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SHIRE OF KONDININ

LOCAL GOVERNMENT ACT 1995
BUSH FIRES ACT 1954

BUSH FIRE BRIGADES LOCAL LAW 2022

CEMETERIES ACT 1986
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CEMETERIES LOCAL LAW 2022

LOCAL GOVERNMENT ACT 1995
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BIOSECURITY AND AGRICULTURE MANAGEMENT ACT 2007

REPEAL LOCAL LAW 2022

**LOCAL GOVERNMENT ACT 1995
BUSH FIRES ACT 1954**

SHIRE OF KONDININ

BUSH FIRE BRIGADES LOCAL LAW 2022

Under the powers conferred by the *Local Government Act 1995*, *Bush Fires Act 1954* and under all other powers enabling it, the Council of the Shire of Kondinin resolved on 21 September 2022 to make the following local law.

1. Citation

This local law may be cited as the *Shire of Kondinin Bush Fire Brigades Local Law 2022*.

2. Commencement

This local law will come into operation 14 days after publication in the *Government Gazette*.

3. Application

This local law applies throughout the district.

4. Definitions

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

Act means the *Bush Fires Act 1954*;

brigade area is defined in clause 6(1)(b);

bush fire brigade is defined in section 7 of the Act;

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

local government means the Shire of Kondinin;

normal brigade activities is defined by section 35A of the Act; and

Regulations means Regulations made under the Act.

(2) In this local law, unless the context otherwise requires, a reference to—

(a) a captain;

(b) a first lieutenant;

(c) a second lieutenant; and

(d) any additional lieutenants;

means a person holding that position in a bush fire brigade.

5. Establishment of a bush fire brigade

(1) The local government may establish a bush fire brigade for the purpose of carrying out normal brigade activities.

(2) A bush fire brigade is established on the date of the local government's decision under subclause (1).

(3) A bush fire brigade established under subclause (1) is to hold a meeting at least once every financial year to appoint persons to the positions in clause 6(1)(c).

6. Name and officers of bush fire brigade

(1) On establishing a bush fire brigade under clause 4(1) the local government is to—

(a) give a name to the bush fire brigade;

(b) specify the brigade area in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities; and

(c) appoint—

(i) a captain;

(ii) a first lieutenant;

(iii) a second lieutenant; and

(iv) additional lieutenants if the local government considers it necessary.

(2) A person appointed to a position pursuant to subclause (1)(c) is to be taken to be a brigade member.

(3) The appointments referred to in subclause (1)(c) expire at the completion of the first annual general meeting of the bush fire brigade.

(4) In accordance with section 43 of the Act, the local government may remove or appoint officers of a bush fire brigade as deemed necessary or appropriate.

(5) Subject to subclause (4)—

(a) an election is to be held at the first annual general meeting by the members of the brigade for appointments to the positions referred to in subclause (1)(c) and every subsequent annual general meeting; and

- (b) if a position referred to in subclause (1)(c) becomes vacant prior to the completion of the first annual general meeting or at any time, then the brigade members are to vote for a replacement member to fill the position.

(6) The brigade members may elect, set the term of office, describe the duties of, and dismiss, any person to any other position including secretary, treasurer, equipment officer, training officer or other positions, and may combine those positions.

(7) The brigade members may establish types of brigade membership including fire fighting members, auxiliary members, cadet members, and honorary life members.

7. Duties of captain and bush fire brigade officers

(1) The duties of the captain are to—

- (a) provide leadership to bush fire brigades;
- (b) monitor bush fire brigades' resourcing, equipment and training levels;
- (c) liaise with the local government concerning—
 - (i) fire prevention or fire suppression matters generally;
 - (ii) directions to be issued by the local government to bush fire control officers, including those who issue permits to burn; and
 - (iii) bush fire brigade officers;
- (d) ensure that a list of bush fire brigade members is maintained;
- (e) report annually to the local government the office bearers of the bush fire brigade in accordance with the Regulations;
- (f) report to the local government annually, for consideration and appropriate provision being made in the next local government budget, the status of a bush fire brigade's—
 - (i) training and readiness;
 - (ii) protective clothing;
 - (iii) equipment; and
 - (iv) vehicles and appliances.
- (g) nominate persons to the CEO for appointment as bush fire control officers by the local government;
- (h) arrange for normal brigade activities as authorised by the Act or by the local government; and
- (i) where a vacancy occurs in a position appointed under clause 6(1)(c), to—
 - (i) advise the CEO of the vacancy as soon as practicable; and
 - (ii) make alternate suitable arrangements for that position until an appointment is made.

(2) The duties of lieutenants are to—

- (a) provide support to the Captain;
- (b) command and manage members during emergencies and other Brigade related activities;
- (c) demonstrate positive leadership and mentor members;
- (d) maintain open lines of communication and encourage positive interaction and teamwork between members;
- (e) ensure Bush Fire Operating Procedures are adhered to during brigade activities;
- (f) ensure members engaged in firefighting activities hold competencies relevant to the task;
- (g) work cohesively with the brigade Training Officer and conduct training activities for members;
- (h) ensure the behaviour of members is in accordance with the Local Government's code of conduct; and
- (i) in the absence of the brigade Captain the most senior Lieutenant present assumes the responsibilities and duties of that office and takes ultimate responsibility for the performance of all Brigade activities.

8. Appointment, employment, payment, dismissal and duties of bush fire control officers

The appointment, employment, payment, dismissal and duties of bush fire control officers is dealt with by the Act.

9. Maintenance and equipment with appliances and apparatus of bush fire brigades

The local government may provide funds for the maintenance and equipment with appliances and apparatus of bush fire brigades in accordance with Part 6 of *the Local Government Act 1995*.

Dated 19 October 2022

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

R.K. MOURITZ, President.
D.N. BURTON, Chief Executive Officer.

**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

SHIRE OF KONDININ

CEMETERIES LOCAL LAW 2022

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 Kondinin resolved on 21 September 2022 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Kondinin Cemeteries Local Law 2022*.

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—

- (a) Kondinin Pioneer Cemetery (Reserve 18128);
- (b) Kondinin Public Cemetery (Reserve 22608); and
- (c) Hyden Cemetery (Reserve 21253).

1.4 Repeal

The *Bylaws* for Kondinin Cemetery published in the *Government Gazette* on 11 December 1925, and amended from time to time are repealed.

1.5 Terms used

In this local law, unless the context otherwise requires—

Act means the *Cemeteries Act 1986*;

administrator means—

- (a) the administrator or executor of an estate of a deceased person;
- (b) the person who, by law or 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;

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 of which the volume does not exceed 4,000 cubic centimetres, or such greater volume as approved by the CEO in writing;

authorised person means a person—

- (a) appointed by the Board under section 9.10 of the *Local Government Act 1995* 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 as the context requires—

- (a) other than a public holiday in Western Australia, or
- (b) that reasonable notice has been given that the Shire office is closed;

cemetery means a cemetery specified in clause 1.3;

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;

district means the district of the local government;

funeral director means a person—

- (a) holding current membership of—
 - (i) the Australian Funeral Directors Association, or
 - (ii) the National Funeral Directors Association; or
- (b) a person authorised by the personal representative of a deceased person, and approved by the CEO;

grave cover means a covering a grave of durable material whether permeable or impermeable;

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

interment includes, as the case may be—

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

local government means the Shire of Kondinin;

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

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;

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;

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;

standard grave means a grave which does not exceed any of the following dimensions: 2.4m long, 1.2m wide and 2.1m deep;

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

vault means a below ground lined grave with 1 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, and includes a bicycle and a skateboard.

PART 2—ADMINISTRATION

2.1 Powers and functions of CEO

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

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 wall compartments, 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) areas restricted from burial without approval of the CEO.
- (2) The Board may from time to time establish and vary the boundaries of any area referred to in subclause (1).
- (3) The plans referred to in subclause (1) shall be open for inspection by members of the public during normal office hours of the Board.

2.3 Grant of right of burial

- (1) Upon payment of the set fee, a grave, niche compartment or memorial location shall be granted right of burial for a period in accordance with section 25(1) of the Act.
- (2) Upon payment of the set fee, a grant of right of burial shall be extended for a further period in accordance with section 25(2) or (4) of the Act.
- (3) A grant of right of burial made and recorded at the commencement of this local law, shall remain valid for the periods specified by the Act.

(4) If the Board refuses to an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

2.4 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 for the maintenance of an area of the 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 interment in the cemetery.
- (2) An application for an interment permit is for a dead body and shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.
- (3) An application under subclause (1) shall be accompanied by the set fee.

3.2 Applications to be accompanied by certificates etc.

- (1) An application under clause 3.1 shall be accompanied by a certificate issued under clause 3.3, in respect of the dead body.
- (2) The Board may require that an application under clause 3.1 be accompanied by either a medical certificate of death or a Coroner's order of burial, in respect of the dead body.

3.3 Certificate of identification

- (1) After a dead body is placed in a coffin and prior to the dead body being removed to the 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 4 business days prior to the day proposed for interment, otherwise an extra charge may be made.

3.5 Refusal of application

- (1) The Board may refuse an application for a interment permit—
 - (a) if in the opinion of the Board, either the coffin specifications or the details of the vehicle transporting the dead body to the gravesite are not structurally sound or are otherwise inadequate or inappropriate; or
 - (b) on any other grounds.
- (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 properly 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 funeral; 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 an interment—
 - (a) on a Saturday, a Sunday or a public holiday;
 - (b) commencing at any time other than between the hours 9:00 am to 2.00 pm; or
 - (c) to conclude later than 3.00pm.

