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## SHIRE OF KULIN

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CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995

### CEMETERIES LOCAL LAW 2020

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DOG ACT 1976  
LOCAL GOVERNMENT ACT 1995

### DOGS LOCAL LAW 2020

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LOCAL GOVERNMENT ACT 1995

**GENERAL REPEAL LOCAL LAW 2020**  
**STANDING ORDERS LOCAL LAW 2020**



**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF KULIN

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**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF KULIN

**CEMETERIES LOCAL LAW 2020**

Under the powers conferred by the *Cemeteries Act 1986* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Kulin resolved on 21 October 2020 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Kulin Cemeteries Local Law 2020*.

**1.2 Commencement**

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

**1.3 Application**

This local law applies to the Kulin Public Cemetery (Reserve 192552), Dudinin Public Cemetery (Reserve 14995) and the Pingaring Public Cemetery (Lot 3142) located in the district.

**1.4 Repeal**

This local law repeals *the Shire of Kulin, Kulin and Dudinin Cemeteries (Reserves 19252 and 14995) By-Laws* as published in the *Government Gazette* on 8 November 1967 and as amended in the *Government Gazette* on 21 December 1973 and 15 July 1977.

**1.5 Definitions**

In this local law, unless the context otherwise requires—

**Act** means the *Cemeteries Act 1986*;

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

**authorised person** means a person—

- (a) appointed by the Board for the purposes of performing any function or exercising any power, other than the giving of infringement notices, conferred upon an authorised person by this local law; or
- (b) authorised under section 64 of the Act to give infringement notices;

**board** means the local government;

**Burial** means placement of a coffin containing a dead body into a grave, and includes a natural burial;

**business day** means any week day other than a public holiday in Western Australia;

**cemetery** means a cemetery under the care and control of the Board;

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

**coffin** means a coffin or other receptacle used for the transportation of a dead body to the grave site, or the receptacle used for the burial of a dead body in a grave;

**Commissioner of Police** means the Commissioner of Police for the time being appointed under the *Police Act 1892* and includes any person for the time being acting in that capacity;

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

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

**funeral director** means a person holding a current funeral director's licence;

**grant** means a grant issued by the Board for an exclusive right of burial in a specified area of the cemetery, and for the purposes of this local law, includes placement of ashes in a grave, niche wall, memorial garden or under a memorial plaque, or scattering of ashes within a cemetery;

**headstone** means a memorial designed for placement at the head of a grave, commemorating a grave or the placement of ashes;

**holder** in relation to a grant includes—

- (a) a person issued with a grant by the Board, or
- (b) a person for the time being appearing to the Board to be the holder of a grant;

**interment** includes, as the case may be—

- (a) burial of a dead body;
- (b) placement of ashes in a grave, niche wall, memorial garden or under a commemorative plaque; or
- (c) scattering of ashes;

**interment permit** means a single funeral permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct the interment of a person named in the permit, and includes placement or scattering of ashes in a cemetery;

**local government** means the Shire of Kulin;

**memorial** has the meaning set out in the Act;

**memorial plaque** means a panel, plate or tablet designed or used for purposes of bearing a commemorative inscription;

**memorial work** means to install, repair, renovate or remove a memorial;

**monument** means a sculpture, statue, cover of a grave or other form of memorial approved by the Board commemorating a grave or the placement of ashes, other than a headstone or memorial plaque;

**natural burial** means burial in the ground—

- (a) without preparation of the dead body using chemical preservatives; and
- (b) by containment of the dead body only in a shroud or biodegradable coffin;

**niche wall** means a structure for the placement of a container of ashes in a compartment secured with a covering memorial plaque;

**personal representative** means—

- (a) the administrator or executor of an estate of a deceased person;
- (b) the person who, by law of practice, has the right to apply for administration of the estate of the deceased person; or
- (c) a person having the lawful custody of a dead body;

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

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

**shroud** means, as the context requires—

- (a) a cloth or cloths used to securely wrap a dead body for burial; or
- (b) a dead body contained within a cloth or cloths;

**standard grave** means a grave which does not exceed any of the following dimensions: 2000 millimetres long, 1200 millimetres wide and 2100 millimetres deep;

**utility services** means municipal or public services and includes the supply of water, electrical power, and, gas and also includes refuse, building waste and sewerage disposal services;

**vault** means a below ground lined grave with one or more sealed compartments constructed to specifications approved from time to time by the Board; and

**vehicle** includes every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise, other than a wheelchair or baby stroller, and includes a bicycle and a skateboard.

## PART 2—ADMINISTRATION

### *Division 1—General*

#### 2.1 Powers and functions of CEO

Subject to the direction of the Board, the CEO shall exercise all the powers and functions of the Board in respect of a cemetery in the district.

#### 2.2 Plans

(1) The Board shall establish and maintain a plan of each cemetery showing—

- (a) the location of areas set aside for burials, niche walls, memorial gardens, and placement of ashes in a garden;
- (b) the location of an area to be used only for burials of persons of a particular religious denomination;
- (c) the location of different areas of the cemetery to which different requirements for memorials apply;
- (d) the location of areas set aside for the works and other uses as specified in sections 24(2)(a) and (b) of the Act; and
- (e) any restricted areas.

(2) The plans referred to in subclause (1) shall be open for inspection by members of the public during normal office hours of the Board.

#### *Division 2—Right of Burial*

##### **2.3 Issuing of grants**

The Board may from time to time issue to a person a grant for the term specified in the Act, upon—

- (a) written application by that person; and
- (b) payment of the set fee.

##### **2.4 Right of holder**

(1) Subject to this local law, to the prior approval of the Board and to the terms and conditions (if any) imposed by the Board, a grant confers on the holder, during the term of the grant, an exclusive right—

- (a) to be buried in a grave specified in the grant; and
- (b) to carry out monumental works on the gravesite specified in the grant.

(2) The Board, in its absolute discretion, may determine from time to time the number of dead bodies or ashes which may be placed in the grave.

(3) The Board or an authorised officer may request the holder to produce the grant before the exercise of any of the rights referred to in subclause (1) and the holder shall forthwith comply with that request.

(4) If the location stipulated in the grant of right of burial is significantly and adversely affected prior to or at the time of burial by unforeseen conditions such as flooding, a high water table, rock, large tree roots or any other significant matter the Board may allocate any other gravesite of the grantee's choosing that is not already subject to a grant.

##### **2.5 Renewal of grant**

(1) Where, at any time during the term of a grant, a holder—

- (a) makes written application; and
- (b) pays a set fee, the Board must renew the grant for a further term of twenty five (25) years commencing on the expiry date of the grant.

(2) The set fee for the issue of a new grant pursuant to this clause shall be determined by the Board from time to time.

(3) The Board may request the holder to deliver an existing grant to it prior to issuing a new grant.

(4) The holder shall forthwith upon receiving a request by the Board in accordance with subclause (3) deliver the existing grant to the Board.

##### **2.6 Replacement of grant**

(1) The Board may—

- (a) upon the written application of a holder; and
- (b) upon the production of evidence to the satisfaction of the Board, issue a new grant to replace a grant which is lost or destroyed.

(2) Notwithstanding subclause (1), the Board may prior to issuing a replacement grant, require the holder to make a statutory declaration in a form determined by the Board.

(3) The replacement grant issued by the Board shall be deemed to be the original grant.

##### **2.7 Transfer of grant**

A holder who desires to transfer a grant to another person shall make an application to the Board in a form determined by the board and upon receipt of the application the Board may grant permission in accordance with section 26 of the Act.

##### **2.8 Exercising the rights of holder**

If evidence is produced in writing to the satisfaction of the Board that a holder is unavailable or not immediately ascertainable, or has died and has not specifically bequeathed a grant, then the rights conferred upon that holder may be exercised by a holder's personal representative or a person acting expressly on behalf of a personal representative. If those persons are unavailable or not immediately ascertainable, the Board may approve any other person.

##### **2.9 Board may enter into an agreement for maintenance**

The Board may enter into an agreement with the holder of a grant of right of burial under clause 2.3 or holder of a pre-need certificate under clause 2.4 for the maintenance of an area of a cemetery at the expense of the holder.

### **PART 3—APPLICATION FOR INTERMENT**

#### **3.1 Application for interment permit**

(1) A funeral director may apply for approval for an interment of a dead body in a cemetery.

(2) A funeral director, the personal representative of a deceased person whose body has been cremated, or other person approved by an authorised person may apply for approval for interment of ashes in a cemetery.

- (3) An application for an interment permit under subclause (1) or (2) of—
- (a) a dead body shall include details of—
    - (i) proposed burial method for the dead body in accordance with clause 5.1; and
    - (ii) the vehicle transporting the dead body to the gravesite; or
  - (b) ashes shall include details of the proposed interment arrangements for the ashes in accordance with clause 5.4(2).
- (4) An application under subclauses (1) or (2) shall be accompanied by the set fee.

### **3.2 Applications to be accompanied by certificates etc.**

An application under clause 3.1(1) shall be accompanied by—

- (a) a certificate issued under clause 3.3; and
- (b) either a medical certificate of death or a Coroner's order of burial.

### **3.3 Certificate of identification**

(1) Prior to the dead body being removed to a cemetery, a person who personally knew the deceased shall identify the dead body and shall provide a certificate of identification, unless—

- (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
- (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

(2) A funeral director shall provide a certificate, where—

- (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
- (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

### **3.4 Minimum notice required**

An application for interment shall be made to the Board at least four business days prior to the day proposed for interment, otherwise an extra fee may be charged.

### **3.5 Refusal of application**

- (1) The Board may refuse an application for the interment permit under clause 3.1(1).
- (2) If the Board refuses to approve an application under subclause (1), written notice of the refusal is to be given to the applicant.

## **PART 4—FUNERALS AND MEMORIAL SERVICES**

### **4.1 Fixing times for interments**

(1) On receipt of a completed application form and the satisfaction of all other requirements of the Act and this local law, the Board may—

- (a) approve a time for the interment; and
- (b) dig or re-open any grave that is required.

(2) The time approved for an interment is at the discretion of the Board but will be as near as possible to the time requested by the applicant.

(3) Except with the permission of the Board and subject to such conditions as may be applied, a person shall not carry out a burial—

- (a) on a Saturday, a Sunday or a public holiday;
- (b) commencing at any time other than between the hours 9:00 am to 3:00 pm; or
- (c) to conclude later than 4:00 pm.

### **4.2 Memorial services or processions**

A person shall not conduct a memorial service or procession within a cemetery unless that person has the permission of the Board.

### **4.3 Conduct of interments by the Board**

When conducting an interment, or for the purposes of deciding whether to conduct an interment, under section 22 of the Act the Board may—

- (a) require a written request to be made for the Board to conduct an interment;
- (b) in its absolute discretion, charge any person requesting it to conduct an interment the set fee for the conduct of that funeral;
- (c) where no fee is applicable or a reduced fee has been charged by it for the conduct of the interment, determine the manner in which the interment shall be conducted;
- (d) specify an area in a cemetery for the interment;
- (e) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law; and
- (f) do or require anything which is considered necessary or convenient for the conduct of the funeral by the Board.

