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**SHIRE OF HARVEY**

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CEMETERIES ACT 1986

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**CEMETERIES LOCAL LAW**

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LOCAL GOVERNMENT ACT 1995

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**CEMETERIES ACT 1986**

## SHIRE OF HARVEY

**CEMETERIES LOCAL LAW**

Under the powers conferred by the *Cemeteries Act 1986*, the Council of the Shire of Harvey resolved on the 23rd day of May 2000 to adopt the Model Local Law ( Cemeteries ) 1998 published in the *Government Gazette* on 12 May 1998 with such modifications as are here set out.

**PART 1—PRELIMINARY****1.1 Citation**

This local law may be cited as the Shire of Harvey Cemeteries Local Law.

**1.2 Interpretation**

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

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

“authorised officer” means an employee of the Board authorised by the Board for the purposes of performing any function or exercising any power conferred upon an authorised officer by this local law;

“Board” means the Shire of Harvey;

“cemetery” means any cemetery which the Governor by order has vested under the care, control and management of the Board.

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

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

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

“monumental mason” means a person holding a current monumental mason’s licence;

“personal representative” means the administrator or executor of an estate of a deceased person;

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

“single funeral permit” means a permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct at the cemetery a funeral of a person named in the permit.

“vault” means a below ground lined grave with one or more sealed compartments constructed to specifications approved from time to time by the Board.

(2) Unless otherwise defined herein the terms and expressions used in this local law are to have the meaning given to them in the Act.

**1.3 Repeal**

The following local laws are repealed—

Cookernup Public Cemetery—Reserve No 3309 and Harvey Public Cemetery—Reserve No 13178, published in the *Government Gazette* on 30 July 1970 and New Harvey Cemetery published in the *Government Gazette* on 11 May 1973 as amended.

**PART 2—ADMINISTRATION****2.1 Powers and Functions of CEO**

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

**PART 3—APPLICATION FOR FUNERALS****3.1 Application for Burial**

(1) A person may apply for approval to bury a dead body in the cemetery in the form determined by the Board from time to time.

(2) An application under subclause (1) is to be accompanied by the set fee.

### **3.2 Applications to be Accompanied by Certificates etc**

All applications referred to in clause 3.1 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 3.4, in respect of the body.

### **3.3 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 a certificate of identification in the form determined by the Board 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 a certificate in the form determined by the Board from time to time.

### **3.4 Minimum Notice Required**

All bookings to hold a funeral shall be made with the Board at least twenty four hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

## **PART 4—FUNERAL DIRECTORS**

### **4.1 Funeral Director's Licence Expiry**

A funeral director's licence shall expire on the 30th day of June in each year.

### **4.2 Single Funeral Permits**

Every application for a single funeral permit made under section 20 or 21 of the Act shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.

### **4.3 Application Refusal**

The Board may refuse an application for a single funeral permit if, in the opinion of the Board, either the coffin specifications or the details of the vehicle transporting the dead body to the gravesite are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

## **PART 5—FUNERALS**

### *Division 1—General*

### **5.1 Requirements for Funerals and Coffins**

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

- (a) the Board has approved an application for the burial of that dead body in accordance with Part 3 of this local law;
- (b) it is enclosed in a coffin which in the opinion of the Board is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate 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 10 mm in height.

### **5.2 Funeral Processions**

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

### **5.3 Vehicle Entry Restricted**

- (1) Subject to clause 5.3(2), every funeral procession shall enter by the principal entrance, and no vehicle except the hearse, and official mourning coaches, shall be permitted to enter the cemetery.
- (2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs.

### **5.4 Vehicle Access and Speed Limitations**

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

### **5.5 Offenders may be Expelled**

A person committing an offence under clause 5.4 may be expelled from the cemetery by the CEO or an authorised officer.

### **5.6 Conduct of Funeral by Board**

When conducting a funeral under section 22 of the Act the Board may—

- (a) require a written request for it to conduct a funeral to be lodged with it;
- (b) in its absolute discretion, charge any person requesting it to conduct a funeral the set fee for the conduct of that funeral by it;

- (c) where no fee or a reduced fee has been charged by it for the conduct of the funeral, determine the manner in which the funeral shall be conducted;
- (d) specify an area in the cemetery where the dead body is to be buried or the ashes placed;
- (e) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law;
- (f) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

*Division 2—Placement of Ashes*

**5.7 Disposal of Ashes**

(1) The personal representative of a deceased person whose body has been cremated may apply, in an application under clause 3.1 or otherwise, for permission to dispose of the ashes in the cemetery and upon payment of the set fee the Board may grant permission for the ashes to be disposed of by one of the following methods—

- Niche Wall
- Memorial Wall
- Garden of Remembrance
- Ground Niche
- Memorial Rose, Tree or Shrub
- Family Shrub
- Memorial Desk
- Granite Seat
- Family Grave
- Book of Remembrance
- Scattering to the Winds
- Memorial Gardens
- Other memorials approved by the Board

(2) Subject to sub-clauses (3) and (4), a person shall not place the ashes of a deceased person in the cemetery.

(3) An authorised officer may place the ashes of a deceased person in a cemetery in accordance with the Board approval provided—

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

(4) An authorised officer may place the ashes of a deceased person within a grave in accordance with the Board approval, provided the person requesting the placement of the ashes has the written permission of the Board and the approval of the holder of the right of burial of the grave.

**PART 6—BURIALS**

**6.1 Depth of Graves**

(1) Every grave shall be at least 2.1m in depth at the first interment

(2) 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 authorised officer; or
- (b) in any circumstances less than 600mm.

(3) The permission of the authorised officer in sub-clause (2) (a) will only be granted where in the opinion of the authorised officer exceptional circumstances require granting of that permission.

**6.2 Mausoleum, etc**

(1) A person other than the Board shall not construct a brick grave, crypt, vault or mausoleum within the cemetery.

(2) A person may request the Board to construct a vault or mausoleum within the cemetery which vault or mausoleum shall at all times remain the property of the Board.

(3) An application under subclause (2) shall be in writing and shall be accompanied by payment of the set fee.

(4) A person shall not place a dead body in a mausoleum except—

- (a) in a closed coffin; and
- (b) in a soundly constructed chamber; and
- (c) in accordance with sub-clause (5).

(5) The number of burials in a chamber must not exceed the number for which the chamber was designed.

**PART 7—MEMORIALS AND OTHER WORK***Division 1—General***7.1 Application for Monumental Work**

A Board may require the written consent of the holder of the right of burial of the grave to accompany an application under section 30 of the Act.

**7.2 Placement of Monumental Work**

Every memorial shall be placed on proper and substantial foundations.

**7.3 Removal of Rubbish**

All refuse, rubbish or surplus material remaining after memorial works are completed under a permit issued under section 30 of the Act shall be immediately removed from the cemetery by the person carrying out the same.

**7.4 Operation of Work**

All material required in the erection and completion of any work shall, as far as possible, be prepared before being taken to the cemetery, and all materials required by tradesmen shall be admitted at such entrance as the CEO or an authorised officer shall direct.

**7.5 Removal of Sand, Soil or Loam**

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

**7.6 Hours of Work**

Persons shall not be permitted to carry out memorial or other work on graves within the cemetery other than during the hours of 8.00am and 6.00pm on weekdays, and 8.00am and noon on Saturdays, without the written permission of the Board.

**7.7 Unfinished Work**

Should any work by masons or others be not completed before 6pm on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised officer.

**7.8 Use of Wood**

No wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave, other than as a temporary marker and with the prior approval of the Board.

**7.9 Plants and Trees**

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

**7.10 Supervision**

All workers, whether employed by the Board or by any other person, shall at all times whilst within the boundaries of the cemetery be subject to the supervision of the CEO or an authorised officer and shall obey such directions as the CEO or an authorised officer may give.

**7.11 Australian War Graves**

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

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

**7.12 Placing of Glass Domes and Vases**

A person shall not place glass domes, vases or other grave ornaments—

- (a) outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40 (2) of the Act; or
- (b) on the lawn in an area set aside by the Board as a lawn or a memorial plaque section.

*Division 2—Lawn Section***7.13 Specification of Monuments**

(1) All monuments in the lawn section of a cemetery shall—

- (a) be made of natural stone; and
- (b) be placed upon a base of natural stone; and
- (c) comply with the following specifications—
  - (i) the overall height of the monument above the original surface of the grave shall not exceed 1.05m;
  - (ii) the height of the base of the monument above the original surface of the grave shall be 150mm;
  - (iii) the width of the base of the monument shall not exceed 1.20m;
  - (iv) the depth of the base of the monument shall not exceed 300mm; and
- (d) have foundations placed on a reinforced concrete slab, set level to the natural ground, of the following dimensions, length—1.2m, width—0.6m and depth—150mm.



- (2) An admiralty bronze memorial plaque may be attached to a monument erected or being erected in the lawn section of the cemetery.
- (3) A person shall not display any trade names or marks upon any monument erected within the lawn section of the cemetery.

#### **7.14 Headstones**

In the lawn section of the cemetery, that part of a headstone above its base shall not extend horizontally beyond that base.

#### *Division 3—Memorial Plaque Section*

#### **7.15 Requirements of a Memorial Plaque**

- (1) All memorial plaques placed in a memorial plaque section of the cemetery shall—
- (a) be made of admiralty bronze or any other material approved by the Board; and
  - (b) not be less than the dimensions 143mm x 117mm, nor more than 560mm x 305mm; and
- (2) All memorial plaques made of admiralty bronze shall—
- (a) not exceed 20mm in thickness; and
  - (b) be placed upon a base mounting approved by the Board.
- (3) All memorial plaques made of stone shall—
- (a) not exceed 50mm in thickness placed upon a base mounting approved by the Board; or
  - (b) not be less than 100mm in thickness if it is not to be placed upon a base mounting.

#### *Division 4—Licensing of Monumental Masons*

#### **7.16 Monumental Mason's Licence**

- (1) The Board may upon receipt of an application in writing by any person and upon payment of the set fee issue to the applicant a monumental mason's licence.
- (2) A licence issued under sub-clause (1) authorises the holder to carry out monumental works within the cemetery subject to the provisions of this local law and such conditions as the Board shall specify upon the issue of that licence.

#### **7.17 Expiry Date, Non-Transferability**

A monumental mason's licence—

- (a) shall, subject to clause 7.20, be valid from the date specified therein until the 30th day of June next following; and
- (b) is not transferable.

#### **7.18 Carrying out Monumental Work**

A person shall not carry out monumental work within the cemetery unless that person—

- (a) is the holder of a current monumental mason's licence issued pursuant to clause 7.16 or does so as the employee of a person who holds such a licence; or
- (b) is authorised by the Board to do so.

#### **7.19 Responsibilities of the Holder of a Monumental Mason's Licence**

The holder of a monumental mason's licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within the cemetery pursuant to that licence with all the requirements and conditions of the licence, this local law, the Act and any other written law which may affect the carrying out of monumental works.

#### **7.20 Cancellation of a Monumental Mason's Licence**

- (1) The Board may by notice in writing to the holder of a monumental mason's licence terminate the licence on any of the following grounds—
- (a) that the holder of the licence has committed a breach of the requirements and conditions of the licence, this local law, the Act or any other written law which may affect the carrying out of monumental works;
  - (b) that, in the opinion of the Board, the conduct of the holder of the licence or any person in the employ of that holder in carrying out or attempting to carry out any works within the cemetery, is inappropriate or unbecoming; or
  - (c) that the holder of the licence has purported to transfer the licence issued to that holder.
- (2) Upon the termination of a monumental mason's licence under this clause no part of any fee paid for the issue of that licence is refundable by the Board.
- (3) An aggrieved person whose licence has been terminated under subclause (1) may appeal to a Local Court against a decision of the Board under this clause in the manner stated in section 19 (3) of the Act.

### **PART 8—GENERAL**

#### **8.1 Animals**

Subject to clause 8.2, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than with the approval of the CEO or an authorised officer.

**8.2 Guide Dogs**

Clause 8.1 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.

**8.3 Damaging and Removing of Objects**

Subject to clause 8.4, a person shall not damage, remove or pick any tree, plant, shrub or flower in the cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.

**8.4 Withered Flowers**

A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Board for that purpose.

**8.5 Littering and Vandalism**

A person shall not—

- (a) break or cause to be broken any glass, ceramic or other material in or upon the cemetery;
- (b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in or upon the cemetery other than in a receptacle provided for that purpose.

**8.6 Advertising**

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

**8.7 Obeying Signs and Directions**

A person shall obey all signs displayed, marked, placed or erected by the Board within the cemetery and any other lawful direction by the CEO or an authorised officer.

**8.8 Removal from the Cemetery**

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

**PART 9—OFFENCES AND MODIFIED PENALTIES****9.1 General**

A person who commits a breach of any provisions of this local law commits an offence and shall on conviction be liable to a penalty not exceeding \$1000.00 and if the offence is a continuing one to a further penalty not exceeding \$50.00 for every day or part of a day during which the offence has continued.

**9.2 Modified Penalties**

- (1) The offences specified in the First Schedule are offences which may be dealt with under section 63 of the Act.
- (2) The modified penalty payable in respect of an offence specified in the First Schedule is set out in the fourth column of the First Schedule.
- (3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in the Second Schedule.
- (4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in the Third Schedule.

***First Schedule***

Cemeteries Act 1986

*Shire of Harvey*

CEMETERIES LOCAL LAW

**MODIFIED PENALTIES**

Item No.	Clause	Nature of Offence	Modified Penalty
1	5.4	Excessive speed	\$100.00
2	5.4	Unauthorised use—driving of vehicles	\$100.00
3	7.3	Placing and removal of rubbish and surplus materials	\$100.00
4	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$100.00
5	8.1	Animal at large	\$100.00
6	8.5	Dumping of Rubbish	\$100.00
7	8.6	Unauthorised advertising, and/or trading	\$100.00
8	8.7	Disobeying sign or lawful direction	\$100.00
9		All other offences not specified	\$100.00

**Second Schedule**  
Cemeteries Act, 1986  
*Shire of Harvey*  
CEMETERIES LOCAL LAW  
**INFRINGEMENT NOTICE**

To: .....  
(Name)  
.....  
(Address)  
.....

It is alleged that at..... : .....hours on.....day  
of ..... 20.....at.....

you committed the offence indicated below by an (x) in breach of clause ..... of the Shire of Harvey Cemeteries Local Law

.....  
(Authorised Person)

Offence

- Animal at large
- Dumping rubbish
- Excessive speed in vehicle
- Leaving uncompleted works in an untidy or unsafe condition
- Non removal of rubbish
- Unauthorised advertising or trading
- Unauthorised vehicle use
- Disobeying sign or lawful direction
- Other Offence.....

\$.....

You may dispose of this matter—

By payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the Shire of Harvey at 102 Uduc Road Harvey WA 6220 between the hours of 9am to 4.30pm Monday to Friday.

Please make cheques payable to Shire of Harvey. Payments by mail should be addressed to—

The Chief Executive Officer  
Shire of Harvey  
102 Uduc Road  
HARVEY WA 6220

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

**Third Schedule**  
Cemeteries Act, 1986  
*Shire of Harvey*  
SHIRE OF HARVEY CEMETERIES LOCAL LAW  
**WITHDRAWAL OF INFRINGEMENT NOTICE**

No.....

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

To <sup>(1)</sup> .....

Infringement Notice No ..... dated...../...../.....for the alleged offence of <sup>(2)</sup>

Penalty <sup>(3)</sup> \$.....is withdrawn.

(Delete whichever does not apply)

- \* No further action will be taken.
- \* It is proposed to institute court proceedings for the alleged offence.

<sup>(1)</sup> Insert name and address of alleged offender.

<sup>(2)</sup> Insert short particulars of offence alleged.

<sup>(3)</sup> Insert amount of penalty prescribed.

.....  
(Authorised Person)

SHIRE OF HARVEY
Form 1
Cemeteries Act 1986
GRANT OF RIGHT OF BURIAL

(cl 3.1)

By virtue of the Cemeteries Act 1986, the Shire of Harvey, in consideration of the sum shown hereunder paid by the Payer indicated on behalf of the Grantee named in the Schedule, hereby grants to the said Grantee the RIGHT of BURYING BODIES in that piece of ground within the Compartment, Section and Number on the plan of the Cemetery as shown hereunder.

TO HOLD the same to the said Grantee for the period of twenty five (25) years from the date hereof, for purposes of burial only.

This Grant is issued subject to all Local Laws and Regulations now or hereafter in force, made, or to be made under the above Act, or any future Act or Acts.

SCHEDULE

GRANT NO:.....

GRANTEE—

Name .....

Address .....

.....

PAYER—

Name .....

Address .....

.....

SUM IN CONSIDERATION.....Dollars

OFFICE RECORDS

GRAVE SITE—

Compartment ..... Deceased .....

Section ..... Application Number .....

Number ..... Register .....

Folio .....

.....

Signature of Issuing Officer

Designation

Date

NB: This grant is an important document and MUST BE PRODUCED before the grave can be reopened and to an authorised monumental mason for the establishment of any headstone.

SHIRE OF HARVEY

Form 2

Cemeteries Act 1986

DECLARATION OF OWNERSHIP OF MISSING "GRANT OF RIGHT OF BURIAL"

I, (a) .....

of (b) .....

do solemnly and sincerely declare as follows—

1. I am the person described as (c) in the Grant of Right of Burial numbered ..... issued by the Shire of Harvey on the.....day of ..... Two thousand and.....

2 .....

.....

.....

.....

.....

3. I have not transferred any of my rights under the said Grant to any person.

And I make this solemn declaration by virtue of Section 106 of the Evidence Act 1906.

Declared at.....in the State of Western Australia this ..... day of .....20.....before me—

Signature of Declarant .....

Witnessed by .....  
(Print Name)  
Signature of Witness .....  
Address of Witness .....

- (a) Full name of Declarant
- (b) Address and Occupation of Declarant
- (c) State whether Grantee or Assignee
- (d) Set out circumstances leading to loss or destruction of Grant, and if lost, action taken by Declarant to ascertain whereabouts of Grant.

SHIRE OF HARVEY  
Form 3  
*Cemeteries Act 1986*

**APPLICATION OF GRANT OF RIGHT OF BURIAL**

(cl 3.3)

To the Shire of Harvey

I, .....  
of .....  
being the holder of grant of right of burial numbered .....  
and issued by the Shire of Harvey on .....  
in respect of the .....  
Cemetery for good and valuable consideration assign all my rights under that grant to

.....  
(Full name)

of .....  
(address)

Dated this ..... day of ..... 20.....