4.2 Memorial services or processions

Upon application, the Board may permit, with or without interment or broadcasting of ashes—

- (a) the conduct of a memorial service; or
- (b) a procession.

4.3 Processions

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

4.4 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 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 the 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 and coffins

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

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

5.2 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 Dimensions of graves

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

(2) Every grave prepared by the Board shall be dug at least 1.8m deep and shall not exceed 2.3m in depth, unless otherwise determined by the Board.

(3) A person shall not bury a dead body within the cemetery so that the distance from the top of the coffin to the original surface of the ground is—

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

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

5.4 Ashes not to be held by the Board

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

5.5 Disposal of ashes

(1) Except in accordance with an approved application under clause 3.2, a person shall not bring or dispose of the ashes of a deceased person in the cemetery.

(2) A funeral director, the personal representative of a deceased person whose body has been cremated, or other person approved by the CEO, may apply to the Board for permission to dispose of the ashes of that deceased person in the cemetery by one of the following methods, if that method is available—

- (a) placed in a niche wall;

- (b) placed in a grave, vault or mausoleum subject to the appropriateness of the interment as determined by the Board;
 - (c) scattered in an area approved by the Board;
 - (d) placed in a memorial garden; or
 - (e) placed in or under other memorials approved by the Board.
- (3) The Board may require a person making an application under subclause (2) to provide additional information reasonably related to the application before determining the application.
- (4) The Board may—
- (a) approve an application under subclause (2) unconditionally or subject to any conditions; or
 - (b) refuse to approve an application under subclause (2).
- (5) Where an application under subclause (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 subclause (2), written notice of the refusal is to be given to the applicant.

5.6 Vaults and mausoleums

- (1) A person shall not construct a vault or mausoleum within the cemetery, except with the specific approval of the Board.
- (2) A vault or mausoleum within the cemetery shall at all times remain the property of the Board.
- (3) An application under subclause (1) shall be in writing and shall be accompanied by payment of the set fee.
- (4) The Board may require a person making an application under subclause (1) to provide additional information reasonably related to the application before determining the application.
- (5) The Board may—
- (a) approve an application under subclause (1) unconditionally or subject to any conditions; or
 - (b) refuse to approve an application under subclause (1).
- (6) Where an application under subclause (1) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.
- (7) If the Board refuses to approve an application under subclause (1), written notice of that refusal is to be provided to the applicant.
- (8) A person shall not place a dead body in a vault or mausoleum except—
- (a) in a closed coffin;
 - (b) in a soundly constructed and sealed chamber; and
 - (c) in accordance with subclause (9).
- (9) The number of burials in a chamber must not exceed the number for which the chamber was designed.

5.7 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 the 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.

5.8 Exhumation of a coffin

- (1) Subject to subclause (2), a person shall not exhume a coffin in the 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 CEO requesting the exhumation and the CEO has authorised the exhumation.

5.9 Opening of coffin

A person shall not open a coffin in the cemetery unless—

- (a) the coffin is opened for the purposes of the exhumation of a dead body; or
- (b) that person has produced to the CEO an order signed by the Commissioner of Police and the CEO has approved the opening of that coffin.

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 the cemetery.
- (2) The Board may require the written consent of the holder of the right of burial of the grave, the personal representative of a deceased person, or other person to the satisfaction of the CEO 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 Requirement for memorial works

(1) Memorial works shall comply with such requirements and conditions as may be imposed by resolution the Board, including but not limited to—

- (a) grave cover—
 - (i) dimensions not to exceed the width and length of a standard grave without approval under clause 7.2(3);
 - (ii) thickness not to exceed 150mm; and
 - (iii) materials;
- (b) headstone, memorials and bases, monuments—
 - (i) dimensions not to extend beyond any grave cover in place or the dimensions of a standard grave if no grave cover is in place;
 - (ii) height; and
 - (iii) materials;
- (c) plaques—
 - (i) maximum dimensions;
 - (ii) dimensions shall not extend beyond any base upon which the plaque is mounted; and
 - (iii) materials;
- (d) gravesite boundary, whether kerbing, loose or cemented rock, or fencing—
 - (i) dimensions shall not to exceed the width and length of a standard grave without approval under clause 7.2(3);
 - (ii) height; and
 - (iii) materials.

(2) Where memorial works are approved under subclause (1) and are to be undertaken by the Board, the memorial works shall be—

- (a) at the expense of the administrator; and
- (b) the expense shall be calculated in accordance with the set fee; and
- (c) if specified, on the agreed date at the agreed time.

7.2 Limitation on dimensions of memorials

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

(2) No part of a headstone, memorial plaque or monument above its base shall extend horizontally beyond its base.

(3) Notwithstanding subclause (1), on request of an administrator, the Board may approve memorial works over multiple adjoining gravesites—

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

7.3 Display of trade names on memorials not allowed

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

PART 8—MEMORIALS AND OTHER WORK

8.1 Numbering of graves

A person shall not install a memorial on a grave unless the number of that grave is, depending on the area where the grave is located, indelibly and legibly inscribed either on the base of the head of the monument or on the base of the headstone, or if this is not practicable, on the kerbing at the foot of the grave.

8.2 Carrying out memorial work

(1) A person shall not carry out memorial work within the 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 the cemetery.

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

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

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

8.3 Removal of sand, soil or loam

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

8.4 Removal of rubbish

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

8.5 Plants and trees

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

8.6 Supervision

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

8.7 Placing of grave ornaments

(1) A person shall not place vases or other grave ornaments—

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

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

(2) The use of glass, porcelain, ceramics or pottery is not permitted, other than that already in place at commencement of this local law.

8.8 Hours of work

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

(a) during a funeral; or

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

8.9 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 shall drive a vehicle on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery, unless otherwise authorised by the Board.

(2) A person driving a vehicle, within the cemetery, shall not exceed the speed limit of 20km 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 allow an animal to enter or remain in a cemetery, other than—

(a) an *assistance animal* as defined in section 9(2) of the *Disability Discrimination Act 1992* (Commonwealth); or

(b) with the approval of the Board or an authorised person.

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 the cemetery; or

(b) alter or interfere with utility services infrastructure located in the 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 the 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 the cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.

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 the cemetery; or
- (c) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in the 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 the 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 the cemetery specifying conditions relating to the use of the cemetery.
- (2) A person shall obey all signs displayed, marked, placed or erected by the Board within the cemetery and any other lawful direction by the Board.

9.9 Removal from the 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 the 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 the cemetery or any part of it;
- (b) exclude from the 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 the cemetery or any part of it; or
- (d) direct persons to leave the cemetery or any part of it, for purposes of—
 - (i) a funeral or public convenience;
 - (ii) maintenance, redevelopment or extension of the cemetery;
 - (iii) public safety; or
 - (iv) other operational reasons.

9.11 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 the 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.

9.12 Offence to fail to comply with notice

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

9.13 Board may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 9.12, 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—OBJECTIONS AND REVIEW**10.1 Objections and review**

Division 1 of Part 9 of the *Local Government Act 1995* applies to a decision under this local law to—

- (a) refuse an application for a permit;

- (b) impose or vary a condition of a permit; or
- (c) revoke a permit.

PART 11—OFFENCES AND MODIFIED PENALTIES

11.1 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.

11.2 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 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.

Schedule 1—Modified Penalties

[cl.11.2]

Item	Clause	Nature of offence	Modified Penalty \$
1	4.2(a)	Holding a memorial service without permission	50
2	4.2(b)	Conducting a procession without permission	50
3	5.1	Failure to obtain approval to bring a dead body into the cemetery	50
4	5.2(1)	Unauthorised digging, preparation or filling of grave	50
5	5.3(1)	Unauthorised burial of dead body	50
6	5.5(1)	Unauthorised disposal of ashes	50
7	5.5(2)	Disposal of ashes in an unauthorised manner	50
8	5.6(1)	Unauthorised construction of vault or mausoleum	50
9	5.7(1)	Unauthorised reopening of a grave	50
10	5.8(1)	Unauthorised exhumation of a coffin	50
11	5.9	Unauthorised opening of a coffin	50
12	7.3	Use of trade name or mark on a memorial	50
13	8.1	Carrying out memorial work without grave number on memorial or surrounds	50
14	8.2	Unauthorised construction of a memorial	50
15	8.3	Unauthorised use of materials taken from within the cemetery	50
16	8.4	Failure to remove rubbish and surplus materials	50
17	8.5	Unauthorised planting of tree or shrub	50
18	8.6	Failure to comply with direction of authorised person	50
19	8.7	Unauthorised placing of grave ornaments	50
20	8.8	Works carried out during unauthorised times	50
21	8.9	Failure to leave uncompleted works in a tidy and safe condition	50
22	9.1(1)	Driving vehicle other than on vehicular access way or constructed roadways or within designated areas	50
23	9.1(2)	Exceeding speed limit	50
24	9.2(b)	Permitting an animal in a cemetery without approval	50
25	9.3	Interference with utility services	50
26	9.4	Damaging or removing object	50
27	9.5	Failure to dispose of withered flowers appropriately	50
28	9.6	Littering and/or vandalism	50
29	9.7	Unauthorised advertising and/or trading	50
30	9.8(2)	Failure to obey sign or lawful direction within cemetery	50
31	9.9(2)	Failure to comply with order to leave cemetery	50

Item	Clause	Nature of offence	Modified Penalty \$
32	9.10	Failure to comply with closure of all or part of cemetery	50
33	9.12	Failure to comply with notice within specified period	50

Schedule 2—Infringement Notice

[cl. 11.2(3)]

Shire of Kondinin

INFRINGEMENT NUMBER –		
To—		
Address—		
	It is alleged that –	
At—		
On—	Day	Date
Location (as indicated)—	Kondinin Pioneer Cemetery (Reserve 18128);	
	Kondinin Public Cemetery (Reserve 22608);	
	Hyden Cemetery (Reserve 21253).	
	You committed the following offence—	
Contrary to—	Shire of Kondinin Cemeteries Local Law 2022	
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 Kondinin within a period of 28 days after the giving of this notice.	
Name of authorised person—		
Position—		
Signature—		
Date—		
	Payments may be made— (a) by EFT (contact Shire office for details) (b) In person at a Shire Office during business hours (c) By mail to—Shire of Kondinin PO Box 7, Kondinin 6367 Please make cheques payable to Shire of Kondinin.	

