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LOCAL GOVERNMENT ACT 1995

CITY OF MANDURAH

CONSOLIDATED LOCAL LAWS

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CONSOLIDATED LOCAL LAWS

IN pursuance of the powers conferred by the Local Government Act 1995, the Bush Fires Act 1954, the Cemeteries Act 1986, the Dividing Fences Act 1961 and the Dog Act 1976 and all other powers enabling it, the Council of the abovementioned Local Government hereby records having resolved on 27th January 1998, to make the following Local Laws.

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PART I—REVOCATION AND CITATION AND APPLICATION OF LOCAL LAWS**1.1 Revocation**

The following By-laws and all amendments thereto are hereby revoked—

- Building By-law published in the *Government Gazette* 2 March, 1961
- Building Lines By-law published in the *Government Gazette* 2 July, 1962
- Deposit of Refuse and Litter By-law published in the *Government Gazette* 2 January 1966
- Heavy Traffic By-law published in the *Government Gazette* 5 February, 1958
- Holiday Cabins and Chalets By-law published in the *Government Gazette* 13 August, 1968
- Petrol Pumps By-law published in the *Government Gazette* 13 November, 1959
- Prevention of Damage to Streets By-law published in the *Government Gazette* 18 February, 1965
- Street Photographers By-law published in the *Government Gazette* 20 January, 1959
- By-laws Relating to the Mandurah Aquatic Recreation Centre published in the *Government Gazette* on 3 August, 1984
- Lakes Memorial Park Public Cemetery By-laws published in the *Government Gazette* on 19 November, 1982
- Roads over Bridges By-law published in the *Government Gazette* 14 July, 1950
- Heavy Traffic over Bridges By-law published in the *Government Gazette* 24 November 1950
- Vehicles on Roads By-law published in the *Government Gazette* 4 April, 1952
- Parking By-law published in the *Government Gazette* 30 May, 1952
- Heavy Traffic By-law published in the *Government Gazette* 22 May, 1953
- Minimum Area for Dwellings By-law published in the *Government Gazette* 27 October, 1950
- Buildings By-law published in the *Government Gazette* 3 November, 1950
- General, Straying Stock By-law published in the *Government Gazette* 30 May, 1952
- Dogs By-law published in the *Government Gazette* 19 December, 1952
- Dogs By-law published in the *Government Gazette* 22 May, 1953
- Prevention of Swimming near Traffic Bridge By-law published in the *Government Gazette* 23 October, 1953
- Amendment to Parking By-law published in the *Government Gazette* 8 January, 1954
- By-law No.96B—Control Fishing from Traffic Bridge By-law published in the *Government Gazette* 29 January, 1954
- Fire Prevention By-law published in the *Government Gazette* 12 February, 1954
- Amendment to Building By-law No.2 published in the *Government Gazette* 21 May, 1954
- Control of Camping and Caravan Parks By-law published in the *Government Gazette* 6 August, 1954
- Control of Dogs Amendment By-law published in the *Government Gazette* 3 May, 1955
- Traffic Bridge (Sitting Space and Crabbing) By-law No.96A published in the *Government Gazette* 9 August, 1955
- Control Boats Mooring North Peninsula Footbridge By-law published in the *Government Gazette* 18 April, 1956
- Parking—Ormsby Terrace By-law published in the *Government Gazette* 28 September 1956
- Long Service Leave By-law published in the *Government Gazette* 12 July, 1957
- Motor Cycle Race Meeting By-law published in the *Government Gazette* 15 October, 1957
- Heavy Traffic By-law published in the *Government Gazette* 5 February, 1958
- Street Photographers By-law published in the *Government Gazette* 20 January, 1959
- TV Masts and Antennae By-law published in the *Government Gazette* 6 May, 1960
- Requiring Removal of Refuse By-law published in the *Government Gazette* 27 October, 1960
- Hawkers By-law published in the *Government Gazette* 27 October, 1960
- Application of Uniform General Building By-law published in the *Government Gazette* 19 January, 1962
- Building Line By-law published in the *Government Gazette* 2 July, 1962
- Draft Model By-law No. 8—Old Refrigerators and Cabinets published in the *Government Gazette* 3 April, 1963
- By-law Relating to Building Lines published in the *Government Gazette* 11 August, 1964
- Draft Model By-law No.16—Deposit of Refuse and Litter published in the *Government Gazette* 20 January, 1966
- Draft Model By-law No.17—Vehicle Wrecking published in the *Government Gazette* 20 January, 1966
- Draft Model By-law No.13—Signs, Hoardings and Bill Posting published in the *Government Gazette* 11 March, 1967
- Draft Model By-law No.7—Removal of Obstructing Animals and Vehicles published in the *Government Gazette* 5 May, 1967

- Draft Model By-law No.14—Safety-Decency in Respect of Bathers published in the *Government Gazette* 5 July, 1967
- Draft Model By-law No.13—Signs, Hoardings and Bill Posting published in the *Government Gazette* 23 January, 1968
- Draft Model By-law No.3—Motel By-laws published in the *Government Gazette* 25 June, 1968
- Draft Model By-law No.4—Standing Orders published in the *Government Gazette* 4 October, 1968
- Draft Model By-law No.18—Holiday Cabins and Chalets published in the *Government Gazette* 17 December, 1968
- Draft Model By-law—Petrol Pumps published in the *Government Gazette* 19 February, 1969
- Caravan Parks—Amendments By-law published in the *Government Gazette* 27 August, 1969
- Extractive Industry By-law No.9 published in the *Government Gazette* 27 August, 1969
- Petrol Pumps By-law No.10—Amendment published in the *Government Gazette* 1 December, 1970
- Filling of Land By-laws published in the *Government Gazette* 30 June, 1971
- Control of Dogs By-law published in the *Government Gazette* 31 March, 1971
- Parking of Commercial Vehicles on Street Verge By-law published in the *Government Gazette* 9 November, 1971
- Long Service Leave By-law published in the *Government Gazette* 2 March, 1973
- Amendment Control of Dogs published in the *Government Gazette* 14 November, 1975
- By-Law Relating to the Payment of Rates and Charges published in the *Government Gazette* 25 June 1993.
- By-Law Relating to the Payment of Rates and Charges published in the *Government Gazette* 23 June 1995.
- Caravan Parks and Camping Grounds By-laws 1996 published in the *Government Gazette* 30 April, 1996.

1.2 Citation

These Local Laws may be cited as “City of Mandurah Consolidated Local Laws”.

1.3 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.

1.4 General Application

1.4.1 These Local Laws shall apply to the whole of the Local Government District of the City of Mandurah together with any place to which the Governor has given approval for the Local Laws or any part of them to apply as provided in section 3.6 of the Act.

1.4.2 These Local Laws incorporate all local laws of the City of Mandurah with the exception of local laws made under the Health Act 1911, and planning schemes made under the Town Planning and Development Act 1928.

1.5 Adjoining Waters and Reserves

Part III of these Local Laws shall apply—

- (a) to rivers, water courses, tidal and non-tidal waters, in or outside but adjoining the District;
- (b) without limiting the generality of paragraph (a) of this section, in the sea adjoining the District for a distance of 183 metres seaward from the low water mark at ordinary spring tides or to the extent otherwise approved by the Governor under section 3.6 of the Act;
- (c) to the reserves specified by the Council from time to time for the purpose of this section; and
- (d) to any other public place or public reserve adjoining any of the places mentioned in paragraphs (a) and (b) of this section.

1.6 Parking Region

For the purposes of the provisions of Part XVI of these Local Laws, the whole of the District with the exception of—

- (a) any approach and departure prohibition areas applicable to bridges, subways and traffic lights;
- (b) any other street that may from time to time be or come under the control of Main Roads Western Australia, or the Commissioner of Police;
- (c) Coast Road (excluding service roads);
- (d) Pinjarra Road—that portion of Pinjarra Road outside the Mandurah town site extending from the south eastern corner of Lot 11 and the prolongation of the eastern boundary of Reserve 30471 to the eastern boundary of the Local Government;
- (e) Fremantle Road—the portion of Fremantle Road outside the Mandurah townsite extending from the prolongation of the northern boundary of Lot 158 to the northern boundary of the Local Government,

is constituted as a parking region.

1.7 This Local Law will come into operation on the fourteenth day after the day on which it is published in the *Government Gazette*.

PART II—GENERAL INTERPRETATION**2.1 General Definitions**

In these Local Laws, unless the context otherwise requires—

- 2.1.1 “Act” means the Local Government (Miscellaneous Provisions) Act, 1960 or the Local Government Act 1995 as the circumstances and context require;
- “1960 Act” means the Local Government (Miscellaneous Provisions) Act 1960;
- “1995 Act” means the Local Government Act 1995;
- “animal” except in Part VI means any animal other than a dog;
- “Authorized Officer” means in respect of any Part of these Local Laws the CEO or other officer of the City of Mandurah authorized by the Council or the CEO (as appropriate) to administer that Part;
- “Authorized Person” means the CEO, or an Authorized Officer, or any other employee appointed in writing by the CEO as an Authorized Person under these Local Laws, or a Police Officer having authority under the Police Act 1892;
- “beehive” means a moveable or fixed structure, container or object in which a colony of bees is kept;
- “boat” means any structure or vessel whether propelled manually or by the wind or power, made or used to float upon or travel under water;
- “Bush Fires Act” means the Bush Fires Act 1954;
- “cattle” includes horses, mares, fillies, foals, geldings, colts, camels, bulls, bullocks, cows, heifers, steers, calves, asses, mules, sheep, lambs, goats, swine, deer, alpacas, llamas, emus, ostriches, kangaroos, or other animals of a like kind;
- “Cemeteries Act” means the Cemeteries Act 1986;
- “CEO” means the Chief Executive Officer of the City, and includes in the absence of the Chief Executive Officer, the Deputy or Acting Chief Executive Officer of the City;
- “City” means the City of Mandurah;
- “Council” means the council of the City;
- “District” means the Local Government District of the City;
- “Dividing Fences Act” means the Dividing Fences Act 1961;
- “Dog Act” means the Dog Act 1976;
- “employee” means an employee of the City;
- “gender and number” in these local laws words denoting a gender or genders include each other and words in the singular number include the plural and words in the plural number include the singular.
- “holiday accommodation” means accommodation which, by way of trade or business, is held out as being available or is made available for holiday purposes for occupation by persons other than the proprietor, and which comprises not less than 4 units;
- “licence” means a licence issued pursuant to these Local Laws;
- “licensee” means a person to whom a licence is granted under these Local Laws;
- “Local Government” where the context permits means the Local Government of the City;
- “Local Laws” means these Local Laws;
- “lot” has the meaning given to the term in the Town Planning and Development Act 1928;
- “member of the Police Force” means a member of the Police Force of Western Australia;
- “Minister” means the Minister for Local Government;
- “nuisance” means—
- (a) any activity, thing, condition, circumstance or state of affairs caused or contributed to by one person which is injurious or dangerous to the health of another person of normal susceptibility, or which has a disturbing effect on the state of reasonable physical, mental or social well-being of another person;
 - (b) any thing a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place; and
 - (c) any thing a person does on public or private land which unreasonably detracts from or interferes with the enjoyment or value of land owned by another person, provided that any thing done in accordance with the law or a legal right or which is consistent with the standard of behaviour in the relevant locality shall not be unreasonable for the purpose of this provision;
- “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;
- “proprietor” means the owner or occupier of the land on which holiday accommodation is situated;
- “public place” includes a street, way or place which the public are allowed to use, whether the street, way or place is or is not on private property. It shall also include parklands, squares, reserves, beaches and other lands set apart for the use and enjoyment of the inhabitants of the District and includes all lands vested in or under the care, control or management of the City of Mandurah;
- “surveyor” means the building surveyor for the time being appointed by the Council pursuant to the Act and includes, in the absence of the building surveyor, the acting building surveyor;

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

“unit” means a cabin, apartment, chalet, cottage or flat;

“vehicle” includes—

(a) every conveyance, not being a train, vessel, aircraft, or wheelchair and every object capable of being or designed to be propelled or drawn on wheels or tracks by any means, whether used in that way or not; and

(b) where the context permits, an animal driven or ridden,

and whether currently licensed or not.

2.1.2 Unless otherwise defined herein the terms and expressions used in these Local Laws shall have the meanings given to them in the Act, and where a term is defined in each the 1960 Act and the 1995 Act, the meaning given in the 1995 Act shall prevail.

2.1.3 A reference to the Council having the power to do something in its discretion or a reference to the Council forming an opinion prior to the doing of anything shall be deemed to include a reference to any Authorized Officer or Authorized Person, or any other person, or any committee to whom or to which the Council has delegated the power or the doing of the thing exercising such discretion or forming such opinion.

2.1.4 A reference to the CEO or any other employee of the City includes a person duly appointed to act or from time to time acting in the position of that employee.

PART III—BEACHES RESERVES AND JETTIES

Division 1—Preliminary

3.1 Part III Interpretations

In this Part, unless the context otherwise requires—

“bathing” includes entry into the sea and emerging therefrom and includes the use of bathing appliances;

“bathing appliances” means a float of any material, surf ski, surf board, kick board, malibu board, boat or any other device used or for use in bathing or surf riding;

“function” means and includes a carnival, show, fete, concert, exhibition, gymkhana, sporting event, a training or practice session in connection with a sport by a group or team of 5 or more persons, or a picnic for a gathering of more than 10 persons;

“jetty” means any jetty, pier, wharf or landing place which is—

(a) in or adjacent to the sea or any lake, river or estuary; and

(b) under the care, control or management of the Council;

“owner” means the person who is the lawful owner or the person entitled to possession of any vessel, vehicle, cargo, property or chattel;

“vessel” means any ship or watercraft whatsoever, and without limiting the generality of the foregoing, has the same meaning as is given to the terms “ship” and “vessel” in the Western Australian Marine Act 1982;

“watercraft” means any bathing appliance, canoe, boat or jet-ski.

3.2 Application

The provisions of this Part shall apply throughout the District and to those areas defined in section 1.5 of these Local Laws and to all property vested in or under the care control or management of the City of Mandurah unless stated otherwise in the provision.

Division 2—Prohibited Areas and Activities

3.3 Prohibited Areas

3.3.1 For the safety, decency, convenience or comfort of persons in respect of bathing and other recreational conduct, the Council may set aside specific localities wherein all or any of the following things are prohibited, or are prohibited without the prior approval of the Council in writing—

(a) entry by persons;

(b) entry by animals;

(c) bathing;

(d) fishing;

(e) the use of any bathing appliances or any particular kind of bathing appliance;

(f) the entry and use of vehicles;

(g) the launching of vessels;

(h) the playing of games; and

(i) the selling or displaying for sale or hiring of goods and merchandise.

3.3.2 The Council may set aside a specified locality for the purpose of subsection 3.3.1 or section 3.6 for a particular period or until further notice by causing notices to that effect to be placed in the vicinity of the locality.

3.3.3 Without limiting the generality of subsection 3.3.1 an Authorized Officer or Authorized Person may set aside specific localities in which bathing is prohibited, by the placement of notices, flags or such other indicators as are from time to time provided or required by the Council.

3.4 Prohibited Activities

A person shall not on any beach or reserve to which this Part applies—

- (a) carry on any activity or do any thing which contravenes any notice given pursuant to the provisions of subsections 3.3.1 or 3.3.3 hereof;
- (b) drive or take any watercraft into any place where persons are bathing in such a manner as to cause or be likely to cause annoyance or injury to any person bathing or about to bathe;
- (c) play games in such a way as to cause inconvenience or annoyance to persons bathing or using the beach or reserve;
- (d) fish for sharks by use of set or buoyed lines or use blood or any other lure for the purpose of attracting sharks;
- (e) clean fish or leave or deposit fish offal;
- (f) destroy, damage, injure, cause harm to, catch, snare or take any animal;
- (g) remove or otherwise interfere with any notice, flag or specified indicator of the kind referred to in subsections 3.3.2 and 3.3.3;
- (h) create, commit or take part in any nuisance or disturbance behave in a disorderly or offensive manner or use indecent language or commit any act of indecency;
- (i) enter, look into or loiter outside any lavatory, dressing shed or building or portion of a building expressly reserved for the use of the opposite sex;
- (j) except to put on or remove a garment or garments worn over a bathing costume, dress or undress or remove or disarrange any part of a bathing costume, in any place open to public view or in any building other than such as is specifically set aside by the Council for that purpose. This provision shall not apply in any area declared by the Council under subsection 3.9.3 to be a free beach;
- (k) climb upon any wall, building or tree guard or over, under or through any fence or gate designed or installed for the purpose of prohibiting or restricting the entry of persons or vehicles;
- (l) enter any place that has been fenced off or otherwise closed to the public;
- (m) bathe, swim or wade in any sump, drain, fountain, pond or lake;
- (n) add any dye or chemical to the water of any sump, drain, fountain, pond or lake;
- (o) alter, cut, mutilate, deface or disfigure or damage any equipment building or structure of any kind;
- (p) damage, destroy, interfere with or remove any water pipe, tap, hose, hose fitting, sprinkler, irrigator, watering device, valve, pump, motor, controller or switchboard;
- (q) break or permit to be broken any glass, metal, bottle or utensil or deposit or leave any rubbish, refuse, bottle, can, tin, paper, broken glass, china or litter of any kind other than in receptacles provided for that purpose;
- (r) climb, injure, cut, break, deface, pull up, pick, remove or destroy any tree, tree guard, shrub, flowers, grass or plant of any kind or description or, without the written consent of the Council, plant any such thing or sow any seeds without the prior authority in writing of the Council—
 - (i) damage any sand dune or dune system, or remove or damage any vegetation on any sand dune or any fence or structure or thing placed on or in the vicinity of a sand dune for the purpose of restricting or controlling access or avoiding damage to the dune, or (without limiting the generality of the foregoing) remove sand from any sand dune);
 - (ii) drive or ride any vehicle on or over a sand dune, or engage in sand boarding or other similar activity;
- (s) consume any intoxicating liquor except on premises licensed under the Liquor Licensing Act 1988 or except with the written permission of the Council;
- (t) be disorderly or apparently under the influence of alcohol or other drugs, enter or remain in or fail to depart from any place in breach of an order by any Authorized Person;
- (u) throw or release any stone, arrow, or other missile, whether of the same kind or not, except in the course of a function being lawfully held;
- (v) carry or discharge any firearm, air-gun, or other missile discharging device, or throw or discharge any explosive device, firework, stone, spear or missile;
- (w) operate any musical instrument, radio, record or cassette player, radiogram, television, amplifying equipment or other sound producing, enhancing or amplifying electronic device at such volume as to cause a nuisance or annoyance to other persons in or near the locality;
- (x) use or operate any siren, starting gun or other device which causes a loud noise in such a manner as to cause a nuisance or annoyance to any person on or in the vicinity;
- (y) fly any mechanically operated model aeroplane;
- (z) charge any person for entry thereto or for entry to any function being held thereon;
- (aa) unlock or unfasten any gate or door unless authorized by the Council;
- (ab) without prejudice to any other provision of these Local Laws bring on or cause or allow or permit to be brought on or to remain on any land to which these Local Laws apply any vehicle, caravan, omnibus (whether in good order or derelict) or rubbish of any nature, except to park or deposit the same in a place on that land nominated by the Council for the parking of such vehicles or caravans or deposit such rubbish, without the written consent of the Council first had and obtained, complying with all other provisions of these Local Laws in all respects on each occasion and in the event of the Council being unable to find the owner of any such thing

or article and/or of the person occupying the adjoining camping site or building denying the ownership thereof or refusing to supply the Council with the name and address of the owner thereof the Council shall be at liberty to remove such vehicle, caravan or omnibus from the land to a place where they can be impounded and to remove such rubbish from the land to the Council's rubbish tip;

- (ac) play or practise the game of golf or any similar game;
- (ad) practise or participate in archery of any kind;
- (ae) interfere with the conduct of any function for which a function licence has been issued;
- (af) release into any waterway upon or passing through a reserve under the control of the City any fish, animal or plant.

The prohibitions of this section shall not apply to an Authorized Officer or Person acting in the course of his or her duty.

3.5 Activities Requiring Permission

A person shall not without written permission granted by the Council on any beach or reserve to which this Part applies—

- (a) plant or sow any seeds for any tree, shrub, flowers, grass or plant of any kind or description;
- (b) cut, collect or remove any timber, firewood, stone, sand or material other than seaweed;
- (c) advertise anything by any means or display or distribute any notice, pamphlet, document, advertisement or message;
- (d) except where permitted under the authority of any written law, permit any cattle under that person's control to enter or remain in any place to which this Part applies;
- (e) organise, conduct or address a gathering or meeting of persons or organise or take part in a procession or demonstration or carry a placard or notice;
- (f) in a public reserve, conduct or assist in the conduct of or take part in any function;
- (g) take onto a public reserve any spirituous or intoxicating liquor;
- (h) cause or allow to be ridden or driven any bicycle or other vehicle whether motorized or not (other than wheelchairs or other devices designed to assist the movement of persons with disabilities) except upon a carriageway, road, path or footpath designated for use by such vehicle;

and a person shall not, otherwise than in accordance with the provisions of Part XII—

- (i) carry on any trading activity; or
- (j) without limiting the generality of the foregoing paragraph, hire or offer for hire any vehicle, bicycle, watercraft, kite or other item or equipment for sport, entertainment or amusement;

3.6 Camping and Picnicking

3.6.1 A person shall not on any beach or reserve to which this Part applies without written permission granted by the Council and then only in a place where the Council has resolved to permit camping and has caused a notice specifying the localities where camping is permitted to be given pursuant to subsection 3.3.2—

- (a) camp, lodge at night in or occupy as sleeping quarters or a dwelling any store, building, tent or structure of any kind; or
- (b) erect any tent, camp, hut or other structure other than a beach umbrella used during the hours of daylight; or
- (c) light a fire except in a fireplace or a barbecue facility provided for that purpose.

3.6.2 Subsection 3.6.1 shall not apply to any person who has been authorized in writing by the Council to occupy any reserve, nor shall that subsection apply to such part of any reserve as is specified from time to time by the Council for the purpose of this section.

Division 3—Safety and Decency

3.7 Vehicles

3.7.1 A person shall not on any beach or reserve to which this Part applies drive or ride a motorized vehicle (other than wheelchairs or other devices designed to assist the movement of persons with a disability) on any footpath or area set aside for use by pedestrians or bicycles otherwise than on those parts of the reserve or public place set aside as roads, driveways or vehicle parking areas.

3.7.2 A person shall not park or stand any vehicle except on areas set aside as parking areas.

3.7.3 (a) The Council may in special circumstances grant permission to allow a motorized vehicle to enter upon a public reserve for a specific purpose and the Council may apply such conditions as it thinks fit to such permission;

- (b) A person shall not park or stand any vehicle in breach of any such condition.

3.8 Modified Penalty

A person contravening the provisions of subsection 3.7.2 or 3.7.3 may be served with an infringement notice and be subjected to the modified penalty provisions of Part XX of these Local Laws.

3.9 Decency

3.9.1 (a) Any person over the age of 5 years bathing in water exposed to the public view or using a beach for sunbathing or any other activity in public view shall in order to secure the observance of decency, be properly and adequately clad;

- (b) A parent or other adult person who is a person on or in the near vicinity of the beach and is responsible for the custody, care or control of a child between the age of 5 years and 15 years shall ensure that the child is properly and adequately clad in accordance with paragraph (a) of this subsection.

3.9.2 Where an Authorized Officer or Person considers that the costume or other clothing of any person on land or water to which this Part applies is not proper and adequate to secure decency, the Authorized Officer or Person may order that person to put on adequate clothing and that person shall comply with such order forthwith.

3.9.3 The Council may declare any part of a beach to be a free beach and shall in that case cause the extent of the free beach to be marked by clearly legible signs on all approaches and within the area of that free beach the provisions of the preceding subsections of this section in regard to the wearing of adequate clothing shall not apply.

3.10 Safety

3.10.1 An Authorized Officer may in or on any place where this Part applies, seize any bathing appliance where the bathing appliance is being used contrary to the provisions of this Part.

3.10.2 Any bathing appliance seized under subsection 3.10.1 may be impounded after seizure for any period not exceeding 3 months as may be specified by the Authorized Officer to the person having custody of such appliance immediately prior to the time of seizure.

3.10.3 The Council may from time to time prescribe fees which it might charge on the impoundment of a bathing appliance in order to defray the expense of and incidental to the impoundment including the cost of the administrative time.

3.10.4 Where such appliance is not claimed by the owner within 2 months after the expiration of the period for which the appliance was impounded the appliance may be sold by the Council and the proceeds of such sale may be applied towards recouping the costs of and incidental to impounding it and any fee of impoundment.

3.10.5 Where the proceeds of sale referred to in subsection 3.10.3 exceed the costs of the impoundment and fees then the excess shall be paid to the owner of the appliance or where the identity or whereabouts of that owner are unknown placed in a trust fund and dealt with in accordance with the provisions of section 6.9 of the Act.

Division 4—Permissions

3.11 Permissions Under This Part

3.11.1 Every application for permission in this Part shall be in writing in the form prescribed by the Council (if any) and shall specify—

- (a) the name and address of the applicant who seeks the issue of a permit;
- (b) the reserve and the place on the reserve at or from which the applicant proposes to conduct the activities;
- (c) details of the activities the applicant proposes to conduct;
- (d) the day or days on which and the times during which the applicant proposes to conduct the activities.

3.11.2 The Council may in its discretion grant permission or refuse to grant permission under this section or grant permission subject to such conditions as it thinks fit.

3.11.3 Where permission has been granted by the Council under this section subject to conditions the person to whom the permission has been granted shall ensure that those conditions are observed at all times. If any such condition is not observed that person commits an offence against these Local Laws and the Council may by written notice cancel the permission.

3.11.4 Every permission granted for a function pursuant to paragraph (f) of section 3.5 shall include the condition whether expressed in the permission or not that the person to whom permission has been granted shall ensure that persons obviously under the influence of alcohol or acting in a disorderly manner are excluded from attendance at the function.

3.12 Activities Specially Permitted

3.12.1 Horses may be led, ridden or exercised within the beaches and reserves or parts thereof designated and published by the Council from time to time in a newspaper circulating in the District as horse exercise areas but not on any other beach or reserve.

3.12.2 Dogs may be exercised without a leash within the beaches and reserves or parts thereof referred to in subsection 6.4.3 but not on any other reserve.

3.12.3 Dogs shall not be taken onto nor permitted to be or remain on any beach unless the beach is marked by a clearly legible sign as a dog beach.

Division 5—Jetties

3.13 Jetties

3.13.1 Use of a Jetty or Bridge

- (1) A person shall not land at, use or enter a jetty or bridge except in accordance with these Local Laws.
- (2) A person shall not land at, use or enter a jetty which is—
 - (a) under construction or repair; or
 - (b) closed under section 6 of the Jetties Act 1926 or any other written law,

unless that person is engaged in the construction or repair of that jetty in accordance with the written authorization of the Council.

3.13.2 Vehicles on Jetties

A person shall not—

- (a) drive or allow a vehicle to remain on a jetty (other than a boat ramp) without the prior written consent of the Council; or
- (b) ride a bicycle, or allow a bicycle to remain, on a jetty.

3.13.3 Fishing From Jetties and Bridges

A person shall not—

- (a) fish from a jetty or bridge so as to obstruct or interfere with the free movement of a vessel approaching or leaving the jetty or bridge or so as to cause a nuisance on or near the jetty or bridge; or
- (b) hang or spread a fishing net from, on or over any part of a jetty or bridge.

3.13.4 Nuisance on Jetties or Bridges

A person shall not—

- (a) without the prior written consent of the Council offer for sale or sell goods or services on a jetty or bridge;
- (b) by any means, on or near a jetty or bridge, tout or solicit anyone to proceed as a passenger on any vessel or vehicle;
- (c) without the prior written consent of the Council display any sign or advertisement or use any loud speaking device on a jetty or bridge;
- (d) interfere with free movement of others entering or leaving a jetty or bridge; or
- (e) dive from a jetty or bridge.

3.13.5 Material Not to be Removed

A person shall not remove or cause to be removed from a jetty or from its approaches any gravel, stone, timber, trees, shrubs, grasses or other material without the prior written permission of the Council.

3.13.6 Damage to Jetties

(1) A person shall not tip or deposit any thing onto a jetty so as to cause damage to the jetty or to pollute the surrounding area.

(2) Where damage is caused to a jetty, whether by a vessel or a vehicle or otherwise, the Council may repair the damage and the costs of the repair shall be a debt due to the City.

(3) The debt is payable—

- (a) where the damage is caused by a vessel or vehicle, by the person responsible for the control of the vessel or vehicle; or
- (b) where the damage is not caused by a vessel or vehicle, by the person or persons who caused the damage.

(4) The debt may be recovered by the City in a court of competent jurisdiction.

3.13.7 Cargo on Jetties

(1) Property intended for shipment onto a vessel shall—

- (a) not to be stored or placed on a jetty unless and until the vessel is alongside the jetty; and
- (b) be removed from the jetty as soon as practicable.

(2) A person unloading property from a vessel onto a jetty shall cause it to be removed from the jetty as soon as practicable or upon demand by an Authorized Officer and in any event not later than 6.00 p.m. on the day on which it was placed on the jetty.

(3) An Authorized Officer may direct a person apparently in charge of property which remains on a jetty contrary to these Local Laws to remove the property from the jetty.

(4) A person who, without reasonable cause, fails to comply with a direction of an Authorized Officer under subsection (3) commits an offence.

(5) An Authorized Officer may remove and, if he or she considers it to be appropriate, store property which has been left on a jetty contrary to these Local Laws.

(6) The cost of removal and of any subsequent storage of the property shall be a debt due to the City by the owner of the property.

(7) The debt may be recovered in a court of competent jurisdiction.

3.13.8 Bulk Cargoes on Jetties

Except with the prior written consent of the Council, a person shall not tip or deposit bulk cargo from a vehicle or vessel onto a jetty.

3.13.9 Loading or Discharging of Cargo

Except with the prior written consent of the Council, a person in control of a vessel shall not permit it to remain alongside a jetty for the purpose of loading or discharging cargo between 6.00 p.m. on any day and 6.00 a.m. the next day.

3.13.10 How a Vessel is to be Moored

A person shall not—

- (a) moor or make fast a vessel to a jetty or any part of the jetty except to such mooring piles, ring bolts or other fastenings as are provided; or

- (b) permit a vessel to remain alongside a jetty unless the vessel is so moored or fastened.

3.13.11 Mooring Time Limits

(1) Subject to paragraph (2) and subsection 3.13.12 a person shall not moor a vessel or permit it to be moored to a jetty for more than 4 hours unless he or she has—

- (a) applied to, and obtained written consent of, the Council in the form prescribed by the Council for that purpose from time to time; and
- (b) paid to the City any fee set by the Council from time to time for the purpose.

(2) The owner, or a person in control, of a vessel which is moored to a jetty shall remove the vessel forthwith when so directed by an Authorized Officer.

(3) The Council may not consent to a vessel being moored at a jetty for more than 7 consecutive days.

3.13.12 Mooring for Maintenance and Repairs

(1) A person shall not moor a vessel to a jetty for the purpose of effecting repairs to the vessel unless—

- (a) the vessel is in distress;
- (b) the vessel is moored for no longer than would reasonably be required to effect the minimum repairs necessary to enable the vessel to be moved elsewhere; and
- (c) if the vessel is, or is to be, moored for more than 4 hours, the consent of an Authorized Officer has been obtained.

(2) A person shall not moor a vessel to a jetty for the purpose of effecting maintenance to that or any other vessel.

3.13.13 Obstruction of Jetties or Officer

(1) A person shall not, without the written permission of the Council, cause, or place, or cause to be placed, on a jetty any obstruction.

(2) A person shall not obstruct or hinder—

- (a) any representative or employee of the Council or any other person whatsoever engaged in the construction or repair of any jetty; or
- (b) any Authorized Officer acting in the course of his or her duties.

(3) A person shall not cause any obstruction on or to any public steps or landing place for passengers on or at a jetty, or impede the free passage of other persons on or along such steps or places.

3.13.14 General

A person shall not on or near any jetty—

- (a) except in a receptacle provided for that purpose, deposit any litter;
- (b) light, place or keep a fire that might endanger the jetty;
- (c) except for the purpose of fishing, throw or impel any stone or other missile;
- (d) permit an animal to remain;
- (e) be in a state of intoxication or in possession of any intoxicating substance unless such intoxicating substance is cargo or medical supply carried for lawful purpose;
- (f) do anything which may destroy, damage or deface the jetty or any part of it;
- (g) behave in a disorderly manner, or create or take part in any disturbance or use any foul or indecent language or commit an act of indecency;
- (h) throw, place or deposit any offensive, noxious or dangerous substances;
- (i) post, stick, paint or write or cause to be posted, stuck, painted or written any placard, bill, advertisement, sign or other matter; or
- (j) fix or place any receptacle capable of holding water and providing a breeding site for mosquitoes or other insects.

3.13.15 Launching of Vessels

A person shall not launch or permit the launching of a vessel from or over any jetty (other than a boat ramp) unless he or she has—

- (a) applied to, and obtained the written consent of, the Council in the form (if any) prescribed by the Council for any purpose; and
- (b) paid to the City any fee set by the Council from time to time for the purpose.

3.13.16 Reduction or Waiver of Fees

The Council may, if it considers it to be in the public interest, reduce or waive the fees that would otherwise be payable in relation to an application for consent to moor a vessel or to launch a vessel under these Local Laws.

PART IV—COUNCIL PROPERTY PUBLIC POOLS AND RECREATION FACILITIES

Division 1—Preliminary

4.1 Part IV Interpretations

4.1.1 In this Part, unless the context otherwise requires—

“Attendant” means an employee of the Council authorized to perform duties in connection with a public swimming pool or other recreation facility under the control and management of the Council;

“building” has the same meaning as is given to the term in section 6 of the 1960 Act but without limiting the generality of the term for the purpose of this Part specifically includes a hall or room, or a corridor, stairway or annexe of any hall or room owned by or under the care, control or management of the Council;

“Manager” means the person for the time being employed by the Council to control and manage a public swimming pool or other recreation facility under the control and management of the Council and includes the person’s assistant or deputy;

“premises” includes each of the public swimming pools and other recreation facilities owned by or for the time being under the control and management of the Council, and all buildings, fences, gardens, car parks, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of such a swimming pool or other recreation facility or used in connection therewith;

“recreation facility” includes spa bath, solarium, sauna, gymnasium and kiosk, stadium, squash court and function room.

4.1.2 Terms and expressions used in this Part—

- (a) shall have the meanings given in subsection 4.1.1 which shall prevail over any other conflicting definition; and
- (b) otherwise shall be interpreted in accordance with section 2.1

Division 2—Public Swimming Pools and Other Recreation Facilities

4.2 Public Swimming Pools and Other Recreation Facilities

The provisions of this section relate to any public swimming pool or other recreational facility under the care control and management of the Council.

4.2.1 (1) Any premises shall be open for admission to the public during the hours and periods the Council from time to time determines.

(2) The premises or any part of them and any facility or equipment therein may at any time at the discretion of the Manager with the written approval of the CEO be set aside for the use of certain persons to the exclusion of others.

4.2.2 The Council may refuse a person admission to any premises at any time.

4.2.3 Every person using premises shall obey all reasonable directions of the Manager or Attendant with regard to such use.

4.2.4 The Manager or Attendant may temporarily suspend admission to or remove from the premises or any part thereof all or any persons if, in his or her opinion that action is necessary or desirable, in the interest of the comfort and convenience of the users generally of the premises and the preservation of the premises or its contents.

4.2.5 If a person appears in public who in the opinion of the Manager or Attendant is indecently or insufficiently clad, the Manager or Attendant may direct that person forthwith to resume the person’s ordinary clothing and the person shall forthwith comply with that direction.

