

**G** WESTERN  
AUSTRALIAN  
GOVERNMENT  
**Gazette**

4741



PERTH, FRIDAY, 22 AUGUST 1997 No. 141 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.00 PM

LOCAL GOVERNMENT ACT 1995

**SHIRE OF KATANNING  
LOCAL LAWS**

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CEMETERIES ACT 1986

**SHIRE OF KATANNING  
PUBLIC CEMETERY**



**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF KATANNING

**LOCAL LAWS**

In pursuance of the powers conferred upon it by the abovementioned Act and of all other powers enabling it, the Council of the Shire of Katanning hereby records having resolved on the 24th day of July, 1997, to make the following local laws:

**Part I—Revocation and Citation and Application of Local Laws**

## 1.1 REVOCATION

The following local laws are hereby revoked—

- General and Buildings, published in the *Government Gazette* on 1 April, 1926
- Buildings, published in the *Government Gazette* on 30 November, 1934
- Traffic-Travelling Stock, published in the *Government Gazette* on 19 August, 1938
- Appointment of Pound Keeper, published in the *Government Gazette* on 22 May, 1942
- Buildings (amendments), numbering of houses, published in the *Government Gazette* on 1 September, 1944 and 11 January, 1946.
- Long Service Leave, published in the *Government Gazette* on 9 December, 1949 and as amended in the *Government Gazette* on 30 May, 1975.
- Liquor in Town Hall, published in the *Government Gazette* on 16 June, 1950.
- Buildings (amendment) Brick Area, published in the *Government Gazette* on 15 December, 1950.
- Taxi Stand, published in the *Government Gazette* on 20 February, 1953.
- Grand Piano, published in the *Government Gazette* on 30 August, 1957.
- Control of Hoardings on Private Property and Public Places, published in the *Government Gazette* on 27 October, 1960.
- Verandahs (Removal Thereof), published in the *Government Gazette* on 12 December, 1961.
- General, published in the *Government Gazette* on 8 July, 1970.
- Local Government Model By-Laws (Caravan Parks) No. 2, published in the *Government Gazette* on 23 October, 1969.
- Local Government Model By-Laws (Motels) No. 3, published in the *Government Gazette* on 23 October, 1969.
- Local Government Model By-Laws (Control of Hawkers) No. 6, published in the *Government Gazette* on 23 October, 1969.
- Local Government Model By-Laws (Removal and Disposal of Obstructing Animals or Vehicles) No. 7, published in the *Government Gazette* on 23rd October, 1969.
- Local Government Model By-Laws (Old Refrigerators and Cabinets) No. 8, published in the *Government Gazette* on 23 October, 1969.
- Local Government Model By-Laws (Street Lawns and Gardens) No. 11, published in the *Government Gazette* on 23 October, 1969.
- Local Government Model By-Laws (Prevention of Damage to Streets) No. 15, published in the *Government Gazette* on 23 October, 1969.
- Sick leave, published in the *Government Gazette* on 22 February, 1974.
- Brick Area, published in the *Government Gazette* on 9 December, 1977.
- Refuse Adversely Affecting Neighbours, published in the *Government Gazette* on 7 December, 1979.
- Parking, published in the *Government Gazette* on 27 February, 1981.
- Rangers/Poundage Fees, published in the *Government Gazette* on 11 June, 1982.
- Management and Use of the Katanning Town Hall and any Buildings under the control of the Council, published in the *Government Gazette* on 5 August, 1983.
- Vehicle Wrecking, published in the *Government Gazette* on 28 February, 1986.
- Fencing, published in the *Government Gazette* on 18 July, 1986.
- Trading in Public Places, published in the *Government Gazette* on 20 April, 1990.

**1.2 CITATION**

These local laws may be cited as “Shire of Katanning (Local Government Act) Local Laws” or as “Shire of Katanning (LGA) Local Laws.”

**1.3 GENERAL APPLICATION**

These local laws shall apply to the whole of the district of the Shire of Katanning, unless otherwise stated.

**1.4 READ AS A WHOLE**

These local laws shall be read as a whole and the treatment of a subject matter in one part does not exclude the treatment of the same subject matter in another part.

**1.5 PARKING REGION**

For the purposes of the provisions of Part VI of these local laws, the “parking region” means the whole of the district of the Shire of Katanning excluding the following portions of the district—

- (a) prohibition areas appropriate to all bridges and subways; and
- (b) any road which comes under the control of the Commissioner of Main Roads.

**Part II—General Definitions**

2.1 In these local laws, unless the context otherwise requires—

2.1.1 “Act” means the Local Government Act 1995;

“Authorised Person” means in respect of a particular function to be performed under these local laws an employee of the Shire of Katanning authorised by the Council to perform that function;

“camp” when used as a noun includes any portable shed or hut, tent, tent fly, awning, blind or other thing used as, or capable of being used as, a habitation or for dwelling or sleeping purposes; and the verb “to camp” shall be construed accordingly;

“caravan” means a vehicle designed or fitted or being capable of use, as a habitation or for dwelling or sleeping purposes;

“CEO” means the Chief Executive Officer or Acting Chief Executive Officer for the time being, of the Shire of Katanning;

“Council” means the council of the Shire of Katanning;

“district” means the district of the Shire of Katanning;

“licence” means a licence issued pursuant to these local laws;

“member of the police force” means a member of the police force of Western Australia;

“person” and words applying to any person or individual include a body corporate and in the plural a group of persons and a club, association or other body of persons;

“Shire” means the Shire of Katanning;

“vehicle” includes;

- (a) every conveyance, not being a train, boat, aircraft or wheelchair and every object capable of being propelled or drawn on wheels or tracks by any means;
- (b) where the context permits, an animal driven or ridden;

2.1.2 Unless otherwise defined herein the terms and expressions used in these local laws shall have the meaning given to them in the Act.

**Part III—Swimming Pool (Management and Control)****Division 1—Preliminary****DEFINITIONS**

3.1 In this Part, unless the context otherwise requires—

“Pool Manager” means the Manager or other person appointed for the time being by the Council to have control and management of the Pool premises and such term shall include the Assistant Manager;

“Attendant” means an employee of the Council or a person authorised by Council to perform any duties on or in connection with the Pool premises;

“Spectator” means any person admitted to the Pool premises for the sole purpose of viewing the swimming or other activities conducted therein;

“Swimming Coach” means any person licensed by the Council to enter the Pool premises for the purpose of teaching swimming;

“Pool premises” means the Katanning Swimming Baths and includes all buildings, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of such swimming pool or used in connection therewith.

**Division 2—Terms of Admission**

3.2 The Pool premises shall be open for use of the public during such hours and periods as the Council may from time to time by resolution appoint; the Council reserving to itself the right to refuse admission to any person at any time. No person under the age of six years shall be permitted to enter or remain at

the Pool premises unless that person is and continues to be under the care and control of a person over the age of fourteen years. No person shall leave a person under the age of six years at the Pool premises otherwise than under the care and control of a person over the age of fourteen years.

3.3 The Pool Manager may temporarily suspend admittance or clear the Pool premises or any part thereof of any person or persons if in his opinion such action is necessary or desirable.

3.4 Every person using the Pool premises shall obey all reasonable directions of the Pool Manager with regard to such use.

3.5 It shall be the duty of the Pool Manager (who is hereby so empowered and directed) to refuse admission to or remove or cause to be removed from the Pool premises any person who, in the opinion of the Pool Manager, is guilty of a breach of any of the provisions to these local laws who, by that person's past or present conduct, is deemed undesirable and any such person shall, upon the request of the Pool Manager to withdraw from the Pool premises quietly and peaceably do so as soon as possible.

3.6 Any person who has been refused admission to the Pool premises or who feels aggrieved by action of the Pool Manager may object to the Council by letter addressed to the CEO against such action and the Council may give such direction in the matter as is thought fit provided that such right of objection shall not imply any right of action for damages or other remedy against the Pool Manager or Council arising out of such refusal of admission.

3.7 A person shall not except with the consent of the Pool Manager or the Attendant, enter any portion of the Pool premises set apart exclusively for the opposite sex except a person under the age of five years.

3.8 The Pool Manager may prohibit any person approaching or entering or remaining in a pool who in the Pool Manager's opinion is dirty or unfit to use such pool and the Pool Manager may require such person to thoroughly cleanse and wash himself or herself in one of the showers.

