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LOCAL GOVERNMENT ACT 1995

CITY OF BUNBURY

**LOCAL LAWS RELATING TO THE
REMOVAL AND DISPOSAL OF
OBSTRUCTING ANIMALS,
VEHICLES OR SHOPPING
TROLLEYS**

LOCAL GOVERNMENT ACT 1995

CITY OF BUNBURY

**LOCAL LAWS RELATING TO THE REMOVAL AND
DISPOSAL OF OBSTRUCTING ANIMALS, VEHICLES OR
SHOPPING TROLLEYS**

Pursuant to the powers conferred on it by the *Local Government Act 1995* and of all other powers enabling it, the Council of the City of Bunbury resolved on 14 March 2000, to make the following Local Law.

PART 1—PRELIMINARY**Repeal**

All previous Local Laws relating to the Removal and Disposal of Obstructing Animals, Vehicles or Shopping Trolleys are hereby repealed.

Citation

1. These Local Laws may be cited as the City of Bunbury Local Laws relating to Removal and Disposal of Obstructing Animals, Vehicles or Shopping Trolleys

Definitions

2. In these Local Laws—

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

“**Appointed place**” means a place, yard or other piece of land set aside as a place to which obstructing vehicles or shopping trolleys may be kept, pursuant to these Local Laws;

“**Authorised person**” means a person appointed by the Council to seize animals, vehicles or shopping trolleys, pursuant to these Local Laws and also includes a Police Officer;

“**CEO**” means the Chief Executive Officer of the City of Bunbury;

“**Clause**” means a clause of these Local Laws;

“**Council**” means the Council of the City of Bunbury;

“**Shopping Trolley**” means a wheeled object supplied by a retailer and used or designed for the purpose of transporting goods and merchandise;

“**Permit**” means a permit issued by the local government pursuant to these Local Laws;

“**Public place**” includes a street, way and place to which the public have access, whether the street, way or place is or is not on private property;

“**Vehicle**” has the meaning given to it in the *Road Traffic Act 1974*.

PART 2—ADMINISTRATION**Clause 2.1**

In these Local Laws a reference to the Council having the power to do something in its discretion, and whether or not subject to any condition it thinks fit, shall be deemed to include a reference to the CEO and a committee to which the Council has delegated the power of doing the thing or exercising the discretion.

Clause 2.2

In these Local Laws a reference to the Council having power to do something in its discretion, shall be deemed to include a reference to any employee of the Council to whom the CEO has delegated the exercise of any of the CEO's powers or the discharge of any of the CEO's duties in relation to these Local Laws.

PART 3—REMOVAL AND DISPOSAL OF OBSTRUCTING ANIMALS OR VEHICLES**Clause 3.1**

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

Clause 3.2

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

Clause 3.3

A person who leaves an animal or vehicle in a public place, contrary to the provision of Clause 3.2 of these Local Laws commits an offence.

Clause 3.4

The Council may appoint a person as an authorised person for the purposes of these Local Laws.

Clause 3.5

The Council may by resolution from time to time set or vary the fees that may be charged in relation to these Local Laws

Clause 3.6

The Council may by resolution from time to time appoint a place, yard or other piece of land as a place to which vehicles or shopping trolleys may be kept pursuant to these Local Laws.

Clause 3.7

Where an authorised person finds an animal or vehicle left in a public place, contrary to the provisions of Clause 3.2 of these Local Laws, he/she may remove the animal or vehicle therefrom and shall, thereupon—

- (a) in the case of an animal, place it in a public pound;
- (b) in the case of a vehicle, place it in an appointed place.

Clause 3.8

Where an authorised person places an animal in a public pound pursuant to Clause 3.7(a) of these Local Laws, the animal shall thereafter be dealt with according to law.

Clause 3.9

Where an authorised person places a vehicle in an appointed place, pursuant to clause 3.7(b) of these Local Laws, he/she shall enter in a register to be provided by the Council for that purpose, details of the time and date, a description of the vehicle, and of the place from which it was removed.