4.2.6 (1) It is the duty of the Manager or Attendant, who is hereby so empowered and directed, to refuse admission to or remove or cause to be removed from the premises a person who, in the opinion of the Manager or Attendant—

- (a) is a child under the age of eight (8) years and is unaccompanied by a responsible person over the age of fourteen (14) years;
- (b) is guilty of a breach of any of the provisions of these Local Laws;
- (c) is by his or her past or present conduct within or about the premises undesirable;
- (d) is visibly affected by alcohol or drugs;
- (e) is apparently suffering from a contagious, infectious or offensive disease, skin complaint, or wounds.

(2) Any such person when requested by the Manager or Attendant to withdraw from the premises shall immediately do so quietly and peaceably.

(3) Any person banned or refused entry to any premises shall be given formal notification of reasons as determined by the Manager.

4.2.7 (1) A person who has been refused admission to any premises or has been requested to leave any premises and who feels aggrieved by the action of the Manager or an Attendant may appeal to the Council by letter addressed to the CEO against that action.

(2) The Council shall consider the appeal and give such direction in the matter as it thinks fit.

(3) The right of appeal given by these Local Laws does not imply any right of action for damages or other remedy against the Council or Manager or an Attendant arising out of any refusal of admission or direction to leave any premises.

4.2.8 (1) A person shall not for profit teach, coach or train another person in any premises unless with the prior written consent of the Council or the Manager which may be given subject to any conditions the Council or Manager as the case may be thinks fit.

(2) Consent under paragraph (1) may be withdrawn at any time.

4.2.9 (1) A person, club, organiser or association shall not conduct any controlled swimming or diving event, carnival or competition without the prior written consent of the Manager.

(2) The Manager may grant consent subject to any conditions the Manager thinks fit and may, at any time, withdraw that consent.

(3) A person, club, association or organization conducting any event, carnival or competition at any premises is responsible for the conduct and safety of the competitors, officials and spectators during the events, carnival or competition and shall prevent overcrowding and ensure that no damage is done to the buildings or fencing or any other portion of the premises and that these Local Laws are observed by all competitors, officials and spectators.

4.2.10 (1) A person who finds within any premises an article which may have been left or lost therein shall immediately deliver it to the Manager or Attendant who shall thereupon register a description of the article and all particulars relating thereto in a book to be kept for that purpose.

4.2.11 All articles left in any premises and not claimed within a period of three (3) calendar months, shall be dealt with by the Council according to law.

4.2.12 A person shall not—

- (a) enter any portion of any premises set apart exclusively for the opposite sex except a person under the age of six (6) years;
- (b) without the consent of the occupier, enter or attempt to enter any bathroom or dressing box or other compartment which is already occupied;
- (c) in any way interfere with any other person in or upon any premises or with another person's use thereof nor throw or push, or attempt to throw or push over another person into a swimming pool, spa, sauna or throw any stone, stick or any other matter or thing to the annoyance of another person using the premises;
- (d) play a ball game except with the consent of the Manager or the Attendant, or do anything which in any way limits the enjoyment of the users of the premises, but nothing herein contained applies to the playing of any games or aquatic sports organised and conducted on any premises by a club, association, organization or other person at a time and in a manner approved by the Council;
- (e) permit an animal of which the person is liable for the control to enter or remain in or about any premises;
- (f) enter any premises without having first paid to the Manager or Attendant the proper charge for admission (in cash or by the production of a pre-purchased pass or membership card) unless that person is an officer or employee of the Council in the course of the person's duties or an official of a club currently using the premises with the authority of the Manager;
- (g) obstruct the Manager or Attendant in carrying out their duties;
- (h) enter or depart from any part of any premises except by means of the respective entrances or exits set apart for that purpose;
- (i) dress or undress or remove any part of the person's bathing costume except in a dressing or change room enclosure provided for that purpose;
- (j) appear in public unless properly attired in a costume of such nature as to preserve public decency and to cover the body so to as prevent indecent exposure of the person;
- (k) enter or be in any premises while affected by alcohol or drugs;
- (l) take into any premises, or have in the person's possession therein, intoxicating liquor, or a glass or metal container, or any illegal drug;
- (m) climb up or upon a roof, fence, wall or partition of any premises;
- (n) in any part of any premises behave in an unseemly, improper, disorderly, riotous or indecent manner or swear or use indecent, obscene, offensive or abusive language or gamble or commit any other misconduct;
- (o) bring onto to deposit any filth or rubbish in any part of any premises except in a place set aside for that purpose;
- (p) consume food or drink in any specific area in which consumption is prohibited by notice;
- (q) wastefully use the water or leave a tap dripping in a dressing room or elsewhere in any premises;
- (r) spit or expectorate in a swimming pool or on any part of any premises or in any way commit any nuisance on or in any part of the premises;
- (s) use a substance or preparation whereby the water of a swimming pool or spa may become discoloured or rendered turbid or otherwise unfit for the proper use of bathers;
- (t) foul or pollute the water in a shower, bath or swimming pool, or soil, damage, injure, destroy, use improperly, disfigure or write in or upon a dressing room, closet, compartment or other part of any premises or any furniture or other article of equipment therein;
- (u) damage, improperly use or interfere with a tap, valve, locker or other fitting or appliance in or about any premises;
- (v) whilst suffering from any contagious, infectious or cutaneous disease, or whilst in an unclean condition, enter or use or attempt to enter or use any swimming pool or spa or any other part of any premises;
- (w) soil, defile or damage a towel or bathing costume;
- (x) break, injure, damage or destroy life-saving or other equipment or a locker key or any property of the Council;
- (y) enter or attempt to enter any premises if the Council has refused the person permission to do so.

4.2.13 A person shall not pay nor shall the Manager or Attendant or any other officer or employee of the Council receive any fee for admission to or the use of any facility in any premises except the fee prescribed by these Local Laws.

4.2.14 A person shall, when leaving the premises incorporating a swimming pool or spa, if requested to do so, produce the person's bag costume or towel for inspection by the Manager or Attendant.

4.2.15 Pre-purchased tickets or membership cards shall be presented to the Manager or Attendant at the time of entry to any premises and provided that the purchaser adheres to the provisions of these Local Laws any such item shall be returned to the person when the person exits.

4.2.16 Neither the Council nor the Manager or Attendant or other officer or employee of the Council is in any way responsible for any article or money lost or stolen from a person whilst in any premises or for any article damaged or destroyed while in or about the premises.

Division 3—Council Property (Management and Control)

4.3.1 Saving of Long Term Leasing Power

Nothing in this Part shall be construed to limit the power of the Council to enter into long term leasing of buildings, halls or rooms subject to the Act, in such manner and on such terms as it sees fit.

4.3.2 Permissions

A person shall not, without permission to hire granted by the 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.

4.3.3 Application

Every application for permission to hire under section 4.3.2 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 section 4.3.2;
- (b) the purpose for which the building, furniture or other property is required.

4.3.4 Discretion

The Council may in its discretion grant permission to hire or refuse to grant permission to hire or grant permission subject to such conditions as it thinks fit.

4.3.5 Conflicting Applications

In the event of two or more applications being made for the hire of any building and furniture for the same date and time, the Council shall grant the application to the applicant who is first recorded in the register kept by the Council of such applications or the diary of bookings for the building or equipment if no such register is kept.

4.3.6 Conditions

Every permission to hire shall contain the following conditions whether expressed in the permission or not—

- (a) the applicant shall, prior to the commencement of the hiring and in addition to any deposit the Council may require as an advance payment of the hiring fee, lodge a bond for an amount estimated by the Council to cover—
 - (i) any damage that might occur during the term of the engagement; and
 - (ii) any cleaning of Council property which is required following the term of engagement;provided that the bond shall be repayable upon the termination of the hiring except to the extent the Council makes any deduction under subsection 4.3.11;
- (b) no furniture or other property shall be removed, except with the permission of the CEO and under the supervision of the caretaker or other person appointed by the Council;
- (c) the applicant shall comply with the provisions of the Health Act, 1911 and any other written law and policy in force for the time being applicable to the hiring and use of the building;
- (d) the Council may at any time cancel any permission to hire without giving the applicant any reason for so doing.

4.3.7 Times

A building, furniture or other property shall be hired for the period stipulated in the permission but if no period is stipulated the hiring shall be for a period of 8 hours.

4.3.8 Fees

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

4.3.9 Cancellation

In the event of the permission to hire being cancelled by reason of any default on the part of the applicant or any other person associated with the hire, or if the applicant cancels the application, the whole or any part of any fee or deposit as may be determined by the Council (with the exception of the cleaning deposit) shall be forfeited and any deposit or such portion of any deposit that is not forfeited under this section shall be repaid by the Council to the applicant.

4.3.10 Conduct in Hired Building

No person in any building shall—

- (a) enter or be allowed to enter while affected by alcohol or drugs;
- (b) use profane or improper language;
- (c) be guilty of any misbehaviour whatsoever;

- (d) damage, mark or deface any wall or other part of the building;
- (e) drive nails, tacks, pins or screws into any of the woodwork or walls of the hall without the permission of the Council;
- (f) erect internal or external decorations without permission in writing from the Council;
- (g) remove any piano from the floor of the Main hall to the stage, or vice versa, without the permission of the Council;
- (h) stand, loiter or cause any obstruction whatsoever in the entrance halls, exits, or passageways of any buildings;
- (i) perform offensive impersonations or representations of living persons, or anything calculated to produce a disturbance, riot or breach of the peace.
- (j) smoke in any area of the building.

4.3.11 Recovery of Costs

The Council may recover the cost of cleaning or making good any damage to any building or its property therein from a person who caused or contributed to the damage or the need for cleaning. The cost of cleaning or making good the damage may be deducted from any bond or deposit paid by the hirer of the building or property and the whole amount or excess over the amount of the bond or deposit may be recovered by the Council—

- (a) in proceedings against a person for a breach of this section; or
- (b) at the discretion of the Council in a Court of competent civil jurisdiction.

4.3.12 Obligations of Permit Holder

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 if that is greater;
- (e) allow the CEO or any employee seeking to enforce these Local Laws or any other written law or otherwise acting in accordance with any written law and any member of the Police Force free ingress to the building, hall or room;
- (f) if the hirer fails to allow ingress to the building in accordance with the provisions of paragraph (e) of this section, the Council may at any time prior to or during the term of hire forbid and prevent the use or continued use of the building in addition to any other action the Council may take for the breach of this Part, and the Council shall not be held responsible to the hirer for any loss or damage incurred as a consequence;
- (g) in addition to any action taken against the hirer in accordance with paragraph (f) of this section, a hirer in breach of the provisions of this section may be required by the Council to forfeit any fee bond or deposit or any portion thereof in relation to the hiring of the building, furniture or other property;
- (h) if intending as part of the use of the building or reserve to allow—
 - (i) the consumption of alcohol within the building or reserve, in addition to the permission to hire, obtain a permit from the Mandurah Aquatic and Recreation Centre; or
 - (ii) the sale of alcohol within the building or reserve in addition to the permission to hire, obtain an appropriate licence under the Liquor Licensing Act 1988.

PART V—ANIMALS IN PUBLIC PLACES AND BEE KEEPING

Division 1—Animals Generally

5.1 Unattended Animals

5.1.1 The provisions of this Part shall not affect the operation of Part XX of the 1960 Act, and in the event of any inconsistency between the provisions of this Part and the provisions of Part VI of these Local Laws, the provisions of Part VI shall prevail.

5.1.2 Subject to the provisions of subsection 5.1.3 a person shall not permit an animal to remain unattended in a public place.

5.1.3 An animal may be secured in any portion of a public place wherein animals may lawfully be secured for these Local Laws but only if secured for a period not exceeding one (1) hour unless the consent in writing of the CEO is first obtained.

Impounding

5.1.4 Where an Authorized Person or a member of the Police Force finds an animal unattended in a public place, contrary to the provisions of subsections 5.1.2 or 5.1.3 of this Part, he or she may remove the animal therefrom and shall thereupon place it in a pound in accordance with the provisions of Part VI

Fencing

5.1.5 The yard or place in which any cattle is kept shall be surrounded by fencing to at least the standard prescribed by the Council from time to time for rural fencing, but in any event shall be and be maintained to a standard adequate to contain the cattle so kept in all circumstances.

Diseased Animals

5.1.6 A person shall not drive or ride or permit the driving or riding of an animal having a contagious or infectious disease in a street or other public place.

5.1.7 The Council may cause any animal which is certified by a qualified veterinary surgeon or other suitably qualified person as having a contagious or infectious disease and which is in a street or other public place to be killed and its carcass disposed of at the expense of the person having the custody of the animal and to recover the expense from that person in a court of competent jurisdiction.

Division 2—Bee Keeping

5.2 Bee Keeping

5.2.1 No person shall keep or permit to be kept, bees in more than two beehives on any land without written approval from the Council.

5.2.2 A written approval from the Council to keep more than two beehives may be given with or without conditions and the person to whom the approval is given shall comply with such conditions.

5.2.3 Notwithstanding sections 5.2.1 and 5.2.2, a person shall not keep or permit to be kept, bees in beehives on any lot within the district unless at all times—

- (a) an adequate and permanent supply of water in a receptacle is provided on such lot within 3 metres of the beehive;
- (b) the beehive is kept not closer than 8 metres from any footpath, street or public place and not closer than 5 metres from the boundary of the lot.

5.2.4 A person shall not keep or permit to be kept, bees on a footpath, street or public place.

5.2.5 A person shall not keep bees in such a manner as to cause a nuisance.

5.2.6 Whenever in the opinion of the Council a nuisance arises because of the keeping of bees, Council may direct the occupier of the land to remove beehives from the land within a time specified in a written notice, and the occupier shall comply with any such direction.

PART VI—DOGS

Division 1—Preliminary

6.1 Part VI Interpretations

6.1.1 In this Part unless the context otherwise requires—

“applicant” means a person who makes an application for an approved kennel establishment licence;

“approved kennel establishment” means the kennel or kennels and yards appurtenant thereto which are the subject of an application for an approved kennel licence as prescribed in Division 3 of this Part;

“kennel licence” shall mean a licence granted by the Council to an applicant pursuant to Division 3 of this Part;

“leash” includes a chain, cord, leash or harness no greater than two (2) metres in length and of sufficient strength to restrain the dog on which it is used in all circumstances;

“pound” means any land including any enclosures or structures thereon, established or maintained by Council pursuant to the Dog Act.

6.1.2 Terms and expressions used in this Part—

- (a) shall have the meanings given in subsection 6.1.1 which shall prevail over any other conflicting definition;
- (b) otherwise shall have the meanings given to them in the Dog Act which shall prevail over any conflicting definition in subsection 2.1.1 or the Act; and
- (c) otherwise shall be interpreted in accordance with section 2.1.

Division 2—Impounding of Dogs

6.2 Pound

6.2.1 The Council may establish and maintain a pound or pounds for the impounding of dogs seized pursuant to the provisions of the Dog Act or these Local Laws.

6.2.2 If a person being the owner or a person apparently acting on behalf of the owner of a dog impounded claims the dog, then upon payment of the fee prescribed for the purpose by the Council from time to time (“the prescribed fee”) the dog shall be released to that person.

6.2.3 The pound-keeper shall be in attendance at the pound for the release of dogs at such times and on such days of the week as shall from time to time be determined by the Council.

6.2.4 If the Council arranges destruction of a dog at the request of its owner, then whether the dog has been seized or not, the owner shall pay to Council the prescribed fee.

6.2.5 The payment of fees in respect of the seizure, care, detention or destruction of a dog shall not relieve the owner of liability to a penalty under the Dog Act Regulations or these Local Laws.

Division 3—Regulation of Dog Kennels

6.3 Kennels

6.3.1 Any application for a kennel licence shall be made in the form prescribed under the Dog Act or prescribed by the Council if no form is prescribed under the Dog Act, and shall be submitted with two

copies of a plan showing specifications of the kennels and yards appurtenant thereto, with the relationship of the kennels and yards to the boundaries of the lot or lots and all buildings on the land the subject of the application and other land contiguous thereto and such other information as the Council requires.

6.3.2 The Council acting in accordance with the provisions of the Dog Act may grant or refuse a kennel licence, or may grant a licence subject to conditions.

6.3.3 On approving a kennel establishment, a licence in the prescribed form shall be issued upon payment to Council of the annual licence fee, prescribed by the Council from time to time, and the licence fee may vary in accordance with the number of dogs the kennel is intended to accommodate.

6.3.4 No person shall erect a kennel establishment until plans, specifications and a location plan showing the proposed site for such a kennel establishment has been approved by the Council and is in conformity with the City's town planning scheme or any Local Law adopted by the Council.

6.3.5 (1) The owner or occupier of premises for which a kennel licence has been granted shall provide and maintain kennels and yards in accordance with the following specifications—

- (a) Each kennel shall have a yard appurtenant thereto, which is capable of retaining the dog or dogs within its confines.
- (b) Every part of a kennel or yard shall be no less than 20 metres from the boundaries of the land in the occupation of the occupier of the approved kennel establishment.
- (c) Every part of a kennel or yard shall be no less than 30 metres from the road reserve of any street unless it is completely screened from view of that road or street by a fence approved by Council.
- (d) In the case of a corner lot, no part of any kennel or yard shall be less than 20 metres from the side boundary to which the premises has its secondary frontage.
- (e) Every part of a kennel or yard shall be no less than 20 metres from any dwelling, church, school room, hall, factory, dairy or premises whatsoever wherein food is manufactured, prepared, packed or stored for human consumption.
- (f) The walls of each kennel shall be constructed of concrete, masonry, stone or any other material approved by Council.
- (g) The roof of each kennel shall be constructed of impervious material.
- (h) All painted external surfaces of an approved kennel establishment shall be kept in good condition and shall if directed by an officer of the Council be repainted with good quality paint every three years.
- (i) The lowest internal height of any kennel shall be 2.4 metres from the floor.
- (j) Each yard for any kennel shall be kept securely fenced with a fence not less than 2 metres in height constructed of link mesh or netting, galvanised iron or timber.
- (k) Gates for each yard shall be provided and fitted with proper catches or means of secure fastening.
- (l) The upper surface of the kennel floor shall be at least 10 centimetres above the surface of the surrounding ground and shall be constructed of granolithic concrete which shall be of an impervious acid resistant waterproof concrete finished to a surface having a fall of not less than 1 to 100 to a drain ("the drain") which shall be properly laid, ventilated and trapped in accordance with the health requirements of the Council.
- (m) Each kennel shall have a floor area of not less than 2.5 square metres for every dog kept therein over the age of three months.
- (n) The area of the yard appurtenant to any kennel or group of kennels shall not be less than three times the area of the kennel or group of kennels to which it is appurtenant.
- (o) All kennels and yards and all feeding and drinking vessels shall be maintained in a clean condition and shall forthwith be cleaned and disinfected when so ordered by an Authorized Person.
- (p) Reticulated water must be available at the kennel via a properly supported stand pipe and hose cock for the hosing down of the kennel and floored yard.
- (q) Proper approved ventilation is to be installed into the roof and walls of the kennel establishment as per Council's direction.
- (r) The kennel establishment is to have a design approved and employ materials approved by the Council for the purpose of eliminating noise nuisance.
- (s) Bedding for dogs must be a minimum 300 mm above the finished floor level.
- (t) All food for the kennelled dogs is to be stored in a separated concealed room within the kennels. The food is to be stored in metal cabinets and or refrigerators installed a minimum of 50 mm above the finished floor level.

(2) Where Council has approved a kennel licence being issued, subject to greyhounds being kept therein, the licensee shall provide a perimeter fence with self-locking gate around the area which the kennels and yards are constructed.

6.3.6 No licensee shall keep or permit dogs to be kept on premises on which there is an approved kennel establishment unless the licensee ensures that a person in charge of the dogs either resides on such premises or within such reasonable close proximity as to enable the person to have effective control over the dogs.

6.3.7 The licensee shall maintain every part of the approved kennel establishment frequented or occupied by a dog in clean condition. Refuse, dog faeces and food wastes must be disposed of daily in a

manner approved from time to time by an environmental health officer of the City, and odours, flies and other vermin must be effectively controlled.

6.3.8 The Council may refuse to renew a kennel licence, or may cancel a kennel licence if the licensee does not comply with or the kennel establishment is not kept, in accordance with this Division, or for any reason relating to the conduct of the kennel resulting in the kennel being a nuisance to neighbours by reason of noise, odours or any other cause.

Division 4—General

6.4 Miscellaneous Provisions

6.4.1 The owner or occupier of any land within the District shall not keep, permit or suffer to remain thereon more than two dogs over the age of 3 months unless—

- (a) a person wishing to keep more than two dogs but not more than six dogs on any premises may seek, upon application to Council, exemption for those provisions of Section 26(3) of the Dog Act 1976.
- (b) the land is situated within a part of the District where kennels are permissible under a town planning scheme of the City; and
- (c) the premises are the subject of a kennel licence or are the subject of an exemption given under Part V of the Dog Act.

6.4.2 This subsection does not apply to a person accompanied by a guide dog. The owner or person liable for the control of a dog shall prevent that dog from entering or being on the following beaches and reserves whether the dog is restrained or not.

Beaches—

- (a) That area of beach between the northern boundary of the prolongation of Bengal Street, south to the prolongation of the southern boundary of the Tranby Street foreshore car park.
- (b) That area of beach between the prolongation of the northern boundary of Eros Place south to the northern boundary of the prolongation of Acheron Street.
- (c) That area of beach between the prolongation of the northern boundary of Wade Street, south to the southern boundary of the prolongation of Stewart Street.
- (d) That area of beach between the prolongation of the eastern boundary of Janis Street, west to the prolongation of the western boundary of Sharland Street.
- (e) That area of beach between the prolongation of the southern boundary of Valley Road south to the prolongation of the southern boundary of Lot 562 Halls Head Parade.
- (f) That area of beach between the prolongation of the northern boundary of Gretel Drive south to the prolongation of the southern boundary of Philante Street.
- (g) That area of beach between the prolongation of the southern boundary of Mercedes Avenue, west to the eastern boundary of the boat launching facility.
- (h) That area of beach between the prolongation of the southern boundary of Yeedong Road, south to the prolongation of the southern boundary of Burna Street.
- (i) That area of beach between the prolongation of the northern perimeter of the Florida Beach car park south to the prolongation of the southern perimeter of the Florida Beach car park.
- (j) That area of beach between the northern perimeter of the Melros Beach Road foreshore car park, south to the prolongation of the western boundary of Henry Road.

Reserves—

- (a) "McLennon Park" (Reserve No—27512) bounded by Sabrina Drive and Madora Beach Road, Madora Bay.
- (b) "Eros Place Reserve" (Reserve No—35553) bounded by Eros Place and Orestos Street, San Remo.
- (c) "Watersun Reserve" (Reserve No—35281) bounded by Hickman Road and Maritime Drive, Watersun.
- (d) "Caterpillar Park" (Reserve No—34267) within the Milgar Street Reserve bounded by Park Road and Reserve Drive, Mandurah.
- (e) "Rushton Park" (Reserve No—19312) bounded by Dower, Thomson and Clarice Streets, Mandurah.
- (f) "Town Cemetery" bounded by Coolibah Drive and Cemetery Drive, Mandurah.
- (g) "Lakes Memorial Cemetery" bounded by Stock and Marginta Roads, Parklands.
- (h) "Eacott Park" (Reserve No—26535) bounded by Wanda and Manjeep Roads, Riverside Gardens.
- (i) "Samuel Refrey Reserve" bounded by Allnutt and Rockford Streets, Mandurah.
- (j) "Woodlands Park" (Reserve No—41583) bounded by Casuarina Drive and Everlasting Retreat, Halls Head.
- (k) "Falcon Foreshore Reserve" bounded by Spinnaway Parade, Falcon.
- (l) "Halls Head Foreshore Reserve" (Reserve No—25588) bounded by Halls Head Parade, between the northern prolongation of Janis Street, west to a point 80 metres beyond the northern prolongation of Sharland Street, Halls Head.
- (m) "Falcon Oval" (Reserve No—32501) bounded by Lynda, Flame and Melita Streets, Falcon.

- (n) "Merlin Street Reserve" (Reserve No. 27874) bounded by Merlin Street and Old Coast Road, Falcon.
- (o) "Teranca Road Reserve" (Reserve No. 44548) bounded by Kookaburra Drive and Minilya Parkway, Greenfields.
- (p) "Peelwood Parade Reserve" (Reserve No. 38615) bounded by Old Coast Road and Peelwood Parade, Halls Head.
- (q) "Falcon Reserve" (Reserve No. 9893) bounded by Xavier Street, Old Coast Road and Flavie Street, Falcon.
- (r) "Bortolo Park Reserve" (Reserve No. 41733) bounded by Bortolo Drive, Murdoch Drive and Waldron Boulevard and Loudon Road, Greenfields.
- (s) "Allnutt Street Reserve" (Reserve No. 29922) bounded by Allnutt Street, Park Road and Gray Road, Mandurah.
- (t) "Coote Street Reserve" (Reserve No. 26346) bounded by Challenger Road and Orelia Street, Madora Bay.

6.4.3 The owner or person liable for the control of a dog may exercise that dog free of restraint on the following beaches and reserves—

Beaches—

- (a) That area of beach between the northern boundary of the district south to the western prolongation of Avoca Place, Madora.
- (b) That area of beach between the southern perimeter boundary of the Tranby Street foreshore car park, Madora, south to the western prolongation of Karinga Road, San Remo.
- (c) That area of beach between the western prolongation of the foreshore car park at the intersection of Ronsard and Watersun Drives, Watersun south to a point 200 metres north of Wade Street, Silver Sands.
- (d) That area of beach between the prolongation of the eastern boundary of Janis Street, east to the extremity of the western groyne, Peel Inlet entrance, Halls Head.
- (e) That area of beach between the point 80 metres south to the Calypso Street car park toilet block, south to the western prolongation of Gretel Street, Falcon.
- (f) That area of beach between the southern groyne of the Dawesville Cut entrance, south to the northern boundary of Hunter Street car park, Florida.
- (g) That area of beach between the western prolongation of Henry Road, Melros, south to the southern boundary of the Local Government.

Reserves—

- (a) Reserve No—26347 bounded by Challenger Road and Tranby Street, Madora.
- (b) Reserve No—25043 "Karinga Reserve" bounded by Karinga Road, San Remo.
- (c) Reserve No—35461 bounded by Mandurah Terrace, Silver Sands. Excluding the area fenced and set aside as a children's playground.
- (d) Reserve No—28458 bounded by Dampier Avenue, Novara.
- (e) Reserve No—32836 "Coodanup Foreshore" bounded by Peel Parade, between the southern prolongation of Beacham Street east to William Road, Nairns.

6.4.4 The Council may add to the beaches and reserves falling within any of the categories in subsections 6.4.2 and 6.4.3 provided that—

- (a) its resolution to add a beach or reserve to any category is passed by an absolute majority of the members of the Council;
- (b) notice of the resolution is published at least once in a newspaper circulating in the District; and
- (c) a notice is erected in a conspicuous position on or at the entrance to the beach or reserve advising of the resolution and its effect.

Where the Council adds a beach or reserve to the categories in subsection 6.4.2, the added beach or reserve shall for all purposes of enforcement or otherwise be treated as if it was listed in the appropriate part of subsection 6.4.2.

6.4.5 The owner or person liable for control of a dog shall ensure that if the dog is in a public place that it is on a leash held by a person capable of restraining the dog in all circumstances.

6.4.6 A person liable for the control of a dog which excretes on any street or public place or on private property within the District without the consent of the occupier commits an offence unless the excreta is removed forthwith and disposed of on private land with the consent of the occupier.

6.4.7 Any person who contravenes or fails to comply with any of the provisions of this Part commits an offence and may be issued with an infringement notice and shall upon conviction in a court of competent jurisdiction be liable to a penalty in the amount of the maximum penalty prescribed under the Dog Act for penalties under Local Laws.

PART VII—CEMETERIES

Division 1—Preliminary

7.1 Cemeteries

7.1.1 In this Part unless the context requires otherwise—

"animal" means any animal;

“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;

“burial” has the same meaning as is given to it in the Act;

“Cemetery” means the Lakes Memorial Park Public Cemetery which the Governor by order has vested under the care, control and management of the Council;

“dead body” has the same meaning as that expression in the Cemeteries Act 1986;

“funeral” includes the burial and cremation of a dead body and all associated processions and ceremonials but does not include so much of a ceremonial that is solely a religious rite;

“Funeral Director” means a person firm or company holding a current funeral director’s licence;

“funeral director’s licence” means a licence issued by the Council in accordance with subsection 7.5.2 which entitles the holder to conduct funerals at the Cemetery;

“General Manager” means the Chief Executive Officer for the time being appointed in accordance with subsection 7.2.1 and includes any person for the time being acting in that capacity in the absence of the Chief Executive Officer;

“grant” means a grant by the Council, under subsection 7.3.1 or subsection 7.3.3, of an exclusive right of burial in a grave;

“grave” means a specified area of the Cemetery for burial;

“ground niche” means a specified area of the Cemetery for the placement of ashes not being a wall niche or a grave.

“guide dog” has the same meaning as is given to that expression in the Dog Act 1976;

“holder” in relation to a grant includes—

(a) a person issued with a grant by the Council under subsection 7.3.1 or 7.3.3;

(b) a person for the time being appearing to the Council to be the holder of a grant;

“memorial” means a memorial plaque as described in subsection 7.8.1, a memorial as described in subsection 7.8.2(3) or as otherwise approved by Council;

“Minister” means the Minister for Lands;

“niche wall” means a building or construction wholly above ground level so constructed as to allow the disposition of ashes into a compartment in the wall or floor and being sealed from view;

“personal representative” means—

(a) the administrator of the estate or executor of the will of a deceased person;

(b) the person who, by law or practice, has the best right to apply for administration of the estate of a deceased person; or

(c) a person having the lawful custody of a dead body;

“remains” means ashes or what remains of a dead body after 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 Cemeteries Act 1986;

“single funeral permit” means a permit issued by the Council in accordance with subsection 7.6.1 which entitles the holder to conduct a funeral at the Cemetery for the deceased persons named in the permit;

7.1.2 Terms and expressions used in this Part—

(a) shall have the meanings given in subsection 7.1.1 which shall prevail over any other conflicting definition;

(b) subject to paragraph (a) shall have the meanings given to them in the Cemeteries Act 1986 which shall prevail over any conflicting definition in subsection 2.1.1 or the Act; and

(c) subject to paragraphs (a) and (b) shall be interpreted in accordance with section 2.1.

Division 2—Administration

7.2 Administration and Management

7.2.1 Appointment of General Manager

The Council shall appoint the Chief Executive Officer of the City as General Manager who shall, at the direction of the Council, exercise general supervision and control over all matters concerning the administration of the Cemetery and the carrying out and enforcement of this Part and unless the Council otherwise resolves, all directions of the General Manager shall be deemed to have been given by order of the Council.

7.2.2 Appointment of Employees

The Council may appoint support staff to administer and supervise work within the Cemetery and carry out such work as is required for the general care of the Cemetery.

7.2.3 Plans and Registers

(1) The Council shall establish and maintain—

(a) a plan of the Cemetery showing the location and identifying number of every burial place or grave and the distribution of the land, compartments and sections;

(b) a register containing the identification numbers of graves and the names and description of the persons buried;

- (c) a register of grants made with respect to the Cemetery;
 - (d) a register of persons cremated whose ashes have been buried or disposed of in the Cemetery.
- (2) The plans and registers referred to in paragraph (1) shall be open for inspection at the Council offices by members of the public during normal office hours of the Council.

Division 3—Rights of Burial

7.3 Grants

7.3.1 Issue of a Grant

- (1) Upon—
- (a) the written application of a person; and
 - (b) payment of the set fee,

the Council may issue to that person a grant of right of burial for a term of 25 years.

(2) The Council may grant exclusive rights of burial in respect of more than one (1) grave to any person but shall not grant such rights in respect of more than five (5) graves to any one person.

7.3.2 Rights of a Holder

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

- (a) to bury one or more dead bodies, or the ashes of one or more dead bodies in the grave or graves specified in the grant; and
- (b) to arrange for the placing of a memorial plaque of the kind referred to in subsection 7.8.1 on the grave or graves specified in the grant.

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

(3) The Council or an Authorized Officer may request a holder to produce the grant before the exercise of any of the rights referred to in paragraph (1) and the holder shall forthwith comply with that request.

7.3.3 Renewal of a Grant

- (1) Where, at any time during the term of a grant issued under subsection 7.3.1 the holder—
- (a) makes written application; and
 - (b) pays the set fee,

the Council shall renew that grant for a further term of 25 years commencing on the initial expiry date of the grant.

(2) Where a grant has been renewed under paragraph (1) and the holder, within 6 months before or after the expiry date of the grant;

- (a) makes written application; and
- (b) pays the set fee,

the Council may in its absolute discretion renew that grant effective from the expiry date of the existing grant for a further period not exceeding 25 years in the case of any one renewal and where the renewal is refused the Council may from the date of expiry of the grant deal with the grave in respect of which the grant was originally issued as it sees fit.

7.3.4 Replacement Grant

- (1) Upon—
- (a) the written application of a holder; and
 - (b) the production of evidence to the satisfaction of the Council, which may include a statutory declaration by the holder,

the Council may issue a new grant to replace a grant which is lost or has been destroyed.

(2) A suitable form of the statutory declaration referred to in paragraph (1)(b) is available from the Council offices.

7.3.5 Transfer of a Grant

(1) A holder who wishes to assign a grant must produce to the Council for registration the document giving effect to the assignment.

(2) A form of assignment is available from the Council offices.

7.3.6 Exercising the Rights of a Holder

(1) Where a person who is not the holder of a grant seeks authority from the Council to exercise the rights conferred on the holder of such grant that person shall provide to the Council—

- (a) a statutory declaration to the effect that he/she has the right to exercise such rights and knows of no other person having a prior or equal right or in the case of a Funeral Director that he/she has the permission of the holder or other person entitled to the grave; and
- (b) an indemnity to the Council by such person in respect of all damages costs expenses and liabilities resulting from the exercise or enjoyment of such rights by that person.

(2) If the Council is satisfied on the basis of the written evidence provided by the person referred to in subsection (1) that the holder of the grant—

- (a) is unavailable;
- (b) is not immediately ascertainable; or

(c) has died without bequeathing the grant by will
 then the Council may authorise in writing that person being—
 (d) the holder's next of kin;
 (e) the holder's personal representative;
 (f) a person acting expressly on behalf of the holder's personal representative; or
 (g) where no one described in paragraphs (d), (e) or (f) is available or immediately ascertainable,
 any other person approved by the Council
 to exercise, subject to any conditions imposed by the Council, the rights conferred on the holder.

7.3.7 Burial Without a Grant

(1) Where a person who wishes to bury a dead body, or the ashes of a dead body, in a grave which is not the subject of a grant—

- (a) makes written application; and
- (b) pays the set fee,

the Council may authorise the burial of that dead body or ashes in a specified grave allocated for that purpose.

(2) Where a grave is allocated under paragraph (1), the Council shall retain all rights and powers in respect of that grave, including the rights and powers to reopen the grave to —

- (a) disinter the remains buried in that grave and reinter them—
 - (i) in the same grave;
 - (ii) in another grave but within the Cemetery; or
 - (iii) elsewhere in accordance with the Cemeteries Act 1986;
- (b) bury other dead bodies.

Division 4—Application for Funerals

7.4 Requirements To Hold Funerals

7.4.1 Application to Hold a Funeral

(1) A person who desires to hold a funeral within the Cemetery shall, in the case of the burial of a dead body—

- (a) make an application to the Council in the form determined by the Council from time to time; and
- (b) lodge with the application referred to in paragraph (a)—
 - (i) evidence to the satisfaction of the Council that the holder of the grant in respect of the grave in which the dead body is intended to be buried has consented to or would not object to the burial; or
 - (ii) an application for a grant under subsection 7.3.1; or
 - (iii) an application for the allocation of a grave under subsection 7.3.7.

(2) All applications referred to in paragraph (1) shall be accompanied by —

- (a) a certificate of identification in accordance with subsection 7.4.2; and either
- (b) a doctor's certificate for burial or disposal of the dead body; or
- (c) a coroner's order for burial.