Schedule 3—Withdrawal of Infringement Notice

[cl. 11.2(4)]

Shire of Kondinin

To—	
Address—	
	It is advised that –
Infringement Notice No.—	
Dated—	
For the alleged offence of—	
	has been withdrawn.
The modified penalty of—	\$

Reason for withdrawal— (Delete whichever does not apply)	No further action will be taken.	
	It is proposed to institute court proceedings for the alleged offence	
Name of authorised person—		
Position—		
Signature—		
Date—		

Dated 19 October 2022.

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

R.K. MOURITZ, President.
D.N. BURTON, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

SHIRE OF KONDININ

DOGS LOCAL LAW 2022

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 Kondinin resolved on 21 September 2022 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Kondinin Dogs Local Law 2022*.

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

The *Municipality of the Shire of Kondinin Dog By-laws*, published in the *Government Gazette* on 10 January 1995 are repealed.

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 6m 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 Kondinin;

dog management facility has the meaning given to it in section 3(1) of the Act, and includes a kennel establishment;

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 3.3 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 4.4;

licensee means the holder of a licence granted under clause 4.4;

local government means the Shire of Kondinin;

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);

nuisance means—

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

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*;

townsite means the following townsites constituted under section 26(2) of the *Land Administration Act 1997*—

- (a) Kondinin;
- (b) Hyden; and
- (c) Karlgarin; 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 or if absent, to the CEO.

(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 within a townsite; or

- (b) four dogs over the age of three months and the young of those dogs under that age if the premises are outside a townsite.

3.3 Application to keep additional dog or dogs

Subject to clause 3.5, the local government may consider—

- (1) an application to keep one additional dog on premises that are within a townsite which 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 real estate agent.
- (2) an application to keep more than four dogs on premises outside a townsite which 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 real estate agent.
- (3) applications 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 outside a townsite, the dog or dogs are required for stock management or to be on the premises temporarily for the purposes of training for stock management.

3.4 Determination of application

In determining an application for a licence to keep additional dogs, 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 three dogs are proposed to be kept on premises within a townsite;
- (b) more than six dogs are proposed to be kept on premises outside a townsite; 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 for a licence subject to any conditions as considered appropriate.
- (2) Approval of an application is not transferable to successive owners or occupiers of the premises.

3.7 Variation of permit conditions

The local government may vary the conditions of a permit by giving not less than 14 days notice.

3.8 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 licence 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 containing the information specified in Schedule 1, must be lodged with the local government together with—

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.2;

- (c) written evidence that either the applicant or another person who will have the charge of the dogs, will 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;
- (d) 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; and
- (e) 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 4.1(b), 4.2 and 4.4(a) 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.

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) paragraph (a) of subclause (2), the date requested by the licensee; or
 - (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.
- (4) If a licence is cancelled the set fee paid for that licence is not refundable for the term of the licence that has not yet expired.

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 paragraphs (b) or (c) of clause 4.11(2), which notice is to be given in accordance with section 27(6) of the Act.

4.14 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**

- (1) Designation of places where dogs are prohibited absolutely is dealt with in the Act.
- (2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.
- (3) Subclause (2) does not apply to a dog who is being used as an assistance animal as defined in the *Disability Discrimination Act 1992* (Commonwealth).

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.

6.3 Objections and appeals

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

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

- (1) 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.
- (2) Notwithstanding subclause (1) a person who commits an offence under clause 5.1(2) is liable, on conviction, to a penalty not exceeding \$1,000.

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.

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 the CEO, 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 the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

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—Application for a licence for an approved kennel establishment

[cl. 4.1]

Shire of Kondinin

An application for a licence for an approved kennel establishment shall contain the following information—

- (a) full name of applicant;
- (b) postal address;
- (c) email address;
- (d) landline and mobile telephone numbers as appropriate;
- (e) facsimile number if appropriate;
- (f) address of proposed kennel premises;
- (g) number of dogs;
- (h) breed of dogs if appropriate;
- (i) either—
 - (i) name and contact details of the person residing on the premises, and date from which taking up residence on the premises; or
 - (ii) name, address and contact details of the person sufficiently close to the premises so as to control the dogs and ensure their health and welfare, and date from which taking up responsibility for the premises;
- (j) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (k) plans and specifications of the proposed kennel establishment;
- (l) copy of notice of proposed use to appear in newspaper;
- (m) copy of notice of proposed use to be given to adjoining premises;
- (n) 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
- (o) if the person in item (n) is not the applicant, written evidence that the person is a person in charge of the dogs; and
- (p) signed by the applicant.

Schedule 2—Conditions of a licence for an approved kennel establishment

[cl. 4.7]

Shire of Kondinin

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) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard 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 100mm 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 upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;
- (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) 2m; 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 \$
1	3.1	Failing to provide means for effectively confining a dog	200
2	6.2	Dog excreting in prohibited place	100

Dated 19 October 2022.

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

R.K. MOURITZ, President.
D.N. BURTON, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF KONDININ

PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2022

Under the powers conferred by the *Local Government Act 1995* and under all other relevant powers, the Council of the Shire of Kondinin resolved on 21 September 2022 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Kondinin Public Places and Local Government Property Local Law 2022*.

1.2 Commencement

The 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

The following local laws are repealed—

- (a) *Municipality of the Shire of Kondinin By-laws Relating to Shire of Kondinin Public Swimming Pool*, published in the *Government Gazette* on 7 September 1966;
- (b) *Municipality of the Shire of Kondinin By-law Relating to Speed of Vehicles Driven on Land which is Vested in or under Care, Control or Management of the Shire of Kondinin*, published in the *Government Gazette* on 30 May 1975;
- (c) *Municipality of the Shire of Kondinin By-laws Relating to Disposal of Obstructing Vehicles*, published in the *Government Gazette* on 30 January 1981;
- (d) *Municipality of the Shire of Kondinin By-laws Relating to Prevention of Damage to Streets*, published in the *Government Gazette* on 4 May 1990;
- (e) *Municipality of the Shire of Kondinin By-law Relating to Street Trading*, published in the *Government Gazette* on 16 October 1992; and
- (f) *Municipality of the Shire of Kondinin By-law Relating to Reserves*, published in the *Government Gazette* on 18 August 1995.

1.5 Transitional provisions

(1) An application for, or the renewal of a licence, permit or other authorisation made under a repealed local law that has not been finally determined before the commencement day is to be dealt with and determined as if it were an application under this local law.

(2) A licence, permit or other authorisation under a repealed local law that is in force before the commencement day is to be regarded on and after that day as a licence under this local law and may be dealt with accordingly.

1.6 Definitions

(1) In this local law—

Act means the *Local Government Act 1995*;

applicant means a person who applies for a licence;

application means an application for a licence;

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

boat means any ship, vessel or structure capable of being used in navigation by water, however propelled or moved, and includes a jet ski;

building means any building or structure which is local government property and includes any—

- (a) hall or room; and
- (b) corridor, stairway or annexe of any hall or room; and
- (c) the immediate environs of the building if the context requires, but does not include an open space, a carpark or a similar;

building permit means a permit granted under section 20 of the *Building Act 2011*;

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

carriageway has the meaning given to it in the *Road Traffic Code 2000*;

- CEO** means the Chief Executive Officer of the local government;
- children's playground** means an area set aside for use by children and noted by the presence of any of the following—
- (a) dedicated children's playground equipment,
 - (b) the presence of either sand or other form of soft fall surface; or
 - (c) a sign indicating the area is a children's playground;
- closed thoroughfare** means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act;
- commencement day** means the day on which this local law comes into operation;
- costs** means all expenses directly associated with reinstatement or replacement, and includes administrative expenses associated with reinstatement or replacement;
- Council** means the council of the local government;
- crossover** means a crossing giving access from a public thoroughfare to—
- (a) private land; or
 - (b) a private thoroughfare serving private land;
- determination** means a determination made under clause 2.1;
- district** means the district of the local government;
- entertainment** means—
- (a) the action of providing or being provided with amusement or enjoyment; or
 - (b) an event, performance, or activity designed to entertain others;
- footpath** has the meaning given to it in the *Road Traffic Code 2000*;
- function** means an event or activity characterised by all or any of the following—
- (a) formal organisation and preparation;
 - (b) its occurrence is generally advertised or notified in writing to particular persons;
 - (c) organisation by or on behalf of a club;
 - (d) payment of a fee to attend it; and
 - (e) systematic recurrence in relation to the day, time and place;
- garden** means any part of a thoroughfare planted, developed or treated, otherwise than as a lawn, with one or more plants;
- hire** includes offer to hire and expose for hire;
- intersection** has the meaning given to it in the *Road Traffic Code 2000*;
- kerb** includes the edge of a carriageway;
- lawn** means any part of a thoroughfare which is planted only with grass, or with a similar plant, but will include any other plant provided that it has been planted by the local government;
- licence** means a licence, permit or approval issued under this local law;
- licence document** means a licence document issued under this local law;
- licensed premises** has the same meaning as is given to it in section 3 of the Liquor Control Act;
- licence holder** means a person who holds a licence;
- liquor** has the meaning given to it in section 3 of the Liquor Control Act;
- Liquor Control Act** means the *Liquor Control Act 1988*;
- local government** means the Shire of Kondinin;
- local government property** means anything except a thoroughfare—
- (a) which belongs to or is leased by the local government;
 - (b) of which the local government is the management body under the *Land Administration Act 1997*; or
 - (c) which is an otherwise unvested facility within section 3.53 of the Act;
- local public notice** has the meaning given to it in section 1.7 of the Act;
- lot** has the meaning given to it in the *Planning and Development Act 2005*;
- market** means a collection of stalls, stands or displays erected for the purpose of selling or hiring goods or services or carrying out any other transaction;
- nuisance** means any activity, thing, condition, circumstance or state of affairs caused or contributed to by a person which—
- (a) is injurious or dangerous to the health or safety of another person of normal susceptibility; or
 - (b) which has a disturbing effect on the state of reasonable physical, mental or social well being of another person;
- owner or occupier**, in relation to land, does not include the local government;
- permitted verge treatment** means any one of the treatments described in clause 6.7(3), and includes any reticulation pipes and sprinklers;
- person** does not include the local government;

