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LOCAL GOVERNMENT ACT 1995

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**CITY OF COCKBURN**

**(LOCAL GOVERNMENT ACT)  
LOCAL LAWS 2000**



**LOCAL GOVERNMENT ACT 1995**

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**(LOCAL GOVERNMENT ACT) LOCAL LAWS 2000**

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**LOCAL GOVERNMENT ACT 1995**

## CITY OF COCKBURN

**(LOCAL GOVERNMENT ACT) LOCAL LAWS 2000**

In pursuance of the powers conferred upon it by the Local Government Act 1995, and the Dog Act 1976 and all other powers enabling it the Council of the abovementioned Local Government hereby records having resolved on the 15 August 2000 to make the following Local Law.

**PRELIMINARY****Short Title**

1.1. These local laws may be cited as the *City of Cockburn (Local Government Act) Local Laws 2000*.

**Commencement**

1.2. These local laws come into operation on the fourteenth day after the day on which they are published in the *Government Gazette*.

**Application**

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

**Content and Intention**

1.4. The purpose and effect of these local laws is within the district to:

- (a) provide for the regulation, control and management of the keeping of animals, bees, birds and poultry; reserves and beaches; buildings; dangerous and offensive things; traders; management and control of Council property; signs; streets and public places; traffic and vehicles; and activities causing damage to Council and other property;
- (b) to establish where appropriate standards and requirements in regard to the matters referred to in (a); and
- (c) provide for enforcement.

**Repeal**

1.5. The following By-laws of the City of Cockburn are repealed on the day these local laws come into operation:

- (a) The City of Cockburn (Local Government Act) By-laws published in the *Government Gazette* on 14 October 1994, including all subsequent amendments; and
- (b) By-law Relating to Dogs published in the *Government Gazette* on 21 March 1986, including all subsequent amendments.

**Interpretation**

1.6. (1) In these local laws, unless the context otherwise requires:

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

“**applicant**” means a person who has lodged an application for an approval, certificate or licence required for any activity or thing by these local laws;

“**application**” means the completed form lodged by an applicant as required by these local laws;

“**approved fee**” means the fees and charges determined by Council from time to time, for putting into effect the provisions of these local laws;

“**authorised person**” means a person appointed by the Council under section 9.10 (1) of the Act to enforce these local laws;

“**authorised in writing**” includes authority pursuant to a valid tip pass issued by the City;

“**building**” includes any hall, room, corridor, or stairway, or an annexe of any hall or room, in all cases under the care control or management of the Council;

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

“**cattle**” shall have the meaning given to it by the Local Government (Miscellaneous Provisions Act) 1960;

“**CEO**” means the Chief Executive Officer of the City and includes, in the absence of the Chief Executive Officer, the Acting Chief Executive Officer;

“**City**” means the City of Cockburn;

“**commercial vehicle**” means a vehicle whether licensed or not which is used or designed for use for business, trade or commercial purposes or in conjunction with a business, trade or profession and without limiting the generality of the foregoing includes any utility, van, truck, trailer, tractor and any attachment to any of them or any article designed to be an attachment to any of them, or any omnibus or any earthmoving machine whether self propelled or not. The term shall not include a vehicle designed for use as a passenger car or any trailer or other thing most commonly used as an attachment to a passenger car, or a van, utility or light truck which is rated by the manufacturer as being suitable to carry loads of not more than 1.5 tonnes. If a truck, prime-mover or other vehicle is attached to a trailer, semi-trailer or any other attachment, each trailer, semi-trailer or other attachment is to be regarded as a separate commercial vehicle;

“**Council**” means the council of the City of Cockburn;

“**district**” means the district of the City of Cockburn;

“**dust**” means and includes any earth or other matter in fine or coarse dry particles, or any finely powdered substance;

“**hiring fee or hire fee**” means the fee charged for any hiring determined by Council from time to time;