#### Division 3—Carnivals

3.9 (a) No person, club or association or organisation shall conduct a carnival at the Pool Premises unless with the prior consent of the Council.

(b) The Council may grant such consent subject to such conditions it thinks fit and may at any time withdraw such consent.

(c) A person, club, association or organisation conducting any carnival held at the Pool premises shall be responsible for the conduct of the competitors and spectators during the carnival and shall prevent overcrowding and ensure that no damage is done to buildings or fencing or any other portion of the Pool premises and that these local laws are observed by all competitors, officials and spectators attending the carnival.

(d) The person, club, association or organisation conducting any carnival held at the Pool premises shall pay to the Council such charges as shall from time to time be determined by Council.

#### Division 4—Coaching

3.10 (a) No person shall for profit teach, coach or train any other person in the pool unless with the prior written permission of the Council.

(b) The Council may grant such permission subject to such conditions as it thinks fit and may at any time, in accordance with the Act, withdraw such permission without being liable to pay compensation.

#### Division 5—Lost Property

3.11 Any person who finds any article or money which has been left in the Pool premises and not the property of that person shall forthwith deliver it to the Pool Manager or an Attendant.

3.12 Neither the Council nor the Pool Manager or Attendant or Officer or Employee of the Council shall be in any way responsible for any article or money lost or stolen from any person whilst in the Pool premises or for any article damaged or destroyed whilst in or about the Pool premises.

#### Division 6—Admission Charges

3.13 Charges for admission to the Pool premises shall be determined by the Council from time to time.

3.14 Season tickets shall be offered for inspection to the attendant when used to obtain admission to the pool. Season tickets are not transferable and such tickets may be used only by the person in whose name the same is issued. The attendant shall refuse admission to a person seeking the same and using any such ticket if the attendant reasonably believes that the person so seeking admission is not the person to whom such ticket was issued.

#### Division 7—Prohibitions

3.15 No person shall—

(a) not being an officer, attendant or employee of the Council in the course of his or her duties enter the Pool premises without having first paid to the Pool Manager or an Attendant the proper charge for admission;

(b) obstruct the Pool Manager or an Attendant in the carrying out of his or her duties;

(c) enter or depart from any part of the Pool premises except by means of the respective entrances or exits set apart for that purpose;

- (d) enter or attempt to enter any bathroom or dressing enclosure that is already occupied without the consent of the occupier;
- (e) dress or undress or remove any part of his or her costume or bathing costume except in a dressing enclosure provided for the purpose;
- (f) appear in public unless properly attired in a costume of such nature as to preserve public decency and to cover the body so as to prevent indecent exposure of the person;
- (g) enter or be in the Pool premises whilst in an intoxicated condition;
- (h) take into the Pool premises or have in his or her possession therein any intoxicating liquor or drugs;
- (i) enter or remain in the Pool premises if he or she is affected by or suffering from any infectious or offensive disease or skin complaint;
- (j) deposit any filth or rubbish in any part of the Pool premises except in places set aside for that purpose;
- (k) eat in or take into any part of the Pool premises other than areas set aside for the purpose, any food, drinks or confectionery of any kind whatsoever;
- (l) smoke any tobacco or other substance in any portion of the Pool premises where smoking is prohibited by notices displayed therein;
- (m) damage or disfigure or write upon any part of the Pool premises;
- (n) interfere with or improperly use any portion of the Pool premises;
- (o) break, injure, damage or destroy any life saving equipment or any property of Council;
- (p) behave in an unseemly, improper, disorderly or riotous manner or push or throw any person into the pool or run around the concourse or surrounds of the pool;
- (q) swear or use any indecent, obscene or abusive language on any part of the Pool premises;
- (r) gamble on the Pool premises;
- (s) climb upon any fence, wall, partition or roof of the Pool premises;
- (t) waste or wastefully use water or leave any water tap dripping or running;
- (u) expectorate or commit a nuisance in any part of the Pool premises;
- (v) annoy or interfere with any person in the Pool premises;
- (w) bring any animal into the Pool premises or being the person in control of such animal permit such animal to remain in any part of the Pool premises;
- (x) approach or enter any swimming pool until he or she has thoroughly cleansed and washed himself or herself in one of the showers provided in the Pool premises;
- (y) use any soap in any part of the Pool premises other than in the shower/baths or toilet facilities;
- (z) use any oil, detergent or any substance or preparation whereby the water in the pool may be or become discoloured, contaminated or rendered turbid;
- (a) foul or pollute water in the pool or shower;
- (b) throw any sticks or stones or other objects in the pool or anywhere in the Pool premises;
- (c) soil or defile or damage any towel or bathing costume.

#### **Part IV—Halls, Equipment and Property (Management and Control)**

##### Division 1—Preliminary

###### DEFINITION

4.1 In this Part, unless the context otherwise requires—

“building” includes any hall, room or corridor, or stairway, or annexe of any such hall or room under the care, control or management of the Council.

##### Division 2—Permissions

4.2 A person shall not, without permission to hire granted by Council, use any building or use or borrow the furniture, plant, fittings, effects, cutlery, crockery, glassware or other utensils or property of any kind within or on any building.

4.3 Every application for permission to hire under clause 4.2 shall be made to the CEO in writing at least 24 hours before the time that such building, furniture or other property are required and shall specify—

- (a) the name and place of abode of the applicant who seeks to hire a building, furniture or other property specified in clause 4.2;
- (b) the purpose for which the building, furniture, or other property is required.

4.4 The fees to be charged for an application for permission to hire, for the hiring of any building, furniture or other property shall be those set by the Council from time to time under section 6.16 of the Act. No permission to hire is valid until the fees have been paid.

4.5 The holder of permission to hire any building, furniture or other property shall—

- (a) maintain and keep such building, furniture or other property in good order;
- (b) be solely and entirely responsible for the carrying out of the provisions of this Part;
- (c) be solely responsible for any damage done to the building, furniture or other property;

- (d) pay such damages as shall be assessed by the Council, and furniture or other property damaged or not accounted for shall be paid for at current replacement cost or the actual cost of repair as the case may be;
  - (c) leave the building, furniture or other property in a clean and tidy condition and remove decorations by 10am on the day following the hire;
  - (f) pay such cleaning costs and costs of removing decorations as shall be assessed by the Council where the CEO is of the opinion that the building, furniture or other property have not been left in a satisfactory condition under paragraph (e) above in addition to any penalty which may be imposed under clause 16.11 of these local laws.
- 4.6 The Council may at any time demand that the hirer shall prior to the term of engagement deposit an amount estimated to cover—
- (a) any damage that might occur during the term of engagement; and/or
  - (b) the costs of cleaning and removal of decorations after the engagement.
- 4.7 Any deposit demanded under clause 4.6 shall be repaid to the hirer after the term of engagement to the extent that damage or costs were not incurred.

#### Division 3—Conduct in Hired Building

- 4.8 No person shall smoke in any area where signs indicate that smoking is not permitted.

### Part V—Camping on Any Land

- 5.1 Subject to this local law a person shall not park a caravan or erect a camp on any land that is not a caravan park except—
- (a) during the hours of daylight;
  - (b) where the caravan is not used as a dwelling or for sleeping purposes; or
  - (c) on land outside a townsite where it is not specifically forbidden to camp by any Act, local law or regulation, and on land within townsites as may be designated by the Council for use for that purpose.
- 5.2 With the consent of the Council a person may use a caravan—
- (a) as a temporary dwelling, during the period of construction of a dwelling on the same land; or
  - (b) where it is parked on the same land as a dwelling occupied by the owner of the caravan in conjunction with the dwelling itself for residence by one or more members of the family of the occupier of that dwelling.
- 5.3 The Council shall not consent to the use of a caravan under this local law as a temporary dwelling or in conjunction with a dwelling for a period of more than six months at any one time but the Council may give its consent more than once, and may permit more than one caravan to be so used by an owner if that permission is authorised by an absolute majority of the Council.

