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SHIRE OF PLANTAGENET

LOCAL GOVERNMENT ACT 1995

**EXTRACTIVE INDUSTRIES
LOCAL LAW**

**LOCAL LAW RELATING TO STANDING
ORDER**

DOG ACT 1976

LOCAL LAWS RELATING TO DOGS

LOCAL GOVERNMENT ACT 1995

SHIRE OF PLANTAGENET

EXTRACTIVE INDUSTRIES LOCAL LAW 1999

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LOCAL GOVERNMENT ACT 1995

SHIRE OF PLANTAGENET

EXTRACTIVE INDUSTRIES LOCAL LAW 1999

Under the powers of the Local Government Act 1995 and by all other powers, the Council of the Shire of Plantagenet resolved to make the following local law on the twenty second day of February 2000.

PART 1—PRELIMINARY**Title**

1. This local law may be referred to as the Shire of Plantagenet Extractive Industries Local Law 1999.

Commencement

2. This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

Purpose and Intent

3. (1) The purpose of this local law is to—

- (a) prohibit the carrying on of an extractive industry unless by authority of a licence issued by the local government;
- (b) regulate the carrying on of the extractive industry in order to minimise damage to the environment, thoroughfares and other persons health and property; and
- (c) provide for the restoration and reinstatement of any excavation site.

(2) The effect of this local law is to require that any person wanting to carry on an extractive industry will need to be licensed and will need to comply with the provisions of this local law.

Definitions

4. In this local law, unless the context otherwise requires—

“Act” means the Local Government Act 1995;

“authorised person” means a person authorised by the local government under section 9.10 of the Act, to carry into effect the provisions of this local law;

“carry on an extractive industry” means quarrying and excavating for stone, gravel, sand and other material and without limiting the generality includes stripping vegetation and top soil, stockpiling, excavating and earthworks, loading of trucks and vehicle movements associated with an extractive industry, blasting rehabilitation and includes all of the time from commencement to the satisfactory completion of the works as required by a condition of a licence or as directed by the local government;

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

“excavation” includes quarry;

“licence” means a licence issued under this local law;

“licensee” means the person or company named in the licence as the licensee;

“local government” means the Shire of Plantagenet;

“person” means any person, company, employer and includes the owner, licensee and previous licensee;

“secured sum” means the sum required to be paid or the amount of a bond, guarantee or other security under clause 15;

“site” means the land specified by the local government in a licence;

“Stop Work Order” means an order issued under clause 22.

Application of this Local Law

5. (1) The provisions of this local law—

- (a) subject to paragraphs (b), (c), (d) and (e);
 - (i) apply and have force and effect throughout the whole of the district; and
 - (ii) apply to every excavation whether commenced prior to or following the coming into operation of this local law;
- (b) do not apply to the extraction of minerals under the Mining Act 1978;
- (c) do not apply to the carrying on of an extractive industry on Crown land;
- (d) do not apply to the carrying on of an extractive industry on land by the owner or occupier of that land for use on that land; and
- (e) do not apply where the works are approved by and carried out in accordance with—
 - (i) a condition of a subdivision approved by the Western Australian Planning Commission;
 - (ii) a development approval issued by the local government under a town planning scheme and the works are incidental to that approval;
 - (iii) building licence issued by the Local Government (Miscellaneous Provisions) Act 1960; and
 - (iv) where the works are associated with construction by the local government in accordance with the Local Government Act.

(2) In subclause (1)(d) land includes adjoining lots or locations in the same occupation or occupier referred to in subclause (1)(d).

PART 2—LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY**Extractive Industries Prohibited Without Licence**

6. A person must not carry on an extractive industry—

- (a) unless the person is the holder of a valid and current licence, and
- (b) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

Application for Licence

7. (1) Person seeking the issue of a license in respect of any land must apply on the form provided or approved by the local government for the purpose and must forward the application duly completed and signed by both the applicant and the owner of the land to the CEO together with—

- (a) 3 copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing—
 - (i) the existing and the proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;
 - (ii) the land on which the excavation site is to be located;
 - (iii) the external surface dimensions of the land;
 - (iv) the location and depth of the existing and proposed excavation of the land;
 - (v) the location of existing and proposed thoroughfares or other means of vehicle access to and egress from the land and to public thoroughfares in the vicinity of the land;
 - (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
 - (vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;
 - (viii) the location of all existing dams, swamps, lakes, watercourses, drains or sumps on or adjacent to the land;
 - (ix) the location and description of existing and proposed fences, gates, and warning signs around the land;
 - (x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;
 - (xi) brief description of uses of adjoining and nearby land; and
 - (xii) other details as the local government may require;
- (b) 3 copies of a works and excavation program containing—
 - (i) the nature and estimated duration of the proposed excavation for which the license is applied;
 - (ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;
 - (iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;
 - (iv) details of the depth and extent of the existing and proposed excavation of the site;
 - (v) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
 - (vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;

- (vii) a description of the means of access to the excavation site and the types of thoroughfares to be constructed;
- (viii) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
- (ix) a description of any proposed buildings, treatment plant, tanks and other improvements;
- (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
- (xi) a description of the measures to be taken to minimise dust nuisance, erosion, watercourse siltation and dangers to the general public;
- (xii) a report of an acoustic consultant verifying that the various plant, machinery and operational noise levels will comply with the requirements of the Environmental Protection (Noise) Regulations 1997;
- (xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;
- (xiv) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation; and
- (xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby thoroughfares or other areas;
- (c) 3 copies of a rehabilitation and decommissioning program indicating—
 - (i) the objectives of the program, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
 - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
 - (iii) how each face is to be made safe and batters sloped;
 - (iv) the method by which topsoil is to be replaced and revegetated;
 - (v) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
 - (vi) how rehabilitated areas are to be maintained; and
 - (vii) the program for the removal of buildings, plant, waste and final site clean up;
- (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public thoroughfares or such other land in the vicinity;
- (e) a certificate from a licensed surveyor certifying the correctness of—
 - (i) the plan referred to in paragraph (a); and
 - (ii) the datum peg and related point referred to in paragraph (d);
- (f) evidence that the requirements of clause 9 (a) and (b) have been carried out;
- (g) copies of all land use planning approvals required under any planning legislation;
- (h) the consent in writing to the application from the owner of the excavation site;
- (i) an overall staging and management plan and report which by a matrix indicates the progressive stages of construction, excavation, rehabilitation, landscaping and the like together with obvious milestones of progress upon which the staging and management of the extractive industry can be measured and reviewed prior to renewal or at other nominated times;
- (j) evidence that a notice of clearing has been given to the Commissioner of Soil and Land Conservation if that is required under regulation 4 of the Soil and Land Conservation Regulations 1992.

(2) All survey data supplied by an applicant for the purpose of sub clause (1) must comply with Australian Height Datum and Australian Map Grid standards.

(3) The local government may exempt a person making application for a licence under subclause (1) from providing any of the data otherwise required under subclause (1), if, in the opinion of the local government, the location and size of the proposed excavation are such that no significant adverse environmental affects will result therefrom.

Applicant to Advertise Proposal

8. (1) A person or company seeking the issue of a licence shall within 60 days after having complied with clause 7, advertise and give notice of their intention, as follows—

- (a) forward by registered mail a notice and summary of the proposal in the form provided or approved by the local government for the purpose, to—
 - (i) the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the granting of a licence;
 - (ii) every relevant statutory authority including, but not limited to, the Water and Rivers Commission, the Department of Environmental Protection, the Department of Minerals and Energy and person having control or jurisdiction over any of the things referred to in clause 7(1) (a)(vii) or (viii) within 500 metres from the boundaries of the land, or within an area determined by the local government as likely to be affected by the granting of a licence;

- (iii) the CEO; and
 - (b) publish a notice [notice to be in the form provided or approved by the local government for the purpose], in a newspaper circulating in the area in which the proposed excavation is located;
 - (c) display, in a prominent position on the land one or more notices—
 - (i) in the form provided or approved by the local government for the purpose;
 - (ii) the content, size and construction of which have been approved by the CEO;
 - (iii) specifying particulars of the proposed excavation; and inviting objections or comments within 21 days from the placement of the notice.
- (2) All notices referred to in clause 8(1) must advise that the proposal may be inspected at the office of the local government and that submissions on the proposal may be lodged with the local government for a period of 21 days from the date of the last notice.

PART 3—DETERMINATION OF APPLICATION

Determination of Application

9. (1) The local government may refuse an application for a licence—
- (a) that does not comply with the requirements of clause 7;
 - (b) for which the processes required by clause 8 have not been completed;
 - (c) after considering any submissions received within the specified period in accordance with clause 8(2); and
 - (d) where planning approval for an extractive industry use of the land has not first been obtained under any relevant town planning scheme.
- (2) The local government may, in respect of an application for a licence—
- (a) refuse the application; or
 - (b) approve the application;
 - (i) over the whole or part of the land in respect of which the application is made; and
 - (ii) on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for a licence, it must—
- (a) determine the licence period, not exceeding the 21 years from the date of issue; and
 - (b) approve the issue of a licence in the form provided or approved by the local government for the purpose;
- (4) Where the local government approves the issue of a licence, the CEO upon receipt by the local government of—
- (a) payment of the annual licence fee, or the relevant proportion thereof of the annual licence fee;
 - (b) the payment of any outstanding licence or administration fees;
 - (c) payment of the secured sum if any imposed under clause 14; and
 - (d) the documents, if any, executed to the satisfaction of the CEO, under clause 14, shall issue the licence to the applicant.
- (5) Without limiting sub clause (2), the local government may impose conditions, including the following matters—
- (a) the orientation of the excavation to reduce visibility from other land;
 - (b) the appropriate siting of access thoroughfares, buildings and plant;
 - (c) the stockpiling of material;
 - (d) the hours during which any excavation work may be carried out;
 - (e) the hours during which any processing plant associated with or located on, the site may be operated;
 - (f) the hours during which trucks may enter or leave the site and equipment may operate;
 - (g) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the local government;
 - (h) the depths below which a person must not excavate;
 - (i) distances from adjoining land or thoroughfares within which a person must not excavate;
 - (j) the safety of persons employed at or visiting the excavation site;
 - (k) the control of dust and wind-blown material;
 - (l) requiring the excavation, plant and equipment and thoroughfares to be bunked, screened and landscaped prior to any excavation or construction works commencing or continuing;
 - (m) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
 - (n) the prevention of the spread of dieback or other disease;
 - (o) the drainage of the excavation site and the disposal of water;
 - (p) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;

- (q) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
- (r) requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation program;
- (s) requiring the licensee to enter into an agreement with the local government by which it agrees to pay any extraordinary expenses incurred by the local government in repairing damage caused to thoroughfares in the district by heavy or extraordinary traffic conducted by or on behalf of the licensee under the license;
- (t) requiring the license to pay a secured sum in accordance with clause 14; and
- (u) any other matter for properly regulating the carrying on of an extractive industry.