Clause 3.10

The Council shall notify the owner of an impounded vehicle in writing as to the whereabouts of the vehicle, and how the vehicle may be collected.

Clause 3.11

When the owner of a vehicle is unknown the Council shall exhibit on a notice board of the Council a notification that a vehicle therein described has been placed in the appointed place and shall, unless the vehicle is sooner claimed, keep that notification exhibited for a period of not less than seven (7) days.

Clause 3.12

(1) A person upon showing proof of ownership, may collect a vehicle from an appointed place within two (2) calendar months by payment of the Council fee in accordance with clause 3.5 of these Local Laws, unless Council institutes a prosecution against the alleged offender. If a prosecution is instituted the vehicle will remain at the appointed place until the prosecution is completed.

- (2) (a) The Court may order that all expenses incurred by the Council in removing and impounding a vehicle will be paid by the alleged offender prior to the release from the appointed place;
OR
- (b) The Court may order that the vehicle be confiscated and the vehicle sold by the Council to recover the costs of removing and impounding the vehicle.
- (c) Any monies received from the sale of a vehicle pursuant to this clause is to be paid into the Council's Municipal Fund.

Clause 3.13

A person may recover a seized vehicle from an appointed place after a period of two (2) calendar months, by paying to the Chief Executive Officer of the Council—

- (a) the cost incurred by the Council in removing the vehicle thereto; and
- (b) the Council fee in accordance with clause 3.5 of these Local Laws for each day or part of a day that the vehicle has remained in the appointed place, and upon payment of that cost and fee the Chief Executive Officer of the Council, if satisfied that the person is the owner of the vehicle or is a person entitled to possession of the vehicle, shall permit him to remove it.

Clause 3.14

Where a vehicle placed in an appointed place, in accordance with the provisions of these Local Laws, has not been recovered by the owner or a person entitled thereto within three (3) months from the day upon which it was there placed, the Council may cause the vehicle to be offered for sale by public auction or by public tender and thereupon accept the best offer made; and where no offer is made for the purchase of the vehicle, the Council may cause it to be destroyed or otherwise disposed of.

Clause 3.15

A person is not entitled to any claim, by way of damages or otherwise, against the authorised person or the Council in respect of any vehicle or animal seized and dealt with under the provisions of these Local Laws or against any person who purchased a vehicle sold by a Council under the provisions of clause 3.14 of these Local Laws.

Clause 3.16

(1) The proceeds of the sale of a vehicle under the provisions of Section 3.14 of these Local Laws shall be applied by the Council—

- (a) firstly, in meeting the costs of the sale; and
- (b) secondly, in meeting the cost of removal of the vehicle to the appointed place, and the Council fee that shall be set by Council in accordance with clause 3.5 of these Local Laws for each day or part of a day that the vehicle remained in that place, and those sums shall be paid into the Municipal Fund.

(2) Any surplus of the proceeds of the sale shall be paid by the Council into its trust fund, and may be paid within ten (10) years, to any person who satisfies the Council that he was the owner of the vehicle at the time of its sale by the Council.

(3) Any surplus of the proceeds of the sale may, if not paid to the owner within ten (10) years, be paid into the Municipal Fund.

Clause 3.17

(1) Any authorised person may demand from any person, whom he/she believes is in breach of these Local Laws, full name and place of residence.

(2) Any person who refuses to state his full name and place of residence or states a false name or place of residence on demand being so made by an authorised person commits an offence.

Clause 3.18

A person who refuses to give his or her full name or place of residence or gives a false name or place of residence to an authorised person may without other warrant be apprehended by the person making the demand and taken before a Justice to be dealt with according to law.

Clause 3.19

Any person alleged to have committed an offence against Clause 3.3 of these Local Laws may be given the opportunity to pay a modified penalty under section 9.16 of the Local Government Act 1995. The modified penalty for this offence is \$100.00.