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

“**licensee**” means a person to whom a licence is granted under these local laws;

“**litter**” includes:

- (a) all kinds of rubbish, refuse, junk, garbage or scrap; and
- (b) any article or material abandoned or unwanted by the owner or person last in possession thereof;

“**lot**” means a defined portion of land for which a separate certificate of title has been or may be issued and includes a strata lot survey strata lot;

“**material**” means the substance of which things are composed and includes organic and inorganic matter;

“**member of the Police Service**” means a member of the Police Service of Western Australia;

“**nuisance**” means:

- (a) any activity, thing, condition, circumstance or state of affairs caused or contributed to by one person which is injurious or dangerous to the health of another person of normal susceptibility, or which has a disturbing effect on the state of reasonable physical, mental or social well-being of another person;
- (b) any thing a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place; and
- (c) any thing a person does on public or private land which unreasonably detracts from or interferes with the enjoyment or value of land owned by another person, provided that any thing done in accordance with the law or a legal right or which is consistent with the standard of behaviour in the relevant locality shall not be unreasonable for the purpose of this provision;

“**occupier**” includes any person who at the time a notice is served is in control of any place or part of any place or is authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to a place, to perform any work in relation to any place, and without limiting the generality of the foregoing and for the avoidance of doubt includes a builder or contractor carrying out work on the place or part of the place in respect of which the notice is served;

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

“**parking region**” means the whole of the district of the City of Cockburn but excludes roads under the control of the Commissioner of Main Roads;

“**person**” includes a public body, company or association or body of persons corporate or unincorporate;

“**pound**” means a building or yard established by Council or authorised person for the purpose of impounding dogs, animals or vehicles for the purpose of these local laws;

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

“**road**” has the same meaning as the term “street”;

“**reserve**” means any public parkland or recreation area, public square, street, beach or other land set apart for the use of the inhabitants of the district, which is vested in or under the care, control or management of the city;

“**residential area**” means any portion of the district that is zoned, set apart or otherwise identified for residential use in the town planning scheme;

“**rural area**” means any portion of the district that is zoned, set apart or otherwise identified for rural use in the town planning scheme;

“**sand**” means any granular material consisting of small eroded fragments of rocks finer than gravel whether or not forming part of a beach, desert or bed of any river and includes dust and organic matter;

“**special rural area**” means any portion of the district that is zoned, set apart or otherwise identified for special rural use in the town planning scheme;

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

“**street**” means any highway, thoroughfare, lane or other place whatsoever whether dedicated or not ordinarily used by the public for vehicular or pedestrian traffic, and includes all the land lying between the street alignments, including the street verge and footpath;

“**street alignment**” means the boundary between the land comprising a street and the land that abuts thereon, but where a new street alignment is prescribed under the Local Government (Miscellaneous Provisions) Act 1960, means the new street alignment so prescribed;

“**street verge**” means every part of a street other than the carriageway thereof;

“**town planning scheme**” means the City of Cockburn Town Planning Scheme No. 2 District Zoning Scheme published in the *Government Gazette* 14 February 1992 and amendments thereto;

“**vehicle**” includes:

- (a) every conveyance (excluding wheelchairs), not being a train, vessel or aircraft, and every object capable of being propelled or drawn, on wheels or tracks, by any means;
- (b) a shopping trolley; and
- (c) where the context permits an animal ridden or driven.

(2) In these local laws reference to the Council having a power to do something in its discretion or a reference to the Council forming an opinion prior to the doing of anything shall be deemed to include reference to an authorised person or committee to whom Council has delegated the power or the doing of the thing exercising such discretion or forming such opinion.

(3) Where in these local laws a duty or liability is imposed on an owner or occupier of land, the duty or liability is imposed jointly and severally on each owner or occupier where there are more than one.