Fees

10. (1) A licensee must pay to the local government the licence fee.
- (2) Where an extractive industry is being carried on and the local government has not issued a licence, the owner shall pay to the local government the administration fee.
- (3) An application for the transfer of a licence shall incur a fee to be paid to the local government.
- (4) The fees to be paid shall be as determined by the local government in accordance with the fees and charges approved from time to time.

PART 4—TRANSFER, CANCELLATION AND RENEWAL OF LICENCE**Transfer of Licence**

11. (1) An application for the transfer of a licence must—
- (a) be made in writing;
 - (b) be signed by the licensee and the proposed transferee of the licence;
 - (c) be accompanied by the current licence;
 - (d) be accompanied by the consent in writing to the transfer from the owner of the excavation site;
 - (e) be accompanied by a stamped copy of a deed of agreement between the owner, transferor and transferee detailing the terms and conditions relating to the transfer of responsibility for the state of the excavation, the level of compliance with any conditions, that may have been imposed on the licence the subject of the transfer, and any rehabilitation works which may be necessary to remedy the situation;
 - (f) include any information that the local government may reasonably require; and
 - (g) be forwarded to the CEO with the transfer fee together with any outstanding administration and licence fees.
- (2) Upon receipt of any application for the transfer of a licence, and the transfer fee, the local government may—
- (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for the transfer of a licence; the local government shall transfer the licence by an endorsement on the licence in the form provided or approved by the local government for the purpose.
- (4) Where the local government approves a transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.
- (5) The local government may refuse to transfer a licence until all outstanding fees and charges have been paid.

Cancellation of Licence

12. (1) The local government may cancel a licence where the licensee has—
- (a) been convicted of an offence against—
 - (i) this local law; or
 - (ii) any other law relating to carrying on an extractive industry;
 - (iii) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government; or permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law.
- (2) Where the local government cancels a licence under clause 12 (1)—
- (a) the local government shall advise the licensee in writing of the cancellation;
 - (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice;
- (3) The licence shall lapse where the licensee has—
- (a) failed to pay the annual licence fee under clause 10; or
 - (b) failed to have a current public liability insurance policy under clause 17(1) or failed to provide a copy of the policy or evidence of its renewal as the case may be under clause 17 (2).

(4) The local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

Renewal of Licence

13. (1) A licensee who wishes to renew a licence must apply in writing to the local government at least 42 days before the date of expiry of the licence and must submit with the application for renewal—

- (a) the fee determined by the local government;
- (b) a copy of the current licence;
- (c) a plan showing the contours of the excavation carried out to the date of that application;
- (d) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 7(1) (b) and (c); and
- (e) any other things referred to in clauses 7 and 9.

(2) The local government may waive any of the requirements specified in clause 13(1) (d) or (e).

(3) If—

- (a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and
- (b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application.

then the applicant shall not be obliged, unless otherwise required by the local government to submit details of any of the things referred to in clauses 7 and 9.

(4) Upon receipt of an application for the renewal of a licence, the local government may—

- (a) refuse the application; or
- (b) approve the application on such terms and conditions, if any, as it sees fit; and
- (c) may require the proposal to be advertised in the manner set out in clause 8.

PART 5—SECURED SUM

Security for Restoration and Reinstatement

14. (1) For the purpose of ensuring that an excavation site is properly restored or reinstated, the local government may require that—

- (a) the licensee—
 - (i) as a condition of a licence; or
 - (ii) before the issue of a licence; or
 - (iii) before the renewal of a licence; or
- (b) the owner when required by the local government;

must give to the local government a bond, bank guarantee or other security, of a kind and in form acceptable to the local government, in or for a sum determined by the local government from time to time.

(2) A bond required under sub clause (1) is to be paid into an account established by the local government for the purposes of this clause.

Use by the Local Government of Secured Sum

15. (1) If a person fails to carry out or complete the restoration and reinstatement works required by the licence conditions or by a notice served by the local government; either

- (a) within the time specified in those conditions;
- (b) where no such time has been specified, a reasonable period of time from the completion of the excavation or portion of the excavation specified in the licence conditions; or
- (c) within 60 days of a notice given by the local government to the licensee or owner then—
 - (i) the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work as remains undone; and
 - (ii) the licensee must pay to the local government on demand all administrative, legal, contractor and other costs, estimated or incurred by the local government, to rehabilitate the site or which the local government may be required to pay under this clause.

(2) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 14 towards its costs under this clause.

(3) The liability of a licensee to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 14.

(4) A person, owner, occupier or licensee is not entitled to make any claim by way of damages or otherwise, against an authorised person, local government employee, local government appointed sub-contractor or other person authorised by the local government, to enter the land and carry out all or part of the works and do all things necessary that the owner, occupier or licensee was required to do to comply with this local law.

PART 6—PROHIBITIONS**Prohibitions**

16. Subject to any licence conditions imposed by the local government with respect to carrying on an extractive industry, a person—

- (1) must not without the written approval of the local government, excavate within—
 - (a) 20 metres of the boundary of any land on which the excavation site is located;
 - (b) 20 metres of any land affected by a registered grant of easement;
 - (c) 40 metres of any thoroughfare;
 - (d) 50 metres of any watercourse, wetland, swamp or other water reserve; or
 - (e) 3 metres of the estimated maximum water table level as determined from time to time by the Waters and Rivers Commission or otherwise as adopted by the local government.
- (2) must—
 - (a) not remove any trees or shrubs within 40 metres (or such lesser distance as may be allowed, in writing, by the local government) of the boundary of any thoroughfare reserve on land in respect of which a licence has been granted except for the purpose of constructing access thoroughfares erecting buildings or installing plant for use in connection with the excavation and then only with the express approval of the local government and subject to any conditions which the local government may impose in accordance with clause 9;
 - (b) where the local government so requires, securely fence the excavation to a standard determined by the local government and keep the gateways locked when not actually in use in order to prevent unauthorised entry;
 - (c) erect and maintain warning signs along each of the boundaries of the area excavated under the licence so that each sign—
 - (i) is not more than 200 metres apart;
 - (ii) is not less than 1.8 metres high and not less than 1 metre wide; and
 - (iii) bears the words “DANGER EXCAVATIONS-KEEP OUT”;
 - (d) except where the local government approves otherwise, drain and keep drained to the local government’s satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;
 - (e) not store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than with the approval of the local government and the Department of Minerals and Energy;
 - (f) not fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation program approved by the local government;
 - (g) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation program approved by the local government;
 - (h) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site;
 - (i) otherwise comply with the conditions imposed by the local government in accordance with clause 9; and
 - (j) cease excavating and undertake the restoration and reinstatement of the site and comply with notices issued by the local government.
- (3) must not carry out or permit to be carried out any blasting in the course of excavating unless—
 - (a) the local government has otherwise given approval in respect of blasting generally or in the case of each blast;
 - (b) subject to sub-clause(2), the blasting takes place only between the hours of 8.00 am and 5.00 pm, or as determined by the local government, on Mondays to Fridays inclusive;
 - (c) the blasting is carried out in strict accordance with the AS2187 SAA Explosives Code, the Mines Safety and Inspection Act 1994 the Environmental Protection Act 1986, and all relevant local laws of the local government; and
 - (d) in compliance with any other conditions imposed by the local government concerning—
 - (i) the time and duration of the blasting;
 - (ii) the purposes for which the blasting may be used;
 - (iii) the methods of detonation and blasting;
 - (iv) the types of explosives to be used; and
 - (v) such other matters as the local government may reasonably require in the interests of the public and of property within the district;
- (4) must not carry out or permit to be carried out any blasting on a Saturday, Sunday or public holiday except with the prior approval of the local government.

PART 7—MISCELLANEOUS PROVISIONS**Public Liability**

17. (1) A licensee must have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum of not less than \$10,000,000 or such other sum as is approved by the local government in respect of any one claim relating to any of the excavation operations;

(2) The licensee shall provide to the local government a copy of the policy taken out under sub-clause (1), within 14 days after the issue of that policy and shall provide to the local government evidence of renewal within 14 days of each renewal date.

Mines Safety and Inspection Act and Environmental Protection Act

18. (1) In any case where the Mines Safety and Inspection Act 1994 or the Environmental Protection Act 1986 applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site must comply with all applicable provisions of that Act or those Acts; and

(2) In this clause, the *Mines Safety and Inspection Act 1994* and the *Environmental Protection Act 1986* include all subsidiary legislation made under those Acts.

Notice of Cessation of Operations

19. (1) Where a licensee intends to cease carrying on an extractive industry—

- (a) temporarily for a period in excess of 12 months; or
- (b) permanently; the licensee must, as well as complying with clause 20 give the local government written of the cessation not later than 1 week after those operations have ceased.

(2) Where a licensee has given written notice to the local government of the intention to permanently cease carrying on an extractive industry on the site to which the licence applies the licence is deemed to have expired on the date such cessation is so notified.