### Part VI—Parking

#### Division 1—Preliminary

#### DEFINITIONS

- 6.1 In this Part, unless the context otherwise requires—

- “carriageway” means every part of a thoroughfare used or intended for use by vehicles and includes footpath or kerb;
- “driver” means any person driving or in control of a vehicle;
- “footpath” means a path used by, or set aside or intended for use by both pedestrians and cyclists, but not vehicles of any other kind;
- “no parking area” means a portion of a carriageway that lies—
  - (a) between two consecutive signs inscribed with the words “No Parking”, or a symbol or symbols to that effect, and each with an arrow pointing generally towards the other of them; or
  - (b) between a sign inscribed by the words “No Parking”, or a symbol or symbols to that effect, and a dead end or an area in which standing is prohibited and that lies in the general direction indicated by an arrow inscribed on the sign;
- “no standing area” means a portion of a carriageway:
  - (a) between two consecutive signs inscribed with the words “No Standing”, or a symbol or symbols to that effect, and each with an arrow pointing generally towards the other of them; or
  - (b) between a sign inscribed with the words “No Standing”, or a symbol or symbols to that effect, and a dead end or an area in which standing is prohibited and that lies in the general direction indicated by an arrow inscribed on the sign;
- “park” means to permit a vehicle whether attended to or not, to remain stationary, except for the purpose of avoiding conflict with other traffic and complying with provisions of any law or of immediately taking up or setting down persons or goods; and “parking” has a correlative meaning;

“kerb” means and includes the kerb or edge of the portion of a road paved for the use of vehicular traffic where any kerb exists at the edge of the paved road whether any footpath has been constructed or not;

“parking area” means a portion of a carriageway—

- (a) between two consecutive signs inscribed with the word “Parking”, or a symbol or symbols to that effect, each with an arrow pointing generally towards the other of them; or
- (b) extending from a sign inscribed with the word “Parking” or a symbol or symbols to that effect in the general direction indicated by an arrow inscribed on the sign, to any other sign inscribed with the words “No Parking” or “No Standing”, or symbols to the same effect, or to a dead end or an area in which the parking or standing of vehicles is prohibited and is that half of the carriageway of the thoroughfare nearest to the sign;

“parking stall” means a section or part of a thoroughfare which is marked or defined by painted lines or by metallic studs or similar devices for the purpose of indicating where the vehicle may stand or be parked, whether on payment of a fee or charge or otherwise;

“sign” means a traffic sign, mark, marking, symbol, structure or device on or over any thoroughfare for the purpose of regulating, guiding, or directing traffic;

“symbol” means a letter, figure, or other character or mark, or a combination of letters or the like, used to represent something, and without limiting the generality of the foregoing includes any symbol issued or specified by Australian Standard 1742.11—1989 for use in the regulation of parking and any reference to the wording of any sign in these local laws shall be also deemed to include a reference to the corresponding symbol;

“stand” in relation to a vehicle, means to stop the vehicle and permit it to remain stationary, except for the purpose of avoiding conflict with other traffic or of complying with the provisions of any law; and “standing” has a correlative meaning;

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

#### Application of this Part

6.2 (1) The provisions of this Part of these local laws apply to the parking region;

(2) In this Part a reference to a word or words in a sign shall be taken to include a reference to a symbol or symbols to the same effect and a reference to a symbol shall be taken to include a reference to a word or words to the same effect.

#### Division 2—Standing and Parking Generally

##### 6.3 Erection of Signs To Regulate Parking

A discretionary authority is conferred on the Council by resolution to constitute, determine and vary, and also indicate by signs, from time to time—

- (a) prohibitions;
- (b) regulations and restrictions of parking and standing of vehicles of a specified class or of specified classes in all thoroughfares or specified thoroughfares or in specified parts of thoroughfares or reserves at all times or specified times, but that discretionary authority shall not be exercised in a manner inconsistent with the provisions of these local laws.

##### 6.4 Parking Conduct

- (a) A person shall not stand or park a vehicle in a thoroughfare or part of a thoroughfare—
  - (i) which is by a sign thereon or adjacent or referable thereto set apart for the standing or parking of vehicles of a different class; or
  - (ii) if by such a sign the standing or parking of vehicles is prohibited or restricted during a period or periods, during that period or periods; or
  - (iii) if by such a sign the standing of vehicles is permitted for a specified time, for longer than that time.
- (b) A person shall not stand a vehicle—
  - (i) in a no standing area;
  - (ii) in a parking area, except in a manner indicated by the inscription on the sign or signs associated with the parking area and parking stalls except as provided in these local laws with reference to the parking stalls;
  - (iii) in a parking area contrary to any limitation in respect of days, periods of the day, classes of persons or classes of vehicles indicated by the inscription on the sign or signs associated with the area.
- (c) A person shall not park a vehicle in a no parking area.

6.5 Subject to the provisions of clause 6.6 a person shall not stand or park a vehicle or permit a vehicle to stand or park on a carriageway otherwise than—

- (a) on a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is standing;
- (b) so that it is entirely within the confines of any parking stall marked on the carriageway.



6.6 A person shall not stand or park a vehicle partly within and partly outside a parking area.

#### Division 3—Miscellaneous

6.7 An infringement notice may be given in accordance with the provisions of Division 3 of Part XVI in respect of an offence under this Part in respect of which the use, driving, parking, standing or leaving of a vehicle is an element.

6.8 A person, other than the driver of the vehicle, shall not remove from the vehicle any notice affixed thereto or left therein or thereon by an Authorised Person or a member of the police force.

6.9 An inscription on a sign operates and has effect according to its tenor and a person contravening the direction of a sign commits an offence under these local laws.

Further Provisions in Relation to Signs.

6.10 (1) A sign marked, erected, established or displayed on or near a road or purporting to be a parking control sign is, in the absence of evidence to the contrary presumed to be a sign marked, erected, established or displayed under the authority of these local laws.

(2) The first three letters of any day of the week when used on a sign indicate that day of the week.

(3) A sign associated with a no parking area, no standing area or parking area or a sign of a kind referred to in these local laws is limited in its operation and effect in respect of days, periods of the day, classes of persons, classes of vehicle, or circumstances to the extent, if any, shown on the sign.

### Part VII—Management and use of Reserves

7.1 No person shall drive any vehicle in or through any reserve except on such portions as are reserved or set apart for such a purpose, and then at a speed not exceeding 16 kilometres per hour.

7.2 No person except the Officers or servants of the Council acting in the discharge of their duty, shall light any fire within a reserve without the written consent of the Council, except in such places as are provided on the reserves for such a purpose.

Part VIII—Removal and Disposal of Obstructing Vehicles or Animals

#### Division 1—Preliminary

##### DEFINITIONS

8.1 In this Part, unless the context otherwise requires—

“public place” includes a thoroughfare and place which the public are allowed to use, whether the thoroughfare or place is or is not on private property;

An animal that is secured in any portion of a public place wherein animals may lawfully be secured and a vehicle that is parked in any portion of a public place wherein vehicles may lawfully be parked is not obstructing, for the purposes of these local laws unless, in the case of an animal, it is so secured for any period exceeding eight hours and, in the case of a vehicle, it is so parked for any period exceeding twenty four hours, without the consent in writing of the CEO.

#### Division 2—Removal of Vehicles or Animals

8.2 A person shall not leave a vehicle or animal in a public place so as to obstruct any portion of that place.

8.3 A person who leaves a vehicle or animal in a public place, contrary to the provisions of clause 8.2 of these local laws commits an offence.

8.4 Where an Authorised Person or a member of the police force finds a vehicle or animal left in a public place, contrary to the provisions of clause 8.2 of these local laws, that person may remove the vehicle or animal therefrom and shall thereupon—

- (a) in the case of a vehicle, place it in a place appointed by the CEO for that purpose;
- (b) in the case of an animal, place it in a public pound and deal with it according to law.

### Part IX—Thoroughfare Lawns and Gardens

#### Division 1—Permissions

9.1 A person shall not plant a lawn or garden in a thoroughfare, except pursuant to a permit issued by the Council and then only in conformity with these local laws.

9.2 The council shall not issue a permit for the planting of a lawn or a garden in any portion of a thoroughfare except on the application of the owner or occupier of the land that abuts on that portion of the thoroughfare.

9.3 A person requiring a permit to plant a lawn or garden in a thoroughfare shall submit to the Council a sketch plan setting out details of all trees, shrubs and plants and positions thereof in relation to the thoroughfare alignment and the carriageway and any footpath.

9.4 The council may issue a permit under this local law subject to such conditions as it sees fit to impose; and a person who plants a lawn or garden otherwise than in compliance with those conditions commits an offence.