.....  
Signature of person assigning grant

.....  
Signature of person to whom grant is assigned

.....  
Signature of witness

Registered by the Shire of Harvey on the ..... day of ..... 20.....

.....  
(Authorised Person)

SHIRE OF HARVEY  
Form 4  
*Cemeteries Act 1986*

**APPLICATION FOR BURIAL AND INSTRUCTION FOR GRAVE**

(cl 3.1)

APPLICATION No .....

SURNAME OF DECEASED: .....

OTHER NAMES: .....

OCCUPATION: .....

ADDRESS: .....

AGE: ..... DATE OF DEATH: ...../...../.....

DATE & TIME OF BURIAL: ..... /...../20.... RELIGIOUS AFFILIATION—

AREA:.....SECTION:..... GRAVE NO: .....

LENGTH & WIDTH OF COFFIN:..... DEPTH OF GRAVE: .....

SIZE OF GROUND: ..... GRANT NO: .....

GRAVE TYPE—

PLACE "X" IN BOX IF—

- FIRST INTERMENT
- MALE:
- FEMALE
- IS A GRANT REQUIRED: No:
- Yes:

OTHER INTERMENT APPLICATION NUMBERS—

.....  
.....

NAME AND ADDRESS OF APPLICANT FOR/OR CURRENT HOLDER OF GRANT OF RIGHT OF BURIAL—

.....  
.....  
.....

SIGNATURE: ..... DATE: ...../...../20.....

NAME OF MINISTER OR PERSON OFFICIATING—

NAME OF FUNERAL DIRECTOR—

SIGNATURE: .....

SIGNATURE: .....

DATE: ...../...../20.....

DATE: ...../...../20.....

NAME AND ADDRESS OF PERSON MAKING APPLICATION FOR BURIAL—

.....  
.....

SIGNATURE: ..... DATE: ...../...../20.....

DOCTOR'S CERT. REQ'D:

CORONER'S ORDER RECEIVED:

GRANT OF BURIAL SENT: ...../...../20.....

RECEIPT No. ISSUED: .....

MONUMENTAL MASON: .....

DATE WORKS APPROVED: ...../...../20.....

SHIRE OF HARVEY

Form 5

Cemeteries Act 1986

APPLICATION FOR CREMATION AND INSTRUCTION FOR ASHES

(cl 3.2)

APPLICATION No .....

SURNAME OF DECEASED: .....

OTHER NAMES: .....

OCCUPATION: .....

ADDRESS: .....

AGE: .....

DATE OF DEATH: ..../..../.....

DATE & TIME OF BURIAL: ...../...../20.....

RELIGIOUS AFFILIATION: .....

AREA:.....SECTION: .....

GRAVE NO: .....

GRANT NO: .....

GRAVE TYPE—

PLACE "X" IN BOX IF—

- MALE:
- FEMALE

OTHER INTERMENT APPLICATION NUMBERS—

.....  
.....  
.....  
.....

NAME AND ADDRESS ADMINISTOR—

.....  
.....

SIGNATURE: ..... DATE: ...../...../20.....

DISPOSAL DETAILS—

.....  
.....

NAME OF MINISTER OR PERSON OFFICIATING—

NAME OF FUNERAL DIRECTOR—

SIGNATURE: .....

SIGNATURE: .....

DATE: ...../...../20.....

DATE: ...../...../20.....

DATE CREMATION PERMIT ISSUED: ...../...../20.....

No OF CREMATION PERMIT: .....

RECEIPT No.: .....

TELEPHONE: .....

CERT. OF CREMATION PREPARED: ...../...../20.....

LETTERS RE DISPOSAL OF ASHES SENT: ...../...../20.....

ORDERED: ...../...../20.....

COMPLETED: ...../...../20.....

SHIRE OF HARVEY

Form 6

*Cemeteries Act 1986*

**CERTIFICATE OF IDENTIFICATION**

(cl 3.3(1))

I, .....  
of .....

hereby certify that on the.....day of ..... 20.....at.....

I identified the body of a deceased person as that of .....

The body was in a coffin bearing the name plate/inscription marked—

SIGNED: .....

WITNESS: .....

SHIRE OF HARVEY

Form 7

*Cemeteries Act 1986*

**CERTIFICATE DISPENSING WITH IDENIFICATION**

(cl 3.3(2))

I, .....  
of .....

the funeral director engaged to arrange the funeral of the body of.

certify that—

(a) the body has not been identified because—

\* in my opinion, the body is not is a fit state to be viewed

\* after reasonable effort I have been unable to have an identification made;

and

(b) the body is in a coffin bearing the name plate/inscription marked: .....

Dated this ..... day of .....20.....

Signed: .....

Endorsed by the applicant for the funeral: .....

(Full Name)

Signed: .....

(Signature)

(\* delete if inapplicable)

SHIRE OF HARVEY
Form 8
Cemeteries Act 1986
APPLICATION FOR FUNERAL DIRECTOR'S LICENCE

(S17(1))

(i) .....
hereby applies for the issue of a licence for the period beginning.....day of ..... 20.....
and ending the 30th day of June 20..... (ii) to undertake funerals within the Cemetery and in support
of such application supplies the following particulars—

- 1. To be completed by all Applicants—
(a) Trading name of business
Address from which business will be carried out .....
Telephone No:.....
(b) Number of years for which Applicant has previously held a Funeral Director's Licence
(c) Details of offences under the Cemeteries Act, or the Local Law of any Cemetery for
which the Applicant or persons employed by the applicant have been convicted
(d) Full name, address and capacity of person completing this application
(iii) .....
2. To be completed if Applicant is a Company—
(a) Full names and address of—
Director/s .....
Manager/s .....
Secretary .....
(b) Registered Office .....
3. To be completed if Applicant is a Partner—
Full name and address of partner/s
.....
4. To be completed if Applicant is neither Company nor Partner
Full name (iv) .....
Address .....

Signature of person completing application

.....

DIRECTIONS FOR COMPLETION

- (i) Name of Applicant or Company or business name
(ii) The maximum period is one year
(iii) State whether applying in person or own behalf, or as a partner of a firm or a manager of a
Company
(iv) If this information has already been given under item 1(e) write "as in item 1(e).

OFFICE USE ONLY

Received .....
Referred to Council .....
Approved .....
Licence issued.....



SHIRE OF HARVEY
Form 9
Cemeteries Act 1986
FUNERAL DIRECTOR'S LICENCE

(S17 (2))

.....
of .....
is hereby licensed to undertake funerals within the..... Cemetery from the .....
day of ..... 20.....until the 30th day of June 20.....
Place of business .....
Conditions .....
Given this.....day of.....20.....
by authority of the Shire of Harvey
.....
Chief Executive Officer

SHIRE OF HARVEY
Form 10
Cemeteries Act 1986
APPLICATION FOR SINGLE FUNERAL PERMIT

(cl 4.2)

I, (name) .....
of (address) .....
hereby make application for a SINGLE FUNERAL PERMIT for the Late .....
to take place on (day) ..... the (date).....of (month).....20.....
at (time).....and in support of this application I hereby submit—

- 1. Medical Certificate
Coroner's Certificate
Permit to Cremate
Application for Burial
Application for Cremation
2. I have permission to re-open the grave if required.
3. The deceased will be enclosed in a substantial casket having the following dimensions—
Length.....Width.....Depth.....
4. The casket will be obtained from .....
5. There will be legible name stamped on a lead plate under the name plate on the top of the coffin.
6. The vehicle used to transport the coffin within the cemetery is a suitable vehicle of the following description—
Vehicle Make.....Type.....Year.....
7. If a permit is issued I will comply with the Cemetery Local Law and conditions prescribed by the local government and pay the required fees.

(Signature) .....

OFFICE USE ONLY

Application No:
Approval of Vehicle and Casket:
Refer to Council:
Licence issued:

SHIRE OF HARVEY
Form 11
Cemeteries Act 1986
APPLICATION FOR PLACEMENT OF ASHES

(cl 5.7)

Of the Late .....
Died ..... Aged.....
Instructions for placement of ashes—

Total amount payable ..... \$.....
If second interment state name of first interment .....
Location (if known) .....
Name of personal representative: .....
Address .....
Telephone ..... Home..... Work
Signature .....
Date.....

SHIRE OF HARVEY
Form 12
Cemeteries Act 1986
APPLICATION FOR MONUMENTAL WORK

(cl 7.1)

Application No. ....
Grant No: .....
Name of Deceased .....
Area ..... Section..... Grave No.....
Name of Applicant .....
Address of Applicant .....

I HEREBY CERTIFY THAT I AM AUTHORISED AS/BY THE HOLDER OF THE GRANT OF RIGHT OF BURIAL FOR THE ABOVEMENTIONED GRAVE TO APPROVE ERECTION OF THE MEMORIAL DETAILED HEREIN AND I ACCEPT THAT THE APPROVAL ISSUED WILL BE SUBJECT TO CONDITIONS STIPULATED IN THE CEMETERIES ACT, THE GRANT OF RIGHT OF BURIAL AND THE LOCAL LAW AND REGULATIONS NOW OR HEREAFTER IN FORCE.

Signature: ..... Date.....

NOTE: THE SHIRE OF HARVEY IS INDEMNIFIED AGAINST ANY LIABILITY ATTRIBUTED TO ANY INCORRECT STATEMENTS OR INFORMATION CONTAINED IN THIS FORM.

DETAILS OF MASON—

THIS SECTION TO BE COMPLETED BY THE MONUMENTAL MASON

Name of Firm .....
Quoted Cost ..... Date.....
Address .....
Signature of Mason .....

Do You Wish To: (Please Tick)

- Add Further Inscription [ ]
Renovate Or Add Further [ ]
Install A New Memorial [ ]

PLAN AND SPECIFICATIONS—

NOTE: ALL PLANS AND SPECIFICATIONS OF MEMORIALS SUBMITTED MUST BE CAREFULLY DRAWN AND FULLY DIMENSIONED AND ALL MATERIALS SPECIFIED. ALL DESCRIPTION TO BE IN BLOCK LETTERS, ALL ORNAMENTS ETC, TO BE SHOWN AND DIMENSIONED, SIZE OF DOWELS AND DOWEL HOLES TO BE SPECIFIED.

SHIRE OF HARVEY

Form 13

Cemeteries Act 1986

APPLICATION FOR MONUMENTAL MASON'S LICENCE

(cl 7.16)

I/We the undersigned hereby apply for the issue of a licence for the period beginning the ..... day of ..... 20.....and ending the.....day of.....20.....to undertake and complete monumental work within the cemetery and in support of this application enclose a fee of \$.....and provide the following particulars—

- 1. To be completed by all Applicants—
(a) Address from which business will be carried on: ..... Telephone No:.....
(b) Number of years for which Applicant has previously held a Monumental Mason's Licence: .....
(c) Full name, address and capacity of person completing this application: .....
2. To be completed if the Applicant is a Company—
(a) Full names and addresses of—
Director/s .....
Manager/s .....
Secretary .....
(b) Registered Office .....
3. To be completed if Applicant is a Partner—
(a) Full name and address of partner/s .....
4. To be completed if Applicant is neither a Company nor Partnership—
Full name: .....
Address: .....
Dated at ..... this.....day of.....20.....
Signature: .....

SHIRE OF HARVEY
MONUMENTAL MASON'S LICENCE

Date Received .....
Date Approved .....
Conditions: .....
Signature of Issuing Officer: ..... Designation:.....
Date:.....

Dated this 13th day of June 2000.

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

Cr J. W. OFFER, Shire President.
K. J. LEECE, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF HARVEY

**LOCAL GOVERNMENT PROPERTY LOCAL LAW****PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Definitions
- 1.3 Interpretation
- 1.4 Application
- 1.5 Repeal

**PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY***Division 1—Determinations*

- 2.1 Determinations as to use of local government property
- 2.2 Procedure for making a determination
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- 2.7 Activities which may be pursued on specified local government property
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*Division 3—Transitional*

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**PART 3—PERMITS***Division 1—Preliminary*

- 3.1 Application of part

*Division 2—Applying for a Permit*

- 3.2 Application for permit
- 3.3 Decision on application for permit

*Division 3—Conditions*

- 3.4 Conditions which may be imposed on a permit
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- 3.7 Agreement for building
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*Division 6—Responsibilities of Permit Holder*

- 3.16 Responsibilities of permit holder

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**PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY***Division 1—Swimming Pool Areas*

- 5.1 When entry must be refused

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*Division 3—Fenced or Closed Property*

- 5.6 No entry to fenced or closed local government property

*Division 4—Toilet Blocks and Change Rooms*

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

**PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY**

- 6.1 No unauthorised entry to function

**PART 7—OBJECTIONS AND APPEALS**

- 7.1 Application of Division 1, Part 9 of the Act

**PART 8—MISCELLANEOUS**

- 8.1 Authorised person to be obeyed
- 8.2 Persons may be directed to leave local government property
- 8.3 Disposal of lost property
- 8.4 Liability for damage to local government property

**PART 9—ENFORCEMENT***Division 1—Notices Given Under this Local Law*

- 9.1 Offence to fail to comply with notice
- 9.2 Local government may undertake requirements of notice

*Division 2—Offences and Penalties*

## Subdivision 1—General

- 9.3 Offences and general penalty

## Subdivision 2—Infringement Notices and Modified Penalties

- 9.4 Prescribed offences
- 9.5 Form of notice

*Division 3—Evidence in Legal Proceedings*

- 9.6 Evidence of a determination

**FIRST SCHEDULE***Prescribed Offences***SECOND SCHEDULE***Determinations*

**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF HARVEY

**LOCAL GOVERNMENT PROPERTY LOCAL LAW**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Harvey resolved on the 23rd May 2000 to make the following local law.

**PART 1—PRELIMINARY****1.1 Citation**

This local law may be cited as the Shire of Harvey Local Government Property Local Law.

**1.2 Definitions**

In this local law unless the context otherwise requires—

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

“**applicant**” means a person who applies for a permit under clause 3.2;

“**authorized person**” means a person authorized by the local government under section 9.10 of the Act to perform any of the functions of an authorized person under this local law;

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

“**building**” means any building which is local government property and includes a—

- (a) hall or room;
- (b) corridor, stairway or annex of any hall or room; and
- (c) jetty;

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

“**commencement day**” means the day on which this local law comes into operation;

“**Council**” means the council of the local government;

“**date of publication**” means, where local public notice is required to be given of a matter under this local law, the date on which notice of the matter is published in a newspaper circulating generally throughout the district;

“**determination**” means a determination made under clause 2.1;

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

“**function**” means an event or activity characterised by all or any of the following—

- (a) formal organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;
- (c) organisation by or on behalf of a club;
- (d) payment of a fee to attend it; and
- (e) systematic recurrence in relation to the day, time and place;

“**liquor**” has the same meaning as is given to it in section 3 of the *Liquor Licensing Act 1988*;

“**local government**” means the Shire of Harvey;

“**local government property**” means anything except a thoroughfare—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an ‘otherwise unvested facility’ within section 3.53 of the Act;

“**Manager**” means the person for the time being employed by the local government to control and manage a pool area or other facility which is local government property and includes the person’s assistant or deputy;

“**permit**” means a permit issued under this local law;

“**permit holder**” means a person who holds a valid permit;

“**person**” does not include the local government;

“**pool area**” means any swimming and wading pools and spas and all buildings, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of or used in connection with such swimming and wading pools and spas which are local government property;

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

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

“**trading**” means the selling or hiring, or the offering for sale or hire of goods or services, and includes displaying goods for the purpose of—

- (a) offering them for sale or hire;
- (b) inviting offers for their sale or hire;
- (c) soliciting orders for them; or
- (d) carrying out any other transaction in relation to them; and

“**vehicle**” includes—

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
  - (b) an animal being ridden or driven,
- but excludes—
- (c) a wheel-chair or any device designed for use, by a physically impaired person on a footpath;
  - (d) a pram, a stroller or a similar device; and
  - (e) a boat.

### 1.3 Interpretation

In this local law unless the context otherwise requires a reference to local government property includes a reference to any part of that local government property.

### 1.4 Application

- (1) This local law applies throughout the district and in the sea adjoining the district for a distance of 200 metres seawards from the low water mark at ordinary spring tides.
- (2) Notwithstanding anything to the contrary in this local law, the local government may—
  - (a) hire local government property to any person; or
  - (b) enter into an agreement with any person regarding the use of any local government property.

### 1.5 Repeal

- (1) The following local laws are repealed—
  - Management, Use and Letting of Council Halls and Buildings* published in the *Government Gazette* on 21 May 1968, *Safety, Decency, Convenience and Comfort of Persons on Beaches and other Reserves* published in the *Government Gazette* on 20 November 1981 and *Management of the Dr Peter Topham Memorial Swimming Pool* published in the *Government Gazette* on 16 April 1987.
- (2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to no longer have any effect on and from the commencement day.
- (3) The Council may resolve that notwithstanding sub-clause (2), specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

## PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

### *Division 1—Determinations*

#### 2.1 Determinations as to use of local government property

- (1) The local government may make a determination in accordance with clause 2.2—
  - (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
  - (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
  - (c) as to the matters in clauses 2.7(2) and 2.8(2); and
  - (d) as to any matter ancillary or necessary to give effect to a determination.
- (2) The determinations in Schedule 2—
  - (a) are to be taken to have been made in accordance with clause 2.2;
  - (b) may be amended or revoked in accordance with clause 2.6; and
  - (c) have effect on the commencement day.

#### 2.2 Procedure for making a determination

- (1) The local government is to give local public notice of its intention to make a determination.
- (2) The local public notice referred to in sub-clause (1) is to state that—
  - (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
  - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
  - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.

- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to—
- (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
  - (b) amend the proposed determination, in which case sub-clause (5) will apply; or
  - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with sub-clause (2)(c) the Council is to—
- (a) consider those submissions; and
  - (b) decide—
    - (i) whether or not to amend the proposed determination; or
    - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice—
- (a) of the effect of the amendments; and
  - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in sub-clauses (3), (5) and (6).
- (8) A decision under sub-clause (3) or (4) is not to be delegated by the Council.

### **2.3 Discretion to erect sign**

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

### **2.4 Determination to be complied with**

A person shall comply with a determination.

