard having an otherwise unobstructed area of at least 30m².

6.3 Conditions of Keeping Pigeons

A person who keeps, or permits to be kept, pigeons or doves must ensure that—

- (a) no pigeon is able to approach within 10m of a dwelling, public building, food premises or public place; and
- (b) except where homing pigeons are freed for exercise, the pigeons or doves are kept in a properly constructed structure or enclosure that—
 - (i) is located so that no pigeon is able to approach within 1m of any boundary;
 - (ii) does not exceed 2m in height;
 - (iii) there is a floor beneath the roofed area of the structure or enclosure which is constructed of smooth, impervious material and with a gradient of at least 1 in 50 to the front of the structure or enclosure;
 - (iv) the structure and enclosure is kept in a clean condition and good repair at all times;
 - (v) all feed for the pigeons is stored in vermin proof containers; and
 - (vi) is in a yard having an otherwise unobstructed area of at least 30m².

6.4 Conditions of Keeping a Miscellaneous Bird

A person who keeps, or permits to be kept a miscellaneous bird must ensure that—

- (a) no miscellaneous bird is able to approach within;
 - (i) 1m of any boundary;
 - (ii) 10m of a residential house on any other lot; and
 - (iii) 10m of a public building, food premises or public place; and
- (b) the miscellaneous bird is kept in a properly constructed structure or enclosure that—
 - (i) does not exceed 2m in height;
 - (ii) has a floor beneath the roofed area of the structure which is constructed of smooth, impervious material and with a gradient of at least 1 in 50 to the front of the structure;
 - (iii) the structure and enclosure is kept in a clean condition and good repair at all times;
 - (iv) all feed for the birds is stored in vermin proof containers; and
 - (v) is in a yard having an otherwise unobstructed area of at least 10m².

6.5 Removal of Non-Conforming Structure or Enclosure

If a structure or enclosure is used for the keeping of poultry, pigeons, doves or miscellaneous birds contrary to the provisions of clauses 6.2, 6.3 or 6.4, the local government may give written notice to the owner or occupier to remove it.

6.6 Restrictions on Pigeons Nesting, Perching or Habitually Feeding

The local government may give written notice to an owner or occupier of land or a house in or on which pigeons are, or are in the habit of, nesting, perching or habitually feeding to take adequate steps to prevent them continuing to do so.

6.7 Restrictions on Feeding of Birds

A person must not feed a pigeon or miscellaneous bird—

- (a) so as to cause a nuisance, or
- (b) with a food or substance that is not a natural food of a pigeon or miscellaneous bird.

6.8 Cleanliness of Poultry, Pigeon and Miscellaneous Bird Structures

The owner or occupier of premises where poultry, pigeons or miscellaneous birds are kept must take reasonable measures to—

- (a) keep the structure or enclosure in a clean condition, free from excrement, filth, food waste and all other matter that is likely to become offensive or injurious to health or to attract rats, vermin or insects;
- (b) clean and disinfect the structure or enclosure, when so directed by an Authorised Person, and
- (c) keep the structure or enclosure, so far as possible, free of flies or vermin and when directed by an Authorised Person, spray the structure or enclosure with a residual insecticide or use any other effective means to kill and repel flies or vermin.

6.9 Nuisance caused by Poultry, Pigeons and Miscellaneous Birds

(1) Notwithstanding any of the provisions of Clauses 6.1, 6.2, 6.3, 6.4, and 6.8, where any poultry, pigeons or miscellaneous birds has or have, in the opinion of the local government's Principal Environmental Health Officer, been found to have been the cause of—

- (a) a nuisance as defined by this local law; or
- (b) the emission of unreasonable noise as defined by the *Environmental Protection Act 1986*;

an Authorised Person may by notice in writing direct the owner or occupier of the land on which the poultry, pigeons, bird or birds is or are kept to take such action as the Authorised Person deems necessary, within a time specified in the notice, to prevent the nuisance or the emission of unreasonable noise.

(2) The notice referred to in subclause (1) may require removal of a specified bird or specified birds, or specified species of birds, from the land, irrespective of whether the local government has previously issued a permit authorising the keeping of such a bird or such birds.

PART 7—KEEPING OF BEES

7.1 Limitation on numbers of Hives

- (1) A person must not keep or permit the keeping of bees except on a lot in accordance with this Part.
- (2) Subject to subclauses (3) and (4), a person must 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 must comply with any conditions imposed by the local government under subclause (3).

7.2 Restrictions on keeping Bees in Hives

A person must 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 provided on the lot within 10m of the beehives;
- (b) the beehive is kept—
 - (i) outside, and at least 15m from, any building other than a fence;
 - (ii) at least 15m from any public place; and
 - (iii) at least 5m from the boundary of the lot; and
- (c) the beehive is enclosed on all sides by a fence, wall or other enclosure.

7.3 Bees which cause a nuisance not to be kept

- (1) A person must take reasonable measures to not keep, or permit the keeping of bees, which cause a nuisance.
- (2) Whenever in the opinion of the local government, the keeping of bees is causing a nuisance, the local government may give written notice to an owner or occupier requiring him or her to remove any bees or beehives from the land within the time specified in the notice.

PART 8—MISCELLANEOUS

Division 1—General

8.1 Pound

The local government may establish and maintain a pound or pounds for the impounding of animals, dogs or livestock seized pursuant to the provisions of the *Dog Act* or this local law.

8.2 Pound Fees

- (1) The fees and charges in relation to the seizure and impounding of an animal or dog and maintenance thereof in a pound payable under section 29 (4) of the *Dog Act*, are those approved by the local government from time to time.
- (2) The fees and charges in relation to the seizure, impounding and maintenance of large animals, livestock or any other animal and the maintenance thereof in a pound payable under the Act, are those approved by the local government from time to time.

8.3 Fees and Charges

All fees and charges applicable under this local law must be as determined by the local government from time to time in accordance with sections 6.16-6.19 of the Act.

8.4 False or Misleading Statement

A person must not make a false or misleading statement in connection with any application, requirement or demand under this local law.

8.5 Offence to fail to comply with notice

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

8.6 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 8.5, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

Division 2—Right of Appeal and Review

8.7 Appeal and review rights

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

- (a) grant a person a permit, licence or certificate of registration under this local law; or
- (b) renew, vary, or cancel a licence or certificate of registration that a person has under this local law, the provisions of Division 1 of Part 9 of the Act and regulations 33 of the *Local Government (Functions and General) Regulations 1996* apply to that decision; or
- (c) give a person a notice,

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

PART 9—ENFORCEMENT

9.1 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) Any person who commits an offence under Part 2 of this local law must be liable, upon conviction, to a penalty not exceeding—

- (a) \$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; or
- (b) \$2,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$200 for each day or part of a day during which the offence has continued in relation to a dangerous dog.

(3) Any person who commits an offence under Parts 3, 4, 5, 6, 7, 8 or 9 of this local law must be 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.

9.2 Modified Penalties and Offence Description

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

(2) The amount of the modified penalty for a prescribed offence—

- (a) in relation to Part 2, is the amount specified in—
 - (i) the third column of Schedule 1 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog;
 - (ii) the fourth column of Schedule 1 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is not a dangerous dog; and
- (b) in relation to Parts 3, 4, 5, 6, 7, 8 and 9, is the amount specified in the fourth column of Schedule 1.

(3) Before giving an infringement notice to a person in respect of the commission of a prescribed offence, an Authorised Person should be satisfied that—

- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

9.3 Form of Notices

For the purposes of this local law—

- (a) the form of the infringement notice referred to in section 9.13 of the Act is to be in or substantially in the form of Form 1 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (b) the form of the notice referred to in section 9.17 of the Act is to be in the form of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (c) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;

- (d) for the purposes of Part 4, the issue of infringement notices, their withdrawal and the payment of modified penalties are dealt with in Division 4 of Part 4 of the Cat Act;
- (e) for the purposes of Part 4, an infringement notice given under the Act is to be in the form of Form 6 of Schedule 1 of the *Cat Regulations 2012*;
- (f) for the purposes of Part 4, a notice sent under the *Cat Act 2011* withdrawing an infringement notice is to be in the form of Form 7 of Schedule 1 of the *Cat Regulations 2012*.

Schedule 1

OFFENCES AND MODIFIED PENALTIES

[Clause 9.2]

Item No.	Clause No.	Nature of offence	Modified penalty– Dangerous Dog \$	Modified Penalty \$
1.	2.3(1)	Permit a dog to be in a prohibited place, public building, shop or business premises	400	200
2.	2.4	Permit a dog to excrete on a street, public place or other land and failing to remove excreta in an approved manner	150	150
3.	2.5(a)	Failing to install a fence capable of confining a dog to the premises or fence not adequate to confine	500	250
4.	2.5(b)	Fence not adequate to confine to the premises a dog having regard to the species, age, size and physical condition of the dog	500	250
5.	2.5(c)	Failing to keep gate or door closed when the dog is on the premises	400	200
6.	2.5(d)	Failing to have a gate or door fitted with effective and operative latching mechanism or system	400	200
7.	2.5(e)	Failing to maintain fences, gates and doors in good working order and condition.	400	200
8.	2.5(f)	Failing to ensure other means exist for effectively confining a dog within premises	400	200
9.	2.6	Keeping more than the permitted number of dogs without approval	400	200
10.	2.7(a)	Attempting to or causing the unauthorised release of a dog from a pound	500	250
11.	2.7(b)(i)	Destroy, break into, damage or interfere with any pound	500	250
12.	2.7(b)(ii)	Destroy, break into, damage or interfere with any vehicle or container used for the purpose of catching, holding or conveying dogs	500	250
13.	2.8(a)	Failing to keep premises free from excrement, filth, food waste and other matter likely to be offensive or injurious to health, or attract rats, vermin or insects	200	200
14.	2.8(b)	Failing to clean and disinfect premises when directed by an Authorised Person	200	200
15.	2.8(c)	Failing to keep premises free of flies or when directed by an Authorised Person spray premises with residual insecticide or other means to kill or repel flies	200	200

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
16.	3.1	Keeping a kennel establishment without a licence	250
17.	3.6(a)	Failing to maintain kennel establishment in a clean, sanitary and tidy condition	250

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
18.	3.6(b)	Failing to dispose of refuse, excreta and food waste daily in approved manner	250
19.	3.6(c)	Failing to take practical measures to destroy fleas, flies and other vermin	200
20.	3.7	Keeping a greater number or breed of dogs than specified in the licence	200
21.	4.2(1)(a)	Keeping more than 3 cats over the age of 6 months	200
22.	4.2(1)(b)	Keeping a cattery without a licence	500
23.	4.2(2)(a)	Failing to confine cats in effective cage system on the property	200
24.	4.2(2)(b)	Failing to comply with conditions imposed by the local government	250
25.	4.3(a)	Failing to keep premises free of excrement, filth, food waste and other matter likely to be offensive or injurious to health or attract rats, vermin or insects	200
26.	4.3(b)	Failing to clean and disinfect premises when directed by an Authorised Person	200
27.	4.3(c)	Failing to keep premises free of flies or when directed by an Authorised Person spray premises with residual insecticide or other means to kill or repel flies	200
28.	5.1(1)	Without a permit, leave a large animal or dog in a public place or local government property so as to cause an obstruction	200
29.	5.2(2)(a)	Allow a large animal to enter or remain on a thoroughfare	200
30.	5.2(2)(b)	Allow a large animal which has a contagious or infectious disease to be ridden or driven in a public place	200
31.	5.2(2)(c)	Train or race a large animal on a thoroughfare	200
32.	5.2(2)(d)	Ride, drive lead or bring a large animal onto a reserve, park or foreshore without a permit	200
33.	5.2(2)(e)	Ride, drive lead or bring a large animal onto or over any lawn or garden planted in any thoroughfare without a permit	200
34.	5.3	Permit livestock to stray or be at large in a street, public place or private property without the owner's consent	200
35.	5.4	Failing to keep property fenced in a manner capable of confining livestock	200
36.	5.6	Permit livestock to excrete on a street, public place or other land and failing to remove excreta in an approved manner	200
37.	5.7(a)	Keeping a large animal on land less than 2000m ² in area	200
38.	5.7(b)	Permit large animal to approach within 10m of habitable room, shop, church, or premises where food is stored, manufactured or sold	200
39.	5.8(1)	Keeping an unregistered miniature horse on land less than 1000 m ² and/or not pay registration fee	200
40.	5.8(2)(a)	Keeping more than one miniature horses on land zoned residential	200
41.	5.8(2)(b)	Permit a miniature horse within 10m of a house	200
42.	5.9(1)	Keeping a pig on any land in the district	200
43.	5.9(3)	Keeping an unregistered miniature pig in a residential area and/or not pay registration fee	200
44.	5.9(4)(a)	Keeping an unregistered miniature pig or failing to retain proof of sterilisation	200
45.	5.9(4)(b)	Failing to confine miniature pig on property at all times	200
46.	5.9(4)(c)	Failing to ensure miniature pig does not cause a nuisance to any neighbor through noise, dust or odour.	200
47.	5.9(4)(d)	Failing to maintain documentary evidence that miniature pig's veterinary treatment against roundworm and tapeworm is current	200
48.	5.10(a)	Permit a stable within 10m of house or other building	200
49.	5.10(b)	Failing to have stable floor area of 6m ² per animal	200

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
50.	5.10(c)	Failing to have stable floor or roof constructed of impervious material	200
51.	5.10(d)	Failing to have on all sides of stable building clear opening 50mm in height between walls and roof	200
52.	5.10(e)(i)	Failing to have upper surface of stable floor at least 75mm above ground.	200
53.	5.10(e)(ii)	Failing to have upper surface of stable floor constructed of cement, concrete or other approved material	200
54.	5.11(a)	Failing to prevent a small animal from being in a street, public place or on private property without the consent of the owner	200
55.	5.11(b)	Failing to a small animal in a properly constructed enclosure	200
56.	5.12(a)	Failing to keep an impervious receptacle for the storage of manure, where a large animal, miniature horse or miniature pig is kept	200
57.	5.12(b)	Failing to keep the lid of an impervious receptacle for the storage of manure closed, except when manure is being deposited or removed, where a large animal, miniature horse or miniature pig is kept	200
58.	5.12(c)	Failing to cause the receptacle to be emptied at least once a week or more often as necessary to prevent it becoming a nuisance	200
59.	5.12(d)	Failing to cause manure produced on the premises to be collected daily and placed in a receptacle	200
60.	5.13(a)	Failing to keep the premises where a large animal or other animal is kept free of excrement, filth or food waste	200
61.	5.13(b)	Failing to clean and disinfect the premises when directed to do so by an Authorised Person	200
62.	5.13(c)	Failing to keep the premises, as far as possible free of flies or other vermin when directed to do so by an Authorised Person	200
63.	5.14(1)	Failing to dispose of dead animals or birds at an approved disposal site	200
64.	6.1(2)(a)	Keep or suffer to remain a combined total of more than 6 poultry and 6 pigeons on a lot	200
65.	6.1(2)(b)	Keep or suffer to remain more than 50 pigeons and 12 poultry on a lot	200
66.	6.1(3)	Keep or suffer to remain in a residential area a rooster, turkey, goose or geese, peacock or a peahen	200
67.	6.2(a)	Permit poultry to approach within 10m of a dwelling, public building or food premises	200
68.	6.2(b)	Permit poultry to approach within 10m of a public place	200
69.	6.2(c)	Failing to keep poultry in a properly constructed or secure structure	200
70.	6.2(i)	Keep poultry in yard having an unobstructed area of less than 30m ²	200
71.	6.3(a)	Permit pigeons to approach within 10m of a dwelling, public building, food premises or public place	200
72.	6.3(b)	Failing to keep pigeons in a properly constructed structure or enclosure	200
73.	6.4(a)	Failing to keep a miscellaneous bird the required distance away from a boundary, residential house, public building, food premises or a public place	200
74.	6.4(b)	Failing to keep miscellaneous birds in a properly constructed structure or enclosure	200
75.	6.5	Failing to comply with a direction to remove a structure or enclosure used for the keeping of poultry, pigeons or miscellaneous birds	200
76.	6.6	Failing to comply with a notice to prevent pigeons from perching	200
77.	6.7(a)	Feeding pigeons or other birds so as to cause a nuisance	200
78.	6.7(b)	Feeding pigeons or other birds with a food or substance that is not a natural food of pigeons or other birds	200

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
79.	6.8(a)	Failing to keep structure or enclosure free from excrement, filth, food waste and other material likely to be offensive or injurious to health or attract rats, vermin or insects	200
80.	6.8(b)	Failing to clean and disinfect structure or enclosure when directed by an Authorised Person	200
81.	6.8(c)	Failing to keep premises free of flies or when directed by an Authorised Person spray premises with residual insecticide or other means to kill or repel flies	200
82.	7.1(2)	Keeping more than 2 beehives on a lot without approval from the local government	200
83.	7.2(a)	Failing to provide an adequate and permanent water supply within 10m of a hive	200
84.	7.2(b)(i)	Failing to keep a beehive at least 15m from any building	200
85.	7.2(b)(ii)	Failing to keep a beehive at least 15m from any public place	200
86.	7.2(b)(iii)	Failing to keep a beehive at least 5m from any boundary	200
87.	7.2(c)	Failing to keep a beehive fenced or in an enclosure	200
88.	7.3(2)	Failing to remove a beehive when directed	200
88.	8.6	Failing to comply with a notice issued under this local law	500
89.	9.1	All other offences not specified	200

—————

Schedule 2

LICENCE TO USE PREMISES AS A CATTERY

[Clause 4.8]

Additional conditions—

- (1) All building enclosures must be structurally sound, have impervious flooring, be well lit and ventilated and otherwise comply with all legislative requirements.
- (2) There is to be a feed room, wash area, isolation cages and maternity section.
- (3) Materials used in structures are to be approved by the local government.
- (4) The internal surfaces of walls are, where possible, to be smooth, free from cracks, crevices and other defects.
- (5) All fixtures, fittings and appliances are to be capable of being easily cleaned, resistant to corrosion and constructed to prevent the harbourage of vermin.
- (6) Wash basin with the minimum of cold water to be available.
- (7) The maximum number of cats to be kept on the premises stated on the licence is not to be exceeded.
- (8) An entry book is to be kept recording in respect of each cat the—
 - (a) date of admission;
 - (b) date of departure;
 - (c) breed, age, colour and sex; and
 - (d) the name and residential address of the keeper.
- (9) The entry book is to be made available for inspection on the request of an Authorised Person.
- (10) Enclosures are to be thoroughly cleaned each day and disinfected at least once a week to minimise disease.
- (11) No sick or ailing cat to be kept on the premises.
- (12) Any other matter which in the opinion of the local government is deemed necessary for the health and wellbeing of any cat, or person, or adjoining premises or the amenity of the area (or any part thereof).

Dated this 30th day of November 2016.

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

KERI SHANNON, Mayor.

JASON BUCKLEY, Chief Executive Officer.