(3) All applications to hold a funeral must be lodged at the office of the Council in such time as to permit at least twenty four (24) working hours notice to be given prior to the time requested to be fixed for the funeral.

(4) All applications to hold a funeral on a Saturday must be lodged at the office of the Council during working hours no later than twenty four (24) working hours before the funeral unless a later time is approved by the Council.

7.4.2 Certificate of Identification

(1) After a dead body is placed in a coffin and prior to a dead body being removed to the Cemetery, a person who personally knew the deceased shall identify the dead body and shall complete the form prescribed by the Council from time to time, 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) 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,

then the Funeral Director shall complete the form prescribed by the Council from time to time for that purpose.

7.4.3 Receipt of the Application for a Funeral

Upon receipt of a properly completed application form in accordance with subsection 7.4.1 and all other things required by this Part, the Council shall—

- (a) fix a time for the funeral; and

- (b) prepare any grave that is required.

7.4.4 Fixing Times for a Funeral

The time fixed for a funeral is at the discretion of the Council but subject to this Part will be as near as possible to the time requested by the applicant.

7.4.5 Times for Burials

- (1) A person shall not carry out a burial—

- (a) on Christmas Day;
- (b) on Good Friday; or
- (c) at any time other than during the following days and hours—
 - Monday to Friday—9.00am to 11.30am and 1.30pm to 3.30pm
 - Saturday, Sundays and Public Holidays—8.30am to 11.00amexcept with the written permission of the Council.

(2) The Council may, by notice displayed at the Council Office and at the Cemetery, at least one week before a Public Holiday, close the Cemetery on that Public Holiday and where a Cemetery is so closed no funeral may take place within it, except with the written permission of the Council.

7.4.6 Admittance of Coffins

A person shall not bring a coffin into the Cemetery other than during the hours referred to in subsection 7.4.5(1)(c), except with the written permission of the Council.

Division 5—Funeral Directors

7.5 Funeral Directors and Licences

7.5.1 Directing a Funeral

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 who holds a funeral director's licence or a single funeral permit;
- (b) an employee of a Funeral Director who holds a funeral director's licence or a single funeral permit; or
- (c) the holder of a single funeral permit issued in accordance with subsection 7.6.1.

7.5.2 Funeral Director's Licence

(1) 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 authorizing 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 and in compliance with the provisions of this Part.

(2) If the application referred to in paragraph (1) is approved by the Council, the Council shall issue to the applicant a licence in a suitable form prescribed by the Council from time to time.

(3) Any person who is the holder of a current funeral director's licence may apply for a new licence for the then following year by lodging with the Council an application in writing, and payment of the set fee.

7.5.3 Period of Licence

A funeral director's licence—

- (a) shall be valid from the date specified therein until the 30th day of June next following the date of commencement of the licence or until the licence is determined pursuant to subsection 7.5.5, whichever shall occur sooner; and
- (b) shall not be transferable.

7.5.4 Responsibilities of the Holder of a Funeral Director's Licence

The holder of a funeral director's licence shall be responsible for the compliance by every person purporting to be authorized to direct a funeral within the Cemetery pursuant to that licence with—

- (a) all the requirements of—
 - (i) the licence,
 - (ii) this Part; and
 - (iii) the Cemeteries Act 1986; and
- (b) the conditions imposed by the Council in respect of that licence.

7.5.5 Cancellation of a Funeral Director's Licence

- (1) The Council may, by notice in writing to the holder of a funeral director's licence, cancel the licence if—

- (a) the holder of the funeral director's licence or any employee of the holder has committed a breach of this Part, the Cemeteries Act 1986, the Cremation Act 1927 or any of the conditions upon which the licence was issued;
- (b) in the opinion of the Council, the conduct of the holder of the funeral director's licence or any employee of the holder in directing or attempting to direct any funeral within a Cemetery is inappropriate or unbecoming;
- (c) the holder of the funeral director's licence has purported to transfer the licence issued to that holder;
- (d) the funeral director's licence was issued erroneously or in consequence of a false or fraudulent document, statement or representation;

- (e) the fee for the funeral director's licence is due and unpaid; or
- (f) the Council is no longer satisfied that the holder of the funeral director's licence—
 - (i) is of good repute and is fit to hold a funeral director's licence; or
 - (ii) has suitable facilities and equipment for handling and storing dead bodies and conducting funerals.

(2) Upon the cancellation of a licence pursuant to this subsection, no part of any fee paid for the issue of that licence is refundable by the Council.

Division 6—Single Funeral Permits

7.6 Funeral Permits

7.6.1 Application for a Single Funeral Permit

The Council may upon receipt of an application in writing by any person, in the form prescribed 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 or in this Part.

7.6.2 Specifications and Details

Every application for a single funeral permit made in accordance with subsection 7.6.1 shall include coffin specifications and details of the vehicle transporting the dead body to the grave site.

Division 7—Funerals

7.7 Coffins, Graves And Funeral Processions

7.7.1 Requirements as to Coffins

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

- (a) the Council has received an application for the burial of that dead body in accordance with subsection 7.4.1;
- (b) it is enclosed in a coffin which in the opinion of the Council is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin's lid; 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 10mm in height.

7.7.2 Funeral Processions

(1) Where—

- (a) a funeral procession fails to arrive at the Cemetery at the time fixed by the Council for the funeral; or
- (b) all the forms prescribed by this Part to hold and direct a funeral at the Cemetery are not presented to an Authorized Officer at the Cemetery at the time fixed by the Council for the funeral,

then the applicant who applied to hold the funeral under subsection 7.4.1 shall pay the set fee for being late or make application for another time to be fixed.

(2) Where a funeral procession fails to proceed to the grave site of the Cemetery within seven (7) minutes of arrival at the Cemetery, the applicant who applied to hold the funeral shall pay the set fee for being late.

(3) No funeral procession at the Cemetery shall include more than—

- (a) one funeral director's hearse; and
- (b) four (4) mourning coaches,

without the prior approval of the General Manager.

7.7.3 Directions to Place Ashes

(1) A personal representative may apply in writing to the Council for permission to dispose of ashes in the Cemetery and upon payment of the set fee the Council may grant permission for the ashes to be disposed of by one of the following methods—

- Grave
- Niche Wall
- Ground Niche
- Scattering to the Winds.

(2) A person other than an Authorized Officer shall not place ashes in the Cemetery.

(3) An Authorized Officer may place ashes in the Cemetery provided—

- (a) the person requesting the placement of the ashes has the permission of the Council; and
- (b) the ashes are placed within an area set aside for that purpose by the Council.

7.7.4 Specification of Graves

The Council may from time to time determine the specifications of graves.

7.7.5 Niche Walls

(1) A person other than the Council shall not construct a niche wall within a Cemetery.

(2) A niche wall must be—

- (a) constructed of brick, stone, concrete or similar durable material; and
- (b) adequately ventilated and drained; and
- (c) vermin proof; and
- (d) capable of being secured against entry by vandals or other unauthorized persons.

(3) The number of burials in a niche wall must not exceed the number for which the niche wall was designed.

7.7.6 Burying a Coffin

(1) A person shall not bury a coffin 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 750mm, unless that person has the permission of an Authorized Officer; or
- (b) in any circumstances less than 600mm.

(2) The permission of the Authorized Officer in paragraph (1)(a) will only be granted where in the opinion of the Authorized Officer exceptional circumstances require the granting of that permission.

7.7.7 Depth of Grave

Every grave shall be dug at least 2.44 metres deep and no more than 2.5 metres deep at the first interment unless requested otherwise by the applicant and approved by the Council.

7.7.8 Re-opening a Grave

(1) Subject to paragraph (2), if for the purpose of re-opening a grave in the Cemetery the Council 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.

(2) If the Minister orders the exhumation of a body in accordance with section 58 of the Cemeteries Act 1986 then the Minister may further order how and by whom the costs referred to in paragraph (1) shall be met.

7.7.9 Exhumation of a Coffin

(1) Subject to paragraph (2), a person shall not exhume a coffin in the Cemetery for the purposes of re-burial within twelve (12) months after the date of its interment.

(2) Paragraph (1) shall not apply where the exhumation of a dead body and the exhumation is ordered or authorized pursuant to the Cemeteries Act 1986.

(3) Subject to paragraphs (1) and (2) prior to any other exhumation, the holder of a grant must have applied in writing to the Council requesting the exhumation and the Council has authorized the exhumation.

7.7.11 Opening a Coffin

(1) 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 Council an order signed by the Commissioner of Police and the Council has approved the opening of that coffin.

(2) In this subsection—

“Commissioner of Police” means the Commissioner of Police for the time being appointed under the Police Act 1892 and includes any person for the time being acting in that capacity in the absence of the Commissioner of Police.

Division 8—Flowers and Memorials

7.8 Flowers and Memorial Plaques

7.8.1 Requirements of a Memorial Plaque

(1) Memorial plaques placed in the Cemetery shall—

- (a) be made of admiralty bronze or any other material approved by the Council;
- (b) be not less than 380mm x 280mm, nor more than 560mm x 305mm unless otherwise approved by the Council; and
- (c) bear an inscription approved by the Council.

(2) Memorial plaques shall—

- (a) be no greater than 20mm in thickness; and
- (b) be placed upon a base mounting approved by the Council.

7.8.2 Flowers and Memorials

(1) The Cemetery is a lawn cemetery and all flowers must be placed in vases or receptacles provided.

(2) An Authorized Officer will remove all withered flowers on Friday of each week and all faded and unsightly plastic or other artificial flowers and memorials on the last Friday of each calendar month.

(3) No person shall place any wooden, metal, plastic or stone memorials or vases, statues or photographs within the Cemetery except within the concrete plinths and no such memorial vase statue or photograph is to extend over the concrete plinth area.

(4) No person shall plant trees, shrubs or plants in the Cemetery without the prior approval of the Council.

Division 9—General

7.9 Miscellaneous Requirements

7.9.1 Removal of Sand, Soil or Loam

(1) No person shall remove sand, soil or loam from any portion of the Cemetery without the prior written permission of the Council.

(2) No person shall place rubbish, soil or other debris upon any grave.

(3) All persons carrying out work within the cemetery shall comply with any direction given by an Authorized Officer.

(4) No person shall work within the Cemetery without the permission of the General Manager or a person authorized by the Council.

7.9.2 Conditions of Work

(a) A person carrying out work within a Cemetery shall not leave any uncompleted work in an untidy or unsafe condition.

(b) Any person who fails to comply with this Part or with the direction of an Authorized Officer may be ordered by an Authorized Officer to leave the Cemetery and if the person fails to comply with such order forthwith the officers or servants of the Council may expel such person from the Cemetery.

7.9.3 Vehicles

(1) A person shall not drive a vehicle—

(a) in the Cemetery at a speed exceeding 25 kilometres per hour;

(b) in the Cemetery in any manner likely to cause detriment to the safety of pedestrians or other users of the Cemetery;

(c) in the Cemetery other than on those roads directed by an Authorized Officer to be used;

(d) in the Cemetery other than in accordance with the directions of an Authorized Officer; or

(e) on any part of the Cemetery that is not a constructed roadway or parking area or designated by the Council as an area in which vehicles may be driven.

(2) A person shall not stand or park a vehicle on any part of the Cemetery—

(a) if the standing or parking of vehicles on that part is prohibited at all times by a sign; or

(b) so as to cause an obstruction to or impede the flow of traffic.

7.9.4 Animals

(1) Subject to paragraph (3), a person shall not bring an animal into or permit an animal to enter or remain in the Cemetery.

(2) Subject to paragraph (3) the Council or an Authorized Officer may seize and remove any animal found in the Cemetery.

(3) Paragraphs (1) and (2) 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.

7.9.5 Fireworks or Firearms

(1) A person shall not bring or discharge any fireworks within the Cemetery.

(2) A person shall not bring or discharge any firearms within the Cemetery except in the case of a military funeral when firearms may be brought into the Cemetery and discharged by members of the Defence Force.

(3) In this clause, "Defence Force" has the same meaning as is given to that expression in the Defence Act 1903.

7.9.6 Damaging and Removing Objects

(1) Subject to paragraph (2) 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 niche or memorial or which is the property of the Council without the permission of the Council.

(2) A person may remove withered flowers from a grave or niche or memorial.

(3) A person who removes withered flowers from a grave or niche or memorial shall place them in a receptacle provided by the Council for that purpose.

7.9.7 Advertising

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.

7.9.8 No Benefits or Gratuities

A person employed by the Council shall not accept any gratuities or receive any financial benefit from any work undertaken within the Cemetery other than the remuneration or benefit paid or given to that person by the Council.

7.9.9 Littering and Damage

A person shall not—

(a) break or cause to be broken any glass, ceramics 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.

7.9.10 Disruption of Funeral Processions

A person shall not obstruct, hinder or disrupt a funeral procession or ceremony within the Cemetery or commit a nuisance disrespectful of the feelings and welfare of other users of the Cemetery.

7.9.11 Entry

A person shall not enter or remain within the Cemetery other than during the hours between sunrise and sunset except when using any cycleway or with the approval of the Council or an Authorized Officer.

7.9.12 Swimming

A person shall not swim or wade in or remove fish or wildlife from lakes, tanks or other water features within the Cemetery.

7.9.13 Recording on Film or Videotape

(1) A person shall not, without the prior approval of the Council, record on film or videotape any image or sound within the Cemetery.

(2) A person shall not record on film or videotape a funeral or memorial within the Cemetery without the prior approval of the next of kin of the deceased person whose funeral or memorial is being recorded.

7.9.14 Camping

A person shall not camp in or upon the Cemetery.

7.9.15 Lighting Fires

A person shall not light a fire within the Cemetery without the prior approval of the Council.

7.9.16 Obeying Signs and Directions

A person shall obey all signs displayed, marked, placed or erected by the Council within the Cemetery and any other lawful direction of an Authorized Officer.

7.9.17 Removal from a Cemetery

(1) Any person failing to comply with any provision of this Part or behaving in a manner that in the opinion of the Council or one of its Authorized Officers is inappropriate or unbecoming in the Cemetery may in addition to any penalty provided by this Part be ordered by an Authorized Officer to leave the Cemetery.

(2) Any person failing to comply with an order to leave the Cemetery made pursuant to paragraph (1) may be expelled from the Cemetery and shall not re-enter the Cemetery for a period of twenty-four (24) hours.

Division 10—Offences and Modified Penalty

7.10 Breaches

7.10.1 Offence

A person who commits a breach of any provision of this Part 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 \$20.00 for every day or part of a day during which the offence is continued.

7.10.2 Modified Penalties

(1) A person who—

(a) receives an infringement notice pursuant to sub-section (1) of section 63 of the Cemeteries Act 1986; and

(b) does not contest an allegation that an offence was committed against this Part,

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 this Part shall be as specified by the Council from time to time.

(3) The prescribed form of the notice referred to in section 63 of the Cemeteries Act 1986 is as specified by the Council from time to time.

(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 Cemeteries Act 1986 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 this Part shall be in a form specified by the Council from time to time.

PART VIII—BLASTING, QUARRYING AND EXCAVATIONS

Division 1—Preliminary

8.1 Preliminary Provisions

8.1.1 Part VIII Definitions

In this Part unless the context otherwise requires—

“excavation” in its substantive sense includes a quarry and when used as a verb includes the activity of quarrying, and in a like manner the term refers to any other process or activity for removal of substances from the earth;

“excavation fund” means a fund established by the Council for the purpose of restoring and reinstating an excavation site.

“excavation licence” means a licence to carry on an extractive industry issued in accordance with this Part;

“excavation site” means a defined area of land upon which an extractive industry is, or is proposed to be, carried on;

“extractive industry” means an industry or process or any other activity whatsoever involving the quarrying, excavation or other removal whatsoever from its natural state in the earth of any material;

“material” means any stone, gravel, sand, clay, limestone, loam or any other substance of a like kind.

8.1.2 Terms and expressions used in this Part—

- (a) shall have the meanings given in subsection 8.1.1 which shall prevail over any other conflicting definition; and
- (b) otherwise shall be interpreted in accordance with section 2.1.

8.1.3 Application

The provisions of this Part do not apply to the carrying on of an extractive industry on Crown land.

Division 2—Licensing Provisions

8.2 Licensing

8.2.1 Excavation Licence Required

A person shall not, without an excavation licence first having been issued by the Council under this Part, carry on any extractive industry on any land within the District.

8.2.2 Blasting Permits

A Blasting Permit must be obtained from Council before any blasting is carried out on the excavation site.

8.2.3 An applicant for an excavation licence shall provide the Council with such additional information concerning the proposed excavation as the Council may reasonably require over and above the planning approval.

8.2.4 An application for an excavation licence must be accompanied by—

- (a) evidence that the applicant served notice by certified mail on—
 - (i) every owner or occupier of land within 500 metres from the boundaries of the excavation site; and
 - (ii) every authority or the person having control or jurisdiction over any power lines or telephone cables or poles, or pylons in respect thereof, public or private easements, sewers, pipelines, reserves, bridges, railway lines, dams, water-courses, drains or sumps within 500 metres from the boundaries of the excavation site.
- (b) evidence that the applicant advertised notice of the intended application in a newspaper circulating within the District on a date not less than 1 month or more than 2 months prior to the date upon which the application is lodged with the CEO; and
- (c) copies of all planning approvals required under any Town Planning Scheme with respect to the proposed carrying on of the extractive industry.

8.2.5 Discretion

The Council may in its discretion issue or refuse to issue a licence or issue a licence subject to such conditions as it thinks fit.

Division 3—Conditions

8.3 Conditions

8.3.1 Imposition of Conditions on Licence

Without limiting the generality of subsection 8.2.5, the Council may impose conditions on an excavation licence relating to any or all of the following: These will be over and above the planning conditions—

- (a) the hours during which excavation work may be carried out;
- (b) the hours during which blasting operations may be carried out;
- (c) the hours during which any processing plant associated with, or located on, the excavation site may be operated;
- (d) the depths below which a person shall not excavate;
- (e) distances from adjoining land or streets within which a person shall not excavate;
- (f) the safety of persons employed at the excavation site;
- (g) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated;
- (h) the drainage of the excavation site and the disposal of water therein;
- (i) the restoration and reinstatement of the excavation site;
- (j) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;

- (k) requiring the licensee to enter into an agreement with the Council in respect of any condition or conditions imposed;
- (l) distances from adjoining land or streets within which a person shall not excavate;
- (m) requiring the licensee to furnish to the Council a Surveyor's Certificate each year one month prior to the annual fee being payable to certify that material has not been excavated below the final contour levels outlined within the approved excavation programme; and
- (n) otherwise regulating the carrying on of an extractive industry.

8.3.2 Without limiting the generality of paragraph (k) of subsection 8.3.1 Council may, before granting any licence under these Local Laws, require the applicant to enter into an agreement for the payment to the Council of a sum of money, being the expense estimated by the Council as likely to be incurred by it, in repairing and maintaining roads under its control in the neighbourhood of the proposed excavation by reason of extraordinary damage, as a result of heavy or extraordinary traffic conducted by the licensee or any person acting on the licensee's behalf in the exercise of the licence, if granted; and any such agreement shall be deemed to have been entered into under the provisions of section 57(1) of the Road Traffic Act, 1974.

8.3.3 The due observance of any agreement entered into by the applicant pursuant to subsection 8.3.3 shall be a condition of the granting and holding of the licence.

8.3.4 In the event of disagreement between the applicant and the Council as to the amount of the expense estimated by the Council pursuant to these Local Laws, that disagreement shall be referred to the Minister whose decision shall be binding on both the applicant and the Council.

8.3.6 A person to whom a licence has been issued under this Part shall ensure that the provisions of these Local Laws and any conditions of such licence are observed at all times. If any provision of these Local Laws or any condition of a licence is not observed and complied with that person commits an offence against these Local Laws and in addition to any other penalty which might be imposed under these Local Laws, if the default continues for 14 days after the service on the licensee of written notice of the default the Council may by further written notice cancel the licence.

8.3.7 Default Under Agreement

Where an agreement has been made between the licensee and the Council in accordance with paragraph (k) of subsection 8.3.1, or subsection 8.3.3 and there is default in complying with any of the terms of the agreement which continues following the expiration of a period of 14 days from service upon the licensee of written notice from the Council of such default, the licensee commits an offence against these Local Laws and in addition to any other penalty which might be imposed under these Local Laws or any other order, the Council may by further written notice cancel the excavation licence of the defaulting licensee.

8.4 Form

An excavation licence issued under this Part shall be in accordance with the form (if any) prescribed by the Council for the purpose.

8.5 Transfer of Licence

A licence issued under this Part shall not be transferred to another person except with the written consent of the Council and such additional conditions as the Council may impose.

8.6 Every application to transfer a licence under section 8.13 shall be in writing in the form (if any) prescribed by the Council for the purpose and shall be signed by both the transferor and transferee, and shall be accompanied by a consent in writing to the application signed by the owner of the excavation site where the applicant is not the owner of the excavation site. Without limiting the discretion of the Council in that regard, the Council may refuse to transfer a licence to a person who has failed to comply with a condition of any excavation licence issued by the Council, or who has defaulted under an agreement with the Council relating to excavation.

8.7 Term of Licence

An excavation licence issued under this Part shall be valid for a term not exceeding 10 years from the date of issue as the Council at that date determines and may in the discretion of the Council be renewed thereafter by the Council for a further term or terms. Without limiting the discretion of the Council in that regard, the Council may refuse to renew a licence on the application of any person who has failed to comply with a condition of the licence, or who has defaulted under an agreement with the Council relating to excavation or breached a duty under section 8.11. The refusal of renewal shall not excuse the licensee from the obligation to comply with the conditions on the licence previously issued, or from compliance with the provisions of any agreement with the Council.

8.8 Cancellation

If a licensee fails to comply with any condition of an excavation licence or breaches a duty provided in section 8.11, the Council after giving reasonable notice, may cancel the licence.

8.9 No Compensation

The Council's refusal to transfer a licence under section 8.6, refusal to renew a licence under section 8.7, or cancellation of a licence under section 8.8 shall not give rise to any claim for compensation or damages.

8.10 Fees

The fees to be charged for an application for licence and for every renewal thereof and for an application to transfer a licence shall be prescribed by the Council from time to time. No licence is valid until the fees have been paid.

*Division 3—Duties of Licensee***8.11 Duties Of Licensee**

A licensee shall, subject to any condition imposed by the Council pursuant to this Part—

- (a) not remove any tree or shrub within 40 metres (or such lesser distance specified as a condition of the excavation licence) of the boundary of any road reserve on land in respect of which an excavation licence has been granted, except for the purpose of constructing access roads or erecting buildings for use in connection with the excavation and then only with the express approval of the Council;
- (b) securely fence the excavation and keep the gateways locked when not actually in use in order that unauthorized persons will not enter the excavation. Provide signage on the fence indicating danger, quarry site, every 100m;
- (c) drain and keep drained the excavation site in such a manner as to prevent the accumulation of water therein;
- (d) refrain from carrying out blasting operations in or about an excavation site on Christmas Day and Good Friday and except between the hours of 8.00 a.m. and 5.00 p.m. Mondays to Fridays (inclusive);
- (e) take all reasonable steps to prevent the emission of dust, noise and other forms of nuisance from the excavation site;
- (f) not excavate otherwise than in accordance with the terms of the application and accompanying site plans and excavation and management programmes approved by the Council;
- (g) restore, and reinstate the excavation site in accordance with the terms of the application and accompanying site plans and excavation and management programmes approved by the Council;
- (h) give the Council at least 7 days' written notice of his or her intention to temporarily cease operations for a period of 12 months or more or to cease operating under his or her licence permanently;
- (i) unless an exemption is given in writing by the Council, ensure that all crushing or other treatment plant is enclosed within suitable buildings or otherwise treated to reduce noise, dust and any other emissions whatsoever to the point where they do not cause nuisance or disturbance to the occupiers or users of any neighbouring properties;
- (j) comply with the safe working provisions of the Mines Regulations Act, 1946 and the safety rules for pits issued by the Council from time to time;
- (k) apply for a blasting permit for any blasting from Council.

8.12 Rehabilitation of Site

Upon the expiration or cancellation of an excavation licence or the sooner cessation of any excavation work, the licensee shall ensure that—

- (a) the excavation is restored and reinstated in accordance with proposals approved by the Council or in such manner as the Council shall subsequently agree with the licensee in writing;
- (b) any face permitted to remain upon the excavation site is left safe to the satisfaction of the Council's Director of Infrastructure Services, and with all loose materials removed therefrom, and the sides sloped to a batter of not more than 1:3;
- (c) the agreed floor level of the excavation site is graded to an even surface or otherwise in accordance with any excavation and rehabilitation programme approved by the Council; and
- (d) all dumps of stone, sand, or other material are so left that no portion of that stone or other material can escape onto land not owned or occupied by the licensee nor into any stream, water-course or drain that is not wholly situated within the land owned or occupied by the licensee.

8.13 Upon satisfactory restoration and reinstatement of the excavation site by the licensee the Council shall refund any moneys paid by the licensee into the excavation fund.

8.14 If the licensee does not carry out restoration and reinstatement of the excavation site at the licensee's own cost upon completion of the excavation or the expiration of the licence, the Council may—

- (a) apply money from the excavation fund to or towards the restoration and reinstatement of the excavation site;
- (b) forfeit the bond obtained from the licensee pursuant to section 8.9 and may apply the amount of the bond forfeited or so much of that amount as is required, towards the carrying out of such restoration and reinstatement work.

8.15 General Conditions

Subject to any condition imposed by the Council in accordance with this Part, a person shall not without the written approval of the Council—

- (a) excavate within 20 metres of a boundary of any land not the subject of an excavation licence held by, and not owned by, that person;
- (b) excavate within 20 metres of any land affected by a registered grant of easement or 40 metres of any water course; or
- (c) excavate within a distance of 40 metres of any road reserve.

PART IX—BUILDINGS*Division 1—Preliminary***9.1 Definitions**

9.1.1 In this Part, unless the context otherwise requires—

“commercial and industrial area”, “residential area” and “rural area” mean any areas which are zoned or set apart for those uses in the Zoning Scheme;

“dangerous”, relating to any fence, means a fence or part of a fence which is likely to collapse or fall by reason of its faulty design, location or construction, deterioration of materials, damage by termites, decay, changes in ground levels or any other 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;

“Dividing Fences Act” means the Dividing Fences Act, 1961;

“fence” means any fence or wall and includes a retaining wall;

“fill” when used as a verb means to place material on land for the purpose of raising the surface level of the land or to displace surface water or to replace excavated material; when used as a noun the term means the material used to fill land in the preceding sense and the derivatives have a corresponding meaning;

“fines” means sand or similar fine material capable of being compacted by mechanical means to a practically irreducible mass;

“sufficient fence” means a sufficient fence relating to dividing fences on boundaries between lots or other holdings and may be more particularly prescribed by the Council from time to time.

9.1.2 Terms and expressions used in this Part—

(a) shall have the meanings given in subsection 9.1.1 which shall prevail over any other conflicting definitions; and

(b) subject to paragraph (a) shall have the meanings given to them in the Dividing Fences Act, 1961 which shall prevail over any conflicting definition in subsection 2.1.1 or the Act; and

(c) subject to paragraphs (a) and (b) shall be interpreted in accordance with section 2.1.

*Division 2—Construction of Fences***9.2 Fence**

9.2.1 A person shall not erect a fence which is on the frontage or side of an allotment at the intersection of two streets and which exceeds the height of 750 millimetre for a distance of 6 metres from the intersection;

9.2.2 A fence on a side street shall be constructed for a distance from the corner of at least 6 metres along that street and shall be of design and materials similar to that of the fence along the frontage of the allotment;

9.2.3 In an industrial area a link mesh fence or other open type fence may be permitted of a greater height than 750 millimetres if the Council is satisfied that it does not materially affect the visibility of the intersection and its approaches in respect of the drivers of vehicles in either street.

9.3 Fence Material

A person may construct a fence of—

(a) brick, concrete, masonry, wrought iron, tubular steel, link mesh or timber sheeted with pickets, palings, boarding or fibro-cement sheeting or other materials approved by the Council;

(b) in rural areas, in addition to the foregoing materials, post and wire or post and rail and the minimum acceptable standard of this fence type shall be as prescribed by the Council from time to time.

9.4 Prohibited Fence Materials

A person shall not erect or affix or allow to remain upon any fence surrounding property owned or occupied by that person any barbed wire, broken glass or other wire with spiked or jagged projections—

(a) in a residential area;

(b) in a commercial or industrial area except barbed wire which is not less than 1.8 metres vertically above the level of the ground immediately thereunder; and

(c) in any other area, broken glass is not permitted on a fence situated on the alignment of a street or public place.

9.5 A person shall not cover any fence with previously used material unless the person shall have received the written consent of the Council, which consent the Council may, in its discretion, grant or refuse on such terms and conditions as it deems fit.

9.6 On any land on which there is standing a fence, wall, hedge, tree or like structure or thing that is so situated, in the opinion of the Council, as to constitute an obstruction of or interference with the vision by a person using the intersection of persons driving vehicles approaching, entering or passing through the intersection, the Council may require the owner or occupier of such land to take down or remove the fence, wall, hedge, tree or like structure or thing.

9.7 Sufficient Fence

A fence constructed to the specifications prescribed by the Council from time to time for fences in particular zones, localities or types of properties, shall be considered a sufficient fence for the purpose of the Dividing Fences Act for properties within such zones or localities, or of the relevant type.

9.8 If the owner or occupier of the land referred to in section 9.6 does not comply with the requirement referred to in that section, then the Council may do so at the expense of such owner or occupier and may recover the amount of the expense in a Court of competent jurisdiction.

Division 3—Maintenance of Fences

9.9 The owner or occupier of any land on which a fence referred to in subsections 9.2.1 and 9.2.2 is located shall keep such fence in good repair.

9.10 Where in the opinion of the Surveyor, any portion of a fence within 6 metres of the street alignment is in need of repair or of painting, the Surveyor may serve on the owner or occupier a notice to repair or to repair and paint or to paint such fence.

9.11 Any owner or occupier who refuses or neglects within a period of 14 days after the service of the notice prescribed in section 9.10 to carry out the repair or painting in accordance with the request, commits an offence under these Local Laws.

9.12 The cost of repairing and maintaining fences or portions of fences not within 6 metres of a street alignment shall be borne in accordance with the provisions of the Dividing Fences Act.

9.13 If the Surveyor certifies that a fence is dangerous and the Council makes an order to do so, the owner or occupier of any land on which a fence is located, shall at his or her own expense, take down, repair or rebuild such fence within the period stipulated but not exceeding 35 days.

9.14 The provisions of this Division are without prejudice to the Council's powers under sections 407 to 411 inclusive of the 1960 Act.

Division 4—Filling

9.15 A person shall not fill any land or cause any land to be filled except in accordance with these Local Laws.

9.16 Material used as fill shall be non-organic, and capable of freely passing through a 100 millimetre sieve opening, and shall contain sufficient fines to fill all voids greater than those occurring in undisturbed sand.

9.17 The top 600 millimetres of fill in any case shall be of clean sharp sand or loam which is free of clay or light plastic soil.

9.18 Fill shall be consolidated at 300 millimetre layers to the satisfaction of the surveyor or other Authorized Officer.

9.19 Before commencing to fill any land the owner of the land or a person on the owner's behalf shall make application to the Council for the final levels of the filled land and of the adjoining street to be fixed, and filling shall not commence until the final levels have been fixed to the satisfaction of the Council.

9.20 The fill placed on any land shall not be higher than a level nominated by the Council, and the levels shall be fixed so as to provide adequate surface run-off of all storm and other waters without detriment to adjoining properties.

Division 5—Applications to Build

9.21 Approval Required

A person shall not, without a licence issued by the Council under Part XV of the 1960 Act, commence to erect, proceed with the erection of, rebuild, reconstruct or alter—

- (a) any fence, hood, pergola or ornamental hood to gateways or attached to a fence exceeding 1.8 metres in height abutting on or within 6 metres of a street alignment;
- (b) any fence exceeding 1.8 metres in height on any boundary line;
- (c) a retaining wall.

9.22 Specifications

Every application for a licence pursuant to section 9.21 shall be in writing and shall be accompanied by—

- (a) two copies of the plan and specification of the proposed fence or retaining wall proposed to be built, rebuilt, reconstructed or altered;
- (b) in the case of a retaining wall, when required by the Surveyor, engineering calculations in respect of retaining walls exceeding 600 millimetres in height.

9.23 Dealing with Applications

The Council shall deal with an application for a licence made in accordance with section 9.21 in all respects in the manner provided for dealing with building licence applications in s.374 of the 1960 Act. A licence issued pursuant to the provisions of that section shall be treated for all purposes of the Act as a building licence and all of the obligations of the owner, the builder and the Council in respect of a building licence under Part XV of the 1960 Act shall apply in respect of the licence referred to in this Division.

PART X—VACANT**PART XI—DANGEROUS AND OFFENSIVE THINGS****11.1 Old Refrigerators**

A person shall not place in, or about any rubbish depot, tip, sanitary depot, dump, public reserve, public place, or unfenced vacant land, any refrigerator, ice chest, ice box, furniture, trunk or other thing, that has in it a compartment of a capacity of 0.04 cubic metres or more, unless, before so placing it, he or she removes from the compartment every door, lid, lock and hinge thereof or otherwise renders such door or lid incapable of being fastened.

11.2 Old Vehicles and Machinery

A person shall not on any land—

- (a) store, dismantle or break up a disused motor vehicle, an old motor vehicle body, or any old or disused machinery unless inside a building or within an area enclosed by a fence, a wall, trees or shrubs, not less than 1.8 metres in height and of such a nature as to screen all things stored, dismantled or broken up thereon and the parts thereof from any adjacent street and from any adjoining property;
- (b) dispose of, abandon or leave for more than 48 hours continuously any substantial part of a disused motor vehicle, an old motor vehicle body, or a motor vehicle wreck, or any old machinery or appliance except at a public place set aside or approved of by the Council for that purpose or on land where such a use is lawful under all written laws relating to land use; or
- (c) stand, park or leave the body of a motor vehicle, any substantial part of a disused motor vehicle, an old motor vehicle, or a motor vehicle on or in a road otherwise than in accordance with Parts XV and XVI hereof.

11.3 Nuisance

A person shall not—

- (a) engage in any undertaking or activity or conduct any business in such a manner as to cause or permit the emission of dust, fumes, light, liquid waste, noise, odour, smoke or vibrations; or
- (b) do any other thing

so as to create a nuisance.

11.4 Disused Material

In accordance with the Act, if there is—

- (a) on any vacant land within the District any trees, scrub, undergrowth and rubbish; or
- (b) on any land within the District any refuse, rubbish or disused material whether of the same kind, or a different kind from that here specified, which in the opinion of the Council is likely to affect adversely the value of adjoining property or the health, comfort or convenience of the inhabitants thereof,

the Council may cause a notice under the hand of the CEO to be served on the owner or occupier of such land requiring that person, within the time specified in such notice to clear the land of such trees, scrub, undergrowth and rubbish, or remove such refuse, rubbish or disused material from such land.

11.5 Every owner or occupier of land upon whom a notice is served under section 11.4 shall comply with such notice within the time therein specified or in that time give satisfactory reason why the notice should not be complied with or why extra time should be given to comply. Any owner or occupier of land who fails to comply with the terms of the notice so served or the notice as varied, commits an offence.

11.6 Where the owner or occupier does not clear the land of such trees, scrub, undergrowth and rubbish, or remove such refuse, rubbish or disused materials as required by the notice given by the Council, the Council is authorized without payment of any compensation in respect thereof to remove it and dispose of it at the expense of, and recover in a Court of competent jurisdiction the amount of the expenses from, the owner or occupier to whom the notice was given.

11.7 Any person who commits an offence under section 11.5 is liable upon conviction to the penalty set out in Part XX.

11.8 Any person who continues to fail to comply with the notice served under section 11.4 after conviction of an offence under section 11.5 in respect of a failure to comply with that notice commits a further offence and is liable to the daily penalty set out in Part XX for every day or part of a day during which the offence continues.