### **2.5 Register of determinations**

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

### **2.6 Amendment or revocation of a determination**

- (1) The Council may amend or revoke a determination.
- (2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the Council revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

#### *Division 2—Activities which may be pursued or prohibited under a determination*

### **2.7 Activities which may be pursued on specified local government property**

- (1) A determination may provide that specified local government property is set aside as an area on which a person may—
- (a) bring, ride or drive an animal;
  - (b) take, ride or drive a vehicle, or a particular class of vehicle;
  - (c) fly or use a motorised model aeroplane;
  - (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
  - (e) launch, beach or leave a boat;
  - (f) take or use a boat, or a particular class of boat;
  - (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
  - (h) play or practice—
    - (i) golf or archery;
    - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
    - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
  - (i) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and
  - (j) wear no clothing.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in sub-clause (1) may be pursued and in particular—
- (a) the days and times during which the activity may be pursued;



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

### **2.8 Activities which may be prohibited on specified local government property**

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

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

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

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

(3) In this clause—

“**premises**” means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

#### *Division 3—Transitional*

### **2.9 Signs taken to be determinations**

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

(2) Clause 2.5 does not apply to a sign referred to in sub-clause (1).

## **PART 3—PERMITS**

### *Division 1—Preliminary*

#### **3.1 Application of Part**

This Part does not apply to a person who uses or occupies local government property under a written agreement with the local government to do so.

### *Division 2—Applying for a permit*

#### **3.2 Application for permit**

(1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with sub-clause (2).

(2) An application for a permit under this local law shall—

- (a) be in the form determined by the local government;
- (b) be signed by the applicant;
- (c) provide the information required by the form; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

(4) The local government may require an applicant to give local public notice of the application for a permit.

(5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

### 3.3 Decision on application for permit

(1) The local government may—

(a) approve an application for a permit unconditionally or subject to any conditions; or

(b) refuse to approve an application for a permit.

(2) If the local government approves an application for a permit, it is to issue to the applicant, a permit in the form determined by the local government.

(3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

#### *Division 3—Conditions*

### 3.4 Conditions which may be imposed on a permit

(1) Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to—

(a) the payment of a fee;

(b) compliance with a standard or a policy of the local government adopted by the local government;

(c) the duration and commencement of the permit;

(d) the commencement of the permit being contingent on the happening of an event;

(e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;

(f) the approval of another application for a permit which may be required by the local government under any written law;

(g) the area of the district to which the permit applies;

(h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and

(i) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government.

(2) Without limiting clause 3.3(1)(a) and sub-clause (1) above, the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued—

(a) when fees and charges are to be paid;

(b) payment of a bond against possible damage or cleaning expenses or both;

(c) restrictions on the erection of material or external decorations;

(d) rules about the use of furniture, plant and effects;

(e) limitations on the number of persons who may attend any function in or on local government property;

(f) the duration of the hire;

(g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;

(h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Licensing Act 1988*;

(i) whether or not the hire is for the exclusive use of the local government property;

(j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and

(k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

### 3.5 Imposing conditions under a policy

(1) In this clause—

“**policy**” means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 3.3(1)(a).

(2) Under clause 3.3(1)(a) the local government may approve an application subject to conditions by reference to a policy.

(3) The local government shall give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 3.3(2).

(4) An application for a permit shall be deemed not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.

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

### **3.6 Compliance with and variation of conditions**

(1) Where an application for a permit has been approved subject to conditions, the permit holder shall comply with each of those conditions.

(2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

#### *Division 4—General*

### **3.7 Agreement for building**

Where a person applies for a permit to erect a building on local government property the local government may enter into an agreement with the permit holder in respect of the ownership of the materials in the building.

### **3.8 Duration of permit**

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

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 3.12.

### **3.9 Renewal of permit**

(1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.

(2) The provisions of this Part shall apply to an application for the renewal of a permit *mutatis mutandis*.

### **3.10 Transfer of permit**

(1) An application for the transfer of a valid permit is to—

- (a) be made in writing;
- (b) be signed by the permit holder and the proposed transferee of the permit;
- (c) provide such information as the local government may require to enable the application to be determined; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.

(3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by an endorsement on the permit signed by the CEO.

(4) Where the local government approves the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

### **3.11 Production of permit**

A permit holder is to produce to an authorized person her or his permit immediately upon being required to do so by that authorized person.

### **3.12 Cancellation of permit**

(1) Subject to clause 7.1, a permit may be cancelled by the local government if the permit holder has not complied with a—

- (a) condition of the permit; or
- (b) determination or a provision of any written law which may relate to the activity regulated by the permit.

(2) On the cancellation of a permit the permit holder—

- (a) shall return the permit as soon as practicable to the CEO; and
- (b) is to be taken to have forfeited any fees paid in respect of the permit.

#### *Division 5—When a permit is required*

### **3.13 Activities needing a permit**

(1) A person shall not without a permit—

- (a) subject to sub-clause 3, hire local government property;
- (b) advertise anything by any means on local government property;
- (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
- (d) teach, coach or train, for profit, any person in a pool area or an indoor recreation facility which is local government property;
- (e) plant any plant or sow any seeds on local government property;
- (f) carry on any trading on local government property unless the trading is conducted—
  - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or

- (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
  - (g) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose—
    - (i) drive or ride or take any vehicle on to local government property; or
    - (ii) park or stand any vehicle on local government property;
  - (h) conduct a function on local government property ;
  - (i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
  - (j) light a fire on local government property except in a facility provided for that purpose;
  - (k) parachute, hang glide, abseil or base jump from or on to local government property;
  - (l) erect a building or a refuelling site on local government property;
  - (m) make any excavation on or erect or remove any fence on local government property;
  - (n) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person; or
  - (o) de-pasture any horse, sheep, cattle, goat, camel, ass or mule on local government property.
- (2) The local government may exempt a person from compliance with sub-clause (1) on the application of that person.
- (3) The local government may exempt specified local government property or a class of local government property from the application of sub-clause (1)(a).

### **3.14 Permit required to camp outside a facility**

- (1) In this clause—
- “**facility**” has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.
- (2) This clause does not apply to a facility operated by the local government.
- (3) A person shall not without a permit—
- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or
  - (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.
- (4) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a) or (b) of sub-clause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

### **3.15 Permit required for possession and consumption of liquor**

- (1) A person, on local government property, shall not consume any liquor or have in her or his possession or under her or his control any liquor, unless—
- (a) that is permitted under the *Liquor Licensing Act 1988*; and
  - (b) a permit has been obtained for that purpose.
- (2) Sub-clause (1) does not apply where the liquor is in a sealed container.

#### *Division 6—Responsibilities of permit holder*

### **3.16 Responsibilities of permit holder**

- A holder of a permit shall in respect of local government property to which the permit relates—
- (a) ensure that an authorized person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
  - (b) leave the local government property in a clean and tidy condition after its use;
  - (c) report any damage or defacement of the local government property to the local government; and
  - (d) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Licensing Act 1988* for that purpose.

## **PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY**

### *Division 1—Behaviour on and interference with local government property*

#### **4.1 Behaviour which interferes with others**

- A person shall not in or on any local government property behave in a manner which—
- (a) is likely to interfere with the enjoyment of a person who might use the property; or
  - (b) interferes with the enjoyment of a person using the property.

#### 4.2 Behaviour detrimental to property

(1) A person shall not behave in or on local government property in a way which is or might be detrimental to the property.

(2) In sub-clause (1)—

'detrimental to the property' includes—

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

#### 4.3 Taking or injuring any fauna

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

(2) In this clause—

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

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

- (a) any class of animal or individual member;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur.

#### 4.4 Intoxicated persons not to enter local government property

A person shall not enter or remain on local government property while under the influence of liquor or a prohibited drug.

#### 4.5 No prohibited drugs

A person shall not take a prohibited drug on to, or consume or use a prohibited drug on, local government property.

### *Division 2—Signs*

#### 4.6 Signs

(1) A local government may erect a sign on local government property specifying any conditions of use which apply to that property.

(2) A person shall comply with a sign erected under sub-clause (1).

(3) A condition of use specified on a sign erected under sub-clause (1) is—

- (a) not to be inconsistent with any provision of this local law or any determination; and
- (b) to be for the purpose of giving notice of the effect of a provision of this local law.

## PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

### *Division 1—Swimming pool areas*

#### 5.1 When entry must be refused

A Manager or an authorized person shall refuse admission to, may direct to leave or shall remove or cause to be removed from a pool area any person who—

- (a) in her or his opinion is—
  - (i) under the age of 7 years and who is unaccompanied by a responsible person over the age of 17 years;
  - (ii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
  - (iii) under the influence of liquor or a prohibited drug; or
- (b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.

### *Division 2—Beaches*

#### 5.2 Interpretation

In this Division—

"beaches" includes the foreshore of all rivers and lakes within the district that are under the care, control and management of the local government.

#### 5.3 Powers of surf life saving club members

(1) Subject to sub-clause (2), the local government may authorize under section 9.10 of the Act the members of a surf life saving club to perform all or any of the following functions in relation to a beach—

- (a) patrol any beach;
- (b) carry out any activity on any beach;

- (c) erect signs designating bathing areas and signs regulating, prohibiting or restricting specified activities on the whole or any part of a beach or in or on the water adjacent to the beach and to direct persons on the beach or in or on the water to comply with such signs;
  - (d) temporarily enclose any area with rope, hessian, wire or any other means for the conduct of surf life saving club activities; and
  - (e) direct persons to leave the water adjacent to a beach during dangerous conditions or if a shark is suspected of being in the vicinity of a beach.
- (2) Under sub-clause (1), the local government shall authorize only those members who have been recommended by the surf life saving club as competent to perform the functions referred to in that sub-clause in respect of which they are authorized.
- (3) Under sub-clause (1), the local government may authorize members generally, or in relation to particular times, days or months.

#### **5.4 Authorising other persons**

- (1) A local government may authorize, under section 9.10 of the Act, a person to perform all or any of the functions referred to in clause 5.3(1) in relation to a beach.
- (2) Under sub-clause (1), the local government shall authorize only those persons who, in the reasonable opinion of the local government, are competent to perform the functions referred to in clause 5.3(1) in respect of which they are authorized.
- (3) Under sub-clause (1), the local government may authorize a person generally, or in relation to particular times, days or months.
- (4) Where the local government has authorized members of a surf life saving club under clause 5.3(1) and a person under sub-clause (1) in relation to the same beach, so that they can perform all or any of the functions referred to in clause 5.3(1) contemporaneously, the local government is to specify which authorization is rendered ineffective when both are exercised.

#### **5.5 Persons to comply with signs and directions**

A person shall—

- (a) not act in contravention of any sign erected on a beach under clause 5.3(1)(c);
- (b) not enter an area which has been temporarily closed with rope, hessian, wire or any other means for the conduct of surf life saving club activities, unless he or she is a member of the club or has obtained permission to enter from the club; and
- (c) comply with any direction given under clause 5.3(1)(c) or 5.3(1)(e),

notwithstanding that the sign or the direction was erected or given, as the case may be, by a person referred to in clause 5.4(1).

#### *Division 3—Fenced or closed property*

#### **5.6 No entry to fenced or closed local government property**

A person must not enter local government property which has been fenced off or closed to the public by a sign or otherwise, unless that person is authorized to do so by the local government.

#### *Division 4—Toilet blocks and change rooms*

#### **5.7 Only specified gender to use entry of toilet block or change room**

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

- (a) females, then a person of the male gender shall not use that entry of the toilet block or change room; or
- (b) males, then a person of the female gender shall not use that entry of the toilet block or change room.

### **PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY**

#### **6.1 No unauthorised entry to function**

- (1) A person shall not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorized, except—
- (a) through the proper entrance for that purpose; and
  - (b) on payment of the fee chargeable for admission at the time.
- (2) The local government may exempt a person from compliance with sub-clause (1)(b).

### **PART 7—OBJECTIONS AND APPEALS**

#### **7.1 Application of Division 1, Part 9 of the Act**

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

- (a) grant a person a permit or consent under this local law; or
- (b) renew, vary, or cancel a permit or consent that a person has under this local law,

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations apply to that decision.

**PART 8—MISCELLANEOUS****8.1 Authorised person to be obeyed**

A person on local government property shall obey any lawful direction of an authorized person and shall not in any way obstruct or hinder an authorized person in the execution of her or his duties.

**8.2 Persons may be directed to leave local government property**

An authorized person may direct a person to leave, or temporarily suspend a person from, local government property where she or he reasonably suspects that the person has contravened a provision of any written law.

**8.3 Disposal of lost property**

An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by the local government in any manner it thinks fit.

**8.4 Liability for damage to local government property**

(1) Where a person unlawfully damages local government property, the local government may by notice in writing to that person require that person within the time required in the notice to, at the option of the local government, pay the costs of—

- (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
- (b) replacing that property.

(2) Unless there is proof to the contrary, a person is to be taken to have damaged local government property within sub-clause (1) where—

- (a) a vehicle or a boat caused the damage, the person was the person responsible, at the time the damage occurred, for the control of the vehicle or the boat; or
- (b) the damage occurred under a permit, the person is the permit holder in relation to that permit.

(3) On a failure to comply with a notice issued under sub-clause (1), the local government may recover the costs referred to in the notice as a debt due to it.

**PART 9—ENFORCEMENT***Division 1—Notices given under this local law***9.1 Offence to fail to comply with notice**

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

**9.2 Local government may undertake requirements of notice**

Where a person fails to comply with a notice referred to in clause 9.1, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

*Division 2—Offences and penalties**Subdivision 1—General***9.3 Offences and general penalty**

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

(2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

*Subdivision 2—Infringement notices and modified penalties***9.4 Prescribed offences**

(1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorized person should be satisfied that—

- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

**9.5 Form of notices**

(1) For the purposes of this local law—

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

(c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

(2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

*Division 3—Evidence in legal proceedings*

**9.6 Evidence of a determination**

(1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.

(2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.

(3) Sub-clause (2) does not make valid a determination that has not been properly made.

**Schedule 1**

**PRESCRIBED OFFENCES**

Clause	Description	Modified Penalty \$
2.4	Failure to comply with determination	100
3.6	Failure to comply with conditions of permit	100
3.13(1)	Failure to obtain a permit	100
3.14(3)	Failure to obtain permit to camp outside a facility	100
3.15(1)	Failure to obtain permit for liquor	100
3.16	Failure of permit holder to comply with responsibilities	100
4.2(1)	Behaviour detrimental to property	200
4.4	Under influence of liquor or prohibited drug	100
4.6(2)	Failure to comply with sign on local government property	100
5.5	Failure to comply with sign or direction on beach	250
5.6	Unauthorized entry to fenced or closed local government property	100
5.7	Gender not specified using entry of toilet block or change room	100
6.1(1)	Unauthorized entry to function on local government property	100
9.1	Failure to comply with notice	200
	All other offences not specified	100

**Schedule 2**

**DETERMINATIONS**

The following determinations are to be taken to have been made by the local government under clause 2.1.

**PART 1—PRELIMINARY**

**Definitions**

1.1 In these determinations unless the context otherwise requires—

“**local law**” means the *Local Government Property Local Law* made by the local government;

**Interpretation**

1.2 Unless the context otherwise requires, where a term is used but not defined in a determination and that term is defined in the local law then the term shall have the meaning given to it in the local law.

Dated this 13<sup>th</sup> day of June 2000.

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

Cr J. W. OFFER, Shire President.  
K. J. LEECE, Chief Executive Officer.



**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF HARVEY

**ACTIVITIES ON THOROUGHFARES AND TRADING IN  
THOROUGHFARES AND PUBLIC PLACES LOCAL LAW****PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Definitions
- 1.3 Application
- 1.4 Repeal

**PART 2—ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES***Division 1—General*

- 2.1 General prohibitions
- 2.2 Activities allowed with a permit—general
- 2.3 No possession and consumption of liquor on thoroughfare

**PART 3—VERGE TREATMENT***Division 1—Preliminary*

- 3.1 Interpretation
- 3.2 Application

*Division 2—Permissible Verge Treatments*

- 3.3 Permissible verge treatments
- 3.4 Only permissible verge treatments to be installed
- 3.5 Obligations of owner or occupier
- 3.6 Notice to owner or occupier

*Division 3—Existing Verge Treatments*

- 3.7 Transitional provision

*Division 4—Public Works*

- 3.8 Powers to carry out public works on verge

**PART 4—ADVERTISING SIGNS ON THOROUGHFARES***Division 1—Preliminary*

- 4.1 Interpretation

*Division 2—Permit*

- 4.2 Advertising signs and portable direction signs
- 4.3 Matters to be considered in determining application for permit

*Division 3—Conditions on Permits*

- 4.4 Conditions on portable sign

**PART 5—OBSTRUCTION OF ANIMALS, VEHICLES OR SHOPPING TROLLEYS***Division 1—Animals and Vehicles*

- 5.1 Leaving animal or vehicle in public place or on local government property
- 5.2 Prohibitions relating to animals

*Division 2—Shopping Trolleys*

- 5.3 Interpretation
- 5.4 Shopping trolley to be marked
- 5.5 Person not to leave trolley in public place

- 5.6 Retailer to remove abandoned trolley
- 5.7 Retailer taken to own trolley

## **PART 6—TRADING IN THOROUGHFARES AND PUBLIC PLACES**

### *Division 1—Stallholders and Traders*

#### Subdivision 1—Preliminary

- 6.1 Interpretation

#### Subdivision 2—Permits

- 6.2 Stallholder's permit
- 6.3 Trader's permit
- 6.4 No permit required to sell newspaper
- 6.5 Relevant considerations in determining application for permit
- 6.6 Conditions of permit
- 6.7 Exemptions from requirement to pay fee or to obtain permit

#### Subdivision 3—Conduct of Stallholders and Traders

- 6.8 Conduct of stallholders and traders

### *Division 2—Outdoor Eating Facilities on Public Places*

- 6.9 Interpretation
- 6.10 Permit required to conduct facility
- 6.11 Matters to be considered in determining application
- 6.12 Obligations of permit holders
- 6.13 Removal of facility unlawfully conducted
- 6.14 Use of facility by public
- 6.15 Temporary removal of facility may be requested

### *Division 3—Street Entertainers*

#### Subdivision 1—Preliminary

- 6.16 Interpretation

#### Subdivision 2—Permits

- 6.17 Permit required to perform
- 6.18 Variation of permitted area and permitted time
- 6.19 Duration of permit
- 6.20 Cancellation of permit
- 6.21 Obligations of permit holder

## **PART 7—PERMITS**

### *Division 1—Applying for a Permit*

- 7.1 Application for permit
- 7.2 Decision on application for permit

### *Division 2—Conditions*

- 7.3 Conditions which may be imposed on a permit
- 7.4 Imposing conditions under a policy
- 7.5 Compliance with and variation of conditions

### *Division 3—General*

- 7.6 Duration of permit
- 7.7 Transfer of permit
- 7.8 Production of permit
- 7.9 Cancellation of permit

## **PART 8—OBJECTIONS AND APPEALS**

- 8.1 Application of Part 9 Division 1 of Act

## **PART 9—MISCELLANEOUS NOTICES**

- 9.1 Notice to redirect or repair sprinkler
- 9.2 Hazardous plants
- 9.3 Notice to repair damage to thoroughfare
- 9.4 Notice to remove thing unlawfully placed on thoroughfare

**PART 10—ENFORCEMENT**

*Division 1—Notices Given Under This Law*

- 10.1 Offence to fail to comply with notice
- 10.2 Local government may undertake requirement of notice

*Division 2—Offences and Penalties*

Subdivision 1—General

- 10.3 Offences

Subdivision 2—Infringement Notice and Modified Penalties

- 10.4 Prescribed offences
- 10.5 Forms

**FIRST SCHEDULE**      *Prescribed Offences*

## LOCAL GOVERNMENT ACT 1995

## SHIRE OF HARVEY

**ACTIVITIES ON THOROUGHFARES AND TRADING IN  
THOROUGHFARES AND PUBLIC PLACES LOCAL LAW**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Harvey resolved on the 23<sup>rd</sup> day of May 2000 to make the following local law.