**HEALTH ACT 1911
LOCAL GOVERNMENT ACT 1995**

TOWN OF CAMBRIDGE

HEALTH LOCAL LAW 2016

CONTENTS

PART 1—PRELIMINARY

- 1.1 Title
- 1.2 Commencement
- 1.3 Purpose and Effect
- 1.4 Repeal
- 1.5 Application
- 1.6 Interpretation

PART 2—SANITATION

- 2.1 Interpretation
- 2.2 Dwelling house
- 2.3 Floor of wet areas
- 2.4 Temporary toilets
- 2.5 Premises other than a dwelling house
- 2.6 Outdoor events
- 2.7 Maintenance of sanitary conveniences and fittings
- 2.8 Ventilation of toilets
- 2.9 Public sanitary conveniences
- 2.10 Lighting
- 2.11 Installation

PART 3—HOUSING AND GENERAL

- 3.1 Dwelling house maintenance
- 3.2 Ventilation
- 3.3 Overcrowding
- 3.4 Calculate sufficient space
- 3.5 Water supply
- 3.6 Rain water tanks

PART 4—NUISANCES AND GENERAL

Division 1—Nuisances

- 4.1 Interpretation
- 4.2 Footpaths etc, to be kept clean
- 4.3 Escape of Smoke
- 4.4 Prohibition against Spitting
- 4.5 Use or Storage of Fertiliser
- 4.6 Storage of Fertiliser in a House
- 4.7 Pollution

Division 2—Secondhand Furniture, Bedding and Clothing

- 4.8 Prohibition on Sale
- 4.9 Prohibition of Possession

Division 3—Car Parks

- 4.10 Interpretation
- 4.11 Ventilation of Car Parks

Division 4—Slaughter and disposal of Animals

- 4.12 Slaughter of animals
- 4.13 Disposal of dead animals

PART 5—REFUSE DISPOSAL

- 5.1 Interpretation
- 5.2 Suitable receptacle enclosure
- 5.3 Construction site refuse
- 5.4 Burning Rubbish or Refuse Not Permitted

PART 6—PEST CONTROL*Division 1—General Provisions*

- 6.1 Responsibility of Owner or Occupier
- 6.2 Pest control generally
- 6.3 Officer may give Notice directing measures to be taken
- 6.4 Local Government may Execute Work and Recover Costs

Division 2—Flies

- 6.5 Interpretation
- 6.6 Fly breeding matter not to be left on Premises unless Covered or Treated
- 6.7 Measures to be taken by an Occupier

Division 3—Mosquitoes

- 6.8 Interpretation
- 6.9 Premises to be kept free of mosquito breeding matter
- 6.10 Measures to be taken by an owner or occupier
- 6.11 Swimming pools

Division 4—Cockroaches

- 6.12 Interpretation
- 6.13 Measures to be taken to eradicate Cockroaches

Division 5—Rodents

- 6.14 Interpretation
- 6.15 Rodent control
- 6.16 Waste food etc. to be kept in rodent proof receptacles
- 6.17 Restrictions on materials affording harbourage for rodents

PART 7—INFECTIOUS DISEASES

- 7.1 Disposal of used condoms
- 7.2 Disposal of used needles

PART 8—LODGING HOUSES*Division 1—Registration*

- 8.1 Interpretation
- 8.2 Lodging house not to be kept unless registered
- 8.3 Application for registration
- 8.4 Approval of application
- 8.5 Renewal of registration
- 8.6 Notification upon sale or transfer
- 8.7 Revocation of registration

Division 2—Construction and use requirements

- 8.8 General construction requirements
- 8.9 Sanitary conveniences
- 8.10 Laundry
- 8.11 Kitchen
- 8.12 Cooking Facilities
- 8.13 Dining room

- 8.14 Fire prevention and control
- 8.15 Obstruction of passages and stairways
- 8.16 Fitting of locks
- 8.17 Restriction on use of rooms for sleeping
- 8.18 Sleeping Accommodation—Short Term Hostels and Recreational Campsites
- 8.19 Furnishing etc. of sleeping apartments
- 8.20 Numbers to be placed on doors

Division 3—Management and care

- 8.21 Register of lodgers
- 8.22 Certificate in respect of sleeping accommodation
- 8.23 Duplicate keys and inspection
- 8.24 Room occupancy
- 8.25 Cleaning and maintenance requirements

PART 9—OFFENSIVE TRADES

- 9.1 Interpretation
- 9.2 Consent to establish an offensive trade
- 9.3 Notice of application
- 9.4 Registration of premises
- 9.5 Conditions of Consent
- 9.6 Offence
- 9.7 Certificate of registration
- 9.8 Change of occupier
- 9.9 Alterations to premises
- 9.10 Cleanliness
- 9.11 Rodents and Other Vectors of Disease
- 9.12 Sanitary Conveniences and Hand Wash Basins
- 9.13 Painting of Surfaces
- 9.14 Effluvia, Vapours or Gases
- 9.15 Offensive Material
- 9.16 Storage of Materials

PART 10—MORGUES

- 10.1 Licensing of Morgues

PART 11—OFFENCES AND PENALTIES

- 11.1 Offences
- 11.2 Penalties

**HEALTH ACT 1911
LOCAL GOVERNMENT ACT 1995**

TOWN OF CAMBRIDGE

HEALTH LOCAL LAW 2016

Under the powers conferred on it by section 342 of the *Health Act 1911* and in accordance with subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and all other enabling powers, the Council of the Town of Cambridge resolved on 22 November 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Title

This is the *Town of Cambridge Health Local Law 2016*.

1.2 Commencement

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

1.3 Purpose and Effect

(1) The purpose of this local law is to provide for the regulation, control and management of day to day public and environmental health matters within the district.

(2) The effect of this local law is to establish various standards and requirements relating to sanitation, housing matters, nuisances, refuse disposal, pest control, infectious diseases, lodging houses and offensive trades with which people living and working within the district must comply.

1.4 Repeal

(1) The *Town of Cambridge Health Local Law 2001* published in the *Government Gazette* on 22 March 2002 and all amendments thereto are hereby repealed on the day this local law comes into operation.

1.5 Application

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

1.6 Interpretation

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

Act means the *Health 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 or by an Environmental Health Officer or an Authorised Person of the local government;

approved fee means the fees and charges determined by the local government from time to time, under Section 344C of the Act;

approved form means a form approved by the local government;

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

AS 1530.2:1993 means the standard published by the Standards Australia as AS 1530.2:1993 and called “Methods for fire tests on building materials, components and structures—Part 2: Test for flammability of materials”, as amended from time to time;

AS 1530.3:1989 means the standard published by the Standards Australia as AS 1530.3:1989 and called “Methods for fire tests on building materials, components and structures—Part 3: Simultaneous determination of ignitability, flame propagation, heat release and smoke release”, as amended from time to time;

AS 1668.2:2012 means the standard published by the Standards Australia as AS 1668.2:2012 and called “The use of ventilation and air conditioning in buildings—Part 2: Mechanical ventilation in buildings”, as amended from time to time;

AS 2001.1:1995 means the standard published by the Standards Australia as AS 2001.1:1995 and called “Methods of test for textiles—Part 1: Conditioning procedures”, as amended from time to time;

AS/NZS 3666.2:2002 means the standard published by the Standards Australia as AS/NZS 3666.2:2002 and called “Air-handling and water systems of buildings—Microbial control Part 2: Operation and maintenance”, as amended from time to time;

AS 4674-2004 means the standard published by the Standards Australia as AS 4674—2004 and called “Design, construction and fit-out of food premises”, as amended from time to time;

Authorised Person means a person appointed by the local government under section 9.10 of the *Local Government Act 1995* to perform any of the functions of an Authorised Person under this local law;

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;

district means the health district of the Town of Cambridge and includes 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;

EnergySafety means the regulatory body responsible for the technical and safety regulation of the electrical and gas industry in Western Australia;

Environmental Health Officer means an Environmental Health Officer appointed by the local government and includes an acting or assistant Environmental Health Officer;

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 water at a temperature of at least 65 degrees Celsius;

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

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;

local government means the Town of Cambridge;

nuisance means—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the nuisance;

morgue means a place for the temporary reception and keeping of bodies of the dead awaiting burial, cremation or disposal;

outdoor event means an outdoor gathering of people brought together for a common purpose by some prearrangement;

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

public place means any thoroughfare or place which the public are allowed to use, whether the thoroughfare or place is or is not on private property and includes parklands, squares, reserves, beaches, and other lands set apart for the use and enjoyment of the public, including all lands which belong to or which are vested in, or are under the control or management of, the local government;

sanitary convenience has the meaning given to it in the Act;

sewage has the meaning given to it in the Act;

sewer has the meaning given to it in the Act;

street has the meaning given to it in the Act;

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

town planning scheme means any town planning scheme for the time being in operation within the district;

vectors of disease means an insect, arthropod or rodent that transmits, by biological or mechanical means, an infectious agent from a source or reservoir to a person and includes—

- (a) flies (*Diptera*);
- (b) mosquitoes (*Diptera culicidae*);

- (c) rodents—including *Rattus rattus* (Roof rat), *Rattus norvegicus* (Norway rat), *Mus musculus* (House/Field mouse);
- (d) cockroaches (*orthopterous* insects);
- (e) fleas (*Siphonaptera*);
- (f) bedbugs (*Cimex lectularius*);
- (g) crab lice (*Phthirus pubis*);
- (h) body lice (*Pediculus humanus var. corporis*);
- (i) head lice (*Pediculus humanus var. capitis*); and
- (j) any other insect prescribed by the Act;

vermin means rats, mice, flies, fleas, mites, cockroaches and any other animal, whether vertebrate or invertebrate, which is known to be a vector of disease or likely to cause damage to human food, habitation or possessions;

water means drinking water within the meaning of the “Australian Drinking Water Guidelines (2011)”, as published by the National Health and Medical Research Council, as amended from time to time;

window means a glass panel, roof light, glass brick, glass louvre, glazed sash, glazed door, or other device which transmits natural light directly into a building; and

zoned means zoned under a Town of Cambridge town planning scheme.

(2) Any other expression used in this local law and not defined herein must have the meaning given to it in the *Health Act 1911*, the *Local Government Act 1995* and the Glossary of Building Terms published by Standards Australia and the National Committee on Rationalised Building, unless the context require otherwise.

(3) Where in this local law, a duty or liability is imposed on an “owner or occupier”, the duty or liability must be taken to be imposed jointly and severally on each of the owner or occupier.

(4) 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 those 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

2.1 Interpretation

In this Part, unless the context otherwise requires—

event includes a fair, festival, community function, sporting event, cultural event or the like;

natural ventilation is the process of supplying and removing air through an indoor space by natural means, meaning without the use of a fan or other mechanical system, to provide ventilation and space cooling;

organiser means a person—

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

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

temporary toilet means a sanitary convenience, temporarily placed for use by—

- (a) persons attending an event; or
- (b) employees at construction sites or the like;

2.2 Dwelling house

The owner of every dwelling house must—

- (a) provide bathroom, laundry, kitchen and toilet facilities within the building and in accordance with the Building Code;
- (b) provide an adequate supply of hot and cold water to every kitchen, bathroom and laundry fixture within the dwelling; and
- (c) provide, properly installed in the kitchen, at least one sink, a minimum size of 380mm long, 300mm wide and 150mm deep, with an impervious drainage area incorporated and draining into the sink.

2.3 Floor of wet areas

The owner of every premises must ensure that the floor of every bathroom, en-suite, laundry, toilet and any other ablution area within the building is properly surfaced and graded to a floor waste approved by the local government.

2.4 Temporary toilets

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

2.5 Premises other than a dwelling house

(1) The owner of premises other than a dwelling house must not use or occupy, or permit to be used or occupied, the premises unless—

- (a) the premises have toilets and hand wash basins in accordance with the Building Code and this Part, including disabled facilities; and
- (b) the toilets required by this clause are situated within 90m of the premises.

(2) The occupier of a premises other than a dwelling house must 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 wash basin.

(3) In the case of a school with any room that accommodates children under 5 years of age, that particular room will be deemed to be an “early childhood centre” for the purposes of the Building Code.

2.6 Outdoor events

(1) The organiser of an outdoor event must provide sanitary conveniences in accordance with the recommendations contained within the Department of Health’s *‘Guidelines for concerts, events and organised gatherings’* and *‘Guidelines on the Application of the Health (Public Buildings) Regulations 1992’*.

(2) Where, under subclause (1) the number of a particular sanitary convenience to be provided is not a whole number, that number must be rounded up to the next higher whole number.

(3) In addition to the requirements listed in subclause (1), the applicant for an outdoor event must provide at least one unisex toilet for the disabled.

(3) When portable or chemical toilets are used for an outdoor event with an expected duration of more than 6 hours—

- (a) they must be pumped out during the event; and
- (b) they must be located so that pump-out vehicles can access them.

(4) The applicant for an outdoor event must ensure that toilets are checked regularly during the outdoor event to ensure that they are clean and that all consumables are readily available to patrons using them, including—

- (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 wash basin.

2.7 Maintenance of sanitary conveniences and fittings

(1) The occupier of any premises must—

- (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 any of premises must—

- (a) keep or cause to be kept in good repair; and
- (b) maintain an adequate supply of water to, all toilets, including sanitary fittings in or on the premises.

2.8 Ventilation of toilets

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

(2) A mechanical ventilation system provided under subclause (1) must be maintained in good working order and condition.

2.9 Public sanitary conveniences

(1) A person must not—

- (a) foul;
- (b) damage or vandalise; or
- (c) write on or otherwise deface, a public sanitary convenience or sanitary fixtures, or fittings or the premises in or on which the sanitary convenience is located.

(2) A person must 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.

(3) A directional sign, displaying lettering and pictograms indicating toilets for each gender and people with disabilities, must be erected in a visible and conspicuous position, indicating the location of the public sanitary conveniences.

2.10 Lighting

The owner and occupier of premises in which a sanitary convenience or a public sanitary convenience is located must provide and maintain adequate electric lighting for persons using the convenience.

2.11 Installation

- (1) Each sanitary convenience must be installed in accordance with the requirements of the *Water Services Act 2012* and must have an adequate supply of water.
- (2) Each temporary sanitary convenience must be installed in accordance with the requirements of the *Health (Temporary Sanitary Conveniences) Regulations 1997*.
- (3) Each toilet and plumbing fixture must be connected into the public sewer, unless otherwise approved by the local government.

PART 3—HOUSING AND GENERAL

3.1 Dwelling house maintenance

The owner or occupier of a dwelling house must maintain the dwelling house in sound condition and fit for use and, in particular, must—

- (a) maintain all roofs, guttering and downpipes in sound weatherproof condition;
- (b) maintain any footings, 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 and level in surface and free from cracks and gaps;
- (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;
- (l) maintain all pipes, fittings and fixtures connected with water supply, drainage or sewage so that they comply in all respects with the provisions of the bylaws made under 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 EnergySafety.

3.2 Ventilation

- (1) A person must not use or occupy, or permit to be used or occupied, a house unless the house is properly ventilated.
- (2) For the purpose of subclause (1) a house must 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 complying with AS1668.2:2002.
- (3) The owner of a house provided with a mechanical ventilation or air-conditioning system must ensure that the system is—
 - (a) maintained in good working condition and in accordance with AS/NZS 3666.2:2002; and
 - (b) in use at all times the building is occupied, if it is a building without approved natural ventilation.
- (4) If, in the opinion of an Environmental Health Officer, a house is not properly ventilated, the local government may by notice require the owner of the house to—
 - (a) provide a different, or additional method of ventilation; or
 - (b) cease using the house until it is properly ventilated.
- (5) The owner must comply with a notice under subclause (4).

3.3 Overcrowding

The owner or occupier of a house must not permit—

- (a) a room in the house that is not a habitable room to be used for sleeping purposes;
- (b) except in a house used as a short-term hostel or recreational campsite, a habitable room in the 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 14m³ of air space per person;

- (ii) for every person up to, and including the age of 10 years, there is at least 8m³ of air space per person; or
- (c) any garage or shed to be used for sleeping purposes.

3.4 Calculate sufficient space

For the purpose of clause 3.2, in calculating the space required for each person—

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

3.5 Water supply

The owner of a house must ensure that—

- (a) the house is connected with a separate and independent water supply from the mains of a licensed water service operator or a water supply to the satisfaction of the local government;
- (b) any private water supply must at all times be capable of delivering 4.5 litres per minute of water to each tap in the house via a standard pressure activated pump; and
- (c) any private water bore or well, must have a lid securely installed, to prevent casual removal.

3.6 Rain water tanks

The owner or occupier of a house for which part of the water supply is drawn from a rain water tank must—

- (a) maintain in a clean condition, the roof and downpipes forming the catchment for the tank;
- (b) ensure that each rain water tank is fitted with a tight-fitting mosquito proof cover which must not be removed at any time except for the purpose of cleaning, repairing or maintaining the tank; and
- (c) thoroughly clean and disinfect such tank whenever directed by an Environmental Health Officer to do so.

PART 4—NUISANCES AND GENERAL

Division 1—Nuisances

4.1 Interpretation

In this Part, unless the context otherwise requires—**fertiliser** includes manure.

4.2 Footpaths to be kept clean

An owner or occupier of premises must 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.

4.3 Escape of Smoke

An owner or occupier of premises must take reasonable measures to not cause or permit the escape of smoke, dust, 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.

4.4 Prohibition against Spit

A person must not spit on a footpath, street or public place.

4.5 Use or Storage of Fertiliser

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

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

4.6 Storage of Fertiliser in a House

The owner or occupier of a house where fertiliser or compost is stored or used must—

- (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 rodents, flies or 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 Authorised Person.

4.7 Pollution

A person must 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 2—Secondhand Furniture, Bedding and Clothing***4.8 Prohibition on Sale**

A person must not offer for sale or sell any secondhand furniture, bedding or clothing which is filthy or infested with vectors of disease.

4.9 Prohibition of Possession

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

*Division 3—Car Parks***4.10 Interpretation**

In this Division, unless the context otherwise requires—

car park means premises, or any part of premises, set aside for parking of 3 or more motor vehicles; and

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

4.11 Ventilation of Car Parks

(1) A person must 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 means in accordance with AS1668.2-2012.

(2) If, in the opinion of an Environmental Health Officer, a car park is not properly ventilated, the Council 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 must comply with a notice under subclause (2).

*Division 4—Slaughter and disposal of Animals***4.12 Slaughter of animals**

(1) A person must not slaughter an animal within the district.

(2) Subclause (1) does not apply to—

(a) euthanasia of an animal by a veterinarian or other duly Authorised Person;

(b) the slaughter of an animal at premises approved for that purpose.

4.13 Disposal of dead animals

(1) An owner or occupier of premises on which there is a dead animal must immediately remove the carcass and arrange for its disposal at an approved waste disposal facility.

(2) An owner or a person having the care, of any animal that dies or is killed in a public or private place must immediately remove the carcass and arrange for its disposal at an approved waste disposal facility.

PART 5—REFUSE DISPOSAL**5.1 Interpretation**

In this Part unless the context otherwise requires—

receptacle means—

(a) a polyethylene cart fitted with wheels, a handle and a lid and having a capacity of either 120 litres, 240 or 360 litres; or

(b) any container of a type and capacity as approved by the local government;

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

waste means commercial waste or domestic waste or both as the context requires.

5.2 Suitable receptacle enclosure

(1) (a) An owner or occupier of a premises consisting of more than 3 dwellings, or used for commercial or industrial purposes, or as a food premises, must provide a suitable enclosure for the storage and cleaning of receptacles on the premises.

(b) The suitable receptacle enclosure for a food premises must comply with AS 4674-2004.

(2) An owner or occupier of premises required to provide a suitable enclosure under this clause must—

(a) ensure the enclosure is not used to store anything except rubbish receptacles; and

(b) maintain the enclosure in a clean condition at all times.

- (3) For the purposes of this clause, a “suitable receptacle enclosure” means an enclosure—
- (a) of 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 an Authorised Person or an Environmental Health Officer and in the case of a food premises, an area of 3m² or not less than 10% of the floor area of the kitchen or food preparation areas, whichever is the greater;
 - (b) constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness approved by an Authorised Person or an Environmental Health Officer;
 - (c) having walls not less than 1.5m in height and having an access way of not less than 1m in width and fitted with a self-closing gate;
 - (d) containing a smooth and impervious floor—
 - (i) of not less than 75mm in thickness; and
 - (ii) which is evenly graded and connected to an approved liquid refuse disposal system in an approved manner;
 - (e) provided with a hose tap connected to an adequate water supply; and
 - (f) which is easily accessible to allow for the removal of the receptacles.

5.3 Construction site refuse

On every building construction site the builder must—

- (a) ensure that an appropriate refuse receptacle is provided on site for the storage of building rubbish on any premises in which building or construction work is being carried out;
- (b) ensure that all rubbish from the site is placed in the receptacle as directed by an Authorised Person, or any Environmental Health Officer;
- (c) ensure the receptacle is maintained on the site for the duration of the construction work;
- (d) ensure the receptacle does not overflow; and
- (e) ensure that any refuse in the receptacle cannot be blown out by wind.

5.4 Burning Rubbish or Refuse Not Permitted

A person must not, set fire to, or cause to be set on fire, or burn any rubbish or refuse.

PART 6—PEST CONTROL

Division 1—General Provisions

6.1 Responsibility of Owner or Occupier

- (1) The owner or occupier of premises must keep the premises and any person residing in or on the premises free from any vermin, vectors of disease or pests.
- (2) Where it is found that a premises is infested with vermin, vectors of disease or pests, an Environmental Health Officer may direct that the owner or occupier take appropriate action as may be indicated, to effectively eradicate the vermin, vectors of disease or pests.

6.2 Pest control generally

An owner or occupier of an eating house, theatre or place of entertainment, whether indoor or outdoor, must cause the premises to be cleaned immediately after the last occasion on which the premises have been used on that day or, if the use extends after midnight, then immediately after that use.

6.3 Officer may give Notice directing measures to be taken

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

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

of pests, vermin or vectors of disease.

6.4 Local Government may Execute Work and Recover Costs

(1) Where—

- (a) a person is required under this Division or directed by a notice given under clause 6.4, to execute any work; and
- (b) that person fails or neglects to comply with the requirement, the local government may execute the work and may recover from that 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 is not 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, other than compensation or damages for loss or damage suffered because the local government acted negligently or in breach of duty.

*Division 2—Flies***6.5 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.

6.6 Fly breeding matter not to be left on Premises unless Covered or Treated

An owner or occupier of premises must 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 that 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.

6.7 Measures to be taken by an Occupier

An owner or occupier of premises must 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 out thinly;
- (d) fertilizers are dug well into the soil;
- (e) compost heaps are kept well covered;
- (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 200mm of soil; and
- (h) excrement from pets is collected and properly disposed of without delay.

*Division 3—Mosquitoes***6.8 Interpretation**

In this Part, unless the context otherwise requires—

mosquitoes means any of the insects constituting the family *Diptera culicidae* commonly known as mosquitoes.

6.9 Premises to be kept free of mosquito breeding matter

An owner or occupier of a premises must keep the premises free of refuse and water that is liable to become the breeding place of mosquitoes.

6.10 Measures to be taken by an owner or occupier

An owner or occupier of any premises must—

- (a) where there is a fountain, ornamental pool, pond or excavation of any kind which contains water suitable for the breeding of mosquitoes, keep the water—
 - (i) stocked with mosquito predatory fish; or
 - (ii) covered with a film of petroleum oil; or
 - (iii) treated with an approved larvicide; and
- (b) where there is a water tank, well, cistern, vat or barrel—
 - (i) provide the vessel with an impervious cover;
 - (ii) cover all openings with mosquito proof mesh; and
- (c) where drinking water is kept in a vessel or other receptacle for consumption by an animal or bird—
 - (i) frequently change the water; and
 - (ii) keep the water clean and free from vegetable matter and slime.