(3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

Works to be Carried out prior to Cessation of Operation

20. (1) Where the carrying on of an extractive industry on the site is permanently ceased or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee of the owner must, as well as complying with the provisions of clause 19—

- (a) restore and reinstate the excavated site in accordance with the proposals approved by the local government or in such other manner as the local government may subsequently in writing require;
- (b) ensure that any face permitted to remain upon the excavation site is left in a safe condition with all loose materials removed and where the excavation site is—
 - (i) sand, the sides are sloped to a batter of not more than 1:3 (vertical:horizontal); and
 - (ii) limestone or material other than sand, the sides are sloped to a batter which, in the opinion of the local government, would enable the site to be left in a stable condition;
- (c) ensure that the agreed floor level of the excavation is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning program approved by the local government;
- (d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse, lake, wetland, or drain that is not wholly situated within the land owned or occupied by the licensee;
- (e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;
- (f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and
- (g) break up, scarify, cover with topsoil and plant with grass trees and shrubs all parts of the site used for the extractive industry where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this local law.

(2) Notwithstanding any other provision of this local law where a licensee is required to comply with this local law or a condition of a licence and that licence has been cancelled, not renewed, or expired the aforementioned obligations become the responsibility jointly and severally of the owner and the previous licensee notwithstanding that he is not or is no longer the licensee.

PART 8—ENFORCEMENT AND PENALTIES**Stop Work Penalties**

21. (1) Where a person is carrying on an extractive industry in contravention of this local law, the local government may issue an order to stop all work specified in the notice as being done in contravention of this local law—in this Part referred to as “Stop Work Order”.

- (2) Where a copy of a Stop Work Order—
- (a) is affixed in a prominent position on the place to which it relates; or
 - (b) is served on a person carrying on the extractive industry, or causing to be carried on, at that place any works or other activity,

a person who carries on, or authorises, causes or permits to be carried on, in relation to that place the extractive industry commits an offence

Penalty: \$5,000.

Daily Penalty: \$500.

Stop Work Orders Not To Affect Certain Works

22. It shall be a defence in proceedings for a contravention of a provision of a Stop Work Order to show that any works, being works appropriate to the purpose—

- (a) were urgently necessary—
 - (i) to avoid an imminent danger to life or health; or
 - (ii) for the immediate preservation of a building or the prevention of immediately impending damage to neighbouring property,

whether or not those works were the subject of a specific prohibition contained in a Stop Work Order, where notice in writing of the proposed carrying out of the works was given, as soon as practicable after the necessity for the works arose, to the local government and no written objection was served by the local government on the person so giving notice prior to the carrying out of the work; or
- (b) were required by an Act or law, and were of such a degree of urgency that prior reference to the local government and the application for and issue of a licence under this local law would not have been practicable.

Offences

23. (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 under clauses 6, 10, and 16 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 \$500.00 for each day or part of a day during which the offence has continued.

Offences by Bodies Corporate, Defences etc

24. (1) Where a contravention of this local law which has been committed by a body corporate is proved—

- (a) to have been committed with the consent or connivance of; or
- (b) to be attributable to any failure to take all reasonable precautions to secure that this local law should not be contravened by the body corporate on the part of, any director, manager, executive officer, secretary, or other person concerned in the management of the body corporate, or any person purporting to act in that capacity, that person as well as the body corporate is guilty of the contravention.

(2) Where the affairs of a body corporate are managed by its members, subclause (1) applies in relation to the acts and defaults of a member in connection with the functions of management of that member as if the member were a director of the body corporate.

(3) Where proceedings are taken against a person under this local law it is no defence for that person to prove—

- (a) that the person was the agent or employee of any other person; or
- (b) that the person was acting in pursuance of an order or direction given by any other person, unless the court is satisfied that the person has acted without the knowledge, and could not reasonably be expected to have known, that this local law would be contravened.

(4) Where the employee or agent of a person is found liable in respect of a contravention of this local law, each person who, at the time of the commission of the contravention, was the employer of that employee or the principal of that agent is also liable in respect of the contravention, unless that employer or principal proves that he or she could not by the exercise of reasonable diligence have prevented the commission of the contravention by the employee or agent.

(5) Subject to this clause, it shall be a defence for any person who would otherwise be liable under this local law to prove that—

- (a) the contravention occurred without the consent or connivance of that person;
- (b) the person had taken all reasonable precautions to secure that this local law should not be contravened; and
- (c) that the person could not by the exercise of reasonable diligence have prevented the contravention.

(6) Where, in proceedings under this local law, it is necessary to establish the state of mind of a body corporate, it is sufficient to show that a director, employee or agent of the body corporate, being a director, employee or agent by whom the conduct was engaged in within the scope of the person's actual or apparent authority, had that state of mind.

(7) Any conduct engaged in on behalf of a body corporate—

- (a) by a director, employee or agent of the body corporate within the scope of the person's actual or apparent authority; or
- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, employee or agent of the body corporate, if the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the director, employee or agent, shall be deemed, for the purposes of this local law, to have been engaged in also by the body corporate.

(8) Where, in proceedings under this local law, it is necessary to establish the state of mind of a person other than a body corporate, it is sufficient to show that an employee or agent by whom the conduct was engaged in within the scope of the employee's or agent's actual or apparent authority, had that state of mind.

(9) Conduct engaged in on behalf of a person other than a body corporate—

- (a) by an employee or agent of the person, within the scope of the actual or apparent authority of the employee or agent; or
- (b) by any other person, at the direction or with the consent or agreement (whether express or implied) of any employee or agent of the first-mentioned person, if the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the employee or agent, shall be deemed, for the purposes of this local law, to have been engaged in also by the first-mentioned person.

(10) A reference in this clause to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasoning for that intention, opinion, belief or purpose.

(11) If a defence to proceedings under this local law involves an allegation that a contravention was due to reliance on information supplied by another person or to act or default of another person, the defendant is not, without leave of the court, entitled to rely on that defence unless the defendant has, not later than 7 days before the day on which the hearing of the proceeding commences, served on the person by whom the proceeding was instituted a notice in writing giving such information that would identify or assist in the identification of the other person as was then in the defendant's possession.

Infringement and Infringement Withdrawal Notices

25. 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 of the First Schedule of the Local Government (Functions and General) Regulations 1996;
- (b) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is Form 3 of the First Schedule of the Local Government (Functions and General) Regulations 1996.

Offence Description and Modified Penalty

26. The amount appearing in the final column of the First Schedule directly opposite an offence described in that Schedule is the modified penalty for that offence.

Prosecution for Offences

27. A penalty for an offence against this local law (not being a modified penalty) may be recovered by the local government by taking proceedings against the alleged offender in a Court of Petty Sessions.

Records to be Kept

28. The local government shall cause adequate records to be kept of all infringement notices served and modified penalties received.

First Schedule

OFFENCES AND MODIFIED PENALTIES

Item No.	Clause No.	Nature Of Offence	Modified Penalty
1.	6(a)	Excavate without a licence	\$500
2.	6(b)	Carry on an extractive industry not in accordance with conditions	\$500
3.	10(2)	Failure to pay the administration fee	\$400
4.	16(1)(a)	Excavate without approval, within 20 metres of adjacent property boundary	\$400
5.	16(1)(b)	Excavate without approval, within 20 metres of any land affected by a registered grant of easement	\$400
6.	16(1)(c)	Excavate without approval, within 40 metres of any thoroughfare	\$400
7.	16(1)(d)	Excavate without approval, within 50 metres of any watercourse, wetland, swamp or other water reserve	\$400
8.	16(1)(e)	Excavate without approval, within 3 metres of the estimated maximum water table level	\$400

Item No.	Clause No.	Nature Of Offence	Modified Penalty
9.	16(2)(a)	Removal of trees or shrubs within 40 metres of the boundary of any thoroughfare reserve	\$400
10.	16(2)(b)	Failure to securely fence and/or keep gateways locked	\$400
11.	16(2)(c)	Failure to erect and maintain warning signs	\$400
12.	16(2)(d)	Failure to drain and keep drained any excavation	\$400
13.	16(2)(e)	Store or permit to store explosives or explosive devices without approval	\$400
14.	16(2)(f)	Not fill or excavate, contrary to the terms and conditions of the licence	\$400
15.	16(2)(g)	Failure to restore and reinstate the excavation site in accordance with conditions of the licence	\$400
16.	16(2)(h)	Failure to take all reasonable steps to prevent the emission of dust, noise, vibration, and other forms of nuisance from the excavation site	\$400
17.	16(2)(i)	Failure to comply with conditions of licence imposed by the local government	\$400
18.	16(2)(j)	Failure to cease excavating and undertake restoration and reinstatement as required by notice issued by the local government	\$500
19.	16(3)(a)	Carry out or permit to be carried out blasting without approval	\$400
20.	16(3)(b)	Carry out or permit to be carried out blasting outside hours approved by the local government	\$400
21.	16(3)(d)	Failure to comply with conditions imposed by the local government relating to blasting	\$400
22.	16(4)	Carry out or permit to be carried out any blasting on Saturday, Sunday or Public Holiday, without approval	\$400
23.		Other offences not specified	\$200

Passed by resolution of the Plantagenet Shire Council held on the 22nd day of February 2000.

Dated this 22nd day of February 2000.

The Common Seal of the Shire of Plantagenet was hereunto affixed in the presence of—

KEVIN FORBES, President.
C. J. JACKSON, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF PLANTAGENET

LOCAL LAW RELATING TO STANDING ORDERS

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LOCAL GOVERNMENT ACT 1995

SHIRE OF PLANTAGENET

LOCAL LAW RELATING TO STANDING ORDERS

In pursuance of the powers conferred the above mentioned Act, and of all other powers enabling it, the Council of the Shire of Plantagenet hereby records having resolved on 22nd August 2000 to make the following Local Law—Local Law Relating to Standing Orders.

PART 1—PRELEMLINARY**1.1 Short Title**

This Local Law may be cited and referred to as “the Standing Orders”.

1.2 Application

All meetings of the Council or a committee and other matters as prescribed are to be conducted in accordance with the Act, the Regulations and these Standing Orders.