Clause 3.20

(1) The form of a notice that may be given under Section 9.13 of the Act to the owner of a vehicle that is involved in an offence against these Local Laws shall be in or substantially to the effect of Form 1 of the first schedule of these Local Laws.

(2) The form of an Infringement Notice that may be given under Section 9.16 of the Act for an offence against these Local Laws shall be in or substantially to the effect of Form 2 and Form 3 of the first schedule of these Local Laws.

(3) The form of the notice that may be given under Section 9.20 of the Act to withdraw an Infringement Notice for an offence against these Local Laws shall be in or substantially to the effect of Form 4 of the first schedule of these Local Laws.

Clause 3.21

Every person failing to do any act directed to be done or doing any act prohibited to be done by these Local Laws commits an offence and upon conviction is liable to a fine not exceeding \$5,000.00 and a daily penalty of \$500.00 for every day during which the breach is continued.

PART 4—REMOVAL AND DISPOSAL OF OBSTRUCTING SHOPPING TROLLEYS**Clause 4.1**

A retailer may only make shopping trolleys available for the use of customers where the retailer holds a permit to do so from the Council.

Clause 4.2

In an application for a permit under clause 4.1, a retailer shall specify the measures which it proposes to take to prevent persons from removing shopping trolleys from beyond the car park of the retailer's premises or if the retailers premises are in a shopping centre, from beyond the car park of the shopping centre.

Clause 4.3

(1) The Council shall refuse an application for a permit where the measures which are specified under clause 4.2 are not likely, in the opinion of the Council, to prevent the removal of shopping trolleys.

(2) Any approval given by the Council for a permit under this part shall be subject to a condition that the measures which are specified under clause 4.2, with such modifications as may be specified by the Council, are observed at all times.

Clause 4.4

Any retailer who provides shopping trolleys for the use of customers at the time these Local Laws come into operation, has 12 months from the date they commence operation to comply with clause 4.1.

Clause 4.5

A retailer shall clearly mark its name, or name of the owner, on any shopping trolley made available under a permit issued under clause 4.1.

Clause 4.6

A shopping trolley left in a public place is not obstructing, for the purposes of these Local Laws, unless it is so left unattended or unutilised for any period of time.

Clause 4.7

A person shall not leave a shopping trolley in a public place so as to obstruct any portion of that place.

Clause 4.8

A person who leaves a shopping trolley in a public place, contrary to the provisions of clause 4.6 of these Local Laws commits an offence.

Clause 4.9

Where an authorised person finds a shopping trolley left in a public place, contrary to the provisions of clause 4.6 of these Local Laws, he/she may seize the shopping trolley therefrom and shall, thereupon impound it in the Council appointed place.

Clause 4.10

Where an authorised person places a shopping trolley in an appointed place, pursuant to clause 4.9 of these Local Laws, he/she shall enter in a register to be provided by the Council for that purpose, details describing the shopping trolley, the date and time when it was removed and the place from which it was removed.

Clause 4.11

The Council shall notify the owner or a person who is entitled to possession of an impounded shopping trolley as to the whereabouts of the shopping trolley, and how the shopping trolley may be collected.

Clause 4.12

A person may recover an impounded shopping trolley from an appointed place, by paying the Council a fee in accordance with clause 3.5 of these Local Laws.

Clause 4.13

Upon payment of the fee referred to in clause 4.12, a person, upon showing proof of ownership, or an authorised person is satisfied that the person is the owner of the shopping trolley, or is a person entitled to possession of the shopping trolley, may collect the shopping trolley from an appointed place.

Clause 4.14

Where a shopping trolley placed in an appointed place, in accordance with the provisions of these Local Laws, has not been recovered by the owner or a person entitled to possession thereto within three (3) months from the day upon which it was there placed, the Council may cause the shopping trolley to be offered for sale by public auction or by public tender and thereupon accept the best offer made; and where no offer is made for the purchase of the shopping trolley the Council may cause it to be destroyed otherwise disposed of.

