



**WESTERN
AUSTRALIAN
GOVERNMENT**
Gazette

ISSN 1448-949X (print)

ISSN 2204-4264 (online)

PRINT POST APPROVED PP665002/00041



PERTH, WEDNESDAY, 25 JANUARY 2017 No. 24 SPECIAL

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

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HEALTH ACT 1911
LOCAL GOVERNMENT ACT 1995

SHIRE OF KULIN

HEALTH LOCAL LAW 2016

**ANIMALS, ENVIRONMENT
AND NUISANCE LOCAL
LAW 2016**

**HEALTH ACT 1911
LOCAL GOVERNMENT ACT 1995**

SHIRE OF KULIN

HEALTH LOCAL LAW 2016

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**HEALTH ACT 1911
LOCAL GOVERNMENT ACT 1995**

SHIRE OF KULIN

HEALTH LOCAL LAW 2016

Under the powers conferred by section 342 of the *Health Act 1911*, subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Kulin resolved on the 18th day of May in the year 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Kulin Health Local Law 2016*.

1.2 Repeal

The *Shire of Kulin Health Local Laws 1998* as published in the *Government Gazette* No. 194 on 29 September 1998 is repealed.

1.3 This local law comes into operation on the same day it is published in the *Government Gazette*.

1.4 This local law applies throughout the district.

1.5 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;

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

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

AS/NZS 1530.3: 1999 means the standard published by Standards Australia as AS/NZS 1530.3: 1999 as amended from time to time and called “Methods for fire tests on building materials, components and structures—Simultaneous determination of ignitability, flame propagation, heat release and smoke release”;

AS 1668.2—2012 means the standard published by Standards Australia as AS 1668.2—2012 as amended from time to time and called “The use of ventilation and air-conditioning in buildings—Ventilation design for indoor air contaminant control”;

AS 2001.5.4—2005 means the standards published by Standards Australia as AS 2001.5.4—2005 as amended from time to time and called “Methods of tests for textiles—Dimensional change—Domestic washing and drying procedures for textile testing (ISO 6330:2000, MOD).”;

AS/NZS 3666.2:2011 means the standard published by Standards Australia as AS/NZS 3666.2:2011 as amended from time to time and called “Air-handling and water systems of buildings—Microbial control—Operation and maintenance”;

AS/NZS ISO 717.1: 2004 means the standard published by Standards Australia as AS/NZS ISO 717.1: 2004 as amended from time to time and called “Acoustics—Rating of sound insulation in buildings and of building elements—Airborne sound insulation”;

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;

Chief Executive Officer means the Chief Executive Officer of the Shire of Kulin and includes the Acting Chief Executive Officer;

district means the district of the local government;

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

Energy Safety WA means the Energy Safety division of the Department of Commerce;

Environmental Health Officer means an Environmental Health Officer appointed by the local government under the Act 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;
- (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;

local government means the Shire of Kulin;

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

local planning scheme means the Shire of Kulin Local Planning Scheme adopted by the local government from time to time and has approval so granted by the Minister for Planning and as defined pursuant to section 4, part 1 of the *Planning and Development Act 2005*;

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

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

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

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

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

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

townsite means all townsites within the district which are—

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

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

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

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

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

(3) Where under this local law an act is required to be done or forbidden to be done in relation to any premises, the owner or occupier of 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

Division 1—Sanitary conveniences

2.1 Interpretation

In this Part, unless the context otherwise requires—

festival includes a fair, function or event;

organiser means a person—

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

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

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

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

urinal may be—

- (i) an individual stall or wall-hung urinal; or

- (ii) each 600mm length of a continuous urinal trough; or
- (iii) a closet pan used in place of a urinal.

2.2 Dwelling house

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

2.3 Premises other than a dwelling house

- (1) The owner of premises other than a dwelling house shall not use or occupy, or permit to be used or occupied, premises other than a dwelling house, unless—
 - (a) the premises have toilets in accordance with the Building Code and this Part;
 - (b) the toilets required by this clause are situated within 90m of the premises and are easily accessible to the persons for whom they are provided; and
 - (c) the premises have hand wash basins—
 - (i) in accordance with the Building Code;
 - (ii) for the use of persons employed or engaged on the premises;
 - (iii) provided with an adequate supply of water supplied by taps located over each hand wash basin;
 - (iv) separate from any trough, sink or basin used in connection with any process carried out on the premises; and
 - (v) situated with or adjacent to the sanitary conveniences and easily accessible to the person for whom they are provided.
- (2) The occupier of premises other than a dwelling house shall ensure that—
 - (a) clean toilet paper is available at all times in each cubicle;
 - (b) a sanitary napkin disposal facility is provided in each toilet set aside for the use of females; and
 - (c) each hand wash basin is provided with—
 - (i) an adequate supply of soap or other hand cleaning substances; and
 - (ii) hand drying facilities, situated adjacent to and visible from the hand wash basin.

2.4 Outdoor festivals

- (1) The organiser of an outdoor event must provide sanitary conveniences in accordance with the recommendations contained within the Department of Health *'Guidelines for concerts, events and organised gatherings'*; and
- (2) Where, under subclause (1), the number of a particular sanitary convenience to be provided is not a whole number, that number shall be rounded up to the next higher whole number.
- (3) When portable chemical type units or effluent holding tanks are used for events longer than 4 hours, they must be located so that they can be pumped out during the event.
- (4) At least 1 unisex toilet for use by a person with a disability is required for each venue.
- (5) The organiser of an outdoor festival, at which more than 5 000 people are expected to attend, shall provide temporary sanitary conveniences of a number as directed by the Environmental Health Officer.

2.5 Toilets

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

2.6 Temporary works

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

2.7 Maintenance of sanitary conveniences and fittings

- (1) The occupier of premises shall—
 - (a) keep clean, in good condition and repair; and
 - (b) whenever required by an Environmental Health Officer, effectively disinfect and clean, all sanitary conveniences including sanitary fittings in or on the premises.

(2) The owner of premises shall—

- (a) keep or cause to be kept in good repair; and
- (b) maintain an adequate supply of water to,

all sanitary conveniences including sanitary fittings in or on the premises.

2.8 Ventilation of toilets

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

- (a) mechanically ventilated to the external air, through a fully enclosed duct at a minimum rate of 25 litres per second per fixture, but in no case less than 10 air changes per hour; or
- (b) naturally ventilated to the external air by the provision of—
 - (i) fixed and permanently ventilated windows or skylights;
 - (ii) fixed glazed louvered windows; or
 - (iii) wall or ceiling vents, ducted as direct to the outside air as is practical and boxed throughout,

situated in both the room in which the toilet is located and any adjacent airlock.

(2) A mechanical ventilation system provided under subclause (1)(a) shall—

- (a) be separate and distinct from any other system of mechanical ventilation in the building;
- (b) be of an exhaust type;
- (c) where it is provided for a building of more than 2 storeys, have a ventilating fan and power unit in duplicate; and
- (d) be maintained in good working order and condition.

(3) A natural ventilation system provided under subclause (1)(b) shall have—

- (a) a clear ventilation area of not less than 0.015 square metres per fixture; and
- (b) a window of light transmitting area equivalent to not less than ten percent of the floor area.

(4) A toilet with an entrance opening from—

- (a) a room used for the manufacture, storage or consumption of food;
- (b) a room used for sleeping or other domestic activities; or
- (c) a room used as a work place,

shall be mechanically ventilated as required by subclause (1)(a) and the entrance shall be fitted with a door having an efficient self closing device.

2.9 Public sanitary conveniences

(1) A person shall not—

- (a) foul;
- (b) damage or vandalise; or
- (c) write on or otherwise deface,

a public convenience or sanitary fixtures or fittings or the premises in or on which the sanitary convenience is located.

(2) A person shall not live or sleep in the premises in which a public sanitary convenience is located or use it for a purpose other than that for which it was intended.

2.10 Lighting

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

2.11 Installation

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

Division 2—Bathroom, laundries and kitchens

2.12 Bathrooms

(1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a bathroom that—

- (a) is adequately lined with an impervious material and has an adequate ceiling;
- (b) complies with the *Health Act (Laundries and Bathrooms) Regulations*; and
- (c) is equipped with—
 - (i) a hand wash basin; and
 - (ii) either a shower in a shower recess or a bath.

(2) All baths, showers, hand wash basins and similar fittings shall be provided with an adequate supply of hot and cold water.

2.13 Laundries

- (1) A laundry must conform to the provisions of the Building Code.
- (2) Where in any building, a laundry is situated adjacent to a kitchen or a room where food is stored, prepared, served or consumed, the laundry shall be separated from the kitchen by a wall extending from the floor to the roof or ceiling.
- (3) Where there is an opening between a laundry and a kitchen or other room where food is stored, prepared, served or consumed, the opening shall—
 - (a) not be more than 1.2 metres wide; and
 - (b) have a door, which when closed shall completely fill the opening.

2.14 Washing or keeping of clothes in kitchens

A person shall not in any kitchen or other place where food is kept—

- (a) wash or permit to be washed any clothing or bedding; or
- (b) keep or permit to be kept any soiled clothing or bedding.

2.15 Kitchens

- (1) In this clause, **a cooking facility** includes a stove, oven, facility or appliance used for or in connection with the cooking of food.
- (2) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a kitchen equipped with—
 - (a) an electric, gas, wood or other fuel burning stove;
 - (b) an oven with a capacity of not less than 0.005 cubic metres per person usually accommodated in the house with a minimum capacity of 0.03 cubic metres; and
 - (c) a sink which shall—
 - (i) be at least 380 millimetres long, 300 millimetres wide and 150 millimetres deep; and
 - (ii) have an adequate supply of hot and cold water.
- (3) The occupier of a dwelling house shall ensure that the stove, oven and sink are kept clean, in good order and repair and fit for use.
- (4) A cooking facility shall—
 - (a) be installed in accordance with the requirements of Energy Safety WA and the manufacturer's specifications of the product; and
 - (b) not be installed or used in any room other than a kitchen.
- (5) Mechanical extraction shall be provided in a kitchen and the exhaust air shall be—
 - (a) carried to the outside air as directly as practicable; and
 - (b) boxed throughout.
- (6) Mechanical extraction shall be maintained in good working order and condition.

PART 3—HOUSING AND GENERAL

Division 1—Maintenance of houses

3.1 Dwelling house maintenance

The owner or occupier of a dwelling shall maintain the dwelling house and any adjacent buildings on the premises in sound condition and fit for use and, in particular, shall—

- (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 veranda, 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 destroying 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 *Country Areas Water Supply Act 1947* and 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 all relevant public authorities.

3.2 Guttering and downpipes

(1) Unless approved by the local government, the owner of a house shall not use or occupy, or permit to be used or occupied, a house unless—

- (a) the house is provided with adequate guttering, downpipes and drains sufficient to receive normal intensities of rainwater flowing into them and for the rain water to be effectively disposed of to the satisfaction of an Environmental Health Officer;
- (b) the guttering and downpipes are fixed to the eaves of the house so that all normal intensities of rain water flowing from the roof shall be received by such guttering and downpipes;
- (c) all downpipes from guttering are connected so as to discharge into drains, which shall empty into a soak well, or other suitable storm water system or rainwater tanks;
- (d) each soak well is located at least 1.8 metres from any building and at least 1.8 metres from the boundary of the block; and
- (e) any rainwater from any downpipe is not discharged onto any unpaved surface of land within 1.8 metres of any house.

3.3 Maintenance of guttering and downpipes and disposal of rainwater

The owner or occupier of a house shall—

- (a) maintain all guttering, downpipes and drains on the premises in a good state of repair, clean and free from obstructions; and
- (b) not permit any guttering, downpipes, or drains on the premises to discharge rainwater onto or over a footpath, or other property that is in separate ownership.

Division 2—Ventilation of houses

3.4 Exemption for short term hostels and recreational campsites

This Division shall not apply to short term hostels and recreational campsites referred to in Division 2 of Part 8.

3.5 Overcrowding

The owner or occupier of a house shall not permit—

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

3.6 Calculated sufficient space

For the purpose of clause 3.5, in calculating the space required for each person—

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

3.7 Ventilation

(1) A person shall 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 shall be deemed to be properly ventilated if it complies with the Building Code, including the provision of—

- (a) natural ventilation; or
- (b) a mechanical ventilation or air-conditioning system complying with AS1668.2: 2002.

(3) The owner of a house provided with mechanical ventilation or an air-conditioning system shall ensure that the system is—

- (a) maintained in good working condition and in accordance with AS/NZS 3666.2: 2011; 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 shall comply with a notice under subclause (4).

3.8 Sub-floor ventilation

The owner or occupier of a house shall make provision for sub-floor ventilation by ensuring that air bricks and other openings are kept clean of refuse, vegetation, building materials, dirt and the like.

*Division 3—Water supply***3.9 Water supply**

(1) The owner of a house shall ensure that it 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.

(2) The water supply shall at all times deliver an adequate supply of drinking water to each tap in the house.

(3) The water supply to toilets, or for garden use may be from an alternative source, not necessarily drinking water.

3.10 Rain water tanks

The owner or occupier of a house where part of the water supply is drawn from a rain water tank shall—

- (a) maintain in a clean condition—
 - (i) the roof forming the catchment for the tank; and
 - (ii) the guttering and downpipes appurtenant to the roof;
- (b) ensure that each rain water tank is fitted with a tight-fitting mosquito proof cover which shall not be removed at any time except for the purpose of cleaning, repairing or maintaining the tank;
- (c) at least annually inspect any tank which is used to store water for human consumption;
- (d) ensure the tank is maintained in a clean and hygienic condition; and
- (e) when directed by an Environmental Health Officer, empty, clean and disinfect any tank upon the premises, used to store water for human consumption.