1.3 Revocation of Previous Local Law

The Shire of Plantagenet By Law (Local Law) Relating to Standing Orders published in the *Government Gazette* on 15 July 1997 is hereby revoked.

1.4 Intent of this Local Law

The Standing Orders are intended to result in—

- (1) Better decision making by the Council;
- (2) The orderly conduct of meetings dealing with Council business;
- (3) Community understanding of the process of conducting meetings dealing with Council business; and
- (4) More efficient and effective use of time at meetings.

1.5 Interpretation

(1) In these Standing Orders, unless the context otherwise requires—

“Act” means the Local Government Act 1995 and Amendments;

“CEO means the Chief Executive Officer or Acting Chief Executive Officer for the time being of the Shire of Plantagenet;

“committee” means any committee or sub-committee appointed in accordance with the Act;

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

“Officer” is an employed member of the staff of the Shire of Plantagenet;

“Presiding Member” means the person presiding at the meeting of the Council or a committee, as provided by the Act;

“Regulations” means the Local Government (Administration) Regulations 1996 and amendments;

“simple majority” is more than 50% of the members of the Council present and voting; and

“absolute majority required”, applying to a power conferred in the Local Government Act means that—

- (a) if the power is conferred on a local government, it can only be exercised by or in accordance with, a decision of an absolute majority of the council; or
- (b) if the power is conferred on any other body, it can only be exercised by or in accordance with, a decision of an absolute majority of that body;

“Special majority required”, applying to a power conferred in the Local Government Act on a local government, means that—

- (a) if there are more than 11 offices of member of the council, the power can only be exercised by, or in accordance with, a decision of a 75% majority of the council; or
- (b) if there are not more than 11 offices of member of the council, the power can only be exercised by, or in accordance with, a decision of an absolute majority of the council;

“substantive motion” means an original motion or an original motion as amended, but does not include an amendment or a procedural motion.

(2) Unless otherwise defined herein the terms and expressions used in the Standing Orders are to have the meaning given to them in the Act and Regulations

PART 2—CALLING MEETINGS**2.1 Calling Council Meetings**

Council meetings shall be scheduled and called as provided in the Act.

2.2 Calling Committee Meetings

A meeting of a committee is to be held—

- (1) If called for in a verbal or written request to the CEO by the presiding member of the committee, setting out the date and purpose of the proposed meeting;
- (2) If called for by at least 1/3 of the members of the committee in a notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (3) If so decided by the committee.

2.3 Notice of Special Council Meetings

- (1) Subject to sub-clause (2) the CEO is to convene a special meeting of the Council by giving each member at least seventy two (72) hours notice of the date, time and place and purpose of the meeting.
- (2) Where there is a need to meet urgently, in the opinion of the President, the CEO may give a lesser period of notice of a special meeting than mentioned in sub-clause (1).

PART 3—BUSINESS OF THE MEETING**3.1 Business to be Specified on Notice Paper**

- (1) No business is to be transacted at an ordinary meeting of the Council other than that specified in the agenda, without the approval of the presiding member or a decision of the Council.
- (2) No business is to be transacted at a special meeting of the Council other than that given in the notice as the purpose of the meeting.
- (3) No business is to be transacted at a committee meeting other than that specified in the agenda or given in the notice as the purpose of the meeting, without the approval of the Presiding Member or a decision of the committee.
- (4) No business is to be transacted at an adjourned meeting of the Council or a committee other than that—
 - (a) specified in the notice of the meeting which had been adjourned; and
 - (b) which remains unresolved;

except in the case of an adjournment to the next ordinary meeting of the Council or the committee, when the business unresolved at the adjourned meeting is to have precedence at that ordinary meeting.

3.2 Order of Business

(1) The order of business at any ordinary meeting of the Council shall unless otherwise decided by the Council, be as nearly as practicable as follows—

1. Declaration of Opening/announcement of Visitors
2. Record of Attendance/Apologies/Leave of absence
3. Response to Previous Public Questions Taken on Notice
4. Public Question Time
5. Petitions / Deputations / Presentations
6. Applications for Leave of Absence
7. Confirmation of Minutes of Previous Meeting
8. Announcements by Presiding Member without discussion
9. Reports of Committees and Officers
10. Motions of Which Previous Notice Has Been Given
11. New Business Of An Urgent Nature Introduced by Decision of Meeting
12. Councillors Information
13. Closure of Meeting

(2) Unless otherwise decided by the members present, the order of business at any special meeting of the Council or at a committee meeting is to be the order in which that business stands in the agenda of the meeting.

(3) Notwithstanding sub-clause (1), the CEO may include on the agenda of a Council or committee meeting in an appropriate place within the order of business any matter, which must be decided, or which he or she considers is appropriately decided, by that meeting.

3.3 Public Question Time

- (1) A member of the public who raises a question during question time is to state his or her name and address.
- (2) In putting any question, no argument or expression of opinion shall be used or offered, nor any facts stated except those necessary to explain the question.
- (3) A question may be taken on notice by the Council or committee for later response.
- (4) When a question is taken on notice under sub-clause (2) a response is to be given to the member of the public in writing by the CEO, and a copy is to be included in the agenda of the next meeting of the Council or committee as the case requires.

3.4 Petitions

A petition in order to be effective, is to—

- (1) Be addressed to the President
- (2) Be made by electors of the district
- (3) State the request on each page of the petition
- (4) Contain the names, addresses and signatures of the electors making the request, and the date each elector signed
- (5) Contain a summary of the reasons for the request
- (6) State the name of the person upon whom, and an address at which, notice to the petitioners can be given
- (7) Be in the form prescribed by the Act and Local Government (Constitution) Regulations 1996 if it is—
 - (a) A proposal to change the method of filling the office of President;
 - (b) A proposal to create a new district or the boundaries of the Local Government;
 - (c) A request for a poll on a recommended amalgamation; or
 - (d) A submission about changes to wards, the name of a district or ward or the number of Councillors for a district or ward.

3.5 Confirmation of Minutes

- (1) When minutes of a meeting are submitted to an ordinary meeting of the Council or committee for confirmation, if a member is dissatisfied with the accuracy of the minutes, then he or she is to
 - (a) State the item or items with which he or she is dissatisfied; and
 - (b) Propose a motion clearly outlining the alternative wording to amend the minutes.
- (2) Discussion of any minutes, other than discussion as to their accuracy as a record of the proceedings, is not permitted.

3.6 Announcements by the Person Presiding Without Discussion

- (1) At any meeting of the Council or a committee the person presiding may announce or raise any matter of interest or relevance to the business of the Council or committee, or propose a change to the order of business.
- (2) Any member may move that a change in order of business proposed by the person presiding not be accepted and if carried by a majority of members present, the proposed change in order is not to take place.

3.7 Motions of which Previous Notice has been given

- (1) Unless the Act, Regulations or the Standing Orders otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO.
- (2) A notice of motion under sub-clause (1) is to be given at least five (5) clear working days before the meeting at which the motion is moved.
- (3) A notice of motion is to relate to the good government of persons in the district.
- (4) The CEO—
 - (a) With the concurrence of the President, may exclude from the notice paper any notice of motion deemed to be out of order; or
 - (b) May on his or her own initiative make such amendments to the form but not the substance thereof as will bring the notice of motion into due form; and
 - (c) May under his or her name provide relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.
- (5) A motion of which notice has been given is to lapse unless—
 - (a) The member who gave notice thereof, or some other member authorised by him or her in writing moves the motion when called on; or
 - (b) The Council on a motion agrees to defer consideration of the motion to a later stage or date.
- (6) If a notice of motion is given and lapses in the circumstances referred to in sub-clause (5), notice of motion in the same terms or the same effect is not to be given again for at least three (3) months from the date of such lapse.

3.8 Urgent Business Approved by the Person Presiding or by Decision

In cases of extreme urgency or other special circumstances, matters may with the consent of the person presiding, or by decision of the members present, be raised without notice and decided by the meeting.

3.9 Deputations

- (1) A deputation wishing to be received by the Council or a committee is to apply in writing to the CEO who is to forward the written request to the President, or the presiding member as the case may be at least forty eight hours prior to the commencement of the meeting.
- (2) The President if the request is to attend a Council meeting or the presiding member of the committee if the request is to attend a meeting of a committee, may either approve the request, in which event the CEO is to invite the deputation to attend a meeting of the Council or committee as the case may be, or may instruct the CEO to refer the request to the Council or committee to decide by simple majority whether or not to receive the deputation.

- (3) A deputation invited to attend a Council or committee meeting—
- (a) Is not to exceed five persons, only two of whom subject to sub clause (4) may address the Council or committee; and
 - (b) Is not to address the Council or committee for a period exceeding fifteen (15) minutes in total without the agreement of the Council or the committee as the case requires.
- (4) Members of the Council or committee may ask a question or questions of members of the deputation and any member of the deputation may respond to such questions.
- (5) Any matter which is the subject of a deputation to the Council or a committee is not to be decided by the Council or that committee until the deputation has completed its presentation.

PART 4—PUBLIC ACCESS TO AGENDA MATERIAL

4.1 Inspection Entitlement

Members of the public have access to agenda material in the terms set out in Regulation 14 of the Regulations.

4.2 Confidentiality of Information Withheld

- (1) Information withheld by the CEO from members of the public under Regulation 14.2, of the Regulations, is to be—
- (a) Identified in the agenda of a Council or committee meeting under the item “Confidential Item”; and
 - (b) Marked “confidential” in the agenda.
- (2) A member of the Council or a committee or an employee of the Council in receipt of confidential information is not to disclose such information to any person other than a member of the Council or the committee or an employee of the Council to the extent necessary for the purpose of carrying out his or her duties.

PART 5—DISCLOSURE OF FINANCIAL INTERESTS

5.1 Separation of Committee Recommendations

Where a member of the Council has disclosed an interest in a matter, at a committee meeting, and the matter is contained in the recommendations of the committee to an ordinary meeting of Council or to another committee meeting that will be attended by the member, the recommendation concerned is to be separated on the agenda of that ordinary meeting or other committee meeting, from other recommendations of the committee, to enable the member concerned to declare the interest and leave the committee room prior to consideration of that matter only.