6.11 Swimming pools

Where there is a swimming pool on any premises where the circulation system does not function, or has not been used such that the pool water is green or stagnant and suitable for the breeding of mosquitoes, the owner and occupier must, when required by a notice issued by an Environmental Health Officer—

- (a) re-activate the pool circulation system within a time specified and operate it so that the water is filtered for as many hours as may be specified; and/or
- (b) chlorinate and adjust the pH of the pool to—
 - (i) 4 milligrams per litre free chlorine; and
 - (ii) pH within the range 7.2—7.6; or
- (c) empty or drain the pool; and
- (d) maintain the pool water free of mosquito breeding.

*Division 4—Cockroaches***6.12 Interpretation**

In this Division, unless the context otherwise requires—

cockroach means any of the various *orthopterous* insects commonly known as cockroaches.

6.13 Measures to be taken to eradicate Cockroaches

(1) An owner or occupier of premises must take effective measures to eradicate any cockroaches in or on the premises.

(2) Without limiting the generality of subclause (1), an owner or occupier of premises, whenever there are any indications of the presence of cockroaches in, on or about the premises, and while such indications continue, must take effective measures to keep the premises free from cockroaches including—

- (a) washing and storing, immediately after use, cooking and eating utensils;
- (b) wrapping and depositing in a rubbish receptacle without delay all food scraps, uneaten pet food and garbage;
- (c) properly treating the premises with an insecticide, taking care not to harm the safety of humans and pets or to contaminate food or cooking or eating utensils; and
- (d) whenever required by an Environmental Health Officer, treating any area with baits or other methods to eradicate cockroaches.

*Division 5—Rodents***6.14 Interpretation**

In this Division, the context otherwise requires—

rodent means the animals *Rattus rattus* (Roof rat), *Rattus norvegicus* (Norway rat), *Mus musculus* (House/Field mouse) but not laboratory bred rats and mice kept as pets in an enclosure designed for the purpose of keeping as pets, animals of that kind.

6.15 Rodent control

(1) An owner or occupier of any premises must at all times take effective measures to eradicate any rodents in or on the premises.

(2) Without limiting the generality of subclause (1) an owner or occupier of any premises, whenever there are indications of the presence of rodents in, on or about the premises, and while such indications continue, must—

- (a) take effective measures to keep the premises free from rodents including—
 - (i) protecting food;
 - (ii) using a rodenticide bait or properly baited traps; and
 - (iii) preventing rodents having access to water on the premises;
- (b) inspect daily each rodenticide bait or trap used and, whenever a rodent is found, must—
 - (i) kill it immediately; and
 - (ii) dispose of the carcass in such a manner as will not create a nuisance; and
- (c) take whatever measures for the eradication of rodents as an Environmental Health Officer may from time to time direct.

6.16 Waste food etc. to be kept in rodent proof receptacles

A person must not place or cause to be placed in or on any premises, and an owner or occupier of premises must 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 stored 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.

6.17 Restrictions on materials affording harbourage for rodents

(1) An owner or occupier of premises must cause—

- (a) any part of the premises; or
- (b) any material, sewer, pipe or other thing in or on the premises, that might afford access or harbourage to rodents to be altered, repaired, protected, removed or otherwise dealt with so as to prevent it being used as access for, or harbourage of, rodents.

(2) An Environmental Health Officer may direct an owner or occupier of a premises to take whatever action that, in the opinion of the officer, is necessary or desirable to prevent or deter the presence of rodents in or on the premises.

(3) An owner or occupier must within the time specified, comply with any direction given by an Environmental Health Officer under this clause.

PART 7—INFECTIOUS DISEASES

7.1 Disposal of used condoms

(1) An occupier of premises on or from which used condoms are produced must 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 an Environmental Health Officer.

(2) A person must not dispose of a used condom in a public place except in accordance with subclause (1).

7.2 Disposal of used needles

A person must 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 Interpretation

In this Part, unless the context otherwise requires—

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;

lodger means a person who obtains, for hire or reward, board or lodging in a lodging house;

lodging house has the same meaning as that defined in section 3 of 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;

register of lodgers means the register kept in accordance with section 157 of the Act and this Part;

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 schools but does not include a camp or caravan within the meaning of the *Caravan Parks and Camping Grounds Act 1995*.

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 includes a youth hostel or a backpacker hostel.

8.2 Lodging house not to be kept unless registered

A person must 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 8.4;
- (c) the name of the person keeping or proposing to keep the lodging house is entered in the register of keepers; and
- (d) the keeper of the lodging house must not be absent from the lodging house at all unless he or she arranges for a reputable person to have the care and management of the lodging house.

8.3 Application for registration

An application for registration of a lodging house must be—

- (a) submitted on the approved form;
- (b) duly completed and signed by the proposed keeper; and
- (c) accompanied by—
 - (i) the approved fee; and
 - (ii) accompanied by detailed plans and specifications of the lodging house.

8.4 Approval of application

The local government may approve, with or without conditions, an application under clause 8.3 by issuing to the applicant a certificate of registration.

8.5 Renewal of registration

A person who keeps a lodging house which is registered under this Part must—

- (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 approved fee at the time of making each application for renewal.

8.6 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 must, within 14 days of the date of sale, transfer or agreement, give to the local government, written notice of the full name, address and occupation of the person to whom the lodging house has been, or is to be, sold or transferred.

8.7 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 any one or more of the following grounds

- (a) that the lodging house has not, to the satisfaction of the local government, been kept free from vermin or vectors of disease or remained clean;
- (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 regard to a report from the Police, 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 the local government, unfit to remain registered.

(3) Before revoking the registration of a lodging house under this local law, the local government must 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 revokes the registration of a lodging house, it must give the keeper notice of the revocation and the registration must be revoked as from the date on which the notice is served on the keeper.

Division 2—Construction and use requirements

8.8 General construction requirements

The construction of a lodging house must comply with the Building Code.

8.9 Sanitary conveniences

(1) A keeper must maintain in good working order and condition and in convenient positions on the premises—

- (a) toilets; and
- (b) bathrooms, each fitted with a hand wash basin and either a shower or bath, 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 must not be counted for the purposes of subclause (1).

(3) Each bath, shower and hand wash basin must be provided with an adequate supply of hot and cold water.

(4) The walls of each shower and bath must be of an impervious material to a minimum height of 1.8m above the floor level.

(5) Each toilet and bathroom must—

- (a) be so situated, separated and screened as to ensure privacy;
- (b) have a distinct sign displayed in a prominent position denoting the sex for which the toilet or bathroom is provided; and
- (c) be provided with adequate electric lighting and ventilation.

(6) Paragraph (b) of subclause (5) does not apply to a serviced apartment.

8.10 Laundry

A keeper must—

- (a) provide on the premises for the use of each 15 lodgers, a laundry containing one washing machine, one wash trough and, one electrical dryer or 30m of clothes line;
- (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 and washing machine; and
- (d) ensure that the floor area of each laundry is properly surfaced with an even fall to a floor waste.

8.11 Kitchen

The keeper of a lodging house must provide in that lodging house a separate kitchen which—

- (a) has a minimum floor area of—
 - (i) 0.65m² per person, where lodgers prepare their own meals;
 - (ii) 0.35m² per person, where meals are provided by the keeper or manager; and
 - (iii) 1m² per person, where the kitchen and dining area are combined, but in any case not less than 16m²; and
- (b) complies with the requirements of the *Food Act 2008 and AS 4674—Design, construction and fit-out of food premises*.

8.12 Cooking Facilities

The keeper of a lodging house where lodgers prepare their own meals must provide a kitchen with electrical, gas or other stoves and ovens approved by an Environmental Health Officer in accordance with the following table—

Number of lodgers	Number of Ovens	4 burner stoves
1-15	1	1
16-30	1	2
31-45	2	3
46-60	2	4
Over 60	2	4 plus 1 for each additional 15 lodgers (or part thereof) over 60

8.13 Dining room

The keeper of a lodging house must provide in that lodging house a dining room—

- (a) located in close proximity to the kitchen;
- (b) the floor area of which must be 0.5m² per person or not less than 10m² whichever is the greater; and
- (c) which must be adequately furnished to accommodate, at any one time, half of the number of lodgers.

8.14 Fire prevention and control

A keeper must—

- (a) in each passage in the lodging house provide an emergency light—
 - (i) in such a position and of such a pattern, as must be approved by an Environmental Health Officer; and
 - (ii) which must be kept separate from the general lighting system and kept illuminated during the hours of darkness;
- (b) provide an approved fire blanket positioned within 2m of the cooking area in each kitchen;
- (c) ensure that each exit sign and fire fighting appliance is clearly visible, accessible and maintained in good working order at all times;
- (d) provide fire extinguishing appliances of the number and pattern, and situated in such a position as the local government may direct;
- (e) ensure all buildings are fitted with fire protection equipment in accordance with the Building Code and approved by the Council; and
- (f) ensure all firefighting equipment and fire detection and alarm systems are adequately maintained at all times in such a condition as will enable their proper performance.

8.15 Obstruction of passages and stairways

A keeper must 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 in or occupying the lodging house.

8.16 Fitting of locks

A person must 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.

8.17 Restriction on use of rooms for sleeping

(1) A keeper must not use or permit to be used as a sleeping apartment a room in a lodging house—

- (a) 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;
- (b) which is not reasonably accessible without passing through a sleeping or other room in the private occupation of another person; or
- (c) which contains not less than 5.85m² of space, including the bed, for each lodger occupying the room.

(2) For the purposes of this clause, 2 children under the age of 10 years must be counted as one lodger.

8.18 Sleeping Accommodation—Short Term Hostels and Recreational Campsites

(1) A keeper of a short term hostel or recreational campsite must provide clear floor space of not less than—

- (a) 4m² per person in each dormitory utilising beds;
- (b) 2.5m² per person in dormitories utilising bunks.

(2) The calculation of floor space in subclause (1) must 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 must be 2.4m in any dormitory utilising beds, and 2.7m 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 must provide—

- (a) fixed outlet ventilation at a ratio of 0.15m² to each 10m² of floor area of the dormitories, and must ensure that dormitories are provided with direct ventilation to the open air from a point within 230mm of the ceiling level through a fixed open window or vents, carried as direct to the open air as is practicable;
- (b) mechanical ventilation in lieu of fixed ventilation, subject to Council's approval.

(6) The keeper of any short term hostel or recreational campsite must provide—

- (a) beds with a minimum size of—
 - (i) in short term hostels—800mm x 1.9m; and
 - (ii) in recreational campsites—750mm x 1.85m.
- (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 must—

- (a) maintain at all times a minimum distance of 750mm between beds, and a minimum distance of 900mm between bunks;
- (b) ensure that, where bed or bunk heads are placed against the wall on either side of a dormitory, there is a passageway of at least 1.35m between each row of beds and a passageway of at least 2m between each row of bunks, and must ensure that the passageway is 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 must ensure that—

- (a) materials used in dormitory areas comply with AS 1530.2:1993 and AS 1530.3:1989 as follows—
 - Drapes, curtains, blinds and bed covers—a maximum Flammability Index of 6;
 - Upholstery and bedding—a maximum Spread of Flame Index of 6;
 - a maximum Smoke Developed Index of 5; Floor coverings—a maximum Spread of Flame Index of 7;
 - a maximum Smoke Developed Index of 5;

Fire retardant coatings used to make a material comply with these indices must be—

- (i) certified by the manufacturer as approved for use with the fabric to achieve the required indices; and
 - (ii) certified by the manufacturer to retain its fire retardative effect after a minimum of 5 commercial dry cleaning or laundering operations carried out in accordance with AS 2001.1:1995, Procedure 7A, using ECE reference detergent; and
 - (iii) certified by the applicator as having been carried out in accordance with the manufacturer's specification.
- (b) emergency lighting is provided in accordance with the Building Code;
 - (c) a lodger or other person does not smoke in any dormitory, kitchen, dining room or other enclosed public place, within a short term hostel or recreational campsite;
 - (d) all mattresses in a short term hostel or recreational campsite are fitted with a mattress protector.

8.19 Furnishing etc. of sleeping apartments

(1) A keeper must—

- (a) furnish each sleeping apartment, other than in a lodging house used exclusively as a short-term hostel or recreational campsite 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, a blanket or rug and, from the 1 May to 30 September, not less than one additional blanket or rug; and

- (c) furnish each bedroom so that there are adequate storage facilities for belongings within the room.
- (2) A keeper must not cause, suffer or permit any tiered beds or bunks to be used in a sleeping apartment.
- (3) The sheets and blankets required to be provided by subclause (1)(b)(ii), must be deemed to have been provided by the keeper, where the keeper offers them for hire to the lodgers. In such circumstances, each lodger must either provide his own clean sheets or hire them from the keeper.
- (4) In a short term hostel or recreational campsite, the storage facilities required by subclause (1)(c) may be located in a separate secure storage room or locker room.

8.20 Numbers to be placed on doors

A keeper must 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 the numbers continue in sequence throughout each floor (if there is more than one) of the lodging house.

Division 3—Management and care

8.21 Register of lodgers

- (1) A keeper must keep a register of lodgers substantially in the format of the approved form.
- (2) The register of lodgers must be—
 - (a) kept in the lodging house; and
 - (b) open to inspection at any time on demand by any member of the Police or by an Environmental Health Officer.

8.22 Certificate in respect of sleeping accommodation

- (1) An Environmental Health Officer may issue to a keeper, a certificate, specifying the maximum number of persons who must be permitted to occupy each room as a sleeping apartment at any one time.
- (2) When required by an Environmental Health Officer, a keeper must exhibit the certificate issued under this clause in a conspicuous place.
- (3) A person must 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.

8.23 Duplicate keys and inspection

Each keeper and manager of a lodging house must—

- (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.

8.24 Room occupancy

- (1) A keeper must not—
 - (a) cause, suffer or permit more than the maximum number 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 apartment
 - (i) a larger number of beds; or
 - (ii) a larger quantity 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 has forbidden to be used as a sleeping apartment.
- (2) For the purpose of this clause, 2 children under 10 years of age must be counted as one lodger.

8.25 Cleaning and maintenance requirements

- (1) In this clause—
- (2) **bed linen** includes sheets, pillow cases and mattress covers
- (3) A keeper of a lodging house must—
 - (a) maintain in a clean, sound and undamaged condition—
 - (i) the floor, 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 good working order—
 - (i) all fixtures and fittings; and
 - (ii) windows, doors and door furniture;
 - (c) ensure that the internal walls of each bathroom and toilet are painted so as to maintain a smooth impervious washable surface;

- (d) ensure that all floors are kept clean at all times;
- (e) ensure that—
 - (i) all bed linen, towels, and house linen in use are washed at least once a week;
 - (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 clean, in good repair and free from vermin and vectors of disease; and
 - (v) when any vector of disease are found in a bed, furniture, room or sleeping apartment, immediate effective action is taken to eradicate the insect(s);
- (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.

PART 9—OFFENSIVE TRADES

9.1 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 trade means any one or more of the trades, businesses or occupations as defined by section 186 of the Act; and

premises means those premises in or upon which an offensive trade is carried on and includes house.

9.2 Consent to establish an offensive trade

(1) A person seeking the consent of the local government under section 187 of the Act to establish an offensive trade must—

- (a) advertise notice of his intention to apply for consent in accordance with clause 9.3; and
- (b) lodge with the local government an application in the approved form.

(2) A person who makes a false statement in an application under this clause commits an offence.

9.3 Notice of application

A notice required under clause 9.2 must—

- (a) contain the name and address of the person who intends to make the application;
- (b) contain a description of the nature of the offensive trade;
- (c) contain details of the premises in or upon which it is proposed to carry on the proposed trade; and
- (d) appear in a Perth daily newspaper advising the public that they have 30 days to lodge any objection with the local government.

9.4 Registration of premises

An application for the registration of premises pursuant to section 191 of the Act must be—

- (a) submitted on the approved form;
- (b) accompanied by the fee prescribed in the *Health (Offensive Trades Fees) Regulations 1976*; and
- (c) lodged with the local government.

9.5 Conditions of Consent

In granting consent under section 187 of the Act, the local government may impose reasonable conditions of consent including, without limitation, conditions relating to—

- (a) site requirements;
- (b) building fitout specifications;
- (c) ventilation;
- (d) effluvia, vapours and gases;
- (e) rodents and other vectors of disease;
- (f) sanitary convenience;
- (g) effluent and rubbish disposal.

9.6 Offence

Every person who carries on any offensive trade otherwise than in compliance with conditions imposed under clause 9.5 commits an offence.

9.7 Certificate of registration

Upon the registration of premises for the carrying on of an offensive trade, the local government must issue to the applicant a certificate in the approved form.

9.8 Change of occupier

Where there is a change of occupier of the premises registered pursuant to this Part, the new occupier must forthwith notify the local government in writing of such change.

9.9 Alterations to premises

While any premises remain registered under this Part, a person must not, without the written permission of the local government, make or permit any change or alteration whatever to the premises.

9.10 Cleanliness

The occupier must—

- (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 all sanitary conveniences daily and at all times keep and maintain all sanitary fittings and grease traps on the premises in a clean and sanitary condition.

9.11 Rodents and Other Vectors of Disease

The occupier must—

- (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.

9.12 Sanitary Conveniences and Hand Wash Basins

The occupier must 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.

9.13 Painting of Surfaces

The occupier must cause the internal surface of every wall, the underside of every ceiling or roof and all fittings in and on the premises to be cleaned and painted as may be directed by an Environmental Health Officer.

9.14 Effluvia, Vapours or Gases

The occupier must provide, use and maintain in a state of good repair and working order, appliances capable of effectively destroying or of rendering harmless all offensive effluvia, vapours or gases arising in any process of the business or from any material, residue or other substance which may be kept or stored upon the premises.

9.15 Offensive Material

The occupier must—

- (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 receptacles to be removed from the premises at least once in every working day and at such more frequent intervals as may be directed by an Environmental Health Officer; and
- (e) cause all receptacles after being emptied to be cleaned and sanitised immediately with an efficient disinfectant.

9.16 Storage of Materials

The occupier must 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 to persons.

PART 10—MORGUES**10.1 Licensing of Morgues**

- (1) A person must not occupy or use or cause, suffer, or permit to be occupied or used any premises for the temporary reception and keeping of the bodies of the dead awaiting burial or cremation unless and until the premises are licensed, in accordance with the provisions of this Part.
- (2) The proprietor of any premises for the temporary reception and keeping of the bodies of the dead awaiting burial or cremation seeking the issue of a licence must make application on the approved form and must forward the application to the local government together with the approved fee.
- (3) A licence in the form approved by the local government must be valid from the date of issue until the following 30th day of June.
- (4) A licence must not be granted in respect of any premises unless—
- (a) provision has been made for the keeping of the bodies of the dead at a temperature not exceeding zero degrees Celsius;
 - (b) the walls are constructed of stone or brickwork or other approved material;
 - (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 an impervious material, having a fall to an outlet discharging over a trapped gully; and
 - (e) the premises are adequately ventilated directly to the outside air.

PART 11—OFFENCES AND PENALTIES**11.1 Offences**

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 a person is prohibited from doing, commits an offence.

11.2 Penalties

A person who commits an offence under clause (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 such offence, \$250;
 - (ii) in the case of a second such offence, \$500; and
 - (iii) in the case of a third or subsequent such 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 \$125.

Dated this 30th day of November 2016.

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

KERI SHANNON, Mayor.

JASON BUCKLEY, Chief Executive Officer.

Consented to—

TARUN WEERAMANTHRI, Executive Director Public Health.