3.11 Wells

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

- (a) at least 30 metres from any soak well or other possible source of pollution unless otherwise approved by the Executive Director Public Health; and
- (b) covered with a tight-fitting cover without openings of any sort other than those essential for the insertion of a pump.

3.12 Pollution

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

*Division 4—Secondhand furniture, bedding and clothing***3.13 Prohibition of sale**

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

3.14 Prohibition of possession

A dealer in secondhand furniture, bedding or clothing shall 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 5—Morgues***3.15 Application and licensing of morgues**

(1) All morgues, other than those of any public hospital or any local government or police morgue, shall be licensed annually in accordance with the requirements of this Division.

(2) An application for a licence of a morgue shall be—

- (a) made by the applicant;
- (b) made in the form approved by the local government from time to time; and
- (c) forwarded to the Chief Executive Officer with the fee as fixed by the local government from time to time under section 344C of the Act.

(3) The annual fee for a licence of a place for the temporary reception and keeping of the bodies of the dead awaiting burial or cremation is as fixed by the local government from time to time under section 344C of the Act.

(4) A licence shall—

- (a) be in the form as determined by the local government from time to time; and
- (b) expire on 30 June after the date of its issue.

- (5) A licence shall not be granted in respect of any premises unless—
- (a) provision has been made for the keeping of 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 approved impervious material, having a fall to an outlet discharging over a trapped gully; and
 - (e) the premises are adequately ventilated by direct communication with the outside air.

PART 4—WASTE FOOD AND REFUSE

Division 1—Liquid refuse

4.1 Interpretation

In this division, unless the context otherwise requires—

liquid refuse includes all washings from windows, vehicles and carpet cleaning, overflow, bleed off, condensate and drainage from air conditioning equipment including cooling towers and evaporative coolers and other liquid used for cooling purposes;

liquid waste means bathroom, kitchen, scullery and laundry wastes, the contents of septic tanks, 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; and

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

4.2 Deposit of liquid refuse

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

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

4.3 Disposal of liquid waste

(1) The owner or occupier of premises shall—

- (a) provide, by one of the methods prescribed in this clause, for the disposal of all liquid waste produced on the premises; and
- (b) at all times maintain in good working order and condition any apparatus used for the disposal of liquid waste.

(2) Liquid waste shall be disposed of by one of the following methods—

- (a) discharging it into the sewerage system of a licensed water service operator in a manner approved by the licensed water service operator;
- (b) discharging it into an apparatus for the treatment of sewage and disposal of effluent and liquid waste approved by the Executive Director, Public Health or the local government;
- (c) collection and disposal at an approved liquid waste disposal site in a manner approved by the Executive Director, Public Health.

4.4 Approval for septic tank pumpouts and removal of liquid waste

A person shall not—

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

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

Division 2—Transport of butchers' waste

4.5 Interpretation

In this Division, unless the context otherwise requires—

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

4.6 Restriction of vehicles

A person shall not use, for the transport of butchers' waste—

- (a) a vehicle not approved by the local government; or
- (b) a vehicle used for the transport of food or drugs; or
- (c) anything intended to be used for the packing or handling of food or drugs.

4.7 Transport of butchers' waste

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

PART 5—NUISANCES AND GENERAL

Division 1—Nuisances

5.1 Interpretation

In this Division, unless the context otherwise requires—

fertiliser includes manure; and

public vehicle includes bus, train, taxi or any other public transport.

5.2 Footpaths etc. to be kept clean

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

5.3 Public vehicles to be kept clean

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

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

5.4 Transportation, use and storage of offal, blood, or other offensive matter

- (1) A person shall not transport or store offal or blood, for the purpose of being used as manure, unless it has been sterilised by steam and properly dried.
- (2) No person shall remove any offensive matter unless such offensive matter is carried in sealed containers to prevent the escape of any of the contents from the container, or the emission of any offensive odour there from.
- (3) Every person using any sealed containers or vehicle for the removal of offensive matter shall keep such container or vehicle in a thoroughly clean condition and in good repair.

5.5 Use or storage of fertiliser

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

- (a) pig manure, within 200m of townsite boundaries, or within townsites, unless it has been effectively treated to the satisfaction of the Environmental Health Officer;
- (b) human faeces; or
- (c) urine.

5.6 Storage and dispatch of artificial fertiliser

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

- (a) keep all artificial fertiliser in a building—
 - (i) of which all internal surfaces are constructed of durable and non-absorbent materials, finished internally with a smooth surface;
 - (ii) that protects it from the absorption of moisture; and
 - (iii) that is adequately ventilated;

- (b) take adequate measures to prevent the emission of dust or offensive effluvia from the building; and
- (c) ensure that all artificial fertiliser despatched from the premises is handled and loaded in such a manner as to prevent any nuisance arising during transit.

5.7 Storage of fertiliser in a house

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

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

Division 2—Keeping of animals

5.8 Slaughter of animals

(1) Subject to subclause (2), a person, unless exempted under Regulation 20 of the *Food Regulations 2009*, shall not slaughter any animal within the district.

(2) Subclause (1) does not apply to—

- (a) euthanasia of animals by veterinarians or other duly authorised persons;
- (b) slaughter of animals for the purposes of pet meat and game meat operations; and
- (c) slaughter of animals for human consumption in abattoirs approved by the local government.

5.9 Disposal of dead animals

(1) An owner or operator of a veterinary practice where dead animals are kept for more than 12 hours, shall refrigerate the carcass prior to its removal and disposal, at an approved disposal site.

(2) An owner or occupier of premises, other than a veterinary practice, on which there is a dead animal shall remove the carcass as soon as possible for its disposal at an approved disposal site.

(3) An owner or a person having the care of any animal that dies or is killed in a public or private place, shall as soon as possible remove the carcass and arrange for its disposal at an approved disposal site, except where it may be buried on broad acre farmland by the owner.

Division 3—Feedlots

5.10 Interpretation

For the purpose of this division—

feedlot means a confined area with watering and feeding facilities where animals or birds are held and fed for the purpose of weight gain;

animal includes sheep, lambs, goats, deer, cattle and buffalo;

birds includes roosters, hens, geese, turkeys, ducks, poultry, emus and ostriches.

5.11 Premises to be approved

(1) No premises shall be used as a feedlot unless approved by the local government;

(2) Subject to subclause (3), no premises shall be approved as a feedlot by the local government unless every portion of such feedlot complies with the minimum separation distances listed in Part 11, Schedule 1; and

(3) Sites unable to satisfy the separation requirements may be approved at the discretion of the local government, if the local government is satisfied that approving the feedlot will not give rise to a health nuisance.

5.12 Site conditions

(1) The owner or occupier of the approved feedlot shall ensure the premises—

- (a) is sited on gently sloping land, no greater than 1:20 but not less than 1:100;
- (b) is sited on soils composed of sandy loam soils with sufficient infiltration to avoid surface ponding and run-off;
- (c) has a minimum groundwater clearance of 3 metres;
- (d) drainage diverts all uncontaminated stormwater from the general waste stream;
- (e) has solid and liquid waste disposal arrangements that are not offensive or injurious to health.

(2) The owner or occupier of the approved feedlot shall take effective measures to prevent the discharge of dust which may involve—

- (a) reducing the stocking rate immediately to a level that does not cause the discharge of dust; or
- (b) stabilisation of the soil surface to a level that does not cause the discharge of dust; or
- (c) provision of adequate windbreaks to effectively prevent the discharge of dust.

*Division 4—Piggeries***5.13 Interpretation**

For the purpose of this division—

intensive piggery means pigs are housed, fed and watered in breeding and growing pens in sheds;

piggery in relation to premises shall include any portion of premises to which the pigs have access.

5.14 Premises to be approved

(1) No premises shall be used as a piggery unless approved by the local government;

(2) Subject to subclause (3), no premises shall be approved as a piggery by the local government unless every portion of such piggery complies with the minimum separation distances listed in Part 11, Schedule 2; or if it is an intensive piggery, the minimum separation distances listed in Part 11, Schedule 3; and

(3) Sites unable to satisfy the separation requirements may be approved at the discretion of the local government, if the local government is satisfied that approving the piggery will not give rise to a health nuisance.

5.15 Site conditions

The owner or occupier of premises shall take effective measures to prevent the discharge of dust which may involve—

- (a) reducing the stocking rate immediately to a level that does not cause the discharge of dust; or
- (b) stabilisation of the soil surface to a level that does not cause the discharge of dust; or
- (c) provision of adequate windbreaks to effectively prevent the discharge of dust.

5.16 Prevention of nuisances

In order to prevent dust, offensive fumes and effluent becoming a nuisance to the health of the inhabitants of the district, an intensive piggery shall comply with the minimum separation distances listed in Part 11, Schedule 3.

PART 6—PEST CONTROL*Division 1—Flies***6.1 Interpretation**

In this Division, unless the context otherwise requires—

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

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

An owner or occupier of premises shall not place, throw or leave, or permit or cause to be placed, thrown or left in, on or about the premises any matter or thing which is liable to attract or be a breeding place for flies, unless 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.

6.3 Measures to be taken by an occupier

An owner or occupier of premises shall ensure that—

- (a) rubbish receptacles are kept clean and tightly sealed at all times except when refuse is being deposited or emptied;
- (b) food scraps and uneaten pet food are wrapped tightly and deposited in a rubbish receptacle without delay;
- (c) lawn clippings used on gardens as mulch are raked out thinly;
- (d) fertilisers 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 100 millimetres of soil; and
- (h) excrement from pets is collected and properly disposed of without delay.

6.4 Officer may give notice directing measures to be taken

Where in the opinion of an Environmental Health Officer, flies are prevalent or are breeding on any premises, the Environmental Health Officer may give to the owner or occupier 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 Environmental Health Officer are necessary to—

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

of flies.

6.5 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 shall not be liable to pay compensation or damages of any kind to the owner or occupier of premises in relation to any action taken by the local government under this clause, except to the extent the person has suffered unreasonable loss or damage because the action taken by the local government was negligent or in breach of its duty.

Division 2—Mosquitoes

6.6 Interpretation

In this Division, unless the context otherwise requires—

mosquitoes means any of the two-winged insects constituting the family Diptera Culicidae commonly known as mosquitoes.

6.7 Measures to be taken to prevent mosquitoes breeding

(1) An owner or occupier of premises shall ensure that the premises are kept free from possible mosquito breeding sites and shall—

- (a) follow any direction of an Environmental Health Officer for the purpose of—
 - (i) controlling the prevalence of mosquitoes;
 - (ii) eradication of mosquitoes; or
 - (iii) effectively preventing the breeding of mosquitoes.
- (b) assist the Environmental Health Officer to locate any possible mosquito breeding sites that may be present in or about the premises.

(2) An owner or occupier of premises where water is kept in a horse trough, poultry drinking vessel or other receptacle shall—

- (a) frequently change the water; and
- (b) keep the water clean and free from vegetable matter and slime.

(3) An owner or occupier of premises, where a septic tank is installed, shall ensure the fixture is in a sound condition at all times, and mesh having openings no larger than 1.2 millimetres, covers any educt vent to the system.

(4) 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 breeding mosquitoes, the owner or occupier shall, when required by a notice issued by an Environmental Health Officer—

- (a) reactivate 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; or
- (d) add a larvicide to the pool at the specified rate; and
- (e) maintain the pool water free of mosquito breeding.

(5) An owner or occupier of land shall cause all drains and channels in or on the land to be kept in good order and free from obstruction.

6.8 The local government may execute and recover costs

(1) Where—

- (a) a person is required under this division or directed by a notice given under clause 6.7 to execute any work; and
- (b) that person fails or neglects to comply with the requirement,

the local government may execute the work and recover from that person the cost of executing the work, in addition to any penalty for which that person may be liable.

(2) The costs and expenses incurred by the local government in the execution of a power under subclause (1) may be recovered in a court of competent jurisdiction from that person.

(3) The local government shall not be liable to pay compensation or damages of any kind to the owner or occupier of premises in relation to any action taken by the local government under subclause (1), except to the extent the person has suffered unreasonable loss or damage because the action taken by the local government was negligent or in breach of its duty.

*Division 3—Rodents***6.9 Interpretation**

In this Division, unless the context otherwise requires—

rodents means those animals belonging to the order Rodentia and includes rats and mice but does not include animals kept as pets in an enclosure designed for the purpose of keeping as pets animals of that kind;

food premises means any premises or vehicle used by a “food business” as defined by section 10 of the *Food Act 2008*.

6.10 Measures to be taken to eradicate rodents

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

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

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

6.11 Food and wastes to be kept in rodent and vermin proof receptacles

A person must not store or allow to be stored, on any premises, any food, refuse or waste matter unless it is contained in a rodent proof receptacle or compartment, which is kept effectively protected against access by rodents.

6.12 Restrictions on the keeping of rodents

A person or body which keeps rodents shall—

- (a) at all times ensure that all live rodents are kept in the effective control of a person or in locked cages; and
- (b) if a rodent escapes, forthwith comply with the requirements of section 6.10 and ensure that all reasonable steps are taken to destroy or recapture the rodent.

6.13 Food premises etc. to be cleaned after use

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

*Division 4—Cockroaches***6.14 Interpretation**

In this Division, unless the context otherwise requires—

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

6.15 Measures to be taken to eradicate cockroaches

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

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

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

*Division 5—Argentine ants***6.16 Interpretation**

In this Division, unless the context otherwise requires—

Argentine ant means an ant belonging to the species *Limepithema humile* (formally *Irdomyrmex humilis*).

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

(1) An owner or occupier of premises shall ensure that the premises are kept free from Argentine Ant colonies and shall—

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

*Division 6—European wasps***6.18 Interpretation**

In this Division, unless the context otherwise requires—

European wasp means a wasp *Vespula germanica*.