PART XII—HAWKERS, STALLHOLDERS AND STREET TRADERS*Division 1—Preliminary*

12.1 In this Part, unless the context otherwise requires—

“hawker” means a salesman, vendor, pedlar or other person who, with or without any vehicle, travels and trades and goes from place to place or to other persons’ houses soliciting orders for or carrying to sell or exposing for sale any goods, wares or merchandise, but does not include—

- (a) commercial travellers or other persons selling or seeking orders for goods, wares, or merchandise to or from persons who are dealers therein, or selling or seeking orders for books or newspapers;
- (b) sellers of vegetables, fish, fruit, newspapers, brooms, matches, game, poultry, butter, eggs, milk, or any victuals;

- (c) persons selling or exposing for sale goods, wares, or merchandise in any public market or fair lawfully established, or upon any racecourse, agricultural showground, or public recreation ground;
- (d) sellers of goods of their own manufacture; or
- (e) persons representing a manufacturer whose goods are sold direct to consumers only and not through the medium of a shop;

“stall” means a moveable or temporarily fixed structure, stand or table in, on or from which goods, wares, merchandise or services are sold, hired or offered for sale or hire;

“stallholder” means a person in charge of a stall;

“trading” means selling or hiring of goods, wares, merchandise or services, or offering goods, wares, merchandise or services for sale or hire, in a street 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 transaction therein, but does not include the setting up of a stall, or the conducting of business at a stall, under the authority of a licence issued under these Local Laws.

Division 2—Licences

12.2 Hawkers

A person shall not, without a licence granted by the Council under this Part hawk any goods, wares or merchandise within the District.

12.3 Application (Hawkers)

Every application for a hawker’s licence shall be in the form prescribed by the Council for the purpose and shall specify—

- (a) the full name and address of the applicant who seeks the licence;
- (b) the kind of goods, wares or merchandise which the applicant requires to hawk;
- (c) the type of vehicle, conveyance or means of carriage to be employed in hawking;
- (d) the period for which the licence is required; and
- (e) where the licence is required for a part of the District, the part of the District to which it will apply.

12.4 Every application for a hawker’s licence (other than a renewal) must be accompanied by a Certificate signed by two Justices of the Peace certifying that the applicant is of good character and reputation, and is a fit person to exercise the trade of a hawker.

12.5 Stallholders

A person shall not conduct a stall for the sale of goods, wares or merchandise within the District unless that person holds a current licence issued pursuant to these Local Laws except where such goods are the produce of the property of that stallholder. Should the stallholder be the owner or lessee of more than one lot within the District, that person may sell produce grown on those other lots through the stall permitted under this section provided that the property upon which the stall is located exceeds 4,000 square metres in area.

12.6 Applications (Stallholders)

Every application for a stallholder’s licence shall be in the form prescribed by the Council for the purpose and shall specify—

- (a) the full name and address of the applicant who seeks the licence;
- (b) the kinds of goods, wares or merchandise which the applicant desires to sell;
- (c) the location of the stall; and
- (d) the period for which the licence is required.

12.7 Traders

A person shall not carry on trading in any street or public place unless that person is the holder of a valid licence or is an assistant specified in a valid licence.

12.8 Application (Traders)

Every application for a trader’s licence shall be in the form provided by the Council for the purpose and shall specify—

- (a) the full name and address of the applicant;
- (b) the proposed number and the names and addresses of assistants to be engaged by the applicant in trading pursuant to the licence;
- (c) the location for which the licence is sought;
- (d) be accompanied by an accurate plan and description of any proposed stand, table, structure or vehicle which may be used for trading;
- (e) the proposed days and hours of trading; and
- (f) the proposed goods, wares, merchandise or services in respect of which trading will be carried on.

12.9 Selling Of Newspapers

The requirement for a valid trading licence to be held shall not apply to the selling or offering for sale of newspapers.

12.10 Discretion

The Council may in its discretion under this Division grant a licence or refuse to grant a licence or grant a licence subject to such conditions as it thinks fit and for a period of 12 months or less but for not less than 1 month.

12.11 The Council may refuse to issue a licence and may cancel a licence if the applicant or licensee—

- (a) has been twice convicted during the preceding 5 years, or is twice convicted in the space of 5 years of an offence against the Local Laws of any Local government relating to Hawkers, Stallholders and Traders; or
- (b) does not conform with the requirements of the Health Act, 1911.

12.12 The Council may refuse to issue a licence if in its opinion 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.

12.13 Conditions

Where a licence has been granted by the Council under this Part subject to conditions, the person to whom the licence has been granted shall ensure that the conditions are observed at all times. If any condition is not observed that person commits an offence against these Local Laws and the Council additionally or in the alternative to any Court action it undertakes in respect of such offence may exercise the power in section 12.21 to cancel the licence.

12.14 Licence Certificate

The Council shall issue to every licensee a licence certificate in the form provided or prescribed by the Council for the purpose for which the licensee shall pay the fee prescribed by the Council from time to time which shall be displayed by the licensee hawking, conducting a stall or trading as the case may be and while that person is the holder of a hawkers, stallholders or traders licence under this Part but not otherwise.

12.15 Transfer of Licence

The holder of a licence issued under this Part may apply to the Council to transfer the licence in the form provided or prescribed by the Council for the purpose and the Council shall determine the application for transfer upon consideration of the matters set out in sections 12.11 and 12.12 to the extent that they are applicable.

12.16 Length of Licence

A licence under this Part shall be valid until the 30th day of June next after it is granted or such lesser period as specified in the licence except where the licence is granted in the months of May or June when it shall extend to the 30th day of June in the year next following or such lesser period as specified.

12.17 Annual Renewal

Every application for the renewal of a licence for twelve (12) months shall be made annually during the month of June and every application for renewal of a licence for a period of less than 12 months shall be made 2 weeks prior to the expiration date and shall be in writing accompanied by the licence then in force.

12.18 Fees

The fees to be charged for an application for registration and for every renewal thereof and for an application to transfer a registration shall be those prescribed by the Council from time to time. No licence is valid until the fees have been paid.

12.19 Exemption

12.19.1 Notwithstanding section 12.18 the Council may grant without fee, a licence to conduct a stall in any street or way or on any land for any period specified in such licence if the stall or trading is conducted by a community association within the meaning of the 1995 Act or if not defined therein, within the meaning of section 242 of the 1960 Act or if the trading is carried on in a portion of a street or public place adjoining the normal place of business of the licence holder.

12.19.2 A licence granted to a hawker or trader is valid for the hawking or trading of the goods, wares, merchandise or services therein described only, and in the case of a licence limited to a part of the District, is valid for that part of the District only.

12.20 Cancellation

The Council may by written notice cancel any licence issued under this Part for any of the reasons set out in section 12.11 or on the grounds—

- (a) that the licensee is not conducting the business the subject of the licence in a respectable or sober manner;
- (b) that the licensee has assigned the licence or no longer carries on the business the subject of the licence;
- (c) that the licensee is not regularly carrying on the business for which the licence was granted; or
- (d) that the licensee has breached a condition of the licence.

12.21 Upon cancellation of a licence the holder thereof shall forthwith return the licence certificate issued pursuant to section 12.14 to the CEO and shall forfeit fees paid in respect of the licence.

Division 3—Conduct

12.22 A hawker while hawking, a stallholder while conducting a stall or a person carrying out trading shall—

- (a) display the licence certificate in a conspicuous place on the vehicle or temporary structure (in the case of a hawker or trader) or on the stall (in the case of a stallholder);
- (b) have the name of the trader (or his or her assistant where appropriate), hawker or stallholder displayed on the vehicle or stall;
- (c) when selling goods, wares or merchandise by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the Weights and Measures Act, 1915; and
- (d) in the case of a stallholder, maintain the stall in good order and condition.

12.23 A hawker, stallkeeper or trader shall not—

- (a) hawk, conduct a stall or carry on trading between the hours of sunset and sunrise the next day, or on any Sunday, Christmas Day or Good Friday without obtaining the written consent of the Council;
- (b) attempt to conduct business within a distance of 200 metres of any shop or permanent place of business that has for sale any goods, wares, merchandise or services of the kind being hawked or offered for sale by the stallholder or trader;
- (c) call the licensee's wares or cause or make any outcry noise or disturbance likely to be a nuisance or cause annoyance to any person in that vicinity;
- (d) deposit or store any box or basket containing goods, wares or merchandise under the vehicle of the licensee or upon the roadway or footpath;
- (e) obstruct the free passage of pedestrians or vehicles on any footpath or roadway;
- (f) act in an offensive manner; or
- (g) in the case of a stallholder, conduct a stall on private property unless there is adequate provision on the private property adjacent to the stall for the parking of customers' vehicles.

12.24 A person shall not display a licence certificate without being the holder of a valid licence under this Part.

PART XIII—EATING AREAS IN STREETS AND OTHER PUBLIC PLACES*Division 1—Preliminary***13.1 Definitions**

13.1.1 In this Part, unless the context otherwise requires—

“eating area” means an area in which tables, chairs and other structures are provided for the purpose of the supply of food or drink to the public or the consumption of food or drink by the public;

“eating house” has the meaning given to it in and for the purposes of the Health Act 1911;

“Health Act” means the Health Act 1911 and all written laws made under the authority of that Act;

“licence” means a licence issued by the Council under these Local Laws to establish and conduct an eating area;

“licence plan” means a plan attached to and forming part of a licence depicting those areas of a street or public place within which an eating area may be established and conducted;

“proprietor”—

- (a) has the same meaning given to it in and for the purposes of Division 3 of Part V of the Health Act 1911 where the premises in question are registered as an eating house under the Act; or
- (b) means the holder of a licence granted under the Liquor Licensing Act 1988 where the premises in question are the subject of an hotel licence, a limited hotel licence or a restaurant licence granted under that Act;

“public facility” means any structure, item or fitting whether in a street or public place that is the property of or has been provided by a Government Department, instrumentality of the Crown or the Council.

13.1.2 Except where—

- (a) express provision is made to the contrary; or
- (b) the context requires otherwise,

words and expressions used in this Part have the same meanings as are given to them in the Act and the Health Act.

13.2 Application

These Local Laws—

- (a) apply and have force and effect throughout the whole of the district; but
- (b) do not apply to any eating area set up or conducted in or on a place which is on private property notwithstanding that the public are allowed to use that place.

13.3 Prohibition

A person shall not establish or conduct an eating area in a street or public place—

- (a) other than in a portion of a street or public place adjoining an eating house;

- (b) unless the person is the proprietor of the eating house referred to in paragraph (a);
- (c) unless the person is the holder of a valid and current licence issued under these Local Laws; and
- (d) otherwise than in accordance with the licence plan and any terms and conditions set out in, or applying in respect of the licence.

13.4 Applications for Licence

The proprietor of an eating house seeking the issue of a licence to establish and conduct an eating area in a street or public place shall make application in the form provided or prescribed by the Council for the purpose and forward the application to the Chief Executive Officer together with—

- (a) the fee and the charge prescribed by the Council from time to time;
- (b) two copies of a plan and specifications of the proposed eating area on a scale of 1:50 showing—
 - (1) the location and dimensions of the proposed eating area and the means by which the eating area is to be separated from the balance of the street or public place; and
 - (2) the position of all tables, chairs and other structures proposed to be provided in the eating area and which of such items, if any, are to be retained within the eating area at all times;
- (c) a colour photograph or photographs, or colour brochures of the tables, chairs and other structures to be set up in the eating area;
- (d) a written statement of the manner in which foodstuffs and other dining accessories are to be conveyed to, and protected from contamination within, the eating area;
- (e) written particulars of arrangements made in respect of public liability insurance of not less than \$10,000,000.00; and
- (f) any other information that the Council considers necessary in the circumstances of the case.

13.5 Determination of Application

13.5.1 The Council may refuse to consider an application for a licence which does not comply with the requirements of section 13.4.

13.5.2 The Council may in respect of an application for a licence—

- (a) refuse the application; or
- (b) approve the application on such terms and conditions, if any, as it sees fit.

13.5.3 Where the Council approves an application for a licence, it shall—

- (a) issue a licence in the form prescribed by the Council for the purpose; and
- (b) cause to be attached to the licence a licence plan showing the area of a street or public place within which the eating area may be set up and conducted.

13.5.4 For the purposes of these Local Laws, a licence plan attached to a licence shall be deemed to form part of that licence.

13.5.5 A licence issued by the Council under these Local Laws is valid until the 30th of June of each year of issue unless it is sooner cancelled under these Local Laws.

13.6 Variation of Licence Conditions

A licensee may apply in writing to the Council to vary or remove any of the terms and conditions of the licence.

13.7 Renewal of Licence

13.7.1 A licensee may apply in writing to the Council by the 1st of July in each year for the renewal of the licence and shall submit with the application for renewal—

- (a) the fee and the charge prescribed by the Council from time to time; and
- (b) written confirmation that the public liability insurance required under section 13.4(e) has been or will be effected for the renewal period.

13.7.2 Upon receipt of an application for the renewal of a licence, the Council, subject to subsection 13.7.3, may—

- (a) refuse the application; or
- (b) approve the application on such terms and conditions, if any, as it sees fit.

13.7.3 If an application for the renewal of a licence is not received by the Council by the 1st of July in the year prior to which the licence has been sought, the Council may refuse to consider the application.

13.8 Transfer of Licence

13.8.1 An application for the transfer of a licence shall—

- (a) be made in writing;
- (b) be signed by the Licensee and the proposed transferee of the licence;
- (c) include any information that the Council may require to enable the application to be determined; and
- (d) be forwarded to the CEO together with the fee prescribed by the Council from time to time.

13.8.2 Upon receipt of an application for the transfer of a licence, the Council may—

- (a) refuse the application; or
- (b) approve the application on such terms and conditions, if any, as it sees fit.

13.8.3 Where the Council approves the application for transfer of a licence, the Council shall transfer the licence by—

- (a) an endorsement on the licence to that effect signed by the Chief Executive Officer; and
- (b) the issue of its consent prescribed by the Council for the purpose.

13.8.4 Where the Council approves the transfer of a licence it shall not be required to refund any part of the fee or charge paid by the former licensee.

13.9 Cancellation of Licence

13.9.1 The Council may cancel a licence where the licensee has—

- (a) been convicted of an offence against—
 - (i) these Local Laws
 - (ii) the Health Act; or
 - (iii) any other law relating to the setting up or conducting of eating areas; or
- (b) transferred or assigned or attempted to transfer or assign the licence without the consent of the Council.

13.9.2 Where the Council cancels a licence under this section—

- (a) the Council shall advise the licensee in writing of the cancellation;
- (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice; and
- (c) the Council shall not be required to refund any part of the fee or charge paid by the licensee in respect of the cancelled licence.

13.10 Obligations of the Proprietor

13.10.1 A proprietor shall—

- (a) ensure that the eating area is conducted at all times in accordance with the provisions of these Local Laws;
- (b) ensure that the eating area is kept in a clean and tidy condition at all times;
- (c) maintain the chairs, tables and other structures set up in the eating area in good and serviceable condition at all times;
- (d) comply with all relevant Health Legislation prescribed in the Health Act and associated regulations and Local Laws; and
- (e) display the licence in a conspicuous place in the adjoining eating house and whenever requested by an Environmental Health Officer to do so shall produce to him or her the licence.

13.10.2 Whenever, in the opinion of the Council, any work is required to be carried out as a result of the setting or conduct of an eating area, the Council may give notice to the proprietor of that eating area to carry out that work within the time limited by the notice.

13.10.3 A proprietor who neglects or refuses to comply with a notice given under subsection 13.10.2 commits an offence.

13.10.4 Where a proprietor neglects or refuses to comply with a notice given under these Local Laws, the Council may do the work required by that notice to be done and recover from the proprietor, in a court of competent jurisdiction, the expense incurred by it in so doing.

13.10.5 In this Part, “work” includes the removal, alteration, repair, reinstatement or construction of a street or footpath or any part of a street or footpath arising from or in connection with the setting up or conduct of an eating area.

13.11 Delegation

The Council may—

- (a) pursuant to section 5.42 of the Act delegate to the CEO any power or duty under this Part which could be considered a power or duty conferred on the Council under the Act; and
- (b) delegate to any employee of the Council any other power or duty conferred on the Council under this Part.

PART XIV—SIGNS, HOARDINGS, BILL POSTING

Division 1—Preliminary

14.1 Definitions

14.1.1 In this Part, unless the context otherwise requires—

“advertising device” means an object on which words, numbers or figures are written, placed, affixed or painted for the purpose of advertising any business, function, operation, event, undertaking, product or thing and includes an airborne device anchored to land and a vehicle or trailer or other similar object and a sandwich board or other thing carried by a person;

“bill posting” means the posting or sticking of a bill or painting, stencilling or affixing an advertisement on a building, structure, fence, wall, hoarding, sign post, pole, blind or awning, so as to be visible to a person in a street, public place, private property, reserve or other land; and to “post a bill” has a corresponding meaning;

“development sign” means a sign erected on land which has been approved for subdivision into a number of smaller lots, advertising the lots for sale but upon which no building development has taken place at the time of approval of the sign.

- “direction sign” means a sign erected in a street or public place to indicate the direction to another place but does not include a sign erected or affixed by the Council or the Commissioner of Main Roads or a road direction sign erected or affixed by a duly incorporated association or union of motorists authorised in that regard by the Minister for the time being administering the Road Traffic Act 1974;
- “display home sign” means a sign erected on a lot on which a house is erected and which notifies members of the public that the house is open for inspection;
- “electoral advertisement” includes an advertisement relating to an election or a prospective or forthcoming election of the Parliament of Australia or of the State or either House thereof respectively or to a Local Government election and to a referendum;
- “electoral sign” means a sign containing an electoral advertisement;
- “fly posting” means advertising by means of posters placed on fences, walls, trees, rocks or other like places and to “fly post” has a corresponding meaning;
- “hoarding” means a detached or detachable structure other than a pylon sign, that is erected for the sole purpose of displaying a sign or signs and includes a poster panel, a wall panel or an illuminated panel but does not include a hoarding erected as a barrier or screen on a building site;
- “horizontal sign” means a sign fixed parallel to the wall of a building to which it is attached and with its largest dimension horizontal;
- “illuminated panel” means a posted or painted advertisement externally illuminated by artificial source of light;
- “illuminated sign” means a sign that is so arranged as to be capable of being lit either from within or outside the sign by artificial light provided, or mainly provided, for that purpose;
- “information panel” means a panel used for displaying Government and Local government notices, functional and dated announcements of a religious, educational, cultural, recreational or similar character, general information for the benefit of the public and travellers and general commercial advertising;
- “institutional sign” means a sign erected or placed on land or a building used for or in connection with a surgery, clinic, hospital, rest home, home for the aged, or other institution or place of a similar nature;
- “projection sign” means a sign that is made by the projection of light on a wall or similar structure;
- “pylon sign” means a sign supported by one or more piers and not attached to a building and includes a detached sign framework supported on one or more piers to which sign infills can be added;
- “residential area” means an area that has been designated as a residential zone under a town planning scheme having effect within the District;
- “roof sign” means a sign erected on or attached to the roof of a building;
- “rural producers’ sign” means a sign erected on land lawfully used for rural purposes which advertises goods or products produced, grown or lawfully manufactured on the land within the boundaries of which the sign is located;
- “sale sign” means a sign indicating that the premises whereon it is affixed are for sale, for letting or to be auctioned;
- “semaphore sign” means a sign affixed to a building or wall and supported at, or by, one of its ends only;
- “sign” includes an advertising device, a sign-board, a portable sign or a bunting sign and a clock, other than a clock which is built into a wall and does not project beyond the face of the wall but does not include flags and bunting which carry no written message;
- “sign infill” means a panel which can be fitted into a pylon sign framework;
- “tower sign” means a sign affixed to, or placed on a chimney stack or an open structural mast or tower;
- “vehicle” has the meaning given to it and for the purposes of the Road Traffic Act 1974;
- “verandah” includes cantilever awnings, cantilever verandahs and balconies whether over public streets and ways or over private land;
- “verandah sign” includes a sign above a verandah fascia, a sign on a verandah fascia and a sign under a verandah;
- “vertical sign” means a sign attached to a building in which the vertical dimension exceeds the horizontal dimension exclusive of a back projection;
- “wall panel” means a panel used for displaying a posted or painted advertisement and affixed to or adjoining the wall of business premises or erected on the forecourt of any business premises.
- 14.1.2 Terms and expressions used in this Part—
- (a) shall have the meaning given in subsection 14.1.1 which shall prevail over any other conflicting definition;
 - (b) subject to paragraph (a) shall be interpreted in accordance with section 2.1.

Division 2—Licences

14.2 Licences

14.2.1 A person shall not erect, maintain or display a sign or hoarding and the owner or occupier of premises shall not suffer or permit a sign or hoarding to remain, in on or above, or within a distance of 100 metres of a street, way, footpath or other public place, or in the case of an airborne device, to be anchored from land, except pursuant to a licence issued under these Local Laws, unless it is exempt under section 14.3.

14.2.2 Every licence shall be granted and shall subsist subject only to the provisions of these Local Laws.

14.2.3 Notwithstanding that a sign or hoarding would otherwise comply with the provisions of this Part, the Council may refuse a licence if in its opinion—

- (a) the addition of the sign or hoarding would increase the number or variety of signs in the locality so as to become too numerous or various; or
- (b) the licence should be refused having regard to—
 - (i) the safety, free passage of traffic or the carrying out of authorised works in a street, way, footpath or public place;
 - (ii) the suitability or otherwise of the sign or hoarding to the locality; and
 - (iii) the question whether the sign or hoarding would be injurious to the amenity or natural beauty or safety of the area.

14.2.4 A licence shall be issued upon payment of the fee prescribed by the Council from time to time for a sign or hoarding of the kind applied for, but the payment of a licence fee pursuant to any local laws that were in operation prior to the coming into operation of these Local Laws is deemed to be a payment for the purposes of this section.

14.3 Exemptions

14.3.1 The following are exempt from the requirements of section 14.2—

- (a) a sign erected or maintained pursuant to and under authority of a written law;
- (b) a sale sign not exceeding 1.0 square metres in area;
- (c) a plate not exceeding 0.2 square metres in area erected or affixed on the street alignment or between that alignment and the building line to indicate the name and occupation or profession of the occupier of the premises;
- (d) a direction sign;
- (e) a sign used solely for the direction and control of people, animals or vehicles or to indicate the name or street number of a premises, if the area of the sign does not exceed 0.2 square metres;
- (f) an advertisement affixed to or painted on a shop window by the occupier thereof and relating to the business carried on therein;
- (g) a sign within a building unless—
 - (i) it is clearly visible from a public place outside the building; or
 - (ii) it is exempted under any other paragraph of this subsection;
- (h) a sign not larger than 1.0 square metre on an advertising pillar or panel approved by or with the consent of the Council for the purpose of displaying public notices for information;
- (i) a building name sign on residential flats or home units where it is of a single line of letters not exceeding 300 millimetres in height fixed to the facade of a building;
- (j) a newspaper poster;
- (k) an institutional sign which is the only sign on the lot on which it is erected notwithstanding the provisions of section 14.14;
- (l) a rural producers sign which is the only sign on the lot on which it is erected.
- (m) a sign erected by the Council, or with the approval of Council, on land under the care, control and management of the Council, where the sign is not otherwise subject to provisions of this Local Law.

14.4 Transfer Of Licence

14.4.1 A licence issued under this Part shall not be transferred to another person except with the written consent of the Council;

14.4.2 Every application to transfer a licence under subsection 14.4.1 shall be in writing in the form prescribed and shall be signed by both the transferor and transferee.

14.5 Revocation of Licences

The Council may, without derogation of any penalty to which a person may be liable, by notice in writing revoke a licence—

- (a) where anything purporting to be done pursuant to the licence issued under this Part is not done in conformity with the licence or with this Part or the sign or hoarding or the message displayed thereon is so altered that, in the opinion of the Council, it is objectionable or in its altered form would have been refused a licence on the application of the provisions of subsection 14.2.3;
- (b) where the licensee is convicted of an offence against this Part of these Local Laws in respect of a sign or hoarding the subject of that licence.

14.6 Inspection of Licences

14.6.1 A licensee shall, on demand by a person authorised in writing by the Council produce the licence for inspection.

14.6.2 Every licensed sign or hoarding shall bear on its face in clearly legible figures the number of the licence under which it is erected or displayed.

14.7 Application for Licences

14.7.1 An application for a licence under this Part of these Local Laws shall be made in the form of application prescribed or provided by the Council for that purpose.

14.7.2 An application for the first issue of a licence in respect of a sign or hoarding shall be accompanied by a plan drawn to a scale of not less than 1—50 showing the size, position, design and inscription to appear thereon, the method of construction and fixing of the sign or hoarding for which the licence is sought and any other information the Council or the Surveyor requires.

14.7.3 An application for the first issue of a licence in respect of a roof sign or a pylon sign shall be accompanied by a certificate from an Architect or Structural Engineer certifying that the building or structure upon which it is proposed to erect the sign is in all respects of sufficient strength to support the sign, under all conditions, and that the sign is itself of structurally sound design.

14.7.4 If so required by the Council an applicant for a licence in respect of an illuminated sign shall produce to the Council a written consent to the erection of the sign, signed by or on behalf of the person or body having for the time being the management of traffic control lights within the District.

14.7.5 Every applicant for a licence shall furnish in writing such further particulars as are required by the Surveyor or other officer for the time being administering this Part of these Local Laws.

14.7.6 A licence shall be issued in the form prescribed or provided by the Council for the purpose.

14.7.7 The Surveyor may issue a licence or permit under this Part of these Local Laws except where it is provided otherwise. In any case where the Surveyor exercises the power of the Council to issue a licence or permit, the relevant reference in this Part to the Council in relation to the exercise of any power or discretion shall be deemed to be a reference to the Surveyor.

14.7.8 Subject to section 14.5 and except where otherwise stated in this Part a licence remains valid until—

- (a) the sign or hoarding is removed;
- (b) change is made in the message of the sign or its illumination which is so significant as to amount to a different sign than that in respect of which the licence was issued; or
- (c) an alteration is made to the structure or area of the sign or hoarding in respect of which the licence was issued,

in any of which events an application must first be made and a new licence issued before the sign or hoarding can be re-erected, changed or altered as the case may be, or a new sign or hoarding erected.

14.8 Special Permits

14.8.1 Notwithstanding anything contained in these Local Laws the Council may, by permit, allow the display or distribution of advertisements at churches, theatres and other places of public entertainment; or at any place the display or distribution of election notices, advertisements of meetings or other matters of public interest, upon the terms or conditions and for the period the Council in each case decides.

14.8.2 The terms and conditions imposed by the Council and the period of the permit shall be specified in the permit.

14.8.3 The Council may at any time revoke a permit granted pursuant to subsection 14.8.1 without assigning a reason.

14.8.4 Upon the expiration or revocation of a permit issued under subsection 14.8.1 the person to whom it was issued shall forthwith remove any advertisement to which it relates and failure to remove the advertisement is an offence.

Division 3—Restrictions

14.9 General

14.9.1 Restrictions

A person shall not erect or maintain a sign or hoarding or suffer or permit a sign or hoarding to be or remain on any land or building—

- (a) so as to obstruct a person's view from a street or public place of traffic in a street or public place;
- (b) so as to be likely to be confused with or mistaken for an official traffic light or sign or so as to contravene the Road Traffic Act 1974 or the regulations made thereunder;
- (c) except with the specific approval in writing of the Council on an ornamental tower, spire, dome or similar architectural feature or on a lift machinery room, bulkhead over stairs, or other superstructure over the main roof of a building;
- (d) subject to section 14.3 and paragraph (a) of subsection 14.2.1 on land that is zoned by a Town Planning Scheme or Local Laws for the time being in force for residential purposes other than land so zoned that is lawfully used for a purpose other than residential purposes unless permitted under section 14.8;
- (e) on a building the stability of which is, in the opinion of the Surveyor, likely to be affected by the sign or hoarding;
- (f) as a movable or portable sign in a street or public place, unaffixed to a building;
- (g) on a light or power pole without the approval of the relevant authority responsible for the erection or maintenance of that pole;
- (h) in a position where it obstructs or obscures a person's view from a dwelling of a river, the sea or any other natural feature of beauty or interest; or
- (i) if the sign is an advertising device and is erected or proposed to be erected in a position where, in the opinion of the Council, it would be injurious to the amenity or natural beauty of the area in which the sign is erected or proposed to be erected, or would be unsuitable to the locality.

14.9.2 No bill, placard or advertisement shall be attached to, or posted, painted or stencilled by any person on any sign, hoarding, wall, building or structure, whether erected upon land which is private property or a public place unless—

- (a) such bill, placard or advertisement is in the opinion of the Council reasonably related to the principal lawful use carried out on such land; and
- (b) any trade, business or product name or trademark on or in any such bill, placard or advertisement is in the opinion of the Council necessary for the purposes of communicating the principal lawful use carried out on such land.

14.9.3 No person shall permit or suffer the doing of anything contrary to the provisions of paragraphs (a) and (b) of subsection 14.9.5.

14.9.4 Paragraphs (a) and (b) of subsection 14.9.5 do not apply to any bill, placard or advertisement which states the name and/or trade, business or profession of the occupier of such land where such trade, business or profession is the principal lawful use carried out on the land and does not contain any other information, including any other trade, business or product name or trademark.

14.9.5 Inscriptions on Signs

Except in the case of a hoarding or direction sign, a sign generally shall only display one or more of the following—

- (a) the name of one or more of the occupiers of the premises to which it is affixed;
- (b) details of the business or businesses carried on in the premises;
- (c) details of the goods sold in the premises; and
- (d) any other matter approved by the Council.

14.9.6 Existing Signs and Hoardings

Subject to sections 14.4 and 14.5, a licence issued under any previous Local Laws in force in the District is deemed to have been issued pursuant to these Local Laws.

14.9.7 Fixing of Signs

A sign shall be securely fixed to the structure by which it is supported, to the satisfaction of the Surveyor, and shall be maintained in a safe condition.

14.9.8 Headroom

Every sign shall, unless otherwise permitted by the Surveyor, be so fixed as to provide a clear headway thereunder of not less than 2.75 metres.

14.9.9 Obstruction to Doors, Etc.

A sign or hoarding shall not be erected or maintained so as to obstruct access to or from a door, fire escape or window, other than a window designed for the display of goods.

14.9.10 Glass in Signs

Glass shall not be used in any sign or hoarding other than an electric light globe or tube.

14.9.11 Readily Combustible Material

Except in the case of posters securely affixed to a sign-board or hoarding, paper, cardboard, cloth or other readily combustible material shall not form part of or be attached to any sign.

14.9.12 Signs to be Kept Clean

Every sign shall be kept clean and free from unsightly matter and shall be maintained by the licensee or owner in good order free of dilapidation.

14.9.13 Bill Posting

Subject to section 14.2 a person shall not post a bill or paint, stencil, place or affix an advertisement in a street or on a building, structure, fence, wall, hoarding, sign-post, blind or awning so as to be visible to a person in a street, reserve, public place or other land, except on a hoarding approved for the purpose by the Council.

14.9.14 Fly Posting

A person shall not fly post at any place or location within the District.

14.9.15 A person shall not erect or display or allow the erection or display of bunting, streamers, streamer strips, banner strips, flag strips or decorations of a similar nature, except with the approval of the Council.

Division 4—Signs

14.10 Requirements for Particular Signs

14.10.1 Clocks

A clock shall—

- (a) if suspended under a verandah or in an arcade, have its centre coinciding with the centre line of the footway thereunder comply as to size to the following table;

Height of Bottom of Clock above Footway	Maximum Diameter of Width of Clock Face and Depth of Clock including Lettering
2.7 metres and under 4 metres	500 millimetres
4.0 metres and under 6 metres	750 millimetres
6.0 metres and under 12 metres	1.00 metres
12.0 metres and over	1.50 metres

- (c) be fixed either parallel or at right angles to the wall to which it is attached;
- (d) not project from the wall to which it is attached—
 - (i) if parallel to the wall, more than 300 millimetres; or
 - (ii) if at right angles to the wall, more than 2 metres;
- (e) afford a minimum headway of 2.75 metres;
- (f) be maintained so as to show the correct time;
- (g) be illuminated from sunset to midnight; and
- (h) if fitted with chimes, not be permitted to strike between midnight and 7.00 a.m. without the approval in writing of the Council.

14.10.2 Development Signs

A development sign shall—

- (a) only be erected where the area of residential land being subdivided exceeds 5 hectares;
- (b) only be erected in the ratio of 1 square metre of area per hectare up to a maximum of 50 square metres with no individual sign exceeding 20 square metres; and
- (c) be removed from the site within two years or when 80 per cent of the lots in the subdivision have been sold, whichever is the sooner.

14.10.3 Direction Signs on Street Poles

A direction sign attached to a pole in a street shall not exceed 200 millimetres in width and 760 millimetres in length with a headroom of not less than 2.75 metres.

14.10.4 Display Home Signs

A display home sign shall—

- (a) be provided in a ratio not exceeding 2 square metres per house in a centre with no individual sign exceeding 4 square metres;
- (b) not have an overall height of more than 4 metres;
- (c) not be illuminated after 9.00 p.m.; and
- (d) not be erected or maintained for a period exceeding six months on any one lot.

14.11 Hoardings

14.11.1 A hoarding shall not—

- (a) be erected on land that is zoned for residential purposes by a Town Planning Scheme or Local Laws for the time being in force;
- (b) except with the approval of the Council be erected within 25 metres of a street or other public place and in any case not closer than its own height to a street or public place;
- (c) be of greater area than 22 square metres.

14.11.2 A licence issued in respect of a hoarding is valid in terms of the licence for the period specified in the licence but not exceeding 10 years.

14.11.3 The licence fee for a hoarding is the annual licence fee prescribed by the Council from time to time and is payable annually so long as the hoarding is maintained with the approval of the Council.

14.12 Horizontal Signs

14.12.1 A horizontal sign shall—

- (a) afford a minimum headway of 2.75 metres;
- (b) be fixed parallel to the wall of the building to which it is attached;
- (c) conform as to depth to the following table;

MINIMUM DISTANCE OF SIGN ABOVE STREET	MAXIMUM DEPTH OF BUILDING
Less than 7.6 metres	1.0 metres
7.6 metres to 9.1 metres	1.5 metres
9.1 metres to 12 metres	2.0 metres
More than 12 metres (if there is no roof sign on the building)	4.5 metres

- (d) not project more than 600 millimetres from the wall to which it is attached; and
- (e) not be within 600 millimetres of either end of the wall to which it is attached, unless the end of the sign abuts against a brick, stone or cement corbel, pier or pilaster which is at least 225 millimetres wide and projects at least 25 millimetres in front of and 75 millimetres above and below the sign.

14.12.2 Notwithstanding the provisions of paragraph (c) of subsection 14.11.1 the Council may permit an increase of not more than 50 per cent of the depths therein mentioned in any part or parts of a sign to permit the inclusion therein of a motif or capital letter.

14.12.3 There shall be not more than one line of horizontal signs on a building facing any one street.

14.12.4 The name of the building, owner or occupier may without any licence or permit be shown on the facade of a building but—

- (a) unless otherwise specifically approved by the Council, only one such name shall be placed on any facade;
- (b) the letters of the name shall not exceed 1.2 metres in height;

- (c) the letters shall be of metal or other incombustible material; and
- (d) the letters shall not be lit or illuminated unless all illuminated lettering has been approved by the Council.

14.13 Illuminated Signs

An illuminated sign shall—

- (a) have any boxing or casing in which it is enclosed constructed of incombustible material;
- (b) have its electrical installation constructed and maintained to the satisfaction of the appropriate electricity supply authority and in accordance with the AS 3000-1991;
- (c) be maintained to operate as an illuminated sign; and
- (d) not have a light of such intensity as to cause annoyance to the public.

14.14 Information Panels

The Council may provide information panels and permit the inclusion of advertisements in such panels upon any conditions it thinks fit.