public place means—

- (a) a thoroughfare;
- (b) any local government property; or
- (c) a place to which the public have access;

repealed local law means a local law repealed under clause 1.4;

restricted local government property means local government property which by its nature or by sign erected by the local government property does not have public access, and includes—

- (a) a building used as a residence and the whole of the land on which it is situated;
- (b) a non-residential building occupied under an agreement with the local government and the whole of the land on which it is situated;
- (c) land occupied under an agreement with the local government; and
- (d) buildings or land restricted by the local government for municipal purposes to ensure public safety, or for community interest or benefit;

Schedule means a schedule to this local law;

sell includes—

- (a) offer or attempt to sell;
- (b) display for sale;
- (c) send, forward or deliver for sale or on sale;
- (d) barter or exchange;
- (e) dispose, by lot or chance or by auction;
- (f) supply, or offer, agree or attempt to supply—
 - (i) in circumstances which the supplier derives or would be likely to derive a direct or indirect pecuniary benefit; or
 - (ii) gratuitously, but with a view to gaining or maintaining custom or other commercial advantage; or
- (g) authorise, direct, cause or permit to be done any act referred to in this definition;

set fee refers to fees and charges imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act;

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

stall means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold and includes a vehicle;

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

thoroughfare has the meaning given to it by the Act;

townsite means the following townsites constituted under section 26(2) of the *Land Administration Act 1997*—

- (a) Kondinin;
- (b) Hyden; and
- (c) Karlgarin;

trading means selling or hiring goods or services and includes the setting up of a stall and conducting business at a stall;

UAV means unmanned aircraft, other than a balloon or kite;

vehicle includes—

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

but excludes—

- (c) a wheelchair or any device designed for use by a physically impaired person on a footpath; and
- (d) a pram, stroller or similar device;

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

waste includes matter—

- (a) whether liquid, solid, gaseous or radioactive and whether useful or useless, which is discharged into the environment; or
- (b) prescribed by regulations under the *Waste Avoidance and Resource Recovery Act 2007* to be waste.

1.7 Interpretation

In this local law, a reference to local government property includes a reference to any part of local government property.

1.8 Assistance animals

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

1.9 Overriding power to hire and agree

Despite anything to the contrary in this local law, the CEO or an authorised person, on behalf of the local government, may—

- (a) hire local government property to any person; or
- (b) enter into an agreement with any person regarding the use of any local government property.

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

2.1 Determinations as to use of local government property

The Council may make a determination in accordance with clause 2.2—

- (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
- (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
- (c) as to the matters in clauses 2.7(2) and 2.8(2); and
- (d) as to any matter ancillary or necessary to give effect to a determination.

2.2 Procedure for making a determination

- (1) The local government is to give local public notice of the intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that—
 - (a) the Council intends to make a determination, the purpose and effect of which is summarised in the notice;
 - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
 - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to—
 - (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
 - (b) amend the proposed determination, in which case subclause (5) is to apply; or
 - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c), the Council is to—
 - (a) consider those submissions; and
 - (b) decide—
 - (i) whether or not to amend the proposed determination; or
 - (ii) whether or not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, local public notice is to be given—
 - (a) of the effect of the amendments; and
 - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, local public notice is to be given that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).

2.3 Discretion to erect sign

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

2.4 Determination to be complied with

A person shall comply with a determination.

2.5 Register of determinations

- (1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

2.6 Amendment or revocation of a determination

- (1) The Council may amend or revoke a determination.
- (2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.

(3) If the Council revokes a determination local public notice is to be given of the revocation and the determination is to cease to have effect on the date of publication.

2.7 Activities which may be pursued on specified local government property

(1) A determination may provide that specified local government property is set aside as an area on which a person may—

- (a) take, ride or drive a vehicle, or a particular class of vehicle;
- (b) use a UAV;
- (c) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
- (d) launch, beach or leave a boat;
- (e) take or use a boat, or a particular class of boat;
- (f) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
- (g) play or practise—
 - (i) golf or archery;
 - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
 - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
- (h) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and
- (i) any other recreation activity.

(2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular—

- (a) the days and times during which the activity may be pursued;
- (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
- (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
- (d) may limit the activity to a class of vehicles, equipment or things, or may extend it to all vehicles, equipment or things;
- (e) may specify that the activity can be pursued by a class of persons or all persons; and
- (f) may distinguish between different classes of the activity.

2.8 Activities which may be prohibited on specified local government property

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

- (a) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
- (b) taking, riding or driving a vehicle on the property or a particular class of vehicle;
- (c) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
- (d) taking or using a boat, or a particular class of boat;
- (e) the playing or practice of—
 - (i) golf, archery, pistol shooting or rifle shooting; or
 - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
- (f) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
- (g) the traversing of land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.

(2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular—

- (a) the days and times during which the activity is prohibited;
- (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
- (c) that an activity is prohibited in respect of a class of vehicles, equipment or things, or all vehicles, equipment or things;
- (d) that an activity is prohibited in respect of a class of persons or all persons; and
- (e) may distinguish between different classes of the activity.

2.9 Sign under repealed local law taken to be determination

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

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

PART 3—ACTIVITIES ON LOCAL GOVERNMENT PROPERTY REQUIRING A LICENCE

3.1 Activities requiring a licence

(1) A person shall not without a licence—

- (a) subject to subclause (3) hire local government property;
- (b) advertise anything by any means on local government property;
- (c) erect, on local government property a structure for public amusement or for any performance, whether for gain or otherwise;
- (d) teach, coach or train, for profit, any person in any facility which is local government property;
- (e) plant any plant or sow any seeds on local government property;
- (f) carry on any trading on local government property unless the trading is conducted—
 - (i) with the consent of a person who holds a licence to conduct a function, and where the trading is carried on under and in accordance with the licence; or
 - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
- (g) conduct or set up a market on local government property or public place;
- (h) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose—
 - (i) drive or ride or take any vehicle on to local government property; or
 - (ii) park or stop any vehicle on local government property;
- (i) conduct a function or entertainment event on local government property;
- (j) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
- (k) light a fire on local government property except in a facility provided for that purpose;
- (l) parachute, hang glide, abseil or base jump from or on to local government property;
- (m) erect a building or a refuelling site on local government property;
- (n) make any excavation on or erect or remove any fence on local government property;
- (o) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
- (p) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property;
- (q) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly;
- (r) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property;
- (s) conduct an entertainment event on local government property; or
- (t) film or make a recording as part of or for commercial gain on local government property.

(2) The CEO or an authorised person may exempt a person from compliance with subclause (1) on the application of that person.

(3) The CEO or an authorised person may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

3.2 Licence to erect structures or camp

(1) In this clause—

camp unless the context requires otherwise has the same meaning as given to it in section 5 of the *Caravan Parks and Camping Grounds Act 1995*;

caravan has the same meaning as given to it in section 5 of the *Caravan Parks and Camping Grounds Act 1995*;

facility has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*;

park home has the same meaning as given to it in section 5 of the *Caravan Parks and Camping Grounds Act 1995*; and

structure includes a caravan, park home, or camp.

(2) This clause does not apply to a caravan park or camping ground operated by the local government.

(3) A person shall not without a licence—

- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property;

- (b) erect any tent, camp, hut or similar structure on local government property other than a shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day; or
 - (c) park a vehicle on local government property, thoroughfare or public place for the purpose of sleeping in the vehicle.
- (4) The maximum period for which the local government may approve an application for a licence in respect of paragraph (a) or (b) of subclause (2) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

3.3 Licence required for possession and consumption of liquor

- (1) A person shall not offer for sale, consume, have in her or his possession or under her or his control on local government property, any liquor unless—
- (a) permitted under the Liquor Control Act; and
 - (b) a licence has been obtained for that purpose from the local government.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

PART 4—BEHAVIOUR ON LOCAL GOVERNMENT PROPERTY

4.1 Application

In this Part—

local government property includes any structure, facility or item constructed or owned by the local government which may be situated on land not under the local government's management.