**PART 1—PRELIMINARY****1.1 Citation**

This local law may be cited as the Shire of Harvey Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.

**1.2 Definitions**

In this local law unless the context otherwise requires—

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

“**applicant**” means a person who applies for a permit;

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

“**bicycle**” has the same meaning given to it in the *Road Traffic Code 1975*;

“**built-up area**” has the meaning given to it in the *Road Traffic Code 1975*;

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

“**carriageway**” means the paved or made portion of a thoroughfare used or intended for use by vehicles;

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

“**commencement day**” means the day on which this local law comes into operation;

“**Council**” means the council of the local government;

“**crossing**” means a crossing giving access from a public thoroughfare to—

(a) private land; or

(b) a private thoroughfare serving private land;

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

“**footpath**” means the paved or made portion of a thoroughfare used or intended for use by pedestrians and cyclists;

“**garden**” means any part of a thoroughfare planted, developed or treated, otherwise than as a lawn, with one or more plants;

“**intersection**” has the meaning given to it in the *Road Traffic Code 1975*;

“**kerb**” includes the edge of a carriageway;

“**lawn**” means any part of a thoroughfare which is planted only with grass, or with a similar plant, but will include any other plant provided that it has been planted by the local government;

“**liquor**” has the meaning given to it in section 3 of the *Liquor Licensing Act 1988*;

“**local government**” means the Shire of Harvey;

“**local government property**” means anything except a thoroughfare—

(a) which belongs to the local government;

(b) of which the local government is the management body under the *Land Administration Act 1997*; or

(c) which is an ‘otherwise unvested facility’ within section 3.53 of the Act;

“**lot**” has the meaning given to it in the *Town Planning and Development Act 1928*;

“**owner**” or “**occupier**” in relation to land does not include the local government;

“**permissible verge treatment**” means any one of the 4 treatments described in clause 3.3(2), and includes any reticulation pipes and sprinklers;

“**permit**” means a permit issued under this local law;

“**permit holder**” means a person who holds a valid permit;

“**person**” does not include the local government;

“**premises**” for the purpose of the definition of “public place” in both this clause and clause 6.1, means a building or similar structure, but does not include a carpark or a similar place;

“**public place**” includes any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include—

- (a) premises on private property from which trading is lawfully conducted under a written law; and
- (b) local government property;

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

“**sign**” includes a notice, flag, mark, structure or device on which may be shown words, numbers, expressions or symbols;

“**thoroughfare**” has the meaning given to it in the Act.

“**town planning scheme**” means a town planning scheme of the local government made under the *Town Planning and Development Act 1928*;

“**townsites**” means all the townsites within the district which are—

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

“**vehicle**” includes—

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
  - (b) an animal being ridden or driven,
- but excludes—
- (a) a wheel-chair or any device designed for use by a physically impaired person on a footpath; and
  - (b) a pram, a stroller or a similar device; and

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

### 1.3 Application

This local law applies throughout the district.

### 1.4 Repeal

The following local laws are repealed—

*Hawkers* published in the *Government Gazette* on 28 April 1960, *Street Lawns and Gardens* published in the *Government Gazette* on 30 December 1963 and *Removal and Disposal of Obstructing Animals and Vehicles* published in the *Government Gazette* on 3 October 1969.

## PART 2—ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES

### Division 1—General

#### 2.1 General prohibitions

A person shall not—

- (a) plant any plant which exceeds or which may exceed 0.75m in height on a thoroughfare so that the plant is within 6m of an intersection;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless—
  - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
  - (ii) the person is acting under the authority of a written law;
- (c) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 2m of a carriageway;
- (d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (e) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare; or
- (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, rollerblades or similar device.
- (h) Erect an election sign on any public place or thoroughfare except those signs identifying a polling booth.

## 2.2 Activities allowed with a permit—general

- (1) A person shall not, without a permit—
- (a) dig or otherwise create a trench through or under a kerb or footpath;
  - (b) subject to Part 3—Verge Treatments, throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only during the period of time advertised in connection with that collection by the local government;
  - (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
  - (d) cause any obstruction to a water channel or a water course in a thoroughfare;
  - (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
  - (f) damage a thoroughfare;
  - (g) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose;
  - (h) fell any tree onto a thoroughfare;
  - (i) unless installing a permissible verge treatment—
    - (i) lay pipes under or provide taps on any verge; or
    - (ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
  - (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
  - (k) on a public place use anything or do anything so as to create a nuisance;
  - (l) place or cause to be placed on a thoroughfare a bulk rubbish container; or
  - (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.
- (2) The local government may exempt a person from compliance with sub-clause (1) on the application of that person.

## 2.3 No possession and consumption of liquor on thoroughfare

- (1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless—
- (a) that is permitted under the *Liquor Licensing Act 1988* or under another written law; or
  - (b) the person is doing so in accordance with a permit.
- (2) Sub-clause (1) does not apply where the liquor is in a sealed container.

## PART 3—VERGE TREATMENTS

### *Division 1—Preliminary*

#### 3.1 Interpretation

In this Part, unless the context otherwise requires—

“**acceptable material**” means any material which will create a hard surface, and which appears on a list of acceptable materials maintained by the local government.

#### 3.2 Application

This Part only applies to the townsites.

### *Division 2—Permissible verge treatments*

#### 3.3 Permissible verge treatments

- (1) An owner or occupier of land which abuts on a verge may on that part of the verge directly in front of her or his land install a permissible verge treatment.
- (2) The permissible verge treatments are—
- (a) the planting and maintenance of a lawn;
  - (b) the planting and maintenance of a garden provided that—
    - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare; and
    - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
  - (c) the installation of an acceptable material; or
  - (d) the installation over no more than one third of the area of the verge (excluding any vehicle crossing) of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

#### 3.4 Only permissible verge treatments to be installed

- (1) A person shall not install or maintain a verge treatment which is not a permissible verge treatment.
- (2) The owner and occupier of the lot abutting a verge treatment referred to in sub-clause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 3.5.

**3.5 Obligations of owner or occupier**

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

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) not place any obstruction on or around the verge treatment; and
- (c) not disturb a footpath on the verge.

**3.6 Notice to owner or occupier**

The local government may give a notice in writing to the owner or the occupier of a lot abutting on a verge to make good, within the time specified in the notice, any breach of a provision of this Part.

*Division 3—Existing verge treatments***3.7 Transitional provision**

(1) In this clause—

“**former provisions**” means the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was repealed by this local law.

(2) A verge treatment which—

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

is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions.

*Division 4—Public works***3.8 Power to carry out public works on verge**

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

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

**PART 4—ADVERTISING SIGNS ON THOROUGHFARES***Division 1—Preliminary***4.1 Interpretation**

In this Part, unless the context otherwise requires—

“**advertising sign**” means a sign used for the purpose of advertisement but excludes an “election sign”;

“**direction sign**” means a sign which indicates the direction of another place, activity or event, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;

“**election sign**” means a sign or poster which advertises any aspect of a forthcoming Federal, State or Local Government election; and

“**portable direction sign**” means a portable free standing direction sign; and

“**portable sign**” means a portable free standing advertising sign.

*Division 2—Permit***4.2 Advertising signs and portable direction signs**

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

- (a) erect or place an advertising sign on a thoroughfare; or
- (b) post any bill or paint, place or affix any advertisement on a thoroughfare.

(2) Notwithstanding sub-clause (1), a permit is not required in respect of a portable direction sign which neither exceeds 500mm in height nor 0.5m<sup>2</sup> in area, provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.

(3) Notwithstanding sub-clause (1), a person shall not erect or place an advertising sign—

- (a) on a footpath;
- (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5m;

- (c) on or within 3m of a carriageway;
- (d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
- (e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

#### **4.3 Matters to be considered in determining application for permit**

In determining an application for a permit for the purpose of clause 4.2(1), the local government is to have regard to—

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

#### *Division 3—Conditions on permit*

#### **4.4 Conditions on portable sign**

If the local government approves an application for a permit for a portable sign, the application is to be taken to be approved subject to the following conditions—

- (a) the portable sign shall—
  - (i) not exceed 1m in height;
  - (ii) not exceed an area of 1m<sup>2</sup> on any side;
  - (iii) relate only to the business activity described on the permit;
  - (iv) contain letters not less than 200mm in height;
  - (v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;
  - (vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
  - (vii) be secured in position in accordance with any requirements of the local government;
  - (viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
  - (ix) be maintained in good condition; and
- (b) no more than one portable sign shall be erected in relation to the one building or business.

### **PART 5—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS**

#### *Division 1—Animals and vehicles*

#### **5.1 Leaving animal or vehicle in public place or on local government property**

(1) A person shall not leave an animal or a vehicle, or any part of a vehicle, in a public place or on local government property so that it obstructs the use of any part of that public place or local government property, unless that person has first obtained a permit or is authorized to do so under a written law.

(2) A person will not contravene sub-clause (1) where the animal is secured or tethered for a period not exceeding 1 hour.

(3) A person will not contravene sub-clause (1) where the vehicle is left for a period not exceeding 24 hours.

#### **5.2 Prohibitions relating to animals**

(1) In sub-clause (2), “owner” in relation to an animal includes—

- (a) an owner of it;
- (b) a person in possession of it;
- (c) a person who has control of it; and
- (d) a person who ordinarily occupies the premises where the animal is permitted to stay.

(2) An owner of an animal shall not—

- (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
- (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
- (c) train or race the animal on a thoroughfare.

(3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.



*Division 2—Shopping trolleys***5.3 Interpretation**

In this Division—

“**retailer**” means a proprietor of a shop in respect of which shopping trolleys are provided for the use of customers of the shop; and

“**shopping trolley**” means a wheeled container or receptacle supplied by a retailer to enable a person to transport goods.

**5.4 Shopping trolley to be marked**

A retailer shall clearly mark its name or its trading name on any shopping trolley made available for the use of customers.

**5.5 Person not to leave trolley in public place**

A person shall not leave a shopping trolley in a public place other than in an area set aside for the storage of shopping trolleys.

**5.6 Retailer to remove abandoned trolley**

(1) If a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, the local government may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.

(2) A retailer shall remove a shopping trolley within 24 hours of being so advised under sub-clause (1), unless the retailer—

- (a) requests the local government to collect and deliver the shopping trolley to the retailer; and
- (b) pays any fee for that collection and delivery (imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act) within the period specified by the local government.

**5.7 Retailer taken to own trolley**

In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the trolley.

**PART 6—TRADING IN THOROUGHFARES AND PUBLIC PLACES***Division 1—Stallholders and traders**Subdivision 1—Preliminary***6.1 Interpretation**

In this Division, unless the context otherwise requires—

“**Competition Principles Agreement**” means the Competition Principles Agreement executed by each State and Territory of the Commonwealth and the Commonwealth of Australia on 11 April 1995;

“**public place**” includes—

- (a) any thoroughfare or place which the public are allowed to use whether or not the thoroughfare or place is on private property; and
- (b) local government property;

but does not include premises on private property from which trading is lawfully conducted under a written law.

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

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

“**stallholder’s permit**” means a permit issued to a stallholder;

“**trader**” means a person who carries on trading;

“**trader’s permit**” means a permit issued to a trader; and

“**trading**” includes—

- (a) the selling or hiring of, the offering for sale or hire of or the soliciting of orders for goods or services in a public place;
- (b) displaying goods in any public place for the purpose of—
  - (i) offering them for sale or hire;
  - (ii) inviting offers for their sale or hire;
  - (iii) soliciting orders for them; or
  - (iv) carrying out any other transaction in relation to them; and
- (c) the going from place to place, whether or not public places, and—
  - (i) offering goods or services for sale or hire;
  - (ii) inviting offers or soliciting orders for the sale or the hire of goods or services; or
  - (iii) carrying out any other transaction in relation to goods or services,

but does not include—

- (d) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder’s permit;

- (e) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from a person who sells those goods or services;
- (f) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; and
- (g) the selling or hiring or the offering for sale or hire of—
  - (i) goods by a person who represents a manufacturer of the goods; or
  - (ii) services by a person who represents a provider of the services,which are sold directly to consumers and not through a shop.

#### Subdivision 2—Permits

##### **6.2 Stallholder's permit**

- (1) A person shall not conduct a stall on a public place unless that person is—
  - (a) the holder of a valid stallholder's permit; or
  - (b) an assistant specified in a valid stallholder's permit.
- (2) Every application for a stallholder's permit shall—
  - (a) state the full name and address of the applicant;
  - (b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;
  - (c) specify the proposed location of the stall;
  - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;
  - (e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and
  - (f) be accompanied by an accurate plan and description of the proposed stall.

##### **6.3 Trader's permit**

- (1) A person shall not carry on trading unless that person is—
  - (a) the holder of a valid trader's permit; or
  - (b) an assistant specified in a valid trader's permit.
- (2) Every application for a trader's permit shall—
  - (a) state the full name and address of the applicant;
  - (b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;
  - (c) specify the location or locations in which the applicant proposes to trade;
  - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;
  - (e) specify the proposed goods or services which will be traded; and
  - (f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.
- (3) The conditions subject to which the local government may approve an application for a trader's permit include that the permit holder is permitted to remain at a particular location for as long as there is a customer making a purchase, but if there is no customer making a purchase the permit holder must move on from that location within a reasonable time of the last purchase having been made.

##### **6.4 No permit required to sell newspaper**

Notwithstanding any other provision of this local law, a person who sells, or offers for sale, a newspaper is not required to obtain a permit.

##### **6.5 Relevant considerations in determining application for permit**

- (1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to—
  - (a) any relevant policies of the local government;
  - (b) the desirability of the proposed activity;
  - (c) the location of the proposed activity;
  - (d) the principles set out in the Competition Principles Agreement; and
  - (e) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds—
  - (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;
  - (b) that the applicant is not a desirable or suitable person to hold a permit;

- (c) that—
  - (i) the applicant is an undischarged bankrupt or is in liquidation;
  - (ii) the applicant has entered into any composition or arrangement with creditors; or
  - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property; or
- (d) such other grounds as the local government may consider to be relevant in the circumstances of the case.

### 6.6 Conditions of permit

(1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include—

- (a) the place, the part of the district, or the thoroughfare to which the permit applies;
- (b) the days and hours during which a permit holder may conduct a stall or trade;
- (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;
- (d) the goods or services in respect of which a permit holder may conduct a stall or trade;
- (e) the number of persons and the names of persons permitted to conduct a stall or trade;
- (f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;
- (g) whether and under what terms the permit is transferable;
- (h) any prohibitions or restrictions concerning the—
  - (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;
  - (ii) the use of amplifiers, sound equipment and sound instruments;
  - (iii) the use of signs; and
  - (iv) the use of any lighting apparatus or device;
- (i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;
- (j) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;
- (k) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;
- (l) the acquisition by the stallholder or trader of public risk insurance;
- (m) the period for which the permit is valid; and
- (n) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.

(2) Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may at the request of that permit holder authorize another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit shall apply to the nominee as if he or she was the permit holder.

### 6.7 Exemptions from requirement to pay fee or to obtain a permit

(1) In this clause—

**“charitable organisation”** means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium; and

**“commercial participant”** means any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit.

(2) The local government may waive any fee required to be paid by an applicant for a stallholder's permit or a trader's permit on making an application for or on the issue of a permit, or may return any such fee which has been paid, if the stall is conducted or the trading is carried on—

- (a) on a portion of a public place adjoining the normal place of business of the applicant; or
- (b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of a stall or trading, and any assistants that may be specified in the permit are members of that charitable organisation.

(3) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place, from the requirements of this Division.

#### Subdivision 3—Conduct of stallholders and traders

### 6.8 Conduct of stallholders and traders

(1) A stallholder while conducting a stall or a trader while trading shall—

- (a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting a stall or trading;

- (b) not display a permit unless it is a valid permit; and
  - (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *Weights and Measures Act 1915*.
- (2) A stallholder or trader shall not—
- (a) deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;
  - (b) act in an offensive manner;
  - (c) use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or
  - (d) in the case of a trader, carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading.

*Division 2—Outdoor eating facilities on public places*

### 6.9 Interpretation

In this Division—

“**Facility**” means an outdoor eating facility or establishment on any part of a public place, but does not include such a facility or establishment on private land;

“**permit holder**” means the person to whom a permit has been issued for the purpose of clause 6.10; and

“**public place**” has the meaning given to it in clause 6.1.

### 6.10 Permit required to conduct Facility

A person shall not establish or conduct a Facility without a permit.