6.19 Measures to be taken to keep premises free from European wasp nests

(1) An owner or occupier of premises shall ensure that the premises are kept free from European Wasp nests and shall—

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

*Division 7—Arthropod vectors of disease***6.20 Interpretation**

In this Division, unless the context otherwise requires—

arthropod vectors of disease includes—

- (a) fleas (*Siphonaptera*);
- (b) bedbugs (*Cimex lectularius*);
- (c) crab lice (*Phthirus pubis*);
- (d) body lice (*Pediculus humanus humanus*); and
- (e) head lice (*Pediculus humanus capitis*).

6.21 Responsibility of the owner or occupier

The owner or occupier of premises shall—

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

PART 7—INFECTIOUS DISEASES*Division 1—General provisions***7.1 Requirements for an owner or occupier to clean, disinfect and disinfest.**

(1) The local government or an Environmental Health Officer may, by notice in writing, direct an owner or occupier of premises, within the time and in the manner specified in the notice, to clean, disinfect and disinfest—

- (a) the premises; or
- (b) such things in or on the premises as are specified in the notice,

or both, to the satisfaction of an Environmental Health Officer.

(2) An owner or occupier shall comply with a notice given under subclause (1).

7.2 Direction to disinfect or disinfest premises

(1) Where the Chief Executive Officer or the Medical Officer is satisfied that any case of infectious disease has occurred on any premises, the Chief Executive Officer or the Medical Officer may direct an owner or occupier to disinfect and disinfest the premises or any part of the premises and anything in or on the premises.

(2) Where in the opinion of the Chief Executive Officer or the Medical Officer, where the owner or occupier directed in subclause (1) does not disinfect or disinfest the premises in a reasonable period or where as a matter of urgency, the premises or any part of the premises and anything in or on the premises must be disinfected or disinfested. An owner or occupier of premises shall permit, and provide access to enable, an Environmental Health Officer, other local government officer or other person to carry out the direction given under subclause (1);

(3) The local government may recover, in a court of competent jurisdiction, the cost of carrying out the work under this clause from the owner or occupier of the premises in or on which the work was carried out.

(4) The local government shall not be liable to pay compensation or damages of any kind to the owner or occupier of premises in relation to any action taken by the local government under this clause, except to the extent the person has suffered unreasonable loss or damage because the action taken by the local government was negligent or in breach of its duty.

7.3 Insanitary houses, premises and things

(1) An owner or occupier of any house or premises shall maintain the house or premises free from any insanitary condition or thing.

(2) Where an Environmental Health Officer considers that a house is insanitary, the officer may, by notice in writing, direct an owner of the house, within the time and in the manner specified in the notice, to amend the house.

(3) Where an Environmental Health Officer considers that—

- (a) a house or premises is not being maintained in a sanitary condition; or
- (b) any thing is insanitary,

the officer may, by notice in writing, direct, as the case may be—

- (i) the owner or occupier of the house or premises to amend any insanitary condition; or
- (ii) the owner or occupier of the thing to destroy or amend it,

within the time and in the manner specified in the notice.

(4) A person to whom a notice has been given under subclauses (2) or (3) shall comply with the terms of the notice.

7.4 Persons in contact with an infectious disease sufferer

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

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

7.5 Declaration of infected house or premises

(1) To prevent or check the spread of infectious disease, the local government or the Medical Officer may from time to time declare any house or premises to be infected.

(2) A person shall not enter or leave any house or premises declared to be infected without the written consent of the Medical Officer or an Environmental Health Officer.

7.6 Destruction of infected animals

(1) An Environmental Health Officer, upon being satisfied that an animal is or may be infected or is liable to be infected or to convey infection may, by notice in writing, direct that the animal be examined by a registered veterinary officer and that all steps be taken to enable the condition to be controlled or eradicated or the animal destroyed and disposed of—

- (a) in the manner and within the time specified in the notice; and
- (b) by the person in whose possession, or upon whose premises, the animal is located.

(2) A person who has in his or her possession or upon premises occupied by him or her, an animal which is the subject of a notice under subclause (1) shall comply with the terms of the notice.

7.7 Disposal of a body

(1) An occupier of premises in or on which is located the body of a person who has died of any infectious disease shall, subject to subclause (2), cause the body to be buried or disposed of in such manner, within such time and with such precautions as may be directed by the Medical Officer.

(2) A body shall not be removed from premises where death occurred except to a morgue.

7.8 The local government may carry out work and recover costs

(1) Where—

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

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

(2) The costs and expenses incurred by the local government in the execution of a power under this clause may be recovered in a court of competent jurisdiction from the person referred to in subclause (1)(a).

(3) The local government shall not be liable to pay compensation or damages of any kind to the owner or occupier of premises in relation to any action taken by the local government under this clause, except to the extent the person has suffered unreasonable loss or damage because the action taken by the local government was negligent or in breach of its duty.

Division 2—Disposal of used condoms and needles

7.9 Disposal of used condoms

(1) An occupier of premises on or from which used condoms are produced shall ensure that the condoms are—

- (a) placed in a sealed impervious container and disposed of in a sanitary manner; or
- (b) disposed of in such a manner as may be directed by the local government.

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

7.10 Disposal of used needles

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

PART 8—LODGING HOUSES

Division 1—Registration

8.1 Interpretation

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

bed means a single sleeping berth only, and a double bed provided for the use of couples has the same floor space requirements as two single beds;

bunk means a sleeping berth comprising one of two beds arranged vertically;

dormitory means a building or room utilised for sleeping purposes at a short term hostel or a recreational campsite;

Food Standards Code means the Australia New Zealand Food Standards Code as defined in the *Food Standards Australia New Zealand Act 1991* (Cth);

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;

laundry unit means a group of facilities consisting of—

- (a) a washing machine with a capacity of not less than 4 kilograms weight of dry clothing;
- (b) one wash trough of not less than 36 litres capacity, connected to both hot and cold water;
- (c) either an electric drying cabinet or not less than 30 metres of clothes line; and
- (d) a hot water system that—
 - (i) is capable of delivering an adequate supply of water at a temperature of at least 65 degrees Celsius for each washing machine provided with the communal facilities; and
 - (ii) has a delivery rate of not less than 0.076 litres per second to each washing machine;

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

lodging house includes a recreational campsite, a serviced apartment, a short term hostel and any premises used for transient workforce accommodation;

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;

motel means premises used to accommodate patrons in which specific provision is made for the accommodation of patrons with motor vehicles;

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*;

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

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 and includes a motel;

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.

(2) Where in this Part an act is required to be done or forbidden to be done in relation to any lodging house, the keeper of the lodging house has, unless the contrary intention appears, the duty of causing the act to be done, or of preventing the act so forbidden from being done, as the case may be.

8.2 Lodging house not to be kept unless registered

A person shall not keep or cause or allow 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) when required by the local government either—
 - (i) the keeper; or
 - (ii) a manager who, with the written approval of an Environmental Health Officer, has been appointed by the keeper to have the care and management of the lodging house,

resides or intends to reside continuously in the lodging house whenever there is one or more lodgers in the lodging house.

8.3 Application for registration

- (1) An application for registration of a lodging house shall be—
- (a) in the form approved by the local government from time to time;
 - (b) duly completed and signed by the proposed keeper; and
 - (c) accompanied by—
 - (i) the approved fee as fixed from time to time by the local government under section 344C of the Act; and
 - (ii) detailed plans and specifications of the lodging house.

8.4 Approval of application

The local government may approve, with or without conditions, an application for registration of a lodging house by issuing to the applicant a certificate of registration in the form approved by the local government from time to time.

8.5 Renewal of registration

- (1) A person who keeps a lodging house which is registered under this Part shall—
- (a) during the month of June in each year apply to the local government for the renewal of the registration of the lodging house in the form approved by the local government from time to time; and
 - (b) pay the approved fee as fixed from time to time by the local government under section 344C of the Act at the time of making each application for renewal.

8.6 Notification upon sale or transfer

If the owner of a lodging house sells or transfers, or agrees to sell or transfer, the lodging house to another person, he or she shall, within 14 days of the date of sale, transfer or agreement, give to the local government, in the form approved by the local government from time to time, 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 vectors of disease or remained in a clean and sanitary condition;
 - (b) that the keeper has—
 - (i) been convicted of an offence against this local law in respect of the lodging house;
 - (ii) not complied with a requirement of this Part; or
 - (iii) not complied with a condition of registration;
 - (c) that the local government, having 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 shall give notice to the keeper requiring him or her, within a time specified in the notice, to show cause why the registration should not be revoked.
- (4) Whenever the local government revokes the registration of a lodging house, it shall give the keeper notice of the revocation and the registration shall be revoked as from the date on which the notice is served on the keeper.

*Division 2—Construction and use requirements***8.8 General construction requirements**

The construction of a lodging house shall comply with the Building Code and the Act.

8.9 Sanitary conveniences

- (1) A keeper shall 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 a 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 shall not be counted for the purposes of subclause (1).
- (3) Each bath, shower and hand wash basin shall be provided with an adequate supply of hot and cold water.

- (4) The walls of each shower and bath shall be of an impervious material to a minimum height of 1.8 metres above the floor level.
- (5) Each toilet and bathroom shall—
- (a) be so situated, separated and screened as to ensure privacy;
 - (b) be apportioned to each sex;
 - (c) have a distinct sign displayed in a prominent position denoting the sex for which the toilet or bathroom is provided; and
 - (d) be provided with adequate electric lighting and ventilation.
- (6) Paragraphs (b) and (c) of subclause (5) do not apply to a serviced apartment.

8.10 Laundry

- (1) A keeper shall—
- (a) subject to subclause (2)—
 - (i) in the case of a recreational campsite, provide on the premises a laundry consisting of at least one 45 litre stainless steel trough; and
 - (ii) in any other case, provide on the premises a laundry unit for each 15 lodgers;
 - (b) at all times maintain each laundry or laundry unit in a proper sanitary condition and in good repair;
 - (c) provide an adequate supply of hot and cold water to each wash trough, sink, or washing machine; and
 - (d) ensure that the floor area of each laundry or laundry unit is properly surfaced with an even fall to a floor waste.
- (2) An Environmental Health Officer may approve the provision of a reduced number of laundry units if suitable equipment of a commercial type is installed.

8.11 Kitchen

A keeper of a lodging house shall provide in that lodging house a kitchen—

- (a) which has a minimum floor area of—
 - (i) where lodgers prepare their own meals—0.65 square metres per person; or
 - (ii) where meals are provided by the keeper or manager—0.35 square metres per person; or
 - (iii) where a kitchen and dining room are combined—1 square metre per person, but in any case not less than 16 square metres;
- (b) which has adequate—
 - (i) food storage facilities and cupboards to prevent contamination of food, or cooking or eating utensils, by dirt, dust, flies or other vectors of disease of any kind; and
 - (ii) refrigerator space for storage of perishable goods; and
- (c) which must be required by the local government to comply with any of the requirements of Standard 3.2.3 of the *Food Standards Code*.

8.12 Dining room

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

- (a) located in close proximity to, or combined with, the kitchen;
- (b) the floor area of which shall be 0.5 square metres per person or not less than 10 square metres whichever is the greater; and
- (c) which shall be—
 - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
 - (ii) provided with a suitable floor covering.

8.13 Lounge room

The keeper of a lodging house shall provide in that lodging house, a lounge room—

- (a) with a floor area of—
 - (i) where the lounge is not combined with the dining room, not less than 0.6 square metres per person; or
 - (ii) where the lounge room is combined with a dining room, not less than 1.2 square metres per person but in either case having a minimum of 13 square metres; and
- (b) which shall be—
 - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
 - (ii) provided with a suitable floor covering.

8.14 Fire prevention and control

(1) The keeper of a lodging house must—

- (a) in each passage in the lodging house provide an emergency light—
 - (i) in the position and pattern 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 2 metres 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) ensure all fire-fighting equipment and fire detection and alarm systems are adequately maintained at all times in such a condition as will enable their proper performance; and
 - (e) ensure that a lodger or other person does not smoke in any dormitory, kitchen, dining room, or other enclosed public place within a lodging house.
- (2) The keeper of a lodging house must ensure that all buildings comprising the lodging house are fitted with fire protection equipment in accordance with the Building Code.

8.15 Obstruction of passages and stairways

A keeper shall not cause or allow 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 shall not fit, or cause or permit to be fitted, to an exit door a lock or other device which prevents the door being opened from within a lodging house.

8.17 Restriction on use of rooms for sleeping

(1) Subject to subclause (3) and clause 8.31, a keeper shall not use or permit to be used as a sleeping apartment, a room in a lodging house—

- (a) which contains food;
- (b) which contains or is fitted with a cooking appliance or kitchen sink;
- (c) which is used as a kitchen, scullery, storeroom, dining room, general sitting room or lounge room, or for the preparation or storage of food;
- (d) which is not reasonably accessible without passing through a sleeping or other room in the private occupation of another person;
- (e) which, except in the case of a short term hostel or a recreational campsite, contains less than 5.5 square metres of clear space for each lodger occupying the room;
- (f) which is naturally illuminated by windows having a ratio of less than 0.1 square metres of unobstructed glass to every 1.0 square metre of floor area;
- (g) which is ventilated at a ratio of less than 0.5 square metres of unobstructed ventilating area to every 10 square metres of floor area;
- (h) in which the lighting or ventilation referred to in paragraphs (f) and (g) is obstructed or is not in good and efficient order;
- (i) which is not free from internal dampness;
- (j) of which any part of the floor is below the level of the adjoining ground; or
- (k) the floor of which is not fitted with an approved carpet or vinyl floor covering or other floor treatment approved by an Environmental Health Officer.