14.15 Institutional Signs

An institutional sign shall not exceed 0.5 square metres in area except with the approval of the Council but in any case shall not exceed 2 square metres.

14.16 Projection Signs

14.16.1 A person shall not project by light a sign being a photographic or other image which can be seen from a street, way, footpath, or other public place onto a building, screen or structure without a licence issued under this Part of these Local Laws nor without the consent of the owner of the building, screen or structure.

14.16.2 A licence shall not be issued by the Council for such a sign—

- (a) unless the building, screen or structure onto which it is proposed to project the sign is specified in the application for the licence;
- (b) if the sign when projected onto a building, screen or structure would be more than 12 metres in width or 12 metres in length;
- (c) unless the licence specifies the building, screen or structure onto which the sign may be projected.

14.16.3 Where it is proposed to project such a sign onto a building, screen or structure in a series the Council may issue one licence in respect of all the signs in that series but no sign or signs other than that or those in respect of which a licence has been issued shall be projected.

14.16.4 Where a licence has been issued by the Council for a projection sign, the sign in respect of which it has been issued shall not be projected onto any building, screen or structure not specified in the licence.

14.16 The owner or occupier of a building, screen or structure shall not permit any sign to be projected onto it unless a licence has been issued for the sign pursuant to this Part and in accordance with this section.

14.17 Pylon Signs

14.17.1 A pylon sign shall—

- (a) not have any part thereof less than 2.75 metres or more than 6 metres above the level of the ground immediately below it, or exceed 2.5 metres measured in any direction across the face of the sign or have a greater superficial area than 4 square metres except in a business area or large shopping complex with the approval of the Council and unless it complies with the following—
 - (i) the sign is the motif or emblem of the centre;
 - (ii) only one sign is erected;
 - (iii) the sign does not exceed 20 metres in height;
 - (iv) the sign does not exceed 10 square metres on any face; and
 - (v) the sign is not erected within its own overall height of any street or right of way;
- (b) not project more than 1 metre over any street;
- (c) be supported on one or more piers or columns of brick, stone, concrete, or, steel of sufficient size and strength to support the sign under all conditions;
- (d) where the sign is supported on two or more piers or columns not be erected unless the space between the piers or columns is not wholly or partly filled in with any material below 2.75 metres above ground level;
- (e) not, as to any part thereof, project over any street at a height of less than 2.75 metres;
- (f) not be within 1.8 metres of the side boundaries of the lot on which it is erected unless the lot on which it is erected abuts an intersecting street or right of way in which the Council may authorise the erection of the sign at a lesser distance than 1.8 metres; and
- (g) not have any part thereof less than 6 metres from any part of another sign erected on the same lot.

14.17.2 Where two or more pylon signs are to be erected on a lot on which unit factories or small shops are erected or are to be erected the Council may require all the pylon signs to be incorporated into one sign. All infills are to be of an equal size and space with one infill for each shop or unit on the lot.

- 14.17.3 Where the Council requires two or more signs to be incorporated into one sign—
- the total area of the infill signs specified under paragraph (a) of subsection 14.17.1 may be increased by up to 50 per cent or to a maximum of 6 square metres; and
 - the approval of the Council to each additional infill to be fitted into the sign is required.

14.18 Roof Signs

14.18.1 A roof sign shall—

- not at any point be closer than 4 metres to the ground;
 - not extend laterally beyond the external walls of the building;
 - comply as regards height above ground and height of sign with the following table—
- | HEIGHT OF MAIN BUILDING ABOVE GROUND LEVEL AT POINT WHERE SIGN IS TO BE ERECTED. | MAXIMUM HEIGHT OF SIGN |
|--|------------------------|
| 3.7 metres and under 4.5 metres | 1.2 metres |
| 4.5 metres and under 6 metres | 1.8 metres |
| 6 metres and under 12 metres | 3 metres |
| 12 metres and under 18 metres | 4.5 metres |
| 18 metres and upward | 6 metres |
- not have a horizontal side longer than 2.4 metres in length; and
 - not have an area greater than 1.5 square metres.

14.18.2 When ascertaining the height of the main building above ground level for the purpose of this section, any part of the roof at the point where the sign is to be erected that is provided solely for the purpose of architectural decoration shall be disregarded.

14.18.3 A licence for a roof sign requires the approval of the Council.

14.19 Rural Producer's Sign

A rural producer's sign shall—

- show only the name and address of the occupier of the land or the name of the property or both and only advertise goods or products produced, grown or lawfully manufactured upon the land; and
- not exceed 1 square metre in area or 3 metres in height.

14.20 Sale Signs

Subject to the provisions of this Part of these Local Laws a person shall not erect or maintain a sale sign—

- exceeding 10 square metres in area;
- in respect of an auction sale for more than 24 days before the date on which the auction sale is to be held or for more than 48 hours after that date;
- in respect of the sale of land under 5 hectares in area for a period exceeding 6 months nor within the period of 12 months from the date of expiration of the period during which another sign advertising the sale of the same land or any part thereof was erected or maintained; or
- advertising that flats or dwelling units in a building erected or to be erected on the land on which the sign is situated are or will be available for letting or for purchase before the date of issue of the building licence in respect of the building or after 3 months following the completion of the building.

14.21 Semaphore Signs

14.21.1 A semaphore sign shall—

- afford a minimum headway of 2.75 metres;
- be fixed at right angles to the wall to which it is attached;
- not project more than 1 metre from the point of attachment nor be of greater height at any point than 1 metre;
- be fixed over or adjacent to the entrance to a building; and
- not be fixed under or over any verandah.

14.21.2 Not more than one semaphore sign shall be fixed over or adjacent to any one entrance to a building.

14.22 Tower Signs

A tower sign shall not, unless otherwise approved by the Council—

- indicate or display any matter other than the name of the owner or occupier of the land or premises on which the mast, tower or chimney stack is erected;
- if illuminated, be a flashing sign;
- exceed in height one-sixth of the height of the mast, tower or chimney stack on which it is placed;
- exceed in width the width or diameter of the mast, tower or chimney stack on which it is placed; or
- extend laterally beyond any part of the mast, tower or chimney stack on which it is placed.

14.23 Verandah Signs

14.23.1 A sign comprising free-standing lettering only may be erected above the outer fascia of a verandah parallel to the kerb if the lettering does not exceed 400 millimetres in height and is mounted on a base of at least 75 millimetres in width.

14.23.2 A sign fixed to the outer or return fascia of a verandah—

- (a) shall not exceed 600 millimetres in depth;
- (b) shall not project beyond the outer metal frame or surround of the fascia; and
- (c) if it is an illuminated sign may be of changing colours but shall not emit a flashing light.

14.23.3 (1) An illuminated sign fixed to the outer fascia of a theatre shall—

- (a) not be constructed or erected unless plans and specifications thereof and structural details of the verandah have been submitted to and the plans of the sign approved by the Council;
- (b) be so constructed that its bottom edge is not lower than the bottom edge of the fascia or its top edge not higher than the top edge of the fascia; and
- (c) not exceed 1.2 metres in height.

(2) Where such a sign is to be fixed to the outer fascia of a theatre verandah which has already been constructed at the time that these Local Laws come into force, the outer face of the sign shall not be less than 150 millimetres from a line drawn vertically from the kerb line of the footpath beneath such verandah.

(3) Where such a sign is to be fixed to the outer fascia of a theatre verandah constructed after these Local Laws come into force, the outer face of the sign shall not be less than 600 millimetres from a line drawn vertically from the kerb line of the footpath beneath such verandah.

14.23.4 A sign under a verandah shall—

- (a) afford a headway of at least 2.75 metres or, when approved by the Council, 2.4 metres;
- (b) not exceed 2.4 metres in length or 500 millimetres in depth;
- (c) not weigh more than 50 kilograms;
- (d) not, if it exceeds 300 millimetres in width be within 1.4 metres, or where it does not exceed 300 millimetres in width be within 1 metre, of the side wall of the building, measured along the front of the building before which it is erected;
- (e) not, if it exceeds 300 millimetres in width, be within 2.75 metres, or where it does not exceed 300 millimetres in width be within 1.75 metres, of another sign under that verandah;
- (f) be fixed at right angles to the front wall of the building before which it is erected except on a corner of a building at a street intersection when the sign may be placed at an angle with the wall so as to be visible from both streets; and
- (g) be so placed that the centre of its base longitudinally is equidistant from the outer edge of the verandah and the vertical plane of the shop front directly opposite the end of the sign.

14.24 Vertical Signs

14.24.1 A vertical sign shall—

- (a) afford a minimum headway of 2.75 metres;
- (b) subject to subsection 14.24.2, not project more than 1 metre from the face of the building to which it is attached;
- (c) subject to subsection 14.24.3, not be within 1.75 metres of either end of the wall to which it is attached;
- (d) be of a height of at least twice its width;
- (e) not project more than 1 metre above the top of the wall to which it is attached nor more than 1 metre back from the face of that wall;
- (f) not be within 4 metres of another vertical sign on the same building;
- (g) not be placed on a corner of a building, except at a street intersection when it may be placed at an angle with the walls so as to be visible from both streets; and
- (h) except with the approval of the Council not exceed 1 metre in width exclusive of the back projection.

14.24.2 Where a vertical sign is affixed to the face of a building that is set back beyond the face of another building within 3 metres of it, the sign may project 500 millimetres further than the distance prescribed by paragraph (b) of subsection 14.24.1 or the distance by which the building to which it is affixed is set back beyond the face of the other, whichever is the lesser.

14.24.3 Where a building to which a vertical sign is to be affixed is set back from the boundary or abuts on an intersecting street or right of way, the Council may authorise the affixing of a sign at a lesser distance from the end of the wall than that prescribed by paragraph (c) of subsection 14.24.1.

14.25 Offences

14.25.1 A person who erects or maintains or permits or suffers to be erected or maintained a sign or hoarding—

- (a) which does not comply with a provision of this Part; or
- (b) in a manner contrary to the provisions of this Part,

commits an offence and is subject to the penalties set out in Part XX.

14.25.2 Where by this Part of these Local Laws a licence is required to erect or maintain a sign or hoarding, a person who maintains or permits or suffers to be maintained a sign or a hoarding without a licence or in respect of which the licence has expired or been cancelled, commits an offence.

14.25.3 Neither the owner nor the occupier of any land or premises shall permit a sign or hoarding to remain thereon unless the sign or hoarding complies with this Part of these Local Laws.

14.25.4 Without prejudice to the preceding provisions of these Local Laws the Council may serve on the owner or occupier of any premises upon which a sign is erected, affixed or maintained, contrary to this Part of these Local Laws, notice to remove the sign within the time specified in the notice; and a person neglecting or failing to comply with the terms of a notice served on that person pursuant to this section commits an offence.

14.25.5 The Council may remove to a place appointed by the Council a sign or hoarding placed or erected on or over a street, way, footpath or other public place under the care control and management of the Council unless so placed or erected pursuant to this Part of these Local Laws.

14.25.6 The Council may, without being liable in damages or otherwise, dispose of any sign or hoarding and reinstate the street, way, footpath or public place at the expense of the person or persons responsible for the erection or display of the sign or hoarding thereon or the injury thereto and recover the amount of the expense from that person in a Court of competent jurisdiction.

14.25.7 The Council, or any person acting under the authority of the Council, may remove from private property any hoarding or any bill, placard or advertisement which is attached to, or pasted, or painted, or stencilled on a hoarding and which in the opinion of the Council is dangerous or objectionable and the Council may recover the expenses of the removal from the owner of the property in a Court of competent jurisdiction.

14.25.8 The rights of objection and appeal set out in Part XXI shall apply to this Part.

PART XV—STREETS AND PUBLIC PLACES

Division 1—Preliminary

15.1 In this Part, unless the context otherwise requires—

“carriageway” means every part of a street used or intended for use by vehicles and includes footpath or kerb;

“commercial vehicle” means a motor vehicle constructed, fitted, adapted or used for the conveyance therein or thereon of any goods or merchandise or any materials used in any trade, business or industry;

“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;

“garden” means any part of a street planted developed or treated, otherwise than as a lawn, with any tree, plant or shrub;

“intersection” means that part of a street comprised within imaginary straight lines joining the points of transection of the street alignments of two or more streets that meet each other. If the street alignments are curved where the streets meet then the point of transection is the point on the curve nearest to the point at which those street alignments would meet if straight;

“junction” means that part of a street comprised within imaginary straight lines at right angles to the street commencing from the points of transection of the street alignments of the street with the street alignments of the land which abuts thereon. If the street alignments are curved at any corner then the point of transection is the point at which those street alignments would meet if straight;

“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;

“lawn” means any part of a street which is planted only with grass and with any tree or shrub planted by the Council;

“motor vehicle” in this part means a self-propelled vehicle that is not operated on rails; and the expression includes a trailer, semi-trailer or caravan while attached to a motor vehicle, but does not include a power assisted pedal cycle;

“omnibus” means a motor vehicle equipped to carry more than 8 adult passengers;

“stand” in relation to a vehicle means to stop a 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;

“park” means to permit a vehicle, whether attended or not, to remain stationary, except for the purpose of avoiding conflict with other traffic, or complying with the provisions of any law, or of immediately taking up or setting down persons or goods;

“street” and “street alignment” have the same meanings as are given to them in the Act;

“street verge” means every part of a street reserve other than the carriageway thereof.

15.1.1 Terms and expressions used in this Part—

(a) shall have the meaning given in subsection 15.1.1 which shall prevail over any other conflicting definition;

(b) subject to paragraph (a) shall be interpreted in accordance with section 2.1.

15.2 Application

Nothing in this Part shall be construed so as to inhibit or preclude an employee, contractor or agent of the Council carrying out his or her normal and lawful duties.

Division 2—Activities on Streets and Public Places

15.3 A person shall not—

(a) stand a vehicle or permit a vehicle to stand so that any part of the vehicle is on the verge of any part of the road, that is to say, between the edge of the carriageway of that part of the road and

the boundary of the road nearest to that edge, provided that the prohibition in this paragraph shall not apply to the occupier of premises adjacent to the verge or any part of a road or to a person authorised by the occupier of those premises to stand a vehicle on that verge unless by a sign adjacent or referable to that verge the standing of vehicles on that verge is prohibited but nothing in this paragraph shall authorise an occupier of premises adjacent to the verge of any part of a road or a person authorised by the occupier of those premises to stand any portion of a vehicle on or over a footpath;

- (b) park a commercial vehicle or a caravan, omnibus or trailer on a street verge for more than 4 hours consecutively or for more than 4 hours in a day unless in between each period that the commercial vehicle or caravan, omnibus or trailer is parked or allowed to remain stationary on the street verge has been removed from the street verge for at least 2 hours;
- (c) on a street verge repair, service or clean any vehicle;
- (d) plant a lawn or garden or permit a garden or lawn to grow on or over any footpath or carriageway;
- (e) grow or maintain any tree, shrub or plant on any part of a street which is thorny or which is or may be injurious to health;
- (f) water a lawn or garden in a manner or at any time as will or may occasion inconvenience or obstruction to any person using a carriageway or footpath;
- (g) plant any tree, shrub or plant, exceeding 0.75 metres in height or of a variety likely to exceed 0.75 metres in height in any part of a street situated within 6 metres of a junction or intersection;
- (h) except as otherwise authorised in this Part damage a lawn or garden or any part thereof or, if other than the owner or occupier or a person authorised by the owner or occupier of land abutting on part of a street in which a garden is planted, remove any flower, plant or shrub from that garden;
- (i) plant anything other than grass on any part of a street within 2 metres of the carriageway;
- (j) drive or stand a vehicle or animal on any lawn or garden unless with the consent of the owner or occupier of the land abutting that part of the street; or
- (k) place any household rubbish or garden waste of any kind in a "litter" bin provided by the Council for the use of the public.

For the purposes of this section, the verge of any part of a road in relation to an occupier of premises adjacent to that verge means that part of the road which lies between a boundary of those premises and the edge of the carriageway of that road.

15.4 Activities Needing Permission

A person shall not, without the permission of the Council—

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) drive any vehicle over or across a kerb or footpath except at a specially constructed crossing place;
- (c) drive a vehicle or permit a vehicle to be driven across a kerb or footpath if such vehicle is so heavy or is of such a nature that it causes or is likely to cause damage to the kerb or the paving of the footpath;
- (d) commit any of the following acts—
 - (i) leave an animal or vehicle or any part of a vehicle in a public place so as to obstruct any portion of that place except that an animal secured in any public place wherein animals may lawfully be secured and a vehicle parked in a public place wherein vehicles may lawfully be parked is not obstructing for the purposes of this section unless, in the case of an animal it is secured for any period exceeding 1 hour unless the consent in writing of an Authorised Officer has first been obtained and, in the case of a vehicle (notwithstanding paragraphs (a) and (b) of section 15.3), it is so parked for any period exceeding 24 hours;
 - (ii) throw, place or deposit any obstruction, box, case, crate, bottle, coal, timber, brick, or other material on or in any public place;
 - (iii) cause any obstruction to or prevent vehicles or persons having the free unhindered use of any street, way or footpath;
 - (iv) break up, damage, or destroy any street, way, footpath or other public place;
 - (v) throw, place or deposit any rubbish, vegetable substance, garden clippings or any offensive noxious or dangerous substance or utensils or glass or any litter on any public place;
 - (vi) light any fire or burn any rubbish or material on any public place; or
 - (vii) fell any tree on or across any public place.
- (e) cause or permit any water from a hose or sprinkler to interfere with the use of any street, way or footpath by pedestrians;
- (f) in a street plant or maintain a lawn or a garden or plant a tree except that the owner or occupier of land abutting any part of a street may plant a lawn in that part of the street if such lawn does not form part of a garden;
- (g) lay pipes under or provide taps in any street verge for watering a garden or lawn; or
- (h) deposit, place or install any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing wood chips, bark, sawdust or any other thing, whether of the same kind as, or a different kind from those here specified, on any part of a street.

15.5 Application

Every application for the permission of the Council under section 15.4 shall be in writing in the form provided or prescribed by the Council for the purpose, and shall—

- (a) in the case of paragraph (f) of section 15.4 be made in the name of the owner or occupier of the land abutting the garden and shall be accompanied by a plan depicting the proposed lawn and garden or tree and in the case of a garden, setting out details of all trees, shrubs and plants, and the positions thereof in relation to the street alignment and the carriageway and to any foot-path;
- (b) in the case of paragraph (h) of section 15.4 be made by the owner or occupier of the land abutting on that part of the street upon which the thing referred to in paragraph (h) of section 15.4 is proposed to be deposited, placed or installed and shall be accompanied by a plan depicting the location and details of any thing proposed to be deposited, placed or installed in a street;
- (c) in the case of paragraphs (b) or (c) of section 15.4 specify the place at which such crossing is to be made and with the application pay to the Council a deposit in the amount prescribed by the Council from time to time; and
- (d) specify the name of the owner or occupier and such other information as is relevant and as the Council may request and any deposit requested to be lodged with the Council.

15.6 Discretion

The Council may under this Part in its discretion give or refuse to give any permission or give any permission subject to such conditions as it thinks fit.

15.7 Where permission has been granted by the Council under this Part subject to conditions, the person to whom the permission has been granted shall ensure that the conditions are observed at all times. If any condition is not observed that person commits an offence against these Local Laws and the Council may by written notice cancel the permission.

15.8 Conditions for Pipe

Any permission to lay pipes pursuant to paragraph (g) of section 15.4 is subject to the following conditions, whether expressed in the permission or not, that the pipe—

- (a) is laid beneath the surface of the street 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 street and any lawn;
- (b) if connected to a public water supply, is laid to comply with the requirements of the body constituted for and having the control of that supply; and
- (c) if connected to a private supply, is constructed of galvanised iron, cast iron, PVC, copper or other material approved by the Council.

15.9 Conditions for Footpaths Etc.

Any permission for the purpose of paragraphs (b) or (c) of section 15.4 is subject to the following conditions whether expressed in the permission or not to be performed by the applicant;

- (a) if the paved portion of the footpath is constructed of concrete slabs the applicant shall carefully remove them from the footpath for a width of 4.8 metres at the proposed crossing and neatly stack them on the adjoining land;
- (b) if the kerbing at the edge of the paved road is constructed of concrete kerbing blocks the applicant shall carefully remove them from the kerb for a width of 4.8 metres at the proposed crossing and neatly stack them on the adjoining land so as not to cause an obstruction;
- (c) the applicant shall place in the position from which the slabs have been removed a temporary crossing of 4.8 metres in width and of a length equal to the width of the paved portion of the footpath. The temporary crossing shall be constructed of hardwood planks at least 200 millimetres wide and 50 millimetres thick of which the ends shall be chamfered downwards and securely nailed together with hoop iron straps at 1.2 metre centres. The planking shall be firmly bedded and laid true to the level of the original footpath;
- (d) the applicant shall place in the position from which concrete kerbing has been removed a temporary crossing of 4.8 metres wide and at least one metre in length. The temporary crossing shall be constructed of hardwood planks of at least 200 millimetres long and 50 millimetres wide of which the ends shall be chamfered downward and securely nailed together with hoop iron straps at 1.2 metre centres. The said planking shall be firmly bedded and laid true to the level of the edge of the paved road and shall be held in position by pegs inserted sufficiently far into the soil as to prevent movement of the temporary crossing away from the abutting edge of the paved road;
- (e) when the necessity no longer exists for the temporary crossing referred to in paragraphs (c) and (d) of this section or when called upon to do so by notice in writing from the Council, the applicant shall remove the planking, replace the slabs or kerbing in a proper workmanlike manner to the Council's satisfaction and shall replace with new slabs or kerbing of equal quality and size any slabs which have been lost, damaged or broken;
- (f) in the case of a footpath constructed in total or part of bitumen surfaced gravel, gravel, limestone, concrete or crushed metal he or she shall place in position where the crossing is to be made a temporary crossing 4.8 metres wide and of a length equal to the width of the paved portion of the footpath. The temporary crossing shall be constructed of hardwood planks of at least 200 millimetres long and 50 millimetres wide of which the ends shall be chamfered downwards to the existing footpath surface and securely nailed together with hoop iron straps at 1.2 metre centres. The said planking shall be firmly bedded and laid true;

- (g) when the necessity no longer exists for the temporary crossing referred to in paragraph (f) or when called upon to do so by notice in writing from the Council the applicant shall remove the planking and clean off the footpath;
- (h) the applicant shall make good all damage caused to the footpath and the kerbing, guttering and paved road during the whole of the time the works are in progress and in the event that damage shall have occurred and shall not have been made good, the Council may make good such damage and deduct the cost from the deposit;
- (i) if the cost of making good the damage referred to in paragraph (h) of this section exceeds the amount of the deposit the applicant shall pay to the Council on demand the amount by which the cost exceeds the amount of the deposit held, and in default of payment the Council may recover the excess in a Court of competent jurisdiction; and
- (j) if no damage has been caused or if the damage has been made good to the satisfaction of the Council, the Council shall repay the deposit or the portion remaining after the costs incurred by the Council have been paid.

Division 3—Removal of Animals, Vehicles and Other Things

15.10 In Public Places

15.10.1 The provisions of this section shall not affect the operation of any other provision in the Act which latter provisions shall prevail in the case of any inconsistency.

15.10.2 Where an Authorised Person or a member of the Police Force finds an animal or vehicle left in a public place, contrary to the provisions of this Part that person may remove the animal or vehicle therefrom and shall thereupon—

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

15.11 Obstructions

Where any tree, rubbish, bottle, clippings, or other material of any kind has been deposited on, or any excavation has been made in or on, or any injury has been caused to the surface of, or any obstruction has been caused to prevent vehicles or persons having the free or unhindered use of any street, way, footpath, or other public place in contravention of this Part the Council may remove such deposit or obstruction and/or may reinstate such street, way, footpath or other public place at the expense of the person or persons responsible for such deposit, excavation or injury and may recover the amount of the expense from such person or persons in a Court of competent jurisdiction in addition to any penalty for which such person or persons may be liable under this Part.

Division 4—Shopping Trolleys

15.12 Abandoned Shopping Trolleys

15.12.1 A shopping trolley which has been left unattended shall for the purpose of this section be deemed to be abandoned.

15.12.2 Subject to the provisions of the Act, the Council may seize any shopping trolley which has been abandoned for a period in excess of 15 minutes in any street or way or other place under the care, control and management of the Council.

15.12.3 Any shopping trolley seized under this Part shall not be released to the owner thereof until the cost of removing it and all other costs incidental thereto shall first have been paid by the owner or on the owner's behalf.

15.12.4 Where the owner of the shopping trolley is known the CEO shall cause written notification of the seizure of the same to be forwarded to the owner and the owner given not less than 14 days' notice within which to recover the trolley.

15.12.5 If the owner thereof is not known the CEO shall exhibit on the notice board at the Council a notice describing the shopping trolley and the place at which it was seized and the place at which it is being kept, and unless the shopping trolley is sooner recovered shall keep the notification exhibited for a period of not less than 14 days.

15.12.6 A shopping trolley seized by the Council under section 15.12 which is not recovered by the owner or any other person lawfully entitled thereto within 14 days after the notice referred to in the preceding subsection has been exhibited, may be disposed of in such manner and under such conditions as the Council may deem fit.

15.12.7 The proceeds of sale of any such shopping trolley shall—

- (a) be applied first to meet the cost of removal and sale and the balance paid into the Council's Trust Fund;
- (b) be transferred to the Council's Local Government Fund after the expiration of 10 years; and
- (c) at any time the Council shall pay such balance of moneys to any person claiming and establishing their right to the repayment.

Division 5—Infringement Notices

15.13 Infringement Notice may be given

An infringement notice in respect of an offence under paragraphs (a) (b) (c) or (j) of section 15.3 may be given in accordance with Part 9 of the Act and Part XX of these Local Laws.

PART XVI—TRAFFIC AND VEHICLES*Division 1—Preliminary***16.1 Definitions**

16.1.1 In this Part, unless the context otherwise requires—

“bus” means an omnibus within the meaning of the Road Traffic Act;

“driver” means any person driving or in control of a vehicle;

“footway” includes every footpath, path, land or other place used by, or set aside or intended for use by, pedestrians or both pedestrians and cyclists;

“moped” means a motor cycle which has a propelling engine having a piston displacement not exceeding 50 millilitres and which is designed so as to be capable of a speed not exceeding 60 kilometres per hour whether or not it is also capable of being propelled as a pedal cycle, but does not include a power assisted pedal cycle;

“motor vehicle” means a self propelled vehicle that is not operated on rails; and the expression includes a trailer, semi-trailer or caravan while attached to a motor vehicle, but does not include a power assisted pedal cycle;

“motor cycle” means a motor vehicle that has two wheels or, where a side-car is attached thereto, has three wheels;

“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 with 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;

“occupier” has the meaning given to it by the Act;

“owner” where used in relation to a vehicle means the person who is the registered holder of the requisite vehicle licence under the Road Traffic Act in respect of that vehicle as detailed and supplied by the Western Australia Police Department, Traffic Licensing and Services Centre, or, if the vehicle is not licensed under the Act, the person who owns the vehicle or is entitled to its possession; and where used in relation to land has the meaning given to it by the Act;

“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 road nearest to the sign;

“parking region”, means that portion of the District of the Local Government that is constituted a parking region pursuant to section 1.6 of these Local Laws;

“parking stall” means a section or part of a street which is marked or defined by painted lines or by metallic studs or similar devices for the purpose of indicating where a vehicle may stand or be parked, whether on payment of a fee or charge or otherwise, but does not include a metered space;

“road” means any road, street, lane, thoroughfare or similar place and includes all of the land lying between the property lines including the street verge and footpath appurtenant thereto and which is within the parking region;

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

“specified place” means a yard, depot, pound or other piece of land or building set aside by the Council as a place to which impounded vehicles or animals may be removed;

“street” has the same meaning as road;

“street verge” means that portion of a street which lies between the portion of a street that is improved, paved, designed or ordinarily used for vehicular traffic and the nearest property line;

“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;

“park” means to permit a vehicle, whether attended or not, to remain stationary, except for the purpose of avoiding conflict with other traffic, or complying with the provisions of any law, or of immediately taking up or setting down persons or goods;

“parking facilities” includes land, buildings, shelters, metered zones, metered spaces, signs, notices, and other facilities open to the public, generally, for the parking of vehicles with or without charge;

“stand” in relation to a vehicle means to stop a 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.

16.1.2 Terms and expressions used in this Part—

- (a) shall have the meaning given in subsection 16.1.1 which shall prevail over any other conflicting definition;
- (b) subject to paragraph (a) shall be interpreted in accordance with section 2.1.

16.2 Application of this Part

16.2.1 The provisions of this Part of these Local Laws shall apply to the parking region.

16.2.2 The provisions in respect of parking on verges and obstruction of streets in Part XV of these Local Laws, shall be read with and apply mutatis mutandis to this Part, with the exception of Division 4.

16.2.3 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—Parking on Private Land

16.3 Prohibition of Parking on Private Land

A person shall not park or stand a vehicle on land that is not a road or a parking facility, unless with the consent of the owner or occupier of the land on which the vehicle is parked.

16.4 Removal

Where an Authorised Person or a member of the Police Force finds a vehicle which that person reasonably suspects is on private land without the consent of the owner or occupier, that person may—

- (a) remove the vehicle therefrom and place the vehicle in a specified place; and
- (b) use such force as is necessary to enter the vehicle for the purpose of removing it.

Division 3—Standing and Parking Generally

16.5 Erection of Signs to Regulate Parking

The Council may in its discretion from time to time constitute, determine and vary, and also indicate by signs, from time to time—

- (a) prohibitions; and
- (b) regulations and restrictions

of parking and standing of vehicles of a specified class or of specified classes in all streets or specified streets or in specified parts of streets 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.

16.6 Parking Conduct

- (a) A person shall not stand or park a vehicle in a street or part of a street—
 - (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;
 - (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; or
 - (iv) in a defined area marked “M/C”, unless it is a motor cycle without a side-car or a bicycle.
- (c) A person shall not park a vehicle in a no parking area.
- (d) A person shall not park a vehicle in any portion of a street—
 - (i) for the purposes of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a road; or
 - (ii) if the vehicle is exposed for sale.
- (e) A person shall not stand a motor cycle without a side-car or a bicycle in a parking stall unless the traffic sign “M/C” is marked on that stall.
- (f) A person shall not, without the permission of the Council, CEO or an Authorised Person, stand a vehicle in an area designated by signs “Authorised Vehicles Only”.

16.7 Subject to the provisions of section 16.8 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 road on which the vehicle is standing;
- (b) on a one-way carriageway, so that it is as near as practicable to, and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic;
- (c) so that at least 3 metres of the width of the carriageway between the vehicle and the farther boundary of the carriageway or between it and a vehicle standing on the far side of the carriageway, is available for the passage of other vehicles;
- (d) so that it is not less than 1.2 metres from any other vehicle, except a motor cycle or a bicycle parked in accordance with this Part of these Local Laws;
- (e) so that it does not cause undue obstruction on the carriageway;
- (f) so that it is entirely within the confines of any parking stall marked on the carriageway.

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

- (b) Where the traffic sign or signs associated with a parking area are not inscribed with “Angle Parking”; then
 - (i) where the parking area is adjacent to the boundary of a carriageway a person standing a vehicle in the parking area shall stand it as near as practicable to and parallel with that boundary; and
 - (ii) where the parking area is at or near the centre of the carriageway, a person standing a vehicle in that parking area shall stand it approximately at right angles to the centre of the carriageway, unless a sign associated with the parking area indicates, or marks on the carriageway indicate, that vehicles are to stand in a different position.
- (c) Where a traffic sign associated with a parking area is inscribed with the words “Angle Parking” a person standing a vehicle in the parking area shall stand the vehicle at an angle of approximately 45 degrees to the centre of the carriageway unless otherwise indicated by the inscription on the parking sign or by marks on the carriageway surface.
- (d) In paragraph (c) of this section “vehicle” means a car or motor wagon (utility type up to 3 tonne gross).
- (e) Paragraph (c) of this section does not apply to a person standing a motor cycle or bicycle in a parking area.

16.9 (a) A person shall not stand or park a vehicle so that any portion of the vehicle is—

- (i) between any other standing vehicles and the centre of the carriageway;
 - (ii) adjacent to or on a median strip;
 - (iii) obstructing a right of way, passage or private drive or carriageway or a cross-over or so close thereto as to deny vehicles reasonable access to or egress from the right of way, passage or private drive, carriageway, or cross-over;
 - (iv) alongside, or opposite, any excavation in, or obstruction on, the carriageway, if the vehicle would thereby obstruct traffic;
 - (v) on, or within 9 metres of, any portion of a carriageway bounded on one or both sides by a traffic island;
 - (vi) on or over any footway or pedestrian crossing;
 - (vii) on a bridge or other elevated structure;
 - (viii) between the boundaries of a carriageway, and any double longitudinal line consisting of two continuous lines or between a double longitudinal line consisting of a continuous line and a broken or dotted line and the boundary of the carriageway nearer to the continuous line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line; or
 - (ix) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway.
- (b) A person shall not stand or park a vehicle so that any portion of the vehicle is—
- (i) within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug; or
 - (ii) within 3 metres of a public letter pillar box, unless the vehicle is being used for the purpose of collecting postal articles from the pillar box.
- (c) A person shall not stand or park a vehicle so that any portion of the vehicle is—
- (i) within 6 metres of the nearest property line of any road intersecting the road on the side on which the vehicle is standing or parked; or
 - (ii) alongside any hoarding, scaffolding, obstacle or impediment to traffic.
- (d) A person shall not stand a vehicle so that any portion of the vehicle is within 9 metres of the departure side of—
- (i) a sign inscribed with the words “Bus Stop”, or “Hail Bus Here”, unless the vehicle is a bus stopped to take up or set down passengers; or
 - (ii) a pedestrian and children’s crossing established on any road.

- (e) A person shall not stand a vehicle on a road so that any portion of the vehicle is within 18 metres of—
- (i) the approach side of a sign inscribed with the words “Bus Stop” or “Hail Bus Here”, unless the vehicle is a bus stopped to take up or set down passengers;
 - (ii) the approach side of a pedestrian crossing or children’s crossing; or
 - (iii) the approach and departure side of railway crossing.
- (f) A person shall not stand or park a vehicle so that any portion of that vehicle is on a street verge if a sign on, adjacent or referable thereto, indicates otherwise.

16.10 A person shall not permit a vehicle to stand in any part of a street if an Authorised Person or member of the Police Force directs the driver of the vehicle to move it.

16.11 **Inspection of Parking**

- (a) An Authorised Person may mark the tyres of a parked vehicle with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties and powers.
- (b) A person shall not remove a mark made by an Authorised Person so that the purpose of the affixing of such mark is defeated or likely to be defeated.

16.12 (a) A vehicle having been parked in a street or in an area where by a sign the standing of vehicles is permitted for a limited time a person shall not—

- (i) move it to any position within the same parking area; or
- (ii) by arrangement with any person either exchange the space used by the vehicle for space in the same or another area used by another vehicle or occupy a space in the same or another area previously occupied by another vehicle,

so that the total time of parking exceeds the maximum time allowed for parking in the space first occupied by the vehicle.

(b) A vehicle having been parked in a street where parking is restricted as to time a person shall not park the vehicle again in the street on that day unless it has first been removed from the street for at least 2 hours.

16.13 (a) A person shall not park a vehicle or any combination of vehicles that together with any projection on, or load carried by the vehicle or combination of vehicles is more than 8 metres in length, on a carriageway for a period exceeding 1 hour.

(b) Nothing in these Local Laws mitigates the limitations or conditions imposed by any other Local Law or by any traffic sign relating to the parking or standing of vehicles.

16.14 A person shall not—

- (a) park a commercial vehicle or trailer or allow a commercial vehicle or trailer to remain stationary on a street verge for more than four hours consecutively or for more than four hours in a day unless in between each period that the commercial vehicle or trailer is parked or allowed to remain stationary in the street it has been removed from the street for at least 2 hours; or
- (b) on a street verge repair, service or clean a commercial vehicle.