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

## PART II—ANIMALS

### *Division 1—Preliminary*

#### Interpretation

2.1. In this Part, unless the context otherwise requires:

“**beehive**” means a moveable or fixed structure, container or object in which a colony of bees is kept;

“**cattery**” means any premises where four or more cats are kept, boarded, trained or bred;

“**certificate of registration**” means a certificate of registration to keep pigeons issued pursuant to these local laws;

“**Code of Practice**” means the Code of Practice—Pigeon Keeping and Pigeon Racing, International Standard Book Number (ISBN 0 958 6677 0 5), Part 1 (ISBN 0 958 6677 2 1), Part 2 (ISBN 0 958 6677 1 3) published May 1994 as amended from time to time and approved by the Pigeon Racing Federation of WA (Incorporated) and the Independent Racing Pigeon Federation Inc;

“**cow**” includes a calf, bullock or bull;

“**Dog Act**” means the Dog Act 1976;

“**environmental health officer**” means an environmental health officer appointed under the Health Act 1911;

“**food premises**” means a premises where food is stored, kept, prepared, manufactured, processed, cooked or served or otherwise dealt with for subsequent sale to the public either directly or indirectly;

“**grouped dwelling**” has the same meaning as is given to the term in the Residential Planning Codes;

“**horse**” means a stallion, mare, gelding, shetland pony, pony, colt or foal and includes an ass, mule, donkey and any beast of whatever description used for burden or draught or for carrying persons;

“**large animal**” includes a sheep, cow, goat, horse (excluding a miniature horse), deer, alpaca, pig (excluding a miniature pig) or any other animal so classified by Council;

“**livestock**” means any horse, cow, sheep, goat, swine, buffalo, deer, camel, llama or alpaca;

“**manure bin**” means a receptacle constructed of smooth, impervious material and in such a manner as to be easily cleaned, which has a tight fitting lid or cover to prevent the release of odours and prevent the entry of flies;

“**miniature horse**” means a horse that does not exceed 870 millimetres in height as an adult and is classified as a miniature by the Miniature Horse Association of Australia;

“**miniature pig**” means a pig that does not exceed 650 millimetres in height as an adult and weighs between 45—55 kilograms;

“**multiple dwelling**” has the same meaning as is given to the term in the Residential Planning Codes;

- “**pigeon**” includes homing pigeon and racing pigeon and dove;
- “**poultry**” means any domestic fowl or chicken, bantam, duck, goose, guinea fowl, pheasant, turkey, peahen or peacock;
- “**stable**” means any building in which a horse is stabled or kept and includes any shed, loose-box, stall or shelter used for the keeping, stabling, feeding, watering, grooming, sheltering, shoeing, or veterinary treatment of a horse;
- “**stabelhand room**” means a room or rooms used for occasional overnight occupation to facilitate husbandry to pregnant or sick animals;
- “**stable premises**” includes any paddock or yard used in conjunction with any stable and includes all areas where horses are contained by fences or rails;
- “**young bird**” means any pigeon under 24 days of age and, unless the contrary can be shown, a pigeon shall be deemed under this Part to be a young bird if it is without feathers on the flesh under the wings.

*Division 2—General*

**Establishment of Pound**

2.2. Council may establish and maintain a pound or pounds for the impounding of dogs and/or other animals involved in a contravention of these local laws.

*Division 3—Dogs*

**Impounding of Dogs**

2.3. Where an authorised person or a member of the Police Service seizes a dog it may be placed in the pound.

**Pound Fees**

2.4. 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 Dog Act are those approved by Council from time to time.

**Dog Exercise Areas**

2.5. Notwithstanding the provisions of section 2.6 (3) the land specified in Schedule 1 is designated as Dog Exercise Areas for the purpose of the Dog Act.

**Restricted Areas**

2.6. (1) A person liable for the control of a dog shall prevent that dog from entering or being in any of the following places:

- (a) a public building;
- (b) a house of worship;
- (c) a shop or business premises, with the exception of a shop or business premises where dogs are sold; and
- (d) Reserve 24306 known as Coogee Beach.