5.2 Member with an Interest may ask to be present

- (1) Where a member has disclosed the nature of his or her interest in a matter, immediately before the matter is considered by the meeting, he or she may, without disclosing the extent of the interest, request that he or she be allowed to be present during any discussion or decision making procedure related to the matter.
- (2) If such a request is made, the member is to leave the room while the request is considered. If the request is allowed by the members, the member may return to the meeting and be present during the discussion or decision making procedure related to that matter, but is not permitted to participate in any way.

5.3 Member with an Interest may ask Permission to Participate

- (1) A member who discloses both the nature and extent of an interest, may request permission to take part in the consideration or discussion of the matter, or to vote on the matter.
- (2) If such a request is made, the member is to leave the room while the request is considered. If it is decided at a meeting that a member who has disclosed both the nature and extent of an interest in a matter, be permitted to participate in the consideration and discussion of the matter or to vote on the matter, or both, then the member may return to participate to the extent permitted.

5.4 Invitation to Return to Provide Information

Where a member has disclosed an interest in a matter and has left the room in accordance with the Act, the meeting may resolve to invite the member to return to provide information in respect of the matter or in respect of the member's interest in the matter and in such case the member is to withdraw after providing the information.

5.5 Disclosures by Employees

- (1) If an employee within the meaning of section 5.70 of the Act, presents a written report to a meeting, on a matter in which the employee has an interest, the nature of the interest is to be disclosed at the commencement of the report.
- (2) If such an employee makes a verbal report to a meeting on a matter in which the employee has an interest, the employee is to preface his or her advice to the meeting by verbally disclosing the nature of the interest.

PART 6—QUORUM

6.1 Quorum to be Present

The Council or a committee is not to transact business at a meeting unless a quorum is present.

6.2 Loss of Quorum during a Meeting

(1) If at any time during the course of a meeting of the Council or a committee a quorum is not present—

(a) In relation to a particular matter because of a member or members leaving the meeting after disclosing a financial interest;

the matter is adjourned until either—

(i) a quorum is present to decide the matter; or

(ii) The Minister allows a disclosing member or members to preside at the meeting or to participate in discussions or the decision making procedures relating to the matter under section 5.69 of the Act; or

(b) Because of a member or members leaving the meeting for reasons other than disclosure of a financial interest, the person presiding is to suspend the proceedings of the meeting for a period of ten (10) minutes, and if a quorum is not present at the end of that time, the meeting is deemed to have been adjourned and the person presiding is to reschedule it to some future time or date having regard to the period of notice which needs to be given under the Act, Regulations or the Standing Orders when calling a meeting of that type.

(2) Where debate on a motion is interrupted by an adjournment under sub-clause (1)(b)—

(a) The debate is to be resumed at the next meeting at the point where it was so interrupted; and

(b) In the case of a Council meeting—

(i) The names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and

(ii) The provisions of clause 8.5 apply when the debate is resumed.

PART 7—CONDUCT OF PERSONS AT COUNCIL AND COMMITTEE MEETINGS

7.1 Official Titles to be used

Members of the Council are to speak of each other at Council or committee meetings by their respective titles of President or Councillor and members of the Council, in speaking of or addressing employees, are to designate them formally.

7.2 Members to Occupy Own Seats

The Council shall allot a position at the Council table to each Councillor at the first meeting held after election day and Councillors are to occupy those positions until such time as there is a call by a majority of Councillors for a re-allotment of positions.

7.3 Leaving Meetings

During the course of a meeting of the Council or a committee no member is to enter or leave the meeting without first advising the person presiding, in order to facilitate the recording in the minutes of the time of entry or departure.

7.4 Adverse Reflection

(1) No member of the Council or a committee is to reflect adversely upon a decision of the Council or committee except on a motion that the decision be revoked or changed.

(2) No member of the Council or a committee is to use offensive or objectionable expressions in reference to any other member, officer, or any other person.

(3) If a member of the Council or committee specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes, the person presiding is to cause the words used to be taken down and read to the meeting for verification and to then be recorded in the minutes.

7.5 Recording of Proceedings

(1) No person is to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council or a committee without the written permission of the Council.

(2) Sub-clause (1) does not apply if the record is taken by or at the direction of the CEO, with the permission of the Council or committee.

7.6 Presiding Member to be addressed

A member moving a motion or amendment, or taking part in any discussion or any member of the public properly participating in the meeting by way of deputation or public question time shall at all times address the presiding member.

7.7 Prevention of Disturbance

(1) Any member of the public addressing the Council or a committee is to extend due courtesy and respect to the Council or committee and the processes under which they operate and must take direction from the person presiding whenever called upon to do so.

(2) No person observing a meeting, is to create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.

PART 8—CONDUCT OF MEMBERS DURING DEBATE

8.1 Members to rise

Any Council member moving a motion or amendment, or taking part in the discussion thereon, shall address the President and may rise if the member so desires, or shall do so when requested by the President except when presented from so doing by sickness or physical disability.

8.2 Priority

In the event of two or more members of the Council or a committee wishing to speak at the same time, the person presiding is to decide which member is entitled to be heard first. The decision is not open to discussion or dissent.

8.3 The Person Presiding to take part in Debates

Unless otherwise prohibited by the Act, and subject to compliance with procedures for the debate of motions contained in the Standing Orders, the person presiding may take part in a discussion of any matter before the Council or committee as the case may be.

8.4 Relevance

Every member of the Council or a committee is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.

8.5 Limitation of Number of Speeches

At the discretion of the Presiding Member, no member of the Council is to address the Council more than once on any motion or amendment before the Council except the mover of a substantive motion in reply, or to a point of order, or in personal explanation, or through the chair to ask questions concerning and relevant to the subject of the motion or amendment, of other members or officers present.

8.6 Limitation of Duration of Speeches

All addresses are to be limited to a maximum of five minutes. Extension of time is permissible only with the agreement of a simple majority of members present.

8.7 Members Not to Speak after Conclusion of Debate

No member of the Council or a committee is to speak to any question after it has been put by the person presiding.

8.8 Members Not to Interrupt

No member of the Council or a committee is to interrupt another member of the Council or committee whilst speaking unless—

- (1) To raise a point of order;
- (2) To call attention to the absence of a quorum; or
- (3) To make a personal explanation under clause 9.14.

8.9 Re-Opening Discussion on Decisions

No member of the Council or a committee is to re-open discussion on any decision of the Council or committee, except for the purpose of moving that the decision be revoked or changed.

PART 9—PROCEDURES FOR DEBATE OF MOTIONS**9.1 Motions to be Stated**

Any member of the Council or a committee who moves a substantive motion or amendment to a substantive motion is to state the substance of the motion before speaking to it.

9.2 Motions to be Supported

- (1) No motion or amendment to a substantive motion is open to debate until it has been seconded, or, in the case of a motion to revoke or change the decision made at a Council or a committee meeting, unless the motion has the support required under Regulation 10 of the Regulations.
- (2) Subject to Clause 9.12 the seconder cannot subsequently withdraw his or her seconding of the motion.

9.3 Only One Substantive Motion Considered

When a substantive motion is under debate at any meeting of the Council or a committee, no further substantive motion is to be accepted.

9.4 Breaking Down of Complex Questions

The person presiding may order a complex question to be broken down and put in the form of several motions, which are to be put in sequence.

9.5 Order of Call in Debate

The person presiding is to call speakers to a substantive motion in the following order—

- (1) The mover to state the motion;
- (2) A seconder to the motion;
- (3) The mover to speak to the motion;
- (4) Other speakers against and for the motion, alternating in view, if any;
- (5) Mover takes right of reply which closes debate.

9.6 Member may require Questions to be Read

Any member may require the question or matter under discussion to be read at any time during a debate, but not so as to interrupt any other member whilst speaking.

9.7 Consent of Secunder Required to Accept Alteration of Wording

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

9.8 Order of Amendments

Any number of amendments may be proposed to a motion, but when an amendment is moved to a substantive motion, no second or subsequent amendment is to be moved or considered until the first amendment has been withdrawn or lost.

9.9 Amendments Must Not Negate Original Motion

No amendment to a motion can be moved which negates the original motion or the intent of the original motion.

9.10 Substantive Motion

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any member may speak and any further amendment may be moved.

9.11 Withdrawal of Motion and Amendments

The Council or a committee may, without debate, grant leave to withdraw a motion or amendment upon request to the mover of the motion or amendment and with the approval of the seconder provided that there is no voice expressed to the contrary view by any member, in which case discussion on the motion or amendment is to continue.

9.12 Limitation of Withdrawal

Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

9.13 Personal Explanation

No member is to speak at any meeting of the Council or a committee, except upon the matter before the Council or committee, unless it is to make a personal explanation. Any member of the Council or committee who is permitted to speak under these circumstances is to confine the observations to a succinct statement relating to a specific part of the former speech which may have been misunderstood. When a member of the Council or committee rises to explain, no reference is to be made to matters unnecessary for that purpose.

9.14 Personal Explanation-When Heard

A member of the Council or a committee wishing to make a personal explanation of matters referred to by any member of the Council or committee then speaking, is entitled to be heard immediately, if the member of the Council or committee then speaking consents at the time, but if the member of the Council or committee who is speaking declines to give way, the explanation is to be offered at the conclusion of that speech.

9.15 Ruling on Questions of Personal Explanation

The ruling of the person presiding on the admissibility of a personal explanation is final unless a motion of dissent with the ruling is moved before any other business proceeds.

9.16 Right of Reply

(1) The mover of a substantive motion has the right of reply. After the mover of the substantive motion has commenced the reply, no other member is to speak on the question.