4.2 Restricted local government property

Nothing in this local law is to be construed as—

- (a) permitting access to or activities by the public on restricted local government property without the express approval—
 - (i) in the case of a building used as a residence and the whole of the land on which it is situated, by the occupier or authorised representative of the occupier;
 - (ii) in the case of a non-residential building occupied under an agreement with the local government, the building and the whole of the land on which it is situated, by the person occupying the building;
 - (iii) in the case of land occupied under an agreement with the local government, by the person occupying the land; and
 - (iv) in the case of a building or land restricted by the local government for municipal purposes to ensure public safety, or for community interest or benefit, by the CEO or an authorised person; and
- (b) limiting the right of the occupier of restricted local government property to full use of that property for their private enjoyment as permitted by law or by agreement with the local government.

4.3 Behaviour which interferes with others

In or on any local government property, a person shall not, behave in a manner which—

- (a) is likely to interfere with the enjoyment of a person who might use or who might be on the property; or
- (b) interferes with the enjoyment of a person using the property.

4.4 Behaviour detrimental to property

A person shall not behave in or on local government property in a way which is or might be detrimental to the property, including but not limited to—

- (a) removing any thing from the local government property including a rock, a plant or a seat provided for the use of any person; and
- (b) destroying, defacing or damaging any thing on the local government property, including a plant, a seat provided for the use of any person or a building.

4.5 No unauthorised entry to function

(1) A person shall not enter local government property on such days or during such times as the property is set aside for a function, except—

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

(2) The CEO or an authorised person may exempt a person from compliance with subclause (1)(b).

4.6 Taking or injuring fauna

(1) In this clause—

animal means any living thing that is not a human being or plant;

fauna means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes in relation to any such animal—

- (a) any class of animal or individual member;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur unless it has been shed or discarded by the fauna in a normal or natural manner.

(2) A person shall not, take, injure or kill or attempt to take, injure or kill any fauna which is on or above any local government property, unless that person is authorised under a written law to do so.

4.7 Flora

(1) In this clause—

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

(2) On or above any local government property unless authorised to do so under a written law or with the written approval of the CEO or an authorised person, a person shall not—

- (a) remove, damage or interfere with any flora; or
- (b) plant or deposit any flora.

4.8 Animals

Unless otherwise approved by the CEO, an authorised person or authorised by other written law, a person shall not on any local government property—

- (a) tether any animal other than a dog, to an object or tree; or
- (b) permit any animal other than a dog, to enter unless authorised by a licence.

4.9 Waste

A person shall not deposit or discard waste on local government property except—

- (a) in a place or receptacle set aside by an authorised person for that purpose; and
- (b) in accordance with any conditions that may be specified on the receptacle or a sign.

4.10 Vehicles on local government property

(1) Unless authorised by a licence or determination, a person shall not take or cause a vehicle to be taken onto or driven on local government property unless—

- (a) subject to subclause (3), the local government property is clearly designated as a road, access way, or car park;
- (b) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government, who is engaged in—
 - (i) providing a service or making a delivery in connection with the local government property; or
 - (ii) maintaining the local government property;
- (c) the person is driving an emergency vehicle in the course of his or her duties;
- (d) the vehicle is—
 - (i) used in accordance with the conditions set down by the local government or an authorised person; and
 - (ii) of a type allowed to be taken onto the local government property by the local government or an authorised person; or
- (e) the vehicle is a motorised wheelchair, and the driver of that vehicle is a person with a disability.

(2) A person shall not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 20 kilometres per hour or as otherwise indicated by a sign, or in such a manner as to cause danger to any person.

(3) Other than in accordance with subclause (1)(b), (c), (d) or (e), a person shall not drive a vehicle on local government property or part of it that is being used for a function for which a licence has been obtained unless permitted to do so by the licence holder or an authorised person.

4.11 UAVs

A person shall not use a UAV on or from local government property except where a licence or determination specifies a particular local government property.

4.12 Archery, pistol or rifle shooting

A person shall not play or practise archery, pistol or rifle shooting on local government property except on land which is reserved by the local government for that purpose, or as otherwise provided by a determination or licence.

4.13 Playing or practising golf

A person shall not play or practise golf on local government property except where a licence or determination specifies a particular local government property.

4.14 Prohibition relating to bicycles, skateboards etc. on local government property

Unless the local government property is clearly identified for the purpose or with the approval of an authorised person, a person shall not, use or ride a bicycle or wheeled recreational device, skateboard or roller-blades, or sand board or similar devices on any local government property—

- (a) inside, or on the curtilage to, a building;
- (b) which has been prepared or is intended for another purpose: or
- (c) in or on a lakebed or waterway.

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

5.1 No entry to fenced, closed or restricted local government property

(1) Unless that person is authorised to do so by the CEO or an authorised person, a person shall not enter onto—

- (a) local government property which has been fenced off or closed to the public by a sign or otherwise unless that person is authorised to do so by the local government, or
- (b) restricted local government property except in accordance with clause 4.2.

(2) Nothing in this local law is to be construed as preventing the access necessary by persons empowered to do so under a written law.

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

(1) Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by—

- (a) females—then a person of the male gender shall not use that entry of the toilet block or change room;
- (b) males—then a person of the female gender shall not use that entry of the toilet block or change room; or
- (c) families—then, where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry of the toilet block or change room.

(2) Subclause (1)(a) and (d) does not apply to a child, when accompanied by a parent, guardian or caregiver, where the child is—

- (a) under the age of 8 years; or
- (b) otherwise permitted by an authorised person to use the relevant entry.

5.3 Use of shower or bath facilities

A person may use a shower or bath facility in change rooms only on conditions that—

- (a) the facilities shall be used by the person only for the purpose of cleansing, bathing and washing themselves; and
- (b) the facilities shall not be used for the purpose of laundering of clothing or washing of other articles.

PART 6—ACTIVITIES IN THOROUGHFARES

Division 1—General

6.1 General prohibitions

A person shall not—

- (a) plant, or allow to remain, in a thoroughfare a plant that is or may become an obstruction to a reasonable sight line for a driver of any vehicle negotiating or using the thoroughfare;
- (b) damage a lawn or a garden, or remove any plant or part of a plant from a lawn or a garden, in a thoroughfare unless—
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;
- (c) damage, or remove a street tree, or part of a street tree, irrespective of whether it was planted by the owner or occupier of the lot abutting the thoroughfare or by the local government, unless—
 - (i) the damage to, or removal of, the street tree is authorised by an authorised person in writing; or
 - (ii) the person is acting under authority of written law;
- (d) except as permitted by this local law place, or allow to be planted, placed or remain, on a thoroughfare any thing (except water) that—
 - (i) obstructs the thoroughfare; or
 - (ii) results in a hazard for any person using the thoroughfare;
- (e) unless at the direction of an authorised person, damage, remove or interfere with any part of a thoroughfare, or any structure erected on a thoroughfare, by the local government or a person acting under the authority of a written law; or

- (f) play or participate in any game or sport so as to cause danger to any person or thing or unreasonably impede the movement of vehicles or persons on a thoroughfare.

6.2 Activities allowed with a licence

(1) A person shall not, without a licence—

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised in connection with that collection by the local government;
- (c) cause any obstruction to a vehicle or a person using a thoroughfare;
- (d) cause any obstruction to a water channel or a water course in a thoroughfare;
- (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
- (f) damage a thoroughfare;
- (g) fell or damage any street tree;
- (h) fell any tree onto a thoroughfare;
- (i) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose;
- (j) unless installing, or in order to maintain, a permitted verge treatment—
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install, on any part of a thoroughfare, any thing such as gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
- (k) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
- (l) on a thoroughfare use anything or do anything so as to create a nuisance;
- (m) place or cause to be placed on a thoroughfare a bulk rubbish container;
- (n) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare;
- (o) conduct or carry on any trading on a thoroughfare;
- (p) conduct, carry on or set up a market on a thoroughfare; or
- (q) conduct or carry on an entertainment event on a thoroughfare.

(2) An authorised person may exempt a person from compliance with subclause (1) on the application of that person.

6.3 Assignment of numbers

(1) In this clause—

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

(2) The CEO or an authorised person may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

6.4 No driving on closed thoroughfare

A person shall not drive or take a vehicle on a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act unless—

- (a) it is in accordance with any limit or exception specified in the order made under section 3.50 of the Act; or
- (b) the person has first obtained a licence.

6.5 Fencing of public place—Item 4(1) of Division 1, Schedule 3.1 of Act

A public place, as that term is defined in clause 1.6, is specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act.

Division 2—Permitted verge treatments

6.6 Application

This Division only applies to townsites.

6.7 Permitted verge treatments

- (1) A person shall not install or maintain a verge treatment which is not a permitted verge treatment.
- (2) An owner or occupier of land which abuts on a verge may install a permitted verge treatment, on that part of the verge directly in front of her or his land.
- (3) A permitted verge treatment is—
 - (a) the planting and maintenance of a lawn;
 - (b) the planting and maintenance of a garden provided that—
 - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;

- (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
 - (iii) it does not include a wall or built structure; and
 - (iv) is not of a thorny, poisonous or hazardous nature;
 - (c) subject to subclause (4), the installation of material which does not detract from the amenity of the area, including but not limited to—
 - (i) bituminous surface or in-situ concrete, subject to reduction of area shedding of storm water or flooding;
 - (ii) use of paving bricks or concrete slabs; and
 - (iii) all forms of loose aggregate materials such as pebbles, stones and gravel, not larger than 50mm and contained within the verge area at all times; and
 - (d) other treatment approved by the local government.
- (4) Where installation of material which would create a hard surface has been installed or is intended, an authorised person may by written notice, require—
- (a) a reduction of area covered or to be covered, if shedding of storm water or flooding is likely to cause a nuisance to neighbours or users of a thoroughfare; and
 - (b) an area of open space to a maximum of 1m from the edge of a street trees.
- (5) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 6.9.