### 6.11 Matters to be considered in determining application

In determining an application for a permit for the purpose of clause 6.10, the local government may consider in addition to any other matter it considers relevant, whether or not—

- (a) the Facility is conducted in conjunction with and as an extension of food premises which abut on the Facility, and whether the applicant is the person conducting such food premises;
- (b) any abutting food premises are registered in accordance with the *Health Act 1911* and whether the use of the premises is permitted under the town planning scheme;
- (c) the Facility will comply with any local law made under section 172 of the *Health Act 1911*;
- (d) users of the Facility will have access to proper and sufficient sanitary and ablutionary conveniences;
- (e) the Facility would—
  - (i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or
  - (ii) impede pedestrian access; and
- (f) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

### 6.12 Obligations of permit holder

(1) The permit holder for a Facility shall—

- (a) ensure that the Facility is conducted at all times in accordance with the provisions of this local law and any local law made under section 172 of the *Health Act 1911*;
- (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 in the eating area in a good, clean and serviceable condition at all times;
- (d) be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the Facility; and
- (e) be solely responsible for all rates and taxes levied upon the land occupied by the Facility.

(2) Whenever, in the opinion of the local government, any work is required to be carried out to a Facility, the local government may give a notice to the permit holder for the Facility to carry out that work within the time limited by the notice.

(3) In sub-clause (2), “work” includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a Facility.

### 6.13 Removal of Facility unlawfully conducted

Where a Facility is conducted without a permit, or in contravention of a condition of a permit, any tables, chairs, umbrellas or other equipment may be removed by an authorized person and impounded in accordance with the Act.

### 6.14 Use of Facility by public

(1) A person shall not occupy a chair or otherwise use the equipment in a Facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the Facility.

(2) A person shall leave a Facility when requested to do so by the permit holder.

**6.15 Temporary removal of Facility may be requested**

(1) The permit holder for a Facility is to temporarily remove the Facility when requested to do so on reasonable grounds by an authorized person or a member of the Police Service or an emergency service in the event of an emergency.

(2) The permit holder may replace the Facility removed under sub-clause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

*Division 3—Street Entertainers**Subdivision 1—Preliminary***6.16 Interpretation**

In this Division, unless the context otherwise requires—

“**perform**” includes to play a musical instrument, sing, mime, dance, give an acrobatic or aerobic display or entertain, but does not include public speaking;

“**permit**” means a permit issued for the purpose of clause 6.17;

“**permitted time**” means the time or times, specified in a permit, during which the permit holder may perform.

*Subdivision 2—Permits***6.17 Permit required to perform**

A person shall not perform in a public place without a permit.

**6.18 Variation of permitted area and permitted time**

(1) The local government may by notice in writing to a permit holder vary—

- (a) the permitted area;
- (b) the permitted time; or
- (c) both the permitted area and the permitted time,

shown on a permit.

(2) The local government may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

**6.19 Duration of permit**

A permit is valid for a period of 3 (three) months after the date on which it is issued unless it is sooner cancelled under this local law.

**6.20 Cancellation of permit**

The local government may cancel a permit if in her or his opinion the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place, or if, in her or his opinion, or in the opinion of an authorised person, the performance otherwise constitutes a nuisance.

**6.21 Obligations of permit holder**

A permit holder shall not in a public place—

- (a) perform wearing dirty, torn or ragged clothing;
- (b) act in an offensive manner; or
- (c) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier—
  - (i) other than in a permitted area; and
  - (ii) unless the musical instrument or device is specified in the permit.

**PART 7—PERMITS***Division 1 — Applying for a permit***7.1 Application for permit**

(1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with sub-clause (2).

(2) An application for a permit under this local law shall—

- (a) be in the form determined by the local government;
- (b) be signed by the applicant;
- (c) provide the information required by the form; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

(4) The local government may require an applicant to give local public notice of the application for a permit.

(5) The local government may refuse to consider an application for a permit which is not in accordance with sub-clause (2).

### **7.2 Decision on application for permit**

(1) The local government may—

- (a) approve an application for a permit unconditionally or subject to any conditions; or
- (b) refuse to approve an application for a permit.

(2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.

(3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

(4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under sub-clause (1)(a).

(5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under sub-clause (1)(b).

### *Division 2—Conditions*

### **7.3 Conditions which may be imposed on a permit**

The local government may approve an application for a permit subject to conditions relating to—

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

### **7.4 Imposing conditions under a policy**

(1) In this clause—

“**policy**” means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 7.2(1)(a).

(2) Under clause 7.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.

(3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 7.2(2).

(4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.

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

### **7.5 Compliance with and variation of conditions**

(1) Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder shall comply with each of those conditions.

(2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

### *Division 3—General*

### **7.6 Duration of permit**

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

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 7.10.

### **7.7 Renewal of permit**

(1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.

- (2) The provisions of—
- (a) this Part; and
  - (b) any other provision of this local law relevant to the permit which is to be renewed,
- shall apply to an application for the renewal of a permit *mutatis mutandis*.

#### **7.8 Transfer of permit**

- (1) An application for the transfer of a valid permit is to—
- (a) be made in writing;
  - (b) be signed by the permit holder and the proposed transferee of the permit;
  - (c) provide such information as the local government may require to enable the application to be determined; and
  - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by—
- (a) an endorsement on the permit signed by the CEO; or
  - (b) issuing to the transferee a permit in the form determined by the local government.
- (4) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

#### **7.9 Production of permit**

A permit holder is to produce to an authorised person her or his permit immediately upon being required to do so by that authorised person.

#### **7.10 Cancellation of permit**

- (1) Subject to clause 8.1, a permit may be cancelled by the local government on any one or more of the following grounds—
- (a) the permit holder has not complied with a—
    - (i) condition of the permit; or
    - (ii) provision of any written law which may relate to the activity regulated by the permit; or
  - (b) if it is relevant to the activity regulated by the permit—
    - (i) the permit holder has become bankrupt, or gone into liquidation;
    - (ii) the permit holder has entered into any composition or arrangement with creditors; or
    - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the permit holder's undertakings or property.
- (2) On the cancellation of a permit the permit holder—
- (a) shall return the permit as soon as practicable to the local government; and
  - (b) is to be taken to have forfeited any fees paid in respect of the permit.

### **PART 8—OBJECTIONS AND APPEALS**

#### **8.1 Application of Part 9 Division 1 of Act**

When the local government makes a decision—

- (a) under clause 7.2(1); or
- (b) as to whether it will renew, vary, or cancel a permit,

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations apply to that decision.

### **PART 9—MISCELLANEOUS NOTICES**

#### **9.1 Notice to redirect or repair sprinkler**

Where a lawn or a garden is being watered with a sprinkler which is on the lawn or the garden, in a manner which causes or may cause an inconvenience or obstruction to any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the lawn or the garden, requiring the owner or the occupier or both to move or alter the direction of the sprinkler or other watering equipment.

#### **9.2 Hazardous plants**

(1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.

(2) Sub-clause (1) does not apply where the plant was planted by the local government.

#### **9.3 Notice to repair damage to thoroughfare**

Where any portion of a thoroughfare has been damaged, the local government may by notice to the person who caused the damage order the person to repair or replace that portion of the thoroughfare to the satisfaction of the local government.

#### 9.4 Notice to remove thing unlawfully placed on thoroughfare

Where any thing is placed on a thoroughfare in contravention of this local law, the local government may by notice in writing to the owner or the occupier of the property which abuts on that portion of the thoroughfare where the thing has been placed, or such other person who may be responsible for the thing being so placed, require the relevant person to remove the thing.

### PART 10—ENFORCEMENT

#### *Division 1—Notices given under this local law*

##### 10.1 Offence to fail to comply with notice

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

##### 10.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 10.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

#### *Division 2—Offences and penalties*

##### Subdivision 1—General

##### 10.3 Offences

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

##### Subdivision 2—Infringement notices and modified penalties

##### 10.4 Prescribed offences

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorized person should be satisfied that—
  - (a) commission of the prescribed offence is a relatively minor matter; and
  - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

##### 10.5 Forms

Unless otherwise specified, for the purposes of this local law—

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

#### *Schedule 1*

#### PRESCRIBED OFFENCES

Clause	Description	Modified Penalty \$
2.1(a)	Plant of 0.75m in height on thoroughfare within 6m of intersection	100
2.1(b)	Damaging lawn or garden	100
2.1(c)	Plant (except grass) on thoroughfare within 2m of carriageway	100
2.1(d)	Placing hazardous substance on footpath	100
2.1(e)	Damaging or interfering with signpost or structure on thoroughfare	300
2.1(f)	Playing games so as to impede vehicles or persons on thoroughfare	100
2.1(g)	Riding of skateboard or similar device on mall or verandah of shopping centre	100
2.1(h)	Erecting election sign in a public place or thoroughfare	100
2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	100



**PRESCRIBED OFFENCES**—*continued*

Clause	Description	Modified Penalty \$
2.2(1)(b)	Throwing or placing anything on a verge without a permit	100
2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	100
2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	200
2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	200
2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	300
2.2(1)(h)	Felling tree onto thoroughfare without a permit	100
2.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	100
2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	300
2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	100
2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	100
2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	100
2.3(1)	Consumption or possession of liquor on thoroughfare	100
3.4(1)	Installation of verge treatment other than permissible verge treatment	200
3.5	Failure to maintain permissible verge treatment or placement of obstruction on verge	100
3.6	Failure to comply with notice to rectify default	100
4.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	100
4.2(3)	Erecting or placing of advertising sign in a prohibited area	100
5.1(1)	Animal or vehicle obstructing a public place or local government property	100
5.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	100
5.2(2)(b)	Animal on public place with infectious disease	100
5.2(2)(c)	Training or racing animal on thoroughfare in built-up area	100
5.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	100
5.5	Person leaving shopping trolley in public place other than trolley bay	100
5.6(2)	Failure to remove shopping trolley upon being advised of location	100
6.2(1)	Conducting of stall in public place without a permit	300
6.3(1)	Trading without a permit	300
6.8(1)(a)	Failure of stallholder or trader to display or carry permit	100
6.8(1)(b)	Stallholder or trader not displaying valid permit	100
6.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	100
6.8(2)	Stallholder or trader engaged in prohibited conduct	100
6.10	Establishment or conduct of outdoor eating facility without a permit	300
6.12	Failure of permit holder of outdoor eating facility to comply with obligations	100
6.14(1)	Use of equipment of outdoor eating facility without purchase of food or drink from facility	50
6.14(2)	Failure to leave outdoor eating facility when requested to do so by permit holder	50
6.17	Performing in a public place without a permit	100
6.18(2)	Failure of performer to move onto another area when directed	100
6.21	Failure of performer to comply with obligations	100
7.5	Failure to comply with a condition of a permit	100
7.9	Failure to produce permit on request of authorized person	100
10.1	Failure to comply with notice given under local law	100
	All other offences not specified	100

Dated this 13<sup>th</sup> day of June 2000.

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

Cr J. W. OFFER, Shire President.  
K. J. LEECE, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF HARVEY

**PARKING AND PARKING FACILITIES LOCAL LAW****PART 1—DEFINITION AND OPERATION**

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**FIRST SCHEDULE** *Parking region*

**SECOND SCHEDULE** *Prescribed offences*

**THIRD SCHEDULE** *Form 1 Notice to owner of vehicles involved in offence*

*Form 2 Infringement Notice*

*Form 3 Infringement Notice*

*Form 4 Withdrawal of Infringement Notice*

**FOURTH SCHEDULE** *Deemed parking stations*

**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF HARVEY

**PARKING AND PARKING FACILITIES LOCAL LAW**

Under the powers conferred by the *Local Government Act 1995* and under all other powers, the Council of the Shire of Harvey resolved to make the following local law on the 23<sup>rd</sup> day of May 2000.

**PART 1—DEFINITION AND OPERATION****1.1 Commencement**

This local law will come into operation on the fourteenth day after the day on which it is published in the *Government Gazette*.

**1.2 Repeal**

The Shire of Harvey local law relating to Parking published in the *Government Gazette* on 3 December 1982 is repealed.

**1.3 Interpretation**

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

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

“**Authorized Person**” means a person authorized by the local government under section 9.10 of the Act, to perform any of the functions of an Authorized Person under this local law;

“**authorized vehicle**” means a vehicle authorized by the local government, Chief Executive Officer, Authorized Person or by any written law to park on a thoroughfare or parking facility;

“**bicycle**” means any wheeled vehicle that is designed to be propelled solely by human power;

“**bus**” means an omnibus as defined by the Road Traffic Act;

“**bus embayment**” has the meaning given to it in the Code;

“**caravan**” means a vehicle that is fitted or designed to allow human habitation and which is drawn by another vehicle, or which is capable of self-propulsion;

“**carriageway**” means a portion of thoroughfare that is improved, designed or ordinarily used for vehicles and includes the shoulders and areas including embayments at the side or centre of the carriageway, used for the parking of vehicles; and where a thoroughfare has two or more of those portions divided by a median strip, the expression means each of those portions, separately;

“**centre**” in relation to a carriageway, means a line or a series of lines, marks or other indications placed at, or near, the middle of the carriageway or, in the absence of any such lines, marks or other indications, the middle of the main travelled portion of the carriageway;

“**children’s crossing**” has the meaning given to it in the Code;

“**CEO**” means the Chief Executive Officer of the local government;

“**Code**” means the *Road Traffic Code 1975*;

“**commercial vehicle**” means a motor vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a motor vehicle for the conveyance of passengers, and includes any motor vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

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

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

“**emergency vehicle**” has the meaning given to it in the Code;

“**footpath**” includes every footpath, pedestrian access way or other place—

(a) intended for the use of pedestrians only, or in the case of a dual use path, for the use of pedestrians and bicyclists only; or

(b) habitually used by pedestrians and not by vehicles or, in the case of a dual use path, by pedestrians and bicyclists and not by vehicles other than bicycles;

“**Loading Zone**” means a parking stall which is set aside for use by commercial vehicles if there is a sign referable to that stall marked ‘Loading Zone’;

“**local government**” means the Shire of Harvey;

“**median strip**” has the meaning given to it in the Code;

“**metered space**” means a section or part of a metered zone that is adjacent to a parking meter and that is marked or defined by painted lines or by metallic studs or similar devices for the purpose of indicating where a vehicle may be parked on payment of a fee or charge;

“**metered zone**” means any thoroughfare or reserve, or part of any thoroughfare or reserve, in which parking meters regulate the parking of vehicles;

“**motorcycle**” means a motor vehicle that has two wheels or, where a sidecar is attached, three wheels;

“**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;

“**no parking area**” means a portion of a carriageway that lie—

(a) between two consecutive signs inscribed with the words “No Parking” or with an equivalent symbol depicting this purpose and each with an arrow pointing generally towards the other of them; or

(b) between a sign inscribed with the words “No Parking” or with an equivalent symbol depicting this purpose, and the end of the carriageway or an area in which parking is prohibited and that lies in the general direction indicated by an arrow inscribed on the sign;

“**occupier**” has the meaning given to it in the Act;

“**owner**” where used in relation to a vehicle, means a person who is the registered holder of the requisite vehicle licence under the Road Traffic Act in respect of that vehicle, or if the vehicle is not licensed under that 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;

“**park**”, in relation to a vehicle, means to permit a vehicle, whether occupied or not by any person, to remain stationary for any period of time except for the purpose of—

(a) avoiding conflict with other traffic; or

(b) complying with the provisions of any law when the vehicle is being driven;

“**parking area**” means a portion of a carriageway—

(a) between two consecutive signs inscribed with the word “Parking” or with an equivalent symbol depicting this purpose and each with an arrow pointing generally towards the other of them; or

(b) extending from a sign inscribed with the word “Parking” or with an equivalent symbol depicting this purpose in the general direction indicated by the arrow inscribed on the sign, to any other sign inscribed with the words “No Parking” or with an equivalent symbol depicting this purpose, or to the end of the carriageway or an area in which the parking of vehicles is prohibited,

and is on that side of the carriageway of the thoroughfare nearest the sign;

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

“**parking meter**” includes the stand on which the meter is erected and a ticket issuing machine;

“**parking region**” means the area described in the First Schedule;

“**parking stall**” means a section or part of a thoroughfare or of a parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked, but does not include a metered space;

“**parking station**” means any land, or structure provided for the purpose of accommodating vehicles with or without charge, but does not include a metered zone or metered space;

“**pedestrian crossing**” has the meaning given to it in the Code;

“**public place**” means any place to which the public has access whether or not that place is on private property;

“**reserve**” means any land—

(a) which belongs to the local government;

(b) of which the local government is the management body under the *Land Administration Act 1997*; or

(c) which is an “otherwise unvested facility” within section 3.53 of the Act;

“**Road Traffic Act**” means the *Road Traffic Act 1974*;

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

“**sign**” includes a traffic sign, inscription, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols, and which is placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking of vehicles;

“**special purpose vehicle**” means a public utility service truck, a tow truck, a vehicle being used for official duties by a member of the Police Service, a motor breakdown service vehicle or a vehicle being used by a government authority or a local government in connection with its functions, but does not include an emergency vehicle;

“**symbol**” includes any symbol specified by Australian Standard 1742.11-1989 and any symbol specified from time to time by Standards Australia for use in the regulation of parking and any reference to the wording of any sign in this local law shall be also deemed to include a reference to the corresponding symbol;

“**taxi**” has the same meaning as “taxi-car” in section 47Z of the *Transport Co-ordination Act 1966*;

“**thoroughfare**” has the meaning given to it in the Act;

“**ticket issuing machine**” means a parking meter which issues, as a result of money being inserted in the machine or such other form of payment as may be permitted to be made, a ticket showing the period during which it shall be lawful to remain parked in a metered space to which the machine is referable;

“**trailer**” means any vehicle without motive power of its own, designed for attachment to a motor vehicle for the purpose of being towed, but does not include the rear portion of an articulated vehicle, or a side car;

“**vehicle**” includes every conveyance not being a train, vessel or aircraft, and every object capable of being propelled or drawn on wheels by any means; and

“**verge**” means the portion of a thoroughfare which lies between the boundary of a carriageway and the adjacent property line but does not include a footpath.

(2) For the purposes of the application of the definitions “no parking area” and “parking area” an arrow inscribed on a traffic sign erected at an angle to the boundary of the carriageway is deemed to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the boundary.

(3) Unless the context otherwise requires, where a term is used, but not defined, in this local law, and that term is defined in the Road Traffic Act or in the Code, then the term shall have the meaning given to it in that Act or the Code.