LOCAL GOVERNMENT ACT 1995

TOWN OF CAMBRIDGE

LOCAL GOVERNMENT AND PUBLIC PROPERTY LOCAL LAW 2016

CONTENTS

PART 1—PRELIMINARY

- 1.1 Title
- 1.2 Commencement
- 1.3 Purpose and Effect
- 1.4 Repeal
- 1.5 Application
- 1.6 Definitions
- 1.7 Interpretation

**PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT
PROPERTY AND BUILDINGS***Division 1—Determinations*

- 2.1 Determinations as to use of local government property and buildings
- 2.2 Procedure for making a determination
- 2.3 Discretion to erect sign
- 2.4 Determination to be complied with
- 2.5 Register of determinations
- 2.6 Amendment or revocation of a determination

Division 2—Activities which may be pursued or prohibited under a determination

- 2.7 Activities which may be pursued on specified local government property and buildings
- 2.8 Activities which may be prohibited on specified local government property and buildings

Division 3—Transitional

- 2.9 Signs taken to be determinations

PART 3—PERMITS*Division 1—Preliminary*

- 3.1 Application of Part

Division 2—Applying for a permit

- 3.2 Application for permit
- 3.3 Decision on application for permit

Division 3—Conditions

- 3.4 Conditions which may be imposed on a permit
- 3.5 Imposing conditions under a policy
- 3.6 Compliance with and variation of conditions

Division 4—General

- 3.7 Duration of permit
- 3.8 Renewal of permit
- 3.9 Transfer of permit

- 3.10 Production of permit
- 3.11 Cancellation of permit

Division 5—When a permit is required

- 3.12 Activities needing a permit
- 3.13 Permit required to camp outside a facility
- 3.14 Permit required for possession and consumption of liquor

Division 6—Responsibilities of permit holder

- 3.15 Responsibilities of permit holder

PART 4—BEHAVIOUR ON LOCAL GOVERNMENT PROPERTY AND BUILDINGS

Division 1—Behaviour on and interference with local government property and buildings

- 4.1 Personal behaviour
- 4.2 Only specified gender to use entry of toilet block or change room
- 4.3 Decency and adequate clothing
- 4.4 Behaviour detrimental to property
- 4.5 Taking or injuring any fauna
- 4.6 Removal or cultivation of flora
- 4.7 Intoxicated persons not to enter local government property or buildings
- 4.8 No prohibited drugs

Division 2—Signs

- 4.9 Signs

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

Division 1—Community facilities

- 5.1 Interpretation
- 5.2 Direction of manager or Authorised Person to be observed
- 5.3 Responsibilities of users of a community facility

Division 2—Beaches, Dunes and Groynes

- 5.4 Interpretation
- 5.5 Sand dune protection
- 5.6 Boat launching
- 5.7 Surf life saving activities
- 5.8 Identification of life saving patrol
- 5.9 Compliance with signs and directions
- 5.10 Fishing
- 5.11 Surfboards and boats

Division 3—Fenced or closed property

- 5.12 No entry to fenced or closed local government property

Division 4—Golf course

- 5.13 Interpretation
- 5.14 Observance of ordinary and special conditions of play
- 5.15 Controller's approval required
- 5.16 Direction of controller or Authorised Person to be observed
- 5.17 Inspection of authorisation
- 5.18 Use of vehicles and equipment

Division 5—Awnings, Verandahs and Balconies over Local Government Property

- 5.19 Interpretation
- 5.20 Approval to erect or maintain
- 5.21 Projection over local government property
- 5.22 Height above local government property
- 5.23 Maintenance and public safety

PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY AND BUILDINGS

- 6.1 Payment of applicable fees
- 6.2 No unauthorised entry to function
- 6.3 Determination of fees and charges

PART 7—OBSTRUCTING VEHICLES AND SHOPPING TROLLEYS

- 7.1 Interpretation
- 7.2 Leaving vehicle in public place or on local government property
- 7.3 Name of owner of shopping trolley
- 7.4 Shopping trolleys in public places
- 7.5 Shopping trolley to be removed by owner
- 7.6 Impounding of shopping trolley

PART 8—SECURE SUM

- 8.1 Security for restoration and reinstatement
- 8.2 Use by local government of secure sum

PART 9—WORKS IN THOROUGHFARES*Division 1—General*

- 9.1 Works in public property

Division 2—Verges

- 9.2 Verge treatment
- 9.3 Permissible verge treatments
- 9.4 Obligations of owners or occupiers for verge treatments
- 9.5 Enforcement
- 9.6 Power to carry out public works on a verge

Division 3—Transitional

- 9.7 Transitional Provision

Division 4- Vehicle crossings

- 9.8 Vehicle crossing treatment
- 9.9 Vehicle crossings
- 9.10 Contribution towards construction of a vehicle crossing
- 9.11 Temporary vehicle crossings
- 9.12 Removal of redundant vehicle crossings

Division 5 Protection of footpaths, verges and street trees

- 9.13 Footpath and verge protection
- 9.14 Street tree protection

PART 10—ACTIVITIES IN LOCAL GOVERNMENT AND PUBLIC PLACES

- 10.1 General prohibitions

PART 11—NOTICES*Division 1—Notices*

- 11.1 Notice to redirect or repair sprinkler
- 11.2 Hazardous plants
- 11.3 Notice to repair damage to thoroughfare
- 11.4 Notice to remove thing unlawfully placed on thoroughfare
- 11.5 Failing to comply with a notice

Division 2—Right of Appeal and Review

- 11.6 Application of Division 1, Part 9 of the Act

PART 12—MISCELLANEOUS

- 12.1 Persons may be directed to leave local government property or building
- 12.2 Disposal of lost property
- 12.3 Impounding of goods and recovery of expenses
- 12.4 Liability for damage to local government property or building
- 12.5 Public liability insurance and indemnity

PART 13—ENFORCEMENT*Division 1—Notices given under this local law*

- 13.1 Offence to fail to comply with notice
- 13.2 Local government may undertake requirements of notice

Division 2—Offences and penalties

- 13.3 Offences and penalties
- 13.4 Modified Penalties
- 13.5 Form of Notices

Division 3—Evidence in legal proceedings

- 13.6 Evidence of a determination

SCHEDULE 1—PRESCRIBED OFFENCES

LOCAL GOVERNMENT ACT 1995

TOWN OF CAMBRIDGE

LOCAL GOVERNMENT AND PUBLIC PROPERTY LOCAL LAW 2016

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

PART 1—PRELIMINARY

1.1 Title

This is the *Town of Cambridge Local Government and Public Property Local Law 2016*.

1.2 Commencement

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

1.3 Purpose and Effect

(1) The purpose of this local law is to provide for the regulation, control and management of activities and facilities on local government and public property within the district.

(2) The effect of this local law is to establish the requirements with which any persons using or being on local government and public property within the district must comply.

1.4 Repeal

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

(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.

1.5 Application

(1) This local law applies throughout the district of the Town of Cambridge and in the sea adjoining the district for a distance of 200m seawards from the low water mark at ordinary spring tides.

(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.

1.6 Definitions

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

Act means the *Local Government Act 1995*;

adjacent owner means the owner of any property or lot adjoining a street verge which is subject to a verge treatment;

applicant means a person who applies for a permit;

application means an application for a permit or a licence;

appointed place means a place or piece of land appointed by the local government or CEO where anything confiscated or impounded under the provisions of this local law, may be held in custody;

artificial grass is a material comprising of synthetic fibres made to look like natural grass or lawn;

Authorised Person means a person appointed by the local government under section 9.10 of the Act to perform any of the functions of an Authorised Person under this local law and any member of the Western Australian Police;

bathing means the act of entering the sea, a swimming pool, or other water body, to swim or use a bathing appliance and includes the act of emerging therefrom;

- bathing appliance** means any device, toy or equipment used to or assist a person in swimming or moving in or across the water, and includes an inflatable toy or similar device;
- boat** means any structure or vessel, excluding personal water craft, whether motorised or not and made or used to travel or float on water or travel under water;
- building** means any roofed structure enclosing space and intended for use as shelter (for people, animals or property) or for recreational, commercial or industrial purposes and includes any part of a building;
- 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;
- carer** means a person who provides care and support to a family member, friend or other person who has a disability, mental or physical illness, chronic condition, terminal illness or who is frail aged;
- carriageway** has the meaning given to it by the *Road Traffic Code 2000*;
- CEO** means the Chief Executive Officer of the Town of Cambridge or the Officer who, for the time being, is acting in that capacity;
- commencement day** means the day on which this local law comes into operation;
- community facility** means a facility owned or under the care, control or management of the local government for the benefit of the public, such as a hall, public swimming pool, library, recreation centre, child care centre, infant welfare centre, aged persons centre and the like;
- Council** means the Council of the Town of Cambridge;
- crossing** means a crossing giving access from a public thoroughfare to—
- (a) private land; or
 - (b) a private thoroughfare serving private land;
- 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;
- decency** means the wearing of proper and adequate clothing for the occasion, so as to prevent indecent exposure;
- determination** means a determination made under clause 2.1;
- district** means the district of the Town of Cambridge;
- drip line** in relation to a street tree means the area of land under the perimeter of a street tree canopy;
- fence** means any artificially created barrier whether temporary or permanent including post and rails, chain, metal, wire or pipe;
- fireworks** means a device such as a catherine wheel, a roman candle, a rocket or the like, in which combustible materials are ignited and produce coloured smoke, flames, and sometimes an explosion or bang;
- fireworks display** means a show of a number of fireworks, on occasion set off over a pre-arranged period, for the purpose of providing enjoyment or entertainment to those persons able to view them;
- footpath** has the meaning given to it by the *Road Traffic Code 2000*;
- 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;
- garden** means any part of a street or thoroughfare planted, developed or treated, otherwise than as a lawn, with one or more plants;
- intersection** has the meaning given to it by the *Road Traffic Code 2000*;
- 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 same meaning as is given to it in the *Liquor Control Act 1988*;
- local government** means the Town of Cambridge;
- local government building** means any structure, hall or room, and any corridor, stairway, or annex therein or thereto attached, and includes all plumbing, electrical installations, fixtures, fittings, furniture, and any other contents, owned or under the care, control or management of the local government;
- local government property** means anything which belongs to, is owned by or is under the care, control or management of the local government, and includes any flora and fauna thereon;
- lot** has the meaning given to it in the *Planning and Development Act 2005*;

nuisance means—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the nuisance;

occupier has the meaning given to it in the Act;

owner has the meaning given to it in the Act;

permissible verge treatment means any one of the treatments described in clause 9.3 and includes any associated reticulation pipes and sprinklers;

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

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

private property means any land that—

- (a) has a separate certificate of title; and
- (b) is in private ownership or is the subject of a lease or agreement with a person enabling its use for private purposes,

and includes any building or structure on the land;

prohibited drug has the meaning given to it by the *Misuse of Drugs Act 1981*;

public place means any thoroughfare or place which the public are allowed to use, whether the thoroughfare or place is or is not on private property and includes parklands, squares, reserves, beaches, and other lands set apart for the use and enjoyment of the public, including all lands which belong to or which are vested in, or are under the control or management of, the local government;

public property means any real property, land, lot, or reserve which is open and available for use by the public for public purposes, whether through payment of a fee or not, and includes any building, structure, flora or fauna thereon;

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

reserve means any land—

- (a) which belongs to the local government that is zoned as and, used for, recreational purposes;
- (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 the meaning of section 3.53 of the Act;

Schedule means a Schedule to this local law;

sign includes a notice, flag, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols;

street means any highway, thoroughfare or land used for vehicular or pedestrian traffic, and includes all the land lying between property lines, including the verge and footpath;

street tree means a tree planted or self sown in the street, of an appropriate species and in an appropriate location, for the purposes of contributing to the streetscape;

tree means a woody perennial plant generally having a single stem or trunk which will grow to a height of approximately 2m or higher;

thoroughfare means any street, way, or place that is designed and used for the passage of vehicles, and includes the shoulders and embayments at the side or centre of the thoroughfare used for the parking of vehicles;

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;

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—
 - (i) a wheel-chair or any device designed for use by physically impaired persons;
 - (ii) a pram, a stroller or similar device;
 - (iii) a boat; and
 - (iv) a shopping trolley;

vehicle crossing specification means the design details, measurements and materials, approved by the local government as the standard vehicle crossing, which when first constructed on any land in the district, will be eligible for a subsidy from the local government;

verge means that portion of land that lies between the front of a property and the edge of the thoroughfare, and between imaginary lines extended at a 90 degree angle with the thoroughfare from the edge of the thoroughfare to meet the side boundaries at the front of the property;

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

zoned means zoned under a town planning scheme of the local government.

(2) Any other expression used in this local law and not defined herein must have the meaning given to it in the *Local Government Act 1995*, the *Local Government (Miscellaneous Provisions) Act 1960*, *Building Act 2011* and the *Glossary of Building Terms* published by Standards Australia, unless the context requires otherwise.

1.7 Interpretation

In this local law unless the context requires otherwise a reference to—

- (a) local government property includes a reference to any part of that local government property; and
- (b) an activity on local government property, local government building or reserve includes a reference to the activity in the airspace above the local government property, local government building or reserve.

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY AND BUILDINGS

Division 1—Determinations

2.1 Determinations as to use of local government property and buildings

- (1) The local government may make a determination in accordance with clause 2.2—
 - (a) setting aside specified local government property and buildings 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—
 - (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.

2.2 Procedure for making a determination

- (1) The local government is to give local public notice of its intention to make a determination.
- (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 local government 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.
- (4) If submissions are received in accordance with subclause (2)(c), the local government 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.
- (5) If the local government 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.

(6) If the local government 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.

(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).

(8) A decision under subclause (3) or (4) is not to be delegated by the local government.

2.3 Discretion to erect sign

The local government may erect a sign on any local government property or building to give notice of the effect of a determination which applies to that property.

2.4 Determination to be complied with

A person must comply with a determination.

2.5 Register of determinations

(1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.

(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 Amendment or revocation of a determination

(1) The Council may amend or revoke a determination.

(2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.

(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

2.7 Activities which may be pursued on specified local government property and buildings

(1) This local law is subject to any written law and law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992 (Cth)* section 9(2).

(2) A determination may provide that specified local government property, local government building or reserve, or a portion thereof, is set aside as an area on which a person may—

- (a) bring, ride or drive an animal;
- (b) take, ride or drive a vehicle, or a particular class of vehicle;
- (c) use, launch or fly a kite, motorized model aeroplanes, gliders, or rockets that are propelled by mechanical, hydraulic, combustion or pyrotechnic means;
- (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) launch, beach, use or leave a boat, a particular class of boat or a personal watercraft;
- (f) land or launch a balloon, aircraft, helicopter; hang glider or parachute;
- (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
- (h) 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) 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;
- (i) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; or
- (j) wear no clothing.

(3) 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, boats, equipment or things, or may extend it to all vehicles, boats, 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.

2.8 Activities which may be prohibited on specified local government property and buildings

(1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property and buildings—

- (a) smoking on premises;
- (b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
- (c) use, launch or fly a kite, motorized model aeroplanes, gliders or rockets that are propelled by mechanical, hydraulic, combustion or pyrotechnic means;
- (e) taking, riding or driving a vehicle or a particular class of vehicle on the property;
- (f) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
- (g) taking or using a boat, a particular class of boat or a personal watercraft;
- (h) land or launch a balloon, aircraft, helicopter, hang glider or parachute;
- (i) 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;
- (j) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; or
- (k) 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) 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, boats, equipment or things, or all vehicles, boats, 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.

Division 3—Transitional

2.9 Signs taken to be determinations

(1) Where a sign erected on local government property has been erected under a local law of the local government repealed by this local law, then it is to be taken to be and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 2.1.

(2) Clause 2.5 does not apply to a sign referred to in subclause (1).

PART 3—PERMITS

Division 1—Preliminary

3.1 Application of Part

This Part does not apply to a person who uses or occupies local government property under a written agreement with the local government to do so.

Division 2—Applying for a permit

3.2 Application for permit

(1) Where a person is required to obtain a permit under this local law, that person must apply for the permit in accordance with subclause (2).

(2) An application for a permit under this local law must—

- (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 local government 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).

3.3 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.

Division 3—Conditions

3.4 Conditions which may be imposed on a permit

- (1) Without limiting the generality of clause 3.3 (1)(a), the local government may approve an application for a permit subject to conditions relating to—
 - (a) the payment of fees and charges;
 - (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 secure sum against such damage; and
 - (i) the obtaining of public liability insurance in an amount and on terms reasonably required by the local government.
- (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 or secure sum 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 Control Act 1988*;
 - (i) whether or not the hire is for the exclusive use of the local government property;
 - (j) in accordance with clause 12.5, the obtaining of a policy of insurance in the names of 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.

3.5 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 3.3 (1)(a).
- (2) Under clause 3.3 (1)(a) the local government may approve an application subject to conditions by reference to a policy.
- (3) The local government must 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).
- (4) An application for a permit must 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.
- (5) Sections 5.94 and 5.95 of the Act must apply to a policy and for that purpose a policy must be deemed to be information within section 5.94(u)(i) of the Act.

3.6 Compliance with and variation of conditions

- (1) Where an application for a permit has been approved subject to conditions, the permit holder must comply with each of those conditions.
- (2) The local government may vary the conditions of a permit, and the permit holder must comply with those conditions as varied.

*Division 4—General***3.7 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 3.11.

3.8 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 this Part must apply to an application for the renewal of a permit with all necessary changes as required.

3.9 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 an endorsement on the permit signed by the CEO.
- (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.

3.10 Production of permit

A permit holder is to produce to an Authorised Person their permit immediately upon being required to do so by that Authorised Person.

3.11 Cancellation of permit

- (1) Subject to clause 11.6, a permit may be cancelled by the local government if the permit holder has not complied with a—
 - (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.
- (2) On the cancellation of a permit the permit holder—
 - (a) must 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***3.12 Activities needing a permit**

- (1) A person must not without a permit—
 - (a) subject to subclause 3, hire local government property or building;
 - (b) advertise anything by any means on local government property or building;
 - (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 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 that person is an employee of the local government in the course of their duties or on an area set aside for that purpose—
 - (i) drive or ride or take any vehicle on to local government property;
 - (ii) park or stand any vehicle on local government property; or
 - (iii) land on, or take-off from local government property in a balloon, aircraft, helicopter;
 - (h) conduct a function or public gathering 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 by the local government for that purpose;
 - (k) parachute, hang glide, abseil or base jump from or on to local government property;
 - (l) erect a building site on local government property;
 - (m) make any excavation on local government property or dig or otherwise create a trench through or under a kerb or footpath;
 - (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;
 - (o) depasture any horse, sheep, cattle, goat, camel, ass, mule or other large animal on local government property;
 - (p) light or set off any fireworks or conduct a fireworks display;
 - (q) operate any broadcasting or public address system, or sound amplification equipment or apparatus;
 - (r) carry out any works in a street, thoroughfare or other public place, including but not limited to—
 - (i) permissible verge treatments; or
 - (ii) vehicle crossings;
 - (s) 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 street or 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;
 - (t) remove any fence on local government property;
 - (u) cause any obstruction to a water channel or a water course in a street;
 - (v) throw, place or drain offensive, noxious or dangerous fluid onto a street;
 - (w) fell any tree onto a street;
 - (x) provide, erect, install or use in or on any building, structure or land abutting on a street or thoroughfare any hoist or other thing for use over the street or thoroughfare;
 - (y) cause an obstruction to a vehicle or a person using a street;
 - (z) interfere with the soil of, or anything in a street or take anything from a street;
 - (aa) use a verge, street or thoroughfare for storage of items or materials whilst works are being undertaken on private property adjacent to the verge;
 - (bb) place or cause to be placed on a street a bulk rubbish container; or
 - (cc) take photographs or film on local government property for commercial gain or reward.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

3.13 Permit required to camp outside a facility

- (1) In this clause—
facility has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.
- (2) A person must 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) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a) or (b) of subclause (2) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

3.14 Permit required for possession and consumption of liquor

- (1) A person, on local government property, must not consume any liquor or have in their possession or under their control any liquor, unless—
- (a) that is permitted under the *Liquor Control Act 1988*; and
 - (b) a permit has been obtained for that purpose.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

Division 6—Responsibilities of permit holder

3.15 Responsibilities of permit holder

A holder of a permit must in respect of local government property to which the permit relates—

- (a) ensure that an Authorised 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) ensure that the local government property is fully locked or secured after its use;
- (d) report any damage or defacement of the local government property to the local government; and
- (e) take all reasonable steps to 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 Control Act 1988* for that purpose.

PART 4—BEHAVIOUR ON LOCAL GOVERNMENT PROPERTY AND BUILDINGS

Division 1—Behaviour on and interference with local government property and buildings

4.1 Personal behaviour

A person must not in or on any local government property or building behave in a manner which—

- (a) is likely to cause injury to, or to interrupt, disturb or interfere with the enjoyment of a person who might use the property or building; or
- (b) causes injury to, or interrupts, disturbs or interferes with the enjoyment of a person using, or otherwise lawfully on the property or building.

4.2 Only specified gender to use entry of toilet block or change room

- (1) Where a sign on a toilet block or change room specifies that a particular toilet block or change room is to be used by—
- (a) females, then a person of the male gender must not use that toilet block or change room; or
 - (b) males, then a person of the female gender must not use that toilet block or change room.
- (2) A person over the age of 6 years must not on any local government property, local government building, reserve or other public place—
- (a) loiter outside or act in an unlawful manner, in any portion of a toilet block or change room; or
 - (b) enter, or attempt to enter a cubicle or compartment of a toilet block or change room which is already occupied or in use.

4.3 Decency and adequate clothing

A person over the age of 6 years must not on any local government property, local government building, reserve or other public place appear in public unless dressed in a bathing costume or other clothing which covers the body to prevent indecent exposure.

4.4 Behaviour detrimental to property

(1) A person must not behave in or on any local government property, local government building, reserve or other public place in a way which is or might be detrimental to the property.

(2) In subclause (1)—

detrimental to the property includes—

- (a) removing any thing from local government property such as a sign, rock, plant or seat provided for the use of any person;
- (b) destroying, defacing or damaging any thing on the local government property, such as a sign, plant or tree or a seat provided for the use of any person; and
- (c) climbing on or over local government property.

4.5 Taking or injuring any fauna

(1) A person must not, on or above any local government property, local government building, reserve or other public place, unless that person is authorised under a written law to do so—

- (a) take, injure or kill or attempt to take, injure or kill any fauna; or
- (b) take on to, set or use or attempt to take on to, set or use any animal trap, bird trap, fish trap, net or similar device.

(2) 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 unless it has been discarded by the animal in a normal or natural manner.

4.6 Removal or cultivation of flora

(1) Unless authorised to do so under a written law or with the approval of the local government or an Authorised Person, a person must not—

- (a) remove, damage or interfere with any flora that is on or above any local government property; or
- (b) cultivate, plant or deposit any flora on local government property.

(2) In this clause—

flora means all vascular plants, seeds and other flora, whether living or dead.

4.7 Intoxicated persons not to enter local government property or buildings

A person must not enter or remain on any local government property, local government building, reserve or other public place while under the influence of liquor or a prohibited drug.

4.8 No prohibited drugs

A person must not take a prohibited drug on to, or consume or use a prohibited drug on any local government property, local government building, reserve or other public place.

Division 2—Signs

4.9 Signs

(1) A local government may erect a sign on local government property or local government building specifying any conditions of use which apply to that property or building.