6.8 Obligations of owner or occupier

An owner or occupier who installs or maintains a permitted verge treatment shall—

- (a) keep the permitted verge treatment in a good and tidy condition and, where the verge treatment is a garden or lawn, ensure that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) ensure that clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in a carriageway, or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
- (c) not place any obstruction on or around the verge treatment;
- (d) not disturb a footpath on the verge;
- (e) ensure that the verge treatment does not damage or obstruct a drain, manhole, galley, inspection pit, channel, kerb or tree planted by the local government; and
- (f) ensure that any sprinklers or pipes installed to irrigate a verge treatment—
 - (i) do not protrude above the level of the lawn or verge treatment when not in use;
 - (ii) are not used at such times so as to cause unreasonable inconvenience to pedestrians or other persons; and
 - (iii) do not otherwise present a hazard to pedestrians or other persons.

6.9 Transitional provision

(1) In this clause—

former provisions means the provisions of the repealed local laws which permitted certain types of verge treatments, whether with or without the consent of the local government.

(2) A verge treatment is to be taken to be a permitted verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions which—

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

6.10 Power to carry out public works on verge

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

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

Division 3—Vehicle crossovers

6.11 Temporary crossovers

(1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works shall obtain a licence for the construction of a temporary crossover to protect the existing carriageway, kerb, drains, footpath, existing materials and street trees, where—

- (a) a crossover does not exist; or

- (b) a crossover does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossover.
- (2) The person responsible for the works in subclause (1) is to be taken to be—
 - (a) the builder named on the building permit issued under the *Building Act 2011*, if one has been issued in relation to the works; or
 - (b) the owner of the lot, if no building permit has been issued under the *Building Act 2011* in relation to the works.
- (3) If the CEO or an authorised person approves an application for a licence for the purpose of subclause (1), the licence is taken to be issued on the condition that until such time as the temporary crossover is removed, the licence holder shall keep the temporary crossover in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

6.12 Removal of redundant crossover

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

6.13 Crossovers in unsafe locations

- (1) Where a crossover is in an unsafe location, the local government may give notice to the owner or occupier to—
 - (a) remove the crossover; or
 - (b) make the crossover safe.
- (2) In determining whether the crossover is in an unsafe location, the local government shall have regard to—
 - (a) any guidelines or advice Main Roads Western Australia sought or published from time to time;
 - (b) the usage of the thoroughfare; and
 - (c) alternative treatments available to make the crossover safe.
- (3) Any notice issued under subclause (1) is to give a minimum period of 28 days to remove or make the crossover safe, provided immediate measures are taken to advise users of the thoroughfare of the circumstances deemed unsafe.

PART 7—ACTIVITIES IN PUBLIC PLACES

7.1 Leaving animal or vehicle in public place

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

7.2 Prohibitions relating to animals

- (1) In this clause, *owner* in relation to an animal includes—
 - (a) an owner of it;
 - (b) a person in possession of it;
 - (c) a person who has control of it; and
 - (d) a person who ordinarily occupies the premises where the animal is permitted to stay.
- (2) An owner of an animal shall not—
 - (a) allow the animal to enter or remain for any time on any public place except for the use of the public place as a thoroughfare and unless it is led, ridden or driven;
 - (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
 - (c) train or race the animal in a public place.
- (3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare, unless that person does so under a licence or under the authority of a written law.

PART 8—TEMPORARY SIGNS

8.1 Definitions

In this Part, unless the context otherwise requires—

advertising sign means a temporary sign or poster which advertises a business, products or services for commercial gain;

election sign means a temporary sign or poster which advertises any aspect of a forthcoming Federal, State or local government election;

event sign means a temporary sign or poster which advertises an event, function or activity;

temporary sign means a sign used for the purpose of advertisement or notification, whether free standing or requiring to be affixed to a structure of any type, and includes—

- (a) a bill, poster and the like;
- (b) a banner or flag;
- (c) an advertising sign;
- (d) an event sign;
- (e) an election or political sign; and
- (f) a direction sign to a place or event.

8.2 Application

Any sign that is to be a permanent structure or fixture is to comply with—

- (a) the Building Code as defined in section 3 of the *Building Regulations 2012*;
- (b) any local planning scheme of the local government made under the *Planning and Development Act 2005*; and
- (c) any other written law regulating of signs within the district.

8.3 Temporary signs

(1) On local government property or in a thoroughfare, a person shall not, without a licence—

- (a) place a temporary sign; or
- (b) post any bill or paint, place or affix any advertisement.

(2) Notwithstanding subclause (1), a licence is not required for a temporary sign that is—

- (a) otherwise compliant with clauses 8.5, 8.6, 8.7, 8.8 and 8.9;
- (b) placed flat against a wall or constructed fence for the full length and height of the sign;
- (c) for the purposes of a sporting, charitable or not for profit organisation; and
- (d) does not exceed a number of signs considered reasonable at the discretion of the CEO.

8.4 Matters to be considered in determining application for licence

In determining an application for a licence for the purpose of clause 8.3(1), matters the local government is to have regard to include—

- (a) any other written law regulating the construction or placement of signs within the district;
- (b) the dimensions of the sign;
- (c) whether or not the sign may create a hazard to persons using a thoroughfare;
- (d) other signs already approved or erected in the vicinity of the proposed location of the sign;
- (e) any other condition that may be imposed; and
- (f) the amount of the public liability insurance cover, if any, to be obtained by the applicant.

8.5 Conditions for temporary signs

Unless otherwise approved by the local government, temporary signs shall—

- (a) be portable and free-standing or temporarily affixed so as there is no resulting damage to any thing;
- (b) be secured in position in accordance with any requirements of the local government;
- (c) be placed so as not to impede or obstruct either vehicle or pedestrian traffic, or access to a place by any person;
- (d) be placed so as not to obstruct lines of sight for vehicle traffic;
- (e) not be unduly distracting, in the opinion of an authorised person, if illuminated or incorporating reflective or fluorescent materials;
- (f) not contain any offensive wording, symbols or images in the opinion of an authorised person;
- (g) not display only part of a message which is to be read with other separate signs in order to obtain the whole message;
- (h) be maintained in good condition;
- (i) be in compliance with any limitation of the number of signs notified in writing by the local government; and
- (j) unless flat against a wall or fence not exceed—
 - (i) 0.75 square metres in area; and
 - (ii) not exceed 750mm horizontally.

8.6 Prohibition on placement of temporary signs

Unless otherwise approved by the local government a temporary sign shall not be placed—

- (a) on any natural feature, including a rock or tree, on local government property or a thoroughfare; and
- (b) on any bridge or the structural approaches to a bridge.

8.7 Additional conditions for advertising signs

Unless otherwise approved by the local government an advertising sign shall—

- (a) relate only to the business activity, or placed with the consent of the owner or occupier of the adjoining premises; and
- (b) be in place only during the hours of the business activity or the event being advertised.

8.8 Additional conditions for event signs

Unless otherwise approved by the local government an event sign shall—

- (a) relate only to the event, function or activity advertised; and
- (b) not be placed more than 42 days prior to the event, function or activity being advertised.

8.9 Additional conditions for election signs

An election sign shall not be erected until the election to which it relates has been officially announced.

8.10 Removal of temporary signs

- (1) Unless otherwise specified a temporary sign is to be removed within 10 working days of the event or activity.
- (2) The local government may remove non-complying signs without notice and recover costs from the person placing the sign or named as beneficiary on the sign.

PART 9—SIGNS AND POWERS TO GIVE DIRECTIONS**9.1 Signs installed by the local government**

- (1) The local government may install a sign in public places specifying any conditions of use which apply to that public place, local government property or thoroughfare.
- (2) A person shall comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose of giving notice of the effect of a provision of this local law.
- (4) Clause 2.5 does not apply to a sign referred to in subclause (1);

9.2 Transitional provision

Where a sign in a public place, on local government property or on a thoroughfare or has been erected under a repealed local law then, on and from the commencement day, it is to be taken to be a sign erected under clause 9.1 if—

- (a) the sign specifies a condition of use relating to the thoroughfare which gives notice of the effect of a provision of this local law; and
- (b) the condition of use specified is not inconsistent with any provision of this local law.

9.3 Authorised person to be obeyed

- (1) A person on or in local government property that is given a lawful direction by the CEO or an authorised person shall comply with that direction.
- (2) A person shall not obstruct or hinder an authorised person in the performance of that person's duties.

9.4 Refusal of entry and removal

- (1) If the CEO or an authorised person reasonably suspects that a person is breaching, or has just breached, a provision of this local law or any other written law, the CEO or authorised person may—
 - (a) refuse to allow that person to enter local government property;
 - (b) if the person is on local government property, direct the person to leave the local government property; and
 - (c) specify a period of up to 30 calendar days within which the person is not to re-enter the local government property.
- (2) A person who has been refused entry or who has been directed to leave under subclause (1) shall immediately leave the local government property quickly and peaceably.
- (3) If a person fails to comply with subclause (2), the CEO or an authorised person may remove the person, or arrange for the person to be removed, from the local government property.
- (4) The CEO or an authorised person may reduce the period specified in subclause (1)(c) on application of the person who has been directed not to re-enter local government property.

9.5 Disposal of lost property

An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by the CEO or an authorised person—

- (a) if the value of the property is reasonably believed to exceed the amount prescribed by regulation 30(3) of the *Local Government (Functions and General) Regulations 1996*, using the process under section 3.58 of the Act for the sale of the article as if it was property referred to in that section;
- (b) if the article is reasonably believed to be of a negligible or little value or likely to be of no interest to a not for profit body, in any manner he or she thinks fit; or
- (c) in any other case, by donation to a not for profit body incorporated under the *Associations Incorporations Act 2015*.