## Division 2—Conditions for Pipes

9.5 Any water pipes laid to a lawn or garden in a thoroughfare shall—

- a be laid beneath the surface of the thoroughfare to a depth of not more than 0.3 metres or less than 0.15 metres and so that any fitting connected to the pipe or pipes does not project above the surface of the thoroughfare and any lawn;
- b if connected to a public water supply, be laid to comply with the requirements of the body constituted for and having the control of that supply;
- c if connected to a private supply, be constructed of galvanised iron, cast iron, PVC, copper or other material approved by the Council.

## Division 3—Maintenance and Removal

9.6 A person planting a lawn or garden in a thoroughfare may do all things reasonably necessary to maintain that lawn or garden and shall make good any damage thereby occasioned to the thoroughfare and shall keep the lawn mowed to a reasonable height.

9.7 The council may at any time, by notice in writing to the owner or occupier of land that abuts upon that part of a thoroughfare wherein a lawn or garden is planted, require that owner or occupier to remove any tree, shrub or water piping or fitting and may, where the owner or occupier does not comply with the notice, remove the tree, shrub, piping or fitting at the expense of the owner or occupier, which expense may be recovered in a court of competent jurisdiction.

## Division 4—Offences

9.8 A person, not being the occupier of the land abutting on that lawn or garden, shall not, without the consent of that occupier, drive or stand a vehicle or animal upon a lawn or garden planted in a thoroughfare pursuant to these local laws.

9.9 Every person who wilfully damages a lawn or garden in a thoroughfare, or, if other than the owner or occupier or a person authorised by the owner or occupier of land abutting on part of the thoroughfare in which a garden is planted, who removes any flower, plant or shrub from that garden commits an offence.

## Division 5—Disclaimer

9.10 The council is not liable for any damage sustained by a person by reason of, or arising out of, the planting or existence of a lawn or garden in a thoroughfare.

**Part X—Trading in Public Places**

## Division 1—Preliminary

## DEFINITIONS

10.1 In this part, unless the context otherwise requires—

“Community Association” means an institution, association, club, society or body, whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and the members of which are not entitled or permitted to receive any pecuniary profit from the transactions thereof;

“Public Place” includes a thoroughfare which the public are allowed to use, whether the thoroughfare is or is not on private property;

“Stall” includes buildings other than a shop especially erected for the purpose and trays, stands, vehicles, tables, trestles and the like used for selling purposes;

“Trading” means selling or hiring of goods, wares, merchandise or services, or offering goods, wares, merchandise or services for sale or hire, in a thoroughfare or other public place and includes displaying goods, wares or merchandise for the purpose of offering them for sale or hire, inviting offers for sale or hire, soliciting orders or carrying out any other transactions therein, including the setting up of a stall or the conducting of business at a stall.

## Division 2

10.2 Subject to clause 10.8 of these local laws, no person other than a Community Association shall carry on trading in any public place unless that person is acting in accordance with the specifications of a current licence including the conditions thereof issued under these local laws and for which all fees and charges have been paid.

10.3 An application for a licence or renewal of a licence shall be in writing in the form determined by the Council from time to time and be accompanied by the application fee.

10.4 The Council may grant the licence or renewal, or may refuse to grant the licence or renewal, having regard to—

- i any relevant policy statements;
- ii the desirability of the proposed activity;
- iii the location of the proposed activity;
- iv whether the needs of the District or the portion thereof for which the licence is sought are adequately catered for by established shops or by persons to whom licences have been issued.
- v such other grounds as may be relevant in the circumstances.

10.5 The Council may issue a licence specifying such requirements, terms and conditions as in the opinion of the council are appropriate, and a breach of any such requirements, terms and conditions during the term of a licence shall be ground for cancellation of the licence in accordance with Section 9.1 of the Act.

10.6 The licence shall be in a form determined by the Council from time to time.

10.7 Fees and charges shall be calculated and payable in such manner as determined by the council from time to time in accordance with Section 6.16 (3) of the Act.

10.8 a licence may be validly issued to a Community Association notwithstanding that it is exempt from the payment of appropriate fees and charges and a Community Association may validly carry on trading under a valid licence issued under this local law without having paid all fees and charges for that licence provided that the trading carried on by the Community Association is for the purposes of that Community Association and for no other purpose and in the event that the trading is not for those purposes, then the Community Association shall be liable to pay all charges and fees which it would have otherwise been liable to pay under this local law.

## **Part XI—Refuse and Recycling Facility (Operation)**

### **Division 1—Preliminary**

#### **DEFINITIONS**

11.1 In this Part unless the context otherwise requires—

“Authorised Officer” means a person appointed to an office by the Council.

“To deposit waste” includes to dump, to dispose of or in any way to place or leave waste at the Facility.

“Facility” means the property and buildings at the Shire of Katanning Refuse Disposal Site, Nyabing Road, Katanning.

“Fauna” and “flora” have the meanings given to them in section 6 of the Wildlife Conservation Act 1950.

“Site Controller” means an authorised officer charged with the conduct of operations at the Shire of Katanning Refuse Disposal Site facility and includes any person acting in that position.

“Waste” means all manner of material discarded as being no longer required by the person owning or in possession of that material.

### **Division 2—Fees and Hours**

11.2 Council may from time to time set by resolution a scale of fees and charges payable for admission to the Facility for the purpose of depositing waste. Such scale of fees and charges may specify charges which may vary according to the class of waste being deposited.

11.3 Unless otherwise authorised in writing by the CEO no person shall deposit waste at the Facility without first having paid the prescribed admission fee or charge.

11.4 Council may from time to time set the hours of operation of the Facility and may advertise such hours of operation by public notice.

### **Division 3—User Obligations**

11.5 Any person using, or on, the Facility shall comply with any lawful direction given to that person by the Site Controller.

11.6 No person shall deposit waste at the Facility other than—

11.6.1 at a location designated by notice; or

11.6.2 as directed by the Site Controller

11.7 No person shall remove any waste from the Facility without prior written authorisation from the Site Controller.

11.8 No person shall deposit any liquid waste at the Facility unless authorised in writing by the CEO.

11.9 No person shall deposit at the Facility any waste which is toxic, poisonous or hazardous, or the depositing of which is regulated or prohibited by any statute.

11.10 Any person convicted of an offence against clauses 11.8 or 11.9 of these local laws shall, in addition to any penalty imposed and costs awarded, be liable to Council for the costs of removing and lawfully disposing of such liquid, toxic, hazardous or poisonous waste, and for making good any damage caused to the Facility and for any other expenses incurred by Council, as a result of the illegal depositing.

### **Division 4—Care of Facility**

11.11 No person shall light a fire within the Facility unless authorised to do so by the Site Controller.

11.12 No person shall remove from or otherwise damage flora on the Facility unless authorised by the Site Controller.

11.13 No person shall trap, chase, worry or otherwise injure or maim any fauna at the Facility, unless authorised by the Site Controller.

11.14 No person shall damage, deface or destroy any building, sign, plant or equipment or property of the Council situated in and on the Facility.

## Division 5—Conduct on Facility

11.15 All persons entering the Facility shall be subject to these local laws.

11.16 The drivers of all vehicles entering the Facility shall comply with any speed limit signs erected by the Council on the Facility.

## Division 6—Council Exemption

11.17 The provisions of these local laws requiring payment of fees, do not apply to the deposit of waste, owned by, or in the possession of Council.

**Part XII—Fencing**

## Division 1—Preliminary

## DEFINITIONS

12.1 In this Part unless the context otherwise requires—

“Business Zone” means any part of the district zoned as Local Shopping and Business, Commercial, Motel, Hotel, Caravan Park or Private Clubs and Institutions in Council’s current Town Planning Scheme.

“dangerous” in relation to any fence means a fence which is likely to collapse or fall by reason of its faulty design, location and construction, deterioration of constituent materials, damage by termites, change in ground levels, or any cause whatsoever;

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

“fence” includes a wall;

“Industrial Zone” means any part of the district zoned as Light Industrial or General Industrial in Council’s current Town Planning Scheme.

“Residential Zone” means any part of the district zoned as Residential or Special Residential in Council’s current Town Planning Scheme.

“Rural Zone” means any part of the district zoned as Rural or Special Rural in Council’s current Town Planning Scheme.

“Surveyor” means a Building Surveyor of the Shire of Katanning.