(2) A person must comply with a sign erected under subclause (1).

(3) A condition of use specified on a sign erected under subclause (1) is—

- (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—Community facilities

5.1 Interpretation

In this Division—

manager means the person for the time being employed or engaged by the by the local government to manage a pool premises or community facility and includes any assistant or deputy;

pool premises means the place or premises provided for the purpose of swimming or bathing and known as Bold Park Aquatic constructed on part of the land being Lot 722, Plan 26685, Certificate of Title Volume 2038, Folio 24, and includes buildings, fences, gardens, car parks, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of the swimming pool or used in connection with it.

5.2 Direction of manager or Authorised Person to be observed

(1) The manager or an Authorised Person must refuse admission to, may direct to leave or must remove or cause to be removed from the pool premises or community facility, any person who—

- (a) in their opinion is—
 - (i) under the age of 10 years and who is unaccompanied by a responsible person 16 years or older;
 - (ii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition;
- (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.

(2) A person must, on being requested by the manager or an Authorised Person to leave the pool premises or community facility, do so immediately, quietly and peaceably.

(3) The manager or an Authorised Person may temporarily suspend admission to, or remove from the pool premises or community facility, or any part thereof, all or any person or persons, if in their opinion, such action is necessary or desirable.

(4) At the discretion of the manager, the pool premises or community facility, or any part thereof, may at any time be set aside for the use of certain persons to the exclusion of others.

5.3 Responsibilities of users of a community facility

A person while in the pool premises or community facility must not—

- (a) smoke, consume foodstuffs or drinks in any specific area in which smoking or food consumption is prohibited;
- (b) climb up or upon any roof, fence, wall or partition on the pool premises or community facility; or
- (c) whilst suffering from a contagious, infectious or cutaneous disease or whilst in an unclean condition, enter or use or attempt to enter or use the pool premises or community facility.

Division 2—Beaches, Dunes and Groynes

5.4 Interpretation

In this Division—

bait means food, or other substance, used as a lure in fishing;

beach means and includes that part of the Indian Ocean foreshore area to the west of the western boundary of Challenger Drive and West Coast Highway;

berley means any substance used for the attraction of fish;

fish has the meaning given to it by section 4 of the *Fish Resources Management Act 1994*;

fishing means to use any line, lure, rod or pot for the purpose of catching fish;

fishing net means any fishing net other than a—

- (a) hand scoop or hand dip net;
- (b) prawn hand trawl net; or
- (c) complying drop net;

patrolled area means any part of the beach which is for the time being under the supervision of members of the Surf Life Saving Association of Western Australia, a surf life saving club or an Authorised Person;

personal watercraft means any vessel designed for the transport of 1, 2, or 3 persons that—

- (a) is propelled by means of an inboard motor powering a water jet pump; and
- (b) is designed to be steered by means of handlebars by a person sitting, standing or kneeling on the vessel and not within it;

sand board means a board or device used for sliding down a slope of land, and sand boarding has a correlative meaning;

shark means all sharks except those species identified as totally protected fish in Schedule 2 Part 2 Division 2 of the *Fish Resources Management Regulations 1995*;

surfing appliance means any device, toy or equipment used to or assist a person in moving in or across waves or the water surface, and includes a surfboard, boogey board, windsurfer, kite surfer, wave ski, canoe, inflatable toy or similar device but not a boat;

surf life saving club means a lifesaving club affiliated with the Surf Life Saving Association of Western Australia or any branch;

surf life saving equipment means any equipment or appliances for use in the provision of life saving or for training of life saving club members in their duties;

surf life saving patrol means a patrol comprising such members of a surf life saving club as are appointed by that club from time to time to provide life saving services in a defined area and the term includes an employee of the local government appointed as a beach patrol officer or inspector;

surf patrol flag means a flag or notice erected at the limits of a bathing area to indicate the extremities of that patrolled area.

5.5 Sand dune protection

A person must not—

- (a) use a sandboard or any other board or thing to slide down sand dunes;
- (b) take onto any sand dunes a sandboard or other thing used for sliding down sand dunes;
- (c) traverse sand dunes except along pathways designated by signs or fences for the purpose; or
- (d) unless authorised to do so in the course of their duties, or otherwise permitted by a sign, take a vehicle of any kind onto any beach or sand dune.

5.6 Boat launching

(1) A person must not launch a boat into the sea other than at a boat launching ramp designed, constructed and approved for the purpose, or from the beach where this activity is permitted and designated by signs.

(2) A person must not launch a personal water craft into the sea other than at a boat launching ramp designed, constructed and approved for the purpose.

(3) Sub clauses (1) and (2) do not apply to any member of a surf life saving club or life saving patrol in the course of their duties, training or in competition.

5.7 Surf life saving activities

The local government may appoint and authorise members of surf life saving clubs to perform all or any of the following functions in the interests of maintaining safety at beaches in the district—

- (a) patrol any beach, or close any beach considered so dangerous as to warrant that action;
- (b) take onto any beach any life saving equipment including vehicles or boats that are used for life saving activities;
- (c) indicate by signs or patrol flags, any areas of a beach and the adjacent water beyond the beach, where bathing is permitted or prohibited;
- (d) indicate by signs any areas of a beach and the adjacent water beyond the beach where—
 - (i) riding of surfboards or any other bathing appliance is prohibited;
 - (ii) driving of boats is prohibited;
 - (iii) fishing or spear fishing is prohibited;
- (e) regulate, prohibit, restrict or set aside by signs any areas for the following activities—
 - (i) entry by any persons;
 - (ii) playing of games;
 - (iii) conduct of training or surf club carnivals;
 - (iv) establishing a first aid or command post;
- (f) direct any person to—
 - (i) bathe within the designated permitted bathing area indicated by signs or patrol flags;
 - (ii) leave the water adjacent to a beach during any period of potential dangerous conditions or sighting of a shark in the vicinity of the beach.
- (g) cease any activity not in accordance with this local law.

5.8 Identification of life saving patrol

(1) A member of a surf life saving patrol on duty at any beach must wear a red and yellow quartered swimming cap for the time they are on patrol.

(2) A person who is not a member of an on duty surf life saving patrol must not wear a red and yellow quartered swimming cap or give the impression they are a member of an on duty lifesaving patrol.

5.9 Compliance with signs and directions

A person attending any beach in the district must—

- (a) comply with any sign erected on the beach;
- (b) comply with any lawful direction given by an Authorised Person or authorised member of a surf life saving club patrolling the beach; and
- (c) not enter any area set aside for any life saving activity, training, competition or carnival.

5.10 Fishing

(1) A person must not fish or use a fishing net in any area—

- (a) where fishing or using a fishing net is prohibited or restricted and the prohibition or restriction is designated by signs; or
- (b) set aside by an Authorised Person or member of a surf life saving patrol as a designated permitted bathing area.

(2) A person must not at any place whether fishing is permitted or not—

- (a) clean fish or cut bait such that it may cause a nuisance to beach users;
- (b) leave or deposit fish offal or bait on land or in the sea within 200m of any part of the beach;
- (c) use berley or oil or composite material such that it may cause a nuisance to beach users or be detrimental to the environment; or
- (d) without written approval of the local government, fish for sharks by use of set or buoyed lines or use blood, offal or any other lure for the purpose of attracting sharks within 200m of any part of a beach.

5.11 Surfboards and boats

(1) A person must not use or ride a surfing appliance or drive a personal watercraft or boat in any area set aside by the local government, an Authorised Person or member of a surf life saving patrol, as a designated permitted bathing area.

(2) At the discretion of an Authorised Person or member of a surf life saving patrol, subclause (1) does not apply to the use of bathing appliances up to a maximum of 1.2m by children under the age of 8 years.

*Division 3—Fenced or closed property***5.12 No entry to fenced or closed local government property**

A person must not enter local government property or building which has been fenced off or closed to the public by a sign or otherwise, unless that person is authorised to do so by the local government.

*Division 4—Golf course***5.13 Interpretation**

In this Division—

controller means the person appointed by the local government to direct, control and manage a golf course and includes any assistant or deputy;

golf course means that portion of a golf course reserve which is laid out as a golf course and includes all tees, fairways, greens, practice tees, practice fairways, practice greens, miniature golf, pro shop and any driving range;

golf course reserve means those pieces of land known as Wembley Golf Course containing approximately 36 hectares being Part Lot 1 of Location 129, Diagram 16637 in Certificate of Title, Volume 1150, Folio 279; and Lot 1, Diagram 54860 in Certificate of Title, Volume 1522, Folio 898, and includes all buildings, structures, fittings, fixtures and equipment on that land;

sufficient and suitable golfing equipment comprises not less than one putter, five clubs, sufficient golf balls to complete the game and a golf bag.

5.14 Observance of ordinary and special conditions of play

While on a golf course, every player must observe and comply with—

- (a) the general conditions of play and local rules of golf;
- (b) any direction of a controller or Authorised Person in respect of any special conditions of play; or
- (c) any requirement of any notice erected to direct or control play.

5.15 Controller's approval required

A person must not, without the prior approval of the controller or an Authorised Person—

- (a) be accompanied by a non-playing spectator, other than a carer, whilst playing golf on a golf course;
- (b) cross or trespass on any portion of the golf course prepared for play or practice or on any practice fairway or practice putting green, unless that person is a fee paying player;
- (c) offer themselves for employment or be employed for a fee as a caddie on the golf course; or
- (d) sell, offer or expose for sale or exchange any golf ball or any golf equipment or other goods or services on a golf course.

5.16 Direction of controller or Authorised Person to be observed

The controller or an Authorised Person may temporarily suspend admission to, or remove from the golf course reserve, or any part thereof, all or any person or persons, if in their opinion, such action is necessary or desirable.

5.17 Inspection of authorisation

A player or person on a golf course, must at any time requested by the controller or other Authorised Person, produce any written authority granted or ticket issued, to the player or person, to play golf for the number of holes being played and valid for play on that day and at that time.

5.18 Use of vehicles and equipment

A person must not—

- (a) take on to a golf course a bicycle, motor cycle, motor car, motorised golf buggy or any other vehicle unless—
 - (i) with the prior consent of the controller;
 - (ii) the vehicle is under the control of the controller and used for hire purposes;
- (b) drive, use or park a bicycle, motor cycle, motor car, motorised golf buggy or other vehicle on any portion of a golf course except in such areas paved, marked and set apart for such purpose without the prior consent of the controller;
- (c) while driving, using or parking any bicycle, motor cycle, motor car, motorised golf buggy or other vehicle on any portion of a golf course, refuse or fail to comply with all signs applicable thereto and any order or direction given by an Authorised Person or the controller;
- (d) take any golf buggy or like conveyance fitted with wheels on to any part of a golf course unless the width of its wheels is 25mm or greater;
- (e) take any golf bag or golf bag buggy on to any part of the golf course laid out as a putting green, practice putting green, sand trap or bunker;
- (f) play golf on a golf course unless in full possession of sufficient and suitable golfing equipment for that purpose; or
- (g) leave on a golf course any vehicle, object, thing or any animal which the controller has directed to be removed.

*Division 5—Awnings, Verandahs and Balconies over Local Government Property***5.19 Interpretation**

In this Division—

awning means a roof-like covering to shelter persons or protect parts of a building from the effects of sun or rain, which extends or can be made to extend over any part of a footpath, street or local government property;

balcony means an open or covered platform attached to an upper part of a building, projecting from or recessed into the face of a wall and protected by a railing or balustrade and accessible from an adjacent room;

verandah means a roofed structure attached to a building with the outer edge supported on posts, and covered either by the main roof or a separate, lower roof, of which any part extends over any part of a footpath, street or local government property.

5.20 Approval to erect or maintain

A person must not erect or maintain an awning, verandah or balcony over local government property without the approval of the local government.

5.21 Projection over local government property

All awnings, verandahs and balconies must finish 600mm closer to the building line than the face of the kerb or 2.75m from the building line, whichever is the lesser.

5.22 Height above local government property

(1) The height of an awning, verandah or balcony ceiling must, except in special cases, be 3.4m above the pavement level.

(2) Where there are existing awnings, verandahs or balconies, the new awning, verandah or balcony must conform thereto subject to no awning, verandah or balcony ceiling being at a lesser height than 3m above the pavement level.

5.23 Maintenance and public safety

(1) The owner and occupier for the time being of any building to which any awning, verandah or balcony is attached must keep the awning, verandah or balcony clean, painted, watertight and in a sound and safe structural condition and in good and substantial repair.

(2) Where the local government has reason to suspect that any awning, verandah or balcony is not in a sound and safe structural condition or in good and substantial repair, the local government may by notice in writing require the owner or occupier of any building to which that awning, verandah or balcony is attached to provide to the local government within the period specified in the notice, a report of a practising structural engineer or an architect which certifies that the awning, verandah or balcony is in a safe structural condition or specifies the work necessary to render the structure safe.

PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY AND BUILDINGS**6.1 Payment of applicable fees**

Where a fee or charge applies to the entry to, use of or participation in an activity on or in any local government property, local government building or community facility, a person must not enter that property, building or community facility without first paying the applicable fee or charge, unless that person has been exempted by the local government from paying that fee or charge.

6.2 No unauthorised entry to function

(1) A person must not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorised, except—

- (a) through the proper entrance for that purpose; and
- (b) on payment of the fee chargeable for admission at the time.

(2) The local government may exempt a person from compliance with subclause (1)(b).

6.3 Determination of fees and charges

All fees and charges applicable under this part must be determined by the local government from time to time in accordance with section 6.16 of the Act.

PART 7—OBSTRUCTING VEHICLES AND SHOPPING TROLLEYS**7.1 Interpretation**

In this Part—

retailer means a proprietor of a shop which provides shopping trolleys for the use of customers of the shop;

shopping trolley means a container or receptacle on wheels provided by a retailer for the transport of goods.

7.2 Leaving vehicle in public place or on local government property

(1) A person must not leave 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 authorised to do so under a written law.

(2) A person contravenes subclause (1) where the vehicle is left for a period exceeding 24 hours.

7.3 Name of owner of shopping trolley

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

7.4 Shopping trolleys in public places

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

7.5 Shopping trolley to be removed by owner

Where a shopping trolley is found abandoned in a public place and the owner has been advised verbally or in writing of its location by the local government, the owner must remove the shopping trolley from the public place within 24 hours of being advised.

7.6 Impounding of shopping trolley

(1) Where an Authorised Person or a member of the Western Australia Police finds a shopping trolley abandoned in a public place, the Authorised Person or a member of the Police Service may impound the shopping trolley and place it in an appointed place.

(2) Where a shopping trolley has been impounded and placed in an appointed place, the apparent owner must be advised verbally or in writing of its location by the local government and, the owner must recover the impounded shopping trolley from the appointed place as set out in the Act.

PART 8—SECURE SUM

8.1 Security for restoration and reinstatement

(1) The local government may require an applicant to pay a bond or secure sum to a value determined by the local government as a condition of an approval or permit, before the issue of an approval or permit; or where a land owner proposes to develop, amalgamate or sub-divide land for the purpose of ensuring that—

- (a) a hired local government building or local government property, including fixtures and fittings can be cleaned, replaced or repaired;
- (b) a footpath or local government property damaged, removed or destroyed during the construction of any building on an adjacent lot, can be repaired or reinstated;
- (c) a footpath or local government property damaged, removed or destroyed during the amalgamation or sub-division of adjacent land, can be repaired or reinstated;
- (d) conditions of an approval or permit insofar as they relate to local government or public property, are complied with.

(2) A bond or secure sum required under subclause (1) is to be paid into an account established by the local government for the purposes of this clause.

8.2 Use by local government of secure sum

(1) If an applicant, permit or approval holder or adjacent owner or occupier fails to carry out or complete the reinstatement works required by the permit or approval conditions, or by a notice served by the local government, either—

- (a) within the time specified in those conditions; or
- (b) where no such time has been specified, a reasonable time from the expiration of the permit or approval; or
- (c) within 14 days or such time as specified in the notice given by the local government,

then, the local government may carry out or cause to be carried out, the required restoration and reinstatement works or as much work as remains undone.

(2) The permit or approval holder, owner or occupier must pay to the local government on demand all administrative, legal, contractor and other costs including, but not limited to loss of income, estimated or incurred by the local government to restore and reinstate the site or which the local government may be required to pay under this clause.

(3) The local government may apply the proceeds of any bond or secure sum obtained under clause 8.1 to meet any costs incurred under this clause.

(4) The liability of the applicant, permit or approval holder, adjacent owner or occupier to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 8.1.

PART 9—WORKS IN THOROUGHFARES

Division 1—General

9.1 Works in public property

A person must not carry out any works in a thoroughfare or public place without first obtaining written approval from the local government, in accordance with regulation 17 of the *Local Government (Uniform Local Provisions) Regulations 1996*, unless otherwise provided for in this local law.

*Division 2—Verges***9.2 Verge treatment**

The owner or occupier of land adjacent to any thoroughfare may only treat the verge in front of such land with a permissible verge treatment and in any event must not—

- (a) alter the finished level of the verge;
- (b) excavate the verge within the drip line of any street tree; or
- (c) cover or obstruct any manholes, gullies or inspection pits which are serviced from time to time by the local government.

9.3 Permissible verge treatments

(1) The owner or occupier of land which abuts a verge may on that part of the verge directly in front of such land install—

- (2) (a) a Permissible Verge Treatment; or
- (b) irrigation pursuant to clause 9.4 (h).

(3) A Permissible Verge Treatment is—

- (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 street in the vicinity of an intersection or bend in the street or using a driveway on land adjacent to the street for access to or from the street;
 - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 1.5m along that part of the verge immediately adjacent to the kerb;
 - (iii) it does not include a fence, wall or built structure;
 - (iv) it does not include concrete slabs, bricks, rocks, logs, bollards, reticulation boxes, garden ornaments or garden stakes,
 - (v) it does not include loose and uncompacted, inorganic and poorly graded materials greater than 5mm in size, including gravels, crushed bricks or loose stones;
 - (vi) it does not contain artificial grass;
 - (vii) no plant (except grasses or similar plant) is within 6m of an intersection or within 1.5m of a carriageway where there is no footpath; and
 - (viii) it is not of a thorny, poisonous or hazardous nature.
- (c) 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 subclause (4), 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); or
- (d) the installation of an acceptable material.

(4) A person must not install or maintain a verge treatment which is not a permissible verge treatment.

(5) In this Part **acceptable material** means any material which would create a hard surface, and which has been approved by the local government.

9.4 Obligations of owners or occupiers for verge treatments

An owner or occupier who installs and maintains a permissible verge treatment must—

- (a) repair and make good any damage to the verge treatment at such owner's or occupier's expense;
- (b) keep the verge treatment in good and tidy condition and ensure, where the verge treatment is a garden or lawn, that no obstruction of any sort (physical, sight or other) is caused to any accessway, footpath, pavement or thoroughfare;
- (c) ensure that clear sight visibility is maintained at all times for a person using the abutting street in the vicinity of an intersection or bend in the street or using a driveway on land adjacent to the street for access to or from the street;
- (d) lay, install or pave a surface with an acceptable material only;
- (e) not place any obstruction on or around any verge treatment;
- (f) not water or maintain a verge treatment in such a manner as to cause a nuisance or hazard to any person using the adjacent footpath, accessway or thoroughfare;
- (g) not extend the verge treatment beyond the verge immediately adjacent to the property owned or occupied, without the written approval of the owner of the adjoining property, immediately adjacent to the verge to be treated; and
- (h) ensure that any sprinklers or pipes installed to irrigate a verge treatment—
 - (i) do not protrude above the level of the lawn when not in use;
 - (ii) are not used at such times as to cause unreasonable inconvenience to pedestrians or other persons; or
 - (iii) do not otherwise present a hazard to pedestrians or other persons.

9.5 Enforcement

The local government may give notice in writing requiring the adjacent owner or occupier of any land to make good, or to remove all or any part of a verge treatment that does not comply with the local government's Permissible Verge Treatment specifications, within the time period specified in the notice.

9.6 Power to carry out public works on a verge

(1) Where the local government or an authority empowered to do so under a written law disturbs, digs up or carries out any works in a verge which has a permissible verge treatment, then the local government or the authority must use its best endeavours to—

- (a) replace and restore any reticulation, pipes or sprinklers; and
- (b) back fill with sand any garden or lawn,
but otherwise is not be liable to replace or restore any—
 - (i) verge treatment and, in particular, any plant, or any other acceptable material or other hard surface; or
 - (ii) sprinklers, pipes or other reticulation.

Division 3—Existing verge treatments

9.7 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.

Division 4—Vehicle Crossings

9.8 Vehicle crossing treatment

The owner or occupier of land adjacent to a thoroughfare may only install or have installed a vehicle crossing in front of such land which is a permissible vehicle crossing treatment.

9.9 Vehicle crossings

The owner or occupier of land adjacent to a thoroughfare may install a vehicle crossing in accordance with the local government's vehicle crossing specifications, as varied from time to time.

9.10 Contribution towards construction of a vehicle crossing

For the purpose of determining the local government's contribution towards the construction of a vehicle crossing as stipulated in *Local Government (Uniform Local Provisions) Regulations 1996*, the minimum requirements for a vehicle crossing for a residential area must be used to determine the contribution for construction of a vehicle crossing.

9.11 Temporary vehicle crossings

(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 must 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
- (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 permit issued under *the Building Act 2011* or *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 permit has been issued under *the Building Act 2011*, or *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 must 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.