#### **1.4 Application and pre-existing signs**

(1) Subject to sub-clause (2), this local law applies to the parking region.

(2) This local law does not apply to a parking facility or a parking station that is not occupied by the local government, unless the local government and the owner or occupier of that facility or station have agreed in writing that this local law will apply to that facility or station.

(3) The agreement referred to in subclause (2) may be made on such terms and conditions as the parties may agree.

(4) Where a parking facility or a parking station is identified in the Fourth Schedule, then the facility or station shall be deemed to be a parking station to which this local law applies and it shall not be necessary to prove that it is the subject of an agreement referred to in subclause (2).

(5) A sign that—

(a) was erected by the local government or the Commissioner of Main Roads prior to the coming into operation of this local law; and

(b) relates to the parking of vehicles within the parking region,

shall be deemed for the purposes of this local law to have been erected by the local government under the authority of this local law.

(6) An inscription or symbol on a sign referred to in subclause (5) operates and has effect according to its tenor, and where the inscription or symbol relates to the standing of vehicles, it shall be deemed for the purposes of this local law to operate and have effect as if it related to the parking of vehicles.

#### **1.5 Classes of vehicles**

For the purpose of this local law, vehicles are divided into classes as follows—

(a) buses;

(b) commercial vehicles;

(c) motorcycles and bicycles;

(d) taxis; and

(e) all other vehicles.

#### **1.6 Part of thoroughfare to which sign applies**

Where under this local law the parking of vehicles in a thoroughfare is controlled by a sign, the sign shall be read as applying to that part of the thoroughfare which—

(a) lies beyond the sign;

(b) lies between the sign and the next sign beyond that sign; and

(c) is on that side of the thoroughfare nearest to the sign.

### **PART 2—METERED ZONES**

#### **2.1 Determination of metered zones**

(1) The local government may by resolution constitute, determine and vary and also indicate by signs, metered spaces and metered zones.

(2) In respect of metered spaces and metered zones the local government may by resolution determine, and may indicate by signs—

(a) permitted times and conditions of parking depending on and varying with the locality;

(b) classes of vehicles which are permitted to park;

- (c) the amount payable for parking; and
- (d) the manner of parking.

### **2.2 Parking fee to be paid**

Subject to clause 2.5, a person shall not park a vehicle in a metered space unless the appropriate fee as indicated by a sign on the parking meter referable to the space is inserted into the parking meter.

### **2.3 Limitation on parking in metered space**

The payment of a fee under clause 2.2 shall entitle a person to park the vehicle in a metered space for the period shown on the parking meter, but does not authorize the parking of the vehicle during any time when parking in that space may be prohibited in accordance with this local law.

### **2.4 No parking when meter is expired**

Subject to clause 2.5, a person shall not leave or permit a vehicle to remain parked in a metered space during the hours when a fee is payable to park the vehicle in the space when the parking meter referable to that space exhibits the sign "Expired" or a negative time.

### **2.5 Suspension of requirement to pay fee**

The local government may from time to time by a resolution declare that the provisions of clauses 2.2 and 2.4 shall not apply during the periods and days specified in the resolution.

### **2.6 Vehicles to be within metered space**

A person shall not park a vehicle in a metered space in a thoroughfare otherwise than parallel to and as close to the kerb as practicable and wholly within the space, provided that where a metered space is set out otherwise than parallel to the kerb the vehicle need only park wholly within the space.

### **2.7 Permitted insertions in parking meters**

- (1) A person shall not insert into a parking meter anything other than the designations of coin or banknote or such other permitted form of payment indicated by a sign on the parking meter.
- (2) The insertion of a coin or banknote into any parking meter or the making of payment in such other form as may be permitted shall be effected only in accordance with the instructions printed on that particular meter.

### **2.8 Parking ticket to be clearly visible**

A driver of a vehicle left parked in a metered zone which is regulated by a ticket issuing machine shall on purchasing a ticket from the machine for a period of parking, place the ticket inside the vehicle in such a position that the ticket is clearly visible to and the expiry time or time for which the ticket remains valid is able to be read by an Authorized Person examining the ticket from outside the vehicle.

### **2.9 One vehicle per metered space**

A person shall not park or attempt to park a vehicle in a metered space in which another vehicle is parking.

### **2.10 No parking when hood on meter**

Notwithstanding any other provision of this local law and notwithstanding any other sign or notice, a person shall not park a vehicle in a metered space if the parking meter referable to such metered space has a hood marked "No Parking", "Reserved Parking" or "Temporary Bus Stand" or equivalent symbols depicting these purposes except with the permission of the local government or an Authorized Person.

## **PART 3—PARKING STALLS AND PARKING STATIONS**

### **3.1 Determination of parking stalls and parking stations**

The local government may by resolution constitute, determine and vary and also indicate by signs—

- (a) parking stalls;
- (b) parking stations;
- (c) permitted time and conditions of parking in parking stalls and parking stations which may vary with the locality;
- (d) permitted classes of vehicles which may park in parking stalls and parking stations;
- (e) permitted classes of persons who may park in specified parking stalls or parking stations; and
- (f) the manner of parking in parking stalls and parking stations.

### **3.2 Vehicles to be within parking stall on thoroughfare**

(1) Subject to subclause (2), a person shall not park a vehicle in a parking stall in a thoroughfare otherwise than—

- (a) parallel to and as close to the kerb as is practicable;
- (b) wholly within the stall; and
- (c) headed in the direction of the movement of traffic on the side of the thoroughfare in which the stall is situated.

(2) Where a parking stall in a thoroughfare is set out otherwise than parallel to the kerb, then a person must park a vehicle in that stall wholly within it.

### **3.3 Payment of fee to park in parking station**

A person shall not park a vehicle or permit a vehicle to remain parked in any parking station during any period for which a fee is payable unless—

- (a) in the case of a parking station having an Authorized Person on duty, the appropriate fee is paid when demanded; or
- (b) in the case of a parking station equipped with parking meters, the appropriate fee is inserted in the meter or the required payment is made in such other form as may be permitted.

### **3.4 Suspension of parking station restrictions**

The local government may by resolution declare that the provisions of clause 3.3 do not apply during periods on particular days in relation to particular parking stations as specified in such resolution.

### **3.5 Vehicle not to be removed until fee paid**

A person shall not remove a vehicle which has been parked in a parking station until there has been paid the appropriate fee for the period for which the vehicle has been parked.

### **3.6 Entitlement to receipt**

A person paying a fee at a parking station is to be entitled to receive a receipt on demand showing the period of parking covered by such payment.

### **3.7 Parking ticket to be clearly visible**

A driver of a vehicle in a parking station which is equipped with a ticket issuing machine shall on purchasing a ticket from the machine for a period of parking, place the ticket inside the vehicle in such a position that the ticket is clearly visible to and the expiry time or time for which the ticket remains valid is able to be read by an Authorized Person examining the ticket from outside the vehicle.

### **3.8 Vehicles to be within parking stall in parking station**

Unless otherwise directed by an Authorized Person, a person shall not park a vehicle in a parking station otherwise than wholly within a parking stall.

### **3.9 Parking prohibitions and restrictions**

(1) A person shall not—

- (a) park a vehicle so as to obstruct an entrance to, or an exit from a parking station, or an access way within a parking station;
- (b) except with the permission of the local government or an Authorized Person park a vehicle on any part of a parking station contrary to a sign referable to that part;
- (c) permit a vehicle to park on any part of a parking station, if an Authorized Person directs the driver of such vehicle to move the vehicle; or
- (d) park or attempt to park a vehicle in a parking stall in which another vehicle is parked but this paragraph does not prevent the parking of a motorcycle and a bicycle together in a stall marked "M/C", if the bicycle is parked in accordance with subclause (2).

(2) No person shall park any bicycle—

- (a) in a parking stall other than in a stall marked "M/C"; and
- (b) in such stall other than against the kerb.

## **PART 4—PARKING GENERALLY**

### **4.1 Prohibition and regulation of parking by signs**

The local government may by resolution prohibit or regulate by signs or otherwise the parking of any vehicle or class of vehicles in any part of the parking region but must do so consistently with the provisions of this local law.

### **4.2 Restrictions on parking in particular areas**

(1) A person shall not park a vehicle in a thoroughfare or part of a thoroughfare, or part of a parking station—

- (a) if by a sign it is set apart for the parking of vehicles of a different class;
- (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
- (c) during any period when the parking of vehicles is prohibited by a sign.

(2) A person shall not park a vehicle—

- (a) in a no parking area;
- (b) in a parking area, except in accordance with both the signs associated with the parking area and with this local law;
- (c) in a stall marked "M/C" unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.

(3) A person shall not park a motorcycle without a sidecar or a trailer, or a bicycle in a parking stall unless the stall is marked "M/C".

(4) A person shall not, without the prior permission of the local government, the CEO, or an Authorized Person, park a vehicle in an area designated by a sign stating "Authorized Vehicles Only".



(5) In a Loading Zone, a person shall not—

- (a) park a vehicle other than a commercial vehicle which is being loaded or unloaded with goods; or
- (b) park a commercial vehicle which is being loaded or unloaded with goods for more than 30 minutes.

(6) In paragraph (b) of subclause (5) “goods” means an article or collection of articles weighing at least 13.6kg and of which the cubic measurement is not less than 0.17m<sup>3</sup>.

#### **4.3 Parking vehicle on a carriageway**

A person parking a vehicle on a carriageway shall park it—

- (a) in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (b) in the case of 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 on the side of the thoroughfare on which the vehicle is parked;
- (c) so that at least 3 metres of the width of the carriageway lies between the vehicle and the farther boundary of the carriageway, or between the vehicle and a vehicle parked on the farther side of the carriageway;
- (d) so that it is not less than 1.2 metres from any other vehicle, except a motorcycle without a trailer, or a bicycle parked in accordance with this local law;
- (e) so that it does not obstruct any vehicle on the carriageway; and
- (f) so that it is entirely within the confines of any parking stall marked on the carriageway.

#### **4.4 Vehicle to be wholly within parking area**

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

#### **4.5 When parallel and right-angled parking apply**

Where a traffic sign associated with a parking area is not inscribed with the words “angle parking” (or with an equivalent symbol depicting this purpose), then unless a sign associated with the parking area indicates or marks on the carriageway indicate that vehicles have to park in a different position where the parking area is—

- (a) adjacent to the boundary of a carriageway, a person parking a vehicle in the parking area shall park it as near as practicable to and parallel with that boundary; and
- (b) at or near the centre of the carriageway, a person parking a vehicle in that parking area shall park it at approximately right angles to the centre of the carriageway.

#### **4.6 When angle parking applies**

(1) This clause does not apply to—

- (a) a passenger vehicle or a commercial vehicle with a mass including any load, of over three tonnes; or
- (b) a person parking either a motor cycle without a trailer or a bicycle.

(2) Where a sign associated with a parking area is inscribed with the words “angle parking” (or with an equivalent symbol depicting this purpose), a person parking a vehicle in the area shall park 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.

#### **4.7 General prohibitions on parking**

(1) (a) This clause does not apply to a vehicle parked in a metered space or a parking stall nor to a bicycle in a bicycle rack.

- (b) Paragraphs (c), (e) and (g) of subclause (2) do not apply to a vehicle which parks in a bus embayment.

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

- (a) between any other stationary vehicles and the centre of the carriageway;
- (b) on or adjacent to a median strip;
- (c) obstructing a right of way, private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway;
- (d) alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic;
- (e) on or within 9 metres of any portion of a carriageway bounded by a traffic island;
- (f) on any footpath or pedestrian crossing;
- (g) on a bridge or other elevated structure or within a tunnel or underpass;
- (h) 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 a 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;
- (i) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;

- (j) 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;
  - (k) within 3 metres of a public letter pillar box, unless the vehicle is being used for the purposes of collecting postal articles from the pillar box; or
  - (l) within 6 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked.
- (3) A person shall not park a vehicle so that any portion of the vehicle is within 9 metres of the departure side of—
- (a) a sign inscribed with the words “Bus Stop” or “Hail Bus Here” (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers;
  - (b) a children’s crossing established on a two-way carriageway; or
  - (c) the nearest rail of a railway level crossing.
- (4) A person shall not park a vehicle so that any portion of the vehicle is within 18 metres of the approach side of—
- (a) a sign inscribed with the words “Bus Stop” or “Hail Bus Here” (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers;
  - (b) a pedestrian crossing or children’s crossing; or
  - (c) the nearest rail of a railway level crossing.

#### **4.8 Parking on verges**

- (1) A person shall not—
- (a) park a vehicle;
  - (b) park a commercial vehicle or bus, or a trailer or caravan unattached to a motor vehicle; or
  - (c) park a vehicle during any period when the parking of vehicles on that verge is prohibited by a sign adjacent and referable to that verge,

so that any portion of it is on a verge.

(2) Subclause 1 (a) does not apply to the person if he or she is the owner or occupier of the premises adjacent to that verge, or is a person authorised by the occupier of those premises to park the vehicle so that any portion of it is on the verge.

(3) Subclause 1 (b) does not apply to a commercial vehicle when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials, collected from or delivered to the premises adjacent to the portion of the verge on which the commercial vehicle is parked, provided no obstruction is caused to the passage of any vehicle or person using a carriageway or a footpath.

#### **4.9 Limitation on parking of vehicles with tare in excess of 2,000 kgs on carriageway**

A person shall not park a vehicle having a tare in excess of 2,000 kgs on a carriageway for more than two hours consecutively.

#### **4.10 Limitation on parking of over length vehicles on carriageway**

A person shall not park a vehicle or any combination of vehicles that together with anything in or on that vehicle is more than 8 metres in length, on a carriageway for more than two hours consecutively.

#### **4.11 Authorised person may order vehicle on thoroughfare to be moved**

The driver of a vehicle shall not park that vehicle on any part of a thoroughfare in contravention of this local law after an Authorized Person has directed the driver to move it.

#### **4.12 Authorized person may mark tyres**

(1) An Authorized Person may mark the tyres of a vehicle parked in a parking facility with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties or powers.

(2) A person shall not remove a mark made by an Authorized Person so that the purpose of the affixing of such a mark is defeated or likely to be defeated.

#### **4.13 No movement of vehicles to avoid time limitation**

(1) Where the parking of vehicles in a parking facility is permitted for a limited time, a person shall not move a vehicle within the parking facility so that the total time of parking exceeds the maximum time allowed for parking in the parking facility.

(2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person shall not move a vehicle along that thoroughfare so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from the thoroughfare for at least two hours.

#### **4.14 No parking of vehicles exposed for sale and in other circumstances**

A person shall not park a vehicle on any portion of a thoroughfare—

- (a) for the purpose of exposing it for sale;
- (b) if that vehicle is not licensed under the Road Traffic Act;
- (c) if that vehicle is a trailer or a caravan unattached to a motor vehicle; or
- (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

**4.15 Parking on private land**

- (1) In this clause a reference to "land" does not include land—
- (a) which belongs to the local government;
  - (b) of which the local government is the management body under the *Land Administration Act 1997*;
  - (c) which is an "otherwise unvested facility" within section 3.53 of the Act;
  - (d) which is the subject of an agreement referred to in clause 1.4 (2); or
  - (e) which is identified in the Fourth Schedule.
- (2) A person shall not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.
- (3) Where the owner or occupier of the land, by a sign referable to that land or otherwise, consents to the parking of vehicles of a specified class or classes on the land for a limited period, a person shall not park a vehicle on the land otherwise than in accordance with the consent.

**4.16 Parking on reserves**

No person other than an employee of the local government in the course of his or her duties or a person authorized by the local government shall drive or park a vehicle upon or over any portion of a reserve other than upon an area specifically set aside for that purpose.

**4.17 Suspension of parking limitations for urgent, essential or official duties**

- (1) Where by a sign the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the local government, the CEO or an Authorized Person may, subject to the Code, permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time in order that the person may carry out urgent, essential or official duties.
- (2) Where permission is granted under subclause (1), the local government, the CEO or an Authorized Person may prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates, for the duration of that permission.

**PART 5—RESIDENTIAL PARKING PERMITS****5.1 Residential parking permit**

- (1) A person may apply for a permit to park a vehicle on a thoroughfare if the person is—
- (a) an occupier of a lot fronting the thoroughfare;
  - (b) the holder of the requisite vehicle licence under the Road Traffic Act for the vehicle; and
  - (c) subject to subclause (2), described on the vehicle licence as residing at the lot.
- (2) An applicant for a permit who is not described in accordance with subclause (1)(c), may apply for a temporary permit by stating (by way of statutory declaration) on an application for such that he or she resides at that lot.
- (3) An application for a permit shall be made in the form determined by the local government.
- (4) The local government may in respect of an application for a permit for the purpose of subclause (1) or (2)—
- (a) approve it;
  - (b) approve it subject to such conditions as the local government considers appropriate; or
  - (c) refuse to approve it.
- (5) Where the local government makes a decision under paragraph (a) or (b) of subclause (4), it shall issue a permit in the form determined by it to the person who applied for the permit.
- (6) A temporary permit issued for the purpose of subclause (2)—
- (a) will expire 3 months after it is issued; and
  - (b) is not renewable.
- (7) A permit issued for the purpose of subclause (1) may be either—
- (a) an annual permit, issued for a period not exceeding one year and expiring on 31 December in the year of issue; or
  - (b) a temporary permit, issued for a period not exceeding 6 months from the date of issue.
- (8) Every permit issued for the purpose of subclause (1) is to specify—
- (a) a permit number;
  - (b) the registration number of the vehicle;
  - (c) the name of the thoroughfare to which the exemption granted by clause 5.2 applies; and
  - (d) the date on which it expires.

**5.2 Conditions of exemption for residential parking permits**

Where parking of a vehicle on any part of a thoroughfare within the district is prohibited for more than a specified time, or without an unexpired parking ticket being displayed within the vehicle, the holder of a permit issued under clause 5.1 is exempted from such prohibitions if—

- (a) the vehicle is parked on a thoroughfare specified in the permit, but not adjacent to retail premises where the parking of all vehicles is subject to a time restriction;
- (b) the permit is affixed to the windscreen of the vehicle in a prominent position;

- (c) the period in respect of which the permit was issued has not expired; and
- (d) if the holder of the permit at the time of parking the vehicle still resides at the lot in respect of which the permit was issued.