## Division 2—Licences

12.2 A person shall not commence to erect, proceed with the erection, rebuild, reconstruct, or alter any fence exceeding one metre in height on an allotment unless and until that person has lodged with the Council two copies of the plan and specifications of the proposed fence or the proposed rebuilding, reconstruction, or alteration and the Council has approved a copy of the plans and specifications.

12.3 Subject to clause 12.4, a person shall not erect or commence to erect on or within a setback area of a lot a fence—

(a) exceeding 750 mm in height unless—

i the Surveyor has first approved plans and specifications of the fence and the location thereof;

ii the fence does not exceed 1.8 m in height; and

iii the fence does not cover more than 60% of the linear frontage of the lot; or

(b) which is constructed of a material other than timber, brick, concrete, masonry, wrought iron, cast iron or other material approved by the Council.

12.4 Where the Council is satisfied that—

(a) the frontage of a lot is less than 14 m; or

(b) there is an unusual ground configuration which warrants that action; or

(c) there are satisfactory means of access to the rear of a lot and vehicular access at the frontage thereof is not necessary;

the Council may grant its approval to a fence of a height exceeding 750 mm but not exceeding 1.8m which covers more than 60% of the linear frontage of the lot.

12.5 Where the Surveyor is satisfied that—

(a) there will be not more than 30% loss of vision through the truncation;

(b) no single obstruction to vision will be more than 340 mm in horizontal dimensions; and

(c) the safety of persons will not be unduly impaired;

approval may be granted for the erection of a fence within the truncation area referred to in Clause 12.6.

12.6 A person shall not erect or commence to erect a fence within a truncation of any vehicular accessway located on a lot or an adjoining lot which truncation has the dimensions of 2.5 m x 1.5 m being measured along the frontage of the lot or adjoining lot or both as the case requires, unless the fence does not exceed a height of 750 mm.

## Division 3—Fencing Materials

12.7 Pre-used materials shall not be used in the construction of any fence unless approved by Council.

12.8 No person shall erect a fence constructed of materials other than of one or more of concrete, masonry, wrought iron, tubular steel, link steel mesh, timber, fibre cement sheeting or such other materials approved by Council.

12.9 No person shall use or cause to be used corrugated galvanised iron as a covering to any fence on properties developed and used for residential purposes.

#### Division 4—Fences on Residential Zones

12.10 Subject to clause 12.9 of these local laws, a fence constructed in the residential area in accordance with specifications set out in Schedule 1 of these local laws shall be a sufficient fence for the purpose of the Dividing Fences Act, 1961.

#### Division 5—Fences on Rural Zones

12.11 The owner or occupier of a fence on land within a rural zone may place or fix barbed wire thereon provided that where a fence to which such wire is fixed abuts a thoroughfare or other place open to the public, such wire shall be fixed to the side of the fence posts furthest from such road or other place.

12.12 Within a rural zone a fence which is parallel to and within 7.5 metres of a thoroughfare may be constructed to a height of not more than 1.5 metres without special permission of Council.

#### Division 6—Fences on Business and Industrial Zones

12.13 A wire link steel mesh fence of not more than 1.8 metres in height may be erected on land within a business and industrial zone.

12.14 A fence constructed in accordance with specifications set out in Schedule 2 of these local laws shall be a sufficient fence for the purpose of the Dividing Fences Act 1961.

#### Division 7—Electrified Fences

12.15 No person shall erect an electrified fence on or near the boundary of any land which abuts a thoroughfare in the district of the Shire of Katanning other than in the rural zone or electrify any such existing fence without the prior written consent of the Council and such consent shall only be given where—

- (a) a separate front boundary fence exists or is to be erected, or the electrified wire or wires attached to the boundary fence project a minimum of 230 mm inside the fence alignment;
- (b) an electrified fence which is to be separate from a boundary fence is to be located a minimum of 230 mm inside of the boundary fence;
- (c) the wire to be used shall be plain wire free from spikes or jagged projections;
- (d) the electrified section of a fence for a distance of 100 mm from any metering device required to be periodically read, shall be insulated for personal protection;
- (e) electrified fences shall be identified by suitable signs approved by a Surveyor, such signs to be fastened to all front, side or rear boundary fences and shall be at intervals not exceeding 90 metres together with a sign being located within 1500 mm of the metering device.

12.16 No person shall erect or install an electrified fence pursuant to these local laws in the district of the Shire of Katanning unless that fence is controlled by an electric fence control device manufactured in accordance with AS 3129-1989 and provided that such electrified wire is installed a minimum of 230 mm inside a boundary fence and that such electrified wire is also rendered inoperable during the hours of business operations of the premises so fenced, or at such times that would permit the legal entry onto the premises by the general public.

#### Division 8—Maintenance of Fences

12.17 The owner of land on which a fence is erected shall maintain the fence in good condition and in such a manner as to prevent it from becoming dangerous, dilapidated or unsightly.

12.18 Where the fence is a dividing fence, each of the owners of the adjoining lands is liable to maintain it as required.

12.19 The Council may give notice in writing to the owner or to the occupier of any land upon which there exists a fence that has not been maintained in accordance with Clause 12.17 requiring such owner or occupier to repair, paint, replace or maintain such fence within the time stipulated in the notice.

12.20 If an owner or occupier of land who has been given notice pursuant to Clause 12.19 fails to comply therewith, the Council may enter upon such land and maintain the fence and recover the expense thereof from the owner in a court of competent jurisdiction, and may prosecute the owner for committing a breach of Clause 12.19.

### Part XIII—Standing Orders

13.1 The Standing Orders of the Shire of Katanning published in the Government Gazette on the 29th October, 1996, shall be deemed to be part of these local laws.

13.2 The Standing Orders of the Shire of Katanning mentioned in clause 12.1 are amended in the following manner—delete paragraph (b) from clause 10.1 and delete clause 11.2.

### Part XIV—Signs, Hoardings and Bill Posting

14.1 The Shire of Katanning Signs, Hoardings and Bill Posting By-Laws published in the *Government Gazette* on 8 May, 1987, shall be deemed to be part of these local laws.

14.2 The Shire of Katanning Signs, Hoardings and Bill Posting By-Laws mentioned in clause 14.1 are amended in the following manner—

14.2.1 Delete “by-law” wherever it occurs and substitute “local law”

14.2.2 Delete “street”, “road”, and “street or right of way”, wherever they occur and substitute “thoroughfare”

14.2.3 Delete “street, way, footpath” wherever it occurs and substitute “thoroughfare, or footpath”

14.2.4 Clause 2.1

In the definition of “Act”, delete the numbers “1960” and substitute “1995”

Insert the Following definition in the appropriate alphabetical position—

“Authorised Person” means in respect of a particular function to be performed under these local laws, an employee of the Shire of Katanning authorised by the Council to perform that function.

In the definition of “Council”, delete “of the Municipality”;

In the definition of “Hoarding”, delete “sections 377 and 378 of the Act” and substitute the following—

“sections 377 and 378 of the Local Government (Miscellaneous Provisions) Act 1960”

In the definition of “Rural Producer’s sign”, delete the words from paragraph (a) “as defined in the Act”

14.2.5 Clause 4.2.2

Delete “appeal to Council” being subparagraph (b) (ii) and substitute “object to or appeal against the decision under Part 9 of the Act”.

14.2.6 Clause 3.4.1

Delete “authorised officer of the Council” and substitute “Authorised Person”.

14.2.7 Clause 3.5.2

Delete “without assigning any reason for such an action” and substitute “subject to the provisions of Part 9 Division 1 of the Act”.

14.2.8 Clause 4.2.2

Paragraph (a)—delete “direction from the Council to remove the sign, shall remove it immediately upon receiving the direction” and substitute “shall either remove the sign or alter the sign so that it conforms with the local laws within 14 days or shall be guilty of an offence”.

Paragraph (b)—delete “direction from the Council shall within 14 days of receiving such directions—

(i) remove the sign; or

(ii) appeal to Council.”; and

substitute “notice from the Council shall either remove the sign or alter the sign so that it conforms with these local laws within 14 days of receiving such notice or be guilty of an offence”

Insert a new paragraph as follows—

“(c) Part 9 Division 1 of the Act applies to any notice given to a person under this local law and the said person is an affected person for the purpose of the Division.”

14.2.9 Clause 5.12.1

Delete “Local Government Act 1960” and substitute “Act”.