16.15 (a) A person shall not park or stand a vehicle within the parking region on land that is not a street or a parking facility without the consent of the owner or occupier of the land.

(b) For the purpose of these Local Laws where the owner or occupier of the land has erected signs on portion of the land set aside for the parking of vehicles displaying restrictions concerning the classes of persons who may stand or park vehicles or the time within which vehicles may be stood or parked on that portion of land a person who stands or parks a vehicle otherwise than in compliance with the sign shall be deemed not to have the consent of the owner or occupier of the land so to stand or park the vehicle.

16.16 (a) A person except an employee of the Council in the course of that person’s duties shall not drive or park a vehicle upon or over any portion of a reserve other than a paved area specifically set aside for that purpose.

(b) A person shall not park a vehicle on any part of a reserve, including any paved areas, for the purposes of conducting a business.

16.17 The Council, CEO, or an Authorised Person may permit a person who requires a space in an area where by a sign the standing of vehicles is permitted for a limited time in order to carry out urgent, essential or official duties to occupy such space with a vehicle for a longer time than the maximum period prescribed by the sign or from time to time provided such permission does not contravene the Road Traffic Code and may prohibit the use of such space by any other vehicle during such time.

Division 4—Removal of Vehicles

16.18 A person shall not stand or park a vehicle so as to cause obstruction to traffic in a street or other public place. A vehicle shall be regarded as causing obstruction if it interferes with the lawful movement of traffic on any street or other public place or has been unlawfully parked or left standing on any street or other public place for more than 24 hours whether or not it interferes with the lawful movement of traffic.

16.19 For the purposes of this Part of these Local Laws a vehicle that is stood or parked in a portion of a street or public place wherein vehicles may lawfully be stood or parked is not obstructing if it is so stood or parked in contravention of the limits as to time imposed by the Local Government with respect to that portion of the street or public place.

16.20 Where an Authorised Person or a member of the Police Force finds a vehicle stood or parked contrary to the provisions of sections 16.6, 16.7, 16.8 or 16.9 of these Local Laws so as in the opinion of that person to cause an obstruction, the Authorised Person or member of the Police Force may remove the vehicle to a specified place and may use such force as is necessary to enter the vehicle for the purpose of so removing it.

16.21 The Council may appoint any person as an Authorised Person for the purposes of this Part of these Local Laws and for the purpose of this Part the term Authorised Person shall include an Authorised Officer.

16.22 The provisions of Division 2 of Part XX shall apply to any vehicle removed under this Part.

Division 5—Miscellaneous

16.23 An Authorised Person shall be furnished with a certificate of appointment in a form determined by the Council from time to time.

16.24 A person who is not an Authorised Person shall not in any way assume the duties of an Authorised Person.

16.25 A person shall not in any way obstruct or hinder an Authorised Person in the execution of that person's duty.

16.26 Demanding Name and Address

16.26.1 An Authorised Person or member of the Police Force who finds a person committing or who on reasonable grounds suspects a person of having committed a breach of the provisions of this Part of these Local Laws, may demand from the person that person's name and place of abode.

16.26.2 A person who refuses to state his or her name and place of abode, or who states a false name or place of abode, on demand being so made, commits an offence.

16.27 An infringement notice may be given in accordance with the provisions of Division 3 of Part XX 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.

16.28 A person, other than the driver of the vehicle, shall not remove from the vehicle any notice thereto or left therein or thereon by an Authorised Person or a member of the Police Force.

16.29 A person shall not—

- (a) without the authority of the Council mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the Council under the authority of this Part of these Local Laws;
- (b) remove, deface or misuse a sign or property erected or provided under this Part or any part thereof, or attempt to do any such act;
- (c) without the permission of the Council affix a board, sign, placard, notice or other thing to or paint or write upon any part of a sign erected under this Part.

16.30 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.

16.31 Further Provisions in Relation to Signs

16.31.1 A sign marked, erected, established or displayed on or near a road and 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.

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

16.31.3 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.

16.32 An Authorised Person appointed by the Council from time to time is hereby authorised by the Council to—

- (a) carry into effect the provisions of these Local Laws;
- (b) report to the Council on the working effectiveness and functioning of these Local Laws;
- (c) recommend to the Council the institution of prosecutions; and
- (d) institute and conduct prosecutions as directed by the Council or the CEO from time to time.

16.33 Penalties

Notwithstanding Part XX provisions relating to penalties in Part XXVI may be prescribed by Council from time to time.

PART XVII—FIRE PREVENTION

17.1 Bush Fire Brigades

17.1.1 Establishment of Brigades

- (a) A Bush Fire Brigade may be established for the whole of the District or for any specified area thereof.
- (b) On the resolution of the Council to establish, maintain and equip a Bush Fire Brigade under the provisions of the Bush Fires Act 1954 ("the Bush Fires Act") and regulations thereunder, the Brigade shall be formed in accordance with these Local Laws and a name shall be given to the Brigade.

17.1.2 Appointment of Officers

Each Brigade shall hold an Annual General Meeting during the month of March of each year at which a Captain, First Lieutenant, a Second Lieutenant and such additional Lieutenants as deemed necessary, Maintenance Officer, Secretary, Treasurer or Secretary/Treasurer combined shall be elected according to qualifications and knowledge of the District required in such capacities. The Council shall be notified annually of the names of the officers by way of the form provided by the Council from time to time for that purpose or otherwise in writing if no form is provided.

17.1.3 Duties of Officers

The duties of all Brigade officers and members shall be as detailed in the provisions of the Bush Fires Act 1954 (as amended).

- (a) Captain and Lieutenants: Notwithstanding section 39 of the Bush Fires Act, the Captain shall have full control over the Members of the Brigade whilst engaged in fire fighting and shall issue instructions as to the methods to be adopted by the firemen. In the absence of the Captain, the First Lieutenant, and in the absence of the First, the Second Lieutenant or Senior Officer or most senior member of the Brigade present at the fire shall exercise all the powers and duties of the Captain.
- (b) Maintenance Officer: The Maintenance Officer shall be responsible for the custody and maintenance in good order and condition of all equipment and appliances acquired by the Council for the purpose of the Brigade. Such officer shall maintain an up-to-date Brigade equipment list, a copy of which must be forwarded to Council prior to May each year.
- (c) Secretary and/or Treasurer: The Secretary or the Treasurer if there is no Secretary, or both of those officers in co-operation if both are appointed shall be responsible for administration in accordance with section 17.1.6(d) of these Local Laws.

17.1.4 Brigade Membership

Bush Fire Brigade membership is restricted to persons of either sex being over the age of 15 years who are willing to render service at any bush fire when called upon. Membership where possible should be registered by signature on an appropriate membership form.

17.1.5 Funding of Brigades

- (a) The Council may provide annual funding necessary for the purchase and maintenance of all Brigade equipment.
- (b) The Brigade Treasurer shall maintain an accurate set of records detailing revenue from all sources and expenditure made by the Brigade.

17.1.6 Administration Responsibilities

- (a) Meetings—
 - (i) Brigade meetings shall be held as required, with a minimum quorum of 6 Brigade members required to be present. A copy of the minutes of the meeting is required to be forwarded to the Council's Chief Bush Fire Control Officer within one week of the meeting taking place. The Council Chief Bush Fire Control Officer shall table such minutes at the next following meeting of the Bush Fire Advisory Committee.
 - (ii) A member or employee of the Council may be present at any meeting of a Bush Fire Brigade.
 - (iii) Brigades shall provide the CEO with advice of meetings at least 7 days prior to the date of the meeting.
- (b) Membership—

The Brigade Secretary shall maintain a register of all members, and resignation of any members from the Brigade.
- (c) Funding—
 - (i) Equipment and funding required by each Brigade, approved by the Advisory Committee shall be presented to Council during the month of January in each year, relating to the next following financial year.
 - (ii) A copy of the Brigade receipts and payments statement, showing financial transactions is to be made available to Council during the month of January each year.
- (d) Secretary and/or Treasurer is responsible for all Brigade Administration matters which will include the following—
 - (i) taking of Brigade meeting minutes;
 - (ii) maintaining Brigade membership records;
 - (iii) detailing revenue from all sources and expenditure made by the Brigade; and
 - (iv) receiving and answering correspondence as necessary.

17.2 Bush Fire Control Officers

17.2.1 Appointment

- (a) At the Annual General Meeting of each Bush Fire Brigade, one Brigade member may be nominated to the Bush Fire Advisory Committee to serve as the Fire Control Officer for the specified Brigade boundary area until the next following Annual General Meeting.
- (b) The Council shall appoint Bush Fire Control Officers in accordance with section 38 of the Bush Fires Act and may prescribe the area in which each Officer shall have jurisdiction.
- (c) At the Annual General Meeting of the Bush Fires Advisory Committee the delegates present shall nominate to Council the names of Officers to fill the positions of Bush Fire Control Officers and Fire Weather Officers.

17.2.2 Powers

The powers of Bush Fire Control Officers as described in the Bush Fires Act 1954 shall apply to all Fire Control Officers except the power in section 39(1)(h) with the intent that persons may only be employed to provide such services where approved by the CEO. There is no such constraint on the use of voluntary services under section 39(1)(h).

PART XVIII—STANDING ORDERS

Division 1—Preliminary

18.1 Definitions

18.1.1 In this Part, unless the context otherwise requires—

- “Agenda Paper” in relation to any proposed meeting means a paper setting out the terms of business to be transacted at the meeting and the order of that business. The notice calling a Special Meeting may stand as the Agenda Paper for that meeting;
- “Business Papers” in relation to any proposed meeting means the Agenda Paper for that meeting and any minute of any previous meeting required to be considered at the proposed meeting and details relating to any Order of the Day for the proposed meeting;
- “Chairman’s Minutes” has the same meaning in relation to meetings of committees as the term “Mayoral Minutes” has in relation to meetings of the Council;
- “Committee” means any Committee appointed in accordance with the provisions of Part 5 Division 2, Subdivision 2 of the Local Government Act 1995;
- “Council delegate” means a Councillor or officer of the Council appointed as a delegate or representative of the Council on or to any external body, conference or meeting;
- “Councillor” means a Councillor of the Council including the Mayor;
- “Councillor Mayor” means a Mayor elected by the Council;
- “Councillor’s Minutes” means a written record of Local Government civic or other business in which a Councillor has participated since the last relevant meeting, and which the Councillor wishes to table for the information of Councillors and which the Councillor desires to include in the Minutes of the meeting at which they are tabled;
- “Director” means an Officer who has been appointed by the Council to take responsibility for the management or supervision of any one or more divisions, situations or departments of the Council’s administration and who is responsible in that administration directly to the CEO;
- “Mayor” unless the context otherwise requires, includes in the absence of the Mayor the Deputy Mayor or the Councillor chosen by the Council to preside at a meeting of the Council;
- “Mayoral Minutes” means a written record of Local Government civic or other business in which the Mayor has participated since the last Ordinary Meeting of the Council and which the Mayor wishes to table for the information of Councillors and which the Mayor desires to include in the Minutes of the meeting at which they are tabled;
- “meeting” includes any Ordinary or Special meeting of the Council or of a Committee held pursuant to the Act;
- “Member” while the Mayor is a councillor mayor has the same meaning as the term “Councillor”;
- “minor amendment” in relation to a motion to amend another motion (“the primary motion”) shall be one which does not alter the primary or basic intent of the primary motion as determined by the person presiding at the meeting;
- “Order of the Day” means any business left over from the previous meeting and any other business the person presiding at the meeting thinks desirable to bring to the notice of the meeting and has directed to be entered in the Business Papers as an Order of the Day. In the case of unfinished business at Ordinary Meetings, the provisions of section 18.17 shall prevail;
- “Ordinary Meeting” has the meaning given to that term in section 18.3;
- “Representative’s Minutes” means a written record of any Local Government civic or other official conference, seminar or meeting in which a Council representative has participated since the last relevant meeting, and which the representative wishes to table for the information of Councillors and which the representative desires to include in the Minutes of the meeting at which they are tabled;
- “Special Meeting” has the meaning given to that term in section 18.3;
- “urgent business” means business dealt with in accordance with the provisions of section 18.15;
- “without discussion” means without debate but does not preclude a Councillor from asking such questions as the person presiding at the meeting permits, there being no discussion, debate or challenge on the ruling of the person presiding.

18.1.2 Terms and expressions used in this Part—

- (a) shall have the meaning given in subsection 18.1.1 which shall prevail over any other conflicting definitions; and
- (b) otherwise shall be interpreted in accordance with section 2.1.

Division 2—Meetings of Council

18.2 Mayor to Preside

Subject to the Act the Mayor, or if the Mayor is not available or is unable or unwilling the Deputy Mayor, or if the Deputy Mayor is not available or is unable or unwilling a Councillor chosen by the Councillors present, shall preside at any meeting of the Council (sections 5.6, 5.34 and 5.35 of the Act).

18.3 Kind of Meeting and Calling of Meeting

18.3.1 Meetings of the Council and Committees shall be of two kinds, "Ordinary" and "Special".

- (a) Ordinary Meetings are those called under subsection 5.5(1) of the Act at such place and at such times as the Council, from time to time, appoints for the transaction of the ordinary business of the Council, and its Standing and Occasional Committees.
- (b) Special Meetings are those called under subsection 5.5(2) of the Act to consider special business, the nature of which shall be specified in the notice convening the meeting. Subject to the provisions of the Act and these Standing Orders relating to the rescission or alteration of a resolution, no business shall be transacted at a Special Meeting other than that for which the Special Meeting has been called.

18.3.2 Calling of Meeting Procedures

- (1) An Ordinary or Special Meeting shall be held if so decided by the Council.
- (2) An Ordinary or Special Meeting of the Council shall also be held if called for by either—
 - (i) the Mayor; or
 - (ii) at least one third of the Councillors,

in a notice to the CEO setting out the date and purpose of the proposed meeting.

18.4 Notice of Ordinary Meeting

18.4.1 Notice of an Ordinary Meeting of the Council shall be given to Members in writing and shall be signed by the CEO, and shall state the date, time, and place of holding the meeting, and shall contain an Agenda Paper either separately or incorporated in the Business Papers. The notice shall be given to each of the Members together with a copy of the Business Papers (if any) at least 72 hours before the time of the commencement of the meeting.

18.4.2 The Business Papers for an Ordinary Meeting of the Council shall be made available for inspection by a ratepayer or elector of the City during office hours at the office of the Council and at such other place and times as the Council from time to time sees fit. The inspection may take place for such period before the meeting as the Council from time to time sees fit being not earlier than the time of service of the Business Papers on Councillors.

18.4.3 Unless Council resolves otherwise the CEO may on the day preceding the day of the meeting provide to the press and other media, a copy of the notice sent pursuant to subsection 18.4.1 or section 18.6 and pursuant to subsection 18.5.1 if a written notice was sent under that subsection.

18.5 Calling of Special Meeting

18.5.1 The CEO is to convene a Special Meeting by giving each Member notice, before the meeting, of the date, time, place and purpose of the meeting.

18.5.2 Notice of a Special Meeting may be given at any time prior to the time of the meeting given in the notice.

18.5.3 Notice of a Special Meeting should be given in writing if the time available for giving notice and the circumstances permit.

18.6 Notice of Adjourned Meeting

When a meeting of the Council is adjourned to a day and hour other than the next Ordinary Meeting of the Council, notice of the adjourned meeting shall, if time permits, be sent in the manner provided by subsection 18.4.1 of these Local Laws, to each Councillor, specifying the nature of the business to be transacted.

18.7 Quorum

18.7.1 The quorum for a meeting of a Council or Committee is at least 50% of the number of offices (whether vacant or not) of members of the Council or a Committee. (S.5.19).

18.7.2 The Minister may reduce the number of offices of Member required for a quorum at a Council meeting specified by the Minister if there would not otherwise be a quorum for the meeting. (S.5.7(1)).

18.7.3 The Minister may reduce the number of offices of member required at a Council meeting to make a decision specified by the Minister if the decision is one which would otherwise be required to be made by an absolute majority and a sufficient number of Members would not otherwise be present at the meeting. (S.5.7(2)).

18.7.4 The Council may resolve by absolute majority to reduce the number of offices of Committee member required for a quorum at a Committee meeting specified by the local government if there would not otherwise be a quorum for the meeting. (S.5.15).

18.8 Quorum must be Present

18.8.1 The Council shall not transact business at a meeting unless a quorum is present.

18.8.2 Subject to the provisions of section 18.9 every meeting shall proceed to business at the time appointed in the notice of meeting.

18.9 Quorum not Present

If at the expiration of half an hour from the time fixed for the commencement of a meeting of the Council a quorum is not present, the Mayor or in the Mayor's absence, the Deputy Mayor, or in the Deputy Mayor's absence, the majority of Councillors present, or any Councillor present alone, or in the absence of the Mayor and all the Councillors, the CEO or a person authorised by the CEO, may adjourn the meeting. Business which could have been transacted had there been a quorum at the meeting may be transacted at the resumption of the adjourned meeting or at the next Ordinary Meeting if that occurs first. If the business is transacted at the next Ordinary Meeting the adjourned meeting shall lapse.

18.10 Count Out

If at any time during a meeting of the Council a quorum is not present, the Mayor upon becoming aware of that fact shall thereupon suspend the proceedings of the meeting for a period of five minutes and if a quorum is not present at the expiration of that period, the meeting shall be deemed to have been counted out, and the Mayor shall adjourn it to some future time or date.

18.11 Debate on Motion to be Resumed

Where the debate on any motion, is interrupted by the Council being counted out, that debate shall be resumed at the next meeting at the point where it was so interrupted. Where the interruption occurs at an Ordinary Meeting the resumption shall be at the next Ordinary Meeting unless a Special Meeting is called earlier for the purpose. Where the interruption is at a Special Meeting, the resumption shall be at the next Special Meeting called to consider the same business or at the next Ordinary Meeting if it occurs before a Special Meeting can be called.

18.12 Names to be Recorded

At any meeting at which there is not a quorum of Councillors present, or at which the Council is counted out for want of a quorum, the names of the Councillors then present shall be recorded in the Minute Book.

18.13 Business at Ordinary Meeting

No business shall be transacted at any meeting of the Council other than specified in the notice relating thereto, except—

- (a) matters which the Act permits to be dealt with without notice; and
- (b) matters which these Local Laws expressly permit to be dealt with without notice.

18.14 Order of Business**18.14.1 Disclosure of Interests Notified in Writing**

If a Councillor has disclosed an interest in a written notice given to the CEO before a meeting, then before the meeting the CEO is to bring the notice to the attention of the persons who attend the meeting.

18.14.2 The order of business at any Ordinary Meeting shall be as follows, or as near thereto as shall be practicable, but for the greater convenience of the Council at any particular meeting, it may be altered by resolution to that effect—

- (i) Present;
- (ii) Apologies;
- (iii) Leave of Absence;
- (iv) Councillors' and employees' declarations of conflicting interests;
- (v) Question time;
- (vi) Declaration by Councillors whether they have given due consideration to all matters contained in the Business Paper presently before the meeting;
- (vii) Confirmation of Minutes;
- (viii) Orders of the Day;
- (ix) Tabling of Mayoral Minutes without discussion;
- (x) Tabling of Councillor's Minutes without discussion;
- (xi) Tabling of Representative's Minutes without discussion;
- (xii) Motions of which previous notice has been given;
- (xiii) Petitions and Memorials;
- (xiv) Reports by the CEO;
- (xv) Reports of Committees
- (xvi) Notices of Motion given at the meeting for consideration during the following meeting;
- (xvii) Urgent Business;
- (xviii) Confidential Business.

18.15 Urgent Business**18.15.1 When Introduced**

A Councillor may move a motion involving urgent business that is not included in the Agenda Paper for that meeting provided that—

- (a) the person presiding at the meeting has requested the Councillor to move the motion or has first consented to the business being raised;
- (b) the urgency of the business is such that the business cannot await inclusion in the Agenda Paper for the next meeting of the Standing Committee that has the oversight of the subject matter of the business; and
- (c) if the business was to be deferred to the next meeting of the appropriate Standing Committee, such delay could result in legal or financial implications to the City.

18.15.2 When Absolute Majority Required

If at an Ordinary Meeting a Councillor objects that a motion introduced as urgent business and moved without notice does not deal with urgent ordinary business within the meaning of that term in subsection 18.15.1(b) or (c) of these Local Laws, the motion shall be of no effect unless it is agreed to at the meeting by an absolute majority of the Councillors of the Council.

18.16 Order of Business at Special Meeting

The order of business at any Special Meeting of the Council shall be the order in which that business stands in the notice of the meeting.

18.17 Business at Adjourned Meeting

At an adjourned meeting of the Council no business shall be transacted other than that specified in the notice of the meeting of which it is an adjournment, and which remains undisposed of, save and except in the case of an adjournment to the next Ordinary Meeting of the Council, when the business undisposed of at the adjourned meeting shall have the precedence at such Ordinary Meeting.

18.18 Open Doors—Except as Provided**18.18.1 General Obligation**

Subject to the provisions of subsections 18.18.2 and 18.18.7 the business of the Council shall be conducted with open doors.

18.18.2 Resolution to Close Doors

The Council may by resolution decide to conduct behind closed doors any business of a meeting dealing with any of the matters referred to in section 5.23(2) of the Act.

18.18.3 Persons to Leave Chamber

Upon the carrying of a resolution referred to in subsection 18.18.2 the Mayor shall direct all persons other than Councillors, the CEO and any other person nominated in the resolution to leave the Council Chamber and every such person shall forthwith comply with the direction.

18.18.4 Removal of Person by Order

Any person who fails to comply with the direction made pursuant to subsection 18.18.3 may, by order of the Mayor be removed from the Council Chamber.

18.18.5 Duration of Closure

(1) After the carrying of a resolution referred to in subsection 18.18.2 at a meeting, the business of that meeting of the Council shall proceed behind closed doors, until the Council, by resolution, decides to proceed with open doors.

(2) If the resolution was to conduct specified business behind closed doors the meeting shall revert to open doors upon the completion of the specified business unless the Council resolves to do so earlier.

18.18.6 Notice of Motion Not Required

Any resolution mentioned in this section may be moved without notice.

18.18.7 Conduct of Business Behind Closed Doors

(1) The following business shall be conducted behind closed doors unless the Council in any particular case resolves otherwise—

- (a) matters of a personal nature touching the conduct in employment of an employee of the Council or the relationship or contract with the Council of an employee;
- (b) consideration of legal advice;
- (c) any matter which in the opinion of the person presiding at the meeting requires consideration of the personal private affairs of a person in circumstances likely to cause unreasonable embarrassment to that person if the consideration did not occur behind closed doors; and
- (d) a matter that if disclosed, could be reasonably expected to—
 - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
 - (ii) endanger the security of the local government's property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety.

(2) The Council may in any case resolve to conduct behind closed doors any other matter referred to in section 5.23(2) of the Act.

18.18.8 Recording Decision in Minute

A decision to close a meeting or part of a meeting and the reason for the decision shall be recorded in the minutes of the meeting.

18.19 Seating At Council Meetings**18.19.1 Distinguished Visitors**

If a distinguished visitor is present at a meeting of the Council the Mayor may invite the person to sit beside the Mayor, or at the Council table.

18.19.2 Seating of Councillors

Seating of Councillors at the Council table in the Council Chamber shall be in accordance with the policy of Council as adopted from time to time.

18.20 Reporters

Accredited reporters of the press and other media shall be permitted to attend at meetings of the Council, in such part of the Council Chambers as may be appropriated for their accommodation, but they shall withdraw during any period when the Council is sitting behind closed doors.

18.21 Recording of Proceedings Prohibited

A person shall not use any electronic visual or vocal recording device or instrument to record the proceedings of the Council unless the person has been given permission by the Council to do so.

18.22 Prevention of Disturbance**18.22.1 No Interruption**

A person, not being a Councillor, shall not at any meeting of the Council interrupt the proceedings of the Council.

18.22.2 Person Not a Councillor Interrupting

Any person not being a Councillor interrupting the proceedings of the Council shall when so directed by the Mayor, forthwith leave the Council Chamber.

18.22.3 Councillor Interrupting

If a Councillor interrupts the proceedings of the Council that Councillor may be named by the Mayor. If the Councillor thereafter continues to interrupt proceedings, the Council may by motion which may be moved without notice exclude that Councillor from the Council Chamber for a period of time stipulated but not exceeding the duration of the meeting.

18.22.4 Removal by Order

Any person who, being ordered to leave the Council Chamber fails to do so may, by order of the Mayor, be removed from the Council Chamber.

18.22.5 Enforced Removal

If a person ordered by the Mayor to be removed from the Council Chamber cannot be removed without the application of physical force then a member or members of the Police Force shall be called to the Council Chamber to effect the removal of the person and the meeting may be adjourned until the person has been removed.

18.23 Objectionable Business

If the Mayor at any meeting of the Council is of the opinion that any motion or business proposed to be made or transacted thereat is of an objectionable character, the Mayor either before or after the same is brought forward may declare that the same shall not be entertained provided always that any Member of the Council may move dissent from the declaration made from the Chair, whereupon the motion to dissent shall forthwith be put without debate, and in the event of the same being carried by a majority of the Councillors present the business referred to shall thereupon be entertained but not otherwise.

18.24 Disclosure of Members' Interests**18.24.1 Interpretation**

In this section the term "member" refers to either a Council member or a member of a Committee.

18.24.2 Obligation to Disclose an Interest

(1) Any member who has an interest within the meaning of section 5.60 but subject to section 5.63 of the Act ("interest") in a matter to be discussed at any meeting that will be attended by the member must disclose the nature of the interest.

(2) The disclosure under paragraph (1) should if possible be by a written notice given to the CEO before the meeting.

(3) If there has not been a disclosure under paragraph (2) the member must disclose the interest at the meeting immediately before the matter is discussed, or if there is no discussion, immediately before the matter is voted upon.

(4) If a member has an interest in a matter raised by way of amendment to a motion or an interest in a matter raised otherwise without notice, the member must disclose that interest at the earliest possible time after the matter is raised, but in any event before discussion or voting on the matter takes place.

(5) The obligation to disclose an interest shall apply to all members present at the meeting including a Councillor attending a Committee meeting in the capacity of an observer.

(6) The obligation to disclose an interest applies in regard to each meeting at which the matter the subject of the interest arises.

(7) The obligation to disclose an interest at a meeting immediately before discussion of the matter does not apply to a member who has disclosed the member's interest by written notice in accordance with paragraph (2).

18.24.3 Meeting to be Informed of Disclosures

If a member has disclosed an interest by a written notice in accordance with subsection 18.24.2(2)—

- (a) the CEO shall cause the notice to be given to the person who is to preside at the meeting; and
- (b) the person who is to preside at the meeting shall bring the notice to the attention of the persons who attend the meeting. (S.5.66).

18.24.4 Details of Interest

(1) At the time of disclosing an interest, a member is required to disclose the nature of the interest, but is not required to state the extent of the interest including its value and amount, unless the member wishes the meeting to consider and resolve upon the question whether the member -

- (a) should be allowed to be present during any discussion or decision-making procedure relating to the matter; or
- (b) may be allowed to participate in discussions and the decision-making procedures relating to the matter,

in which case the member shall comply with paragraph (2) hereof.

(2) If a member wishes the meeting to consider and resolve upon the questions referred to in either (a) or (b) of paragraph (1) of this section the member shall first disclose to the meeting the nature and extent of the interest, including its value and amount, in sufficient detail to enable the meeting to make a fair and informed decision on the question.

(3) If a member wishes the Council or the CEO to apply to the Minister under section 5.69 of the Act the member shall provide to the Council or the CEO as the case may be the same details of the nature and extent of the member's interest as referred to in paragraph (2).

18.24.5 Disclosing Member Not to Participate in Meeting

(1) A member who makes a disclosure under subsection 18.24.2 hereof must not—

- (a) preside at the part of the meeting relating to the matter; or
- (b) participate in, or be present during, any discussion or decision-making procedure relating to the matter,

unless, and to the extent that, the disclosing member is allowed to do so by resolution of the Council under subsection 18.24.6 hereof, or by the Minister under section 5.69 of the Act. (S.5.67).

(2) A member who has disclosed an interest in a matter and who has not been permitted by resolution of the meeting or by the Minister under section 5.69 of the Act to participate in the discussion or decision-making procedures relating to the matter, shall depart from and remain absent from the chamber or room where the meeting is held while the matter is under consideration and until a vote on the matter has been taken.

(3) A member who has disclosed an interest in a matter ("the substantive matter") but who desires either to participate in discussions or the decision-making procedures relating to the substantive matter, and who has not been allowed to participate by decision of the Minister under section 5.69 of the Act, may remain in the chamber or room for the purpose only of giving an explanation in support of a motion that the member be permitted to participate in discussions or the decision-making procedures (as the case may be), but thereafter shall depart from the chamber or room until the vote on that matter is known.

(4) If it is resolved at a meeting that a member who has disclosed an interest in a matter be permitted to participate in the discussion or decision-making procedures on the matter or both, then the member may return and participate to the extent permitted.

(5) Where a member has disclosed an interest in a matter and has departed from the chamber or room, the meeting may resolve to invite the member to return to provide information in respect of the matter or in respect of the member's interest in the matter, but in such case the member must withdraw after providing the information requested.

18.24.6 Substitution of Deputy at Committee

Where a member withdraws from a meeting of a Committee in respect of a matter under consideration by that Committee in accordance with the provisions of this clause, the meeting may resolve to invite another member present at the meeting who was a deputy of the excluded member for that Committee to participate as a member of the Committee in the absence of the excluded member.

18.24.7 Meeting Allowing Disclosing Member to Participate

(1) If a member has disclosed, under subsection 18.24.2 hereof, an interest in a matter, the members present at the meeting who are entitled to vote on the matter—

- (a) may allow the disclosing member to be present during any discussion or decision-making procedure relating to the matter; and
- (b) may allow, to the extent decided by those members, the disclosing member to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision-making procedures relating to the matter—if
 - (i) the disclosing member also discloses the extent of the interest; and
 - (ii) those members decide that the interest—
 - (I) is so trivial or insignificant as to be unlikely to influence the disclosing member's conduct in relation to the matter; or
 - (II) is common to a significant number of electors or ratepayers.

(2) A decision under the preceding paragraph of this subsection is to be recorded in the minutes of the meeting relating to the matter together with the extent of any participation allowed by the Council or Committee.

(3) This subsection does not prevent the disclosing member from discussing, or participating in the decision-making process on, the question of whether an application should be made to the Minister under section 5.69 of the Act. (S.5.68).

18.24.8 Exemption by Minister

(1) Where the Minister allows a member who has disclosed an interest to participate in a meeting in any capacity, in the case of any inconsistency between the provisions of this section and the Minister's determination, the Minister's determination shall prevail.

(2) The terms of any determination by the Minister shall be recorded in the Minutes in the same manner as a disclosure of interest.

18.24.9 Recording Details of Interest in Minutes

The Minutes of a meeting shall record in summary form the details of the interest disclosed by a Councillor in respect of a matter arising at that meeting in accordance with the provisions of this section, unless the meeting resolves that the details should be recorded in full.

18.25 Disclosure of Employee's Interests

18.25.1 Interpretation

In this section the term "employee" includes a person who, under a contract for services with the City, provides advice or a report on a matter.

18.25.2 An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the Council or a Committee shall disclose the nature of the interest when giving the advice or report. (S.5.70(2)).

18.25.3 An employee who discloses an interest under this section must, if required to do so by the Council or Committee, as the case may be, disclose the extent of the interest. (S.5.70(3)).

18.25.4 An employee if called upon to disclose the extent of an interest shall disclose full detail including the value and amount of the interest so as to enable the meeting to make a fair and informed evaluation of the nature and extent of the employee's interest and any effect that interest might be thought to have upon the advice or report given.

18.25.5 The details of the interest of an employee disclosed under the preceding provisions of this section shall be recorded in the minutes of the meeting relating to the disclosure. (S.5.73).

18.25.6 If, under Part 5 of the Act, an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and—

- (a) in the case of the CEO, must disclose to the Mayor the nature of the interest as soon as practicable after becoming aware that the CEO has the interest in the matter; and
- (b) in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that the employee has the interest in the matter. (S.5.71).

18.26 Declaration of Conflict of Interest

18.26.1 In this section—

“interest under this section” means an interest of a personal nature which a Member or employee has in a matter which is not required to be disclosed under section 18.24 or section 18.25, but which a reasonable person knowing the facts might assume would influence the consideration of that matter by the Member or employee. (Examples are applications for an approval consent or licence by a parent, sibling, adult child or close friend of a Member or employee.)

18.26.2 If a Member or employee attending a meeting of the Council has an interest under this section in any matter proposed to be considered at that meeting the Member or employee should disclose that interest at the meeting before the discussion of any matter that requires a decision to be made by the Council.

18.26.3 A Member or employee expected to disclose an interest under this section in a matter ought to leave the Chamber or room of the meeting while the matter is discussed and voted upon, unless the meeting resolves to request that the person remain to give an explanation or for any other purpose, in which case the person should leave the meeting immediately afterwards until the matter has been voted upon.

18.26.4 In applying the preceding subsection, a Member must bear in mind the obligation under section 5.21(2) of the Act to vote at meetings where the Member is present, and any problem the Council might have in achieving a quorum or an absolute or special majority in connection with the matter.

18.26.5 The decision to disclose an interest under this section is a decision to be made by the Member or employee and is not to be determined by resolution of the meeting.

18.27 Declaration of Due Consideration

Any Councillor who is not familiar with the substance of any report or Minutes or other information provided for consideration at a meeting shall declare that fact at the time declarations of due consideration are called for in the Order of Business of the meeting or otherwise before the meeting considers the matter and in the event that any Councillor makes such a declaration the relevant matter shall be stood down for later consideration at that meeting under Orders of the Day so as to allow an opportunity for any Councillor making the declaration to become familiar with the relevant report or Minutes or other information. If the delay in consideration of the matter has not allowed sufficient time for the Councillor to give due consideration to the matter, the Councillor should leave the Council Chamber before any question concerning that matter is put to the vote.

18.28 Minutes

18.28.1 Confirmation of Minutes

(1) The Minutes of a meeting of the Council, whether of an Ordinary or a Special meeting, shall be submitted to the next Ordinary meeting of the Council for confirmation. (S.5.22(2)).

(2) The Minutes of a meeting of a Committee shall be submitted to the next meeting of the Committee for confirmation. (S.5.22(2)).

(3) Discussion of any Minutes other than discussion as to their accuracy as a record of proceedings shall not be permitted, and when confirmed the Minutes shall be signed and certified by the Mayor in the case of Council Minutes or by the person presiding in the case of a Committee. That person shall sign and date each page of the Minutes.

18.28.2 Keeping of Minutes

(1) Minutes may be pasted or otherwise permanently affixed to or as the leaves of a book which may be known as the “Minute Book”.

(2) Minutes may be otherwise kept in the records of the Council in a manner which ensures that they are permanently and securely recorded, and available for inspection, copying, and production in evidence in any court. Such record of the Minutes may be referred to as “Minute Book”, whether it is in book form or not.

18.28.3 Reading of Minutes May be Dispensed With

In submitting Minutes to a meeting for confirmation, the Minutes may be read at that meeting, but the reading of Minutes at a meeting may be dispensed with when Members have been supplied with copies of the Minutes at least 3 days before the holding of the meeting at which they are to be submitted.

18.29 Question Time

18.29.1 Councillors' Questions on Notice

A Councillor desirous of putting a question as to the work or procedure of the Council shall give notice thereof in writing to the CEO at least eight hours before the hour fixed for the commencement of an Ordinary Meeting. If such question is in order in the opinion of the Mayor, the answer shall, as far as practicable be read at the Ordinary Meeting of the Council occurring next after the notice was given. If in the opinion of the Mayor the question is not in order, the Mayor shall give reasons for that opinion and as far as practicable the question, the Mayor's ruling and those reasons shall be read at the Ordinary Meeting of the Council occurring next after the notice was given. If the Mayor rules that a question is not in order the provisions of subsections 18.41.6 and 18.41.7 apply.