(2) The right of reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

9.17 Right of Reply Provisions

The right of reply is governed by the following provisions—

- (1) If no amendment is moved to the substantive motion, the mover may reply at the conclusion of the discussion on the motion;
- (2) If an amendment is moved to the substantive motion, the mover of the substantive motion is to take the right of reply at the conclusion of the vote on any amendment;
- (3) The mover of any amendment does not have a right of reply;
- (4) Once the right of reply has been taken, there can be no further discussion, nor any other amendment and the original motion or the original motion as amended is immediately put to the vote.

PART 10—PROCEDURAL MOTIONS**10.1 Permissible Procedural Motions**

In addition to proposing a properly worded amendment to a substantive motion, it is permissible for a member to move the following procedural motions—

- (1) That the Council (or committee) proceed to the next business;
- (2) That the question be adjourned;
- (3) That the Council (or committee) now adjourn;
- (4) That the question be now put;
- (5) That the ruling of the person presiding be disagreed with;
- (6) That the Council (or committee) meet behind closed doors, if the meeting or part of the meeting to which the motion relates is a matter in respect of which the meeting may be closed to members of the public under section 5.23 of the Act.

10.2 No Debate on Procedural Motions

(1) The mover of a motion stated in each of paragraphs (1), (2), (3), (5) and (6) of clause 10. 1 may speak to the motion for not more than five (5) minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

(2) The mover of a motion stated in paragraph (4) of Clause 10.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

10.3 Procedural Motions-Closing Debate-Who May Move

No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment may move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

10.4 Procedural Motions-Right of Reply on Substantive Motion

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

PART 11—EFFECT OF PROCEDURAL MOTIONS**11.1 Council (or Committee) to Proceed to the Next Business-Effect of Motion**

The motion “that the Council (or committee) proceed to the next business”, if carried, causes the debate to cease immediately and for the Council (or committee) to move to the next business of the meeting. No decision will be made on the substantive motion being discussed, nor is there any requirement for the matter to be again raised for consideration.

11.2 Questions to be Adjourned-Effect of Motion

(1) The motion “that the question be adjourned” if carried, causes all debate on the substantive motion or amendment to cease but to continue at a time stated in the motion.

(2) If the motion is carried at a meeting of the Council—

- (a) The names of members who have spoken on the matter are to be recorded in the minutes; and
- (b) The provisions of clause 8.5 apply when the debate is resumed.

11.3 Council (or Committee) to now Adjourn-Effect of Motion

(1) The motion “that the Council (or committee) now adjourn”, if carried, causes the meeting to stand adjourned until it is re-opened at which time the meeting continues from the point at which it was adjourned, unless the person presiding or a simple majority of members upon vote, determine otherwise.

(2) Where debate on a motion is interrupted by an adjournment under sub-clause (1)—

- (a) The debate is to be resumed at the next meeting at the point where it was so interrupted; and
- (b) In the case of a Council meeting—
 - (i) The names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
 - (ii) The provisions of clause 8.5 apply when the debate is resumed.

11.4 Question to be Put-Effect on Motion

(1) The motion “that the question be now put”, if carried during discussion of a substantive motion without amendment, causes the person presiding to offer the right of reply and then immediately put the matter under consideration without further debate.

(2) This motion, if carried during discussion of an amendment, causes the person presiding to put the amendment to the vote without further debate.

(3) This motion, if lost, causes debate to continue.

11.5 Ruling of the Person Presiding Disagreed With-Effect of Motion

The motion “that the ruling of the person presiding be disagreed with”, if carried, causes the ruling of the person presiding about which this motion was moved, to have no effect and for the meeting to proceed accordingly.

11.6 Council (or Committee) to Meet Behind Closed Doors-Effect of Motion

(1) Subject to any deferral under clause 3.7 or other decision of the Council or committee, this motion, if carried, causes the general public and any officer the Council or committee determines, to leave the room.

(2) While a decision made under this clause is in force the operation of clause 8.5 limiting the number of speeches a member of the Council may make, is suspended unless the Council decides otherwise.

(3) Upon the public again being admitted to the meeting the person presiding, unless the Council or committee decides otherwise, is to cause the resolutions of the Council or committee whilst it was proceeding behind closed doors to be read out including the vote of a member or members to be recorded in the minutes under section 5.21 of the Act.

(4) A person who is a Council member, a committee member, or an officer is not to publish, or make public any of the discussion taking place on a matter discussed behind closed doors, but this prohibition does not extend to the actual decision made as a result of such discussion and other information properly recorded in the minutes.

PART 12—PRESERVING ORDER**12.1 The Person Presiding to Preserve Order**

The person presiding is to preserve order, and may call any member or other person in attendance to order, whenever, in his or her opinion, there is cause for so doing.

12.2 Admission and Removal of the Public

Members of the public are admitted to Council and committee meetings upon the understanding that no expression of dissent or approval, conversation or interruption to the proceedings shall take place. In the event of any such interruption, the presiding officer may exercise his or her discretion and require those interrupting to withdraw. The presiding officer's ruling in this regard is final and cannot be challenged by moving dissent with the ruling or otherwise. Any person who does not withdraw when called upon by the presiding officer to do so may by order of the presiding officer be removed from the room.

12.3 Demand for Withdrawal

A member at a meeting of the Council or a committee may be required by the person presiding, or by a decision of the Council or committee, to apologise and unreservedly withdraw any expression which is considered to reflect offensively on another member or an officer, and if the member declines or neglects to do so, the person presiding may refuse to hear the member further upon the matter then under discussion and call upon the next speaker.

12.4 Points of Order-When to Raise-Procedure

Upon a matter of order arising during the progress of a debate, any member may raise a point of order including interrupting the speaker. Any member of the Council or Committee who is speaking when a point of order is raised, is to immediately stop speaking and be seated while the person presiding listens to the point of order.

12.5 Points Of Order-When Valid

Expressing a difference of opinion or the contradiction of a speaker shall not be recognised as raising a point of order.

The following are to be recognised as valid points of order—

- (1) That the discussion is of a matter not before the Council or committee;
- (2) That offensive or insulting language is being used;
- (3) Drawing attention to the violation of any written law, or policy of the Shire, provided that the member making the point of order identifies the written law or policy believed to be breached; and
- (4) That insinuations have been made as to the character, morality, honesty or motives of a member or an officer.

12.6 Points of Order-Ruling

The person presiding is to give a decision on any point of order which is raised by either upholding or rejecting the point of order.

12.7 Points of Order-Ruling Conclusive, Unless Dissent Motion is Moved

The ruling of the person presiding upon any question of order is final, unless a majority of the members support a motion of dissent with the ruling.

12.8 Points of Order Take Precedence

Notwithstanding anything contained in the Standing Orders to the contrary, all points of order take precedence over any other discussion and until decided, suspend the consideration and decision of every other matter.

12.9 Precedence of Person Presiding

(1) When the person presiding rises during the progress of a debate, any member of the Council or committee then speaking, or offering to speak, is to immediately sit down and every member of the Council or committee present shall preserve strict silence so that the person presiding may be heard without interruption.

(2) Sub-clause (1) is not to be used by the person presiding to exercise the right provided in clause 8.3, but to preserve order.

12.10 Right of the Person Presiding to Adjourn Without Explanation to Regain Order

(1) If a meeting ceases to operate in an orderly manner, the person presiding may use discretion to adjourn the meeting for a period of up to fifteen (15) minutes without explanation, for the purpose of regaining order. Upon resumption, debate is to continue at the point at which the meeting was adjourned. If, at any one meeting, the person presiding has cause to further adjourn the meeting, such adjournment may be to a later time on the same day or to any other day.

(2) Where debate of a motion is interrupted by an adjournment under sub-clause (1), in the case of a Council meeting—

- (a) The names of members who have spoken in the matter prior to the adjournment are to be recorded; and
- (b) The provisions of clause 8.5 apply when the debate is resumed.

PART 13—ADJOURNMENT OF MEETING**13.1 Meeting may be Adjourned**

The Council or a committee may decide to adjourn any meeting to a later time on the same day, or to any other day.

13.2 Limit to Moving Adjournment

No member is to move or second more than one motion of adjournment during the same sitting of the Council or committee.

13.3 Withdrawal of Motion for Adjournment

A motion or an amendment relating to the adjournment of the Council or a committee may be withdrawn by the mover, with the consent of the seconder, except that if any member objects to the withdrawal, debate of the motion is to continue.

13.4 Time to which Adjourned

The time to which a meeting is adjourned for want of a quorum, by the person presiding to regain order, or by decision of the Council, may be to a specified hour on a particular day or to a time which coincides with the conclusion of another meeting or event on a particular day.

PART 14—COMMITTEES OF THE COUNCIL**14.1 Establishment and Appointment of Committees**

A committee is not to be established except on a motion setting out the proposed functions of the committee and either—

- (1) The names of the Council members, employees and other persons to be appointed to the committee; or
- (2) The number of Council members, employees and other persons to be appointed to the committee and a provision that they be appointed by a separate motion.

14.2 Appointment of Deputy Committee Members

(1) The Council may appoint one or more persons to be the deputy or deputies of a Committee, as the case may be, to act on behalf of a member of a committee whenever that member is unable to be present at a meeting thereof and where two or more deputies are so appointed they are to have seniority in the order determined by the Council.

(2) Where a member of a committee does not attend a meeting thereof a deputy of that member, selected according to seniority, is entitled to attend that meeting in place of the member and act for the member, and while so acting has all the powers of that member the committee member is to take precedence.

14.3 Reports of Committees—Questions

When a recommendation of any committee is submitted for adoption by the Council, any member of the Council may direct questions directly relating to the recommendation through the person presiding to the presiding member or to any member of the committee in attendance.

14.4 Permissible Motions on Recommendation from Committee

A recommendation made by or contained in the minutes of a committee may be adopted by the Council without amendment or modification, failing which, it may be—

- (1) Rejected by the Council and replaced by an alternative decision; or
- (2) Amended or modified and adopted with such amendment or modification; or
- (3) Referred back to the committee for further consideration.