### **5.3 Removal and cancellation of residential parking permit**

The holder of a permit issued under clause 5.1 who changes residence shall remove the permit from the vehicle to which it is affixed, and the permit shall be deemed to be cancelled on and from the date the holder changes residence.

## **PART 6—MISCELLANEOUS**

### **6.1 Removal of notices on vehicle**

A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle, shall not remove from the vehicle any notice put on the vehicle by an Authorized Person.

### **6.2 Unauthorised signs and defacing of signs**

A person shall not without the authority of the local government—

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government under this local law;
- (b) remove, deface or misuse a sign or property, set up or exhibited by the local government under this local law or attempt to do any such act; or
- (c) affix a board, sign, placard, notice or other thing to or paint or write upon any part of a sign set up or exhibited by the local government under this local law.

### **6.3 Signs must be complied with**

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this local law.

### **6.4 General provisions about signs**

(1) A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary presumed to be a sign marked, erected, set up, established or displayed under the authority of this local law.

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

### **6.5 Special purpose and emergency vehicles**

Notwithstanding anything to the contrary in this local law, the driver of—

- (a) a special purpose vehicle may, only in the course of his or her duties and when it is expedient and safe to do so, stop, or park the vehicle in any place, at any time; and
- (b) an emergency vehicle may, in the course of his or her duties and when it is expedient and safe to do so or where he or she honestly and reasonably believes that it is expedient and safe to do so, stop, or park the vehicle at any place, at any time.

### **6.6 Vehicles not to obstruct a public place**

(1) A person shall not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place without the permission of the local government or unless authorized under any written law.

(2) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

## **PART 7—PENALTIES**

### **7.1 Offences and penalties**

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

(2) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.

(3) Any person who commits an offence under this local law shall be liable, upon conviction, to a penalty not exceeding \$1,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$100 for each day or part of a day during which the offence has continued.

(4) The amount appearing in the final column of the Second Schedule directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

### **7.2 Averment on complaint as to clause 1.4 (2) agreement**

An averment on a complaint that this local law applies to a parking facility or a parking station under an agreement referred to in clause 1.4 (2), shall be sufficient proof that this local law applies to that facility or station, unless there is proof to the contrary that such an agreement does not exist.

### **7.3 Form of notices**

For the purposes of this local law—

- (a) the form of the notice referred to in section 9.13 of the Act is that of Form 1 in the Third Schedule;
- (b) the form of the infringement notice referred to in section 9.17 of the Act is that of Form 2 in the Third Schedule;

- (c) the form of the infringement notice referred to in section 9.17 of the Act which incorporates the notice referred to in section 9.13 of the Act, is that of Form 3 in the Third Schedule; and
- (d) the form of the notice referred to in section 9.20 of the Act is that of Form 4 in the Third Schedule.

***First Schedule***

**PARKING REGION**

The parking region is the whole of the district, but excludes the following portions of the district—

- (a) the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;
- (b) prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
- (c) any thoroughfare which comes under the control of the Commissioner of Main Roads unless the control of parking and parking facilities on that thoroughfare has been delegated by the Commissioner of Main Roads to the local government.

***Second Schedule***

**PARKING AND PARKING FACILITIES LOCAL LAW**

**PRESCRIBED OFFENCES**

ITEM NO.	CLAUSE NO.	NATURE OF OFFENCE	MODIFIED PENALTY \$
1	2.2	Failure to pay fee for metered space	50
2	2.4	Parking when meter has expired	50
3	2.8	Failure to display ticket clearly in metered zoned	45
4	2.10	Parking contrary to a meter hood	45
5	3.3	Failure to pay parking station fee	50
6	3.5	Leaving without paying parking station fee	50
7	3.7	Failure to display ticket clearly in parking station	45
8	3.9 (1) (a)	Causing obstruction in parking station	45
9	3.9 (1) (b)	Parking contrary to sign in parking station	45
10	3.9 (1) (c)	Parking contrary to directions of Authorized Person	45
11	4.2 (1) (a)	Parking wrong class of vehicle	35
12	4.2 (1) (b)	Parking by persons of a different class	40
13	4.2 (1) (c)	Parking during prohibited period	40
14	4.2 (2) (a)	Parking in no parking area	45
15	4.2 (2) (b)	Parking contrary to signs or limitations	35
16	4.2 (2) (c)	Parking vehicle in motor cycle only area	35
17	4.2(3)	Parking motor cycle in stall not marked "M/C"	35
18	4.2 (5) (a)	Parking in Loading Zone	40
19	4.3 (a)	Fail to park on the left of two-way carriageway	35
20	4.3 (b)	Fail to park on boundary of one-way carriageway	35
21	4.3 (a)+(b)	Parking against the flow of traffic	40
22	4.3 (c)	Parking when distance from farther boundary less than 3 metres	40
23	4.3 (e)	Causing obstruction	45
24	4.7 (2) (a)	Double parking	40
25	4.7 (2) (c)	Denying access to private drive or right of way	50
26	4.7 (2) (d)	Parking beside excavation or obstruction so as to obstruct traffic	45
27	4.7 (2) (e)	Parking within 9 metres of traffic island	40
28	4.7 (2) (f)	Parking on footpath/pedestrian crossing	45
29	4.7 (2) (g)	Parking on bridge or in tunnel	40
30	4.7 (2) (i)	Parking on intersection	40
31	4.7 (2) (l)	Parking within 6 metres of intersection	40
32	4.7 (3) (a)	Parking vehicle within 9 metres of departure side of bus stop	45
33	4.7 (4) (a)	Parking vehicle within 18 metres of approach side of bus stop	45
34	4.7 (4) (b)	Parking vehicle within 18 metres of approach side of pedestrian / children's crossing	45

**PRESCRIBED OFFENCES—continued**

ITEM NO.	CLAUSE NO.	NATURE OF OFFENCE	MODIFIED PENALTY \$
35	4.8 (1) (b)	Parking commercial vehicle, bus or caravan on verge	50
36	4.8 (1) (c)	Parking on verge contrary to sign	50
37	4.9	Parking vehicle with tare of over 2000kgs for over 2 hours	50
38	4.10	Parking over length vehicle in excess of 2 hours	50
39	4.11	Parking contrary to direction of Authorized Person	45
40	4.14 (c)	Parking a trailer/caravan on a thoroughfare	35
41	4.15 (2)	Parking on land that is not a parking facility without consent	50
42	4.15 (3)	Parking on land not in accordance with consent	35
43	4.16	Driving or parking on reserve	50
44	5.3	Failure to remove permit when residence changed	35
45	6.6 (1)	Leaving vehicle so as to obstruct a public place	50
46		All other offences not specified	30

**Third Schedule**

*Local Government Act 1995*

Form 1

**PARKING AND PARKING FACILITIES LOCAL LAW**

**NOTICE TO OWNER OF VEHICLE INVOLVED IN OFFENCE**

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

To: (1) .....

of: (2) .....

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

at (4) ..... your vehicle—

make: ..... ;

model: ..... ;

registration: ..... ;

was involved in the commission of the following offence— .....

.....

.....

contrary to clause ..... of the **Parking and Parking Facilities Local Law**.

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

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

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

or

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

(5) .....

(6) .....

Insert—

- (1) Name of owner or “the owner”
- (2) Address of owner (not required if owner not named)
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Signature of authorized person
- (6) Name and title of authorized person giving notice

**Third Schedule**

*Local Government Act 1995*

Form 2

**PARKING AND PARKING FACILITIES LOCAL LAW  
INFRINGEMENT NOTICE**

Serial No. ....

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

To: (1) .....

of: (2) .....

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

at (4) .....

in respect of vehicle—

make: ..... ;

model: ..... ;

registration: ..... ,

you committed the following offence—

.....  
.....  
.....

contrary to clause ..... of the **Parking and Parking Facilities Local Law**.

The modified penalty for the offence is \$ .....

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorized person at (5) ..... within a period of 28 days after the giving of this notice.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver's licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

(6) .....

(7) .....

Insert—

- (1) Name of alleged offender or "the owner"
- (2) Address of alleged offender
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Place where modified penalty may be paid
- (6) Signature of authorized person
- (7) Name and title of authorized person giving notice

**Third Schedule**

*Local Government Act 1995*

Form 3

**PARKING AND PARKING FACILITIES LOCAL LAW  
INFRINGEMENT NOTICE**

Serial No. ....

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

To: (1) .....

of: (2) .....

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

at (4) .....

in respect of vehicle—

make: ..... ;

model: ..... ;

registration: ..... ,

you committed the following offence—

.....  
.....  
.....

contrary to clause ..... of the **Parking and Parking Facilities Local Law**.

The modified penalty for the offence is \$ .....

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorized person at (5) ..... within a period of 28 days after the giving of this notice.

Unless within 28 days after being served with this notice—

- (a) you pay the modified penalty; or
  - (b) you—
    - (i) inform the Chief Executive Officer or another authorized officer of the local government as to the identity and address of the person who was the driver or person in charge of the above vehicle at the time the offence is alleged to have been committed; or
    - (ii) satisfy the Chief Executive Officer that the above vehicle had been stolen or was being unlawfully used at the time the offence is alleged to have been committed,
- you will, in the absence of proof to the contrary, be deemed to have committed the above offence and court proceedings may be instituted against you.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver's licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

- (6) .....
- (7) .....

Insert—

- (1) Name of owner or "the owner"
- (2) Address of owner (not required if owner not named)
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Place where modified penalty may be paid
- (6) Signature of authorized person
- (7) Name and title of authorized person giving notice

**Third Schedule**

*Local Government Act 1995*

Form 4

**PARKING AND PARKING FACILITIES LOCAL LAW  
WITHDRAWAL OF INFRINGEMENT NOTICE**

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

To: (1) .....  
of: (2) .....  
Infringement Notice No. .... dated ...../...../.....

in respect of vehicle—  
make: ..... ;  
model: ..... ;  
registration: ..... ,  
for the alleged offence of .....  
.....  
.....  
.....

has been withdrawn.  
The modified penalty of \$ .....  
\* has been paid and a refund is enclosed.  
\* has not been paid and should not be paid.  
\* delete as appropriate.

- (3) .....
- (4) .....

Insert—

- (1) Name of alleged offender to whom infringement notice was given or "the owner".
- (2) Address of alleged offender.
- (3) Signature of authorized person
- (4) Name and title of authorized person giving notice



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***Fourth Schedule***  
**PARKING AND PARKING FACILITIES LOCAL LAW**  
**DEEMED PARKING STATIONS**

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Dated this 13<sup>th</sup> day of June 2000.

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

Cr J. W. OFFER, Shire President.  
K. J. LEECE, Chief Executive Officer.

\_\_\_\_\_

**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF HARVEY

**FENCING LOCAL LAW****PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Repeal
- 1.3 Interpretation

**PART 2—SUFFICIENT FENCES**

- 2.1 Sufficient fences

**PART 3—GENERAL**

- 3.1 Dividing fences
- 3.2 Fences within front setback areas
- 3.3 Fences on a rural lot
- 3.4 Maintenance of fences
- 3.5 General discretion of the local government

**PART 4—FENCING MATERIALS**

- 4.1 Fencing materials
- 4.2 Barbed wire and broken glass fences

**PART 5—ELECTRIFIED AND RAZOR WIRE FENCES**

- 5.1 Requirement for a licence
- 5.2 Transfer of a licence
- 5.3 Cancellation of a licence

**PART 6—NOTICES OF BREACH**

- 6.1 Notices of breach

**PART 7—OFFENCES**

- 7.1 Offences and penalties
- 7.2 Modified penalties
- 7.3 Forms of notices

<b>FIRST SCHEDULE</b>	<i>Specifications for a sufficient fence on a residential lot</i>
<b>SECOND SCHEDULE</b>	<i>Specifications for a sufficient fence on a commercial lot and industrial lot</i>
<b>THIRD SCHEDULE</b>	<i>Specifications for a sufficient fence on a rural lot &amp; a special rural lot</i>
<b>FOURTH SCHEDULE</b>	<i>Specifications for a sufficient fence on a special residential lot</i>

**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF HARVEY

**FENCING LOCAL LAW**

Under the powers conferred by the *Local Government Act 1995* and by all other powers the Council of the Shire of Harvey resolved to make the following local law on the 23<sup>rd</sup> day of May 2000.

**PART 1—PRELIMINARY****1.1 Citation**

This local law may be cited as the Shire of Harvey Fencing Local Law.

**1.2 Repeal**

The Shire of Harvey local law relating to Fencing published in the *Government Gazette* of 8 July 1964, is repealed.

**1.3 Interpretation**

In this local law, unless the context requires otherwise—

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

“**AS**” means an Australian Standard published by the Standards Association of Australia;

“**boundary fence**” has the meaning given to it for the purposes of the Act;

“**Building Surveyor**” means a Building Surveyor employed by the local government;

“**CEO**” means the Chief Executive Officer of the local government;

“**Commercial Lot**” means a lot where a commercial use—

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

“**dangerous**” in relation to any fence means;

- (a) an electrified fence other than a fence in respect of which a licence under Part 5 of this local law has been issued and is current;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

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

“**dividing fence**” has the meaning given to it in and for the purposes of the Act;

“**electrified fence**” means a fence carrying or designed to carry an electric charge;

“**fence**” means any structure used or functioning as a barrier, irrespective of where it is located and includes any gate;

“**frontage**” means the boundary line between a lot and the thoroughfare upon which that lot abuts;

“**height**” in relation to a fence means the vertical distance between—

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

“**Industrial Lot**” means a lot where an industrial use—

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

“**local government**” means the Shire of Harvey;

“**lot**” has the meaning given to it in and for the purposes of the *Town Planning and Development Act 1928*;

“**notice of breach**” means a notice referred to in clause 6.1;

“**Residential Lot**” means a lot where a residential use—

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

**“retaining wall”** means any structure which prevents the movement of soil in order to allow ground levels of different elevations to exist adjacent to one another but is not to be regarded as the boundary fence;

**“Rural Lot”** means a lot where a rural use—

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

**“Schedule”** means a Schedule to these Local Laws;

**“setback area”** has the meaning given to it for the purposes of the town planning scheme;

**“Special Residential Lot”** means a lot where a special residential use—

- (a) is or may be permitted under the Town Planning Scheme; and
- (b) is or will be the predominant use of the lot;

**“Special Rural Lot”** means a lot where a special rural use—

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

**“sufficient fence”** means a fence described in clause 2.1; and

**“town planning scheme”** means a town planning scheme of the local government made under the *Town Planning and Development Act 1928*.

## PART 2—SUFFICIENT FENCES

### 2.1 Sufficient Fences

- (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Subject to sub-clauses (3) and (4), a sufficient fence—
  - (a) on a Residential Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the First Schedule.
  - (b) on a Commercial Lot and on an Industrial Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Second Schedule;
  - (c) on a Rural Lot and on a Special Rural Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule;
  - (d) on a special residential lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Fourth Schedule.
- (3) Where a fence is erected on or near the boundary between—
  - (a) a Residential Lot and an Industrial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;
  - (b) a Residential Lot and a Commercial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Second Schedule;
  - (c) a Residential Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule;
  - (d) a Residential Lot and a Special Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;
  - (e) a Special Rural Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule; and
  - (f) a Special Rural/Rural Lot and a Special Residential lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Fourth Schedule.
- (4) Unless the Building Surveyor specifies otherwise, a sufficient fence on a boundary between lots other than those specified in subclause (3) is a dividing fence constructed in accordance with the specifications and requirements of the Second Schedule.
- (5) Notwithstanding any other provisions in this local law, a fence constructed of stone or concrete shall be a sufficient fence only if it is designed by a structural engineer where—
  - (a) it is greater than 1800mm in height; or
  - (b) the Building Surveyor so requires.

## PART 3—GENERAL

### 3.1 Dividing Fences

- (1) In determining an application for a building licence in respect of a fence, the Building Surveyor may approve the erection of a fence of a height greater than 1200mm within 3 metres of the front setback area of a Residential Lot only if the fence on each side of the driveway into the Lot across the front boundary is to be angled into the Lot for a distance of not less than 1500mm along the frontage to a distance of not less than 1500mm from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.
- (2) The provision of sub-clause (1) shall not apply to a fence—
  - (a) of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare and is maintained as such; or
  - (b) that does not adjoin the primary frontage.

(3) A front boundary fence including a retaining wall in excess of 1200mm in height shall not be constructed within 9 metres of the road frontage projections intersection point of a corner lot.

### **3.2 Fences Within Front Setback Areas**

A person shall not, without the written consent of the Building Surveyor erect, or repair a freestanding fence exceeding 1200mm within 3 metres of the front setback area of a lot within the district.

### **3.3 Fences on a Rural Lot**

A person shall not without the written consent of the Building Surveyor, erect a fence on a Rural Lot or a special rural lot, within 7.5 metres of a thoroughfare of a height exceeding 1500mm.

### **3.4 Maintenance of Fences**

An owner and occupier of a lot on which a fence is erected shall maintain the fence in good condition and so as to prevent it from becoming dangerous, dilapidated, unsightly or prejudicial to the amenity of the locality.

### **3.5 General Discretion of the Local Government**

(1) The local government may consent to the erection or repair of a fence which does not comply with the requirements of this local law.

(2) In determining whether to grant its consent to the erection or repair of any fence, the local government may consider, in addition to any other matter that it is authorized to consider, whether the erection or retention of the fence would have an adverse effect on—

- (a) the safe or convenient use of any land; or
- (b) the safety or convenience of any person.

## **PART 4—FENCING MATERIALS**

### **4.1 Fencing Materials**

(1) A person shall construct a fence on a Residential Lot, a Commercial Lot or an Industrial Lot from only brick, stone, concrete, wrought iron, tubular steel framed, link mesh, timber, plastic coated or galvanised link mesh, corrugated fibre reinforced cement sheeting, colour bonded metal or a material approved by the Building Surveyor.

(2) Where the Building Surveyor approves the use of pre-used materials in the construction of a fence under subclause (1), that approval shall be conditional on the applicant for approval painting or treating the pre-used material as directed by the Building Surveyor.

### **4.2 Barbed Wire and Broken Glass Fences**

(1) This clause does not apply to a fence constructed wholly or partly of razor wire.

(2) An owner or occupier of a Residential Lot, an Industrial Lot or a Commercial Lot shall not erect or affix to or allow to remain on or as part of any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of the Building Surveyor has been obtained.

(3) An owner or occupier of a lot shall not affix or allow to remain as part of any fence or wall, whether internal or external, on that lot any broken glass.