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

(3) Paragraphs (a), (b) and (c) of subclause (1) do not apply to a serviced apartment.

8.18 Sleeping accommodation—short term hostels and recreational campsites

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

- (a) 4 square metres per person in each dormitory utilising beds; and
- (b) 2.5 square metres per person in each dormitory utilising bunks.

(2) The calculation of floor space in subclause (1) shall exclude the area occupied by any large items of furniture, such as wardrobes, but may include the area occupied by beds.

(3) The minimum height of any ceiling in a short term hostel or recreational campsite shall be 2.4 metres in any dormitory utilising beds, and 2.7 metres in any dormitory utilising bunks.

(4) The minimum floor area requirements in subclause (1) will only apply if there is ventilation, separation distances, fire egress and other safety requirements in accordance with the Building Code.

(5) The keeper of any short term hostel or recreational campsite shall provide—

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

- (6) The keeper of any short term hostel or recreational campsite shall provide—
- (a) beds with a minimum size of—
 - (i) in short term hostels—800 millimetres x 1.9 metres; and
 - (ii) in recreational campsites—750 millimetres x 1.85 metres; and
 - (b) storage space for personal effects, including backpacks, so that cleaning operations are not hindered and access spaces are not obstructed.
- (7) The keeper of any short term hostel or recreational campsite shall—
- (a) arrange at all times a distance of 750 millimetres between beds, and a distance of 900 millimetres between bunks;
 - (b) ensure that, where bed or bunk heads are placed against the wall on either side of a dormitory, there is a passageway of at least 1.35 metres between each row of beds and a passageway of at least 2 metres between each row of bunks, and shall 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 shall ensure that—
- (a) materials used in dormitory areas comply with AS 1530.2—1993 and AS/NZS 1530.3:1999 as follows—
 - (i) Drapes, curtains, blinds and bedcovers—
a maximum Flammability Index of 6;
 - (ii) Upholstery and bedding—
a maximum Spread of Flame Index of 6; and
a maximum Smoke Developed Index of 5;
 - (iii) Floor coverings—
a maximum Spread of Flame Index of 7; and
a maximum Smoke Developed Index of 5;
 - (b) Fire retardant coatings used to make a material comply with the indices set out in subclause (8)(a) must be—
 - (i) certified by the manufacturer as approved for use with the fabric to achieve the required indices;
 - (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 2001.5.4—2005, Procedure 7A, using ECE reference detergent; and
 - (iii) certified by the applicator as having been carried out in accordance with the manufacturer's specification;
 - (c) emergency lighting is provided in accordance with the Building Code;
 - (d) 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; and
 - (e) all mattresses in a short term hostel or recreational campsite are fitted with a mattress protector.

8.19 Furnishing of rooms

- (1) A keeper shall—
- (a) furnish each sleeping room 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 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 shall not cause or allow any tiered beds or bunks to be used in a sleeping apartment other than a lodging house used exclusively as a short term hostel or recreational campsite.
- (3) The sheets and blankets required to be provided by subclause (1)(b)(ii), shall 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 Ventilation

If, in the opinion of an Environmental Health Officer, a kitchen, bathroom, toilet, laundry or habitable room is not adequately or properly ventilated, he or she may direct the keeper to provide a different or additional method of ventilation.

8.21 Numbers to be placed on doors

- (1) A keeper shall number each room available to a lodger or provide an alternative means of identification approved by an Environmental Health Officer.
- (2) The number or alternate means of identification is to be legible and easily identified.

*Division 3—Management and care***8.22 Keeper or manager to reside in the lodging house**

No keeper of a lodging house shall be absent from such house, unless

- (a) a manager is left in charge, or
- (b) other care arrangement as approved in writing by the local government, is in place.

8.23 Register of lodgers

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

8.24 Keeper report

A keeper shall, whenever required by the local government, report to the local government, in the form approved by the local government from time to time, the name of each lodger who lodged in the lodging house during the preceding day or night.

8.25 Certificate in respect of sleeping accommodation

- (1) An Environmental Health Officer may issue to a keeper, a certificate, in respect of each room, which shall be in the form approved by the local government from time to time.
- (2) The certificate issued under subclause (1) shall specify the maximum number of persons permitted to occupy each room of a sleeping apartment at any one time.
- (3) When required by an Environmental Health Officer, a keeper shall exhibit the certificate issued under this clause in a conspicuous place in the room to which it refers.
- (4) A person shall not cause or allow a greater number of persons than is specified on a certificate issued under this clause to occupy the room to which it refers.

8.26 Duplicate keys and inspection

Each keeper and manager of a lodging house shall—

- (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 Environmental Health Officer.

8.27 Room occupancy

- (1) A keeper shall not—
 - (a) cause or allow 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 or allow 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, or allow 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 shall be counted as 1 lodger.

8.28 Maintenance of a room by a lodger or resident

- (1) A keeper may permit, or contract with, a lodger or resident to service, clean or maintain the room or rooms occupied by the lodger or resident.
- (2) Where permission is given or a contract entered into under subclause (1), the keeper shall—
 - (a) inspect each room the subject of the permission or agreement at least once a week; and
 - (b) ensure that each room is being maintained in a clean condition.
- (3) A lodger or resident who contracts with a keeper to service, clean or maintain a room occupied by him or her, shall maintain the room in a clean condition.

8.29 Cleaning and maintenance requirements

- (1) In this clause—

bed linen includes sheets, pillow cases and mattress covers.

- (2) A keeper of a lodging house shall—
- (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, or prior to the room being re-let, 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 vectors of disease;
 - (v) when any vectors of disease are found in a bed, furniture, room or sleeping apartment, immediate effective action is taken to eradicate the vectors of disease; and
 - (vi) a room which is not free from vectors of disease is not used as a sleeping apartment;
 - (f) when so directed by an Environmental Health Officer, ensure that—
 - (i) a room, together with its contents, and any other part of the lodging house, is cleaned and disinfected; and
 - (ii) a bed or other article of furniture is removed from the lodging house and properly disposed of;
 - (g) ensure that the yard is kept clean at all times;
 - (h) provide all bedrooms, passages, common areas, toilets, bathrooms and laundries with adequate lighting; and
 - (i) comply with any direction, whether orally or in writing, given by an Environmental Health Officer.

8.30 Responsibilities of lodgers and residents

A lodger or resident shall not—

- (a) use any room available to lodgers—
 - (i) as a shop, store or factory; or
 - (ii) for manufacturing or trading services;
- (b) keep or store in or on the lodging house any goods or materials that are inflammable or offensive;
- (c) use a bath or hand wash basin other than for ablutionary purposes;
- (d) use a bathroom facility or fitting for laundry purposes;
- (e) use a sink installed in a kitchen or scullery for any purpose other than the washing and cleaning of cooking and eating utensils, other kitchenware and culinary purposes;
- (f) deposit rubbish or waste food other than into a proper rubbish receptacle;
- (g) in a kitchen or other place where food is kept—
 - (i) wash or permit the washing of clothing or bedding; or
 - (ii) keep or permit to be kept any soiled clothing or bedding;
- (h) subject to clause 8.31—
 - (i) keep, store, prepare or cook food in any sleeping apartment; or
 - (ii) unless sick or invalid and unable to leave a sleeping apartment for that reason, use a sleeping apartment for dining purposes;
- (i) place or keep, in any part of a lodging house, any luggage, clothing, bedding, or furniture that is infested with vectors of disease;
- (j) store or keep such a quantity of furniture, material or goods within the lodging house—
 - (i) in any kitchen, living or sleeping apartment so as to prevent the cleaning of the floors, walls, fittings or fixtures; or
 - (ii) in a sleeping apartment so as to decrease the air space to less than the minimum required by this Part;
- (k) obstruct or prevent the keeper or manager from inspecting or examining the room or rooms occupied by the lodger or resident; or
- (l) fix any fastener or change any lock to a door or room without the written approval of the keeper.

8.31 Approval for storage of food

(1) An Environmental Health Officer may—

- (a) approve the storage of food within a refrigerator or sealed container in a sleeping apartment; and
- (b) withdraw the approval if a nuisance or vector of disease infestation is found to exist in the lodging house.

(2) The keeper of a serviced apartment may permit the storage and consumption of food within that apartment if suitable storage and dining facilities are provided.

PART 9—OFFENSIVE TRADES*Division 1—General***9.1 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 usually carried on, in or connected with, the following works or establishments—

- (a) fish processing premises, fish curing premises and shellfish and crustacean processing establishments;
- (b) laundries, dry cleaning premises and dye works; and
- (c) any trade as defined by section 186 of the Act;

premises includes houses.

9.2 Consent to establish an offensive trade

A person seeking the consent of the local government under section 187 of the Act to establish an offensive trade shall make application in the form approved by the local government from time to time and in accordance with the local government's Planning Scheme.

9.3 False statement

A person who makes a false statement in an application under clause 9.2 shall be guilty of an offence.

9.4 Registration of premises

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

- (a) in the form approved by the local government from time to time;
- (b) accompanied by the fee prescribed in the *Health (Offensive Trades Fees) Regulations 1976* as amended from time to time; and
- (c) lodged with the Chief Executive Officer of the local government.

9.5 Certificate of registration

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

9.6 Change of occupier

Where there is a change of occupier of the premises registered pursuant to this Division, the new occupier shall forthwith notify the Chief Executive Officer in writing of such change.

9.7 Alterations to premises

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

*Division 2—General duties of an occupier***9.8 Interpretation**

In this Division, unless the context otherwise requires—

occupier means the occupier, or where there is more than one occupier, each of the occupiers of the premises in or upon which an offensive trade is carried on; and

the premises means those premises in or upon which an offensive trade is carried on.

9.9 Cleanliness

The occupier shall—

- (a) keep or cause to be kept in a clean and sanitary condition and in a state of good repair the floors, walls and ceilings and all other portions of the premises;
- (b) keep or cause to be kept in a clean and sanitary condition and in a state of good repair all fittings, fixtures, appliances, machinery, implements, shelves, counters, tables, benches, bins, cabinets, sinks, drain boards, drains, grease traps, tubs, vessels and other things used on or in connection with the premises;
- (c) keep the premises free from any unwholesome or offensive odour arising from the premises;

- (d) maintain in a clean and tidy condition all yards, footpaths, passage ways, paved areas, stores or outbuildings used in connection with the premises; and
- (e) clean daily and at all times keep and maintain all sanitary conveniences and all sanitary fittings and grease traps on the premises in a clean and sanitary condition.

9.10 Rats and other vectors of disease

The occupier shall—

- (a) ensure that the premises are kept free from rodents, cockroaches, flies and other vectors of disease; and
- (b) provide in and on the premises all effective means and methods for the eradication and prevention of rodents, cockroaches, flies and other vectors of disease.

9.11 Sanitary conveniences and hand wash basin

The occupier shall provide on the premises in an approved position sufficient sanitary conveniences and hand wash basins, each with an adequate supply of hot and cold water for use by employees and by all other persons lawfully upon the premises.

9.12 Painting of walls etc.

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

9.13 Effluvia, vapours, gases or dust

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

9.14 Offensive material

The occupier shall—

- (a) provide on the premises impervious receptacles of sufficient capacity to receive all offensive material and trade refuse produced upon the premises in any one day;
- (b) keep air-tight covers on the receptacles, except when it is necessary to place something in or remove something from them;
- (c) cause all offensive material and trade refuse to be placed immediately in the receptacles;
- (d) cause the contents of the receptacles to be removed from the premises at least once in every working day or at such other intervals as may be approved or directed by an Environmental Health Officer; and
- (e) cause all receptacles after being emptied to be cleaned immediately with an efficient disinfectant.

9.15 Storage of materials

The occupier shall take reasonable steps to cause all material on the premises to be stored so as not to be offensive or injurious to health whether by smell or otherwise and so as to prevent the creation of a nuisance.

9.16 Specified offensive trade

(1) For the purposes of this clause, *specified offensive trade* means one or more of the offensive trades carried on, in or connected with the following works or premises—

- (a) fish processing premises, fish curing premises, and shellfish and crustacean processing establishments; and
- (b) laundries, dry cleaning premises and dye works.

(2) Where premises are used for or in relation to a specified offensive trade, the occupier shall—

- (a) cause the floor of the premises to—
 - (i) be properly paved and drained with impervious material;
 - (ii) have a smooth surface; and
 - (iii) have a fall to a bucket trap or spoon drain in such a way that all liquids falling on the floor shall be conducted by the trap or drain to a drain inlet situated inside the building where the floor is situated;
- (b) cause the angles formed by the walls with any other wall, and by the wall with the floor, to be coved to a radius of not less than 25 millimetres; and
- (c) cause all liquid refuse to be—
 - (i) cooled to a temperature not exceeding 26 degrees Celsius and be in accordance with the *Water Services Act 2012* before being discharged into any drain outlet from any part of the premises; and
 - (ii) directed through such screening or purifying treatment as an Environmental Health Officer may from time to time direct.

9.17 Directions

- (1) An Environmental Health Officer may give to the occupier directions to prevent or diminish the offensiveness of a trade or to safeguard the public health.
- (2) The occupier shall comply with any directions given under this clause.

9.18 Other duties of occupier

In addition to the requirements of this Division, the occupier shall comply with all other requirements of this Part that apply to the particular offensive trade or trades conducted on the premises.

Division 3—Fish premises

9.19 Interpretation

In this Division, unless the context otherwise requires—

fish premises may include a fish processing establishment, fish curing establishment and a shellfish and crustacean processing establishment.

9.20 Duties of an occupier

The occupier of a fish premises shall—

- (a) not suffer or permit any decomposing fish to be kept on the premises where his trade is carried on for a longer period than is reasonably necessary to dispose of them;
- (b) cause all decomposing fish, to be immediately deposited in an impervious receptacle furnished with an airtight cover; and
- (c) cause the brine of pickle to be removed as often as is necessary to prevent it from becoming offensive.