**PART 5—INTERMENTS****5.1 Requirements for burials**

A person shall not bring a dead body into a cemetery unless—

- (a) the Board has approved an application for the burial of that dead body made under clause 3.1(1);
- (b) it is enclosed in a coffin or shroud which bears the name of the deceased person indelibly inscribed in legible characters on a plate attached in a clearly visible position; and
- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 millimetres in height.

**5.2 Requirements for preparation of graves**

(1) A person shall not dig or prepare a grave or fill a grave, unless that person has the permission of the Board.

(2) Regardless of prior grant of right of burial under clause 2.3 or gravesite approved upon application made under clause 3.1, the Board may direct the digging or preparation of a grave in an alternate position, where—

- (a) evidence of a prior interment is found, or known to have occurred;
- (b) access to the position is constrained;
- (c) the digging or preparation of the grave is unreasonably difficult; or
- (d) utility services may be interfered with.

(3) Where an alternative position for the grave is directed under subclause (2), the Board is to advise the funeral director immediately.

**5.3 Requirements for dimensions of graves**

(1) A person shall not bury a dead body in a cemetery other than in a standard grave, unless that person has the permission of the Board.

(2) Every grave prepared by the Board shall be dug at least 1800 millimetres deep and shall not exceed 2300 millimetres in depth, unless otherwise determined by the Board.

(3) Unless otherwise permitted by the Board, a person shall not bury a dead body within a cemetery so that the distance from the top of the coffin or shroud to the original surface of the ground is—

- (a) subject to paragraph (b), less than 1600 millimetres, unless that person has the permission of an authorised person; or
- (b) in any circumstances less than 750 millimetres.

(4) The permission of the Board in subclause (3) shall not be granted unless in the opinion of the authorised person exceptional circumstances require granting of that permission.

**5.4 Requirements for disposal of ashes**

(1) Except in accordance with an approved application under clause 3.1(2), a person shall not bring or dispose of the ashes of a deceased person into a cemetery.

(2) The person approved under subclause (1) may dispose of the ashes of that deceased person in a cemetery by one of the following methods, if that method is available—

- (a) placed within the perimeter of an authorised gravesite at a depth of at least 600 millimetres;
- (b) placed in a niche wall; or
- (c) scattered in an area approved by the Board.

(3) The Board may require a person making an application under clause 3.1(2) to provide additional information reasonably related to the application before determining the application.

(4) The Board may—

- (a) approve an application under clause 3.1(2) unconditionally or subject to any conditions; or
- (b) refuse to approve an application under clause 3.1(2).

(5) Where an application under clause 3.1(2) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.

(6) If the Board refuses to approve an application under clause 3.1(2), written notice of the refusal is to be given to the applicant.

**5.5 Requirements for re-opening a grave**

(1) A person shall not reopen a grave without the approval of the Board.

(2) If for the purpose of re-opening a grave in a cemetery, the Board finds it necessary to remove plants, grass, shrubs or other like matter from the grave, then the person ordering the re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.

**5.6 Requirements for exhumation**

(1) Subject to subclause (2), a person shall not exhume a dead body in a cemetery for the purposes of reburial within 12 months after the date of its interment.

(2) Subclause (1) shall not apply where the exhumation is ordered or authorised pursuant to the Act.

(3) Subject to subclause (1) and (2) prior to any other exhumation, the holder of a grant of right of burial must have applied in writing to the Board requesting the exhumation and an authorised person has authorised the exhumation.

#### **5.7 Requirements for opening of coffin or removal of shroud**

A person shall not open a coffin or remove a shroud in a cemetery unless—

- (a) the coffin is opened or shroud removed for the purposes of the exhumation of a dead body; or
- (b) that person has produced to the Board an order signed or authorised pursuant to the Act and an authorised person has approved the opening of that coffin or removal of the shroud.

#### **5.8 Ashes not to be held by the Board**

The Board shall not accept custody of ashes of a deceased person.

### **PART 6—APPLICATIONS FOR MEMORIALS**

#### **6.1 Application to place memorial**

(1) Upon payment of the set fee, the Board may approve an application to place a memorial with or without conditions, including restricting use of materials such as wood, dimensions of a memorial etc, so as not to detract from the amenity of a cemetery.

(2) The Board may require the written consent of the holder of the grant of right of burial of the grave, the personal representative of a deceased person, or other person to the satisfaction of an authorised person to accompany an application for a memorial made under section 30 of the Act.

(3) Where written consent is not able to be produced, the Board may approve with or without conditions or decline an application in its absolute discretion.

(4) If the Board refuses to approve an application under subclause (2), written notice of that refusal is to be provided to the applicant.

#### **6.2 Australian War Graves**

Notwithstanding anything in this local law to the contrary, the Office of Australian War Graves—

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

### **PART 7—MEMORIALS PERMITTED**

#### **7.1 Limitation on dimensions of memorials**

(1) No part of a memorial, including any grave cover, kerbing, boundary marker or enclosure is to extend beyond the dimensions of a standard grave.

(2) No part of a monument above its base shall extend horizontally beyond its base.

(3) Notwithstanding subclause (1), on request of the personal representative, the Board may approve a memorial over adjoining multiple gravesites—

- (a) where the persons interred are of the same family; or
- (b) for another acceptable reason.

#### **7.2 Specification for monument**

A monument is to be constructed in a manner approved by the Board.

#### **7.3 Specification for headstone**

A headstone is to be constructed in a manner approved by the Board.

#### **7.4 Specification for memorial plaque base**

A memorial plaque base is to be constructed in a manner approved by the Board.

#### **7.5 Specification for memorial plaque**

A memorial plaque is to be made in a manner approved by the Board.

#### **7.6 Specification for gravesite fencing**

Gravesite fencing is to be constructed in a manner approved by the Board.

#### **7.7 Display of trade names on memorials not allowed**

A person shall not display any trade names or marks on a memorial.

#### **7.8 Use of wood**

No wooden fence, railing or construction other than a cross, shall be allowed on or around a grave, other than as a temporary marker or with the permission of the Board.

### **PART 8—MEMORIALS AND OTHER WORK**

#### **8.1 Carrying out memorial work**

(1) A person shall not carry out memorial work within a cemetery unless that person is authorised by the Board to do so under clause 6.1.

(2) All material required in the erection and completion of any memorial work shall, be prepared before being taken to a cemetery.

(3) The Board may place restrictions on the hours of work, access to a cemetery or other matters considered appropriate.

(4) Memorial works shall be suspended during the conduct of any funeral within a cemetery.

(5) Work is not permitted to be left unattended in an untidy or unsafe state.

### **8.2 Removal of sand, soil or loam**

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

### **8.3 Removal of rubbish**

All refuse, rubbish or surplus material remaining after approved memorial works are completed shall be immediately removed from a cemetery by the person carrying out the same.

### **8.4 Plants and trees**

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

### **8.5 Supervision**

All workers, whether employed by the Board or by any other person, shall at all times while within the boundaries of a cemetery be subject to the supervision of the Board and shall obey any directions of the Board.

### **8.6 Placing of grave ornaments**

A person shall not place vases or other grave ornaments—

(a) outside the perimeter of a grave in a cemetery as defined in the plans kept and maintained under section 40(2) of the Act; or

(b) outside of an area set aside by the Board as a memorial plaque section.

### **8.7 Hours of work**

Except in accordance with the permission of an authorised person, a person shall not carry out memorial or other work within a cemetery—

(a) during a funeral; or

(b) other than between the hours of 8:00 am and 5:00 pm on a business day.

### **8.8 Unfinished work**

A person who does not complete any work before 5:00 pm on a business day shall leave the work in a neat and safe condition to the satisfaction of the Board.

## **PART 9—GENERAL**

### **9.1 Vehicle access and speed limitation**

(1) A person must only drive a vehicle on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within a cemetery, unless otherwise authorised by the Board.

(2) A person driving a vehicle, within a cemetery, shall not exceed the speed limit of 20 kilometres per hour, and shall comply with the signs and directions in the cemetery.

### **9.2 Animals**

A person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than an *assistance animal* as defined in section 9(2) of the *Disability Discrimination Act 1992* (Cth) or with the approval of the CEO or an authorised officer.

### **9.3 Utility services**

(1) Other than with the approval of the Board, a person shall not—

(a) connect any device or equipment to any utility services supplied on or at a cemetery;

(b) alter or interfere with utility services infrastructure located in a cemetery.

(2) The Board may recover from a person the reasonable costs incurred by the Board for the supply to and use of any utility services by that person at a cemetery.

### **9.4 Damaging and removing of objects**

Subject to clause 9.5, a person shall not damage, remove or pick any tree, plant, shrub or flower in a cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.

### **9.5 Withered flowers**

A person may remove withered flowers from a grave or memorial and these are to be disposed of in an appropriate manner.

**9.6 Littering and vandalism**

A person shall not—

- (a) damage, deface or interfere with any monument or gravesite in any manner whatsoever;
- (b) break or cause to be broken any glass, ceramic or other material in or upon a cemetery; or
- (c) discard, deposit, leave or cause to be discarded, deposited or leave any refuse or litter in a cemetery other than in a receptacle provided for that purpose.

**9.7 Advertising**

(1) A person shall not advertise or carry on any trade, business or profession in a cemetery without the approval of the Board.

(2) Upon payment of the set fee, the Board may consider and give approval subject to such conditions as the Board thinks fit.

**9.8 Signs and directions of the Board**

(1) The Board may display, mark, place or erect a sign within a cemetery specifying conditions relating to the use of that cemetery.

(2) A person shall obey all signs displayed, marked, placed or erected by the Board within a cemetery and any other lawful direction by the Board.

**9.9 Removal from a cemetery**

(1) Any person failing to comply with any provisions of this local law or behaving in a manner that in the opinion of the Board is inappropriate in a cemetery may in addition to any penalty provided by this local law be ordered to leave the cemetery.

(2) A person to whom an order under subclause (1) is given must comply with that order.

**9.10 Board may close cemetery**

The Board may—

- (a) temporarily close a cemetery or any part of it;
- (b) exclude from a cemetery the public and all persons or so many of the public or so many persons as the Board consider to be necessary;
- (c) regulate, prohibit or restrict access to a cemetery or any part of it; or
- (d) direct persons to leave a cemetery or any part of it, for purposes of—
  - (i) a funeral or public convenience;
  - (ii) maintenance, redevelopment or extension of a cemetery;
  - (iii) public safety; or
  - (iv) other operational reasons.

**9.11 Offensive matters**

(1) A person shall not allow or cause to be displayed offensive materials, wording, symbols or images of any kind, whether as a sign, on a memorial or otherwise visible.

(2) Where, in the opinion of the Board, a person does not comply with subclause (1), the Board may issue a notice under clause 9.13(1).

**9.12 Liability for damage or works required to comply**

(1) Where a person—

- (a) causes damage to any grave, memorial, structure, building, furniture, plant or any other item or thing in a cemetery;
- (b) does a thing not authorised by this local law; or
- (c) does not do a thing required by this local law;

the Board may by notice in writing to that person require that person within the time required in the notice to, at the option of the Board—

- (d) pay the costs of reinstating the property to the state it was in prior to the occurrence of the damage;
- (e) pay the costs of replacing that property;
- (f) pay the costs of works required to comply with this local law; or
- (g) carry out works required to comply with this local law.