9.12 Removal of redundant vehicle crossings

(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 them to—
- remove any part or all of a crossing which does not give access to the lot; and
 - 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 must comply with that notice.

Division 5—Protection of footpaths, verges and street trees

9.13 Footpath and verge protection

- (1) The owner, occupier, licensee or contractor who undertakes works on a private property adjacent to a footpath or verge, must—
- take all necessary precautions to ensure that the footpath or verge is not damaged during the course of the works;
 - take all necessary action to ensure that the footpath remains in a safe functional state suitable for use by the public; and
 - notify the local government of any existing damage to the footpath or verge prior to the commencement of the works.
- (2) A person who carries out any building or other operations or works necessitating the crossing of a footpath with vehicles that may cause damage to the footpath or verge, must ensure that—
- all reasonable precautions are taken to prevent damage to the footpath, or verge tree during the course of the works; and
 - heavy vehicles that access the private property, are to cross the footpath at the designated area for the proposed vehicle crossing.
- (3) A person who causes damage to a footpath or verge during works undertaken on private property or works within the road reserve must pay the costs of the local government to reinstate street trees and repair the damage.

9.14 Street tree protection

- (1) The owner, occupier, licensee or contractor who undertakes works on a private property adjacent to a street tree, must—
- take all necessary precautions to ensure that the street tree is protected and not damaged during the course of the works;
 - provide a tree protection zone around the trunk of the tree comprising of temporary fixed barricade/fencing, measuring from the trunk of the tree, of at least 2m by 2m (preferably with appropriate signage), erected around the tree to protect the root zone and tree during the construction works;
 - not place or store any building materials, building rubble and/or debris against the tree protection barricade or within the tree protection zone;
 - ensure clear access to the tree is maintained at all times to enable the local government to access the tree for watering or carry out any works to the tree as required; and
 - notify the local government of any existing damage to the street tree or if the tree becomes damaged.
- (2) Any person who causes damage to a street tree must pay the costs of the local government to carry out remedial works or to replace the street tree.
- (3) Any person who causes significant damage to a street tree or its destruction, commits an offence.
- (4) In instances where a tree is assessed by the local government as being significant in size, the barricade around the tree may need to be a greater distance from the tree trunk and this will be determined by the local government.

PART 10—ACTIVITIES IN LOCAL GOVERNMENT AND PUBLIC PLACES

10.1 General prohibitions

A person must not—

- plant any plant (except grasses or a similar plant) within 6m of an intersection;
- plant any plant which exceeds or which may exceed 0.75m in height on a thoroughfare, where that plant obstructs or restricts the vision of a driver using a driveway on land adjacent to the street for access to or from the street;
- damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless—
 - 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
 - the person is acting under the authority of a written law;
- plant any plant (except grass or a similar plant) on a thoroughfare or verge contrary to the local government's Permissible Verge Treatment specifications;

- (e) 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;
- (f) 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;
- (g) 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
- (h) within a mall, arcade or verandah of a shopping centre, ride any skateboard, rollerblades or similar device.

PART 11—NOTICES

Division 1—Notices

11.1 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.

11.2 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.

11.3 Notice to repair damage to thoroughfare

Where any portion of a thoroughfare, verge or footpath has been damaged, or is in the opinion of an Authorised Person, dangerous to the public, the local government may by notice to the person who caused the damage or dangerous condition, order the person to repair or replace that portion of the thoroughfare, verge or footpath to the satisfaction of the local government.

11.4 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.

11.5 Failing to comply with a notice

A person who fails to comply with a notice issued pursuant to clauses 11.1, 11.2(1), 11.3 or 11.4, commits an offence.

Division 2—Right of Appeal and Review

11.6 Application of Division 1, Part 9 of the Act

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

- (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 of the Regulations apply to that decision.

PART 12—MISCELLANEOUS

12.1 Persons may be directed to leave local government property or building

An Authorised Person may direct a person to leave local government property or a local government building where the Authorised Person reasonably suspects that the person has contravened a provision of any written law.

12.2 Disposal of lost property

(1) An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by the local government in any manner it thinks fit.

(2) Neither the local government nor any local government employee or any Authorised Person must in any way be responsible for any articles or money lost, stolen, damaged, destroyed whilst on or in any local government property or building.

12.3 Impounding of goods and recovery of expenses

The local government may—

- (a) impound goods in accordance with regulation 29 of *the Local Government (Functions and General) Regulations 1996*, and
- (b) withhold impounded or confiscated goods until costs are paid, dispose of impounded, confiscated or uncollected goods and recover impounding fees, in accordance with sections 3.46, 3.47 and 3.48 of the Act.

12.4 Liability for damage to local government property or building

(1) Where a person unlawfully causes physical damage or detrimentally affects the appearance or nature of any local government property, the local government may by notice in writing to that person require that person within the time required in the notice to, at the option of the local government, pay the costs of—

- (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
- (b) replacing that property.

(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 or approval, the person is the permit or approval holder in relation to that permit.

(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.

12.5 Public liability insurance and indemnity

(1) Where, as a condition of a permit or approval, the permit or approval holder or the property owner is required to provide a public liability insurance policy, indemnifying the local government against all actions, suits, claims, damages, losses and expenses made against or incurred by the local government arising from any activity, action or thing performed or erected in accordance with the permit and keep that insurance policy current for the duration of the permit or at all times, the permit or approval holder or the property owner must—

- (a) enter into an agreement with the local government to provide and maintain the required public liability insurance protection;
- (b) take out a public liability insurance policy in the name of the permit or approval holder for a minimum value of 10 million dollars or such other amount as the local government considers appropriate to the risk and liability involved;
- (c) include a clause in the policy which prevents the policy from being cancelled without the written consent of the local government;
- (d) include a clause in the policy which requires the insurance company to advise the local government if the policy lapses, is cancelled or is no longer in operation;
- (e) on the request of an Authorised Person, provide for inspection, a certificate of currency for the required insurance policy.

(2) A permit or approval holder or a property owner who refuses to or cannot provide a current certificate of insurance 14 days prior to the commencement of any activity, action or thing performed or erected in accordance with the permit, as required in accordance with subclause (1) commits an offence.

PART 13—ENFORCEMENT*Division 1—Notices given under this local law***13.1 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 a person fails to comply with the notice, that person commits an offence.

13.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 13.1, the local government may by its employees, agents or contractors carry out the works and do all things specified in the notice and may recover from that person, as a debt, the costs incurred so doing.

*Division 2—Offences and penalties***13.3 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 this local law is liable, upon conviction, to a penalty not less than \$500 and 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.

13.4 Modified Penalties

(1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.

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

(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 Authorised Person should be satisfied that—

- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

13.5 Form of Notices

- (1) For the purposes of this local law—
- (a) where a vehicle is involved in the commission of an offence, the form of the infringement 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 9.17 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
 - (c) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.
- (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***13.6 Evidence of a determination**

- (1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.
- (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.
- (3) Subclause (2) does not make valid a determination that has not been properly made.

*Schedule 1***PRESCRIBED OFFENCES**

[clause 13.4]

Item No.	Clause No.	Nature of offence	Modified Penalty \$
1.	2.4	Failing to comply with a determination	250
2.	3.6(1)	Failing to comply with conditions of a permit	250
3.	3.6(2)	Failing to comply with conditions of a permit as varied	250
4.	3.12(1)	Failing to obtain a permit for activities requiring a permit	250
5.	3.13(2) (a) or (b)	Failing to obtain a permit to camp outside a facility	250
6.	3.14(1)	Consumption or possession of liquor without a permit	250
7.	3.15	Failure of permit holder to comply with responsibilities	250
8.	4.1(a) or (b)	Behaviour likely to cause injury, interrupt, disturb or interfere with enjoyment by other persons	250
9.	4.2(1)	Person using toilet block or change room specified for use by other gender	250
10.	4.2(2)(a)	Loiter outside or act in an unlawful manner in any toilet block or change room	250
11.	4.2(2)(b)	Enter or attempt to enter an occupied cubicle or compartment	250
12.	4.3	Failing to wear adequate clothing to prevent indecent exposure	150
13.	4.4(1)	Behaviour detrimental to property	250
14.	4.5(1)(a)	Take, injure or kill, or attempt to take, injure or kill any fauna.	250
15.	4.5(1)(b)	Take onto, set or use any animal, bird or fish trap while on any local government property	150
16.	4.6(1)(a)	Remove, damage or interfere with any flora on local government property without approval	150
17.	4.6(1)(b)	Cultivate, plant or deposit flora on local government property without approval	150
18.	4.7	A person under the influence of liquor or a prohibited drug must not enter or remain on local government property	250
19.	4.9(2)	Failing to comply with sign on local government property	250
20.	5.2(2)	Failing to leave a community facility quietly and peaceably when requested to do so	250
21.	5.3(a)	Smoke or consume food or drink in a prohibited area	150
22.	5.3(b)	Climbing up or upon a community facility	150
23.	5.3(c)	Enter or use, or attempt to enter or use a community facility whilst unclean or suffering from a contagious, infectious or cutaneous disease	150

Item No.	Clause No.	Nature of offence	Modified Penalty \$
24.	5.5(a)	Use a sandboard, other board or thing to slide down a sand dune	150
25.	5.5(c)	Traverse sand dunes other than along designated paths.	150
26.	5.5(d)	A person must not take a vehicle onto any beach or a sand dune without authorisation	250
27.	5.6(1)	Launch a boat into sea from area not approved or not permitted by signs	250
28.	5.6(2)	Launch personal water craft into sea other than from a boat launching ramp	250
29.	5.9(a)	Failing to comply with a sign erected on a beach	250
30.	5.9(b)	Failing to comply with a direction given by an Authorised Person	250
31.	5.10(1)(a)	Fishing or using a fishing net in an area where fishing is prohibited or restricted by signs	150
32.	5.10(1)(b)	Fishing in an area set aside as designated permitted bathing area	150
33.	5.10(2)(a)	Clean fish or cut bait that causes a nuisance to beach users	250
34.	5.10(2)(b)	Leave or deposit fish offal on land or in sea within 200m of any beach	250
35.	5.10(2)(c)	Use berley, oil or material that causes a nuisance to beach users or is detrimental to the environment	250
36.	5.10(2)(d)	Fishing for sharks without approval of local government	250
37.	5.11(1)	Use or ride a surfing appliance, or drive a personal watercraft or boat in a designated permitted bathing area	250
38.	5.12	Unauthorised entry to fenced or closed local government property	250
39.	5.14(a)	Failing to observe and comply with general conditions of play and local rules of golf	150
40.	5.14(b)	Failing to comply with direction of controller or Authorised Person	150
41.	5.14(c)	Failing to comply with notice to direct or control play on golf course	150
42.	5.15(a)	Without approval of the controller, be accompanied by a non-playing spectator whilst playing golf	150
43.	5.15(b)	Without approval of the controller, cross or trespass on any portion of the golf course prepared for play	150
44.	5.15(c)	Without approval of the controller, seeking employment or be employed for a fee as a caddie	150
45.	5.15(d)	Without approval of the controller, sell, offer or expose for sale or exchange any golf ball or any golf equipment or other goods or services	250
46.	5.17	Failing to produce written authority to play golf for number of holes, day and time on the golf course	250
47.	5.18(a)	Take a vehicle onto the golf course without approval of Controller	250
48.	5.18(b)	Drive, use or park a bicycle, motor cycle, motor car, motorised golf buggy or other vehicle on any portion of the golf course reserve except in such areas paved, marked and set apart for such purpose without the prior consent of the controller	250
49.	5.18(c)	Refuse or fail to comply with all signs while driving, using or parking any bicycle, motor cycle, motor car, motorised golf buggy or other vehicle on any portion of the golf course reserve, or any order or direction given by an Authorised Person or the controller	250
50.	5.18(d)	Take any golf buggy with wheels less than 25mm wide onto any part of the golf course	150
51.	5.18(g)	Leave on the golf course any vehicle, object or animal	250
52.	5.21	Erecting or maintaining an awning, verandah or balcony without a permit	500
53.	6.1	Failing to pay the fees and charges fixed by the local government from time to time	250

Item No.	Clause No.	Nature of offence	Modified Penalty \$
54.	6.2(1)	Unauthorised entry to a function on local government property	250
55.	7.2(1)	Vehicle obstructing a public place or local government property	250
56.	7.4	Leaving shopping trolley in public place other than trolley bay	250
57.	7.5	Failing to remove shopping trolley upon being advised of location	250
58.	9.1	Carrying out works in a thoroughfare or public place without approval	250
59.	9.2(a)	Altering finished level of a verge	250
60.	9.2(b)	Excavating verge within the drip line of street tree	250
61.	9.2(c)	Cover or obstruct any manholes, gullies or inspection pits	250
62.	9.3(4)	Installation of verge treatment other than a Permissible Verge Treatment	250
63.	9.4(a)	Failing to repair and make good any damage to the verge treatment	250
64.	9.4(b)	Failing to keep verge treatment in good or tidy condition and avoid obstruction of any sort	250
65.	9.4(c)	Failing to ensure clear sight visibility is maintained at all times	250
66.	9.4(d)	Failing to lay, install or pave a verge with an approved material	250
67.	9.4(e)	Place any obstruction on or around any verge treatment	250
68.	9.4(f)	Water or maintain a verge treatment so as to cause a nuisance or a hazard to any person using footpath, accessway or thoroughfare	250
69.	9.4(g)	Extending the verge treatment beyond the verge immediately adjacent to the property owned or occupied, without the consent of the adjoining property owner	250
70.	9.4(h)	Installing or maintain sprinklers or irrigation pipes contrary to requirements	250
71.	9.8	Installing a vehicle crossing other than a permissible vehicle crossing	250
72.	9.11(1)	Failing to obtain permit for temporary crossing	250
73.	9.12(2)	Failing to comply with notice to remove crossing and reinstate kerb	500
74.	9.13(1)(a)	Failing to take reasonable precautions to prevent damage to footpath or verge	250
75.	9.13(1)(b)	Failing to take reasonable precautions to ensure the footpath remains in a safe and functional state	250
76.	9.13(1)(c)	Failing to notify local government of existing footpath damage prior to commencement of works	150
77.	9.14(1)(a)	Failing to take all necessary precautions to ensure that the street tree is protected and not damaged during the course of the works	500
78.	9.14(1)(b)	Failing to provide a tree protection zone comprising of a temporary barrier to protect a street tree prior to the commencement of the works.	250
79.	9.14(1)(c)	Failing to prevent the placing or storing of any building materials, building rubble and/or debris against the tree protection barricade or within the tree protection zone	250
80.	9.14(1)(d)	Failing to ensure clear access around a street tree prior to enable the local government to water the tree or carry out works.	250
81.	9.14(1)(e)	Failing to notify the local government of any existing damage to a street tree prior to the commencement of the works.	250
82.	9.14(3)	Causing significant damage to a street tree or its destruction	500
83.	11.5	Failing to comply with a notice concerning a sprinkler, hazardous plants, damage to a thoroughfare, verge or footpath or placing a thing on a thoroughfare contrary to the local law	500
84.	12.1	Failing to leave local government property or building when directed to do so by an Authorised Person	250

Item No.	Clause No.	Nature of offence	Modified Penalty \$
85.	13.1	Failing to comply with a notice given under this local law	500
86.	13.3(1)	All other offences not specified	150

Dated this 30th day of November 2016.

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

KERI SHANNON, Mayor.

JASON BUCKLEY, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

TOWN OF CAMBRIDGE

PRIVATE PROPERTY LOCAL LAW 2016

CONTENTS

PART 1—PRELIMINARY

- 1.1 Title
- 1.2 Commencement
- 1.3 Purpose and Effect
- 1.4 Repeal
- 1.5 Application
- 1.6 Interpretation

PART 2—FENCES*Division 1—Sufficient Fences*

- 2.1 Sufficient fence

Division 2—General

- 2.2 Fences within setback areas
- 2.3 Fences in relation to fill
- 2.4 Maintenance of fences
- 2.5 General discretion of the local government

Division 3—Fencing Materials

- 2.6 Pre-used fencing materials
- 2.7 Barbed wire fences
- 2.8 Prohibited fencing materials

Division 4—Tennis Court Fencing

- 2.9 Tennis court fencing

Division 5—Street Numbering

- 2.10 Assignment of street number
- 2.11 Street number to be displayed
- 2.12 Location of number not to be misleading

Division 6—Stormwater and Wastewater Disposal

- 2.13 Containment of stormwater
- 2.14 Guttering and downpipes
- 2.15 Rainwater disposal systems
- 2.16 Containment and disposal of swimming pool wastewater

PART 3—NUISANCES AND DANGEROUS MATTERS*Division 1—Outdoor Lighting*

- 3.1 Tennis court lighting
- 3.2 Outdoor and security lighting
- 3.3 Public lighting
- 3.4 Use of Exterior Lights
- 3.5 Emission or reflection of light
- 3.6 Notice may require specified action to prevent emission or reflection of light

Division 2—Unsightly Land and Disused Materials

- 3.7 Removal of refuse and disused materials
- 3.8 Removal of unsightly overgrowth of vegetation
- 3.9 Storage of vehicles and machinery
- 3.10 Disposing of disused refrigerators or similar containers

Division 3—Hazardous Plants and Trees

- 3.11 Hazardous plants and trees

Division 4—Sand Drift

- 3.12 Abatement of Sand Drift
- 3.13 Management of Sand Drift
- 3.14 Issue of a Notice

Division 5—Nuisances

- 3.15 Prevention of nuisances

Division 6—Dust

- 3.16 Abatement of Dust
- 3.17 Dust Management
- 3.18 Dust Management Plan

Division 7—Rubbish and Refuse from Building and Construction Sites

- 3.19 Responsibilities of the builder, owner or occupier
- 3.20 Provision of Refuse Receptacles or a Refuse Management Plan for a building site

PART 4—MISCELLANEOUS*Division 1—Notices*

- 4.1 Notices

Division 2—Objection and Reviews

- 4.2 Right of Appeal and Review

PART 5—ENFORCEMENT

- 5.1 Offences and penalties
- 5.2 Modified penalties
- 5.3 Form of notices

SCHEDULE 1—SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT**SCHEDULE 2—SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT****SCHEDULE 3—OFFENCES AND MODIFIED PENALTIES**

LOCAL GOVERNMENT ACT 1995

TOWN OF CAMBRIDGE

PRIVATE PROPERTY LOCAL LAW 2016

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

PART 1—PRELIMINARY

1.1 Title

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

1.2 Commencement

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

1.3 Purpose and Effect

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

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

1.4 Repeal

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

1.5 Application

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

1.6 Interpretation

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

Act means the *Local Government Act 1995*;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

dangerous in relation to any fence means—

- (a) an electrified fence;
- (b) a fence containing barbed wire, other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material;
- (d) a fence which in the opinion of the local government is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause; or
- (e) a fence that has become dangerous through lack of maintenance or repair;

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

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

district means the district of the Town of Cambridge;

disused means in relation to anything, that the thing—

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

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

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

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

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

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

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

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

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

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

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

local government means the Town of Cambridge;

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

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

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

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

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

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

nuisance means—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the nuisance;

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

occupier has the meaning given to it in the Act;

owner has the meaning given to it in the Act;

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

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

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

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

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

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

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

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

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

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

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

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

Schedule means a Schedule to this local law;

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

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

street has the same meaning as road;

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

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

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

thoroughfare has the meaning given to it in the Act;

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

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

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

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

unless the context requires otherwise.

PART 2—FENCES

Division 1—Sufficient Fences

2.1 Sufficient fence

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

Division 2—General

2.2 Fences within setback areas

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

2.3 Fences in relation to fill

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

2.4 Maintenance of fences

- (1) An owner and occupier of a lot on which a fence is erected must maintain the fence in good condition so as to prevent it from becoming dangerous, dilapidated, unsightly or prejudicial to the amenity of the locality.
- (2) Where in the opinion of an Authorised Person, a fence is in a state of disrepair or is dangerous or is otherwise in breach of a provision of this local law, an Authorised Person may give notice in writing to the owner or occupier (as the case requires) of the land on which the fence is erected, requiring the owner or occupier to modify, repair, paint, or maintain the fence within the time and in the manner specified in the notice.
- (3) A notice issued pursuant to subclause (2) may contain a condition requiring that the fence be treated with a non-sacrificial graffiti protection treatment, which protection treatment must be applied in accordance with the manufacturer's specifications.

2.5 General discretion of the local government

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

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

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

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

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

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

2.7 Barbed wire fences

(1) An owner or occupier of a Residential lot or a Commercial lot must not erect, affix to or allow to remain on any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of an Authorised Person has been obtained.

(2) Where written approval has been obtained in accordance with subclause (1), an owner or occupier must not erect, affix or allow to remain on any fence bounding that lot any barbed wire or other materials with spiked or jagged projections unless such wire or materials are carried on posts set at an angle of 45 degrees into the lot, and unless the bottom row of wire or other materials is set back 150mm from the face of the fence and is at least 2m above ground level.