9.21 Disposal of waste

The occupier of a fish premises shall take reasonable steps to cause all offal and wastes, all rejected and unsaleable fish and any rubbish or refuse which is likely to be offensive or a nuisance to be—

- (a) placed in the receptacles referred to in clause 9.14 and disposed of in accordance with that clause; or
- (b) kept in a frozen state in an approved enclosure before its removal from the premises.

9.22 Fish containers

The occupier of a fish premises shall take reasonable steps to not allow any container used for the transport of fish to—

- (a) remain on the premises longer than is necessary for it to be emptied; or
- (b) be kept so as to cause a nuisance or to attract flies.

Division 4—Laundries, dry cleaning establishments and dye works

9.23 Interpretation

In this Division, unless the context otherwise requires—

dry cleaning establishment—

- (a) means premises where clothes or other articles are cleaned by use of solvents without using water; but
- (b) does not include premises in which perchlorethylene or arklone is used as dry cleaning fluid in a fully enclosed machine operating on a full cycle;

dye works means a place where articles are commercially dyed, but does not include dye works in which provision is made for the discharge of all liquid waste there from, into a public sewer;

exempt laundromat means a premises in which—

- (a) laundering is carried out by members of the public using, machines or equipment provided by the owners or occupiers of those establishments;
- (b) laundering is not carried out by those owners or occupiers for or on behalf of other persons;
- (c) provision is made for the discharge of all liquid waste there from into a public sewer;

laundromat means a public place with coin operated washing machines, spin dryers or dry cleaning machines; and

laundry means any places where articles are laundered with commercial grade machinery but does not include an exempt laundromat.

9.24 Receiving depot

An owner or occupier of premises shall not use or permit the premises to be used as a receiving depot for a laundry, dry cleaning establishment or dye works except with the written permission of the local government who may at any time by written notice withdraw such permission.

9.25 Reception room

- (1) The occupier of a laundry or dry cleaning establishment or dye works shall—
- (a) provide a reception room in which all articles brought to the premises for treatment shall be received and shall not receive or permit to be received any such articles except in that room; and
 - (b) cause such articles as may be directed by an Environmental Health Officer to be thoroughly disinfected to the satisfaction of the officer.
- (2) A person shall not bring or permit food to be brought into the reception room referred to in this clause.

9.26 Walls and floors

Unless with the written approval of the local government, the occupier of a laundry, dry cleaning establishment or dye works shall cause—

- (a) the internal surfaces of all walls to be rendered with a cement plaster with a steel float finish or other approved material to a height of 2 metres with a smooth impervious surface;
- (b) the floor to be constructed of concrete and finished with a smooth impervious surface; and
- (c) every floor and wall of any building on the premises to be kept at all times in good order and repair, so as to prevent the absorption of any liquid which may be splashed or spilled or may fall or be deposited on it.

9.27 Laundry floor

Unless with the written approval of the local government, the occupier of a laundry shall provide in front of each washing machine a non-corrosive grate, at least 910 millimetres in width and so constructed as to prevent any person from standing in water on the floor.

9.28 Escape of dust

The occupier of a dry cleaning establishment shall provide effective means to prevent the escape into the open air of all dust or other material from the premises.

9.29 Precautions against combustion

The occupier of a dry cleaning establishment where volatile liquids are used shall take all proper precautions against combustion and shall comply with all directions given by an Environmental Health Officer for that purpose.

9.30 Trolleys

The occupier of a dry cleaning establishment shall—

- (a) provide trolleys for the use of transporting dirty and clean linen; and
- (b) ensure that each trolley is—
 - (i) clearly designated to indicate the use for which it is intended;
 - (ii) lined internally with a smooth impervious non-absorbent material that is easily cleaned; and
 - (iii) thoroughly cleaned and disinfected on a regular basis.

9.31 Sleeping on premises

A person shall not use or permit any room in a laundry, dry cleaning establishment or dye works to be used for sleeping purposes.

PART 10—OFFENCES AND PENALTIES*Division 1—General***10.1 Offences and penalties**

- (1) A person who contravenes a provision of this local law commits an offence.
- (2) A person who commits an offence under subclause (1) is liable—
- (a) to 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.
-

PART 11—SCHEDULES*Schedule 1*

HEALTH ACT 1911

Shire of Kulin

REQUIRED BUFFER DISTANCES FOR FEEDLOTS

[Clause 5.11(2)]

Required buffer distances for feedlots

Buffer	Distance
Townsite boundaries	5,000 m
Isolated rural dwellings, dairies and industries	1,000 m
Public roads and recreation areas	100 m
Neighbouring rural property boundaries	50 m
Major water course and water impoundments	300 m
Bores, wells or soaks used for drinking, stock or irrigation	300 m
Minor water courses	100 m

Schedule 2

HEALTH ACT 1911

Shire of Kulin

REQUIRED BUFFER DISTANCES FOR PIGGERIES

[Clause 5.14(2)]

Required Buffer Distances for Piggeries

Buffer	Distances
Townsite boundaries	5,000m
Isolated rural dwellings, dairies and industries	1,000m
Public roads and recreation areas	100m
Neighbouring rural property boundaries	50m
Major water course and water impoundments	300m
Bores, wells or soaks used for drinking, stock or irrigation	300m
Minor water courses	100m

Schedule 3

HEALTH ACT 1911

Shire of Kulin

REQUIRED BUFFER DISTANCES FOR INTENSIVE PIGGERIES

[Clause 5.16]

Required buffer distances for intensive piggeries

	Townsite Boundaries	Isolated rural dwellings, dairies, industries	Public roads, recreation areas	Neighbouring rural property boundaries	Surface water supply catchments	Water-courses/rural water impoundments	Bores/wells/soaks Drinking water supply	Stock irrigation supply
Piggeries and facilities catering for more than 5000 pigs	5,000m	1,000m	200m	50m	Not permitted	300m	300m	100m
500-5000 pigs	3,500m	1,000m	150m	50m	Not permitted	300m	300m	100m
50-499 pigs	2,000m	1,000m	100m	50m	Not permitted	300m	300m	100m
Less than 50 pigs	500m	1,000m	50m	30m	Not permitted	200m	300m	100m
Land used to dispose of raw or partly treated wastes	1,000m	1,000m	100m	50m	Not permitted	300m	300m	300m
Land used to dispose of effectively treated wastes	200m	50m	20m	20m	Not permitted	100m	100m	100m

This Local Law was made by the Shire of Kulin at an Ordinary Meeting of Council held on the 18th day of May in the year 2016.

The Common Seal of the Shire of Kulin was affixed by authority of a resolution of the Council in the presence of—

Cr BARRY WEST, Shire President.
Ms CASSI-DEE VANDENBERG, Acting Chief Executive Officer.

Consented to—

TARUN WEERAMANTHRI, Executive Director Public Health.

Dated this 31st day of October 2016.

**HEALTH ACT 1911
LOCAL GOVERNMENT ACT 1995**

SHIRE OF KULIN

ANIMALS, ENVIRONMENT AND NUISANCE LOCAL LAW 2016

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**HEALTH ACT 1911
LOCAL GOVERNMENT ACT 1995**

SHIRE OF KULIN

ANIMALS, ENVIRONMENT AND NUISANCE LOCAL LAW 2016

Under the powers conferred by section 342 of the *Health Act 1911* and Subdivisions 1 and 2 of Division 2 of Part 3 of the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Kulin resolved on the 19th day of October in the year 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Kulin Animals, Environment and Nuisance Local Law 2016*.

1.2 Commencement

This local law comes into operation on the same day 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, unless the context specifies otherwise—

Act means the *Local Government Act 1995*;

affiliated person means a person who is a member of a poultry or pigeon club incorporated under the *Associations Incorporation Act 2015*;

amusement means anything usually conducted for amusement at a fair, a carnival or a show, whether conducted at a fair, a carnival or a show or elsewhere;

approved animal means any farm animal which is the subject of a permit;

authorised person means a person appointed by the local government, under section 9.10 of the Act to perform all or any of the functions conferred on an authorised person under this local law;

aviary bird means any bird, other than poultry or pigeons, kept, or usually kept in an aviary or cage;

beekeeper has the meaning given to it in Regulation 3 of the *Biosecurity and Agriculture Management Regulations 2013*;

birds includes poultry;

builder means the holder of a building permit issued in respect of building works on a building site or a person in control of a building site;

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

building permit has the meaning given to it by the *Building Act 2011*;

broadacre farming means the activity of producing cereal grains, coarse grains, pulses, oilseeds and the like including the production of farm animals and livestock and any combination of such activities on rural zone land outside of townsites;

building site means any lot for which a building permit is current;

cattery means a place where more than 3 cats are kept for the purposes of boarding or more than 6 cats are kept for the purpose of breeding;

Class 6 building means any Class 6 building as defined by the Building Code;

Class 9 building means any Class 9 building as defined by the Building Code;

Code of Practice—Pigeon Keeping means the Code of Practice for Pigeon Keeping and Racing in Western Australia as prescribed by the *Animal Welfare (General) Regulations 2003* and amended from time to time;

cow includes an ox, calf or bull;

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

- development approval** means a development approval under a local planning scheme;
- development site** includes any lot or lots for which there is currently a development approval 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;
- district** means the district of the local government;
- disused** means, in relation to any thing whatsoever, that the thing—
- (a) is not in use for the purpose for which it was designed or appears to have been designed or intended; or
 - (b) has been stored or left stationary on land in the district for more than 1 month;
- dust** means any visible granular or particulate material which has or has the potential to become airborne and includes organic and non-organic matter and sand, but does not include smoke;
- EHO** means an Environmental Health Officer appointed by the local government under the *Health Act 1911* and includes any acting or Assistant Environmental Health Officer;
- equipment** means equipment, machinery or vehicles used for, or in connection with, the development of land;
- farm animal** includes a sheep, cow, goat, horse (excluding a miniature horse), deer, alpaca and pig (excluding a miniature pig);
- food** has the meaning given in section 9 of the *Food Act 2008*;
- food business** has the meaning given under section 10 of the *Food Act 2008*;
- food premises** means any premises which is used to prepare food or to conduct a food business;
- horse** means a stallion, mare, gelding, shetland pony, pony, colt or foal, and includes an ass, mule, donkey and any beast of whatever description used for burden or draught or for carrying persons;
- industrial zone** means any area zoned “Industrial” under a local planning scheme;
- land** includes any building or structure on the land;
- laneway** means a public road designed to provide access to the side or rear of lots;
- liquid waste** means waste from any process or activity that is in liquid form and includes paint, fuel, grease, fat, oil, degreaser solvent, detergent, chemical, animal waste, food waste, effluent and all discharges of liquid to land, air or water that are not otherwise authorised by a written law but does not include uncontaminated stormwater;
- livestock** includes any horse, cow, sheep, goat, pig, buffalo, deer, camel, llama or alpaca;
- livestock vehicle** means a vehicle that contains livestock or previously has been used for the carriage of livestock;
- local government** means the Shire of Kulin;
- local planning scheme** means the Shire of Kulin Town Planning Scheme adopted by the local government from time to time and has approval so granted by the Minister for Planning and as defined pursuant to section 4, part 1 of the *Planning and Development Act 2005*;
- lot** has the meaning given to it by the *Planning and Development Act 2005*;
- manure receptacle** means a receptacle of sufficient capacity to receive all manure produced in 1 week on premises upon which a farm animal or farm animals are kept, constructed of smooth, durable, impervious materials, fitted with a fly proof, hinged cover and with no part of the floor lower than the adjoining ground;
- miniature horse** means a horse which meets the standard and height for a miniature horse as described by the Miniature Horse Association of Australia Inc.;
- miniature pig** means a pig that does not exceed 650 millimetres in height as an adult and weighs less than 55 kilograms;
- 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 interference;
- occupier** means any person who is in control of any land or part of any land or authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to land to perform any work in relation to any land and includes a builder or contractor;
- owner** has the meaning defined under Section 1.4 of the Act;
- permit** means a permit issued under this local law;
- permit holder** means a person who holds a valid permit;
- pet shop** means a retail outlet that sells domestic or tame animals and birds;
- pigeon** includes homing pigeons and other domesticated breeds of the species *Columba livia*, but does not include native pigeons or doves whether or not the keeping of such birds is subject to the approval of the Department of Parks and Wildlife;
- poultry** includes fowls, roosters, ducks, peafowls, turkeys, geese, guinea fowls, pheasants and other birds commonly kept for the production of eggs or meat for domestic consumption;

premises has the meaning given to it by the *Health Act 1911*;

refuse means any waste material including 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;

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

Residential Design Codes means the State Planning Policy 3.1 document for the control of residential development throughout Western Australia of an appropriate design for the intended residential purpose, density, context of place and local planning scheme objectives and amended from time to time;

residential development zone means any area zoned “Residential Development” under a local planning scheme;

residential dwelling has the meaning given to it in the Residential Design Codes of Western Australia as amended from time to time;

residential zone means any area zoned “Residential” under a local planning scheme;

rural zone means any area zoned “Rural” under a local planning scheme;

sand means granules or particles of rock, earth, clay, loam, silt and any other granular, particulate or like material including dust and gravel;

Schedule means a schedule to this local law;

stormwater means any naturally occurring water that results from rainfall on or around a site, or water flowing onto the site;

street means any highway or thoroughfare which the public is entitled to use, including the verge and other things including bridges and culverts appurtenant to it;

subdivision approval means a subdivision approval under the *Planning and Development Act 2005*;

thoroughfare means a road or other thoroughfare and includes structures or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end;

townsite includes the townsites of Kulin which are—

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

truck means a motor vehicle having a tare weight in excess of 3,000 kilograms;

unreasonable noise has the meaning given to it by the *Environmental Protection Act 1986*;

vector of disease means an organism which has the ability to transmit pathogens or parasites from one infected person or animal to another person or animal;

vehicle has the same meaning given to it by the *Local Government Act 1995*; and

vermin includes rats, mice, flies, fleas, mites, lice, 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.