(2) Subsection (1) does not apply to a person with vision impairment or who is a trainer accompanied by a bona fide guide dog or to a dog falling within any of the exempt, in section 31 (2) of the Dog Act.

(3) The person liable for the control of a dog shall prevent that dog from entering or being in any of the following places unless on a leash held by a person:

- (a) a sports ground;
- (b) land set aside for public recreation;
- (c) a car park; and
- (d) land vested in or under the control of Council.

**Fouling Streets and Public Places**

2.7. Any person liable for the control of a dog who permits that dog to excrete on any street or public place or on any land within the district 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 Council approves.

**Fencing Requirements**

2.8. The owner or occupier of premises within the district on which a dog is kept shall cause the portion of those premises on which the dog is kept to be fenced in a manner capable of confining the dog to that portion, and in particular shall ensure that:

- (a) any fence or wall used to confine the dog shall be of a type, height and construction which, having regard to the species, age, size and physical condition of the dog prevents the dog from passing over, under or through the fence;
- (b) any gate or door within a fence is kept closed at all times except when the dog is not on the premises, however nothing in this section shall prevent a person from opening the gate, in order to immediately enter or leave the premises; and
- (c) every gate or door within a fence has have fitted a self-closing/self latching and/or permanently locking mechanism and the gate or door is maintained in good order and condition.

**Number of Dogs**

2.9. (1) An owner or occupier of any premises within the district may keep or suffer to keep more than two dogs over the age of three months on such premises subject to:

- (a) the owner or occupier of the premises lodging an application accompanied by the approved fee notifying firstly Council, and secondly all the persons specified in paragraph (c) of his or her intent to keep such additional dogs on the premises on the form approved by Council from time to time;
- (b) no other dogs being on the premises, which are not the subject of the application;
- (c) the owner or occupier of the premises providing evidence satisfactory to Council that:
  - (i) in a residential area all owners and occupiers of property within a radius of fifty metres of the applicant's premises have been informed of the application to keep additional dogs; or
  - (ii) in a rural or special rural area all owners and occupiers of property within a radius of a hundred metres of the applicant's premises have been informed of the application to keep additional dogs; or
  - (iii) where the premises in a rural or special rural area are on land which abuts a residential area all owners and occupiers of property within a radius of fifty metres of the applicant's premises have been informed of the application to keep additional dogs;
- (d) the Council having not received any objection to the application to keep additional dogs within a period of 21 days of the application being first received; and
- (e) the owner or occupier registering all dogs the subject of the application in accordance with the Dog Act within 7 days of being so advised by Council.

(2) In the event that a bona fide objection is received, then an applicant must not keep more than two dogs without the approval of Council or otherwise than in accordance with conditions imposed by the Council on its approval.

(3) An application which has not been the subject of any objections will entitle the applicant to keep the specified number of dogs of the specified breed described in his or her application to Council until any one of the following events occurs:

- (a) the applicant vacates the premises the subject of the application; or
- (b) the applicant ceases to be the person liable for the control of any of the dogs the subject of the application; or
- (c) the applicant replaces, or wishes to replace, all or any of the dogs the subject of the original application; or
- (d) Council by notice in writing gives twenty-eight days notice of its intention to revoke the entitlement; or
- (e) the applicant or person liable for the control of the dogs is convicted of an offence under the Dog Act,

and thereafter no dogs in excess of the permitted number of two may be kept on the premises.

(4) The benefit of any application is not transferable or assignable either to any other occupier of the premises or to any other premises in the district.

*Division 4—Approved Dog Kennel Establishment*

**Kennel Establishment Licence**

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

**Notice of Application for a Kennel Establishment Licence**

2.11. 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 or her intention to submit an application for a licence, in the form approved by Council from time to time, specifying that any interested person may within 21 days after the date of the publication of the notice object to or make representations in respect of the application in writing directly to the CEO; and
- (b) forward notice as prescribed in paragraph (a) to the owners and occupiers of all land within a radius of 200 metres of the boundaries of the land upon which it is proposed to establish the kennel.