18.29.2 Public Question Time

(1) Fifteen minutes shall be allocated for questions to be raised by members of the public and responded to at—

- (a) every Ordinary Meeting of the Council; and
- (b) every Special Meeting of the Council; and
- (c) every meeting of a Standing Committee;
- (d) every meeting of a Committee to which the Council has delegated a power or duty; and
- (e) every other meeting prescribed for the purpose of section 5.24(1) of the Act.

(2) The public question time shall precede the discussion of any matter that requires a decision to be made by the Council or Committee.

(3) The Council or Committee may extend the question time by resolution on a motion without notice, and in any event the time shall be extended without the necessity for a resolution to allow an equal opportunity of time to each member of the public who wishes to ask a question.

(4) Once all the questions raised by members of the public have been asked and responded to at a meeting, any unused portion of the question time period may be used for other matters.

(5) Each member of the public who wishes to ask a question at a meeting referred to in paragraph (1) shall be given equal and fair opportunity to ask the question and receive a response.

(6) A member of the public wishing to ask a question should register that interest by notification in writing to the CEO in advance, setting out the text or substance of the question. The order in which registrations of interest are received by the CEO shall determine the order of questions unless the Mayor determines otherwise.

(7) A member of the public having asked a question shall return to a seat in the gallery unless otherwise directed by the person presiding at the meeting.

(8) Nothing in paragraph (5) requires—

- (a) the Council to answer a question that does not relate to a matter affecting the City;
- (b) the Council at a Special Meeting to answer a question that does not relate to the purpose of that meeting; or
- (c) a Committee to answer a question that does not relate to a function of that Committee; or
- (d) the Council or a committee to extend question time without any limitation on the time allowed.

(9) Subject to the procedural matters previously set out in this subsection, the procedures for the asking of and responding to questions raised by members of the public at a meeting referred to in paragraph (1) are to be determined—

- (a) by the person presiding at the meeting; or
- (b) in the case where the majority of members present at the meeting disagree with the person presiding, by the majority of these members.

(10) Every reasonable effort should be made to provide a substantive answer to a question raised by a member of the public, but if the meeting is unable to provide an informative answer to the whole of the question, it may—

- (a) answer that part (if any) for which it has a substantive answer;
- (b) respond otherwise that the question or part to which no substantive answer has been supplied will be answered substantively in a manner and at a time indicated.

(11) If the written registration of interest in asking a question is given to the CEO not less than two working days before the meeting at which the question is to be asked, then the response to the question at the meeting shall be a substantive answer.

18.29.3 Publication of Agenda Items

To allow the public a reasonable opportunity to ask questions at a meeting, a list of agenda items for any meeting referred to in paragraph 18.28.2(1) may be published in a newspaper circulating in the district of the City in advance of the meeting.

18.29.4 Questions and Answers to be Brief

All questions and answers shall be given as briefly and concisely as possible, and no discussion shall be allowed thereon.

18.29.5 Questions Not to Involve Bad Language, Argument or Opinion, or Adverse Reflection on Integrity of any Councillor or Employee

(1) In submitting any questions, no bad language, argument or expression of opinion shall be used or offered, nor any facts stated except so far as may be necessary to explain the question. The Mayor may modify a question to make it comply with this subsection.

(2) A question shall not contain any statement reflecting adversely on the integrity of any Councillor or employee.

(3) If in the opinion of a Councillor, false information or any adverse reflection is contained in any question, then through the Mayor, the Councillor may offer comment by way of correction.

18.29.6 No Discussion on Questions

Subject to paragraph (3) of the preceding subsection, no discussion or further questions shall be allowed on any question or the response thereto.

18.30 Reports by the CEO

The CEO may prepare for presentation to any meeting a report dealing with any matter which in the opinion of the CEO should be drawn to the attention of the meeting.

18.31 Distribution to the Councillors

Subject to the next section, the CEO shall send to each Councillor a copy of any report which the CEO proposes to present to a meeting. The report shall be sent to each Councillor not less than 24 hours before the commencement of the meeting.

18.32 Late Report

In cases of urgency or other special circumstances a report by the CEO may, with the consent of the Mayor, be read or otherwise given to Councillors at the meeting notwithstanding that it has not been sent to Councillors in accordance with the preceding section.

18.33 Executive Reports

18.33.1 A Director may present to a Committee for which that Director is responsible a report dealing with any matter which in the opinion of the Director falls within the responsibility of that Committee.

18.33.2 The CEO may direct or authorise a Director to report directly to the Council on any matter for which that Director has responsibility under the CEO, but Directors shall not report directly to the Council unless so directed or authorised.

18.33.3 Where a Director reports to a Committee or the Council in accordance with the provisions of this section, the provisions of sections 18.30, 18.31 and 18.32 shall apply mutatis mutandis to the extent to which they are applicable.

18.34 Council Delegates' Reports

A report by any Council Delegate shall be delivered to the CEO who shall determine to which Director it should be notified and a Director receiving a Council Delegate's Report from the CEO shall include it in the next appropriate Director's Report, unless the CEO in the case of a late report by a Delegate incorporates the Delegate's Report in the report by the CEO for the next Council meeting.

18.35 Deputations To Council

18.35.1 Any person or persons wishing to be received as a deputation by a Committee shall, in the first instance, send to the CEO a memorial, setting out the subject matter to be raised by the deputation in concise terms, but nevertheless in sufficient detail to enable the Council to have a general understanding of the purpose of the deputation.

18.35.2 Where the CEO receives a memorial in terms of the preceding subsection but not otherwise, the CEO shall refer it to the relevant Committee chairman, whichever the CEO considers appropriate, and

- (a) give a precis of the memorial to that person;
- (b) advise whether or not the Committee has the power to decide on the matter or whether the Committee may only make a recommendation on the matter to the Council;
- (c) recommend, with an explanation, whether or not the deputation should be received; and
- (d) request advice from the Chairman within a stated time whether or not he or she considers the deputation should be received.

18.35.3 In the event that the Chairman of the relevant Committee indicates agreement, the person or persons wishing to be received as a deputation shall be invited to meet the Committee at its next meeting.

18.35.4 The agenda for Committee Meetings shall include as a final item of business, an item titled "Matters Deferred from Deputations".

18.35.5 A deputation shall not exceed five in number and only two thereof shall be at liberty to address the Committee except in reply to questions from Councillors and the matter shall not be further considered by the Committee, until all other business of the meeting has been finalised.

18.35.6 The Council or a Committee shall not discuss or make a recommendation arising from the subject of a deputation at the meeting at which the deputation is received, unless the matter is the subject of an officer report contained in the Business Papers of the meeting.

18.35.7 The Council may resolve to ask a deputation to meet with the Council either instead of, or additional to a deputation to a Committee.

18.35.8 A request by any person wishing to present a deputation on the same subject previously dealt with within a period of 2 months and at the absolute discretion of the Chairman, may or may not be accepted.

18.35.9 Deputations are not to involve bad language or adverse reflection on the integrity of any councillor or employee.

(1) In submitting any deputations, no bad language shall be used or offered, nor any facts stated, except so far as may be necessary to explain the context of the deputation.

(2) A deputation shall not contain any statement reflecting adversely on the integrity of any councillor or employee.

(3) If, in the opinion of a councillor, false information or any adverse reflection is contained in any deputation, then through the Mayor, the councillor may offer comment by way of correction.

18.36 Deputations by Council

18.36.1 In the event that the Council resolves to seek a meeting with any Minister or government department or agency, Federal, State or Local, or any other body or person the request for the meeting should be made in writing within 2 working days after the date of the resolution.

18.36.2 The CEO should report to the next Council meeting the measures taken to arrange the requested meeting and should present a report on the requested meeting to the next Council meeting occurring after the requested meeting.

18.37 Petitions

18.37.1 Every petition shall be respectful and temperate in its language and shall be presented to the Council by a Councillor only who shall acquaint himself or herself with the contents thereof and ascertain that it does not contain language disrespectful to the Council.

18.37.2 A petition must—

- (a) contain the name, address and signature of each petitioner; and
- (b) have the name of the person who lodged the petition with the Council shown at the top of each page thereof but need not otherwise be in any particular form.

18.37.3 On the presentation of a petition, the Councillor presenting it shall be confined to reading the petition, and the only motions that are in order are that the petition be received and if necessary that it be referred to a Committee or for officer report.

18.38 Reports of Committees

18.38.1 Minutes to be Report

Subject to section 18.28 the CEO shall enter the minutes of all Committees in the Minute Book. The minutes of each Committee shall be deemed to be the report of the Committee to Council.

18.38.2 Committee Minutes to be Sent to Councillors

All minutes of Committee meetings to be presented at any meeting of the Council shall be sent to each Councillor at least 24 hours before the commencement of the meeting at which they are to be presented.

18.38.3 Presentation of Reports

(1) Minutes of a Committee shall be presented to the Council by the Chairman of each Committee concerned or, in the Chairman's absence, a Councillor of the Committee ("the presenting member") in the form of a motion "That the report be received".

(2) No objection to the reception of a report of any Committee, or any part thereof, shall be raised when such reports are presented to the Council, except for reasons arising out of such reports.

(3) The Mayor shall—

- (a) put the question that the report be received;
- (b) call for requests by any Councillors to withdraw any recommendation contained in the report, and where such a request is made the subject recommendation shall be withdrawn;
- (c) put the question that the recommendations be adopted with the exception of any recommendations withdrawn pursuant to item (b) of this paragraph;

and in relation to a recommendation or those recommendations in the report which are the subject of a request by a Councillor pursuant to item (b), those recommendations shall be individually dealt with in accordance with these Local Laws.

18.38.4 Withdrawal or Amendment of Reports

Without affecting the generality of the preceding subsection, the Chairman or other Councillor of a Committee presenting a report may, with the consent of the Council, withdraw the report or any recommendation thereof or carry out an amendment of a minor or formal nature which does not affect the substance of the report or recommendation and which does not appear to change the will or intent of the Committee.

18.39 Notices of Motion

18.39.1 Giving Notice of Motion

(1) Unless the Act or these Local Laws otherwise provide, a Councillor may only bring forward at a meeting such business as he or she considers advisable in the form of a motion of which notice has been given in writing to the CEO.

(2) Except in the case of a Special Meeting of the Council, notice of motion shall be given either—

- (a) at the last previous Council meeting; or
- (b) at least 4 clear days before the meeting at which it is brought forward.

(3) Every notice of motion shall relate to some question affecting the constitution, administration or condition of the City or the Council, or as otherwise authorised by a written law.

18.39.2 Exclusion or Amendment of Notices

(1) The CEO, with the concurrence of the Mayor, may exclude from the Agenda Paper of the Council any notice of motion which is out of order, or the CEO may on his or her own initiative make such amendments to the form but not the substance thereof as will bring the notice of motion into due form.

(2) No notice of motion shall be deemed informal by reason of the policy involved being considered objectionable, or by reason of its having relation to a matter not within the scope of the ordinary work of the Council, so long as in the opinion of the Mayor such matter is one of public interest, utility or importance.

18.39.3 Motion to Lapse

Subject to the provisions of subsection 18.54.11 any motion of which notice has been given shall lapse unless—

- (a) the Councillor who gave notice thereof, or some other Councillor authorised by the Councillor in writing, is present to move the motion when called on; or
- (b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.

18.39.4 Dealing with Lapsed Motion

(1) If a notice of motion is given and lapses in the circumstances referred to in the preceding subsection, notice of motion in the same terms or to the same effect may be given for consideration at a subsequent meeting of the Council.

(2) If a motion lapses and is in the same terms or to the same effect as a motion which lapsed at a previous meeting of the Council, the Council shall not entertain a motion in the same terms or to the same effect at a subsequent meeting until at least three months have elapsed from the date of the meeting at which the motion last lapsed. This provision shall not apply to motions to rescind or alter a resolution and to which section 18.54 applies.

18.39.5 Amendments to Notice of Motion

(1) An amendment other than a minor amendment to a motion of which Notice of Motion has been given in accordance with subsection 18.38.1 shall not be considered at a meeting unless notice in writing of the amendment is received by the CEO no later than 12.00 noon on the last day preceding the day of the meeting at which the relevant motion is to be considered, excluding any day on which the Council's Administrative Office is not open for business, in which instance notice may be given no later than 12.00 noon on the day of the relevant meeting.

(2) A Notice of Amendment of Motion received by the CEO not less than two clear days before the meeting at which the relevant motion is to be considered shall be properly entered on the Business Paper immediately after the notice of the relevant motion.

(3) The Mayor shall decide whether any amendment moved without notice given in accordance with the preceding paragraphs of this subsection is a minor amendment but the Council may dissent from the Mayor's ruling in accordance with the provisions of subsection 18.42.6(1).

18.40 Production of Document

18.40.1 Interpretations

In this section—

- (a) the term "document" means a deed, book, report, paper or any other written material whatsoever or any other recorded or stored information;
- (b) the term "other thing" means any thing whatsoever other than a document as hereinbefore defined, which relates to a matter or question under consideration or discussion by the Council or, by virtue of a notice of meeting given, to be considered or discussed by the Council; and
- (c) the term "laid on the table" means laid or deposited at a place within the Council's Administrative Building designated from time to time for that purpose by the CEO and at which place a tabled document or other thing may be perused or inspected by a Councillor during Council office hours or at other times on application to the CEO and inflections of that term shall have a like meaning.

18.40.2 Councillor May Require Production

On giving to the CEO not less than 4 hours' notice, a Councillor is entitled to have laid on the table a document or other thing which is under consideration by Council and the CEO on receiving that notice shall lay the document on the table for a period of 24 hours commencing as soon as practicable after the receipt by the CEO of the notice.

18.40.3 Circumstances in which CEO to Comply

The CEO shall comply with a request made pursuant to subsection 18.40.2 unless the CEO is of the opinion that it would not be in order to do so in which case the CEO shall refer the request to the Mayor for determination.

18.40.4 Mayor's Ruling

On the reference to the Mayor of a request made pursuant to subsection 18.39.2 or 18.40.3 the Mayor shall rule whether it is in order and accordingly whether it should be granted or refused and the ruling is final but where the request is refused the CEO shall report the fact to the appropriate Committee, as directed by the Council, at the next meeting of that Committee. In the absence of a direction by the Council the CEO shall report the fact to the Committee which in the CEO's opinion is appropriate to deal with the matter.

18.40.5 Production of Relevant Document for Committee

Any document or other thing relevant to the business to be considered at a meeting of a Standing or other Committee shall be laid on the table by the CEO at least 72 hours prior to an ordinary meeting of the Committee and 24 hours prior to a special meeting of such Committee or as soon as received by the CEO where it is received less than 72 hours or 24 hours respectively before the meeting.

18.40.6 Access by Councillor to Tabled Documents

When a document or other thing is laid on the table in accordance with this section then that document or other thing may be perused or inspected by a Councillor in the place designated at any time during Council's office hours or at any other reasonable time on application to the CEO but the document or other thing shall not be copied or removed.

Division 3—Meetings—Procedure And Conduct

18.41 General Procedure

18.41.1 Councillors to Occupy Own Seats

At meetings of the Council each Councillor shall occupy the place assigned to that Councillor within the Council Chamber.

18.41.2 Respect to the Chair

After a meeting of the Council has been formally constituted and the business thereof commenced, a Councillor shall not enter, leave or withdraw from the meeting, without first paying due respect to the Chair by deferring to the Mayor.

18.41.3 Substance of Motion to be Stated

Any Councillor desirous of proposing an original motion or amendment shall state its substance before he or she addresses the Council thereon and, if so required by the Mayor, shall put the motion or amendment in writing.

18.41.4 Unopposed Business

Upon a motion being moved, the Mayor may ask the meeting if any Councillor opposes it. If no one signifies opposition to the motion or opposition to the motion being treated as unopposed business, the Mayor may declare the motion carried without debate and without taking a vote thereon. A motion declared carried under this section shall for all purposes be deemed a resolution of the Council. If any Councillor signifies opposition to a motion or to a motion being treated as unopposed business, the motion shall be dealt with according to the ensuing provisions of this Part.

18.41.5 Motion and Amendments to be Seconded

(1) A motion or amendment shall not be discussed or put to the vote of the Council unless seconded.

(2) A nomination to the position of Deputy Mayor or chairman of a committee is not required to be seconded.

(3) A motion of amendment shall not be altered by the mover without the consent of the seconder.

18.41.6 Titles to be Used

A speaker, in referring to any other person present in the capacity of a Councillor or officer of the Council, shall designate that other person by the title of Mayor or Councillor, or by the title of the particular officer, as the case may be.

18.41.7 Councillors to Address Mayor

(1) Any councillor moving a motion or amendment, or taking part in a discussion thereon, shall rise except when prevented from doing so by physical impairment or illness, and address the Mayor and shall remain standing for as long as he or she continues to speak unless a councillor raises a point of order pursuant to section 18.42.4.

(2) The Mayor, at his or her absolute discretion, may suspend the operation on the preceding paragraph."

18.42 Preserving Order

18.42.1 Mayor to Preserve Order

The Mayor shall preserve order, and may call any Councillor to order, whenever, in the Mayor's opinion, there is cause for so doing.

18.42.2 Definition of Order

Any Councillor who does anything or behaves in a manner which is forbidden by any of these Standing Orders shall be deemed to be out of order.

18.42.3 Breaches of Order

The following shall be recognised as breaches of order—

- (a) discussion of a question not before the Council;
- (b) the use of offensive or insulting language;
- (c) the violation of any Local Law or standing order of the Council;
- (d) insinuations as to the character, morality, honesty or motives of a Councillor or officer.

18.42.4 Raising Point of Order

(1) Any Councillor may direct the attention of the Mayor to any infraction of the Standing Orders by any other Councillor or draw the attention of the Mayor to any matter of a kind mentioned in subsection 18.42.3.

(2) A Councillor raising a point of order shall specify one of the grounds mentioned in subsection 18.42.3 before speaking further on the matter.

(3) Rising to express a difference of opinion or to contradict a speaker shall not be recognised as rising to order.

18.42.5 Precedence of Questions of Order

Notwithstanding anything contained in these Local Laws to the contrary, all questions of order at any time arising shall, until decided, suspend the consideration of and decision on every other question.

18.42.6 Rulings by Mayor

(1) The Mayor, when deciding a point of order or practice, shall give his or her decision, and argument or comment shall not be permitted thereon, and the Mayor's decision is final in that particular case, unless a majority of the Councillors then present upon motion made forthwith, without discussion, dissent therefrom.

(2) Notwithstanding the generality of paragraph (1) there shall be no dissent from a ruling of the Mayor allowing or disallowing a question on a matter required to be dealt with without discussion.

18.42.7 Ruling Out of Order

Whenever the Mayor has decided that any motion, amendment or other matter before the Council is out of order, it shall be rejected and whenever anything said or done by any Councillor is similarly decided to be out of order that Councillor shall be called upon by the Mayor to make such explanation, retraction or apology, as the case may require.

18.42.8 Continued Breach of Order

Where a Councillor persists in any conduct which the Mayor decides is out of order, or refuses to make any explanation, retraction or apology required by the Mayor under subsection 18.42.7 or 18.44.5, the Mayor may direct that Councillor to refrain from taking any further part in the meeting of the Council, other than by recording his or her vote and the Councillor shall comply with such direction.

18.42.9 Serious Disorder

(1) If at a meeting of the Council the Mayor is of opinion that by reason of disorder or otherwise the business of the Council cannot effectively be continued, the Mayor may adjourn the meeting for a period of no more than 15 minutes, whereafter the Council shall re-assemble and decide whether business is to be proceeded with; and that question shall be decided forthwith and without debate.

(2) Where after any proceedings under paragraph (1), the Mayor is again of the opinion that the business of the Council cannot effectively be continued, the Mayor may close or adjourn the meeting.

18.42.10 Mayor may be Heard

Whenever the Mayor in the capacity of Chairperson rises during debate to raise or rule on a point of order, any Councillor then speaking or offering to speak shall be silent so that the Mayor may then be heard without interruption.

18.43 Rules of Debate

18.43.1 Mayor to Take Part in Debate

Subject to the provisions of these Local Laws it shall be competent for the Mayor to take part in the discussion upon any question before the Council.

18.43.2 Priority of Speaking

Where two or more Councillors rise to speak at the same time, the Mayor shall decide which of them is entitled to priority.

18.43.3 Speaking Without Interruption

A Councillor who is addressing the Mayor and the Mayor if participating in the discussion on any question shall not be interrupted except on a point of order, in which event the Councillor shall be seated until the Councillor raising the point of order has been heard thereon and the question of order has been disposed of, whereupon the Councillor so interrupted may, if permitted, proceed.

18.43.4 Speaking Twice

(1) Subject to subsection 18.43.7 no Councillor shall speak twice on the same question, except in reply upon an original motion of which he or she was the mover or as the mover of an amendment last moved.

(2) The mover of any original motion may exercise his or her right of reply after any amendments thereto have been moved and disposed of.

18.43.5 Calling to Order for Speaking Twice

Subject to subsection 18.43.7, the Mayor shall, without waiting for the intervention of the Council, call to order any Councillor proceeding to speak a second time on the same question.

18.43.6 Mover or Seconder to be Held to have Spoken

(1) A Councillor moving a motion or amendment shall be held to have spoken thereon whether or not the Councillor has actually spoken by way of introduction of the motion, but the mover shall nevertheless be entitled to a right of reply.

(2) A Councillor seconding a motion or amendment shall be held to have spoken thereon unless at the time of seconding the motion or amendment the Councillor reserves the right to speak on the motion or amendment immediately after the first speaker against it, but not otherwise.

18.43.7 Resolution to Allow Speaking Twice

The Council may, by resolution moved without notice, suspend the operation of subsection 18.43.4 hereof in the following circumstances—

- (a) There may be a general suspension in which case subsection 18.43.4 shall be suspended until such time as the Council by resolution resolves to lift the suspension; and
- (b) There may be a specific suspension giving the right to speak twice to specified Councillors and that suspension shall be automatically lifted when all Councillors specified have spoken twice or waived the right to do so.

18.43.8 Questions During Debate

A Councillor may ask a question at any time during the debate on a motion before the motion is put, but no discussion thereon is permitted.

18.43.9 Foreshadowed Motion

(1) A Councillor in speaking upon a motion may give notice to the meeting of the Councillor's intention to move a different motion on the same subject matter, being a motion which cannot practically be moved by an amendment to the motion under consideration and shall provide to the Mayor the terms of the foreshadowed motion.

(2) If two or more Councillors pursuant to subsection (1) foreshadow motions on the same subject, the Mayor shall take note of the order in which the foreshadowed motions are raised and the terms of each foreshadowed motion.

(3) If the motion under consideration is lost, the Council may determine on a motion without notice that the foreshadowed motions be brought forward forthwith. If that motion is passed the foreshadowed motions shall be considered by the Council in succession until one of the motions is passed, whereupon there shall be no further consideration of any other foreshadowed motion on that subject.

18.43.10 No Speaking After Motion Put

No Councillor shall speak on any motion or amendment—

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

18.43.11 Limit of Speeches

(1) A Councillor shall not speak upon any motion or amendment or in answer to any question with or without notice for a longer period than 5 minutes or speak in reply for a longer period than 3 minutes without the consent of the Council to extend, which shall be signified without discussion.

(2) Under this section the Council shall not consent to the extension of a Councillor's time for speaking beyond 10 minutes of total extensions.

18.43.12 Speaking in Reply

A Councillor speaking in reply shall not introduce any new matter, but the Councillor shall be strictly confined to answering previous speakers.

18.43.13 Division of Motions

The Mayor or the Council by resolution passed without debate may order a motion to be divided and put in the form of two or more motions.

18.43.14 Withdrawal of Motions

A motion or amendment may be withdrawn by the mover, with the consent of the Council which shall be signified without debate, and it shall not be competent for any Councillor to speak upon the motion or amendment after consent to withdrawal has been granted.

18.44 Conduct of Councillors

18.44.1 No Digression

A Councillor shall not speak otherwise than upon, or digress from, the question then before the Council.

18.44.2 No Adverse Reflection on Council Resolution

A Councillor shall not reflect adversely upon a resolution of the Council except on a motion that the resolution be rescinded.

18.44.3 No Adverse Reflection on Councillor

A Councillor shall not reflect adversely upon the character or actions of another Councillor nor impute any motive to a Councillor, unless the Council resolves, without debate that the question then before the Council cannot otherwise be adequately considered.

18.44.4 Recording of Statements

Any Councillor may require the CEO to take down any particular words used by a Councillor immediately upon their being used and to read such words back to the meeting for verification.

18.44.5 Withdrawal of Offensive Language

Any Councillor who uses an expression which in the opinion of the Mayor reflects offensively on any Councillor or officer of the Council, shall when required by the Mayor, unreservedly withdraw the expression and make a satisfactory apology to the Chair, and if he or she declines, or neglects to do so, the Mayor may refuse to hear the Councillor further upon the matter then under discussion and may call upon the next speaker.

18.44.6 Disturbance by Councillor

A Councillor shall not make any noise or disturbance or, except to raise a point of order, speak aloud, while any other person is addressing the Council.

18.44.7 Continued Irrelevance, Etc.

The Mayor may call the attention of the Council to continued irrelevance, tedious repetition, unbecoming language, or any breach of order or decorum on the part of a Councillor and may direct that Councillor, if speaking, to discontinue his or her speech, and thereupon the Councillor shall cease speaking and shall resume his or her seat.

18.44.8 Crossing Council Chambers

When the Mayor is putting any question, a Councillor shall not leave or cross the Chamber; and a Councillor shall not, whilst any other Councillor is speaking, pass between the speaker and the Chair.

18.45 Voting

18.45.1 The Mayor shall cast a deliberative vote on any question in respect of which the Mayor is not precluded by the Act or these Local Laws from voting.

18.45.2 If the votes of members present at a Council or Committee meeting are equally divided, the person presiding may cast a second vote. (S.5.21(3)).

18.45.3 Subject to section 18.24, each Councillor and each member of a Committee to which a local government power or duty has been delegated who is present at a meeting of the Council or Committee is to vote. (S.5.21).

18.45.4 Method of Taking Vote

(1) The Mayor shall, in taking the vote on any motion or amendment, put the question, first in the affirmative, and then in the negative, and the Mayor may do so as often as is necessary to enable the Mayor to form and declare his or her opinion as to whether the affirmative or the negative has the majority on the voices, or by a show of hands.

(2) The result of voting openly is determined on the count of raised hands, but it may be determined on the voices unless a Councillor calls for a show of hands.

(3) Upon a vote being taken the vote of all those Councillors voting in the negative shall be recorded in the Minutes.

(4) Voting at all meetings is to be conducted so that no voter's vote is secret. (Admin.Reg.9).

18.46 Motions

18.46.1 Permissible Motions During Debate

Subject to subsection 18.46.2, when a motion is under debate, no further motion shall be moved except a motion—

- (a) that the motion be amended;
- (b) that the Council do adjourn;
- (c) that the debate be adjourned;
- (d) that the question be now put;
- (e) that the Council do proceed with the next business;
- (f) that the Council do sit behind closed doors; or
- (g) that the meeting be now closed.

18.46.2 Permissible Motions on Recommendation from Committee

Whenever a recommendation is presented by a Committee to the Council, whether the recommendation is a new matter or pursuant to a previous reference from the Council, the only motion which shall be entertained by the Council thereon shall be—

- (a) that the recommendation be adopted;
- (b) that the recommendation be not adopted and no further action be taken;
- (c) subject to subsection 18.46.3 hereof, that the recommendation be amended or modified and adopted with such amendment or modification;
- (d) should there be any reason for referral back to Committee, that the recommendation or any part thereof be referred back to the responsible Committee for further consideration provided that a motion to refer a recommendation back to a Committee shall not be entertained unless the Councillor moving the motion states the reason for the recommendation being referred back;
- (e) where part of the recommendation is referred back to the Committee, that the balance of the recommendation be dealt with otherwise in accordance with this subsection; or
- (f) that the recommendation be amended provided that a proposed amendment shall not in any way alter the intent of the recommendation on its first consideration by the Council though it may do so on the second or subsequent consideration.

18.46.3 Where Substance Altered

Where in the opinion of the Mayor an amendment or modification of a recommendation alters the substance or effect of the recommendation the Mayor shall require a new motion to be put but only after the Council has passed a motion that the recommendation not be adopted.

18.47 Amendments

18.47.1 Relevancy of Amendment

Every amendment shall be relevant to the motion on which it is moved and shall not have the effect of negating the motion.

18.47.2 To be Read or Stated

Every amendment shall be read or stated before being moved.

18.47.3 One Amendment at a Time

(1) Only one amendment shall be discussed at a time, but as often as an amendment is lost, another amendment may be moved before the original motion is put to the vote, except that where an amendment is carried, one further amendment to the original motion as amended, and no more, may be moved.

(2) In speaking to an amendment a Councillor may give notice of his or her intention to move a further amendment.

18.47.4 (1) Where an amendment is carried, the original motion as amended shall, for all purposes of subsequent debate be treated as if it was the original motion.

(2) Only the mover of the original motion shall have a right of reply in respect of the original motion as amended.

18.48 Adjournment**18.48.1 Motion That Council Adjourn**

A Councillor may, at the conclusion of the speech of any other Councillor or on the conclusion of any business, move without notice that the Council do now adjourn and that motion shall state the time and date to which the adjournment is to be made.

18.48.2 Times for Speaking on Motion to Adjourn

On a motion to adjourn, the mover may speak for not more than 5 minutes, the seconder shall not speak other than formally to second and the mover of the motion (if any) which was then under debate may speak for not more than 3 minutes, but no other debate shall be allowed. The mover of a motion under debate speaking in opposition of an adjournment shall not lose the right of reply.

18.48.3 Subsequent Motion to Adjourn

If a motion for the adjournment of the Council is negated no similar motion shall be moved until—

- (a) after the conclusion of the business under discussion at the time the adjournment was moved; or
- (b) if the adjournment was moved on the conclusion of an item of business, after the conclusion of the next item of business; or
- (c) after the conclusion of any other business allowed precedence by the Council.

18.48.4 Restraint on Councillor's Right to Move Adjournment

(1) A Councillor who has spoken on the question then before the Council shall not move the adjournment of the Council.

(2) A Councillor shall not, at the same sitting of the Council move or second more than one motion for the adjournment of the Council.

18.48.5 Resumption of Debate after Adjournment of Meeting

On a motion for the adjournment of the Council being carried, the debate on the question (if any) under debate when the motion was moved shall be continued immediately upon the Council resuming after the adjournment.

18.48.6 Recording Speakers before Adjournment of Meeting

On a motion for the adjournment of the Council being carried, a record shall be taken of all those who have spoken on the subject under consideration at the time of the adjournment and they shall not be permitted to speak on any subsequent consideration of the same subject, but this section does not deprive a mover of the right of reply.

18.48.7 Adjournment of Council

On the motion for the adjournment of Council being carried the Mayor shall adjourn Council to such time and date as the motion specifies, or where no time and date is specified, to such time and date as the Mayor shall then declare.

18.48.8 Motion that Debate be Adjourned

A Councillor may at the conclusion of the speech of any other Councillor move, without notice, that the debate be adjourned to a later hour of the same meeting or to a subsequent meeting of the Council.

18.48.9 Times for Speaking on Adjournment of Debate

On a motion that the debate be adjourned, the mover may speak for not more than 5 minutes, the seconder shall not speak other than formally to second, the mover of the motion then under debate may speak for not more than 3 minutes, and if the question then before the Council is a recommendation from a Committee, the Chairman of the Committee concerned, or, in the Chairman's absence a Councillor thereof may speak for not more than 5 minutes, but no other debate shall be allowed. The mover of a motion under debate speaking in opposition to an adjournment shall not thereby lose the right of reply.

18.48.10 Restraint on Councillors' Right to Move Adjournment of Debate

(1) A Councillor who has spoken on the question then under debate shall not move the adjournment of the debate.

(2) A Councillor shall not, at the same sitting of the Council move or second more than one motion for the adjournment of the same debate.

18.48.11 Resumption after Adjournment of Debate

On resuming an adjourned debate the Councillor who moved its adjournment is entitled to speak first.

18.48.12 Recording Speakers Before Adjournment of Debate

On a motion for the adjournment of a debate being carried, a record shall be taken of all those who have spoken on the subject under debate and they shall not be permitted to speak on any resumption of the debate on that subject, but this section does not deprive a mover of the right of reply.

18.49 Resumption After Counting Out

Where the debate on any motion moved and seconded is interrupted by the Council being counted out, the procedure on resumption shall be in accordance with section 18.11.

18.50 Motion That The Question Be Now Put**18.50.1 Moving Closure**

A Councillor may, at the conclusion of the speech of any other Councillor move, without notice and without comment, that the question under consideration be now put, and upon the motion being formally seconded the same shall immediately be put, without debate.

18.50.2 Restraint on Councillor's Right to Move Closure

A motion that the question under consideration be put shall not be moved by a Councillor who has already spoken on the question, and the motion shall not be carried except by an absolute majority of the Councillors of the Council.

18.50.3 Times for Speaking on Closure Motion

When it is decided by the Council that the question under consideration be put, the mover of the question under consideration shall, if debate has occurred, and if otherwise entitled to do so, be permitted to speak in reply for not more than 3 minutes before the question is put, but subject thereto, the question shall at once be put.

18.50.4 The Question to be Put on a Closure

(1) Whenever it is decided by the Council that the question be put, the question to be put includes the original motion as well as any amendment thereto adopted by the Council.

(2) If the closure is moved during debate on an amendment, it is the amendment which is put to the vote and not the original motion.

18.51 Motion That Council Do Proceed To The Next Business

18.51.1 Moving the "Next Business"

A Councillor may at the conclusion of the speech of any other Councillor move, without notice and without comment, that the Council do proceed to the next business and, upon that motion being formally seconded, it shall be immediately put, without debate.

18.51.2 Effect of a "Next Business" Resolution

Where the Council decides to proceed to the next business, the question which was then under discussion shall be considered as lapsed. The effect of a motion thus lapsing shall be the same as if it had been lost on a vote of the Council.

18.51.3 Subsequent "Next Business" Motion

During the same debate on any question, a "Next Business" motion shall not be moved within 1 hour after a similar motion has been negatived.

18.52 Motion That The Meeting Be Now Closed

18.52.1 Moving the Closure of the Meeting

A Councillor may, at the conclusion of the speech of any other Councillor or on the conclusion of any business, move, without notice, that the meeting of the Council be now closed.

18.52.2 Times for Speaking on Closure of Meeting

On a motion that the meeting of the Council be closed, the mover may speak for not more than 5 minutes, the seconder shall not speak other than formally to second and the mover of the motion (if any) then under debate may speak for not more than 3 minutes; but no other debate shall be allowed. The mover of a motion under debate speaking in opposition to the Closure of the meeting shall not thereby lose the right of reply.

18.52.3 Subsequent Motion to Close Meeting

If a motion that the meeting of the Council be closed is negatived, no similar motion shall be moved until—

- (a) after the conclusion of the question under discussion at the time the closure was moved; or
- (b) if the closure was moved on the conclusion of an item of business, after the conclusion of the next item of business; or
- (c) after the conclusion of any other business allowed precedence by the Council.

18.52.4 Restraint on Councillor's Right to Move Closure of Meeting

(1) A Councillor who has spoken on the question then before the Council shall not move that the meeting be closed.

(2) A Councillor shall not at the same meeting of the Council, move or second more than one motion that the meeting be closed.

18.52.5 Effect of Closure of Meeting

On a motion that the meeting be closed being carried, the debate on the question (if any) under debate when that motion was moved shall stand adjourned to its place on the notice paper for the next meeting of the Council.

18.52.6 Recording Speakers Before Closure of Meeting

On a motion that the meeting be closed being carried, a record shall be taken of all those who have spoken on the subject under consideration up to the closing of the meeting and they shall not be permitted to speak on any subsequent consideration of the same subject; but this section does not deprive a mover of the right of reply.