(2) On a failure to comply with a notice issued under subclause (1), the Board may recover the costs referred to in the notice as a debt due to it.

**9.13 Offence to fail to comply with notice**

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

**9.14 Board may undertake requirements of notice**

Where a person fails to comply with a notice referred to in clause 9.14, the Board may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

**PART 10—OFFENCES AND MODIFIED PENALTIES****10.1 General penalties**

A person who commits a breach of any provisions of this local law commits an offence and shall on conviction be liable to a penalty not exceeding \$500, and if the offence is a continuing one to a further penalty not exceeding \$20 for every day or part of a day during which the offence has continued.

**10.2 Modified penalties**

(1) The offences specified in Schedule 1 are offences which may be dealt with under Section 63 of the Act.

(2) The modified penalty payable in respect of an offence specified in Schedule 1 is set out in the fourth column of Schedule 1.

(3) The infringement notice referred to in Section 63(1) of the Act shall be in the form set out in the Schedule 2.

(4) The notice withdrawing an infringement notice referred to in Section 63(3) of the Act shall be in the form set out in Schedule 3.

**PART 11—OBJECTIONS AND APPEALS****11.1 Objections and appeals**

The provisions of Division I of Part 9 of the *Local Government Act 1995* and regulation 33 of the *Local Government (Functions and General Regulations) 1996* shall apply to a decision made by the local government 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.

**SCHEDULE 1—MODIFIED PENALTIES**

[cl. 10.2(1)]

| Item | Clause  | Nature of offence   | Modified Penalty \$ |
|------|---------|---|---------------------|
| 1    | 4.2     | Conducting a memorial service or procession without permission  | 50                  |
| 2    | 5.1     | Failure to obtain approval to bring a dead body into a cemetery                                       | 50                  |
| 3    | 5.2(1)  | Unauthorised digging, preparation or filling of grave   | 50                  |
| 4    | 5.3(1)  | Unauthorised burial of dead body  | 50                  |
| 5    | 5.4(1)  | Unauthorised disposal of ashes  | 50                  |
| 6    | 5.5(1)  | Unauthorised construction of vault or mausoleum   | 50                  |
| 7    | 5.6(1)  | Unauthorised reopening of a grave   | 50                  |
| 8    | 5.7(1)  | Unauthorised exhumation of a coffin or shroud   | 50                  |
| 9    | 5.8     | Unauthorised opening of a coffin or shroud  | 50                  |
| 10   | 7.7     | Use of trade name or mark on a memorial   | 50                  |
| 11   | 7.8     | Unauthorised use of wood on a gravesite   | 50                  |
| 12   | 8.1     | Unauthorised construction of a memorial   | 50                  |
| 13   | 8.2     | Unauthorised use of materials taken from within a cemetery  | 50                  |
| 14   | 8.3     | Failure to remove rubbish and surplus materials   | 50                  |
| 15   | 8.4     | Unauthorised planting of tree or shrub  | 50                  |
| 16   | 8.5     | Failure to comply with direction of authorised person   | 50                  |
| 17   | 8.6     | Unauthorised placing of grave ornaments   | 50                  |
| 18   | 8.7     | Works carried out during unauthorised times   | 50                  |
| 19   | 8.8     | Failure to leave uncompleted works in a tidy and safe condition                                       | 50                  |
| 20   | 9.1(1)  | Driving vehicle other than on vehicular access way or constructed roadways or within designated areas | 50                  |
| 21   | 9.1(2)  | Exceeding speed limit   | 50                  |
| 22   | 9.3     | Interference with utility services  | 50                  |
| 23   | 9.4     | Damaging or removing object   | 50                  |
| 24   | 9.5     | Failure to dispose of withered flowers appropriately  | 50                  |
| 25   | 9.6     | Littering or vandalism within a cemetery  | 50                  |
| 26   | 9.7     | Unauthorised advertising and/or trading   | 50                  |
| 27   | 9.8(2)  | Failure to obey sign or lawful direction within cemetery  | 50                  |
| 28   | 9.9(2)  | Failure to comply with order to leave cemetery  | 50                  |
| 29   | 9.11(1) | Display of offensive materials, wording, symbols or images  | 50                  |
| 30   | 9.13    | Failure to comply with notice within specified period   | 50                  |

**SCHEDULE 2—INFRINGEMENT NOTICE**

[cl. 10.2(3)]

**Infringement Notice**

|  |  |         |
|--|--|---------|
| <b>INFRINGEMENT NUMBER—</b>              |  |         |
| To—                                      |  |         |
| Address—                                 |  |         |
|  | It is alleged that—  |         |
| Cemetery address—                        |  |         |
| At—                                      | Time   |         |
| On—                                      | Date   |         |
|  | You committed the following offence—   |         |
| Contrary to—                             | <i>Shire of Kulin Cemeteries Local Law 2020</i>  |         |
| Schedule 1 reference—                    | Item No.—  | Clause— |
| Offence—                                 |  |         |
| Brief description—                       |  |         |
| The modified penalty for the offence is— | \$   |         |
|  | If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid at the Shire of Kulin within a period of 28 days after the giving of this notice.                                |         |
| Name of authorised person—               |  |         |
| Position—                                |  |         |
| Signature—                               |  |         |
| Date—                                    |  |         |
| Payments may be made—                    | (a) EFT to the Shire of Kulin specifying the infringement number<br>(b) In person at—Shire of Kulin, 38 Johnston Street, Kulin during business hours<br>(c) By mail to—Shire of Kulin PO Box 125, Kulin 6365<br>Please make cheques payable to Shire of Kulin. |         |

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

**SCHEDULE 3—WITHDRAWAL OF INFRINGEMENT NOTICE**

[cl. 10.2(4)]

**Withdrawal of Infringement Notice**

No. .... Date ..... / ..... / .....

To: <sup>[1]</sup>Infringement Notice No dated \_\_\_\_/\_\_\_\_/\_\_\_\_ for the alleged offence of <sup>[2]</sup>Penalty <sup>[3]</sup> \$\_\_\_\_\_ is withdrawn.

(Delete whichever does not apply)

\* No further action will be taken.

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

(Authorised Person)

<sup>[1]</sup> Insert name and address of alleged offender.<sup>[2]</sup> Insert short particulars of offence alleged.<sup>[3]</sup> Insert amount of penalty prescribed.

Dated 21 October 2020.

The Common Seal of the Shire of Kulin was affixed in the presence of—

BARRY WEST, Shire President.  
GARRICK YANDLE, Chief Executive Officer.

**DOG ACT 1976  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF KULIN

**DOGS LOCAL LAW 2020**

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**SCHEDULE 2—CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT**

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**DOG ACT 1976  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF KULIN

**DOGS LOCAL LAW 2020**

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Kulin resolved on 21 October 2020 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Kulin Dogs Local Law 2020*.

**1.2 Commencement**

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

**1.3 Application**

This local law applies throughout the district.

**1.4 Repeal**

This local law repeals the *Shire of Kulin By-Laws Relating to the Control of Dogs* as published in the *Government Gazette* on 19 February 1976.

**1.5 Definitions**

In this local law unless the context otherwise requires—

*Act* means the *Dog Act 1976*;

*adjoining* includes land or premises which have a portion of a common boundary with a lot or is separated from that lot by a public reserve, road, right-of-way, pedestrian access way, access leg of a battle-axe lot or the equivalent not more than 6 metres in width;

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

*CEO* means the chief executive officer of the local government;

*dangerous dog* has the meaning given to it by section 3(1) of the Act;

*district* means the district of the Shire of Kulin;

*dog management facility* has the meaning given to it in section 3(1) of the Act;

*infringement notice* means the notice referred to in clause 7.4;

*kennel establishment* means any premises where more than the number of dogs under clause 3.2(2) over the age of three months are kept, boarded, trained or bred temporarily, usually for profit and where the occupier of the premises is not the ordinary keeper of the dogs;

*licence* means a licence to keep an approved kennel establishment on premises granted under clause 4.7;

*licensee* means the holder of a licence granted under clause 4.7;

*local government* means the Shire of Kulin;

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

*notice of withdrawal* means the notice referred to in clause 7.7(1);

*owner*, in relation to a dog, has the same meaning as in section 3(1) and (2) of the Act;

*person liable for the control of the dog* has the same meaning as in section 3(1) of the Act;

*premises* in addition to the meaning given to it in section 3 of the Act, means the premises described in the application for a licence made under clause 4.1;

*public place* has the meaning given to it by section 3(1) of the Act;

**Regulations** means the *Dog Regulations 2013*;

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

**set fee** means a fee or charge made by the local government in accordance with clause 2.1 or clause 4.8;

**thoroughfare** has the meaning given to it in section 1.4 of the *Local Government Act 1995*; and

**transferee** means a person who applies for the transfer of a licence to her or him under clause 4.12.

## PART 2—IMPOUNDING OF DOGS

### 2.1 Fees and charges

The following are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*—

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional set fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) application for additional costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

### 2.2 Attendance of authorised person at dog management facility

An authorised person is to be in attendance at the dog management facility for the release of dogs at the times and on the days of the week as determined by the CEO.

### 2.3 Release of impounded dog

- (1) A claim for the release of a dog seized and impounded is to be made to an authorised person.
- (2) An authorised person is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of an authorised person, evidence—
  - (a) of her or his ownership of the dog or of her or his authority to take delivery of it; or
  - (b) that he or she is the person identified as the owner on a microchip implanted in the dog.

### 2.4 Unauthorised release

Unauthorised release of dogs is dealt with by section 43 of the Act.

## PART 3—KEEPING OF DOGS

### 3.1 Dogs to be confined

- (1) An occupier of premises on which a dog is kept must—
  - (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
  - (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
  - (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures that the dog remains confined) and is fitted with a proper latch or other means of fastening it;
  - (d) maintain the fence and all gates and doors in the fence in good order and condition; and
  - (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
- (2) Where an occupier fails to comply with subclause (1), he or she commits an offence.
- (3) Notwithstanding subclause (1) and (2), the confinement of dangerous dogs is dealt with in the Act and the Regulations.

### 3.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been—
  - (a) licensed under Part 4 of this local law as an approved kennel establishment; or
  - (b) granted an exemption under section 26(3) of the Act.
- (2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act—
  - (a) two dogs over the age of three months and the young of those dogs under that age if the premises are zoned other than as rural, rural residential or urban under a local planning scheme; or
  - (b) four dogs over the age of three months and the young of those dogs under that age if the premises are zoned as rural, rural residential or urban under a local planning scheme.

### 3.3 Application to keep additional dog or dogs

(1) Subject to clause 3.5, the local government may consider an application to keep an additional dog or dogs where—

- (a) the property is deemed suitable by an authorised person—
  - (i) having sufficient space capable of confining all dogs;
  - (ii) noise, odours, fleas, flies and other vectors of disease will be effectively controlled; and
  - (iii) the care and welfare of the dogs is considered adequate.
- (b) the details of every dog proposed to be kept on the premises are provided including name, age, colour/description, breed, registration number and microchip details; and
- (c) sufficient reason has been provided, including—
  - (i) to replace an elderly or sick dog not expected to live;
  - (ii) a family emergency resulting in the dog being inherited;
  - (iii) merging of two households;
  - (iv) where the applicants have had approval to keep an additional dog or dogs in another local authority; or
  - (v) on premises zoned as rural or rural residential under a local planning scheme, the dog or dogs are required for stock management or to be on the premises temporarily for the purposes of training for stock management.