14.2.10 Clause 5.14.3

Delete “are specified in the Third Schedule hereto” and substitute “shall be determined by the Council from time to time”.

14.2.11 Clause 5.14.4

Delete “prescribed for” and substitute “fee payable”.

14.2.12 Clause 5.14.6

Delete “ officer of the Council authorised in writing by the Council to require its production” and substitute “Authorised Person”.

14.2.13 Clause 5.15.1 and heading 5.15 Penalties

Delete these and substitute—

“5.15 Objections and appeals

5.15.1 Part 9, Division 1 of the Act applies when the Council makes a decision as to whether it will grant a person an authorisation under these local laws, or renew, vary or cancel an authorisation that a person has under any of these local laws, and the said person is an affected person for the purposes of that Division.”

14.2.14 Insert a new heading and clause—

“5.16 Penalties

5.16.1 A person who contravenes any provision of this local law shall be liable to a penalty of one thousand dollars (\$1,000) and in addition, to a daily penalty of one hundred dollars (\$100) for each day during which the offence continues”.

14.2.15 Second Schedule

Delete “Shire Clerk” and substitute “Chief Executive Officer”

## 14.2.16 Third Schedule

Delete the whole of the Third Schedule.

**Part XV—Objections & Appeals**

15.1 When the Council makes a decision under these local laws as to whether it will—

- (a) grant a person an authorisation; or
  - (b) renew, vary, or cancel an authorisation that a person has under these local laws;
- the provisions of Part 9 Division 1 of the Act shall apply.

**Part XVI—Enforcement of Local Laws**

## Division 1—Authorised Persons

16.1 The Council may appoint a person as an Authorised Person for the purposes of performing particular functions under these local laws and a person shall not hinder or interfere with an Authorised Person in the course of that person's duties.

16.2 An Authorised Person shall on demand show an identification of that person as such.

## Division 2—Impounding

16.3 Where an Authorised Person places a vehicle or animal in a municipal depot, public pound or other place set aside for that purpose, details of the time and date, a description of the vehicle or animal, and of the place from which it was removed, shall be entered in a register provided by the Council for that purpose, and the CEO shall be notified.

16.4 The procedural provisions of Part 3, Division 3, Subdivision 4 of the Act shall apply generally when a vehicle or animal is impounded.

16.5 The CEO shall exhibit on the notice board of the Council notification that a vehicle or animal therein described has been taken into custody and shall, unless the vehicle or animal is sooner recovered, keep that notification exhibited for a period of not less than 7 days.

16.6 Every person who removes a vehicle or animal from an appointed place without the authority of the CEO commits an offence.

## Division 3—Infringement Notices

16.7 An infringement notice in respect of an offence prescribed in these local laws—

- (a) may be given under section 9.13 of the Act and shall be in or to the effect of Form 1 of Schedule 3;
- (b) may be given under section 9.16 of the Act and shall be in or to the effect of Form 2 of Schedule 3.

16.8 A notice sent under section 9.20 withdrawing an infringement notice shall be in or to the effect of Form 3 of Schedule 3.

## Division 4—General Offence and Penalty Provisions

16.9 Any person failing to do any act directed to be done, or doing any act forbidden to be done by these local laws, or any notice or order under these local laws commits an offence.

16.10 The maximum penalty for a parking or standing offence under Part VI of these local laws shall be \$500.00.

16.11 Subject to clause 16.10, any person who commits an offence against these local laws shall be liable to a penalty not exceeding a fine of \$5,000.00, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

16.12 The offences and modified penalties prescribed, with respect to offences against these local laws, shall be as specified in Schedule 4.

**SCHEDULE 1**

Corrugated self supporting fibro cement sheet fencing shall be erected as follows—

- (a) A minimum in-ground length of 25% of the total length of the sheet on the basis that the in-ground length is not less than 450 mm.
- (b) The total height of a fence shall consist of a single continuous fibre reinforced cement sheet.
- (c) Sheets to be lapped and capped with galvanised iron or fibro cement moulded capping.

Other fences to be erected as follows—

- (a) First posts and rear corner posts shall not be less than 125 mm x 125 mm.
- (b) Intermediate posts shall not be less than 125 mm x 75 mm.
- (c) All posts shall be spaced at not more than 2,750 mm centres.
- (d) All posts shall be sunk at least 460 mm into the ground.
- (e) corner posts shall be strutted two ways with 100mm x 50mm and 75mm x 50mm struts.
- (f) Posts must have at least two rows of nails.

- (g) Rails shall be not less than 75mm x 50mm double nailed to each post and each rail shall span two bays of fencing with joints staggered.
- (h) The fence may be covered with a material approved by the Surveyor.
- (i) All pickets or palings shall be placed not more than 75mm apart and shall be double nailed to each rail.
- (j) Steel first, intermediate corner posts may be used in lieu of timber with the written approval of Council.

SCHEDULE 2

Corrugated self supporting fibro cement sheet fencing shall be erected as follows—

- (a) A minimum in-ground length of 25% of the total length of the sheet on the basis that the in-ground length is not less than 450mm.
- (b) The total height of a fence shall consist of a single continuous fibre reinforced cement sheet.
- (c) Gates shall be fixed with drop bolts and locking attachments.
- (d) Sheets to be lapped and capped with galvanised iron or fibro cement moulded capping.

Link mesh fences shall be erected as follows:—

- (a) Corner and gate posts shall be constructed of galvanised iron piping having an internal diameter of not less than 50mm and shall have caps to tops, and shall be set into concrete blocks having a depth of not less than 600 mm and sides of a width of not less than 230 mm.
- (b) Struts shall be constructed of galvanised iron piping having an internal diameter of not less than 30mm set in concrete bases.
- (c) Corner posts shall have not less than two struts at right angles to each other, and gate posts not less than one strut.
- (d) Intermediate posts shall be constructed of galvanised iron piping having an internal diameter of not less than 35mm and set into concrete blocks having a depth of not less than 460mm and sides of a width not less than 230 mm spaced at no more than 3,600 mm centres.
- (e) Cables shall be affixed to the top, centre and bottom of all posts and shall consist of two or more No. 10 gauge wires twisted together.
- (f) Galvanised link mesh wire shall be not be less than 1,800mm and constructed of 50mm mesh No.12 gauge galvanised iron wire and shall be strained, neatly secured and laced to the posts and affixed to cables. Gates shall be constructed of 25mm tubular framework with one horizontal and one vertical stay constructed of 20mm piping and shall be covered with 50 mm No. 12 gauge galvanised link mesh strained to framework.
- (g) Gates shall be fixed with a drop bolt and locking attachment.
- (h) Where all or portion of the side boundary of one lot forms all or portion of the rear boundary of another lot, the provisions relating to rear boundaries shall apply to such side boundary or portion thereof.

Schedule 3—Forms

Form 1

Local Government Act 1995

NOTICE TO OWNER OF VEHICLE INVOLVED IN OFFENCE

Date ...../...../.....

Shire of Katanning

To: (1).....  
of (2).....

It is alleged that on ...../...../..... at (3)  
at (4).....your vehicle (5).....  
was involved in the commission of the following offence—

.....  
contrary to local law.....of the (6).....

You are required under section 9.13 of the Local Government Act 1995 to identify the person who was the driver or person in charge of the vehicle at the time when the offence is alleged to have been committed.

If you do not prove otherwise, you will be deemed to have committed the offence unless—

- (a) within 28 days after being served with this notice
  - (i) you inform the Chief Executive Officer, or another authorised officer, of the local government as to the identity and address of the person who was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed; or
  - (ii) you satisfy the Chief Executive Officer that the vehicle had been stolen, or was being unlawfully used, at the time the offence is alleged to have been committed;

or

- (b) you were given an infringement notice for the alleged offence and the modified penalty specified in it is paid within 28 days after the notice was given or such further time as is allowed.



Name and title of authorised person giving the notice .....

- (1) Name of owner or "owner of (vehicle identification)"
- (2) Address of owner (not required if owner not named)
- (3) Time at which offence allegedly committed
- (4) Place at which offence allegedly committed
- (5) Vehicle identification
- (6) Name of the regulations

Form 2

Local Government Act 1995  
INFRINGEMENT NOTICE

Serial No.....

Date ...../...../.....

Shire of Katanning

To: (1).....

of: (2).....

It is alleged that on ...../...../..... at (3)

at (4).....