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

(3) Where, in this local law, a duty, obligation or liability is imposed on an owner or occupier the duty shall be deemed to be imposed jointly and severally on each owner and occupier.

(4) Where, under this local law, the local government is authorised to carry out actions, or cause to be undertaken works, as a consequence of the failure of any person to comply with the terms of a notice or other conduct, the right to enter land is at all times subject to the provisions of Part 3, Division 3, Subdivision 3 of the Act.

PART 2—KEEPING OF ANIMALS

Division 1—Animals

2.1 Interpretation

In this Division, unless the context otherwise requires—

animal includes cats, dogs, rabbits, ferrets and guinea pigs; and

member of a cat organisation means a person referred to in the *Cat Regulations 2012* regulation 23(c).

2.2 Cleanliness

An owner or occupier of premises in or on which a dog, cat or other animal is kept shall—

- (a) keep the premises free from excrement, filth, food waste and all other matter which is or is likely to become offensive or injurious to health, or is likely to attract rats or other vectors of disease;
- (b) when so directed by an EHO, clean and disinfect the premises; and
- (c) keep the premises, so far as possible, free from flies or other vectors of disease, by spraying with a residual insecticide or other effective means.

2.3 Animal enclosures

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

2.4 Cats

- (1) Subject to subclauses (6) and (7), a person shall not, without an exemption in writing from the local government, keep more than 3 cats over the age of 6 months on premises on any land within the district.
- (2) An owner or occupier of premises may apply in writing to the local government for exemption from the requirements of subclause (1).
- (3) The local government shall not grant an exemption under subclause (2) unless it is satisfied that the number of cats to be kept will not be a nuisance or injurious or dangerous to health.
- (4) An exemption granted under this clause shall specify—
- (a) the owner or occupier to whom the exemption applies;
 - (b) the premises to which the exemption applies; and
 - (c) the maximum number of cats which may be kept on the premises.
- (5) A person who is granted an exemption under subclause (3) may be required by the local government to house, or keep cats in such manner as directed by an EHO.
- (6) A person may keep more than 3 cats over the age of 6 months on premises used for veterinary purposes or as a pet shop, or if the person is a member of a cat organisation a maximum of 9 cats can be kept.
- (7) The occupier of any premises shall not keep a cattery on those premises, unless the cattery is registered with the local government and the occupier has complied with the following conditions—
- (a) the occupier shall obtain approval from the local government to establish a cattery;
 - (b) upon receiving approval to establish a cattery, the occupier shall apply for registration of the cattery in the form approved by the local government;
 - (c) the occupier shall have paid, to the local government, the annual registration fee as determined from time to time by the local government under Sections 6.16 to 6.19 of the Act;
 - (d) the occupier shall provide, for every cat, a properly constructed shelter with an enclosure, which shall comply with the following conditions—
 - (i) every shelter shall have a floor area of not less than 0.50 square metres for every cat over the age of 3 months old that may be kept therein; and
 - (ii) the area of the enclosure appurtenant to any shelter or group of shelters forming a cattery shall not be less than 3 times the area of the shelter or group of shelters to which it is appurtenant;
 - (e) every shelter or enclosure shall be at least 10 metres from the boundary of any land not in the same ownership or possession, or at least 10 metres from any dwelling, church, schoolroom, hall, factory, dairy or premises wherein food is manufactured, packed or prepared for human consumption; and
 - (f) all enclosures, yards, runs and shelters within which cats are kept shall be maintained at all times in a clean condition and free from vectors of disease and shall at any time be cleaned, disinfected or otherwise dealt with as an EHO may direct.
- (8) An application for registration of a cattery shall be made by submitting the cattery registration form approved by the local government and with the annual registration fee as approved from time to time by the local government in accordance with sections 6.16 to 6.19 of the Act is paid.
- (9) A certificate of registration of a cattery issued by the local government shall—
- (a) be in the form approved by local government; and
 - (b) expire on 30 June next after the date of its issue.

Division 2—Keeping of birds

2.5 Keeping of poultry and pigeons in a residential zone, residential development zone and townsite zone

- (1) An owner or occupier of premises in a residential zone, residential development zone and townsite zone shall not keep or permit to be kept on the premises—
- (a) more than 12 poultry; and
 - (b) more than 12 pigeons unless the owner or occupier is an affiliated person in which case the maximum number of pigeons may be increased to 100.

2.6 Conditions for keeping of poultry

- (1) An owner or occupier of a premises who keeps poultry or permits poultry to be kept shall ensure that—
- (a) no poultry shall be kept less than 9 metres from any residential dwelling;

- (b) no poultry is able to approach within 15 metres of a street other than a laneway 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 is kept in a properly constructed and securely fastened structure;
 - (d) the structure has an impervious floor laid with a fall to the front of at least 1 in 50;
 - (e) all structures or enclosures within which poultry are kept are maintained at all times in a clean condition; and
 - (f) all poultry is kept continually confined.
- (2) An owner or occupier of a premises who keeps poultry or permits poultry to be kept may apply in writing to the local government to vary the requirements of subclause (1)(a), (b), (d) and (f).

2.7 Roosters, geese, turkeys and peafowl

Except on land in a rural zone or with the prior written permission of the local government, an owner or occupier of premises shall not keep any of the following—

- (a) roosters;
- (b) geese;
- (c) turkeys; or
- (d) peafowls.

2.8 Conditions for keeping of pigeons

(1) An owner or occupier of a premises who keeps pigeons, or permits pigeons to be kept, shall ensure that—

- (a) all pigeons are kept in a properly constructed pigeon loft, except where registered homing pigeons are freed for exercise;
- (b) all structures or enclosures within which pigeons are kept are maintained at all times in a clean condition;
- (c) no opening to a pigeon loft, including openings for ventilation, is within 9 metres of any residential dwelling; and
- (d) no opening to a pigeon loft, including openings for ventilation, is within 15 metres of a public street, public building, commercial premises or food premises.

(2) An owner or occupier of a premises who keeps pigeons, or permits pigeons to be kept, may apply in writing to the local government to vary the requirements of subclause (1)(c) and (d).

(3) An affiliated person who keeps pigeons, or permits pigeons to be kept, shall do so in accordance with the Code of Practice—Pigeon Keeping, subject to the provisions of this local law.

2.9 Restrictions on pigeon nesting and perching

The local government may order an owner or occupier of a residential dwelling on or in which pigeons are, or are in the habit of nesting or perching, to take reasonable steps to prevent them from continuing to do so.

2.10 Conditions of keeping aviary birds

A person who keeps, or permits to be kept, aviary birds shall ensure that—

- (a) the aviary or cage in which the birds are kept is located at least 1 metre from any lot boundary and at least 5 metres from a residential dwelling on any other lot;
- (b) there is a floor beneath the roofed area of the aviary or cage which is constructed of smooth, impervious material with a gradient of at least 1 in 50 to the front of the aviary or cage;
- (c) the aviary or cage is kept in clean condition and good repair at all times;
- (d) all feed for the birds other than that intended for immediate consumption is stored in vermin proof containers; and
- (e) effective measures are taken to prevent the attraction or harbourage of vermin.

2.11 Nuisance caused by birds

An owner or occupier of land shall not keep any bird or birds which are or create a nuisance.

Division 3—Keeping of bees

2.12 Permit required to keep bees

(1) *permit* means a permit to keep bees issued under this local law.

(2) Subject to the provisions of this clause, a person shall not keep bees or allow bees to be kept on land except in accordance with a valid permit issued in relation to the land.

(3) Subclause (1) does not apply where—

- (a) the land is outside the townsite; and
- (b) the bees are kept—
 - (i) at least 500 metres from a thoroughfare; or
 - (ii) less than 500 metres from a thoroughfare but the vegetation or a screen or other barrier on the land is such as to encourage the bees to fly at a height over the thoroughfare as will not create a nuisance to users of the thoroughfare.

- (4) Subclause (1) does not apply where an occupier of land keeps bees on the land—
- (a) for a continuous period not exceeding 8 weeks; and
 - (b) for the purpose of pollinating a crop on the land.
- (5) An occupier referred to in subclause (3), in keeping bees under that subclause, shall provide a good and sufficient water supply on the land which is readily accessible by the bees.
- (6) Subclause (1) does not apply where a person keeps bees on Crown land.

2.13 Application for a permit

An applicant for a permit shall—

- (a) be a person registered as a beekeeper under Regulation 13(7) of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*;
- (b) provide such details as may be required by the local government;
- (c) apply in the form approved by the local government; and
- (d) pay any application fee imposed and determined by the local government under sections 6.16 to 6.19 of the Act.

2.14 Determination of application

- (1) The local government may—
- (a) refuse to determine an application for a permit which does not comply with clause 2.13;
 - (b) approve an application for a permit subject to the conditions referred to in clause 2.12 and to such other conditions as it considers appropriate; or
 - (c) refuse to approve an application for a permit.
- (2) Where an application for a permit is approved subject to conditions, the permit holder is to comply with those conditions or is to cause those conditions to be complied with.
- (3) Where the local government approves an application under subclause (1)(b), it is to issue to the applicant a permit in the form approved by the local government.
- (4) A permit is valid from the date of issue unless, and until, it is cancelled under this local law.

2.15 Conditions of approval

- (1) Without limiting the generality of clause 2.14(1)(b) an application for a permit may be approved by the local government subject to the following conditions—
- (a) the provision of a good and sufficient water supply on the land which is readily accessible by the bees on the land;
 - (b) each bee hive shall be—
 - (i) kept at a distance specified by the local government from any thoroughfare, public place or boundary of the land; or
 - (ii) located near a screen or other barrier so as to prevent the bees flying low over a thoroughfare, public place or adjoining land;
 - (iii) no more than 2 bee hives are to be kept on land of less than 2,000 square metres in area; and
 - (iv) no more than 15 bee hives are to be kept on land between 2,000 square metres and 20,000 square metres in area.
- (2) In respect of a particular application for a permit, the local government may vary any of the conditions referred to in subclause (1).

2.16 Variation or cancellation of permit and conditions

- (1) The local government may vary the conditions of a permit after it has been issued.
- (2) The local government may cancel a permit on the request of a permit holder to do so.
- (3) Notwithstanding clause 2.20, a permit shall be cancelled on—
- (a) the permit holder ceasing to be registered as a beekeeper under regulation 13(7) of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*; or
 - (b) the expiration of a continuous period of 12 months during which the permit holder has not kept any bees on the land to which the permit relates, without any action required on the part of the local government.

2.17 Permit holder to notify cessation of registration or keeping of bees

- (1) In this clause a **permit holder** includes the holder of a permit cancelled by subclause 2.16(3).
- (2) A permit holder is to notify the local government in writing as soon as practicable after—
- (a) the permit holder ceases to be registered as a beekeeper under regulation 13(7) of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*; or
 - (b) a continuous period of 12 months has passed during which the permit holder has not kept any bees on the land described in her or his permit.

(3) A permit holder shall, within 7 days of the local government giving the permit holder a written notice to do so, provide to the local government—

- (a) written proof of her or his registration as a beekeeper under regulation 13(7) of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*; or
- (b) in respect of land identified by the local government in its notice, a signed statement as to whether or not he or she has kept bees on the land within the 12 months preceding the date of the notice; or
- (c) both.

2.18 Permit not transferable

A permit is personal to the permit holder, is not transferable and applies only to the land described in the permit.

2.19 Nuisance

A person shall not keep, or allow to be kept, bees or bee hives, or both, on land so as to create a nuisance.

2.20 Notice to remove bees

(1) Whenever, in the opinion of the local government, a person has contravened any provision of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013* or of this local law which relates to the keeping of bees or bee hives, the local government may give the permit holder, in relation to that land, or if there is no valid permit in relation to that land, an owner or occupier of the land, a written notice requiring her or him to remove any bees or bee hives, or both, from the land within the time specified in the notice.

(2) Subject to Division 1 of Part 9 of the Act, on the giving of a notice referred to in subclause (1), any valid permit given by the local government relating to the keeping of bees or bee hives on that land is cancelled from the time specified in the notice, being not less than 7 days from the date it is given.

(3) Where a person fails to comply with a notice given under subclause (1), the local government may dispose of the bees or the bee hives or both, in such manner as it sees fit and recover the costs of so doing from the permit holder, or an owner or occupier, as the case may be, as a debt due to it.

Division 4—Keeping of farm animals

2.21 Permit required to keep farm animals

(1) **permit** means a permit to keep farm animals issued under this local law.

(2) Subject to clause 2.26, an owner or occupier of land shall not keep, or allow to be kept, any farm animal unless—

- (a) in accordance with a valid permit authorising the keeping of such a farm animal issued in relation to the land pursuant to clause 2.24; or
- (b) in a rural zone and in accordance with the provisions of any local planning scheme applicable to that zone.

2.22 Application for a permit to keep farm animals

An application for a permit required by clause 2.21 shall be in the form approved by the local government and shall include the following information—

- (a) a plan of the property, at a scale not less than 1:200, with dimensions clearly marked, showing where it is proposed that the animal is to be kept and the distance of that location from any residential dwelling on another lot, Class 6 building or Class 9 building, business premises or food premises;
- (b) a sketch plan, at a scale of 1:100, indicating the nature of the shelter or housing to be provided for the animal;
- (c) a detailed written plan for the management of manure which addresses—
 - (i) control of vermin;
 - (ii) disease prevention; and
 - (iii) prevention of nuisance odours; and
- (d) the appropriate application and permit fees as determined from time to time by the local government in accordance with sections 6.16 to 6.19 of the Act.