(2) An application to keep two additional dogs on premises that are zoned other than as rural or rural residential under a local planning scheme shall—

- (a) provide sufficient detail regarding the reason for keeping more than two dogs;
- (b) provide written consent from owners and occupiers of any premises adjoining the premises; and
- (c) in the case of a tenanted property, provide written consent from either the landowner or their appointed property manager.

(3) An application to keep more than four dogs on premises zoned as rural or rural residential under a local planning scheme shall—

- (a) provide sufficient detail regarding the reason for keeping more than four dogs; and
- (b) in the case of a tenanted property, provide written consent from either the landowner or their appointed property manager.

### 3.4 Determination of application

In determining an application for a licence, the local government is to have regard to—

- (a) the matters referred to in clause 3.5;
- (b) the effect which approval of the proposed may have on the environment or amenity of the neighbourhood; and
- (c) whether approval of the application will create a nuisance for the owners and occupiers of adjoining premises.

### 3.5 Where application cannot be approved

The local government will not approve an application to keep an additional dog or dogs where—

- (a) more than four dogs are proposed to be kept on premises zoned other than as rural or rural residential under a local planning scheme;
- (b) more than six dogs are proposed to be kept on premises zoned as rural or rural residential under a local planning scheme; or
- (c) where any dog already kept on the premises is a dangerous dog.

### 3.6 Conditions of approval

(1) The local government may approve an application to keep an additional dog or dogs subject to any conditions as considered appropriate.

(2) Approval of an application is not transferable to successive owners or occupiers of the premises.

(3) A person who fails to comply with a condition imposed under sub-clause (1) commits an offence.

### 3.7 Revocation of licence to keep additional dogs

Where a person does not comply with the conditions of approval to keep an additional dog or dogs under clause 3.6 the local government may revoke the approval to keep an additional dog or dogs.

## PART 4—APPROVED KENNEL ESTABLISHMENTS

### 4.1 Application for licence for approved kennel establishment

An application for a licence must contain the information listed in Schedule 1, and must be lodged with the local government together with—

- (a) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government;
- (b) any other information reasonably required by the local government; and
- (c) the set fee for the application for a licence referred to in clause 4.8(1).

#### 4.2 Notice of proposed use

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

- (a) once in a newspaper circulating in the district; and
- (b) to the owners and occupiers of any premises adjoining the premises.

(2) The notices in subclause (1) must specify that—

- (a) any written submissions as to the proposed use are to be lodged with the local government within 14 days of the date the notice is given; and
- (b) the application, plans and specifications may be inspected at the offices of the local government.

(3) The local government may refuse to determine the application for a licence until the notice or notices, as the case may be, is given in accordance with its directions where—

- (a) a notice given under subclause (1) does not clearly identify the premises; or
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises.

#### 4.3 Exemption from notice requirements

The requirements of clauses 4.2 and 4.4(a) and Schedule 1 clause 5(c) do not apply in respect of the application for a licence where under a local planning scheme an application for a licence is made in respect of premises on which an approved kennel establishment is either a—

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements.

#### 4.4 When application can be determined

An application for a licence is not to be determined by the local government until—

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.2(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.2(2)(a) on the proposed use of the premises.

#### 4.5 Determination of application

In determining an application for a licence, the local government is to have regard to—

- (a) the matters referred to in clause 4.6;
- (b) any written submissions received within the time specified in clause 4.2(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

#### 4.6 Where application cannot be approved

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

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a local planning scheme; or
- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

#### 4.7 Conditions of approval

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

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

(3) A person who fails to comply with a condition imposed under sub-clause (1) commits an offence.

#### 4.8 Fees

(1) On lodging an application for a licence, the applicant is to pay a set fee to the local government.

(2) On the issue or renewal of a licence, the licensee is to pay a set fee to the local government.

(3) On lodging an application for the transfer of a valid licence, the transferee is to pay a set fee to the local government.

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

**4.9 Form of licence**

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

**4.10 Period of licence**

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the set fee referred to in clause 4.8(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

**4.11 Variation or cancellation of licence**

- (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence—
  - (a) on the request of the licensee;
  - (b) following a breach of the Act, the Regulations or this local law; or
  - (c) if the licensee is not a fit and proper person.
- (3) The date a licence is cancelled is to be, in the case of—
  - (a) subclause (2)(a), the date requested by the licensee; or
  - (b) subclause (2)(b) or (c), the date determined under section 27(6) of the Act.

**4.12 Transfer**

- (1) A written application for the transfer of a valid licence from the licensee to another person must be—
  - (a) made by the transferee;
  - (b) made with the written consent of the licensee; and
  - (c) lodged with the local government together with—
    - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence;
    - (ii) the set fee for the application for the transfer of a licence referred to in clause 4.8(3); and
    - (iii) any other relevant information required.
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.13(b), the transferee becomes the licensee of the licence for the purposes of this local law.

**4.13 Notification**

The local government is to give written notice to—

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

**4.14 Objections and appeals**

- (1) The provisions of Division 1 of Part 9 of the *Local Government Act 1995* and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to a decision where the local government makes a decision as to whether it will—
  - (a) grant an application for a licence;
  - (b) vary or cancel a licence;
  - (c) impose or amend a condition to which a licence is subject; or
  - (d) transfer of a licence.
- (2) Under these provisions, an affected person may have the right to object to, or to appeal against, a decision of the local government.

**4.15 Inspection of kennel**

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

**PART 5—DOGS IN PUBLIC PLACES****5.1 Places where dogs are prohibited absolutely**

Designation of places where dogs are prohibited absolutely is dealt with in the Act.

**5.2 Places which are dog exercise areas**

Designation of places which are dog exercise areas is dealt with in the Act.

**PART 6—MISCELLANEOUS****6.1 Fees and charges**

Set fees and charges are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

**6.2 Offence to excrete**

(1) A dog must not excrete on—

- (a) any thoroughfare or other public place; or
- (b) any land which is not a public place without the consent of the occupier.

(2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

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

(4) Notwithstanding clause 7.2, the maximum penalty for an offence under subclause (1) is \$1000.

**PART 7—ENFORCEMENT****7.1 Offences**

A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

**7.2 General penalty**

A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding \$100 for each day or part of the day during which the offence has continued.

**7.3 Modified penalties**

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

(2) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is not a dangerous dog.

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

**7.4 Issue of infringement notice**

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

**7.5 Failure to pay modified penalty**

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

**7.6 Payment of modified penalty**

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

**7.7 Withdrawal of infringement notice**

(1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 3 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

(2) A person authorised to issue an infringement notice under clause 7.4 cannot sign or send a notice of withdrawal.

**7.8 Service of notices**

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

**SCHEDULE 1—INFORMATION REQUIRED FOR APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT**

[cl. 4.1]

1. Details of applicants—
  - (a) Full name/s of applicant/s;
  - (b) Postal address;
  - (c) Telephone number;
  - (d) Mobile number;
  - (e) Fax number; and
  - (f) E-mail address.
2. Address of proposed premises—
3. Dogs to be kept—
  - (a) Number; and
  - (b) Breed.
4. Either—
  - (a) Person residing on the premises—
    - (i) Name;
    - (ii) As from; and
    - (iii) Mobile phone number, or
  - (b) Person sufficiently close to the premises so as to control the dogs and ensure their health and welfare—
    - (i) Name;
    - (ii) Address;
    - (iii) As from; and
    - (iv) Mobile phone number.
5. To be included—
  - (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
  - (b) plans and specifications of the proposed kennel establishment;
  - (c) copy of notice of proposed use to appear in newspaper and to be given to adjoining premises under clause 4.2;
  - (d) written evidence that a person will reside—
    - (i) at the premises; or
    - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
  - (e) if the person in item (d) is not the applicant, written evidence that the person is a person in charge of the dogs.
6. Signature of applicant/s.
7. Date.

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**SCHEDULE 2—CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT**

[cl. 4.7]

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

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than—
  - (i) 25 metres from the front boundary of the premises and 5 metres from any other boundary of the premises;
  - (ii) 10 metres from any dwelling; and
  - (iii) 25 metres from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;

- (f) the upper surface of the kennel floor must be—
- (i) at least 100 millimetres above the surface of the surrounding ground;
  - (ii) smooth so as to facilitate cleaning;
  - (iii) rigid;
  - (iv) durable;
  - (v) slip resistant;
  - (vi) resistant to corrosion;
  - (vii) non-toxic;
  - (viii) impervious;
  - (ix) free from cracks, crevices and other defects; and
  - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
- (h) the kennel floor must have a durable up-stand rising 75 millimetres above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50 millimetres from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of—
- (i) 2000 millimetres; or
  - (ii) four times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside—
- (i) at the premises; or
  - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

### SCHEDULE 3—PRESCRIBED OFFENCES

[cl. 7.3]

| Item | Clause | Nature of offence  | Modified penalty \$ | Dangerous Dog Modified Penalty \$ |
|------|--------|--|---------------------|-----------------------------------|
| 1    | 3.1    | Failing to provide means for effectively confining a dog                     | 200                 | As per Regulations                |
| 2    | 3.6    | Failure to comply with conditions of approval to keep additional dog or dogs | 200                 | 500                               |
| 3    | 4.7    | Failure to comply with the conditions of a licence                           | 200                 | 200                               |
| 4    | 6.2    | Dog excreting in prohibited place  | 100                 | 100                               |

Dated 21 October 2020.

The Common Seal of the Shire of Kulin was affixed in the presence of—

BARRY WEST, Shire President.  
GARRICK YANDLE, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF KULIN

**GENERAL REPEAL LOCAL LAW 2020**

Under the powers conferred by the *Local Government Act 1995* and all other powers enabling it, the Council of the Shire of Kulin resolved on 21 October 2020 to make the following local law.

**1. Citation**

This local law is cited as the *Shire of Kulin General Repeal Local Law 2020*.

**2. Commencement**

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

**3. Repeal**

This local law repeals the—

1. *Kulin Road Board General By-laws (including By-laws for the Management and the Use of the Kulin Road Board Hall)*, published in the *Government Gazette* on 13 July 1928, and as amended in the *Government Gazette* on 12 September 1930, 15 January 1937, 7 March 1941, 22 August 1941, 3 February 1950, 12 November 1954, 5 February 1971 and 17 November 1978;
2. *Kulin Road Board By-laws for the Registration and Licensing of Hawkers*, published in the *Government Gazette* on 16 August 1935;
3. *Kulin Road Board By-law for the Supply and Distribution of Water*, published in the *Government Gazette* on 2 March 1945;
4. *Kulin Road Board By-laws-Long Service Leave*, published in the *Government Gazette* on 21 April 1950;
5. *Shire of Kulin Local Government Draft Model By-laws Relating to (Petrol Pumps) No.10*, published in the *Government Gazette* on 29 May 1963;
6. *Shire of Kulin By-laws Relating to Depositing and Removal of Refuse, Rubbish, Litter and Disused Materials*, published in the *Government Gazette* on 7 December 1967;
7. *Shire of Kulin By-laws Relating to Sick Leave*, published in the *Government Gazette* on 27 August 1969; and
8. *Shire of Kulin By-laws Relating to Pest Plants*, published in the *Government Gazette* on 30 July 1982

Dated 21 October 2020

The Common Seal of the Shire of Kulin was affixed in the presence of—

BARRY WEST, Shire President.  
GARRICK YANDLE, Chief Executive Officer.