You committed the following offence—

.....  
.....  
.....  
contrary to local law.....of the (5).....

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 must be paid to an authorised person at

(6).....within a period of 28 days after the giving of this notice.

Signature.....

(1) Name of alleged offender ["owner of (vehicle identification)" suffices if notice given with a notice under section 9.13 of the Act]

(2) Address of alleged offender (not required if notice given with a notice under section 9.13 of the Act)

(3) Time at which offence allegedly committed

(4) Place at which offence allegedly committed

(5) Name of the regulations

(6) Place where modified penalty may be paid

Form 3

Local Government Act 1995  
NOTICE OF WITHDRAWAL  
OF INFRINGEMENT NOTICE

Serial No .....

Date...../...../.....

Shire of Katanning

To: (1).....

of: (2).....

Infringement Notice No .....dated ...../...../..... for the alleged offence of

.....  
.....  
has been withdrawn.

The modified penalty of \$.....

\* has been paid and a refund is enclosed.

\* has not been paid and should not be paid.

\*delete as appropriate

Name and title of authorised person giving this notice

Signature.....

(1) Name of alleged offender to whom infringement notice was given.

(2) Address of alleged offender.

Schedule 4

ITEM NO.	LOCAL LAW	OFFENCE	MODIFIED PENALTY
	\$		
1	3.15 (j)	Deposit filth or rubbish	20.00
2	3.15 (p)	Unseemly behaviour, pushing, throwing, running	20.00
3	3.15 (v)	Annoy or interfere with any person	50.00
4	5 (1)	Unauthorised parking of a caravan or erection of a camp	100.00
5	6.4 (a)(i)	Parked in an area reserved for vehicles of a different class	50.00
6	6.4 (a)(ii)	Restricted parking	50.00
7	6.4 (a)(iii)	Parked longer than permitted	50.00
8	6.4 (b)(i)	No standing area	75.00
9	6.4 (c)	No parking area	75.00
10	6.5 (a)	Not close and parallel facing wrong way two-way carriageway	50.00
11	7.1	Unauthorised driving or speed on a reserve	100.00
12	7.2	Unauthorised lighting of a fire	100.00
13	8.2	Obstruction of a public place	75.00
14	9.8	Driving or standing upon a lawn or garden	40.00
15	9.9	Wilful damage to a lawn or garden or removing any flower, plant or shrub	40.00
16	10.2	Trading without or contrary to licence	100.00
17	11.3	Depositing waste without first paying	50.00
18	11.6	Depositing waste in undesignated location	50.00
19	11.8	Depositing liquid waste	250.00
20	11.9	Depositing toxic, poisonous, hazardous or prohibited waste	250.00
21	11.11	Lighting a fire	100.00
22		All other offences no specified	50.00

Dated this 24th day of July 1997.

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

IAN BOLTO, President.  
MICHAEL ARCHER, Chief Executive Officer.

**CEMETERIES ACT 1986****SHIRE OF KATANNING****LOCAL LAWS RELATING TO THE KATANNING  
PUBLIC CEMETERY**

In pursuance of the powers conferred upon it by abovementioned Act and of all other powers enabling it, the Council of the Shire of Katanning hereby records having resolved on the 24th day of July, 1997, to make the following local laws:

**Part I—Preliminary****Revocation**

- 1 The following local laws are hereby revoked—

The By—laws Relating to the Katanning Public Cemetery, published in the Government Gazette on 10 October, 1986.

**Interpretations**

- 2 In the local laws unless the context otherwise requires:

“Act” means the Cemeteries Act, 1986;

“authorised person” means an employee of the Council authorised by the Council to exercise any power conferred by an Act of Parliament or these local laws;

“CEO” means the Chief Executive Officer or Acting Chief Executive Officer for the time being, of the Shire of Katanning;

“Council” means the Council of the Shire of Katanning;

“memorial” includes headstone, plaque, tombstone, monumental work, inscription, kerbing, enclosure and any other fixture or thing commemorating a grave;

“personal representative” includes the administrator and executor of an estate of a deceased person who, by law or practice, has the best right to apply for administration and any person having the lawful custody of a dead body;

“right of burial” means the right to use a specified area of a cemetery for burial;

“set fee” refers to fees and charges set by a resolution of the Council and published in the *Government Gazette* in accordance with section 53 of the Act;

“single funeral permit” means a permit issued by the Council in accordance with clause 22 which entitles the holder to conduct a funeral at the cemetery for the deceased persons named in the permit.

**Part II—Administration**

- 3 The CEO, subject to the direction of the Council, shall exercise general supervision and control over all matters concerning the administration of the cemetery and the carrying out and enforcement of these local laws and all directions of the CEO shall be deemed to have been given by order of the Council.

- 4 A plan of the cemetery showing the distribution of the land, compartments, section, situation and number of grave, and a register of all certificates of rights of burial shall be kept at the office of the Council.

**Part III—Rights of Burial**

- 5 Graves within the cemetery shall be either private or public.

- 6 A private grave is one in respect of which an exclusive right of burial has been granted by Council.

- 7 A public grave is one for which the land has been granted free of charge by the Council. The Council retains all rights and powers in respect of a public grave as were held by the Council prior to the grant.

- 8 The Council may, upon the written application of a person and upon payment of the set fee issue that person with a Grant of Exclusive Right of Burial in a specified area of the Cemetery.

- 9 A Grant of Exclusive Right of Burial shall be for a term of twenty-five (25) years from the date of issue or from the date of burial if the set fee has been pre-paid.

- 10 A Grant of Exclusive Right of Burial confers upon the grantee an exclusive right—

(a) to bury the dead bodies of one or more deceased persons in a grave; and

(b) to carry out memorial works on a grave;

during the term of the grant.

11. A grantee may make application to the Council in the form determined by the Council from time to time to transfer a Grant of Exclusive Right of Burial to another person and this may be approved by the Council subject to payment of the set fee.

12. If application be made for interment in any grave of the remains of any person other than the person to whom the grant was issued, or a registered assignee, the written and verified consent of such grantee or assignee shall be produced together with the Grant of Exclusive Right of Burial, or in the case of an assignee, the assignment of the right of burial in the form issued by the Council.

#### **Part IV—Application for Funerals**

13. Any person desiring to inter any dead body in the cemetery shall make an application in the form determined by the Council from time to time and pay the set fee.

14. All applications for interment shall be accompanied by;

- (a) a medical certificate of death; or
- (b) a Coroner's order for burial;

in respect of the body.

15. All applications for interment shall be made at the office of the Council at least twenty four hours prior to the time fixed for burial, otherwise an extra charge shall be made.

#### **Part V—Disposal of Ashes**

16. A personal representative may give directions for the disposal of ashes by lodging an authorisation for disposal at the office of the Council and the Council shall accept such an authorisation as evidence that the person signing the authorisation is in fact entitled to dispose of the ashes, upon payment of the set fee.

#### **Part VI—Times for Funerals**

17. The hours for burial shall be as follows—

Monday to Friday—9am to 4pm;

Saturday—8.30 am to 11.30am—

and no burial shall be allowed to take place nor any coffin allowed to enter the cemetery, at any other hour except by permission of the Council.

#### **Part VII—Funeral Directors**

18. A person shall not direct a funeral within the cemetery or otherwise make use of the cemetery for any purpose connected with directing a funeral unless that person is—

- (a) a Funeral Director;
- (b) an employee of the Funeral Director; or
- (c) the holder of a single funeral permit issued in accordance with clause 22.

19. The Council may upon receipt of an application in writing by any person and upon payment of the set fee, issue to the applicant a funeral director's licence in the form determined by the Council from time to time authorising the holder to direct funerals within the cemetery at such times and on such days and subject to such conditions as the Council shall specify upon the issue of that licence.

20. A funeral director's licence shall expire on the 30th day of June in each year, but may be renewed on payment of the set fee.

21. The Council may, by notice in writing to the holder of a funeral director's licence, cancel the licence if the holder of the licence or any employee of the holder, has committed a breach of these local laws, the Act, or any of the conditions upon which the licence was issued, or if in the opinion of the Council, has behaved in relation to the direction of a funeral, in a manner which is inappropriate or unbecoming.

#### **Single Funeral Permits.**

22. The Council may upon receipt of an application in writing by any person, in the form determined by the Council from time to time and upon payment of the set fee issue to the applicant a single funeral permit authorising the holder to direct the funeral of the person named in the permit within the cemetery at such time and subject to such conditions as the Council shall specify upon the issue of that permit.