(4) An owner or occupier of a Rural Lot shall not place or affix barbed wire upon a fence on that Lot where the fence is adjacent to a thoroughfare or other public place unless the barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.

## **PART 5—ELECTRIFIED AND RAZOR WIRE FENCES**

### **5.1 Requirement for a Licence**

(1) An owner or occupier of a lot, other than a Rural Lot, shall not—

- (a) have and use an electrified fence on that lot without first obtaining a licence under subclause (2); or
- (b) have a fence constructed wholly or partly of razor wire on that lot without first obtaining a licence under subclause (3).

(2) A licence to have and use an electrified fence shall not be issued—

- (a) in respect of a lot which is or which abuts a Residential Lot;
- (b) unless the fence complies with AS/NZS 3016:1994; and
- (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.

(3) A licence to have a fence constructed wholly or partly of razor wire shall not be issued—

- (a) if the fence is within 3m of the boundary of the lot;
- (b) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above the ground level.

(4) An application for a licence referred to in subclauses (2) or (3) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

- (5) An application for a licence referred to in subclauses (2) or (3) may be—
- approved by the local government;
  - approved by the local government subject to such conditions as it thinks fit; or
  - refused by the local government.

### **5.2 Transfer of a Licence**

- (1) The holder of a licence referred to in clause 5.1 may transfer that licence to another occupier or owner of the lot only with the written approval of the local government.
- (2) The application for a transfer of a licence shall be—
- made by the proposed transferee;
  - in the form determined from time to time by the local government;
  - signed by the holder of the licence;
  - accompanied by the fee determined by the local government from time to time; and
  - accompanied by such other information as the local government may require to determine the application.
- (3) The local government may—
- approve the application for a transfer of the licence;
  - approve the application for a transfer of the licence subject to such conditions as it thinks fit; or
  - refuse to approve the application for a transfer of the licence.

### **5.3 Cancellation of a Licence**

Subject to Division 1 Part 9 of the *Local Government Act 1995*, the local government may cancel a licence issued under this Part if—

- the fence no longer satisfies the requirements specified in clause 5.1(2) or 5.1(3) as the case may be; or
- the licence holder breaches any condition upon which the licence has been issued.

## **PART 6—NOTICES OF BREACH**

### **6.1 Notices of Breach**

- (1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner or occupier of that lot ('notice of breach').
- (2) A notice of breach shall—
- specify the provision of this local law which has been breached;
  - specify the particulars of the breach; and
  - state that the owner or occupier of the lot is required to remedy the breach within 28 days from the giving of the notice.
- (3) Should an owner or occupier fail to comply with a notice of breach, the local government may by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner or occupier of the lot, as the case may be, in a court of competent jurisdiction or the local government may apply to a court of competent jurisdiction for an order to compel compliance with the notice and recover expenses of so doing from the owner or occupier of the lot.

## **PART 7—OFFENCES**

### **7.1 Offences and Penalties**

- (1) An owner or occupier who fails to comply with a notice of breach commits an offence and is liable upon conviction to a maximum penalty of \$5000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.
- (2) A person who fails to comply with or who contravenes any of the provisions of this local law commits an offence and is liable to a maximum penalty of \$5000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

### **7.2 Modified Penalties**

- (1) An offence against any of the provisions of this local law is a prescribed offence for the purposes of section 9.16 (1) of the *Local Government Act 1995*.
- (2) Unless otherwise specified, the amount of the modified penalty for an offence against any provision of this local law is \$100.

### **7.3 Form of Notices**

For the purposes of this local law—

- the form of the infringement notice referred to in section 9.17 of the *Local Government Act 1995* is to be in or substantially in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- the form of the notice referred to in section 9.20 of the *Local Government Act 1995* is to be in or substantially in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

**First Schedule**

Clause 2.1(2)(a)

**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT**

Each of the following is a "sufficient fence" on a Residential Lot—

A. A picket timber fence which satisfied the following specifications—

- (a) corner posts to be 125mm x 125mm x 2400mm and intermediate posts to be 125mm x 75mm x 2400mm spaced at 2400mm centres;
- (b) corner posts to be strutted two ways with 100mm x 50mm x 450mm sole plates and 75mm x 50mm struts;
- (c) intermediate posts to be doubled yankee strutted with 150mm x 25mm x 450mm struts;
- (d) all posts to have tops with a 60mm weather cut and to be sunk at least 600mm into the ground;
- (e) rails to be 75mm x 50mm with each rail spanning two bays of fencing double railed or bolted to each post with joints staggered;
- (f) the fence to be covered with 75mm x 20mm sawn pickets, 1800mm in height placed 75mm apart and double nailed to each rail; and
- (g) the height of the fence to a minimum of 1800mm.

B. A fence constructed of corrugated fibre reinforced pressed cement sheeting which satisfies the following specifications—

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600mm;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement sheet;
- (c) the sheets to be lapped and capped with extruded "snap-fit" type capping in accordance with the manufacturers written instructions; and
- (d) the height of the fence to be a minimum of 1800mm.

C. A fence constructed of brick, stone or concrete, which satisfies the following specifications—

- (a) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar;
- (b) fences to be offset a minimum of 200mm at maximum 3000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3000mm centres;
- (c) expansion joints in accordance with the manufacturer's written instructions; and
- (d) the height of the fence to be a minimum of 1800mm.

D. A composite fence which satisfies the following specifications for the brick construction—

- (1) (a) brick piers of minimum 230mm x 230mm at 1800mm centres bonded to a minimum height base wall of 514mm;
- (b) each pier shall be reinforced with one R10 galvanised starting rod 1500mm high with a 250mm horizontal leg bedded into a 500mm x 200mm concrete footing and set 65mm above the base of the footing. The top of the footing shall be 1 course (85mm) below ground level;
- (c) the minimum ultimate strength of brickwork shall be 20MPa. Mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
- (d) the ground under the footings is to be compacted to 6 blows per 300mm and checked with a standard falling weight penetrometer; and
- (e) control joints in brickwork shall be provided with double piers at a maximum of 6 metre centres; or
- (2) (a) brick piers of a minimum 230mm x 350mm x 2700mm centres bonded to the base wall; and
- (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified.

**Second Schedule**

Clause 2.1(2)(b)

**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT AND AN INDUSTRIAL LOT**

Each of the following is a "sufficient fence" on a Commercial Lot and an Industrial Lot—

A. A fence constructed of galvanised or PVC coated rail-less link mesh, chain mesh or steel mesh which satisfies the following specifications—

- (a) corner posts to be minimum 50mm normal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
- (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5m centres and with footings of a 225mm diameter x 600mm;

- (c) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and two at each corner post;
- (d) cables to be affixed to the top, centre and bottom of all posts and to consist of two or more 3.15mm wires twisted together;
- (e) rail-less link, chain or steel mesh is to be to a height of 2000mm on top of which are to be three strands of barbed wire carrying the fence to a height of 2400mm; and
- (f) galvanised link mesh wire to be 2000mm in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than 3.6m and shall be constructed of 25mm tubular framework with one horizontal and one vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment and so arrange that they shall not protrude beyond the boundaries of the lot.

B. A fence of fibre reinforced cement sheet constructed to the minimum specifications referred to in Item B of the First Schedule.

C. A fence constructed of painted or galvanised steel or aluminium sheeting provided that this is used behind the building line to maximum height of 2400mm when supported on posts and rails.

D. Fences of timber, brick, stone or concrete constructed to the minimum specifications referred to in the First Schedule.

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### ***Third Schedule***

Clause 2.1(2)(c)

#### **SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT AND A SPECIAL RURAL LOT**

A sufficient fence on a Rural Lot and a Special Rural Lot is a fence of posts and wire construction, the minimum specifications for which are—

- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of five wires shall be used, these to be spaced equally and threaded through 6mm holes in posts to all fences;
- (b) posts shall be of indigenous timber or other suitable material including timber impregnated with a termite and fungicidal preservative cut not less than 1800mm long x 100mm diameter at small end if round or 125mm x 60mm if split or sawn. Posts to be set minimum 600mm in the ground and 1200mm above the ground spaced at 4000mm maximum centres; and
- (c) strainer posts shall be not less than 2250mm long and 150mm diameter at the small end and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1000mm in the ground and set at all corners, gateways and fence line angles but not exceeding 200 metres apart.

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### ***Fourth Schedule***

Clause 2.1(2)(d)

#### **SPECIFICATIONS FOR A SUFFICIENT FENCE ON A SPECIAL RESIDENTIAL LOT**

A sufficient fence on a Special Residential Lot is a fence of posts and wire construction, the minimum specifications for which are—

- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of five wires shall be used, these to be spaced equally and threaded through 6mm holes in posts to all fences;
- (b) posts shall be of indigenous timber or other suitable material including timber impregnated with a termite and fungicidal preservative cut not less than 1800mm long x 100mm diameter at small end if round or 125mm x 60mm if split or sawn. Posts to be set minimum 600mm in the ground and 1200mm above the ground spaced at 4000mm maximum centres; and
- (c) strainer posts shall be not less than 2250mm long and 150mm diameter at the small end and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1000mm in the ground and set at all corners, gateways and fence line angles but not exceeding 200 metres apart.
- (d) No boundary fence shall be constructed of the following materials—
  - (i) fibro cement
  - (ii) metal sheeting
  - (iii) wooden pickets.



SHIRE OF HARVEY

Form 1

LICENCE TO HAVE AND USE AN ELECTRIFIED FENCE IN ACCORDANCE WITH AS/NZS 3016:1994

This is to certify that ..... of ..... is licensed, subject to the conditions set out below, to have and use an electrified fence on ..... (address)

from ..... 20..... and until this licence is transferred or cancelled. Dated this ..... day of ..... 20.....

Chief Executive Officer, Shire of Harvey.

This licence is issued upon and subject to the following conditions, namely that the holder of the licence shall—

- Display the licence in a prominent position on the land or premises on which the electrified fence has been erected.
• Upon the request of a Building Surveyor produce to him or the licence.
• Within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes.
• Obtain the written consent of the Local Government prior to the commencement of any alteration, addition or other work related to or affecting the electrified fence.
• Comply with AS/NZS 3016:1994.
• Following erection of the fence, lodge with Western Power a certificate of installation from a qualified electrician and comply with any requirements of Western Power regarding the erection of the fence.

Transfer by Endorsement

This licence is transferred to ..... of ..... from and including the date of this endorsement. Dated this ..... day of ..... 20.....

Chief Executive Officer, Shire of Harvey.

SHIRE OF HARVEY

Form 2

LICENCE TO HAVE A FENCE CONSTRUCTED WHOLLY OR PARTIALLY OF RAZOR WIRE

This is to certify that ..... of ..... is licensed, subject to the conditions set out below, to have a fence constructed wholly or partially of razor wire on ..... (address)

from ..... 20..... and until this licence is transferred or cancelled. Dated this ..... day of ..... 20.....

Chief Executive Officer, Shire of Harvey.

This licence is issued upon and subject to the following conditions, namely that the holder of the licence shall—

- Display the licence in a prominent position on the land or premises on which the fence has been erected.
- Upon the request of a Building Surveyor produce to him or the licence.
- Within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes.
- Obtain the written consent of the Local Government prior to the commencement of any alteration, addition or other work related to or affecting the electrified fence.
- .....
- .....
- .....

**Transfer by Endorsement**

This licence is transferred to .....

.....

of .....

.....

from and including the date of this endorsement.

Dated this ..... day of ..... 20.....

.....

Chief Executive Officer,  
Shire of Harvey.

Dated this 13<sup>th</sup> day of June 2000.

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

Cr J. W. OFFER, Shire President.  
K. J. LEECE, Chief Executive Officer.

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**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF HARVEY

**MISCELLANEOUS PROVISIONS LOCAL LAW****PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Definitions
- 1.3 Applications

**PART 2—REPEAL OF EXISTING LOCAL LAWS**

- 2.1 Repeal

**PART 3—OLD REFRIGERATORS AND CABINETS**

- 3.1 Old refrigerators and cabinets

**PART 4—VEHICLE WRECKING**

- 4.1 Commercial wrecking of vehicles
- 4.2 Wrecking and storage of vehicles generally
- 4.3 Disposal of vehicles, parts and machinery

**PART 5—ENFORCEMENT**

- 5.1 Notices may be given
- 5.2 Offences
- 5.3 Infringement and infringement withdrawal notices
- 5.4 Offence description and modified penalty

**FIRST SCHEDULE**      *Prescribed Offences*

**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF HARVEY

**MISCELLANEOUS PROVISIONS LOCAL LAW**

Under the powers of the *Local Government Act 1995* and by all other powers, the Council of the Shire of Harvey resolved on the 23<sup>rd</sup> day of May 2000 to make the following local law.

**PART 1—PRELIMINARY****1.1 Citation**

This local law may be cited as the Shire of Harvey Miscellaneous Provisions Local Law.

**1.2 Definitions**

In this local law unless the context otherwise requires—

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

“**commercial wrecking**” means the activity of wrecking of vehicles or machinery for the purpose of conducting a business by offering vehicles, machinery or parts thereof for purchase, trade, sale or gain;

“**district**” means the district of the Shire of Harvey.

“**land**” means land in the district and includes houses, buildings, works, and structures, in or upon the land;

“**local government**” means the Shire of Harvey;

“**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; or
- (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 local law.

“**person**” means any person, company, employer and includes the owner, occupier and licensee;

“**planning approval**” means an approval given under a relevant town planning scheme operating in the district from time to time;

“**public place**” means any place to which the public has access;

“**reserve**” includes parklands, reserves, foreshores and other lands included in the district and set apart for the use and enjoyment of the public and includes parks and other lands acquired for public purposes and vested in or under the care, control and management of the local government;

“**town planning scheme**” means any town planning scheme for the time being applying zoning or classification to land with the district;

“**vehicle**” means any motor vehicle, part of a motor vehicle or machinery in a state of disrepair or in the process of being wrecked, whether licenced or not;

“**wreck**” includes the dismantling, breaking up, storage and disposal of vehicles and wrecking and wrecked have a corresponding meaning.

**1.3 Application**

This local law applies throughout the district.

**PART 2—REPEAL OF EXISTING LOCAL LAWS****2.1 Repeal**

The following local laws are repealed—

- (a) *Old Refrigerators and Cabinets* published in the *Government Gazette* on 19 December 1962.
- (b) *Vehicle Wrecking* published in the *Government Gazette* on 9 May 1966.

- (c) *Holiday Accommodation* published in the *Government Gazette* on 31 October 1975.
- (d) *Sick Leave* published in the *Government Gazette* on 11 June 1969.

### PART 3—OLD REFRIGERATORS AND CABINETS

#### 3.1 Old Refrigerators and Cabinets

A person shall not place in or about any reserve or public place, including a place set aside for the disposal of rubbish and refuse, 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, that person removes from the compartment every door, lid, lock or hinge or otherwise renders every such door or lid incapable of being fastened.

### PART 4—VEHICLE WRECKING

#### 4.1 Commercial Wrecking of Vehicles

An owner or occupier of land in the district must not undertake, permit or suffer the commercial wrecking of vehicles on that land, without first having obtained planning approval from the local government.

#### 4.2 Wrecking and Storage of Vehicles Generally

A person must not—

- (a) store any vehicle, part or body of a vehicle or machinery, in a state of disrepair;
- (b) allow to remain on any land, a vehicle, part or body of a vehicle or machinery, in a state of disrepair;
- (c) wreck, dismantle or break up any vehicle, part or body of a vehicle or machinery; unless—
  - (i) inside a building; or
  - (ii) within an area enclosed by a fence or wall of not less than 2 metres in height and of such a nature as to screen all vehicles, parts or bodies of vehicles or machinery from the street and from adjoining properties; or
- (d) wreck, dismantle or break up a vehicle so as to cause a nuisance.

#### 4.3 Disposal of Vehicles, Parts and Machinery

- (1) A person must not dispose of a vehicle, parts or body of vehicles or machinery except at a place set aside or approved by the local government for the purpose.
- (2) A person shall not destroy any portion of a vehicle or machinery by fire so as to cause a nuisance to occupiers of adjacent land by smoke or odour.

### PART 5—ENFORCEMENT

#### 5.1 Notices may be Given

Where a breach of any provision of this local law has occurred, the local government may give notice in writing—

- (a) advising details of the breach of the local law;
- (b) requiring that the breach is to be remedied within the time specified in the notice; and
- (c) advising that if the requirements of the notice are not complied with within the time specified, the local government may do things specified in the notice and recover from the person, as a debt, the costs incurred in so doing.

#### 5.2 Offences

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) An offence against any provisions of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) Any person who commits an offence under this local law shall be liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

#### 5.3 Infringement and Infringement Withdrawal Notices

For the purposes of this local law—

- (a) the form of the infringement notice referred to in section 9.17 of the Act is form 2 in the First Schedule of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is form 3 in the First Schedule of the *Local Government (Functions and General) Regulations 1996*.

#### 5.4 Offence Description and Modified Penalty

The amount appearing in the final column of the First Schedule directly opposite an offence described in the Schedule is the modified penalty for that offence.

***First Schedule***  
**PRESCRIBED OFFENCES**

Clause	Description	Modified Penalty
3.1	Failure to remove door, lid, lock, or hinge from refrigerator or cabinet.	\$500
4.1	Undertake or permit commercial wrecking of vehicles without planning approval.	\$100
4.2(a)	Store any vehicle, part or body of vehicle or machinery in state of disrepair.	\$100
4.2(b)	Allow to remain on land any vehicle, part or body of vehicle or machinery in state of disrepair.	\$100
4.2(c)(i)	Wreck, dismantle or break up any vehicle part or body or machinery not in a building.	\$100
4.2(c)(ii)	Wreck, dismantle or break up any vehicle, part or body or machinery not behind fence or screened from street.	\$100
4.2(d)	Wreck, dismantle or break up a vehicle so as to cause a nuisance.	\$100
4.3(1)	Dispose of vehicle, parts or body of vehicle or machinery at place not set aside or approved for the purpose.	\$500
4.3(2)	Destroy portion of vehicle or machinery by fire so as to cause nuisance by smoke or odour.	\$100
5.1	Failure to comply with requirements of notice.	\$100

Dated this 13<sup>th</sup> day of June 2000.

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

Cr J. W. OFFER, Shire President.  
K. J. LEECE, Chief Executive Officer.





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