**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF KULIN

**STANDING ORDERS LOCAL LAW 2020**

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### **SCHEDULE 1—PETITION OF ELECTORS OF THE SHIRE OF KULIN**



## LOCAL GOVERNMENT ACT 1995

## SHIRE OF KULIN

## STANDING ORDERS LOCAL LAW 2020

Under the powers conferred by the *Local Government Act 1955* and under all other powers enabling it, the Council of the Shire of Kulin resolved on 21 October 2020 to make the following local law.

## PART 1—PRELIMINARY

**1.1 Citation**

This local law may be cited as the *Shire of Kulin Standing Orders Local Law 2020*.

**1.2 Commencement**

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

**1.3 Purpose and intent**

- (1) The purpose of the local law is to provide for the conduct of meetings of the Council, Committees and electors.
- (2) This local law is intended to result in—
  - (a) better decision-making at meetings;
  - (b) the orderly and efficient conduct of meetings;
  - (c) greater community participation and understanding of the business of the Council; and
  - (d) more open and accountable local government.

**1.4 Application**

All meetings of the Council, committees and the electors are to be conducted in accordance with the Act, the Regulations and this local law.

**1.5 Interpretation**

In this local law, unless the contrary intention appears—

***absolute majority*** has the meaning given to it in the Act;

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

***CEO*** means the Chief Executive Officer of the Shire;

***committee*** means a committee of the council (established under section 5.8 of the Act);

***Council*** means the Council of the Shire;

***Councillor*** has the same meaning as is given to it in the Act;

***Deputy President*** means the deputy president of the Shire;

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

***employee*** has the same meaning as is given to it in the Act;

***Local Government*** means the Shire;

***meeting*** means a meeting of the Council or of a committee, or an electors' meeting, as the context requires;

***member*** has the same meaning as given to it in the Act;

***Minister*** means the Minister responsible for administering the Act;

***minor amendment*** in relation to a motion, means an amendment which does not alter the basic intent of the motion to which the amendment applies;

***President*** means the president of the Shire;

***presiding person*** means the person presiding at a meeting;

***Regulations*** means the *Local Government (Administration) Regulations 1996*;

***Rules of Conduct Regulations*** means the *Local Government (Rules of Conduct) Regulations 2007*;

*Shire* means the Shire of Kulin;

*simple majority* means more than 50% of the members present and voting;

*substantive motion* means an original motion, or an original motion as amended, but does not include an amendment motion or a procedural motion.

## **PART 2—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES**

### **2.1 Establishment of committees**

(1) The establishment of committees is dealt with in the Act.

(2) A Council resolution to establish a committee under section 5.8 of the Act is to include—

- a. the terms of reference of the committee;
- b. the number of Council members, employees and other persons to be appointed to the committee;
- c. the names or titles of the Council members and employees to be appointed to the committee;
- d. the names of other persons to be appointed to the committee or an explanation of the procedure to be followed to determine the appointments; and
- e. details of the delegation of any powers or duties to the committee under section 5.16 of the Act.

(3) This local law is to apply to the conduct of committee meetings.

### **2.2 Types of committees**

The types of committees are dealt with in the Act.

### **2.3 Delegation of some powers and duties to certain committees**

The delegation of some powers and duties to certain committees is dealt with in the Act.

### **2.4 Limits on delegation of powers and duties to certain committees**

The limits on the delegation of powers and duties to certain committees are dealt with in the Act.

### **2.5 Appointment of committee members**

The appointment of committee members is dealt with in the Act.

### **2.6 Tenure of committee membership**

Tenure of committee membership is dealt with in the Act.

### **2.7 Resignation of committee members**

The resignation of committee members is dealt with in the Regulations.

### **2.8 Register of delegations to committees**

The register of delegations to committees is dealt with in the Act.

### **2.9 Committees to report**

A committee—

- (a) is answerable to the Council; and
- (b) is to report on its activities when, and to the extent, required by the Council.

## **PART 3—CALLING AND CONVENING MEETINGS**

### **3.1 Ordinary and special Council meetings**

(1) Ordinary and special Council meetings are dealt with in the Act.

(2) An ordinary meeting of the Council, held on a monthly basis or otherwise as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.

(3) A special meeting of the Council is held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

### **3.2 Calling Council meetings**

The calling of Council meetings is dealt with in the Act.

### **3.3 Convening Council meetings**

(1) The convening of a Council meeting is dealt with in the Act.

(2) Subject to subclause (3), the CEO is to give at least 72 hours notice, for the purposes of section 5.5 of the Act, in convening a special meeting of the Council.

(3) Where, in the opinion of the President or at least one-third of the members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special Council meeting.

### **3.4 Calling committee meetings**

A meeting of a committee is to be held—

- (a) If called for in a verbal or written request to the CEO by the President or the presiding member of the committee, advising the date and purpose of the proposed meeting;

- (b) If called for by at least one-third of the members of the committee in a notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (c) In accordance with a decision of the Council or the committee.

### **3.5 Convening committee meetings**

- (1) The CEO is to convene a committee meeting by giving each member of the committee notice of the date, time and place of the meeting and an agenda for the meeting
- (2) Subject to subclause (3), the CEO is to give at least 72 hours' notice, for the purposes of subclause (1), in convening a meeting of a committee.
- (3) Where, in the opinion of the President, the presiding member of the committee or at least one-third of the members of the committee, there is a need to meet urgently, the CEO may give a lesser period of notice of a committee meeting.

### **3.6 Public notice of meetings**

Public notice of meetings is dealt with in the Regulations.

## **PART 4—PRESIDING MEMBER AND QUORUM**

### *Division 1—Who presides*

#### **4.1 Who presides**

Who presides at a Council meeting is dealt with in the Act.

#### **4.2 When the Deputy President can act**

When the Deputy President can act is dealt with in the Act.

#### **4.3 Who acts if no President**

Who acts if there is no President is dealt with in the Act.

#### **4.4 Election of presiding members of committees**

The election of presiding members of committees and their deputies is dealt with in the Act.

#### **4.5 Election of deputy presiding members of committees**

The election of deputy presiding members of committees is dealt with in the Act.

#### **4.6 Functions of deputy presiding members**

The functions of deputy presiding members are dealt with in the Act.

#### **4.7 Who acts if no presiding member**

Who acts if no presiding member is dealt with in the Act.

### *Division 2—Quorum*

#### **4.8 Quorum for meetings**

The quorum for meetings is dealt with in the Act.

#### **4.9 Reduction of quorum for Council meetings**

The power of the Minister to reduce the number for a quorum and certain majorities is dealt with in the Act.

#### **4.10 Reduction of quorum for committee meetings**

The reduction of a quorum for committee meetings is dealt with in the Act.

#### **4.11 Procedure where no quorum to begin a meeting**

The procedure where there is no quorum to begin a meeting is dealt with in the Regulations.

#### **4.12 Procedure where quorum not present during a meeting**

If at any time during a meeting a quorum is not present, the presiding member is—

- (a) immediately to suspend the proceedings of the meeting for a period of up to 15 minutes; and
- (b) if a quorum is not present at the expiry of that period, the presiding member is to adjourn the meeting to some future time or date.

#### **4.13 Names to be recorded**

At any meeting—

- (a) at which there is not a quorum present; or
- which is adjourned for want of a quorum,
- (b) the names of the members then present are to be recorded in the minutes.

## **PART 5—BUSINESS OF A MEETING**

### **5.1 Business to be specified**

- (1) No business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda, without the approval of the presiding member or the Council.

- (2) No business is to be transacted at a special meeting of the Council other than that given in the notice as the purpose of the meeting.
- (3) No business is to be transacted at a committee meeting other than that specified in the agenda or in the notice of the meeting as the purpose of the meeting, without the approval of the presiding member or the committee.
- (4) Where a Council meeting is adjourned to the next ordinary meeting of the Council, the business unresolved at the meeting that is adjourned is to be dealt with as soon as practicable after the confirmation of the minutes of the previous meeting.
- (5) Where a committee meeting is adjourned to the next ordinary committee meeting, the business unresolved at the meeting that is adjourned is to be dealt with as soon as practicable after the confirmation of the minutes of the previous meeting.
- (6) Where a Council or committee meeting is adjourned to a meeting not described in subclauses (4) or (5), no business is to be transacted at that later meeting other than that—
  - (a) is specified in the notice of the meeting that is adjourned; and
  - (b) which remains unresolved.

### **5.2 Order of business**

- (1) The order of business of an ordinary meeting of the Council or a committee must be determined by the Council from time to time.
- (2) Unless otherwise decided by the Council, the order of business at any special meeting of the Council is to be the order in which that business stands in the agenda of the meeting.
- (3) In determining the order of business for any meeting of the Council or a committee, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.

### **5.3 Motions of which previous notice has been given**

- (1) Unless the Act, Regulations or this local law otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included on the agenda.
- (2) A notice of motion under subclause (1) is to be given at least 5 clear working days before the meeting at which the motion is moved.
- (3) A notice of motion is to relate to the good governance of the district.
- (4) The CEO—
  - (a) with the concurrence of the President, may exclude from the notice paper any notice of motion deemed to be, or likely to involve, a breach of any of this local law or any other written law;
  - (b) must inform members on each occasion that a notice has been excluded and the reasons for that exclusion;
  - (c) may, after consultation with the member where this is practicable, make such amendments to the form but not the substance as will bring the notice of motion into due form; and
  - (d) may provide to the meeting relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.
- (5) A motion of which notice has been given is to lapse unless—
  - (a) the member who gave notice of it, or some other member authorised by the originating member in writing, moves the motion when called on; or
  - (b) the meeting on a motion agrees to defer consideration of the motion to a later stage or date.
- (6) If a notice of motion is given and lapses under subclause (5), notice of a motion in the same terms or to the same effect is not to be given again for at least 3 months from the date of such lapse.

### **5.4 New business of an urgent nature**

- (1) In cases of extreme urgency or other special circumstances, matters may, on a motion by the presiding member that is carried by the meeting, be raised without notice and decided by the meeting.
- (2) In subclause (1), 'cases of extreme urgency or other special circumstances' means matters—
  - (a) that have arisen after the preparation of the agenda that are considered by the presiding member to be of such importance and urgency that they are unable to be dealt with administratively by the Local Government and must be considered and dealt with by the Council or committee before the next meeting; and
  - (b) that, if not dealt with at the meeting, are likely to—
    - (i) have a significant adverse effect (financially or otherwise) on the Local Government; or
    - (ii) result in a contravention of a written law.
- (3) Before debate begins on a matter under this clause that is not the subject of a written employee report to the meeting—
  - (a) the presiding member is to ask the CEO to give; and
  - (b) the CEO, or the CEO's nominee, is to give,  
a verbal report to the meeting.

- (4) The minutes of the meeting are to include—
- (a) a summary of the verbal report and any recommendations of the CEO or the CEO's nominee; and
  - (b) the reasons for any decision made at the meeting that is significantly different from any advice or recommendations of the CEO or the CEO's nominee.