**Application for Kennel Establishment Licence**

2.12. An application for a licence to keep an approved kennel establishment shall be on the form approved by Council from time to time and shall be accompanied by:

- (a) evidence that notice of the proposed use of the land has been given in accordance with section 2.11;
- (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 additional information as the Council or an authorised person requires; and
- (c) 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 or their equivalent in force from time to time.

**Determination of Application**

- 2.13. (1) Council or an authorised person may refuse an application for a licence:
- (a) that does not comply with the requirements of section 2.12;
  - (b) for which the processes required by section 2.11 have not been completed;
  - (c) after considering any submissions or representations received within the specified period in accordance with section 2.11 (a);
  - (d) where planning approval for use of the land as an approved dog kennel establishment has not first been obtained under the town planning scheme.
- (2) Council or an authorised person may, in respect of an application for a licence:
- (a) refuse the application; or
  - (b) approve the application for a period of twelve months from the date of issue on such terms and conditions, if any, as deemed appropriate.

**Licence and Fees**

2.14. A licence to keep an approved kennel establishment shall be in the form approved by Council from time to time and on issue thereof pay the approved fee and renewal of such licence shall be as approved by Council or an authorised person.

**Duties of Licence Holder**

- 2.15. 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 Council; and
  - (c) take all practical measures for the destruction of fleas, flies and other vermin.

**Limit on Number and Breed of Dogs**

2.16. 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 Council or an authorised person.

**Kennel Establishment Requirements**

2.17. 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 15 metres 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 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 requirements of the Council;
- (g) the floor of any yard shall be constructed in the same manner as the floor of any kennel and as provided in paragraph (f);
- (h) for each dog kept therein every kennel shall have not less than 2.5m<sup>2</sup> of floor space and every yard shall not be less than twice the area of the kennel; and
- (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 an authorised person.

*Division 5—Livestock***Livestock Not to Stray**

2.18. (1) The provisions of this Division shall not affect the operation of Part XX of the Local Government (Miscellaneous Provisions) Act 1960.

(2) The owner or person in charge of livestock shall not permit that livestock to stray or to be at large in a street, public place or upon private property without the consent of the property owner.

**Impounding of Livestock**

2.19. (1) An authorised person or a member of the Police Service may impound livestock found straying in contravention of section 2.18.

(2) Livestock being impounded shall be placed in the pound or secured on private property with the consent of the owner.

**Property to be Fenced**

2.20. (1) The owner or occupier of property on which livestock is kept, shall cause the property or a portion of the property to be fenced in a manner capable of confining the livestock, to that portion where the livestock is kept.

(2) The minimum fencing requirements to confine livestock in a rural or special rural area, shall be a fence of post and wire construction.

#### **Horse Exercise Area**

2.21. Horses may be led, ridden or exercised on Reserve 24787 known as Catherine Point Reserve from 4.00am to 8.00am any day of the week.

#### **Fouling of Public Places**

2.22. Any person liable for the control of a horse who permits that horse to excrete on any public place or on any land within the district 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 consent of the owner or in such other manner as the Council or an authorised person may approve.

### *Division 6—Animals, Birds and Poultry*

#### **Property to be Fenced**

2.23. The owner or occupier of property on which poultry is kept, shall cause the property or a portion of the property to be fenced in a manner capable of confining the poultry, to that portion where the poultry is kept.

#### **Cleanliness**

2.24. The owner or occupier of premises where a dog, cat, bird or other animal is kept shall:

- (a) keep the premises free from excrement, filth, food waste and all other matter that is likely to become offensive or injurious to health or to attract rats, vermin or insects;
- (b) when so directed by an environmental health officer, clean and disinfect the premises; and
- (c) keep the premises, so far as possible, free of flies and when directed by an environmental health officer, spray the premises with a residual insecticide or use any other effective means to kill and repel flies.