23. Every application for a single funeral permit made in accordance with clause 22 shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.

24. The transporting vehicle shall be large enough to completely contain the coffin.

#### **Part VIII—Funerals**

25. Every coffin shall have upon the lid an approved metal plate bearing the name of the deceased stamped or otherwise indelibly inscribed in legible characters thereon. Any coffin not complying with this local law will not be admitted to or be interred in the cemetery.

26. Every funeral shall enter by the principal entrance, and no vehicle, except the hearse, and official mourning coaches, shall be permitted to enter the cemetery, or stand opposite the entrance gates.

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

28. A person committing an offence under clause 28 may be forthwith expelled from the cemetery by the CEO or an authorised person.
29. No bicycle shall be ridden within the cemetery.

#### **Part IX—Burials**

30. The Council shall cause all graves to be dug or to be re-opened as and when required.
31. Every grave shall be at least 1.8 metres deep at the first interment and no interment shall be allowed in any grave with a less depth than one metre from the top of the coffin to the original surface of the surrounding ground.
32. Brick graves, catacombs or vaults may not be constructed within the cemetery.
33. A person shall not disinter a coffin in the cemetery for the exhumation of a dead body unless—
- (a) the exhumation is ordered or authorised pursuant to the Act; or
  - (b) the holder of the Grant of Exclusive Right of Burial has applied in writing to the Council requesting the exhumation and the Council has authorised the exhumation.
34. If for the purpose of re-opening a grave the Council finds it necessary to remove a memorial, edging, tiles, 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.

#### **Part X—Memorials and Other Work**

35. Subject to Clause 37 the Council may upon receipt of an application in writing by any person and upon payment of the set fee issue to the applicant a permit authorising the holder to carry out memorial works upon a particular grave specified in the application at such time and on such days and subject to such conditions as the Council shall specify upon the issue of that permit or in these local laws.
36. All applications referred to in clause 36 shall be accompanied by the written consent of the holder of the Grant of Exclusive Right of Burial.
37. The Council may reject any application referred to in clause 36 where it considers the proposed memorial works are inappropriate or unbecoming.
38. Every memorial shall be placed on proper and substantial foundations.
39. The materials used in every memorial shall be subject to the approval of the CEO or authorised person and any material rejected shall be immediately removed from the cemetery by the person erecting the memorial. All refuse or other rubbish remaining after the work is completed shall be immediately removed from the cemetery by the person causing the same.
40. Should any work by masons or others be not completed before 6pm on any day, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised person.
41. All material required in the erection and completion of any work shall, as far as possible, be prepared before being taken to the cemetery, and all materials required by tradesmen shall be admitted at such entrance as the CEO or an authorised person shall direct.
42. No sand, earth or other material shall be taken from any part of the cemetery for use in the erection of any memorial or work except with the written approval of the Council.
43. Persons shall not be permitted to carry out memorial or other work on graves within the cemetery other than during the hours of 8.00am and 6.00pm on weekdays, and 8.00am and noon on Saturdays, without the written permission of the Council.
44. No permanent wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave.
45. No trees or shrubs shall be planted on any grave except such as shall be approved by the CEO.
46. All workers, whether employed by the Council or by any other person, shall at all times whilst within the boundaries of the cemetery be subject to the supervision of the CEO or an authorised person and shall obey such directions as the CEO or an authorised person may give.
47. Notwithstanding anything in these local laws to the contrary, the Office of Australian War Graves—
- (a) may place a memorial on a military grave; and
  - (b) is not required to pay the set fee for any memorial that is placed upon a military grave.

#### **Part XI—General**

##### Animals

48. Subject to clause 50, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery.
49. Clause 49 shall not apply to a hearing impaired person or a person who is blind or partially blind and is accompanied by a hearing or guide dog.

##### Damaging and Removing of Objects

50. Subject to clause 52, 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 Council without the permission of the Council.
51. A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Council for that purpose.

Littering and Damage

52. A person shall not—
- (a) break or cause to be broken any glass, ceramic or other material in or upon the cemetery;
  - (b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in or upon the cemetery other than in a receptacle provided for that purpose.

Advertising

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

Removal from the Cemetery

54. Any person failing to comply with any provisions of these local laws or behaving in a manner that in the opinion of the Council, the CEO or an authorised person is inappropriate in the Cemetery may in addition to any penalty provided by these local laws be ordered to leave the cemetery by the Council, the CEO or an authorised person.

55. Any person failing to comply with an order to leave the Cemetery made pursuant to clause 55 may be expelled from the Cemetery and shall not re-enter the Cemetery for a period of twenty-four (24) hours.

**Part XII—Offences and Modified Penalty**Offence

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

Modified Penalties.

57. (1) A person who—
- (a) receives an infringement notice pursuant to sub-section (1) of a section 63 of the Act; and
  - (b) does not contest an allegation that an offence was committed against these local laws, may within the time specified in the notice, pay to the Council the modified penalty payable with respect to that offence.
- (2) The offences and modified penalties prescribed, with respect to offences against these local laws shall be as specified in the First Schedule.
- (3) The prescribed form of the notice referred to in section 63 of the Act is set out in the Second Schedule.
- (4) The production of an acknowledgment from the Council of the payment of a modified penalty is a defence to a charge of the offence in respect of which that penalty was paid.
- (5) If it appears to the Council that an alleged offence cannot be adequately punished by the payment of the modified penalty then the Council may refrain from accepting the modified penalty and may in lieu take proceedings against the alleged offender in a Court of Petty Sessions.
- (6) A notice sent under section 63(3) of the Act withdrawing an infringement notice served under section 63(1) in respect of an offence alleged to have been committed against one of the provisions of these local laws shall be in or to the effect of the Third Schedule.

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 First Schedule
**CEMETERIES ACT 1986***Shire of Katanning,*

## Local laws relating to the Katanning Cemetery

Item No.	Clause	Nature of Offence	Modified Penalty
1	28	Excessive speed	\$50.00
2	28	Unauthorised use—driving of vehicles	\$50.00
3	30	Riding of bicycle	\$20.00
4	40	Placing and removal of rubbish and surplus materials	\$50.00
5	41	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
6	49	Animal at large	\$50.00
7	51	Unauthorised damage and removal of property	\$50.00
8	53	Dumping of Rubbish	\$50.00
9	54	unauthorised advertising, and/or trading	\$50.00
10		Any other offence	\$40.00

Second Schedule  
CEMETERIES ACT 1986

Shire of Katanning

Local laws relating to the Katanning Public Cemetery

Infringement Notice

TO:.....  
(Name)

.....  
(Address)

It is alleged that at.....hours on.....day  
of.....19.....at.....

you committed the offence indicated hereunder by an (x) in breach of local  
law number.....

.....  
(Authorised Officer)

Offence

- Animal at large
- Dumping rubbish
- Excessived speed in vehicle
- Leaving uncompleted works in an untidy or unsafe condition
- Non removal of rubbish
- Riding of bicycle
- Unauthorised advertising or trading
- Unauthorised damage and removal of property
- Unauthorised vehicle use
- Other offence.....

\$.....

You may dispose of this matter—

By payment of the penalty as shown within 21 days of the date of this notice to the Shire of Katanning,  
16—24 Austral Terrace, Katanning, between the hours of 9.00am to 4.00pm Monday to Friday.

If neither the prescribed penalty is paid nor representation is made within the time specified, court  
proceedings may be instituted against you. Please make cheques payable to Shire of Katanning.  
Payments by mail should be addressed:-

The CEO  
Shire of Katanning  
P.O. Box 130  
Katanning, WA 6317

Third Schedule  
CEMETERIES ACT 1986

Shire of Katanning

Local laws relating to the Katanning Public Cemetery

Withdrawal of Infringement Notice

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

To (1) .....  
Infringement Notice No .....dated...../...../..... for the alleged  
offence of (2)

Penalty (3) \$.....is hereby withdrawn.

(Delete whichever does not apply)

\*No further action will be taken

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

- (1) Insert name and address of alleged offender
- (2) Insert short particulars of offence alleged.
- (3) Insert amount of penalty prescribed.

Dated this 24th day of July 1997.

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

I. R. BOLTO, President.

M. S. ARCHER, Chief Executive Officer.