#### **5.5 Motions without notice**

A motion moved without notice, must be worded so as to refer to a particular matter for investigation and report to a committee for consideration of the Council at a later date, or directly to Council.

#### **5.6 Adoption by exception resolution**

- (1) In this clause 'adoption by exception resolution' means a resolution of the Council that has the effect of adopting, recommendations from any committee or, for a number of specifically identified reports, the employee recommendation as the Council resolution.
- (2) Subject to subclause (3), the Council may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter—
- (a) that requires an absolute majority;
  - (b) in which an interest has been disclosed;
  - (c) that has been the subject of a petition or deputation;
  - (d) that is a matter on which a member wishes to make a statement; or
  - (e) that is a matter on which a member wishes to move a motion that is different to the recommendation.

### **PART 6—PUBLIC PARTICIPATION**

#### **6.1 Meetings generally open to the public**

Meetings being generally open to the public is dealt with in the Act.

#### **6.2 Meetings not open to the public**

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried—
- (a) the presiding member is to direct everyone to leave the meeting except—
    - (i) the members;
    - (ii) the CEO;
    - (iii) any employee specified by the presiding member; and
  - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the presiding member, be removed from the meeting.
- (5) While the resolution under subclause (2) remains in force, the operation of clause 8.9 is to be suspended until the Council or the committee, by resolution, decides otherwise.
- (6) A resolution under this clause may be made without notice.
- (7) Unless the Council resolves otherwise, once the meeting is reopened to members of the public, the presiding member is to ensure that any resolution of the Council made while the meeting was closed is to be read out including the vote of a member or members that is required under clause 13.4(3) to be included in the minutes.

#### **6.3 Question time for the public**

Question time for the public is dealt with in the Act.

#### **6.4 Question time for the public at certain meetings**

Question time for the public at certain meetings is dealt with in the Regulations.

#### **6.5 Minimum question time for the public**

Minimum question time for the public is dealt with in the Regulations.

#### **6.6 Procedures for question time for the public**

Procedures for question time for the public are dealt with in the Regulations.

#### **6.7 Other procedures for question time for the public**

- (1) A member of the public who raises a question during question time, is to state his or her name and address.
- (2) A question may be taken on notice by the Council or a committee for later response.

- (3) When a question is taken on notice the CEO is to ensure that—
- (a) a response is given to the member of the public in writing; and
  - (b) a summary of the response is included in the agenda of the next meeting of the Council or the committee.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to—
- (a) declare that he or she has an interest in the matter; and
  - (b) allow another person to respond to the question.
- (5) Where a member of the public provides written questions then the presiding member may elect for the questions to be responded to as normal business correspondence.
- (6) The presiding member may decide that a public question must not be responded to where—
- (a) the same or similar question was asked at a previous meeting a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;
  - (b) the member of the public uses public question time to make a statement, provided that the presiding member has taken reasonable steps to assist the member of the public to phrase the statement as a question; or
  - (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the presiding member has taken reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.
- (7) The presiding member may agree to extend public question time.
- (8) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.
- (9) In this clause: “**relevant person**” has the same meaning as in section 5.59 of the Act.

#### **6.8 Distinguished visitors**

If a distinguished visitor is present at a meeting of the Council, the presiding member may acknowledge the presence of the distinguished visitor at an appropriate time during the meeting, and the presence of that visitor must be recorded in the minutes.

#### **6.9 Deputations**

- (1) Any person or group wishing to be received as a deputation by the Council or a committee, is to either—
- (a) apply, before the meeting, to the President for approval; or
  - (b) with the approval of the presiding member, at the meeting, address the Council or a committee.
- (2) Any application for a deputation is to include details of the topic on which the deputation is to be made and a brief outline of the contents of the proposed submission which will be made during the deputation.
- (3) The President may either—
- (a) approve the request and invite the deputation to attend a meeting of the Council or committee; or
  - (b) refer the request to the Council or the committee to decide by simple majority whether or not to receive the deputation.
- (4) Unless the Council or committee resolves otherwise, a deputation invited to attend a Council or committee meeting—
- (a) is not to exceed 5 persons, only 2 of whom may address the Council or a committee, although others may respond to specific questions from members;
  - (b) is not to address the Council or a committee for a period exceeding 10 minutes without the agreement of the Council; and
  - (c) an extension of time and the increase in number of speaking members of the deputation may be allowed with the leave of the presiding member.
- (5) Unless decided otherwise by the President or presiding member of a committee, the number of deputations approved for any meeting must not exceed four.
- (6) Any matter which is the subject of a deputation to the Council or a committee is not to be decided by the Council or the committee until the deputation has completed its presentation.

#### **6.10 Petitions**

- (1) Where a member or the CEO receives a petition conforming to the requirements of clause 6.10 (2), that petition is to be presented to the next Council meeting.
- (2) Except where required by the Act, the Regulations or any other written law, any petition to the Council—
- (a) must be addressed to the Council;
  - (b) state the name and address of the person to whom correspondence in respect of the petition may be served; and
  - (c) be in the form detailed in Schedule 1 of this local law.

(3) Once a petition is presented to the Council, a motion may be moved to receive the petition and refer it to the CEO for action.

#### **6.11 Presentations**

(1) In this clause, a **presentation** means the acceptance of a gift or an award by the Council on behalf of the Local Government or the community.

(2) A presentation may be made to the Council at a meeting only with the prior approval of the President.

#### **6.12 Participation at committee meetings**

(1) In this clause a reference to a **person** is to a person who—

- (a) is entitled to attend a committee meeting;
- (b) attends a committee meeting; and
- (c) is not a member of that committee.

(2) Without the consent of the presiding member, no person is to address a committee meeting.

(3) The presiding member of a committee may allow a person to make an oral submission to the committee for up to 3 minutes on a recommendation contained in a report to the committee, with a maximum of 3 speakers for the recommendation and 3 speakers against the recommendation.

(4) A person addressing the committee with the consent of the presiding member is to cease that address immediately after being directed to do so by the presiding member.

(5) A person who fails to comply with a direction of the presiding member under subclause (4) may, by order of the presiding member, be removed from the committee room.

(6) The Council may make a policy dealing with the circumstances in which a person may be given consent to address a committee meeting.

#### **6.13 Council may meet to hear public submissions**

(1) Where an item on the agenda at a Council meeting is contentious and is likely to be the subject of a number of deputations, the Council may resolve to meet at another time to provide a greater opportunity to be heard.

(2) The CEO and the President must set the time and date of the meeting to provide the opportunity to be heard.

(3) Where the Council resolves to meet to provide the opportunity to be heard under subclause (1), the presiding member must—

- (a) instruct the CEO to provide local public notice of the time and date when the Council will meet to provide an opportunity to be heard;
- (b) provide a written invitation to attend the meeting to provide the opportunity to be heard to all members of the public who have applied under clause 6.9 to make a deputation on the issue; and
- (c) cause minutes to be kept of the meeting to provide the opportunity to be heard.

(4) A meeting held under subclause (1) must be conducted only to hear submissions but a member may, at any time with leave of the presiding member, ask a question to seek to clarify any aspect of a submission. The Council must not make resolutions at a meeting held under subclause (1).

(5) At a meeting held under subclause (1), each person making a submission must be provided with the opportunity to fully state his or her case.

(6) A member of the public must be limited to 10 minutes in making an oral submission, but this period may be extended at the discretion of the presiding member.

(7) Once every member of the public has had the opportunity to make a submission the presiding member is to close the meeting.

(8) The CEO is to ensure that a report is included on the agenda of the next Council meeting summarising each submission made at the meeting.

(9) The Council must not resolve on the matter that is the subject of a meeting to provide the opportunity to be heard until it has received the CEO's report under subclause (8).

#### **6.14 Public Inspection of agenda materials**

The right of the public to inspect the documents referred to, and in accordance with, regulation 14 of the Regulations may be exercised at the Shire's administration office, any Shire library or on the Local Government's website.

#### **6.15 Confidentiality of information withheld**

(1) Information withheld by the CEO from the public under regulation 14(2) of the Regulations is to be—

- (a) identified in the agenda of a Council meeting under the item "Matters for which meeting may be closed"; and
- (b) marked "*Confidential*" in the agenda.

(2) A member or an employee who has—

- (a) confidential information under subclause (1); or

- (b) information that is provided or disclosed during a meeting or part of a meeting that is closed to the public,

is not to disclose any of that information to any person other than member employee to the extent necessary for the purpose of carrying out his or her functions.

(3) Subclause (2) does not prevent a member or employee from disclosing the information—

- (a) at a closed meeting;
- (b) to the extent specified by Council and subject to such other conditions as the Council determines;
- (c) that is already in the public domain;
- (d) to an officer of the Department;
- (e) to the Minister;
- (f) to a legal practitioner for the purpose of obtaining legal advice; or
- (g) if the disclosure is required or permitted by law.

(4) The Council may by resolution declare that any information withheld under clause 6.15 (1) must remain confidential for a specified period or indefinitely.

#### **6.16 Recording of proceedings**

(1) A person is not to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council, any committee or electors meeting without the permission of the presiding member.

(2) If the presiding member gives permission under subclause (1), the presiding member is to advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.

#### **6.17 Standard of conduct**

(1) A reference in this clause to a person is to a person other than a member.

(2) A person at a meeting—

- (a) addressing the Council or a committee must, when invited to speak, extend due courtesy and respect to the person presiding and others at the meeting;
- (b) must not reflect adversely on the character or actions of any member or employee;
- (c) must not impute any motive to a member or employee;
- (d) must not use offensive or objectionable expressions;
- (e) must not create a disturbance, by interrupting or interfering with the orderly conduct of the proceedings, whether expressing approval or dissent, by conversing or by any other means;
- (f) must ensure that his or her mobile telephone or audible pager is not switched on or used; and
- (g) must not behave in a manner that is contrary to section 75 of the Criminal Code.

(3) The presiding person may warn a person who fails to comply with this clause.

(4) If a person—

- (a) after being warned, acts contrary to this clause, or to this local law; or
- (b) refuses or fails to comply with a direction by the presiding member,

the presiding member may expel the person from the meeting by ordering him or her to leave the meeting room.

(5) A person who is ordered to leave the meeting room and fails to do so may, by order of the presiding person, be removed from the meeting room and, if the presiding person orders, from the premises.

#### **6.18 Right of reply**

(1) A member who is aggrieved by a statement made (including a question asked) by a member of the public at a meeting may, with the leave of the presiding member, reply to that statement.

(2) A reply under this clause is to be confined to a succinct response to the specific part of the statement in respect of which the member is aggrieved.

### **PART 7—QUESTIONS BY MEMBERS**

#### **7.1 With due notice**

(1) A question on notice is to be given by a member in writing to the CEO at least four (4) clear business days before the meeting at which it is raised.

(2) If the question referred to in subclause (1) is in order, the answer is, so far as practicable, to be included in written form in the agenda of the meeting, or otherwise tabled at that meeting.

(3) Every question and answer is to be submitted as briefly and concisely as possible and no discussion is to be allowed thereon, unless with the consent of the presiding member.