14.5 Standing Orders Apply to Committees

Where not otherwise specifically provided, the Standing Orders apply generally to the proceedings of committees, except that the following Standing Orders do not apply to the meeting of a committee—

- (1) Clause 7.2, in regard to seating;
- (2) Clause 8.1, in respect of the requirement to rise;
- (3) Clause 8.5, limitation of number of speeches.

PART 15—GENERAL ADMINISTRATION MATTERS**15.1 Suspension of Standing Orders**

(1) The Council or a committee may decide, by simple majority vote, to suspend temporarily one or more of the Standing Orders.

(2) The mover of a motion to suspend temporarily any one or more of the Standing Orders shall either—

- (a) State the specific clause or clauses of the Standing Orders to be suspended; or
- (b) State clearly and concisely the reason for or purpose of the proposed suspension in a motion prefaced by the words “I move that such of the Standing Orders be suspended as will allow...”.

Only the operation of the clauses so nominated or otherwise affected by any resolution to suspend the Standing Orders shall be suspended.

15.2 Code of Conduct

Any Code of Conduct adopted by the Council for the time being in regard to the conduct of members of the Council shall have the same effect as if incorporated as provisions of the Standing Orders and any breach thereof shall have the same consequences as to penalty and otherwise as a breach of the Standing Orders.

15.3 Cases Not Provided for in the Standing Orders

In cases of procedure where the Standing Orders and the Act are silent, the presiding officer shall decide all other questions of order, procedure, debate or otherwise.

15.4 Penalty for Breach of Standing Orders

Any persons found guilty of any breach of the Standing Orders or any of the provisions hereof by a Court of Competent Jurisdiction shall be liable to a penalty upon conviction not exceeding one thousand dollars (\$1,000.00).

15.5 Duty of CEO in relation to Breach of the Standing Orders

It is the duty and responsibility of the CEO to draw the attention of the Council or any committee as the case may be to any possible or apparent breach of the Standing Orders.

15.6 Enforcement

The provisions of the Standing Orders shall be enforced by the presiding member of any Council or committee but only following the specific direction of the Council or committee by resolution by a simple majority.

Dated this 22nd August 2000.

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

K. M. FORBES, President.
C. G. JACKSON, Chief Executive Officer.

DOG ACT 1976

SHIRE OF PLANTAGENET

LOCAL LAW RELATING TO DOGS**PART 1—PRELIMINARY**

Section

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2. Commencement
3. Interpretation

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4. Pound
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PART 3—DOGS IN PUBLIC PLACES GENERALLY

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PART 6—OFFENCES AND PENALTIES

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DOG ACT 1976

SHIRE OF PLANTAGENET

LOCAL LAW RELATING TO DOGS

Under the powers conferred upon it by the abovementioned Act and the Local Government Act 1995, and of all other powers enabling it, the Shire of Plantagenet hereby records having resolved on twenty second day of February 2000 to make the following local laws.

PART 1—PRELIMINARY**Citation**

1. This local law may be cited as the "Shire of Plantagenet Local Law relating to Dogs"

Commencement

2. This local law comes into operation 14 days after the date of publication in the *Government Gazette*.

Interpretation

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

"Act" means the Dog Act 1976;

"authorised person" means a person who is authorised under Section 29 of the Act;

"Chief Executive Officer" means the person for the time being employed as the Chief Executive Officer of the Shire of Plantagenet. Such person shall, subject to Council resolution exercise general supervision and control over all matters pertaining to this local law and the direction of such person shall in all cases and for all purposes be presumed to be and to have been the directions of the Council;

"Council" means the Council of the Shire of Plantagenet;

"district" means the district of the Shire of Plantagenet;

"Local Government" means the Shire of Plantagenet;

"public place" includes a street, way and place which the public are allowed to use whether the street, way or place is or is not on private property. It also includes parklands, reserves and other land set apart for the use and enjoyment of inhabitants of the district and includes all land vested in or under the care, control or management of the Shire of Plantagenet;

"Regulation" means the Dog Regulations, 1976;

"street" includes highway, road, lane, thoroughfare, carriageway or similar place, or part thereof, which is within the district, which the public are allowed to use and includes every part of the highway, lane, thoroughfare, or similar place and other things including the street verge, footpath, bridges and culverts appurtenant to it.

(2) Words and expressions used in this local law have the same meanings respectively given to them in and for the purpose of the Act unless the context otherwise requires or unless it is so otherwise provided herein.

PART 2—IMPOUNDING OF DOGS**Pound**

4. (1) The local government may establish and maintain a pound for the impounding of dogs seized pursuant to the provisions of the Act or these local law as it deems necessary.

(2) The Pound maintained by the local government for the detention of dogs seized shall be attended by an Authorised Person at such times and on such days as determined by the Chief Executive Officer.

Impounding Dogs

5. (1) A dog seized by the Police or by a person authorised by the local government may be placed in a pound.

(2) In the absence of the pound-keeper, a claim for a dog seized or impounded may be made to the Chief Executive Officer or an authorised employee.

Pound Fees

6. (1) The fees and charges in relation to the seizure and impounding of a dog and maintenance thereof in a pound payable under section 29(4) of the Act are those determined by the local government from time to time.

(2) The fee payable by the owner of a dog which has been destroyed pursuant to the provisions of the Act is that determined by the from time to time.

(3) A person liable for the control of a dog, as defined in Section 3(1) of the Act, is not excused from liability under the provisions of the Act, Regulations or these Local Laws by virtue of the payment of fees or charges determined by the local government from time to time for the seizure, care, detention or destruction of a dog.

(4) Any person applying for the release of a dog seized or impounded shall prove to the satisfaction of an authorised person the ownership of a dog and his authority to take delivery of it. An Authorised Person may accept such proof as he considers satisfactory and no person shall have any right of action against him or the local government in respect of delivery of a dog in good faith.

PART 3—DOGS IN PUBLIC PLACES GENERALLY

Prohibited Places

7. (1) A person liable for the control of a dog, as defined in Section 3(1) of the Act, is to prevent that dog from entering or being in any place or part of the district as set out in the Second Schedule.

(2) Subclause (1) does not apply to a person with a vision impairment or who is a trainer accompanied by a bona fide guide dog.

Dog Exercise Area

8. A person liable for the control of a dog as defined in Section 3(1) of the Act, may exercise the dog free of restraints only on land specified in the Third Schedule.

Fouling of Streets and Public Places and Reserves

9. Any person liable for the control of a dog who permits that dog to excrete on any street or other public place or on any other land within the local government without the consent of the occupier of that land commits an offence unless the excreta is removed forthwith and disposed of either on private land with the written consent of the occupier or in such other manner as the local government may approve.

PART 4—REQUIREMENT AND LIMITATIONS ON THE KEEPING OF DOGS

Fencing Requirements

10. The owner or occupier of premises within the district on which a dog is kept shall—

- (a) Cause the premises or portion of the premises thereof on which a dog is kept, to be fenced in a manner capable of confining the dog;
- (b) Ensure the fence used to confine a dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog, shall be capable of preventing the dog at all times from passing over, under or through it;
- (c) Ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises and is fitted with—
 - (i) an effective self closing mechanism;
 - (ii) an effective self latching mechanism attached to the inside of the gate; and
 - (iii) a mechanism which enables the gate to be locked and fastened;
- (d) Maintain the fence and all gates and doors in good order and condition;
- (e) Where no part of the premises consists of open space, yard or garden or there is no open space, yard or garden of which the occupier has exclusive use or occupation, ensure that other means exist on the premises for effectively confining the dog within the building on the premises. This does **not** include tethering the dog within the premises.

Maximum Number of Dogs

11. (1) A person shall not keep or permit to be kept on any premises more than—

- (a) Two dogs over the age of three months and the young of those dogs under that age;
- (b) Four dogs over the age of three months and the young of those dogs under that age if the premises are situated outside the town site or comprise a lot in a special rural area having an area of 4 hectares or more.

(2) Unless the premises are licensed as an approved kennel establishment or have been granted exemption pursuant to Section 26(3) of the Dog Act and have planning approval under the town planning scheme.

PART 5—REGULATION OF DOG KENNELS

Approved Kennel Establishment Licence

12. A person shall not keep a kennel establishment without having first obtained a licence under this local law and a planning approval under the town planning scheme.

Notice of Application for Kennel Establishment Licence

13. An applicant for a licence to keep an approved kennel establishment shall—

- (a) publish in a newspaper circulating in the district a notice of his intention to submit an application for a licence, being that of Form 1 of the Fourth Schedule, specifying that any interested person may within 21 days after the date of such publication object to or make representations in respect of the application in writing directly to the local government; and

- (b) forward a notice, being that of Form 1 of the Fourth Schedule to the owners and occupiers of all adjoining land and premises upon which it is proposed to establish the kennel.

Application for Kennel Establishment Licence

14. An application for a licence to keep an approved kennel establishment shall be on Form 2 of the Fifth Schedule and shall be accompanied by—

- (a) evidence that notice of the proposed use of the land has been given in accordance with clause 13;
- (b) a plan showing the details and specifications of all kennels and adjacent yards and the distances from the kennels to the boundaries of the land the subject of the application and all buildings on the land together with such information as the local government may require; and
- (c) prescribed fee.

Determination of Application

15. (1) The local government may refuse an application for a licence—

- (a) that does not comply with the requirements of clause 14;
- (b) for which the processes required by clause 13 have not been completed;
- (c) after considering any submissions or representations received within the specified period in accordance with clause 13 (a);
- (d) where planning approval for use of the land as an approved dog kennel establishment has not first been obtained under any relevant town planning scheme.

(2) The local government may, in respect of an application for a licence—

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

Duties of Licence Holder

16. The holder of a licence to keep an approved kennel establishment shall—

- (a) maintain the establishment in a clean, sanitary and tidy condition;
- (b) dispose of all refuse, faeces and food waste daily in a manner approved by the local government; and
- (c) take all practical measures for the destruction of fleas, flies and other vermin.

Limit on Number and Breed of Dogs

17. A person who conducts an approved kennel establishment shall not keep or permit to be kept thereon more than the number of dogs specified in the licence or dogs of a breed different to the breed or breeds (if any) specified in the licence without the written approval of the local government.