2.8 Prohibited fencing materials

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

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

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

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

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

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

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

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

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

2.11 Street number to be displayed

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

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

2.12 Location of number not to be misleading

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

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

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

Division 6—Stormwater and Wastewater Disposal

2.13 Containment of stormwater

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

2.14 Guttering and downpipes

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

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

2.15 Rainwater disposal systems

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

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

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

2.16 Containment and disposal of swimming pool wastewater

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

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

PART 3—NUISANCES AND DANGEROUS MATTERS

Division 1—Outdoor Lighting

3.1 Tennis court lighting

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

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

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

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

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

3.2 Outdoor and security lighting

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

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

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

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

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

3.3 Public lighting

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

3.4 Use of Exterior Lights

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

3.5 Emission or reflection of light

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

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

(1) Where—

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

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

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

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

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

Division 2—Unsightly Land and Disused Materials

3.7 Removal of refuse and disused materials

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

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

3.8 Removal of unsightly overgrowth of vegetation

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

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

3.9 Storage of vehicles and machinery

The owner or occupier of a lot must not—

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

3.10 Disposing of disused refrigerators or similar containers

A person must not place, leave or dispose of a disused refrigerator, ice-chest, ice-box, trunk, chest or other similar article having a compartment which has a capacity of 0.04m² or more on any land without first removing every door and lid and every lock, catch and hinge attached to a door or lid, or rendering every door and lid incapable of being fastened.

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

- (1) Where a plant or tree in a lot presents a hazard, or endangers or may endanger any person or thing on an adjoining lot, thoroughfare, public place or reserve, the local government or an Authorised Person may give a notice to the owner or the occupier of the lot to remove, cut, move or otherwise deal with that plant or tree so as to remove the danger or hazard.
- (2) Where a plant or tree in a lot presents a serious and immediate danger to any person or thing in a thoroughfare, public place or reserve, the local government or an Authorised Person may take any remedial action it considers appropriate in order to make a plant or tree safe without having given the owner or occupier notice as required by Part 11 of this local law.
- (3) Any costs incurred by the local government for remedial action taken in terms of subclause (2) cannot be recovered by the local government.

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

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

3.13 Management of Sand Drift

- (1) An owner or occupier who intends, for any purposes, to undertake any works or activities involving the clearing, excavation or filling of any land or premises, and having the potential to cause sand drift release from the land or premises, must when requested by the local government—
 - (a) submit an application for approval of a Sand Management Plan, which must be lodged in a format approved by the local government; and
 - (b) obtain written approval of the Sand Management Plan before the commencement of any such works or activities.
- (2) An Authorised Person may apply to the approval of a Sand Management Plan such conditions regarding the control of dust or sand on the premises as is deemed fit.
- (3) An owner or occupier who commences any works or activities which causes any sand to be released or escape from the land or lot or to create a nuisance, without obtaining written approval for a Sand Management Plan, when requested by an Authorised Person pursuant to subclause (1), commits an offence.
- (4) If an owner or occupier fails to comply with the Sand Management Plan approval or any associated approval conditions as issued pursuant to subclause (2) or when requested to cease an activity or works which generate sand escaping from the land or lot or which causes a nuisance—
 - (a) the owner or occupier commits an offence; and
 - (b) where, as a result of that non-compliance, sand has been released from the site or causes a nuisance, the works or activity must promptly cease until the local government or an Authorised Person is satisfied that the non-compliance is rectified.

3.14 Issue of a Notice

- (1) An owner or occupier of a lot on which any sand or other material is deposited must not permit the release or escape of such sand, or other material from the land or lot, whether by means of wind, water or any other cause, so as to cause a nuisance to any adjacent lot, thoroughfare, public place or reserve.
- (2) Where the local government or an Authorised Person is of the opinion that, as a result of any activity occurring on, or likely to occur on a lot, sand, or other material may be released or escape, the local government or an Authorised Person may give a notice to the owner or occupier specifying that the activity may only occur subject to conditions specified in that notice.
- (3) Where the local government or an Authorised Person is of the opinion that as a result of wind, water or any other cause, sand, or other material may be released or escape from a lot or land, the local government or an Authorised Person may give a notice to the owner or occupier requiring that the sand, or other material be stabilised as specified in that notice.
- (4) Where sand, or other material has been released or escaped from a lot or causes a nuisance, the local government or an Authorised Person may give a notice to the owner or occupier of the lot requiring the owner or occupier to—
 - (a) clean up and remove the sand or other material;
 - (b) cease the activity causing the escape of sand;
 - (c) submit a Sand Management Plan to the local government; or
 - (d) repair or make good any damage resulting from that release or escape, within the time specified in the notice.

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

- (1) A person must not—
 - (a) engage in any undertaking or activity or conduct any business in such a manner as to cause or permit the emission of dust, fumes, light, liquid waste, odour or smoke; or

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

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

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

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

Division 6—Dust

3.16 Abatement of Dust

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

3.17 Dust Management

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

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

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

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

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

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

3.18 Dust Management Plan

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

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

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

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

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

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

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

Before commencement of—

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

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

- (1) Where a breach of any provision of this local law has occurred in relation to private property, the local government may give a notice in writing to the owner or occupier of that land or lot.
- (2) The notice must—
- (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state that the owner or occupier of the lot is required to remedy the breach within the time specified in the notice.
- (3) Should an owner or occupier of a lot fail to comply with a notice, the local government may by its employees, agents or contractors enter upon the land or lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner or occupier of the land or lot in a court of competent jurisdiction.
- (4) Any action taken in subclause (3) shall be in accordance with Part 3, Division 3, Subdivision 2 of the Act.
- (5) A person who fails to comply with a notice issued pursuant to this local law commits an offence.

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

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

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

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

PART 5—ENFORCEMENT**5.1 Offences and penalties**

- (1) A person who fails to comply with a notice of breach commits an offence and is liable upon conviction to a penalty of not less than \$500 and not exceeding \$5,000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

(2) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable to a penalty of not less than \$500 and not exceeding \$5,000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

5.2 Modified penalties

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

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

(3) Before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that—

- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

5.3 Form of notices

For the purposes of this Local Law—

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

Schedule 1

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

[Clause 2.1 (2) (a)]

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

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

Schedule 2

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT

[Clause 2.1 (2) (b)]

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

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

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

Schedule 3

OFFENCES AND MODIFIED PENALTIES

[clause 5.2]

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

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

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

Dated this 30th day of November 2016

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

KERI SHANNON, Mayor.

JASON BUCKLEY, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

TOWN OF CAMBRIDGE

TRADING IN PUBLIC PLACES LOCAL LAW 2016

CONTENTS

PART 1—PRELIMINARY

- 1.1 Title
- 1.2 Commencement
- 1.3 Purpose and Effect
- 1.4 Repeal
- 1.5 Application
- 1.6 Definitions

PART 2—TRADING IN THOROUGHFARES AND PUBLIC PLACES*Division 1—Stallholders and Traders*

- 2.1 Definitions
- 2.2 Stallholder's permit
- 2.3 Trader's permit
- 2.4 No permit required to sell newspapers
- 2.5 Relevant considerations in determining application for permit
- 2.6 Conditions of permit
- 2.7 Exemptions from requirement to pay fee
- 2.8 Conduct of stallholders and traders

Division 2—Street Entertainers

- 2.9 Definitions
- 2.10 Permit required to perform
- 2.11 Variation of permitted area and permitted time
- 2.12 Duration of permit
- 2.13 Cancellation of permit
- 2.14 Obligations of permit holder

Division 3—Outdoor Eating Facilities

- 2.15 Definitions
- 2.16 Permit required to conduct Facility
- 2.17 Matters to be considered in determining application
- 2.18 Obligations of permit holder
- 2.19 Removal of Facility unlawfully conducted
- 2.20 Use of Facility by public
- 2.21 Temporary removal of Facility may be requested

Division 4—Itinerant Food Vendors

- 2.22 Definitions
- 2.23 Itinerant Food Vendor's Permit

PART 3—PERMITS

- 3.1 Application for permit
- 3.2 Decision on application for permit
- 3.3 Conditions which may be imposed on a permit
- 3.4 Imposing conditions under a policy

- 3.5 Compliance with and variation of conditions
- 3.6 Duration of permit
- 3.7 Renewal of permit
- 3.8 Transfer of permit
- 3.9 Production of permit
- 3.10 Cancellation of permit
- 3.11 Suspension of Permit Holder Rights and Privileges
- 3.12 Planning Approval

PART 4—SECURE SUM

- 4.1 Security for Restoration and Reinstatement
- 4.2 Use by the Local Government of Secured Sum

PART 5—NOTICES AND INSURANCE

Division 1—Notices

- 5.1 Notice Requiring Works to be Done to Remedy Breach
- 5.2 Notice to Advise Permit Holder of Planned or Emergency Works
- 5.3 Serving of Notices
- 5.4 Works on Public Property

Division 2—Insurance

- 5.5 Public Liability Insurance and Indemnity

Division 3—Right of Appeal and Review

- 5.6 Right of Appeal and Review

PART 6—GENERAL

- 6.1 Persons may be directed to leave local government property
- 6.2 Disposal of lost property
- 6.3 Impounding of goods and recovery of expenses
- 6.4 Liability for damage to local government property

PART 7—ENFORCEMENT

- 7.1 Offences and Penalties
- 7.2 Modified Penalties
- 7.3 Form of Notices

SCHEDULE 1—PRESCRIBED OFFENCES

LOCAL GOVERNMENT ACT 1995

TOWN OF CAMBRIDGE

TRADING IN PUBLIC PLACES LOCAL LAW 2016

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

PART 1—PRELIMINARY

1.1 Title

This is the *Town of Cambridge Trading in Public Places Local Law 2016*.

1.2 Commencement

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

1.3 Purpose and Effect

- (1) The purpose of this local law is to provide for the regulation, control and management of outdoor eating facilities, stalls, traders and entertainers in any street or public place within the district by establishing the requirements with which persons must comply in order to undertake those activities.
- (2) The effect of this local law is to establish the requirements with which persons desiring to conduct business in the district must comply.

1.4 Repeal

- (1) The *Town of Cambridge Trading In Public Places Local Law* published in the *Government Gazette* on 22 March 2002 and all amendments thereto are hereby repealed on the day this local law comes into operation.
- (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.

1.5 Application

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

1.6 Definitions

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

Act means the *Local Government Act 1995*;

application fee means the fee payable upon lodgement of an application for a permit and which relates to the lodgement, assessment and determination of the application but does not include the permit fee;

Authorised Person means a person appointed by the local government under section of the Act, to perform any of the functions of an Authorised Person under this local law and any member of the Western Australian Police Service;

district means the district of the local government;

Food Act means the *Food Act 2008*;

food premises means a food business which is registered under the *Food Act 2008*;

Health Act means the *Health Act 1911*;

hire includes offer to hire and expose for hire;

Liquor Act means the *Liquor Control Act 1988* and includes any regulations made under that Act;

local government means the Town of Cambridge;

notice means a notice issued in accordance with Part 5 of this local law;

nuisance means—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the nuisance;

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

private property means any real property, parcel of land or lot that has a separate certificate of title, which is in private ownership or subject of a lease or agreement with a company or person enabling its use for private purposes and includes any building or structure thereon;

proprietor—

- (a) includes the owner, the occupier and any person having the management or control of any food premises; or
- (b) the holder of a licence granted under the *Liquor Control Act 1988* where the premises in question is the subject of a hotel licence, a limited hotel licence, special facility licence or a restaurant licence granted under that Act;

public place means any thoroughfare or place which the public are allowed to use, whether the thoroughfare or place is or is not on private property and includes, parklands, squares, reserves, beaches, and other lands set apart for the use and enjoyment of the public, including all lands which belong to or which are vested in or are under the care, control or management of the local government, but does not include premises on private property from which trading is lawfully conducted under a written law;

street means any highway, thoroughfare or land, otherwise used for vehicular or pedestrian traffic, and includes all the land lying between property lines, including the street verge and footpath;

street market means a collection of stalls, stands or displays erected on a street or other public place for the purpose of selling goods, wares, merchandise, or services or carrying out any other transaction;

vehicle includes every conveyance, not being a train, vessel or aircraft and every object capable of being propelled or drawn, on wheels or tracks, by any means; and

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

(2) Any other expression used in this local law and not defined herein must have the meaning given to it in the *Local Government Act 1995*, the *Local Government (Miscellaneous Provisions) Act 1960*, *Food Act 2008*, *Building Act 2011* and the *Health Act 1911*, unless the context requires otherwise.

PART 2—TRADING IN THOROUGHFARES AND PUBLIC PLACES

Division 1—Stallholders and Traders

2.1 Definitions

In this Division, unless the context requires otherwise—

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;

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
 - (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.

2.2 Stallholder's permit

- (1) A person must 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 must—
 - (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.

2.3 Trader's permit

- (1) A person must 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 must—
 - (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.

2.4 No permit required to sell newspapers

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.

2.5 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—
 - (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
 - (c) such other grounds as the local government may consider to be relevant in the circumstances of the case.

2.6 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; including—
 - (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;
- (i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;
- (j) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;
- (k) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;
- (l) the acquisition by the stallholder or trader of public liability insurance;
- (m) the lodgement of a secure sum or bond of a value determined by the local government;
- (n) the period for which the permit is valid; and
- (o) 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 authorise another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit must apply to the nominee as if he or she was the permit holder.

2.7 Exemptions from requirement to pay fee

(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.

2.8 Conduct of stallholders and traders

(1) A stallholder while conducting a stall or a trader while trading must—

- (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 which are accurate.

(2) A stallholder or trader must 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

2.9 Definitions

In this Division, unless the context requires otherwise—

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 2.10;

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.

2.10 Permit required to perform

A person must not perform in a public place without a valid permit.

2.11 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, 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.

2.12 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.

2.13 Cancellation of permit

The local government may cancel a permit if in the opinion of an Authorised Person 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 the performance otherwise constitutes a nuisance.

2.14 Obligations of permit holder

A permit holder must 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

2.15 Definitions

In this Division, unless the context requires otherwise—

Facility means an outdoor eating facility or establishment on any part of a public place in which tables, chairs and other structures are provided for the purpose of the supply of food or drink to the public or the consumption of food or drink by the public, 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 2.16.

2.16 Permit required to conduct Facility

A person must not establish or conduct a Facility without a valid permit.

2.17 Matters to be considered in determining application

In determining an application for a permit for the purpose of clause 2.16, 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 the Facility, and whether the applicant is the person conducting such food premises;
- (b) any abutting food premises are registered in accordance with the *Food Act 2008* and whether the use of the premises is permitted under the town planning scheme;
- (c) the Facility must comply with any local law made under 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 of any person at an intersection of thoroughfares; 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.

2.18 Obligations of permit holder

- (1) The permit holder for a Facility must—
- ensure that the Facility is conducted at all times in accordance with the provisions of this local law;
 - ensure that the eating area is kept in a clean and tidy condition at all times;
 - maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times; and
 - 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.

2.19 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 Authorised Person and impounded in accordance with the Act.

2.20 Use of Facility by public

- (1) A person must 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 must leave a Facility when requested to do so by the permit holder.

2.21 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 Authorised 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.

Division 4—Itinerant Food Vendors

2.22 Definitions

In this Division, unless the context requires otherwise:—

itinerant food vendor means a person who travels along the road looking for customers and who sells food from their vehicle parked temporarily on the road to customers who stop them or come to them while he is so parked;

itinerant food vendor’s permit means a permit to conduct an itinerant food vending service issued by the local government under this local law.

2.23 Itinerant Food Vendor’s Permit

- (1) An itinerant food vendor must not offer for sale or sell food unless they—
- are the holder of an itinerant food vendor’s permit issued by the Local Government under this clause; and
 - comply with any conditions to which the permit is subject.
- (2) An application seeking the issue of an itinerant food vendor’s permit must be made by the proprietor or, where there is more than one proprietor, by each proprietor; on the approved form and must be forwarded by the applicant to the local government together with the approved fee.
- (3) An application for a food vendor’s permit must be determined by the local government which may approve the application, with or without conditions, or reject the application.
- (4) A permit issued under this clause must, unless cancelled in the meantime in accordance with the provisions of the Act, be valid from the date of issue until the following 30th day of June.

PART 3—PERMITS

3.1 Application for permit

- (1) Where a person is required to obtain a permit under this local law, that person must apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law must—
- be in the form determined by the local government;
 - be signed by the applicant;
 - provide the information required by the form; and
 - be forwarded to the local government 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).

3.2 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).

3.3 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 liability insurance in an amount and on terms reasonably required by the local government;
- (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; and
- (j) the safe storage, handling, preparation, display and sale of food.

3.4 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 3.2 (1) (a).

(2) Under clause 3.2(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 3.2 (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 must 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.

3.5 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 must comply with each of those conditions.

(2) The local government may vary the conditions of a permit, and the permit holder must comply with those conditions as varied.

3.6 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 3.10.

3.7 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, must apply to an application for the renewal of a permit with all the necessary changes as required.

3.8 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 local government 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 an Authorised Person; 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.

3.9 Production of permit

A permit holder is to produce to an Authorised Person their permit immediately upon being required to do so by that Authorised Person.

3.10 Cancellation of permit

- (1) Subject to clause 5.6 a permit may be cancelled by the local government on any one or more of the following grounds—
- (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;
 - (b) the permit holder is convicted of an offence against this local law;
 - (c) the permit holder fails to maintain the required public liability insurance cover indemnifying the local government against damages; or
 - (d) 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) must 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.

3.11 Suspension of Permit Holder Rights and Privileges

- (1) The rights and privileges granted to a permit holder on the issue of a permit, must be automatically suspended, where the public liability insurance required as a condition of a permit, lapses, is cancelled or is no longer current.
- (2) The rights and privileges granted to a permit holder on the issue of a permit, may be suspended by the local government, for the purpose and duration of any works, proposed or done in or adjacent to the area subject of the permit, by or on behalf of a Government department, instrumentality of the Crown or the local government.

3.12 Planning Approval

The requirement for a permit under this local law, is additional to the requirement if any, for a planning approval.

PART 4—SECURE SUM

4.1 Security for Restoration and Reinstatement

- (1) For the purpose of ensuring that an outdoor eating facility or street market area is properly restored or reinstated, on the expiry of a permit, the local government may require that the applicant or permit holder—
- (a) as a condition of a permit; or
 - (b) before the issue of a permit; or
 - (c) before the renewal of a permit;

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.

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

4.2 Use by the Local Government of Secured Sum

(1) If a permit holder fails to carry out or complete the reinstatement works required by the permit conditions or by a notice served by the local government, either—

- (a) within the time specified in those conditions;
- (b) where no such time has been specified, a reasonable period of time from the expiration of the permit of the outdoor eating facility specified in the permit conditions; or
- (c) within 14 days or such other time as specified in the notice given by the local government to the permit holder, then—

the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work as remains undone.

(2) The permit holder must pay to the local government on demand all administrative, legal, contractor and other costs, estimated or incurred by the local government, to restore and reinstate the site or which the local government may be required to pay under this clause.

(3) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the permit holder under clause 4.1 to meet costs under this clause.

(4) The liability of a permit holder to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 4.1.

PART 5—NOTICES AND INSURANCE

Division 1—Notices

5.1 Notice Requiring Works to be Done to Remedy Breach

(1) Where the local government requires works to be done—

- (a) to rectify a breach of any provision of a permit; or
- (b) to change the arrangement or operation of an outdoor eating facility considered necessary to maintain public safety, facilitate public works to the footpath or street, or protect the amenity of an adjacent premises;
- (c) the local government may give notice in writing to the permit holder—
 - (i) advising details of the breach of the local law or works required;
 - (ii) requiring the permit holder to remedy the breach or do the works required within the time specified in the notice; and
 - (iii) advising that where the permit holder fails to comply with the requirements of the notice within the time specified, the local government may do the required work.

(2) Where the permit holder fails to comply with the requirements of the notice, the local government may by its employees, agents or contractors carry out all works and do all things necessary to comply with the requirements of the notice.

(3) The local government may recover the expenses incurred in carrying out the works in accordance with subclause (2)—

- (a) as a charge against the secured sum lodged for the purpose in accordance with clause 4.1; or
- (b) from the permit holder in a court of competent jurisdiction.

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

5.2 Notice to Advise Permit Holder of Planned or Emergency Works

(1) The local government must give 7 days notice of any planned works to be undertaken by the local government, that will require closure, part closure or access to an outdoor eating facility or street market location, approved in accordance with this local law.

(2) Where the local government is to carry out emergency works in an outdoor eating facility or street market location, there must be no specified time for the giving of notice of the works to the permit holder, other than that which is considered reasonable under the circumstances.

(3) A notice referred to in subclauses (1) and (2) must be served in accordance with clause 5.3.

(4) The permit holder must not have any claim for compensation or damages as a result of any disruption to business or loss incurred due to any works, actions or activity whatsoever referred to in subclauses (1) and (2) and all rights and privileges granted by the permit must be suspended in accordance with clause 3.11 (2).

5.3 Serving of Notices

Notices served under this local law are to be delivered to the permit holder personally, or sent by mail addressed to the permit holder.

5.4 Works on Public Property

A person must not carry out any works of a structural nature, within the street or public place without first obtaining written permission from the local government, in accordance with Regulation 17 of the *Local Government (Uniform Local Provisions) Regulations 1996*.

*Division 2—Insurance***5.5 Public Liability Insurance and Indemnity**

(1) Where, as a condition of a permit, the applicant, permit holder or the property owner is required to provide a public liability insurance policy, indemnifying the local government against all actions, suits, claims, damages, losses and expenses made against or incurred by the local government arising from any activity, action or thing performed or erected in accordance with the permit and keep that insurance policy current for the duration of the permit or at all times, the permit or approval holder or the property owner must—

- (a) enter into an agreement with the local government to provide and maintain the required public liability insurance protection;
- (b) take out a public liability insurance policy in the name of the permit holder for a minimum value of 10 million dollars or such other amount as the local government considers appropriate to the risk and liability involved;
- (c) include a clause in the policy which prevents the policy from being cancelled without the written consent of the local government;
- (d) include a clause in the policy which requires the insurance company to advise the local government if the policy lapses, is cancelled or is no longer in operation;
- (e) on the request of an Authorised Person, provide for inspection, a certificate of currency for the required insurance policy.