#### **Enclosures**

2.25. (1) A person shall not keep or cause or permit to be kept any animal or bird on premises which are not effectively drained or of which the drainage flows to the walls or foundations of any building.

(2) The owner or occupier of premises where any animal or bird is kept shall, when directed by an authorised person, pave, grade and drain the floors of all structures and the surface of the ground of all enclosures used for the keeping of the animals or birds.

#### **Keeping of Large Animals**

2.26. The owner or occupier of any premises shall:

- (a) not keep a large animal on any land less than 2020m<sup>2</sup> in area;
- (b) not allow any large animals to be loose in any yard, paddock or place, being portion of such premises, unless due provision is made to prevent large animals from approaching within 15 metres of any dwelling, shop, church or any premises where food is stored, manufactured or sold.

#### **Keeping a Miniature Horse**

2.27. (1) An owner or occupier of a premises may keep a sterilised miniature horse on land of not less than 1000m<sup>2</sup> in area, provided it is registered with Council and the approved annual registration fee is paid.

(2) An owner or occupier of premises shall:

- (a) not keep more than one miniature horse on land zoned residential or special rural, without the written approval of Council or an authorised person; and
- (b) not permit a miniature horse to come within 9 metres of any house.

(3) Council or an authorised person may prohibit the keeping of a miniature horse on any land or may state the conditions under which a miniature horse may be kept.

#### **Keeping of Pigs**

2.28. (1) Except for a miniature pig and subject to subsection (2) no person shall keep a pig or pigs, in any residential area or rural area or special rural area or on any land zoned commercial or industrial under the town planning scheme.

(2) Except for premises registered by Council as an Abattoir under the provisions of section 191 of the Health Act 1911 and except in the case of a miniature pig the keeping of pigs is forbidden.

(3) Council or an authorised person may prohibit the keeping of a miniature pig, on any land or state the conditions under which the miniature pig may be kept.

(4) A person may keep 1 miniature pig in any residential or rural or special rural area provided it is registered with Council and the approved annual registration fee is paid.

(5) The occupier of any premises where a miniature pig is kept shall:

- (a) only keep a sterilised animal and retain written proof of its sterilisation;
- (b) confine the animal on the property at all times;
- (c) ensure the animal does not cause a nuisance to any neighbour regarding noise, dust or odour; and
- (d) maintain documentary evidence that the animal's veterinary treatment against roundworm and tapeworm is current.

**Stables**

2.29. No person shall:

- (a) keep or stable, any horse within the district except in an area zoned rural or special rural in the town planning scheme, or in a stable registered under these local laws;
- (b) keep or stable in any stable a greater number of horses than the number for which such stable is registered.

**Standards for Stables**

2.30. (1) Every stable in respect to which an application is made for registration must fulfil all of the following requirements:

- (a) the construction of every building, shed, loose-box, shelter and stall and its situation with respect to adjacent buildings must be in accordance with the Building Code;
- (b) every loose-box or stall shall have an area of not less than 11m<sup>2</sup> and walls not less than 3 metres measured either horizontally or vertically;
- (c) a shelter provided in a yard for the protection of horses from inclement weather shall have an area of not less than 9 m<sup>2</sup> and a height of not less than 2.5 metres. It shall not be capable of being closed and shall have at least one side completely open to the outside air; and
- (d) every stable shall have approved impervious rodent-proof receptacles for the storing of chaff, bran, pollard or grain intended for horse feed.

(2) No part of the stable shall be located any less than 15 metres from any dwelling house or milking shed or milk room of any dairy.

(3) Any paddock or yard used for the keeping of any horse shall have a fence or railing at a distance of not less than 15 metres from any dwelling house or 9 metres from a building or buildings housing trainer and/or employee engaged in the care of horses.