#### **7.2 Without due notice**

(1) Members may ask questions relating to an item on the notice paper or on matters related to the good government of persons in the district.

(2) A member requesting general information from an employee at a Council or committee meeting may ask a question without notice and with the consent of the presiding member, may ask one or more further questions of that employee or another employee present at the meeting.

(3) Where possible the employee must endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the employee may ask that—

- (a) the question be placed on notice for the next meeting of Council; or committee and
- (b) the answer to the question be given to the member who asked it within 14 days.

(4) Every question and answer—

- (a) is to be brief and concise; and
- (b) is not to be accompanied by argument, expression of opinion or statement of facts, except to the extent necessary to explain the question or answer.

(5) In answering any question, an employee may qualify his or her answer and may at a later time in the meeting or at a subsequent meeting alter, correct, add to or otherwise amend the original answer.

## **PART 8—CONDUCT OF MEMBERS**

### **8.1 Members to be in their proper places**

(1) At the first meeting held after each election day, or at any other time considered necessary, each member is to be allocated a seat at the Council table by the Council.

(2) Each member is to occupy his or her position allotted position at each Council or committee meeting.

### **8.2 Respect to the presiding member**

After the business of a Council or a committee has been commenced, a member is not to enter or leave the meeting without first paying due respect to the presiding member.

### **8.3 Titles to be used**

A speaker, when referring to the President, Deputy President or presiding member, or a member or employee, is to use the title of that person's office.

### **8.4 Advice of entry or departure**

A member is not to enter or leave the meeting without first advising the presiding member, in order to facilitate the recording in the minutes of the time of entry or departure.

### **8.5 Members to indicate their intention to speak**

A member of the Council who wishes to speak is to indicate his or her intention to speak by raising his or her hand or by another method agreed by the Council.

### **8.6 Priority of speaking**

(1) Where two or more members indicate, at the same time, their intention to speak, the presiding member is to decide which member is entitled to be heard first.

(2) A decision of the presiding member under subclause (1) is not open to discussion or dissent.

(3) A member is to cease speaking immediately after being asked to do so by the presiding member.

### **8.7 Presiding member may take part in debates**

The presiding member may take part in a discussion of any matter before the Council or a committee, subject to compliance with this local law.

### **8.8 Relevance**

A member is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.

### **8.9 Speaking twice**

A member is not to address the Council or a committee more than once on any motion or amendment except—

- (a) as the mover of a substantive motion, to exercise a right of reply;
- (b) to raise a point of order; or
- (c) to make a personal explanation.

### **8.10 Duration of speeches**

(1) A member is not to speak on any matter for more than 5 minutes without the consent of the Council or a committee which, if given, is to be given without debate.

(2) An extension under this clause cannot be given to allow a member's total speaking time to exceed 10 minutes.

### **8.11 No speaking after conclusion of debate**

A member is not to speak on any motion or amendment—

- (a) after the mover has replied; or
- (b) after the question has been put.

### **8.12 No interruption**

A member is not to interrupt another member who is speaking unless—

- (a) to raise a point of order;

- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 8.13; or
- (d) to move a procedural motion that the member be no longer heard (see clause 11.1(e)).

### **8.13 Personal explanations**

- (1) A member who wishes to make a personal explanation relating to a matter referred to by another member who is then speaking is to indicate to the presiding member his or her intention to make a personal explanation.
- (2) The presiding member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other member.
- (3) A member making a personal explanation is to confine his or her observations to a succinct statement relating to a specific part of the speech at which he or she may have been misunderstood.

### **8.14 No reopening of discussion**

A member is not to reopen discussion on any Council or committee decision, except to move that the decision be revoked or changed.

### **8.15 Adverse reflection**

- (1) A member is not to reflect adversely on a decision of the Council or committee except—
  - (a) on a motion that the decision be revoked or changed; or
  - (b) where the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.
- (2) A member is not—
  - (a) to reflect adversely on the character or actions of another member or employee; or
  - (b) to impute any motive to a member or employee, unless the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.
- (3) A member is not to use offensive expressions in reference to any member, employee or other person.
- (4) If a member specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes—
  - (a) the presiding member is to cause the words used to be taken down and read to the meeting for verification; and
  - (b) the Council or committee may, by resolution, decide to record those words in the minutes.

### **8.16 Withdrawal of offensive language**

- (1) A member who, in the opinion of the presiding member, uses an expression which—
  - (a) in the absence of a resolution under clause 8.15(2)—
    - (i) reflects adversely on the character or actions of another member or employee; or
    - (ii) imputes any motive to a member or employee; or
  - (b) is offensive or insulting,

must, when directed by the presiding member, withdraw the expression and make a satisfactory apology.

- (2) If a member fails to comply with a direction of the presiding member under subclause (1), the presiding member may direct the member to refrain from taking any further part in the debate of that item, other than by voting, and the member must comply with that direction.

## **PART 9—PRESERVING ORDER**

### **9.1 Presiding member to preserve order**

- (1) The presiding member is to preserve order, and, whenever he or she considers necessary, may call any member to order.
- (2) When the presiding member speaks during a debate, any member then speaking, or indicating that he or she wishes to speak, is to preserve strict silence so that the presiding member may be heard without interruption.
- (3) Subclause (2) is not to be used by the presiding member to exercise the right provided in clause 8.7, but to preserve order.

### **9.2 Point of order**

- (1) A member may object, by way of a point of order, only to a breach of—
  - (a) any of this local law; or
  - (b) any other written law.
- (2) Despite anything in this local law to the contrary, a point of order—
  - (a) takes precedence over any discussion; and
  - (b) until determined, suspends the consideration or discussion of any other matter.

### **9.3 Procedures on a point of order**

- (1) A member who is addressing the presiding member is not to be interrupted except on a point of order.

(2) A member interrupted on a point of order is to resume his or her seat until—

- (a) the member raising the point of order has been heard; and
- (b) the presiding member has ruled on the point of order,

and, if permitted, the member who has been interrupted may then proceed.

#### **9.4 Calling attention to breach**

A member may, at any time, draw the attention of the Presiding Member to any breach of this local law.

#### **9.5 Ruling by the presiding member**

(1) The presiding member is to rule on any point of order which is raised by either upholding or rejecting the point of order.

(2) A ruling by the presiding member on a point of order is to be final unless the majority of members then present and voting, on a motion moved immediately after the ruling, dissent from the ruling.

(3) Subject to a motion of dissent being carried under subclause (2), if the presiding member rules that—

- (a) any motion, amendment or other matter before the meeting is out of order, it is not to be considered further; and
- (b) a statement made or act done by a member is out of order, the presiding member may require the member to make an explanation, retraction or apology.

#### **9.6 Continued breach of order**

If a member—

- (a) persists in any conduct that the presiding member had ruled is out of order; or
- (b) refuses to make an explanation, retraction or apology required by the presiding member under clause 9.5(3),

the presiding member may direct the member to refrain from taking any further part in the debate on that item, other than by voting, and the member is to comply with that direction.

#### **9.7 Right of presiding member to adjourn**

(1) For the purpose of preserving or regaining order, the presiding member may adjourn the meeting for a period of up to 15 minutes.

(2) On resumption, the debate is to continue at the point at which the meeting was adjourned.

(3) If, at any one meeting, the presiding member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a later time on the same day or to another day.

### **PART 10—DEBATE OF MEMBERS**

#### **10.1 Recommendations in reports**

(1) Recommendations contained in a committee or employee's report are to be given first priority consideration for adoption by the Council.

(2) Any proposed amendment to a recommendation in a committee or employees' report that is significantly different to the recommendation, is not to be accepted unless a notice of motion in accordance with clause 5.3 has been given by the mover of the proposed amendment.

(3) The Council may by majority decision dispense with requirements of clause 5.1 (2) where the Council is satisfied that the reason for the proposed amendment meets the criteria of "*extreme urgency or other special circumstances*" in clause 5.4 (2).

(4) The requirements for recording of written reasons in the minutes of a meeting for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee are dealt with in the regulations.

#### **10.2 Alternative motion**

(1) A member may submit an alternative motion for consideration by the Council that differs from a committee or employee's recommendation contained in the meeting agenda.

(2) A member may submit an alternative motion for consideration by a committee that differs from an employee's recommendation contained in a meeting agenda.

(3) A request for an alternative motion must be received by the CEO or their delegate no later than 9.00am on the day of the meeting.

(4) The meeting may by absolute majority dispense with the requirement of clause 10.2 (3) where the meeting is satisfied that that the alternative motion does not—

- (a) reflect a significant departure from the intent of the recommendation; or
- (b) involve a determination of a matter or the exercise of a discretion under the Local Planning Scheme.

#### **10.3 Motions to be stated and in writing**

Any member who wishes to move a substantive motion or an amendment to a substantive motion—

- (a) is to state the substance of the motion before speaking to it; and

- (b) if required by the presiding member, is to put the motion or amendment in writing.
- (c) for complex amendments they must be in writing.

#### **10.4 Motions to be supported**

- (1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.
- (2) A motion to revoke or change a decision made at a Council meeting is not open to debate unless the motion has the support required under regulation 10 of the Regulations.

#### **10.5 Unopposed business**

- (1) Immediately after a substantive motion has been moved and seconded, the presiding member may ask the meeting—
  - (a) if any member opposes it; or
  - (b) if any member wishes the mover to speak to the motion before deciding whether to oppose it.
- (2) If any member wishes the mover to speak to the motion, the presiding member may—
  - (a) call on the mover to speak to the motion; and
  - (b) after the mover has spoken to the motion, again ask the meeting if any member opposes it.
- (3) If no member opposes the motion, the presiding member may declare it carried without debate and without taking a vote.
- (4) A motion declared carried under this clause is to be recorded in the minutes as a “carried without dissent” decision of the Council.
- (5) If a member opposes a motion, the motion is to be dealt with under this Part.
- (6) This clause does not apply to a motion to revoke or change a decision which has been made at a Council meeting.

#### **10.6 Only one substantive motion at a time**

When a substantive motion is under debate at a meeting of the Council, no further substantive motion is to be accepted. The Council is not to consider more than one substantive motion at any time.

#### **10.7 Order of call in debate**

The presiding member is to call speakers to a substantive motion in the following order—

- (a) the mover to state the motion;
- (b) a seconder to the motion;
- (c) the mover to speak to the motion;
- (d) the seconder to speak to the motion;
- (e) a speaker against the motion;
- (f) a speaker for the motion;
- (g) other speakers against and for the motion, alternating where possible; and
- (h) mover takes right of reply which closes debate.

#### **10.8 Limit of debate**

The presiding member may offer the right of reply and put a substantive motion to the vote if he or she believes that sufficient discussion has taken place even though all members may not have spoken.

#### **10.9 Member may require question to be read**

A member may require the question or matter under discussion to be read at any time during a debate, but not so as to interrupt any other member who is speaking.

#### **10.10 Consent of seconder required for alteration**

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

#### **10.11 Order of amendments**

Any number of amendments may be proposed to a substantive motion, but when an amendment is moved to a substantive motion, no second or subsequent amendment is to be moved or considered until the first amendment has been withdrawn, carried or lost.

#### **10.12 Form of an amendment**

An amendment must add, delete, or substitute words to the substantive motion.