2.23 Determination of application to keep farm animals

(1) Subject to clause 2.24, the local government may—

- (a) refuse to determine an application for a permit which does not comply with clause 2.22;
- (b) approve an application for a permit subject to such conditions as it considers appropriate; or
- (c) refuse to approve an application for a permit.

(2) Where an application for a permit is approved subject to conditions, the permit holder shall comply with those conditions or cause compliance with those conditions.

(3) Where the local government approves an application under subclause (1)(b), it is to issue to the applicant a permit in the form approved by the local government.

(4) A permit is valid from the date of issue until 30 June the following year, unless it is cancelled prior to that date under this local law.

2.24 Conditions of approval to keep farm animals

- (1) A permit shall not be granted pursuant to clause 2.23—
- (a) unless the land for which the approval is sought is of such dimensions and configuration as will permit the subject animal to be confined in a minimum cleared area of 150 square metres and prevented from reaching within 15 metres of any residential dwelling, Class 6 building or Class 9 building, business premises or food premises;
 - (b) in the case of a horse (other than a miniature horse) or cow, unless the land for which the approval is sought has a minimum area of 1 hectare; or
 - (c) for the keeping of any pig (other than a miniature pig).
- (2) The local government shall take into account the opinions of occupiers of adjoining properties in determining whether to grant approval for the keeping of a farm animal.
- (3) Approval to keep a farm animal may be issued subject to conditions, including—
- (a) that a stable or shelter is provided for housing the approved animal;
 - (b) that a manure receptacle is provided in a position convenient to the shelter or place where the approved animal is kept, and that the receptacle is used for the receipt of all manure produced on the premises; or
 - (c) any other conditions that the local government considers necessary for the protection of the health and amenity of the neighbourhood,

and such conditions may be imposed at any time subsequent to the initial approval.

2.25 Variation or cancellation of permit to keep farm animals and conditions of permit

- (1) The local government may vary the conditions of a permit after it has been issued, and shall give notice of such variation to the permit holder.
- (2) The local government may cancel a permit in the event the permit holder—
- (a) fails to comply with any condition set under subclause 2.23(1)(b);
 - (b) after being notified of a variation under subclause (1) fails to comply with the varied condition;
 - (c) breaches clause 2.26, 2.27, 2.28 or clause 2.29 of this local law; or
 - (d) fails to comply with a notice of breach issued under clause 6.1.

2.26 Conditions for keeping farm animals

- (1) An owner or occupier of premises upon which a farm animal or farm animals are kept, shall—
- (a) maintain the place or places where the animals are kept in clean condition;
 - (b) ensure that no farm animal or farm animals kept on the premises cause or constitute a nuisance;
 - (c) maintain the premises free from flies or other vermin by the use of residual insecticide or other effective means;
 - (d) if a manure receptacle is required to be used—
 - (i) cause all manure produced on the premises to be collected daily and placed in the receptacle;
 - (ii) cause the receptacle to be emptied as often as is necessary to prevent it becoming offensive or a breeding place for flies or other vermin, but in any case at least once a week; and
 - (iii) keep the lid of the receptacle closed except when manure is being deposited or removed; and
 - (e) not permit any farm animal to approach within 9 metres of any residential dwelling, food premises, Class 6 building or a Class 9 building, or a business or commercial premises.
- (2) An owner or occupier of premises in a rural zone shall not keep more than 1 pig except for on premises registered by the local government as an abattoir or piggery under the provisions of section 191 of the *Health Act 1911*, except with the express written approval of the local government.
- (3) An owner or occupier of premises upon which a farm animal or farm animals are kept, may apply in writing to the local government to vary the requirements of subclause 2.26(1)(e).

2.27 Keeping a miniature horse

- (1) An owner or occupier of a premises may keep only a sterilised miniature horse on land of not less than 1,000 square metres in area provided it is registered with the local government and the annual registration fee approved from time to time by the local government in accordance with sections 6.16 to 6.19 of the Act is paid.
- (2) An owner or occupier of premises shall not keep more than 1 miniature horse within a townsite without the written approval of the local government.
- (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.

2.28 Keeping a miniature pig

- (1) Except for a miniature pig, the keeping of pigs in the district is forbidden except for on premises registered by the local government as an abattoir or piggery under the provisions of section 191 of the *Health Act 1911* or, subject to subclause 2.26(2), on a rural zone.

- (2) The local government may—
- (a) prohibit the keeping of a miniature pig on any land, or
 - (b) state the conditions under which the miniature pig may be kept.
- (3) A person may keep 1 miniature pig in a townsite, provided it is registered with the local government and the annual registration fee approved from time to time by the local government in accordance with sections 6.16 to 6.19 of the Act is paid.
- (4) An owner or occupier of premises where a miniature pig is kept shall—
- (a) only keep a sterilised animal and retain written proof of its sterilisation;
 - (b) confine the animal on the property at all times;
 - (c) ensure the animal does not cause a nuisance to any neighbour regarding noise, dust, or odour; and
 - (d) maintain documentary evidence that the animal's veterinary treatment against roundworm and tapeworm is current.

2.29 Requirements for farm animal shelters

- (1) Any stable, enclosure or shelter provided for the keeping of farm animals, whether or not a permit is required for the keeping of such farm animals pursuant to clause 2.21, shall—
- (a) not be situated within 9 metres of any residential dwelling, Class 6 building or Class 9 building, business premises or food premises;
 - (b) not be situated within 1 metre of any lot boundary;
 - (c) be constructed of materials approved by the local government;
 - (d) have on each side of the building between the wall and roof a clear opening of at least 150 millimetres in height, and of sufficient length, to provide adequate ventilation to the stable, enclosure or shelter;
 - (e) when required by the local government have a separate stall for each horse, cow or other approved animal, the shortest dimension of which shall be at least twice the length of the animal housed therein; and
 - (f) subject to subclause (2), have a floor, the upper surface of which shall—
 - (i) be raised at least 75 millimetres above the surface of the surrounding ground;
 - (ii) be constructed of cement, concrete or other similar impervious material; and
 - (iii) have a fall of 1 in 100 to a drain which shall empty into a trapped gully situated outside the stable or shelter.
- (2) An owner or occupier of any land upon which a stable or shelter is located may apply in writing to the local government to vary the requirements of subclause (1)(a), (d) and (f).
- (3) A stable or shelter constructed with a sand floor may be approved by the local government subject to—
- (a) the site being well drained, with the sand floor being at least 1.5 metres above the highest known ground water level;
 - (b) a 300 millimetre thick bed of crushed limestone or aggregate being laid under the sand of the stable;
 - (c) the sand, whether natural or imported, being clean, coarse and free from dust;
 - (d) footings to the stable or shelter being a minimum of 450 millimetres below ground level; and
 - (e) the design of the stable allowing for the access of small earthmoving machinery, such as a skid steer loader, into each stall to maintain the correct floor height.

Division 5—Livestock

2.30 Livestock not to stray

The owner or person in charge of livestock shall not allow livestock to stray or to be at large in a street, public place or upon private property without the consent of the property owner.

2.31 Property to be fenced

- (1) The owner or occupier of property on which livestock is kept, shall 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.
- (2) The minimum fencing requirements to confine livestock in a farming or rural residential area shall be a fence of post and wire construction.

PART 3—BUILDING, DEVELOPMENT AND LAND CARE

Division 1—Litter and refuse on building sites

3.1 Provision of refuse receptacles

The owner or occupier of a building or development site shall at all times provide and maintain a refuse receptacle, available for use on the site, which includes a suitable cover, to the satisfaction of an authorised person, of such design as will—

- (a) contain any refuse likely to be produced on the site; and
- (b) prevent refuse being blown from the receptacle by wind.

3.2 Control of refuse

(1) From the time of commencement of works on a building site or development site until the time of completion of such work, the owner or occupier of the site shall take reasonable steps to—

- (a) ensure all refuse on the site is placed and contained in the refuse receptacle and prevented from being blown from the site by wind;
- (b) keep the site free from any refuse;
- (c) keep the street verge, and any other reserve, immediately adjacent to the site, free of refuse from the site; and
- (d) ensure the refuse receptacle is emptied when full.

(2) The owner or occupier of a building site or development site shall ensure that within 2 days of completion of works on the site, the site and the street verge immediately adjacent to it, are cleared of all refuse and all refuse receptacles are removed from the site.

3.3 Unauthorised storage of materials

(1) All construction materials must be located on the building site or development site under construction, unless written approval has been given by the local government to store materials on another property (including a road reserve).

(2) An application for approval under subclause (1) must be—

- (a) in writing; and
- (b) accompanied by the written approval of the landowner of the land on which materials are proposed to be stored.

Division 2—Prevention of dust and liquid waste

3.4 Prohibited activities

(1) An owner or occupier of land must take all reasonable measures to—

- (a) stabilise dust on the land;
- (b) contain all liquid waste on the land; and
- (c) ensure no dust or liquid waste is released or escapes from the land, whether by means of wind, water or any other cause.

(2) Subclause (1)(c) does not apply to land where the primary activity is broadacre farming.

(3) Where the local government forms the opinion that—

- (a) an owner or occupier has not complied with subclause (1)(a) or subclause (1)(b); or
- (b) the dust or liquid waste has been released or escaped from the owner's or occupier's land, the local government may serve on the owner and or occupier of the land, a notice requiring the owner and or occupier to do one or more of the following—
 - (i) comply with subclause (1)(a) or (1)(b);
 - (ii) clean up and properly dispose of any released or escaped dust or liquid waste;
 - (iii) clean up and make good any damage resulting from the released or escaped dust or liquid waste; and
 - (iv) take effective measures to stop any further release or escape of dust or liquid waste;
- (c) The requirements set out in a notice issued under this subclause must be complied with—
 - (i) within 48 hours of service of the notice where no other time is specified;
 - (ii) within such other period as is specified in the notice; or
 - (iii) immediately, if the notice so specifies.

(4) Where the local government forms the opinion that dust or liquid waste has escaped or has been released from an activity undertaken on land or as a consequence of the use of equipment on land, the local government may serve a notice on—

- (a) any owner or occupier of the land; or
- (b) any operator of equipment on the land,

requiring that the activity or use of equipment on the land be ceased immediately, for such period as is specified in the notice.

(5) Where the local government is of the opinion that dust or liquid waste may be released or escape from any land as a result of an activity which is likely to be carried out on that land, the local government may give to the owner and/or occupier a notice providing that the activity may only be carried out subject to conditions specified in the notice.

3.5 Dust management

An owner or occupier of land within the townsite who intends to undertake any work involving the clearing of land, from which any sand or dust is likely to be released whether by means of wind, water or any other cause, shall—

- (a) submit to an authorised person a Dust Management Plan in accordance with the Department of Environment Regulation document "A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities" (March 2011), or any updated version of this document; and
- (b) obtain written approval of the Dust Management Plan from an authorised person before commencement of any work.

*Division 3—Unightly land and disused materials***3.6 Removal of refuse and disused materials**

(1) The owner or occupier of a lot shall not keep, or permit to remain on the lot, any refuse, rubbish or disused material of whatever nature or kind, which in the opinion of the local government or an authorised person, is likely to give 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 refuse, rubbish or disused material from the lot within the time specified in the notice.

3.7 Removal of unsightly overgrowth of vegetation

(1) The owner or occupier of a lot shall 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.

3.8 Storage of vehicles, vessels and machinery

(1) The owner or occupier of a lot shall not—

- (a) store, or allow to remain in public view on any lot, more than 1 vehicle, vessel or machinery (whether licensed or not) in a state of disrepair;
- (b) store, or allow to remain in public view on any lot, any vehicle, vessel or machinery in a state of disrepair for a period in excess of 1 month;
- (c) store, or allow to remain in public view on any lot, any vehicle parts, vessel parts or machinery parts (including tyres);
- (d) wreck, dismantle or break up any vehicle, part or body of a vehicle, vessel or machinery except where performed—
 - (i) inside a building; or
 - (ii) within an area enclosed by a fence or wall of not less than 1.8 metres in height and of such a nature as to screen all vehicles, parts or bodies of vehicles, vessels or machinery from the street and from adjoining properties; or
- (e) wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance.

(2) Subclause (1) does not apply to industrial zoned lots.

3.9 Disposing of disused refrigerators or similar containers

A person shall 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 0.04 cubic metres or more on any land without first—

- (a) removing every door and lid and every lock, catch and hinge attached to a door or lid; or
- (b) rendering every door and lid incapable of being fastened; and
- (c) removing any refrigerants as per the requirements of the *Environmental Protection (Ozone Protection) Policy 2000*.

*Division 4—Hazardous materials***3.10 Hazardous trees**

(1) Where a tree on a lot endangers any person or thing on adjoining land, the local government may give a notice to the owner or the occupier of the lot to remove, cut, move or otherwise deal with that tree so as to make the tree safe.

(2) Where a tree on a lot presents a serious and immediate danger to any person or thing, the local government may take any remedial action it considers appropriate in order to make the tree safe without having given the owner or occupier notice pursuant to subclause (1).

(3) The local government reserves its right to recover any costs incurred by the local government for remedial action taken in terms of subclause (2).

PART 4—NUISANCES AND DANGEROUS THINGS*Division 1—Light***4.1 Use of exterior lights**

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

4.2 Emission or reflection of light

An owner or occupier of land shall ensure that—

- (a) artificial light is not emitted or reflected from anything on the land so as to illuminate premises outside that land to more than 50 lux; and
- (b) 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.