Clause 4.15

A person shall not be entitled to any claim, by way of damages or otherwise, against an authorised person or the Council in respect of any shopping trolley seized and dealt with under the provisions of these Local Laws or against any person who purchases a shopping trolley sold by the Council under the provisions of clause 4.14 of these Local Laws.

Clause 4.16

The proceeds of the sale of a shopping trolley under the provisions of clause 4.14 of these Local Laws or any fee paid to Council under clause 4.12 of these Local Laws shall be paid into the Council Municipal funds.

Clause 4.17

Where the proceeds of the sale of any shopping trolley under the provisions of clause 4.14 of these Local Laws after deduction of the monies authorised to be applied by the Council thereto does not cover the costs of the removal, impounding and disposal of that shopping trolley, the Council may recover the balance of these costs from the owner of that shopping trolley in a Court of competent jurisdiction.

PART 5—PERMITS**Application for Permit****Clause 5.1**

- (1) An application for any permit under these Local Laws is to—
- (a) be in the form determined by the Council from time to time;
 - (b) be signed by the permit holder;

- (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with the fee determined by the Council from time to time.
- (2) The Council may require a person making an application for a permit to give local public notice of the application under Section 1.7 of the Act.
- (3) The Council may refuse to consider an application for a permit which does not comply with these Local Laws.

Discretions of the Council

Clause 5.2

- (1) The Council may approve an application for a permit, may refuse to approve it or may approve it subject to such conditions as the Council thinks fit.
- (2) Without limiting the generality of subclause (1), the conditions subject to which the Council may approve an application for a permit include the following—
- (a) the payment of a fee;
 - (b) compliance with a standard or any policy of the Council adopted by resolution of Council;
 - (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 circumstances reasonably related to the application;
 - (f) where the applicant is not the owner of any property to which the permit relates, the written consent of the owner;
 - (g) the granting of some other permit which may be required by the Council under any written law;
 - (h) the area of the district to which the permit relates;
 - (i) where a permit is issued for an activity which will or may cause damage to a thoroughfare, payment of a deposit or bond against such damage; and
 - (j) a requirement that public risk insurance be obtained in respect of the activity or place to which the permit relates.
- (3) The Council or an authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

Permit

Clause 5.3

On approving an application for a permit, the Council is to issue to the applicant a permit in the form determined by the Council from time to time.

Duration of Permits

Clause 5.4

Except where it is otherwise stated in these Local Laws, or in a permit, a permit will expire one year after the date on which it was issued.

Renewal of Permits

Clause 5.5

- (1) A permit holder may apply to the Council in writing prior to expiry of a permit for the renewal of the permit.
- (2) If an application for the renewal of a permit is not received prior to the expiry of a permit, the Council may refuse to consider the application as an application for the renewal of a permit.
- (3) The provisions of this Part shall apply to an application for the renewal of a permit *mutatis mutandis*.

Transfer of Permits

Clause 5.6

- (1) An application for the transfer of a 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 Council may require to enable the application to be determined; and
 - (d) be forwarded to the CEO together with the fee determined by the Council from time to time.
- (2) The Council may approve an application for the transfer of a permit, refuse to approve it or approve it subject to such conditions as it thinks fit.
- (3) Where the Council 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 Council approves the transfer of a permit, it is not required to refund any part of the fee paid by the former permit holder.

Production

Clause 5.7

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

Cancellation of Permits

Clause 5.8

(1) A permit may be cancelled by the Council if the conditions under which the permit was issued have not been complied with, or if the permit holder has contravened any provision of these local laws.

(2) Where—

- (a) the permit relates to land;
- (b) the permit holder is not the owner of the land; and
- (c) the owner's consent was required to be given to the application for the permit; the owner must be notified of the decision to cancel the permit.