#### **10.13 Amendment must not negate original motion**

An amendment to a substantive motion cannot negate the original motion or the intent of the original motion.

#### **10.14 Relevance of amendments**

Each amendment is to be relevant to the motion in respect of which it is moved.

#### **10.15 Mover of motion may speak on amendment**

Any member may speak during debate on an amendment in reference to the order set out in clause 10.7.

**10.16 Effect of an amendment**

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any member may speak and any further amendment may be moved.

**10.17 Withdrawal of motion or amendment**

(1) Subject to subclause (2), the Council may, without debate, grant leave to withdraw a motion or amendment on the request of the mover of the motion or amendment and with the approval of the seconder.

(2) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

**10.18 Right of reply**

(1) The mover of a substantive motion has the right of reply.

(2) The mover of any amendment to a substantive motion has a right of reply.

(3) The right of the reply may only be exercised—

(a) where no amendment is moved to the substantive motion—at the conclusion of the discussion on the motion; or

(b) where one or more amendments have been moved to the substantive motion—at the conclusion of the discussion on the substantive motion and any amendments.

(4) After the mover of the substantive motion has commenced the reply—

(a) no other member is to speak on the question; and

(b) there is to be no further discussion on, or any further amendment to, the motion.

(5) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

(6) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

**10.19 Foreshadowing alternative motions**

(1) Should a member wish to negate a substantive motion and have the meeting consider a new substantive motion on the matter with different intent, the member is to foreshadow the new substantive motion prior to the right of reply.

(2) Should a substantive motion be lost, the presiding member is to call upon the member who foreshadowed the new substantive motion to move the proposed motion.

(3) Once moved and seconded, the foreshadowed motion becomes the substantive motion and the same procedures and rules of debate apply to this motion as any other motion.

(4) If more than one foreshadowed motion is proposed for any item before a meeting, the presiding member is to deal with them in the order in which they were presented.

**PART 11—PROCEDURAL MOTION****11.1 Permissible procedural motions**

In addition to the right to move an amendment to a substantive motion, a member may move the following procedural motions—

(a) that the meeting proceed to the next item of business;

(b) that the debate be adjourned;

(c) that the meeting now adjourn;

(d) that the question be now put;

(e) that the member be no longer heard;

(f) that the ruling of the presiding member be disagreed with; and

(g) that the meeting be closed to the public.

**11.2 No debate**

(1) The mover of a motion specified in paragraph (a), (b), (c), (f) or (g) of clause 11.1 may speak to the motion for not more than five minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

(2) The mover of a motion specified in paragraph (d) or (e) of clause 11.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

**11.3 Who may move**

No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

**11.4 Procedural motions—right of reply on substantive motion**

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

**11.5 Meeting to proceed to the next business**

The motion “that the meeting proceed to the next business”, if carried, has the effect that—

- (a) the debate on the substantive motion or amendment ceases immediately;
- (b) no decision is made on the substantive motion;
- (c) the Council moves to the next item of business; and
- (d) there is no requirement for the matter to be raised again for consideration.

**11.6 Debate to be adjourned**

A motion “that the debate be adjourned”—

- (a) is to state the time to which the debate is to be adjourned; and
- (b) if carried, has the effect that all debate on the substantive motion or amendment ceases immediately, but continues at the time stated in the motion.

**11.7 Meeting now adjourn**

(1) A member is not to move or second more than one motion of adjournment during the same sitting of the Council.

(2) Before putting the motion for the adjournment of the Council, the presiding member may seek leave of the Council to deal first with matters that may be the subject of an adoption by exception resolution (see clause 5.6).

(3) A motion “that the meeting now adjourn”—

- (a) is to state the time and date to which the meeting is to be adjourned; and
- (b) if carried, has the effect that the meeting is adjourned to the time and date specified in the motion.

(4) A meeting adjourned under subclause (3) is to continue from the point at which it was adjourned, unless the presiding member or the Council determines otherwise.

**11.8 Question to be put**

(1) If the motion “that the question be now put”, is carried during debate on a substantive motion without amendment, the presiding member is to offer the right of reply and then put the motion to the vote without further debate.

(2) If the motion “that the question be now put” is carried during discussion of an amendment, the presiding member is to put the amendment to the vote without further debate.

(3) This motion, if lost, causes debate to continue.

**11.9 Member to be no longer heard**

If the motion “that the member be no longer heard”, is carried, the speaker against whom the motion has been moved cannot speak further on the current substantive motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the substantive motion.

**11.10 Ruling of the presiding member to be disagreed with**

If the motion “that the ruling of the presiding member be disagreed with”, is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

**PART 12—DISCLOSURE OF INTERESTS****12.1 Disclosure of interests**

Disclosure of interests is dealt with in the Act.

**PART 13—VOTING****13.1 Question—when put**

(1) Immediately after the debate on any question is concluded and the right of reply has been exercised, the presiding member—

- (a) is to put the question to the Council; and
- (b) if requested by any member, is to again state the terms of the question.

(2) A member is not to leave the meeting when the presiding member is putting any question.

**13.2 Voting**

Voting is dealt with in the Act and the Regulations.

**13.3 Majorities required for decisions**

The majorities required for decisions of the Council and committees are dealt with in the Act.

**13.4 Method of taking vote**

(1) In taking the vote on any motion or amendment the presiding member—

- (a) is to put the question, first in the affirmative, and then in the negative;
- (b) may put the question in this way as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes;

- (c) may accept a vote on the voices or may require a show of hands; and
  - (d) is, subject to this clause, to declare the result.
- (2) If a member calls for a show of hands, the result of the vote is to be determined on the count of raised hands.
- (3) Unless decided otherwise by a decision of Council or a committee the details of the members vote or votes for or against, a matter, as the case may be, is to be recorded in the minutes.

## PART 14—MINUTES OF MEETINGS

### 14.1 Keeping of minutes

The keeping and confirmation of minutes are dealt with in the Act.

### 14.2 Content of minutes

- (1) The content of minutes is dealt with in the Regulations.
- (2) In addition to the matters required by regulation 11 of the Regulations, the minutes of a Council meeting is to include, where an application for approval is refused or the authorisation of a licence, permit or certificate is withheld or cancelled, the reasons for the decision.

### 14.3 Public inspection of unconfirmed minutes

The public inspection of unconfirmed minutes is dealt with in Regulations.

### 14.4 Confirmation of minutes

- (1) When minutes of an ordinary meeting of the Council are distributed for consideration prior to their confirmation at the next meeting, if a member is dissatisfied with the accuracy of the minutes, the member may provide the Local Government with a written copy of the alternative wording to amend the minutes no later than 7 clear working days before the next ordinary meeting of the Council.
- (2) At the next ordinary meeting of the Council, the member who provided the alternative wording must, at the time for confirmation of minutes—
- (a) state the item or items with which he or she is dissatisfied; and
  - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (3) Members must not discuss items of business contained in the minutes, other than discussion as to their accuracy as a record of the proceedings.

## PART 15—ADJOURNMENT OF MEETING

### 15.1 Meeting may be adjourned

The Council or a committee may adjourn any meeting—

- (a) to a later time on the same day; or
- (b) to any other time on any other day, including a time which coincides with the conclusion of another meeting or event.

### 15.2 Effect of adjournment

Where any matter, motion, debate or meeting is adjourned under this local law—

- (a) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes;
- (b) debate is to be resumed at the next meeting at the point where it was interrupted; and
- (c) the provisions of clause 8.9 apply when the debate is resumed.

## PART 16—REVOKING OR CHANGING DECISIONS

### 16.1 Requirements to revoke or change decisions

The requirements to revoke or change a decision made at a meeting are dealt with in regulation 10 of the Regulations.

### 16.2 Limitations on powers to revoke or change decisions

- (1) Subject to subclause (2), the Council or a committee is not to consider a motion to revoke or change a decision—
- (a) where, at the time the motion is moved or notice is given, any action has been taken under clause 16.3 to implement the decision; or
  - (b) where the decision is procedural in its form or effect.
- (2) The Council or a committee may consider a motion to revoke or change a decision of the kind described in subclause (1)(a) if the motion is accompanied by a written statement of the legal and financial consequences of carrying the motion.

### 16.3 Implementing a decision

(1) In this clause—

- (a) *authorisation* means a licence, permit, approval or other means of authorising a person to do anything;

- (b) **implement**, in relation to a decision, includes—
    - (i) communicate notice of the decision to a person affected by, or with an interest in, the decision; and
    - (ii) take any other action to give effect to the decision; and
  - (c) **valid notice of revocation motion** means a notice of motion to revoke or change a decision that complies with the requirements of the Act, Regulations and the local laws and may be considered, but has not yet been considered, by the Council or a committee as the case may be.
- (2) Subject to subclause (4), and unless a resolution is made under subclause (3), a decision made at a meeting is not to be implemented by the CEO or any other person until the afternoon of the first business day after the commencement of the meeting at which the decision was made.
- (3) The Council or a committee may, by resolution carried at the same meeting at which a decision was made, direct the CEO or another person to take immediate action to implement the decision.
- (4) A decision made at a meeting is not to be implemented by the CEO or any other person—
- (a) if, before commencing any implementation action, the CEO or that person is given a valid notice of revocation motion; and
  - (b) unless and until the valid notice of revocation motion has been determined by the Council or the committee as the case may be.
- (5) The CEO is to ensure that members of the public attending the meeting are informed by an appropriate notice that a decision to grant an authorisation—
- (a) is to take effect only in accordance with this clause; and
  - (b) cannot be acted upon by the person who has been granted the authorisation unless and until the decision has been implemented in accordance with this clause.

## PART 17—SUSPENSION OF LOCAL LAW

### 17.1 Suspension of local law

- (1) A member may at any time move that the operation of one or more of the provisions of this local law be suspended.
- (2) A member moving a motion under subclause (1) is to state the reasons for the motion but no other discussion is to take place.
- (3) A motion under subclause (1) which is—
  - (a) seconded; and
  - (b) carried by an absolute majority,

is to suspend the operation of the clause or clauses to which the motion relates for the duration of the meeting, unless the meeting earlier resolves otherwise.

### 17.2 Where local law does not apply

- (1) In situations where—
  - (a) one or more provisions of this local law have been suspended; or
  - (b) a matter is not regulated by the Act, the Regulations or this local law,
 the presiding member is to decide questions relating to the conduct of the meeting.
- (2) The decision of the presiding member under subclause (1) is final, except where a motion is moved and carried under clause 11.10.

## PART 18—MEETINGS OF ELECTORS

### 18.1 Electors' general meetings

Electors' general meetings are dealt with in the Act.

### 18.2 Matters for discussion at electors' general meetings

The matters to be discussed at electors' general meetings are dealt with in the Regulations.

### 18.3 Electors' special meetings

Electors' special meetings are dealt with in the Act.

### 18.4 Requests for electors' special meetings

Requests for electors' special meetings are dealt with in the Regulations.

### 18.5 Convening electors' meetings

Convening electors' meetings is dealt with in the Act.

### 18.6 Who presides at electors' meetings

Who presides at electors' meetings is dealt with in the Act.

### 18.7 Procedure for electors' meetings

- (1) The procedure for electors' meetings is dealt with in the Act and the Regulations.
- (2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the presiding member is to have regard to this local law.