(2) A permit holder or a property owner who refuses or cannot provide a current certificate of insurance 14 days prior to the commencement of any activity, action or thing performed or erected in accordance with the permit, as requested in accordance with subclause (1) commits an offence.

*Division 3—Right of Appeal and Review***5.6 Right of Appeal and Review**

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, or
- (c) give a person a notice,

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

PART 6—GENERAL**6.1 Persons may be directed to leave local government property**

An Authorised Person may direct a person to leave local government property or a local government building where the Authorised Person reasonably suspects that the person has contravened a provision of any written law.

6.2 Disposal of lost property

(1) An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by the local government in any manner it thinks fit.

(2) Neither the local government nor any local government employee or any Authorised Person must in any way be responsible for any articles or money lost, stolen, damaged or destroyed whilst on or in any local government property or building.

6.3 Impounding of goods and recovery of expenses

The local government may—

- (a) impound goods in accordance with regulation 29 of the *Local Government (Functions and General) Regulations 1996*, and
- (b) withhold impounded or confiscated goods until costs are paid, dispose of impounded, confiscated or uncollected goods and recover impounding fees, in accordance with sections 3.46, 3.47 and 3.48 of the Act.

6.4 Liability for damage to local government property

(1) Where a person unlawfully damages local government property, the local government may by notice in writing to that person require that person within the time required in the notice to, at the option of the local government, pay the costs of—

- (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
- (b) replacing that property.

(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 caused the damage, the person was the person responsible, at the time the damage occurred, for the control of the vehicle; or

- (b) the damage occurred under a permit or approval, the person responsible is the permit or approval holder in relation to that permit.
- (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 7—ENFORCEMENT

7.1 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 this local law must be liable, upon conviction, to a penalty not less than \$500 and 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.

7.2 Modified Penalties

- (1) An offence against a clause specified in Schedule 1 of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in schedule 1.
- (3) Before giving an infringement notice to a person in respect of the commission of a prescribed offence, an Authorised Person should be satisfied that—
- commission of the prescribed offence is a relatively minor matter; and
 - 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.

7.3 Form of Notices

For the purposes of this local law—

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

Schedule 1 PRESCRIBED OFFENCES

[clause 7.2]

Item No.	Clause No.	Nature of offence	Modified Penalty \$
1.	2.2(1)	Conducting of a stall in public place without a valid permit	500
2.	2.3(1)	Trading without a valid permit	500
3.	2.8(1)(a)	Failing of stallholder or trader to display or carry permit	250
4.	2.8(1)(b)	Stallholder or trader not displaying a valid permit	250
5.	2.8(1)(c)	Stallholder or trader not carrying accurate scales when selling goods by weight	250
6.	2.8(2)	Stallholder or trader engaged in prohibited conduct	500
7.	2.10	Performing in a public place without a valid permit	250
8.	2.11(2)	Failing of a performer to move onto another area when directed	250
9.	2.14	Failing of a performer to comply with obligations	250
10.	2.16	Establishment or conduct of a Facility without a valid permit	500
11.	2.18	Permit holder of a Facility failing to comply with obligations	250
12.	2.20(1)	Use of a chair or equipment in a Facility without purchase of food or drink from facility	250
13.	2.20(2)	Failing to leave a Facility when requested to do so by permit holder	250
14.	2.23(1)(a)	Offering food for sale or selling food by an itinerant food vendor without a permit	500
15.	3.5(1)	Failing to comply with a condition of a permit	500

Item No.	Clause No.	Nature of offence	Modified Penalty \$
16.	5.1(4)	Failing to comply with requirements of a notice	500
17.	7.1	Other offences not specified	250

Dated this 30th day of November 2016.

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

KERI SHANNON, Mayor.
JASON BUCKLEY, Chief Executive Officer.

**WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
LOCAL GOVERNMENT ACT 1995**

TOWN OF CAMBRIDGE

WASTE LOCAL LAW 2016

CONTENTS

PART 1—PRELIMINARY

- 1.1 Short title
- 1.2 Commencement
- 1.3 Application
- 1.4 Interpretation
- 1.5 Local public notice of determinations
- 1.6 Rates, fees and charges
- 1.7 Power to provide waste services

PART 2—LOCAL GOVERNMENT WASTE

- 2.1 Supply of receptacles
- 2.2 Deposit of waste in receptacles
- 2.3 General waste receptacles
- 2.4 Recycling waste receptacles
- 2.5 Organic waste receptacles
- 2.6 Direction to place or remove a receptacle
- 2.7 Duties of owner or occupier
- 2.8 Exemption
- 2.9 Damaging or removing receptacles
- 2.10 Verge collections

PART 3—GENERAL DUTIES

- 3.1 Duties of an owner or occupier
- 3.2 Removal of waste from premises
- 3.3 Receptacles and containers for public use

PART 4—ENFORCEMENT

- 4.1 Offences and general penalty
- 4.2 Other costs and expenses
- 4.3 Prescribed offences
- 4.4 Form of notices

SCHEDULE 1—MEANING OF ‘NON-COLLECTABLE WASTE’

SCHEDULE 2—PRESCRIBED OFFENCES

**WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
LOCAL GOVERNMENT ACT 1995**

TOWN OF CAMBRIDGE

WASTE LOCAL LAW 2016

Under the powers conferred on it by the *Waste Avoidance and Resource Recovery Act 2007* and the *Local Government Act 1995* and under all other enabling powers, the Council of the Town of Cambridge resolved on 23 November 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Short title

This is the *Town of Cambridge Waste Local Law 2016*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Interpretation

(1) In this local law—

authorised person means a person appointed by the local government under section 9.10 of the LG Act to perform any of the functions of an Authorised Person under this local law;

bulk waste means solid waste that may require special handling and management, and which by reason of its bulk, shape, or weight cannot be placed in a container or bundled and includes, but is not limited to, furniture, mattresses, refrigerators, washing machines and clothes dryers;

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;

collectable waste means local government waste that is not—

- (a) liquid refuse;
- (b) liquid waste; or
- (c) non-collectable waste;

collectable waste receptacle means a receptacle for the deposit and collection of collectable waste that is—

- (a) a recycling waste receptacle;
- (b) a general waste receptacle; or
- (c) an organic waste receptacle;

collection when used in relation to a receptacle, means the collection and removal of collectable waste from the receptacle by the local government or its contractor;

collection day means the day determined by the local government for the collection of collectable waste in the district or a part of the district;

collection time means the time on the collection day determined by the local government for the collection of collectable waste in the district or a part of the district;

commercial purpose means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit;

costs of the local government include administrative costs;

Council means the council of the local government;

cycleway means a path, lane or way which is specifically designed and /or designated for bicycle use;

district means the district of the local government;

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;

general waste receptacle means a receptacle for the deposit and collection of collectable waste that is not recycling waste;

green waste means vegetative material as approved by the local government;

LG Act means the *Local Government Act 1995*;

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

local government means the Town of Cambridge;

local government waste has the same meaning as in the WARR Act;

non-collectable waste has the meaning set out in Schedule 1;

occupier in relation to premises, means any or all of the following—

- (a) a person by whom or on whose behalf the premises are actually occupied; or
- (b) a person having the management or control of the premises;

organic waste means waste that decomposes readily, such as garden waste or food waste;

organic waste receptacle means a receptacle for the deposit and collection of organic waste ;

owner has the same meaning as in the LG Act;

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

receptacle means a receptacle—

- (a) that has been supplied for the use of the premises by the local government or its contractor, or which has otherwise been approved by the local government; and
- (b) the waste from which is collected and removed from the premises by the local government or its contractor;

recycling waste receptacle means a receptacle for the deposit and collection of recycling waste;

recycling waste means—

- (a) paper and cardboard;
- (b) plastic containers comprised of polyethylene terephthalate or high density polyethylene;
- (c) glass containers;
- (d) steel containers;
- (e) aluminium containers;
- (f) liquid paper board; and
- (g) any other waste determined by the local government to be recycling waste;

right of way means a portion of land that is—

- (a) shown and marked 'Right of Way' or 'R.O.W', or coloured or marked in any other way to signify that the portion of land is a right of way, on any plan or diagram deposited with the Registrar of Titles that is subject to the provisions of section 167A of the *Transfer of Land Act 1893*;
- (b) shown on a diagram or plan of survey relating to a subdivision that is created as a right of way and vested in the Crown under section 152 of the *Planning and Development Act 2005*; or
- (c) shown and marked as a right of way on a map or plan deposited with the Registrar of Titles and transferred to the Crown under the *Transfer of Land Act 1893*, but does not include—
 - (i) private driveway; or
 - (ii) a right of way created by easement between two parties;

schedule means a Schedule to this local law;

specified means specified by the local government or an Authorised Person, as the case may be;

street alignment means the boundary between the land comprising a street and the land that abuts the street;

vector of disease means an insect, arthropod or rodent that transmits, by biological or mechanical means, an infectious agent from a source or reservoir to a person and includes—

- (a) flies (any of the two-winged insects constituting the order *Diptera*);
- (b) mosquitoes (any of the insects constituting the family *Diptera culicidae*); and
- (c) any other insect prescribed by the *Health Act 1911*;

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, where the context permits, an animal being driven or ridden;

WARR Act means the *Waste Avoidance and Resource Recovery Act 2007*;

waste has the same meaning as in the WARR Act;

waste facility means a waste facility, as defined in the WARR Act, that is operated by the local government; and

waste service has the same meaning as in the WARR Act.

(2) Where, in this local law, a duty or liability is imposed on an owner or occupier, or on an owner and occupier, the duty or liability is taken to be imposed jointly and severally on each of the owners or occupiers.

1.5 Local public notice of determinations

Where, under this local law, the local government has a power to determine a matter—

- (a) local public notice, under section 1.7 of the LG Act, must be given of the matter determined;
- (b) the determination becomes effective only after local public notice has been given;
- (c) the determination remains in force for the period of one year after the date that local public notice has been given under paragraph (a);
- (d) after the period referred to in paragraph (c), the determination continues in force only if, and for so long as, it is the subject of local public notice, given annually, under section 1.7 of the LG Act; and
- (e) the determination must be recorded in a publicly accessible register of determinations that must be maintained by the local government.

1.6 Rates, fees and charges

The local government's powers to impose rates, fees and charges in relation to waste services are set out in sections 66 to 68 of the WARR Act and section 6.16 and 6.17 of the LG Act.

1.7 Power to provide waste services

The local government's power to provide or enter into a contract for the provision of waste services is dealt with in section 50 of the WARR Act.

PART 2—LOCAL GOVERNMENT WASTE

2.1 Supply of receptacles

(1) The local government is to supply, for the use of each premises that are, or are capable of being, occupied or used for residential purposes, one or more receptacles for the collection and removal, from those premises, of collectable waste.

(2) The owner of premises to which subclause (1) applies must take all reasonable steps to—

- (a) ensure that the fee or charge (if any) imposed by the local government in relation to each receptacle is paid to the local government; and
- (b) ensure that each receptacle is used, in respect of those premises, in accordance with this local law.

2.2 Deposit of waste in receptacles

(1) An owner or occupier of premises must not deposit or permit to be deposited in a receptacle any non-collectable waste.

(2) A person must not deposit waste in a receptacle that has been provided for the use of other premises without the consent of the owner or occupier of those premises.

2.3 General waste receptacles

(1) An owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle—

- (a) where the receptacle has a capacity of 120 litres or 240 litres—more than 70 kilograms of collectable waste; or
- (b) where the receptacle has any other capacity—more than the weight determined by the local government.

(2) Where the local government supplies recycling waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any recycling waste.

(3) Where the local government supplies organic waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any organic waste.

2.4 Recycling waste receptacles

An owner or occupier of premises must not deposit or permit to be deposited in a recycling waste receptacle—

- (a) anything other than the particular type of recycling waste for which that receptacle was provided by the local government for those premises;

- (b) where the receptacle has a capacity of 240 or 360 litres—more than 70 kilograms of recycling waste; or
- (c) where the receptacle has any other capacity—more than the weight determined by the local government.

2.5 Organic waste receptacles

An owner or occupier of premises must not deposit or permit to be deposited in an organic waste receptacle—

- (a) anything other than the particular type of organic waste for which that receptacle was provided by the local government for those premises;
- (b) where the receptacle has a capacity of 240 litres—more than 70 kilograms of organic waste; or
- (c) where the receptacle has any other capacity—more than the weight determined by the local government.

2.6 Direction to place or remove a receptacle

(1) The local government or an Authorised Person may give a written direction to an owner or occupier of specified premises—

- (a) to place a receptacle in respect of those premises for collection; or
- (b) to remove a receptacle in respect of those premises after collection.

(2) The direction under subclause (1) may specify when the placement or removal is to occur, or where the receptacle is to be placed, or both.

(3) An owner or occupier of premises must comply with a direction given under this clause.

2.7 Duties of owner or occupier

(1) For the purposes of this clause, a 'reasonable period' means on the evening prior to collection day or on collection day.

(2) An owner or occupier of premises must—

- (a) except for a reasonable period before and after collection time, keep each receptacle in a storage space or area that is behind the street alignment;
- (b) if a receptacle requires to be emptied of waste, take reasonable steps, to place a receptacle for collection on the verge adjoining the premises, or other area as determined by the local government, to ensure that, within a reasonable period before collection time, each receptacle is—
 - (i) within 1 metre of the carriageway;
 - (ii) placed so that it does not unduly obstruct any footpath, cycle way, right-of-way or carriageway; and
 - (iii) facing squarely to the edge of and opening towards the carriageway,or in such other position as is approved in writing by the local government or an Authorised Person;
- (c) take reasonable steps to ensure that the premises are provided with an adequate number of receptacles; and
- (d) if the receptacle is lost, stolen, damaged or defective, notify the local government, as soon as practicable, after the event.

2.8 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 subclause 2.7(a) or (b).

(2) The local government or an Authorised Person may grant, with or without conditions, or refuse an application for exemption from compliance under this clause.

(3) An exemption granted under this clause must 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 or the Authorised Person.

(4) An exemption granted under this clause ceases to apply—

- (a) if the local government decides, on reasonable grounds, that there has been a failure to comply with a condition of the exemption; and
- (b) from the date that the local government informs the owner or occupier of its decision under subclause 2.8(4)(a).

2.9 Damaging or removing receptacles

A person, other than the local government or its contractor, must not—

- (a) damage or destroy a receptacle; or
- (b) except as permitted by this local law or as authorised by the local government or an Authorised Person, remove a receptacle from any premises to which it was delivered by the local government or its contractor.

2.10 Verge collections

(1) Where the local government has advertised a verge waste collection (such as a green waste, or a bulk waste verge collection) a person, unless with and in accordance with the approval of the local government or an Authorised Person—

- (a) must deposit waste only during the period of time, and in accordance with other terms and conditions, as advertised by the local government in relation to that verge waste collection; and
- (b) must otherwise comply with those terms and conditions.

(2) Where waste has been deposited on a verge for a verge waste collection, a person must not remove any of that waste for a commercial purpose but may remove it for any other purpose.

(3) Except where waste is lawfully removed from a verge under this clause, a person must not disassemble or tamper with any waste deposited on a verge for a verge waste collection so as to increase the risk of harm to any person.

(4) Subclause (2) does not apply to the local government or a person engaged or contracted by the local government in relation to the verge waste collection.

PART 3—GENERAL DUTIES

3.1 Duties of an owner or occupier

An owner or occupier of premises must—

- (a) take reasonable steps to ensure that a sufficient number of receptacles are provided to contain all waste which accumulates or may accumulate in or from the premises;
- (b) take reasonable steps to ensure that each receptacle is kept in good condition and repair;
- (c) take all reasonable steps to—
 - (i) prevent fly breeding and keep each receptacle free of flies, maggots, cockroaches, rodents and other vectors of disease;
 - (ii) prevent the emission of offensive or noxious odours from each receptacle; and
 - (iii) ensure that each receptacle does not cause a nuisance to an occupier of adjoining premises; and
- (d) whenever directed to do so by the local government or an Authorised Person, thoroughly clean, disinfect, deodorise and apply a residual insecticide to each receptacle.

3.2 Removal of waste from premises

(1) A person must not remove any waste 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 or an Authorised Person.

(2) A person must not remove any waste from a receptacle without the approval of—

- (a) the local government or an Authorised Person; or
- (b) the owner or occupier of the premises at which the receptacle is ordinarily kept.

3.3 Receptacles and containers for public use

A person must not, without the approval of the local government or an Authorised Person—

- (a) deposit household, commercial or other waste from any premises on or into; or
- (b) remove any waste from,

a receptacle provided for the use of the general public in a public place.

PART 4—ENFORCEMENT

4.1 Offences and general penalty

(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 a person is prohibited from doing, commits an offence.

(2) A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to a further penalty not exceeding \$500 in respect of each day or part of a day during which the offence has continued.

4.2 Other costs and expenses

(1) A person who is convicted of an offence under this local law is to be liable, in addition to any penalty imposed under clause 4.1(2), to pay to the local government the costs and expenses incurred by the local government in taking remedial action such as—

- (a) removing and lawfully disposing of toxic, hazardous or poisonous waste; or
- (b) making good any damage caused to a waste facility.

(2) The costs and expenses incurred by the local government are to be recoverable, as a debt due to the local government, in a court of competent civil jurisdiction.

4.3 Prescribed offences

(1) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 9.16(1) of the LG Act.

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

4.4 Form of notices

(1) Where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the LG Act is that of Form 1 in Schedule 1 of the LG Regulations;

(2) The form of the infringement notice given under section 9.16 of the LG Act is that of Form 2 in Schedule 1 of the LG Regulations; and

(3) The form of the infringement withdrawal notice given under section 9.20 of the LG Act is that of Form 3 in Schedule 1 of the LG Regulations.

Schedule 1

MEANING OF 'NON-COLLECTABLE WASTE'

[clause 1.4]

“non-collectable waste” means—

- (a) hot or burning material;
- (b) household hazardous waste, including paint, acids, alkalis, fire extinguishers, solvents, pesticides, oils, gas cylinders, batteries, chemicals and heavy metals;
- (c) any other hazardous material, such as radioactive waste;
- (d) any explosive material, such as flares or ammunition;
- (e) electrical and electronic equipment;
- (f) hospital, medical, veterinary, laboratory or pathological substances;
- (g) construction or demolition waste;
- (h) sewage;
- (i) ‘controlled waste’ for the purposes of the *Environmental Protection (Controlled Waste) Regulations 2004*;
- (j) any object that is greater in length, width, or breadth than the corresponding dimension of the receptacle or that will not allow the lid of the receptacle to be tightly closed;
- (k) waste that 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 and leak-proof container; and
- (l) any other waste determined by the local government to be non-collectable waste.

Schedule 2

PRESCRIBED OFFENCES

[clause 4.3]

No.	Clause No.	Description	Modified Penalty \$
1.	2.1(2)(a)	Failing to pay fee or charge	250
2.	2.1(2)(b)	Failing to ensure lawful use of receptacle	250
3.	2.2(1)	Depositing non-collectable waste in a receptacle	250
4.	2.2(2)	Depositing waste in another receptacle without consent	250
5.	2.3(1)(a) and (b)	Exceeding weight capacity of a general waste receptacle	250
6.	2.4(b) and (c)	Exceeding weight capacity of a recycling waste receptacle	250
7.	2.5(b) and (c)	Exceeding weight capacity of an organic waste receptacle	250
8.	2.6(3)	Failing to comply with a direction concerning placement or removal of a receptacle	250
9.	2.7(2)(a)	Failing to keep a receptacle in the required location	250
10.	2.7(2)(b)	Failing to place a receptacle for collection in the prescribed position	250
11.	2.7(2)(c)	Failing to provide a sufficient number of receptacles	250
12.	2.7(2)(d)	Failing to notify of a lost, stolen, damaged or defective receptacle	100

No.	Clause No.	Description	Modified Penalty \$
13.	2.9(a)	Damaging or destroying a receptacle	250
14.	2.9(b)	Removing a receptacle from premises	250
15.	2.10(1)	Failing to comply with a term or condition of verge waste collection	250
16.	2.10(2)	Removing waste for commercial purposes	250
17.	2.10(3)	Disassembling or tampering with waste deposited for collection	250
18.	3.1(a)	Failing to provide a sufficient number of receptacles	250
19.	3.1(b)	Failing to keep a receptacle clean and in good condition and repair	250
20.	3.1(c)(i)	Failing to prevent fly breeding and vectors of disease in a receptacle	250
21.	3.1(c)(ii)	Failing to prevent the emission of offensive odours from a receptacle	250
22.	3.1(c)(iii)	Allowing a receptacle to cause a nuisance	250
23.	3.1(d)	Failing to comply with a direction to clean, disinfect or deodorise receptacle	250
24.	3.2(1)	Unauthorised removal of waste from premises	250
25.	3.2(2)	Removing waste from a receptacle without approval	250

Dated this 30th day of November 2016.

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

KERI SHANNON, Mayor.
JASON BUCKLEY, Chief Executive Officer.

Consented to—

JASON BANKS, Director General,
Department of Environment Regulation.

15 November 2016.