(3) Upon the cancellation of a permit—

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

First Schedule—Forms

Form 1

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

NOTICE TO OWNER OF VEHICLE INVOLVED IN OFFENCE

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

City

(1) To:

(2) Of:

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

(4) at

(5) Vehicle Registration No.

was involved in the commission of the following offences—

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

(6) contrary to regulation/Local Law of the

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 an offence unless—

- (a) within 28 days after being served with this notice—
 - (i) you inform the Chief Executive Officer, or another authorised person of the Council as to the identity and address of the person who was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed; or
 - (ii) you satisfy the Chief Executive Officer that the vehicle had been stolen or was being unlawfully used, at the time the offence is alleged to have been committed; or
- (b) you were given an Infringement Notice for the alleged offence and the modified penalty specified in it is paid within 28 days after the notice was given or such further time as is allowed.

Name and title of authorised person giving the notice

Signature:

- (1) Name of owner or "owner of (vehicle identification)"
- (2) Address of owner (not required of owner not named)
- (3) Date and Time of which offence allegedly committed
- (4) Place at which offence allegedly committed
- (5) Brief Description of Offence
- (6) Name of the Regulations/Local Laws.

Form 2

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

INFRINGEMENT NOTICE

To Serial No.

..... Dated

You are hereby notified that it is alleged that on 19.....

At about you did

in contravention of the provisions of Local Law No. of the City of Bunbury Removal and Disposal of Obstructing Animals, Vehicles or Shopping Trolleys Local Laws.

The Modified penalty prescribed for this offence is \$.....

If you do not wish to have a complaint of the above offence heard and determined by a Court you may pay the modified penalty within 28 days after the date of the service of this notice.

Unless payment is made within 28 days of the date of service of this notice Court proceedings may be instituted against you.

Payment may be made either by posting this form together with the amount of \$ mentioned above, to the Chief Executive Officer of the City of Bunbury or by delivering this form and paying the amount at the Council Office, Stephen Street, Bunbury, between the hours of 8.30am and 4.30pm Monday to Friday (except public holidays).

Signature of Authorised Person

Designation

Form 3

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

INFRINGEMENT NOTICE

To Serial No. (not to be completed where notice is attached or left in or on vehicle).

..... Date

the owner of the vehicle make

Type Plate No.

You are hereby notified that it is alleged that on

The day of 19..... at about

You did

in contravention of the provisions of Local Law No. of the City of Bunbury Removal and Disposal of Obstructing Animals, Vehicles or Shopping Trolleys Local Laws.

The modified penalty prescribed for this offence is \$ If you do not wish to have a complaint of the above offence heard and determined by a Court you may pay the modified penalty within 28 days after the date of the service of this notice.

Unless within 28 days after the date of the service of this notice—

(a) the modified penalty is paid; or

(b) you—

(i) inform the Chief Executive Officer of the City of Bunbury;

or

designated or authorised person as to the identity and address of the person in charge of the above vehicle at the time of the above offence; or

(ii) satisfy the Chief Executive Officer of the City of Bunbury that the above vehicle had been stolen or was being unlawfully used at the time of the above offence, 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.

Payment may be made either by posting this form together with the amount of \$ mentioned above, to the Chief Executive Officer of the City of Bunbury or by delivering this form and paying the amount at the Council Office Stephen Street, Bunbury, between the hours of 8.30am and 4.30pm Monday to Friday (except public holidays).

Signature of Authorised Person
Designation
Name
Address
..... Postcode

If your name and address do not appear in this notice please complete above to enable receipt to be forwarded.

Form 4

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

NOTICE OF WITHDRAWAL OF INFRINGEMENT NOTICE

Serial No.

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

City

To:

of:

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

has been withdrawn.

The modified penalty of \$

- * has been paid and a refund is enclosed
- * has not been paid and should not be paid
- * Delete as appropriate

Name and title of authorised person giving this notice

Signature:

The Common Seal of the City of Bunbury was hereunto affixed by resolution of Council on the 31st day of July 2000 in the presence of—

G. M. CASTRILLI, Mayor.
M. WHITTAKER, Chief Executive Officer.



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