Kennel Establishment Requirements

18. Dogs in an approved kennel establishment shall be kept in kennels and yards appropriate to the breed or kind in question, be sufficiently secured, sited and maintained to a standard not less than the following—

- (a) each kennel shall have an adjacent yard;
- (b) each kennel and each yard and every part thereof shall be at a distance of not less than 15m from the boundaries of the land in the occupation of the occupier;
- (c) each kennel and each yard and every part thereof shall be at a distance of not less than 24 metres from the front road or street;
- (d) each kennel and each yard and every part thereof shall be at a distance of not less than 10 metres from any dwelling house;
- (e) each yard shall be secured with a fence not less than 1.8 metres in height;
- (f) the upper surface of the floor of each kennel shall be set at least 100mm above the surface of the surrounding ground and shall be constructed of granolithic cement finished to a smooth surface and shall have a fall of not less than 1 in 100. The entire yard shall be surrounded by a drain which shall be properly laid, ventilated and trapped. All floor washings shall pass through this drain and shall be disposed of in accordance with the health requirement;
- (g) Where a yard is to be floored, the floor is to be constructed in the same manner as the floor of any kennel;
- (h) For each dog therein every kennel shall have not less than 1.8m² of floor space and every yard not less than 2.5m²;
- (i) All kennels and yards and all feeding and drinking vessels shall be maintained in a clean condition and cleaned and disinfected when so ordered by a person authorised by the local government;
- (j) Each yard for any kennel is to be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the Council;
- (k) External gates and doors for each yard or kennel are to be fitted with effective self-closing and latching mechanisms;
- (l) All external surfaces of each kennel are to be kept in good condition and if directed by an authorised employee of the Council, are to be painted or re-painted with good quality paint;
- (m) The holder of a licence to keep an approved kennel establishment is to dispose of or cause the disposal of all refuse, faeces and food waste daily into approved apparatuses for the bacteriolytic treatment of sewerage.

Licence and Fees

19. (1) A licence to keep an approved kennel establishment shall be that of Form 3 in the Sixth Schedule and fees payable to the local government on the issue and renewal of such licences shall be as approved by the local government.

(2) An approved kennel licence shall remain valid for a period of twelve (12) months from the date of issue thereof.

(3) The approved kennel establishment is solely registered and licensed to the owners or occupier of the land as specified in the approved application for the kennel establishment licence and is deemed null and void in the event of a change in the owner or occupier of the land on which the kennel establishment is located.

(4) The local government may refuse to renew a kennel licence if the licensee does not comply with, or the kennel establishment is not kept in accordance with part 18, or for any reason relating to the conduct of the kennel resulting in the kennel being a nuisance to neighbours by reason of noise, odours or any other cause.

PART 6—OFFENCES AND PENALTIES**Offences**

20. (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 shall be liable, upon conviction, to a penalty not exceeding \$2000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$200 for each day or part of a day during which the offence has continued.

Penalties

21. (1) The offences described in the First Schedule are prescribed pursuant to Section 45A(2) of the Act as offences in relation to which a modified penalty applies and the amount appearing directly opposite each such offence is the prescribed modified penalty payable in respect of that offence.

(2) Where any Authorised person has reason to believe that a person has committed an offence against this Local law as prescribed in the First Schedule, an Infringement Notice may be served on that person. The Infringement Notice issued under these Local Laws shall be depicted in Form 7 of the Seventh Schedule.

(3) An infringement notice may be served on an alleged offender personally or by posting it to his address as ascertained at the time or immediately following the offence, or as recorded by Council pursuant to the Act.

(4) Where a person who received an Infringement Notice fails to pay the prescribed penalty within the time specified in the notice, or within such time as may in any particular case be allowed, he is deemed to have declined to have the alleged offence dealt with by way of a modified penalty.

(5) An alleged offender on whom an Infringement Notice has been served may, within the time specified in that notice or such further time as may in any particular case be allowed, send or deliver to the Council the amount of the prescribed penalty, with or without a reply as to the circumstances giving rise to the allegation, and the Council may thereupon—

- (a) appropriate the amount in satisfaction of the penalty and issue an acknowledgment; or
- (b) withdraw the Infringement Notice and refund the amount so paid.

(6) An Infringement Notice may, whether or not the prescribed penalty has been paid, be withdrawn by the Council by sending a notice in the prescribed form to alleged offender at the address specified in the notice or the offenders last known place of residence or business.

(7) The prescribed form of Withdrawal of Infringement Notice issued under this Local Law shall be in the form in Form 8 of the Eighth Schedule.

LOCAL LAWS RELATING TO DOGS***First Schedule*****OFFENCES AND MODIFIED PENALTIES**

Local Law	Nature of Offence	Modified Penalty
7	Permitting a dog to enter or be in or on a prohibited place	\$50
9	Failing to remove the excreta of a dog from any thoroughfare which has been constructed or other public place or any other land	\$50
10	Failing to provide means for effectively confining the dog	\$50
16(a)	Failing to maintain a kennel establishment in a clean, sanitary and tidy condition	\$50
16(b)	Failing to dispose of all refuse, faeces and food waste from a kennel establishment daily in an approved manner	\$50
16(c)	Failing to take all practical measures from the destruction of fleas, flies and vermin	\$50

Second Schedule

Prohibited Places

The places or parts of the district described below are designated as prohibited areas for the purpose of Clause 7 of this local law—

- A public building
- A shopping centre
- A shop or other public business premises, not being where dogs are sold or treated for illness or injury
- A place of worship

Third Schedule

Places which are Dog Exercise areas

The reserves/areas described below are designated as Dog Exercise Areas for the purpose of Clause 3.2 of this local law—

- Townsite of Mount Barker
Reserve 1790 Recreation and Agricultural Showgrounds, McDonald Avenue
- Townsite of Kendenup
Lot 15 & 16 Chauvel Rd, Kendenup Community Grounds
- Townsite of Narrikup
Reserve 17849 Recreation and Showgrounds, Albany Highway
- Rocky Gully Townsite
Reserve 25271 Recreation, Lot 129 Muir Highway

Both exercise areas can be used at all times except where the public place is used for a function, sports training or recreational activity

Fourth Schedule

Form 1

Dog Act 1976
SHIRE OF PLANTAGENET
 Local Law Relating to Dogs 1999
NOTICE OF INTENTION TO MAKE APPLICATION

To Owners and Occupiers of

In accordance with Clause of the Shire of Plantagenet Local Law Relating to Dogs 1999, I advise my intention to make application to the Shire for an Approved Kennel Establishment Licence.

The issue of an Approved Kennel Establishment Licence is subject to compliance with the provisions of the abovementioned local law.

The land subject of this application is—

.....

.....

(insert address of proposed Kennel Establishment)

Please not any interested person may within 21 days of the date of this advice object to or make representations in respect of the application in writing directly to the—

Chief Executive Officer
 Shire of Plantagenet

.....

Name and Signature of Applicant Date

Fifth Schedule

Form 2

Dog Act 1976
SHIRE OF PLANTAGENET
 Local Law Relating to Dogs 1999
APPLICATION FOR LICENCE OR RENEWAL OF LICENCE TO KEEP APPROVED KENNEL ESTABLISHMENT

PURSUANT to the Dog Act 1976, and the local laws of the Shire of Plantagenet—

I/We (full name)

of

hereby apply for a licence/the renewal of a licence (strike out whichever is not applicable) to keep an approved kennel establishment at—

.....

Attached hereto are—

- (a) a plan of the premises showing the location of the kennels and yards and all other buildings, structures and fences;
- (b) plans and specifications of the kennels;
- (c) evidence that due notice of the proposed use of the premises has been given to persons in the locality;
- (d) particulars of the number and breed of dogs to be kept in the kennels;
- (e) a remittance for the fee of \$

Dated the Day of 20.....

Signature of Applicant.....

Note: Items (a), (b), (c) and (d) may be struck out if the application is for the renewal of a licence and if no change has been made since the previous application.

Sixth Schedule

Form 3

Dog Act 1976

SHIRE OF PLANTAGENET

Local Law Relating to Dogs 1999

LICENCE TO KEEP AN APPROVED KENNEL ESTABLISHMENT

..... is/are the holder(s) of a licence to keep an approved kennel establishment at for dogs of breed (s).

This licence has effect for a period of 12 months from the date hereof.

Dated the day of 20.....

.....
Chief Executive Officer

Seventh Schedule

Form 7

Western Australia

Dog Act 1976

INFRINGEMENT NOTICE

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

(1) Local Government.

To:(2)

It is alleged that at (3)

On the day of

You committed an offence in that you(4)

.....
(to be signed by an authorised person)

You may dispose of this matter—

(a) by payment of a penalty of \$(5) within 28 days of the date of this Notice to (6); or

(b) by having it dealt with by a court.

If this modified penalty is not paid within the time specified, court proceedings may be taken against you.

- Insert—
- (1) Insert name of local government
 - (2) Insert name and address of alleged offender
 - (3) Insert place of alleged offence
 - (4) Insert short particulars of the offence alleged
 - (5) Insert amount of penalty prescribed
 - (6) Insert address of the office where payment may be made

Eighth Schedule

Form 8

Western Australia
Dog Act 1976

WITHDRAWAL OF INFRINGEMENT NOTICE

No

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

(1) Local Government.

To:(2)

Infringement Notice No. (3) Dated/...../.....

Penalty (4) \$ is hereby withdrawn.

*No further action will be taken

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

.....
(to be signed by an authorised person)

- 1 Insert name of Local Government
 - 2 Insert name and address of alleged offender
 - 3 Insert short particulars of offence alleged
 - 4 Insert amount of penalty prescribed.
- Delete whichever does not apply

Dated this twenty second day of February 2000.

The Common Seal of the Shire of Plantagenet is hereunto affixed be authority of a resolution of the Council in the presence of—

KEVIN M. FORBES, President.
CHRIS J. JACKSON, Chief Executive Officer.