18.53 Motions Affecting Expenditure

18.53.1 Reference to Standing Committee

At a meeting of the Council where a motion or amendment would have the effect of incurring expenditure not provided for in the budget, that motion or amendment shall not be moved other than in the form of a reference of the question to the Standing Committee having oversight over the expenditure referred to in the motion or amendment, unless the Council in any particular case otherwise resolves.

18.53.2 Effect of Reference

In the case of an amendment having the effect of incurring expenditure, if the Council resolves to refer the question to the responsible Standing Committee, the original motion shall not be further considered by the Council—

- (a) until the responsible Standing Committee has considered the amendment and reported back to a subsequent meeting of the Council; or
- (b) unless the Council at the time of a subsequent meeting resolves to proceed with the consideration of the original motion and the amendment without waiting for the report of the responsible Standing Committee.

18.53.3 When a Committee has before it for consideration a motion or amendment referred to it pursuant to subsection 18.53.1 it may—

- (a) either, recommend to Council an amendment to the Committee budget in a manner which does not increase the total expenditure provided for in the Committee's budget; or
- (b) recommend to the Council that the matter be referred to the Committee having specific responsibility for the presentation of the Budget to the Council to ascertain if funds can be provided to meet the proposed expenditure.

18.54 Motion for Revocation

18.54.1 "Substantive Resolution" Defined

In this section the term "substantive resolution" refers to a resolution which is the subject of a motion of revocation or change.

18.54.2 Revocation or Change

The Council may, at the same meeting at which it is passed, revoke or change a resolution if all Councillors who were present in the Council Chamber at the time the resolution was passed are also present in the Council Chamber at the time the revocation or change is proposed.

18.54.3 Revocation or Change

(1) If a revocation or change is to be moved at a subsequent meeting, notice of the motion to revoke or change should (if possible) be given to the CEO at least 7 days before the meeting, and should be signed by the number of persons who are by the next succeeding subsection required to support the motion.

(2) This subsection does not apply to the change of a substantive resolution unless the effect of the change would be that the substantive resolution would be revoked or would become substantially different.

18.54.4 Support for Revocation or Change

(1) If a substantive resolution has been passed at a meeting then any motion to revoke or change the substantive resolution must be supported—

- (a) in the case where an attempt to revoke or change the substantive resolution has been made within the previous 3 months but has failed, by an absolute majority; or
- (b) in any other case, by at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of Councillor inclusive of the mover. Otherwise the motion shall not be entertained.

(2) If a substantive resolution has been passed at a meeting then any resolution to revoke or change the substantive resolution must be passed—

- (a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special (75%) majority; or
- (b) in any other case, by an absolute majority.

(3) This subsection does not apply to the change of a substantive resolution unless the effect of the change would be that the substantive resolution would be revoked or would become substantially different. (Admin.Reg.10).

18.54.5 Terms of and Reasons for Revocation or Change to be Stated

When moving a motion of revocation or change at the same meeting at which the substantive resolution was passed or at a subsequent meeting without notice, the Councillor moving the revocation or change shall state in clear terms—

- (a) the terms of the motion of revocation or change identifying the substantive resolution proposed to be revoked or changed; and
- (b) the reason or reasons for seeking revocation or change,

and the Mayor shall not accept a motion for revocation or change which does not comply with those requirements.

18.54.6 Terms and Reasons to be Stated in Notice

When giving notice of motion of revocation or change the Councillor giving notice shall record in writing in clear terms—

- (a) the terms of the motion of revocation or change identifying the substantive resolution proposed to be revoked or changed; and
- (b) the reason or reasons for seeking the revocation or change.

The CEO shall not accept a notice of motion of revocation or change which does not comply with those requirements.

18.54.7 Notices Received During Same Meeting

(1) If the CEO receives a notice of motion to revoke or change a substantive resolution before the close of the meeting at which the substantive resolution was passed, then provided the notice complies with the preceding subsections, the CEO shall forthwith deliver the notice to the Mayor who shall at the earliest opportunity notify the meeting of the notice, and thereafter at the first available opportunity the Mayor shall bring on the motion before the close of the meeting.

(2) If the CEO receives a notice of motion to revoke or change a substantive resolution after the closure of the meeting at which the substantive resolution was passed, then provided the notice complies with the preceding subsections the CEO shall do all things necessary to ensure that the motion is considered at a Special or Ordinary Meeting of the Council held at the earliest opportunity after the meeting at which the substantive resolution was passed.

18.54.8 Delay in Implementing Substantive Resolution

Neither the CEO nor any other Councillor or employee of the Council shall take any step to implement or give effect to a substantive resolution until 2 Council office working hours have expired after the close of the meeting at which the substantive resolution was passed. If a notice of motion to revoke or change is received by the CEO before any step has been taken thereafter to implement the substantive resolution, then no step shall be taken to implement or give effect to the substantive resolution until the motion to revoke or change has been dealt with.

18.54.9 Restraints on Notices of Revocation or Change

The CEO shall not receive a notice of motion to revoke or change a substantive resolution if any step has been taken in accordance with these Local Laws to implement or give effect to the substantive resolution.

18.54.10 Restraints on Motions for Revocation or Change

Without affecting the generality of the preceding subsection, the Council shall not entertain a motion for revocation or change of a substantive resolution whether the motion is moved with or without notice if—

- (a) at the time the motion is moved any step has been taken in accordance with these Local Laws by the CEO or any other officer of the Council to implement the substantive resolution; or
- (b) the substantive resolution concerns an application for planning consent or a building licence or for any consent approval or licence of a similar nature, where notification of the resolution to grant the consent approval or licence has been sent to the applicant by the Council in writing, or has been communicated orally to the applicant or the applicant's representative by an employee of the Council having authority to give such notification in ordinary circumstances.

18.54.11 Multiple Notices to Revoke or Change

The CEO may receive more than one notice of motion to revoke or change the same substantive resolution.

18.54.12 Absence of Mover or Seconder

If a motion to revoke or change a substantive resolution fails to be considered by the Council by reason that at the time the motion is called on—

- (a) the Councillor who gave notice of the motion is not present or is not willing to move the motion; and
- (b) there is no other Councillor present willing to move the motion; or
- (c) if the motion is not supported by the number of Councillors required by the preceding provisions of this section,

then the motion shall lapse.

18.54.13 No Rescission of Procedural Resolution or a Resolution to Revoke

The Council shall not entertain a motion to revoke a substantive resolution which is merely procedural in its form and effect, or a resolution to revoke another resolution.

18.54.14 Motion to Change Having Effect of Revocation

If a motion to change a substantive resolution in its form or effect would amount to a motion to revoke the substantive resolution then it shall be treated as if it was a motion to revoke the substantive resolution.

18.55 **Negated Motion Not To Be Entertained Within Three Months**

A motion to the same effect as any motion, (other than a motion moved in pursuance of a report of a committee of the Council) which has been decided in the negative by the Council shall not again be entertained within a period of 3 months unless an absolute majority of the Councillors signify to the CEO in writing before a meeting their consent to the motion being entertained at that meeting, unless at the same meeting at which it was negated, the Council verified by a resolution covered by absolute majority, consent to the motion again being entertained at that meeting.

18.56 **Suspension Of Standing Orders**

18.56.1 Motion to Suspend

(1) In cases of urgent necessity or whilst the Council is sitting behind closed doors, any Standing Order of the Council may be suspended on a motion duly made.

(2) If any Councillor makes an objection to such a motion, the motion shall not be declared carried unless it is agreed to by an absolute majority of the Council.

(3) In any event no Standing Order shall be suspended which requires the passing of a resolution by an absolute or special (75%) majority.

18.56.2 No Discussion on Motion to Suspend

A Councillor moving the suspension of Standing Orders shall state the object of the motion, but discussion shall not otherwise take place thereon.

18.56.3 Only Specified Sections Suspended

A Councillor moving the suspension of Standing Orders under this section shall state the specific section or sections of the Standing Orders sought to be suspended. Only the sections so nominated shall be affected by any resolution to suspend Standing Orders under this section.

*Division 4—Committees***18.57 Standing Orders Apply To Committees**

Except in so far as they limit the number of times a Councillor may speak, or where by express terms or necessary implication the contrary intention appears, the Standing Orders applying to the Council shall apply *mutatis mutandis* to Committees.

18.58 Committees

18.58.1 (1) The Council may establish Committees of 3 or more persons to assist the Council and to exercise the powers and discharge the duties of the Council that can be delegated to Committees. (S.5.8).

(2) Any resolution to establish a Committee or to appoint members requires an absolute majority of the Council.

18.58.2 In addition to such other Committees as may from time to time be appointed there shall be Standing Committees of the Council, namely—

- (a) Finance and General Purposes Committee; and
- (b) Planning and Development Services Committee.

18.58.3 Each Standing Committee shall comprise—

- (a) 5 Councillors each appointed member as an ordinary member, being at least 1 Councillor from each Ward;
- (b) Councillors appointed as deputies to ordinary members referred to in item (a); and
- (c) a member appointed under subsection 18.58.7.

18.58.4 A person appointed member as an ordinary member shall hereafter in this clause be referred to as "member" or an ordinary member, and a person appointed member as a deputy member shall hereinafter be referred to as "deputy" or "deputy member" unless the deputy is acting in place of an ordinary member.

18.58.5 (1) In this subsection "other person" means a person who is not a Councillor or an employee of the Council.

(2) A Committee is to comprise—

- (a) Council members only;
- (b) Council members and employees;
- (c) Council members, employees and other persons;
- (d) Council members and other persons;
- (e) employees and other persons; or
- (f) other persons only. (S.5.9).

18.58.6 At any given time each Councillor is entitled to be an ordinary member of at least one Committee referred to in item (a) of the preceding subsection, and if a Councillor nominates himself or herself to be a member of one or more of such committees, the Council shall include that Councillor in the persons appointed under item (a) of subsection 18.58.3 to at least one of those Committees as the Council determines. (S.5.10(2)).

18.58.7 If at a meeting of the Council appointments are to be made to a Committee that has or could have a Councillor as a member and the Mayor informs the Council of his or her wish to be a member of the Committee, the Council shall appoint the Mayor to be a member of the Committee. (S.5.10(4)).

18.58.8 If at a meeting of the Council an appointment is to be made to a Committee that has or will have an employee as a member and the CEO informs the Council of his or her wish—

- (a) to be a member of the Committee; or
- (b) that a representative of the CEO be a member of the Committee,

the Council shall appoint the CEO or the CEO's representative, as the case may be, to be a member of the Committee. (S.5.10(5)).

18.58.9 The Council may appoint a deputy as referred to in subsection 18.58.3(1)(b)—

- (a) as a deputy having office for the same period as a relevant ordinary member to act in place of the relevant ordinary member whenever the relevant ordinary member is unable to be present at a meeting of the Committee; or
- (b) as a deputy to a member who is presently unable or expected to become unable for any cause to perform the functions of a member and such a deputy shall have office during the period that the ordinary member is unable to perform the functions of a member, unless a shorter term is stipulated by the Council.

18.58.10 The Council may only appoint a person to be a member of a Committee as deputy who would be qualified to be appointed as an ordinary member.

18.58.11 In the event that the Council appoints 2 or more deputies to any member of a Committee, they shall have seniority in the order determined by the Council.

18.58.12 If a member of a Committee does not attend a meeting, during the member's absence any deputy of that member is entitled to attend the meeting in place of the member and act for the member at the meeting, and while so acting has all the powers of that member. For all purposes under the Standing Orders a deputy acting for a member shall be treated as and included in any reference to the members or a member of the Committee as if the deputy was the ordinary member, and the deputy member's vote shall have effect accordingly.

18.58.13 If a deputy has commenced to act in place of a member at a Committee meeting and the member attends the meeting, the member takes precedence and assumes the seat and the deputy shall thereupon cease to act as a member at that meeting.

18.58.14 A deputy who is one of two or more deputies of a member of a Committee is not entitled to attend a meeting of the Committee in place of that member if the meeting is attended by another deputy of that member who has precedence over that deputy in the order of seniority determined under subsection 18.58.11.

18.58.15 A person who is a member of a Committee is not eligible to be appointed a deputy for another member of that Committee.

18.58.16 An absolute majority of the Council is required for the appointment of any member to a Committee including a deputy member, with the exception of members appointed pursuant to subsections 18.58.7 and 18.58.8.

18.59 Councillor Attending Committee As Observer

18.59.1 A Councillor may attend as an observer at meetings of a Committee notwithstanding that the Councillor is not a member of that Committee. A Councillor attending a Committee meeting as an observer may speak with the leave of the Committee, but shall not vote on any question before the Committee unless the Councillor is a deputy of a member excluded from a meeting pursuant to section 18.24 and he or she is invited by the Committee to participate pursuant to subsection 18.24.5.

18.59.2 Subject to the preceding subsection a Councillor attending a Committee as an observer shall sit in an area set aside for observers separated from the Committee members.

18.60 Term of Appointment

18.60.1 Whenever possible Committees should be established each year in which an election is conducted at the first meeting of the Council held after the ordinary election day.

18.60.2 Where a person is appointed as a member of a Committee under subsection 18.58.7 or 18.58.8, the person's membership of the Committee continues until—

- (a) in the case of the Mayor, the person no longer holds that office;
- (b) in the case of the CEO or the CEO's representative, the person no longer holds that position;
- (c) the person resigns from membership of the Committee;
- (d) the Committee is disbanded; or
- (e) the next ordinary elections day,

whichever happens first. (S.5.11(1)).

18.60.3 Where a person is appointed as a member of a Committee as ordinary member or deputy member other than under subsections 18.58.7, or 18.58.8, or item (b) of subsection 18.58.10 the person's membership of the Committee continues until—

- (a) the term of the person's appointment as a Committee member expires;
- (b) the Council removes the person from the office of Committee member or the office of Committee member otherwise becomes vacant;
- (c) the Committee is disbanded; or
- (d) the next ordinary elections day,

whichever happens first. (S.5.11(2)).

18.61 Resignation of Committee Member

18.61.1 A Committee member may resign from membership of the Committee by giving the CEO or the Committee's presiding member written notice of the resignation. (Adm.Reg.4).

18.61.2 A resignation takes effect upon the delivery of the notice to the CEO or the presiding person, or on a later date if specified in the notice.

18.62 Committee Membership May Be Changed

The Council may by an absolute majority, change the membership of any Committee provided that the Council may not remove as members persons appointed pursuant to subsections 18.58.7 and 18.58.8.

18.63 Constitution of Committee

A Council resolution to establish a committee shall include details of its constitution including—

- (a) the number of members;
- (b) qualifications for membership; and
- (c) terms of reference specifying duties, powers and reporting requirements. (s5.10)

18.64 Powers and Duties of Committee

Subject to any resolution of the Council to the contrary passed after the coming into operation of these Standing Orders, the Standing Committees shall have the power and duty to make recommendations to the Council in respect of such matters as shall be determined by the Council at the first meeting of the Council convened after the ordinary election day in any year.

18.65 Delegation of Powers and Duties

18.65.1 Subject to the next following subsection the Council by absolute majority may delegate to a Committee powers and duties other than this power of delegation. (S.5.16(1)).

18.65.2 The procedure associated with the making of the delegation its duration and revocation by the Council shall be so provided in s.5.16 of the Act.

18.65.3 The Council may delegate—

- (a) to a Committee comprising Council members only, any of the Council's powers or duties under the Act except—
 - (i) any power or duty that requires a decision of an absolute majority or a 75% majority of the Council; and
 - (ii) any other power or duty that is prescribed under the Act;
- (b) to a Committee comprising Council members and employees, any of the Council's powers or duties that can be delegated to the CEO under Division 4 of the Act; and
- (c) to a Committee which includes any Council member or employee, any of the Council's powers or duties that are necessary or convenient for the proper management of -
 - (i) the City's property; or
 - (ii) an event in which the City or the Council is involved.

18.65.4 The Council cannot delegate any of its powers or duties to a Committee which does not include a Councillor or employee in its membership. (S.5.17).

18.65.5 The Council shall keep a register of the delegations made under the preceding subsection and shall review the delegations at least once every financial year. (S.5.18).

18.66 Meetings of Committees

18.66.1 Quorum

The quorum for meetings of Committees shall be as provided in subsections 18.7.1 and 18.7.4.

18.66.2 Meetings

A meeting of a Committee shall be held in accordance with section 18.67 when called by the presiding member or as determined by the Committee.

18.66.3 Meetings of a Standing Committee or other Committee to which a power or duty of the Council has been delegated, shall be open to the public except where that Committee decides by resolution to conduct its business or any specified part thereof behind closed doors in which case the provisions of subsections 18.18.2 to 18.18.8 inclusive apply *mutatis mutandis*.

18.67 Calling Meeting of Committee

18.67.1 CEO to Call Meeting

The CEO shall call a meeting of any Committee when requested so to do by the presiding member of the Committee. The CEO shall give Notice of the meeting to every member of the Committee and to any Councillor who is not a member.

18.67.2 Papers for Committee Meeting to be put to all Members of Council

When a meeting of any Committee is called the Business Paper for the meeting together with copies of all officers' reports relating to matters on the Agenda for that meeting shall be forwarded to all Councillors and not just to the Members of the Committee.

18.68 Order of Business of Standing Committee Meeting

The order of business at an Ordinary Standing Committee meeting shall be as follows, or as near thereto as shall be practicable, but for the greater convenience of the Committee at any particular meeting thereof, it may be altered by resolution to that effect—

- (i) Present;
- (ii) Apologies;
- (iii) Leave of Absence;
- (iv) Members' and employees' declarations of conflicting interests;
- (v) Question time;
- (vi) Declaration by members whether they have given due consideration to all matters contained in the Business Paper presently before the meeting;
- (vii) Confirmation of Minutes;
- (viii) Tabling of Presiding Member's Minutes, without discussion;
- (ix) Petitions, Memorials and Deputations;
- (x) Consideration of Business of Committee referred to the Committee by Council;
- (xi) Reports of Managing and Advisory Committees;
- (xii) Reports of Regional and District Organisations upon which Council is represented;
- (xiii) Reports by the CEO;
- (xiv) Reports by Directors;
- (xv) Orders of the Day;
- (xvi) Motions of which Previous Notice has been given;
- (xvii) Notices of Motion given at the meeting for consideration during the following meeting;

- (xviii) Confidential Business;
- (xix) Items Withdrawn.

18.69 Quorum Of Committees

18.69.1 Quorum Required

No meeting of a Committee may proceed to business unless sufficient members are present to establish a quorum pursuant to the provisions of subsection 18.66.1.

18.69.2 Failure of Quorum

Every meeting shall proceed to business as soon after the time stated in the summons as a quorum is constituted; but if a quorum is lacking 30 minutes after the hour at which a meeting of any Committee is appointed to be held, no meeting shall take place, and the meeting shall stand adjourned until the day and time fixed for the next ordinary meeting of the Committee, unless the Chairman convenes a special meeting of the Committee for the transaction of the business standing adjourned.

18.70 Unfinished Business of Former Committees

It shall be competent for every Committee of the Council to take up matters referred by the Council to the preceding Committee which may not have been entered upon or fully discharged at the time such Committee went out of office.

18.71 Voting By Committees

18.71.1 A decision of a Committee does not have effect unless it has been made by a simple majority, or if another kind of majority has been prescribed by regulations or these Standing Orders for the particular kind of decision by that kind of majority. (S.5.20(3)).

18.71.2 If the votes of members present at a Committee meeting are equally divided, the presiding member may cast a second vote. (S.5.21(3)).

18.72 Conference of Committees

Any two or more Committees may confer together by mutual agreement on any matter of joint interest.

18.73 Minutes of Committees

The presiding member of a Committee shall cause minutes of the proceedings of the Committee to be recorded and kept in a minute book.

18.74 Committees To Report

18.74.1 Obligation to Report

A Committee is answerable to the Council and shall, as and when required by the Council to do so, report fully on its activities to the Council.

18.74.2 Preparation of Report

When it has reached a decision on each matter referred to it by the Council the Committee shall as soon as possible prepare a report containing recommendations and submit it to the Council.

18.74.3 Recording Business in Minutes

Pending a decision being reached on any matter referred to it by the Council, the Committee shall list such item of business in the minutes of its meeting under the heading of "Outstanding Business" and against each such item of business briefly indicate when the Committee expects to submit its recommendations to the Council.

Division 5—General

18.75 Representation On Public Bodies

18.75.1 CEO to Refer Invitation

Correspondence inviting Council to submit nominations for appointment to a Board or Committee appointed by the Government, Minister of the Crown or Government department or agency, and correspondence inviting Council to nominate a Councillor to be its delegate on the Western Australian Municipal Association or the Local Government Association or the Country Shire Councils Association or other association of local governments, or a Regional Council or a Committee comprising a number of local governments shall be referred by the CEO to such Standing Committee as the CEO considers appropriate.

18.75.2 Committee to Make Recommendation

The Standing Committee to which such correspondence is referred shall consider the matter and by resolution refer the business with its recommendations to the Council to be dealt with under the Notice Paper as an Order of the Day.

18.75.3 Obligations of Delegate

A Councillor appointed by Council to be its delegate to a body referred to in subsection 18.75.1 shall when required to express an opinion or vote on any item of business, have regard to the resolutions, policies and practices of the Council.

18.76 Confidential Business

18.76.1 Obligation of Confidentiality

Every matter dealt with by, or brought before the Council or a Committee sitting otherwise than with open doors, shall be treated as strictly confidential, and shall not without the authority of the Council be disclosed to any person other than the Mayor, Councillors, or employees of the Council (and in the case of employees, only so far as may be necessary for the performance of their duties) prior to the discussion of that matter at a meeting of the Council held with open doors.

18.76.2 CEO Restricting Documents

Any report, document or correspondence which is to be placed before the Council or any Committee and which is in the opinion of the CEO of a confidential nature may at the CEO's discretion be marked as such and shall then be treated as strictly confidential and shall not without the authority of the Council be disclosed to any person other than the Mayor, Councillors or officers of the Council.

18.77 Electors' Meetings**18.77.1 Standing Orders Apply**

The Standing Orders apply, so far as is practicable, to any meeting of electors, but where there is any inconsistency between the provisions of these Standing Orders and the provisions of subdivision 4 of Part 5 and regulations of the Act, the provisions of the Act and the regulations prevail.

18.77.2 Restriction on Voting and Speaking

A person who is not an elector as that term is defined in section 5.26 of the Act (including ratepayers) is not entitled to vote at a meeting of electors, and he or she may not take any part in any discussion at that meeting, unless the meeting, by a motion, requests the person to do so.

*Division 6—Miscellaneous***18.78 Notices**

Where the Standing Orders provide for a notice or any other paper or thing to be given or delivered to or served upon a Councillor, unless the context or the Act otherwise require, the notice, paper or thing may be—

- (a) delivered to the Councillor personally or to the Councillor's ordinary residence in Western Australia within the minimum time stipulated; or
- (b) be sent by facsimile transmission or posted to the ordinary residence or the usual place of business (if any) of the Councillor within the District.

Where the notice, paper or thing is sent—

- (a) by delivery to the ordinary residence or by facsimile transmission, it shall be considered to have been given, delivered or served at the time of delivery or transmission;
- (b) by post, it shall be considered to have been given, delivered or served within the time stipulated if it is posted by prepaid post to the Councillor's ordinary residence in Western Australia not less than 2 Council working days before expiration of the minimum time stipulated.

18.79 Code of Conduct

Any Code of Conduct adopted by the Council in regard to the conduct of Members shall have the same effect as if incorporated as provisions of these Local Laws and any breach thereof shall have the same consequences as to penalty and otherwise as to breach of these Local Laws.

18.80 Mayor May Enforce

Notwithstanding any other provision for enforcement in Part XX or in the Act, the Mayor may, if the Mayor elects to do so, and shall if the Council so resolves, take responsibility for any enforcement action and have any process issued on behalf of the Council in the Mayor's name.

PART XIX—VERGE TREATMENTS**19.1 Definitions**

19.1.1 In this Part, unless the context otherwise requires—

“acceptable material” means brick, brick-paving, bitumen, concrete, concrete blocks and slabs;

“verge treatment” means any one of the three treatments permitted by these Local Laws and shall include any reticulation pipes and sprinklers.

19.1.2 Terms and expressions used in this Part—

- (a) shall have the meaning given in subsection 19.1.1 which shall prevail over any other conflicting definition;
- (b) subject to paragraph (a) shall be interpreted in accordance with section 2.1.

19.2 Permissible Treatments

19.2.1 The owner or occupier of land abutting onto a street may on the street in front of such land instal any one of the following three treatments—

(1) Treatment One

Plant and maintain a lawn.

(2) Treatment Two

Plant and maintain a garden provided that—

- (a) Clear sight visibility must be maintained at all times for pedestrians and motorists in the vicinity of intersection corners and bends in the roadway. Landscaping inhibiting visibility may be removed at the discretion of Council.
- (b) No plant or other vegetation making up the garden is of a thorny or poisonous nature or may otherwise create a hazard; and
- (c) At all times pedestrians must have 2 metres safe access along the verge adjacent to the kerb.

(3) Treatment Three

Instal a hard verge over no more than one third of the area of the verge (excluding any cross-over) with an acceptable material and plant and maintain either a lawn or a garden on the balance provided that—

- (a) In the event that a garden is planted and maintained on the balance no person shall park on that balance.
- (b) Clear sight visibility must be maintained at all times for pedestrians and motorists in the vicinity of intersection corners and bends in the roadway. Landscaping inhibiting visibility may be removed at the discretion of Council.
- (c) No plant or other vegetation making up the garden is of a thorny or poisonous nature or may otherwise create a hazard; and
- (d) At all times pedestrians must have 2 metres safe access along the verge adjacent to the kerb.

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

- (a) Indemnify the Council against all or any damage or injury caused to any person or thing including any street, pavement, footpath or crossing of any pipe or cable and shall make good at such owner's or occupier's expense all such damage caused.
- (b) Keep the verge treatment in good and tidy condition and ensure, where the verge treatment is a garden or a lawn that no obstruction of any sort is caused to any footpath, pavement or street.
- (c) Lay, instal or pave a hard surface with an acceptable material only.
- (d) Not place any obstruction on or around any verge treatment.
- (e) Not water or maintain a verge treatment in such a manner as to cause a nuisance or inconvenience to any other person and in particular any person using any street or footpath or accessway adjoining the verge.

19.3 Council's Powers of Enforcement

19.3.1 The Council may by notice require the owner or occupier of any land to make good in the time period specified in the said notice any breach of these Local Laws and failure to do so shall be an offence.

19.3.2 Where an owner or occupier who has been served with a notice pursuant to these Local Laws fails to make good the breach complained of then the Council may at the sole cost of the owner or occupier, itself make good the breach and recover the costs involved from the owner or occupier in a court of competent jurisdiction.

19.4 Powers To Carry Out Public Works On Verges

19.4.1 For the purpose of carrying out any works for the purpose of making good any breach of these Local Laws the Council or any other authority empowered by law to dig up a street, may, without being liable to compensate any person, dig up all or any part of a street and disturb any verge treatment placed thereon by an owner or occupier.

19.4.2 Where pursuant to this Local Law a street verge treatment is dug up or disturbed, Council shall use its best endeavours to—

- (a) replace and restore any reticulation pipes and sprinklers; and
- (b) backfill with sand any garden or lawn, but otherwise shall not be liable to replace or restore any verge treatment and in particular any plant or other vegetation or any hard surface, and Council shall in any event not be liable to any person for any damage or disturbance so caused.

19.5 Penalty

The penalties for a breach of a provision in this Part shall be as set out in Part XX.

PART XX—ENFORCEMENT OF LOCAL LAWS*Division 1—Appointed Officers and Persons*

20.1 It shall be a breach of these local laws for any person to hinder or interfere with an authorised person or an authorised officer acting in the course of a duty, power or function under these Local Laws.

20.2 Identification

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

Division 2—Impounding

20.3 Where an Authorised Person places an animal or vehicle in a Local Government depot, public pound, or other place set aside for that purpose, the animal or vehicle shall thereafter be dealt with according to law.

20.4 Every vehicle or animal seized under these Local Laws shall be entered in a register, provided by the Council 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 and shall notify the CEO who 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.

20.5 A person may recover a seized vehicle or animal from custody by paying to the CEO—

- (a) the cost incurred by the Council in removing the vehicle or animal to the place appointed by the CEO for that purpose; and

- (b) a daily rate as specified by the Council from time to time for each part of a day that the vehicle or animal has remained in that place, and upon payment of that cost and charge the CEO, if satisfied that the person is the owner of the vehicle or animal or is a person entitled to possession of the vehicle or animal, shall permit that person to remove it.

20.6 Where a vehicle or animal, taken into custody has not been recovered by the owner or a person entitled thereto within 1 month from the day upon which it was taken into custody the Council may cause the vehicle or animal to be offered for sale by public auction or by public tender and thereupon accept the best offer made, and where no offer is made for the purchase of the vehicle or animal the Council may cause it to be destroyed or otherwise disposed of to the best possible advantage.

20.7 The proceeds of the sale of a vehicle or animal under the provisions of section 20.6 of this Part shall be applied by the Council—

- (a) firstly, in meeting the costs of the sale; and
(b) secondly, in meeting the cost of taking and maintaining the vehicle or animal in custody, and the sum specified as the daily rate referred to in section 20.5(b) for each day or part of a day that the vehicle or animal remains in that place; and those sums shall be paid into the Local Government Fund.

20.8 Surplus Moneys

20.8.1 Any surplus of the proceeds of the sale shall be paid by the Council into its Trust Fund, and may be paid within 10 years to any person who satisfies the Council that that person was the owner of the vehicle or animal at the time of its sale by the Council.

20.8.2 Any surplus of the proceeds of the sale may, if not paid to the owners within 10 years, be paid into the Local Government Fund on the condition that the Council shall repay it from that Fund to a person claiming and establishing his or her right to the repayment.

20.9 A person is not entitled to any claim, by way of damages or otherwise against an Authorised Person, the Council or the Local Government in respect of any vehicle or animal seized and dealt with under the provisions of these Local Laws or against any person who purchases a vehicle or animal sold by the Council under the provisions of section 20.6.

Division 3—Infringement Notices

20.10 Definitions

For the purpose of this Division, the terms “Authorised Person” and “owner” have the meanings given to them in section 9.15 of the Act.

20.11 These provisions for Infringement Notices apply only to such of these Local Laws as are made under the Act. Where Parts of these Local Laws are made under other statutes, any Infringement Notice provisions in those statutes shall apply to those Parts respectively.

20.12 Notices and Infringement Notices issued pursuant to this Division shall be issued in the circumstances referred to in section 9.16(2) of the Act, and in accordance with the provisions of Part 9 Division 2 Subdivision 2 of the Act, and Part 5 of the Local Government (Functions and General) Regulations 1966, and the forms prescribed in the Regulations shall apply.

20.13 Every breach of any of these Local Laws made under the Act (excluding specifically Parts VI, VII and XVII) is hereby prescribed as a breach in respect of which an infringement notice may be issued provided that the infringement notice procedure may only be adopted if the CEO or an Authorised Person under this Division is satisfied that the breach in the circumstances of the particular case has the characteristics referred to in paragraphs (a) and (b) of section 9.16 of the Act.

20.14 An infringement notice may be withdrawn in the manner provided and subject to the provisions in section 9.20 of the Act and regulation 27 of the Local Government (Function and General) Regulations, and using the form prescribed in the Regulations.

20.15 Where any Act allows an infringement notice to be issued in respect of an offence under these Local Laws an infringement notice may be issued in lieu of proceedings by way of Summons but upon failure of the offender to pay the modified penalty under the infringement notice proceedings may be commenced in Court without further notice.

20.16 The amount of the penalty which may be provided in any infringement notice shall not exceed—

- (a) \$500 for an offence involving a breach of a local law made under the Act; and
(b) the maximum amount permitted under the relevant Act in respect of any of these Local Laws made under that Act.

Division 4—General Offence and Penalty Provisions

20.17 General Penalty Provision

20.17.1 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.

20.17.2 The maximum penalty in respect of—

- (a) an offence involving a breach of any of these Local Laws made under the Act shall be \$5,000; and
(b) an offence involving a breach of any of these Local Laws made under any other Act shall be the maximum penalty under that Act for a breach of local laws made under the authority of that Act.

20.17.3 Subject to subsection 20.17.2, any person who commits a first offence under these Local Laws shall be liable, if no inconsistent penalty is provided by these Local Laws or any other law—

- (a) a minimum penalty of \$100.00 and a maximum penalty of \$1,000.00; and

- (b) in addition, if the Court thinks fit, a minimum daily penalty of \$10.00 per day and a maximum daily penalty of \$100.00 per day.

20.17.4 Any minimum penalty or minimum daily penalty referred to in subsection 20.17.3 shall increase in severity by one-tenth for each successive breach of the same provision by the same offender but shall not in any event exceed the maximum provided in subsection 20.17.2.

20.17.5 The imposition of any penalty pursuant to these Local Laws shall not be inconsistent with or repugnant to any of the provisions of the Act or any other law in force, and in the case of inconsistency the other law shall apply.

20.18 Seizure of Articles Under Part IV

An Authorised Person may in or on any place to which Part III applies, seize any device used for surf riding, including a surf-ski, surf-board, malibu board, or boat where the device is being used contrary to the provisions of these Local Laws.

20.19 Any device of the kind referred to in section 20.18 may be impounded after seizure for any period not exceeding 3 months as may be specified by the Authorised Officer to the person having the custody of such device immediately prior to the time of seizure.

20.20 Where such device is not claimed by the owner thereof within 2 months after the expiration of the period for which the device was impounded, the device may be sold by the Council and the proceeds of such sale may be applied towards recouping the costs of and incidental to impounding it.

20.21 Where the costs referred to in section 20.20 exceed the cost of the impoundment then the excess shall be paid to the owner of the device or where the identity or whereabouts of that owner are unknown placed in a trust fund and dealt with in accordance with the relevant provisions of the Act.

Division 5—General

20.22 No person shall, without the authority of the Council, mark, set up or exhibit any sign purporting to be or resembling a sign marked, set up or exhibited by the Council under the authority of these Local Laws.

20.23 The Council shall not be liable or be held responsible for any injury, accident, loss, or damage whatsoever which occurs to or is sustained by any person, or any damage or loss to any private property, while on any public park, land, or public reserve or other public place whatsoever under the care, control and management of the Council except in the case of negligence or breach of statutory duty by the Council.

PART XXI—OBJECTIONS AND APPEALS AND MISCELLANEOUS

21.1 Rights Or Objections And Appeal

21.1.1 Where any provision is made for the granting issuing or giving of any licence, authorisation, registration, approval or consent or the like under these Local Laws, or for the refusal, refusal of renewal, or cancellation of the same, or for the imposition of conditions, then the rights of objection and appeal and the procedures associated with them provided for in Part 9 Division 1 of the Act shall apply, together with the relevant provision of the Local Government (Functions and General) Regulations 1996.

21.1.2 The preceding subsection shall not apply to Parts VI, VII and XVII except to the extent that there will be no inconsistency with the Acts under which those Parts are made, and to the extent that the rights of appeal provided by the Act are applicable.

21.2 Forms

Where provision is made for a form to be prescribed or provided, if none is prescribed or provided then a form appropriate to the circumstances will suffice if it provides information needed by the Council to perform its relevant function under these Local Laws.

21.3 Fees

Where provision is made for fees to be prescribed, if no fees are prescribed by the Council at the time the same fall due, the CEO shall assess a fee appropriate to cover the administrative expenses involved in the relevant Council function, and as soon as possible thereafter request the Council to prescribe the relevant fee or fees.

21.4 Conditions

If provision is made in these Local Laws for the granting or issuing of any licence, authorisation, registration, approval or consent or the like subject to conditions, the person to whom the same is granted issued or given and every other person operating under or within the terms of such licence, authorisation, registration, approval or consent or the like shall comply with such conditions and any failure to comply shall be a breach of this section and subject to the penalties applicable to the relevant Part of these Local Laws.

Dated this 4th day of February 1998.

The Common Seal of the City of Mandurah was hereunto affixed in the presence of—

K. HOLMES, Mayor.
S. GOODE, Chief Executive Officer.



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