4.3 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
- (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,

the local government may by notice in writing direct the owner or occupier to take such actions as the local government 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;
- (c) any reflective surfaces be painted or otherwise treated so as to abate the nuisance; or
- (d) any combination of these measures that the local government believes to be appropriate to the circumstances be undertaken.

Division 2—Smoke, fumes, odours and other emissions

4.4 Burning rubbish, refuse or other material

(1) A person shall not on any land of an area 2,000 square meters or less, being residential zone, residential development zone or townsite zone property, set fire to rubbish, refuse or other materials unless—

- (a) written approval has first been obtained from the local government;
- (b) the person demonstrates to the satisfaction of the local government that reasonable alternatives for the disposal of the rubbish, refuse or other materials do not exist and the potential for pollution is low;
- (c) the material does not include any plastic, rubber, food scraps or other material likely to cause the generation of smoke or odour in such quantity as to cause a nuisance to other persons;
- (d) a haze alert has not been issued by the Bureau of Meteorology for the period during which burning is to take place; and
- (e) the burning complies with the *Bush Fires Act 1954*, any annual fire hazard reduction notice issued by the local government under that Act and any conditions of approval as determined by the local government.

(2) Subclause (1) shall not apply to any barbecue, solid fuel water heater, space heater or ovens fired with dry paper, dry wood, synthetic char or charcoal type fuel.

(3) Subclause (1) is subject to any fire danger rating as determined by the Bureau of Meteorology.

4.5 Escape of smoke, fumes, odours and other emissions

An owner or occupier of land or premises shall not cause or allow the escape of smoke, fumes, odours or other emissions from the land or premises in such quantity or of such a nature as to cause or to be a nuisance to any person unless—

- (a) the escape of smoke, fumes, odours or other emissions from the land or premises is the result of burning in compliance with the *Bush Fires Act 1954*, any annual fire hazard reduction notice issued by the local government under that Act and any conditions of approval as determined by the local government; and
- (b) all reasonable steps have been taken to prevent the smoke, fumes, odours and other emissions from land or premises from causing a nuisance to any person.

Division 3—Trucks

4.6 Livestock vehicles

(1) A person shall not park a vehicle containing livestock in a townsite for a period in excess of 30 minutes.

(2) A person shall not park a vehicle which contains or has been used for the carriage of livestock so as to create or be a nuisance to any person, by reason of the odour emanating from the vehicle.

(3) If a person parks a vehicle containing livestock in a townsite in accordance with subclause (1), then the person does not contravene subclause (2).

4.7 Truck noise from residential land

A person shall not start or drive a truck on land zoned, approved or used for residential purposes between the hours of 10.30 pm and 6.30 am on the following day without first obtaining the written consent of the local government.

Division 4—Swimming pool backwash management

4.8 Disposal of swimming pool backwash

(1) The owner or occupier of land on which a swimming pool is constructed shall ensure that all backwash is not permitted to discharge onto or run-off onto adjacent land so as to cause a nuisance, or cause damage to any structures situated on adjacent land.

(2) Subclause (1) shall not prevent the discharge of swimming pool backwash from a lot into a local government approved stormwater drain or road by a method approved by an authorised person.

Division 5—Stormwater management

4.9 Containment of stormwater

(1) Subject to subclause (2), the owner or occupier of a lot shall ensure that all stormwater received by any building, house, other structure or any paved or sealed or other surfaced areas including any vehicle access ways on the lot is contained within the lot and is not permitted to discharge onto or run-off onto adjacent land so as to cause a nuisance, or cause damage to any structures situated on adjacent land.

(2) Subclause (1) shall not prevent the discharge of stormwater from a lot into a local government approved stormwater drain or road.

Division 6—Amusement activities

4.10 Nuisance

A person shall not, without written authorisation from the local government, provide or conduct any amusement on land so as to create or be a nuisance to any owner or occupier of land in the district.

4.11 Abatement by authorised person

Subject to Subdivision 3 of Division 3 of Part 3 of the Act, an authorised person may enter on any land where an amusement is provided or conducted and may do any act or thing reasonably required to abate a nuisance referred to in clause 4.10.

Division 7—Advertising, bill posting and junk mail

4.12 Placement of advertisement, bill posting or junk mail

(1) A person shall not, without written authorisation from the local government, place or affix any letter, figure, device, poster, sign or advertisement on any buildings, fences or posts.

(2) A person shall not place in or on any letter box, gate, fence or generally leave or distribute to any property in the district, any handbill, poster, pamphlet, flyer or other form of advertising or promotional material, where there is clearly displayed a sign or notice which states “no junk mail” or words of similar effect.

4.13 Exemptions

Clause 4.12 does not apply to—

- (a) delivery of articles by Australia Post;
- (b) documents issued under or for the purposes of an Act of Parliament;
- (c) an authorised person or member of the Police Service acting in the course of their duties;
- (d) electoral materials; or
- (e) legal process.

Division 8—Bird nuisance

4.14 Restrictions on feeding of birds

(1) A person shall not feed a bird—

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

(2) Where an authorised person forms the opinion that a person has not complied with subclause (1) the authorised person may serve the person a notice requiring the person to clean up and properly dispose of any feed or waste products specified in the notice.

PART 5—OBJECTIONS AND REVIEW

5.1 Objections and review

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

- (a) grant a person a permit or authorisation;
- (b) vary or cancel a permit or authorisation; or
- (c) give a person a notice,

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

PART 6—ENFORCEMENT

Division 1—Notice of breach

6.1 Notice of breach

(1) Where a breach of any provision of this local law has occurred, the local government may give a notice in writing to the person alleged to be responsible for such breach.

- (2) A notice issued pursuant to subclause (1) shall—
- (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state the manner in which the recipient is required to remedy the breach to the satisfaction of the local government within a time period stipulated in the notice which shall be not less than 14 days from the giving of the notice.
- (3) It is an offence to fail to comply with a notice issued by the local government pursuant to subclause (1).

6.2 Form of notices

Where this local law refers to the giving of a notice other than the giving of an infringement notice and no particular form is prescribed, it will be sufficient that the notice be in writing, giving adequate details to enable the owner, occupier or other person to whom the notice is issued to know the offence committed and the measures required to be taken or conditions with which compliance is required, as the case may be.

6.3 When local government may undertake work required by notice

- (1) This clause applies only in respect of a notice issued under subclauses 3.6(2), 3.7(2), 3.10(1) and 4.3(1) of this local law.
- (2) Where a person fails to comply with a notice referred to in subclause (1) the local government may, subject to compliance with the requirements of Subdivision 3 of Division 3 of Part 3 of the Act, do anything that it considers necessary to achieve, so far as is practicable, the purpose for which the notice was given.
- (3) The local government may recover the cost of anything it does under subclause (2) as a debt due from the person who failed to comply with the notice.

Division 2—Offences and penalties

Subdivision 1—General

6.4 Offences and penalties

- (1) A person who—
- (a) fails to do anything required or directed to be done under this local law;
 - (b) fails to comply with the requirements of a notice issued under this local law by an authorised person; or
 - (c) does anything which under this local law that person is prohibited from doing,
- commits an offence.
- (2) Where, under this local law, an act is required to be done or forbidden to be done in relation to any land or premises, the owner or occupier of the land or premises has the duty of causing to be done the act so required to be done, or of preventing from being done the act forbidden to be done.
- (3) A person who commits an offence under this local law is liable to a maximum penalty of \$5,000 and where the offence is of a continuing nature a maximum daily penalty of \$500 in respect of each day or part of a day during which the offence has continued.

Subdivision 2—Infringement notices and modified penalties

6.5 Prescribed offences

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.
- (3) 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,
- before giving an infringement notice to a person in respect of the commission of a prescribed offence.

6.6 Form of infringement notices

For the purposes of this local law—

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

Schedule 1
PRESCRIBED OFFENCES

[Clause 6.5]

Item No	Clause	Nature of Offence	Modified Penalty
1	2.2(a)	Failure to keep premises free from excrement, filth, food waste and other matter likely to be offensive or injurious to health, or attracts vermin or insects	\$150
2	2.2(b)	Failure to keep premises clean and disinfected when directed by an EHO	\$150
3	2.2(c)	Failure to keep premises free of flies, or when directed by an EHO, spray premises with residual insecticide or use other means to kill or repel flies	\$150
4	2.3	Failure to maintain adequate enclosures	\$150
5	2.4(1)	Keeping more than 3 cats over the age of 6 months without exemption from the local government	\$150
6	2.4(7)(a)	Establish or maintain a cattery on any lot within the district without approval	\$150
7	2.4(7)	Failing to maintain cattery in compliance with conditions of approval	\$150
8	2.5(1)(a)	Keep or permit to be kept on premises in a residential zone, residential development zone and townsite zone more than 12 poultry	\$150
9	2.5(1)(b)	Keep or permit to be kept on premises in a residential zone, residential development zone and townsite zone more than 12 pigeons	\$150
10	2.6	Keep, or permit to be kept, any poultry, not in accordance with conditions of this local law	\$150
11	2.7	Keep, or suffer to remain in a residential area, a rooster, turkey, goose or geese, or peafowl	\$150
12	2.8	Failing to keep cages, enclosures and lofts maintained to the minimum standard specified in the Code of Practice—Pidgeon Keeping or this local law	\$150
13	2.9	Failing to prevent pigeons nesting or perching	\$150
14	2.10	Failing to keep aviary birds in accordance with conditions of this local law	\$150
15	2.11	Keeping birds so as to create a nuisance	\$150
16	2.12(2)	Keeping bees without a valid permit	\$150
17	2.12(5)	Failure to provide a good and sufficient water supply on the land which is readily accessible by the bees	\$150
18	2.14(2)	Failure to comply with a condition of a permit to keep bees	\$150
19	2.19	Keeping bees or bee hives so as to create or cause a nuisance	\$150
20	2.20(1)	Failure to comply with a notice to remove bees or bee hives for contravention of local law	\$150
21	2.21(2)(a)	Keeping a farm animal without a valid permit	\$150
22	2.26	Failure to comply with the conditions for keeping farm animals	\$150
23	2.27	Keeping a miniature horse on land without a registration	\$150
24	2.28(2)(a)	Keeping a prohibited miniature pig on any land without approval	\$150
25	2.28(2)(b)	Failure to comply with the stated conditions for the keeping of a miniature pig	\$150
26	2.28(3)	Keeping more than 1 miniature pig within a townsite	\$150
27	2.28(4)(b)	Failure to confine the miniature pig on the property where the animal is kept at all times	\$150
28	2.29	Failing to keep any stable, enclosure or shelter provided for the keeping of farm animals in accordance with conditions of this local law	\$150
29	2.30	Permitting livestock to stray, or be at large in a street, public place or private property without consent	\$150

Item No	Clause	Nature of Offence	Modified Penalty
30	2.31	Failing to keep property fenced in a manner capable of confining livestock	\$150
31	3.1	Failure to provide or maintain a refuse receptacle on a building or development site	\$250
32	3.2	Failure to control refuse on a building or development site	\$250
33	3.3	Unauthorised storage of materials	\$250
34	3.4	Release or escape of dust or liquid waste from land	\$250
35	3.5	Commencing works involving clearing of land without an approved Dust Management Plan	\$250
36	3.8(1)(a)	Storing, or allowing to remain on land, more than 1 vehicle, vessel or machinery in a state of disrepair	\$250
37	3.8(1)(b)	Storing, or allowing to remain on land, any vehicle, vessel or machinery in a state of disrepair for a period in excess of 1 month	\$250
38	3.8(1)(c)	Storing, or allowing to remain on land, any vehicle part, vessel part or machinery parts (including tyres)	\$250
39	3.8(1)(d)(i)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not inside a building	\$250
40	3.8(1)(d)(ii)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not behind a sufficient fence or wall	\$250
41	3.8(1)(e)	Wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance	\$250
42	3.9	Disposing of disused refrigerator or similar container with door/lid that can be fastened without removing the refrigerant, door, lid, lock, catch, hinge and rendering the door/lid incapable of being fastened	\$250
43	4.1	Erection or use of lighting installations other than in accordance with this local law	\$250
44	4.2	Emitting light so as to create or cause a nuisance	\$250
45	4.4	Failing to burn rubbish, refuse or other material in accordance with conditions of this local law	\$250
46	4.5	Permitting the escape of smoke, fumes, odours and other emissions so as to cause a nuisance	\$250
47	4.6(1)	Parking a livestock vehicle in a townsite in excess of 30 minutes	\$250
48	4.7	Starting or driving a truck on residential land, or adjoining residential land, without consent of the local government	\$250
49	4.8(1)	Discharging swimming pool backwash onto adjacent land so as to cause a nuisance or cause damage	\$250
50	4.9(1)	Failure to ensure that all rainwater or stormwater received by a lot and any building, house or structure on the lot, is contained within the lot or discharged directly to an approved stormwater drain or road	\$250
51	4.10	Conducting an amusement so as to create a nuisance	\$250
52	4.12(1)	Unauthorised placement of advertisement, letter, figure, device, poster, or sign	\$100
53	4.12(2)	Placement of advertisement, bill posting or junk mail where a "no junk mail" or equivalent, sign is displayed	\$100
54	4.14(1)(a)	Feeding a bird which so as to create or cause a nuisance	\$250
55	4.14(1)(b)	Feeding a bird a food/substance that is not a natural food	\$250
56	6.4(1)(b)	Failure to comply with a Notice	\$250

This Local Law was made by the Shire of Kulin at an Ordinary Meeting held on the 19th day of October in the year 2016.

The Common Seal of the Shire of Kulin was affixed by authority of a resolution of the Council in the presence of—

Cr BARRY WEST, Shire President.
Mr NOEL MASON, Chief Executive Officer.

Consented to—

TARUN WEERAMANTHRI, Executive Director Public Health.

Dated this 9th day of November 2016.