PART 10—LICENCES

Division 1—Applying for a licence

10.1 Application for licence

- (1) Where a person is required to obtain a licence under this local law, that person shall apply for the licence in accordance with subclause (2).
- (2) An application for a licence under this local law shall—
 - (a) be in the form determined by the CEO or an authorised person;
 - (b) be signed by the applicant;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the local government together with any set fee.
- (3) The CEO or an authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for a licence.
- (4) The CEO or an authorised person may require an applicant to give local public notice of the application for a licence.
- (5) The CEO or an authorised person may refuse to consider an application for a licence which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

10.2 Decision on application for licence

- (1) The CEO or an authorised person may—
 - (a) approve an application for a licence unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a licence.
- (2) If the CEO or an authorised person approves an application for a licence, written notice of approval is to be issued to the applicant.
- (3) If an authorised person refuses to approve an application for a licence, written notice of that refusal is to be given to the applicant.
- (4) The CEO or an authorised person may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the licence holder.

10.3 General restrictions on grant of licence

- (1) The CEO or an authorised person shall not grant a licence if there are reasonable grounds for believing that the carrying on of the activity to which the application relates would constitute an unacceptable risk to the safety of the public.
- (2) The CEO or an authorised person shall not grant a licence unless satisfied that—
 - (a) the applicant is capable of carrying on the activity in accordance with this local law and the terms and conditions of the licence;
 - (b) the public place at which the activity is to be provided is suitable for that purpose;
 - (c) a licence or similar authority granted or issued to the applicant has not been cancelled in the period of 5 years before the application is made; and
 - (d) the applicant is a fit and proper person to carry on the activity.

10.4 Amendment of licence

- (1) The CEO or an authorised person may, by written notice given to the licence holder, amend a licence—
 - (a) imposing any new condition; or
 - (b) change or remove any existing condition.
- (2) An amendment may be made on application made by the licence holder or on the initiative of the CEO or an authorised person.
- (3) An amendment will come into effect on the day that written notice is given to the licence holder, or some other date as specified in the notice.

10.5 False or misleading statement

A person shall not make a false or misleading statement in connection with an application in respect of a licence under this local law.

*Division 2—Conditions of licences***10.6 Examples of conditions**

(1) Examples of the conditions that an authorised person may impose on a licence under clause 10.2(1)(a) or 10.4(1)(a) are conditions relating to—

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

(2) Examples of the type and content of the conditions on which a licence to hire local government property may be issued include—

- (a) when set fees and charges are to be paid;
- (b) payment of a bond against possible damage or cleaning expenses or both;
- (c) restrictions on the erection of material or external decorations;
- (d) rules about the use of furniture, plant and effects;
- (e) limitations on the number of persons who may attend any function in or on local government property;
- (f) the duration of the hire;
- (g) the right of an authorised person to cancel a booking during the course of an annual or seasonal booking, if an authorised person sees fit;
- (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the Liquor Control Act;
- (i) whether or not the hire is for the exclusive use of the local government property;
- (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
- (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

10.7 Imposing conditions under a policy

(1) In this clause—

policy means a local government policy adopted by the Council under section 2.7(2)(b) of the Act containing conditions subject to which an application for a licence may be approved under clause 10.2(1)(a).

(2) Under clause 10.2(1)(a) the CEO or an authorised person may approve an application subject to conditions by reference to a policy.

(3) The CEO or an authorised person shall give to the licence holder a copy of the policy or, at the discretion of the CEO or the authorised person, the part of the policy which is relevant to the application for a licence, with the written notice of approval referred to in clause 10.2(2).

(4) An application for a licence is not to be taken to have been approved subject to the conditions contained in a policy until the CEO or an authorised person gives the licence holder a copy of the policy or the part of the policy which is relevant to the application.

(5) Sections 5.94 and 5.95 of the Act apply to a policy and, for that purpose, a policy is deemed to be information within section 5.94(u)(i) of the Act.

10.8 Compliance with conditions

Where an application for a licence has been approved subject to conditions, the licence holder shall comply with each of those conditions, as amended.

*Division 3—Duration of licences***10.9 Duration of licence**

A licence is valid for one year from the date on which it is issued, unless it is—

- (a) otherwise stated in this local law or in the licence; or
- (b) suspended or cancelled under this Division.

10.10 Renewal of licence

- (1) A licence holder may apply to the local government for the renewal of a licence.
- (2) An application for renewal shall—
 - (a) be in the form determined by the local government;
 - (b) be signed by the licence holder;
 - (c) provide the information required by the form;
 - (d) be forwarded to the local government no later than 28 days before the expiry of the licence, or within a shorter period that the local government in a particular case permits; and
 - (e) be accompanied by any set fee.
- (3) The provisions of this Part that apply to an application for a licence also apply to an application for the renewal of a licence as though it were an application for a licence.

10.11 Transfer of licence

- (1) An application for the transfer of a valid licence is—
 - (a) to be made in writing;
 - (b) to be signed by the licence holder and the proposed transferee of the licence;
 - (c) to include such information as the CEO or an authorised person may require to enable the application to be determined; and
 - (d) to be forwarded to the local government together with any set fee.
- (2) The CEO or an authorised person may—
 - (a) approve an application for the transfer of a licence;
 - (b) approve the application subject to any conditions; or
 - (c) refuse to approve the application.
- (3) Where the CEO or an authorised person approves an application for the transfer of a licence, the transfer may be effected by an endorsement on the licence signed by the CEO or the authorised person.
- (4) Where an authorised person approves the transfer of a licence, the local government is not required to refund any part of any set fee paid by the former licence holder.

10.12 Suspension of licence

- (1) The CEO or an authorised person may, subject to clause 10.13, by written notice given to the licence holder, suspend a licence if there are reasonable grounds for believing that—
 - (a) the licence holder has contravened a term or condition of a licence;
 - (b) the licence holder has contravened a provision of this local law; or
 - (c) the continued provision of the activity authorised by the licence constitutes or will constitute an unacceptable risk to the safety, health or welfare of the public.
- (2) The suspension notice shall—
 - (a) state the day, or the day and time, on or at which the suspension takes effect;
 - (b) state the reasons for the authorised person's decision to suspend the licence;
 - (c) where appropriate, indicate what steps need to be taken to ensure that there is compliance with the relevant provision, term or condition or that there is no longer a risk as described in subclause (1)(c); and
 - (d) inform the licence holder that the licence holder has a right to apply under the Act for a review of the decision to suspend the licence.

10.13 Proposed suspension

- (1) If the CEO or an authorised person proposes to suspend a licence under clause 10.12(1)(a), the authorised person shall give written notice to the licence holder of the proposed suspension.
- (2) The notice shall—
 - (a) state that the authorised person proposes to suspend the licence;
 - (b) state the reasons for the proposed suspension; and
 - (c) inform the licence holder that the licence holder is entitled to make representation to the authorised person in respect of the proposed suspension within 7 days after the day on which the licence holder is given the notice.
- (3) In considering whether to suspend the licence, the authorised person shall have regard to any representations made by the licence holder within the period referred to in subclause (2)(c).

10.14 Revocation of suspension

- (1) The CEO or an authorised person shall by written notice given to the licence holder, revoke the suspension of a licence if the authorised person is satisfied that the steps specified in the suspension notice have been taken.
- (2) The CEO or an authorised person may, by written notice given to the licence holder, revoke the suspension of the licence if it is appropriate to do so in the circumstances of a particular case.

10.15 Period of suspension

The suspension of a licence has effect on the day, or the day and time, specified in the suspension notice until one of the following happens—

- (a) the suspension is revoked under clause 10.14;
- (b) the licence is cancelled under clause 10.16 or expires; or
- (c) the licence is surrendered in accordance with the provisions of this local law.

10.16 Cancellation of licence

A licence may be cancelled by the CEO or an authorised person if—

- (a) the licence was obtained improperly;
- (b) the licence holder has persistently or frequently contravened a term or condition of the licence, or a provision of this local law, whether or not the licence is or has been suspended on the grounds of a contravention; or
- (c) there are reasonable grounds for believing that the continued provision of the activity constitutes or would constitute an unacceptable risk to the safety of the public, whether or not the licence has been suspended on the grounds of that risk.

10.17 Surrender of licence

A licence holder may, at any time by notice in writing to the local government, surrender the licence.

Division 4—Responsibilities of licence holders and others

10.18 Production of licence

A licence holder shall produce to an authorised person her or his licence immediately after being required to do so by that authorised person.

10.19 Production of licence document for amendment

If the CEO or an authorised person amends or renews a licence, the licence holder shall, if required by an authorised person, produce the licence document to the CEO or authorised person for amendment within the period specified by the CEO or authorised person.

10.20 Return of licence document if licence no longer in effect

(1) The person who was the licence holder shall as soon as practicable return the licence document to the local government if a licence—

- (a) has expired or has not been renewed;
- (b) has been suspended or cancelled; or
- (c) has been surrendered.

(2) On the cancellation of a licence under clause 10.16 the licence holder is to be taken to have forfeited any fees paid in respect of the licence.

10.21 Other responsibilities of licence holder

A licence holder shall in respect of local government property to which the licence relates—

- (a) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (b) comply with an instruction from the CEO or an authorised person to take the action specified in the instruction for the purpose of maintaining public safety;
- (c) leave the local government property in a clean and tidy condition after its use;
- (d) report any damage or defacement of the local government property to an authorised person; and
- (e) take all reasonable action to prevent the consumption of any liquor on the local government property unless the licence allows it and a licence has been obtained under the Liquor Control Act for that purpose.

10.22 Advertising

A person shall not advertise, or otherwise hold out in any way, that the person conducts a commercial activity in any public place unless that person holds a licence authorising that commercial activity.

PART 11—NOTICES**11.1 Notice to remedy non-compliance**

Where any thing is required to be done or not permitted to be done by this local law, the CEO or an authorised person may give a notice in writing—

- (a) to the owner or the occupier of the property which abuts that portion of the thoroughfare where the thing has been done or not done; or
- (b) to any other person who may be responsible for the thing done or not done, requiring the person to comply with the requirements of this local law.

11.2 Notice regarding damage

A person who unlawfully removes, damages or interferes with local government property or portion of a thoroughfare commits an offence and may be given a notice in accordance with clause 11.3.

11.3 Notice requirements

- (1) A notice given under this Part shall—
- (a) be in writing;
 - (b) given to the person referred to in clause 11.1 or 11.2 as the case may be;
 - (c) specify the reason for giving the notice;
 - (d) the action that is required to be undertaken; and
 - (e) the time within which the work or action is to be undertaken.
- (2) At the local government's discretion, the action that may be required to be undertaken is—
- (a) to take or cease such action as may be required for compliance with this local law;
 - (b) do the reinstate the property to the state it was in before the removal, damage or interference;
 - (c) replace that property; or
 - (d) pay for the costs of reinstatement or replacement.

11.4 Offence to fail to comply with notice

A person who fails to comply with a notice given to him or her under this local law commits an offence.

11.5 Local government may undertake requirements of notice

If a person fails to comply with a notice referred to in clauses 11.1 or 11.2, the local government may—

- (a) do the thing specified in the notice, including replace the property, or reinstate the property to the state it was in before the removal, damage or interference;
- (b) take whatever remedial action it considers appropriate to put the local government in the position it would have been in if the breach or failure had not occurred; and
- (c) recover all costs from the person, as a debt.

PART 12—OBJECTIONS AND REVIEW**12.1 Objection and review rights**

Division 1 of Part 9 of the Act applies to a decision under this local law in respect of the grant, renewal, transfer, amendment, suspension or cancellation of a licence or consent.

PART 13—OFFENCES AND PENALTIES**13.1 Offences and general penalty**

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

13.2 Prescribed offences

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of a modified penalty for a prescribed offence is the number specified adjacent to the clause in Schedule 1.

13.3 Form of notices

- (1) For the purposes of this local law—
- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
 - (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
 - (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.
- (2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

13.4 Evidence of a determination

- (1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.
- (2) Unless the contrary is proved, it is to be presumed that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.
- (3) Subclause (2) does not make valid a determination that has not been properly made.

Schedule 1—Prescribed Offences

[clause.13.2]

Item	Clause	Nature of offence	Modified penalty \$
Part 2—Determination in respect of local government property			
1	2.4	Failure to comply with a determination	100
Part 3—Activities on local government property			
2	3.1	Undertaking activity on local government property without a licence	100
3	3.2(3)	Camping on local government property or erecting an unauthorised structure	100
4	3.3(1)	Failure to obtain licence to possess, consume or sell liquor	100
Part 4—Behaviour on local government property and thoroughfares			
5	4.3	Behaviour interfering with others	100
6	4.4	Behaviour detrimental to property	200
7	4.5	Unauthorised entry to function	100
8	4.6(2)	Taking or injuring fauna without authorisation	200
9	4.7(2)	Removing, damaging or depositing flora without authorisation	200
10	4.8	Animal on local government property without a licence	100
11	4.9	Improper disposal of waste on local government property	100
12	4.10(1)	Unauthorised vehicle on local government property	100
13	4.10(2)	Unauthorised driving of a vehicle at more than 20km/hr on local government property	100
14	4.10(3)	Unauthorised driving of a vehicle on local government property during a function	100
15	4.11	Unauthorised use of a UAV	50
16	4.12	Unauthorised archery, pistol or rifle shooting on local government property	100
17	4.13	Unauthorised playing or practising golf on local government property	100
18	4.14	Unauthorised use of bicycle, skateboard etc. on local government property	50
Part 5—Matters relating to particular local government property			
19	5.1	Unauthorised entry to fenced, closed or restricted local government property	100
20	5.2(1)	Unauthorised entry to gender specific toilet block or change room	100
21	5.3	Unauthorised use of toilet block or change room	100
Part 6—Activities in thoroughfares			
22	6.1(a)	Planting or allowing plant or verge treatment in thoroughfare to become a sightline hazard	100
23	6.1(b)	Damaging a lawn or garden in a thoroughfare	100
24	6.1(c)	Damaging or removing whole or part of a street tree without authorisation	200
25	6.1(d)	Obstruction of or permitting a hazard in a thoroughfare	100
26	6.1(e)	Damaging, removing or interfering with thoroughfare, part of thoroughfare, sign or structure in a thoroughfare without authorisation	100
27	6.1(f)	Playing games in thoroughfare so as to impede vehicles or persons	100
28	6.2(1) (a), (d), (e), (f), (g), (j)	Unauthorised activity in a thoroughfare causing damage	200

29	6.2(1) (b), (c), (h), (i), (k), (l), (m), (n), (o), (p), (q)	Unauthorised activity in a thoroughfare causing inconvenience	100
30	6.4	Driving on a closed thoroughfare	100
31	6.7(1)	Unauthorised verge treatment	100
32	6.8 (a), (b), (d), (e)	Failure to keep permitted verge treatment in good and tidy condition, obstruct a thoroughfare, footpath, drain, or driveway	100
33	6.8(c)	Placing an obstruction on or around a verge treatment	50
34	5.8(f)	Failure to ensure sprinklers or reticulation pipes do not protrude, do not cause inconvenience to pedestrians, or present a hazard	100
35	6.11(1)	Failure to obtain licence for a temporary crossover	200
36	6.12	Failure to remove redundant crossover or reinstate kerb, drain, footpath, verge or thoroughfare	200
37	6.13	Failure to remove crossover in unsafe location	500
Part 7—Activities in public places			
38	7.1(1)	Animal or vehicle obstructing public place without authorisation	100
39	7.2(2)	Animal in public place when not led, ridden or driven	100
40	7.2(3)	Horse being led, ridden or driven in a thoroughfare without authorisation	100
Part 8—Temporary signs			
41	8.3(1)	Placement of non-compliant temporary sign, or posting a bill or painting, or placing an advertisement without authorisation	100
Part 9—Signs and powers to give directions			
42	9.1(2)	Failure to comply with condition of use indicated by a sign	100
43	9.3(1)	Failure to comply with direction of authorised person	100
44	9.3(2)	Obstruction or hindrance of an authorised person	100
45	9.4(1)(c)	Failure to comply with period of refusal or suspension	200
46	9.4(2)	Failure to leave a venue when instructed by an authorised person	200
Part 10—Licencing			
47	10.1	Failure to obtain a licence when required	100
48	10.5	False or misleading statement in application for a licence	200
49	10.8	Failure to comply with licence condition	100
50	10.18	Failure to produce licence for inspection when required	100
51	10.19	Failure to produce licence for amendment when required	100
52	10.20	Failure to return licence when no longer in effect	100
53	10.21	Failure to comply with other responsibilities of licence holder	100
54	10.22	Advertising of commercial activity in a public space without holding a licence	200
Part 11—Notices			
55	11.4	Failure to comply with notice	100
Part 13—Offences and penalties			
56	13.2	Offence not elsewhere specified	100

Dated 19 October 2022.

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

R.K. MOURITZ, President.
D.N. BURTON, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995
BIOSECURITY AND AGRICULTURE MANAGEMENT ACT 2007

SHIRE OF KONDININ

REPEAL LOCAL LAW 2022

Under the powers conferred by the *Local Government Act 1995*, the *Biosecurity and Agriculture Management Act 2007* and under all other powers enabling it, the Council of the Shire of Kondinin resolved on 21 September 2022 to make the following local law.

1. Citation

This local law may be cited as the *Shire of Kondinin Repeal Local Law 2022*.

2. Commencement

This local law will come into operation 14 days after publication in the *Government Gazette*.

3. Repeal

The following local laws are repealed—

- (a) *Kondinin Road Board—Pound By-laws*, published in the *Government Gazette* on 16 March 1928;
- (b) *By-laws of the Kondinin Road Board*, published in the *Government Gazette* on 21 August 1936;
- (c) *Kondinin Road Board By-law re Appointment of Employees*, published in the *Government Gazette* on 1 May 1942;
- (d) *Kondinin Road Board By-law for the Supply and Distribution of Water*, published in the *Government Gazette* on 29 December 1944;
- (e) *By-laws Governing Long Service Leave to be Granted to Employees of the Kondinin Road Board*, published in the *Government Gazette* on 4 February 1955;
- (f) Order in Council published in the *Government Gazette* on 4 August 1961 for the application of the *Uniform Building Bylaws* published in the *Government Gazette* on 23 June 1961;
- (g) *Municipality of the Shire of Kondinin By-laws Relating to Clearing of Land and Removal of Refuse, Rubbish and Disused Material*, published in the *Government Gazette* on 4 June 1970;
- (h) *Shire of Kondinin By-laws relating to Brick Areas*, published in the *Government Gazette* on 14 July 1978; and
- (i) *Municipality of the Shire of Kondinin By-laws Relating to Pest Plants*, published in the *Government Gazette* on 20 August 1982.

Dated this 19 October 2022.

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

R.K. MOURITZ, President.
D.N. BURTON, Chief Executive Officer.