(4) When required by an authorised person any paddock or yard used for the keeping of any horse shall have a fence or railing erected at a distance of not less than 1.25 metres from the boundary of any land not in the same occupation or possession.

**Trainers and Stablehand Room**

2.31. A trainer and/or employees, engaged in the care of horses stabled on the land may be housed in a building not less than 9 metres from any stable or building used for the housing of horses if:

- (a) such building complies with the minimum requirements of a room used for dwelling or sleeping purposes; and
- (b) is or are equipped with proper bathroom and sanitary facilities as required under the Building Code.

**Registration of Stables**

2.32. (1) Every person required by these local laws to register any premises as a stable shall make an application in the form approved by Council from time to time accompanied by the approved fee, which is non-refundable.

(2) Applications for the registration of a stable shall be accompanied by plans and specifications of the stables and an authorised person may require further information.

(3) If the application for a stable is approved, an authorised person shall issue a licence in the form approved by Council from time to time.

**Renewal of Stable Licence**

2.33. Application for the renewal of any stable licence shall be made annually during the month of June accompanied by the approved fee.

**Transfer of Stable Licence**

2.34. (1) If any person in whose name a stable is registered desires to have the same transferred to any other person, the transferee shall make an application in the form approved by Council from time to time and such application shall be lodged with Council and accompanied by the approved fee.

(2) If an authorised person approves such application he or she shall register the stable in the name of the transferee.

(3) Upon receipt of an application to transfer a stable licence the authorised person shall cause the premises to be inspected and report as to the adequacy of the premises.

2.35. If, upon application and report being submitted and in the opinion of the authorised person that such application should be granted, he or she shall, upon being paid the approved fee, register such premises as a stable and issue a certificate of registration in the form approved by Council from time to time.

**Manure Receptacle**

2.36. The owner or occupier of premises where a large animal, miniature horse or miniature pig is kept shall:

- (a) provide in a convenient position, an impervious receptacle with a tight fitting lid, for the storage of manure and offensive litter;
- (b) keep the lid of the receptacle closed except when manure is being deposited or removed;
- (c) cause the receptacle to be emptied at least once a week and more often as necessary to prevent it becoming offensive or a breeding place for flies or other insects;



- (d) spray or cause to be sprayed with an approved pesticide every manure receptacle immediately after it is emptied and before it is again used; and
- (e) cause all manure produced on the premises to be collected daily and placed in the receptacle.

#### **Burial of Animals**

2.37. (1) The operator of any commercial poultry farm or bird farming property shall not dispose of any dead bird on any land without written approval of an authorised person.

(2) An owner or occupier of land in any rural or special rural zone under the town planning scheme, who occasionally needs to bury an animal on that land, shall cover the carcass with lime before burial.

#### **Keeping of Ostrich or Emu**

2.38. (1) A person shall not keep an ostrich or emu on any land in any residential area, or any land zoned commercial or industrial under the town planning scheme.

(2) A person shall not keep an ostrich or emu in any special rural area without the written approval of an authorised person.

(3) A person shall not keep more than 3 adult pairs of ostrich or emu for each 2 hectares of land and no single pair shall be confined in any area less than 0.1 hectares.

(4) Notwithstanding the foregoing provisions of this section the Council or an authorised person may prohibit the keeping of any ostrich or emu on any land or state the conditions under which they may be kept.

#### **Keeping Poultry in Residential Areas**

2.39. (1) A person shall not keep or suffer to remain in any zoned residential area under the town planning scheme a rooster, turkey, goose, peacock or a peahen.

(2) Notwithstanding subsection (1), the owner or occupier of premises situated in any area zoned residential under the town planning scheme shall not keep thereon any poultry otherwise than under the following conditions:

- (a) the maximum number of poultry permitted to be kept on a residential property is twelve;
- (b) no poultry is able to approach within 9 metres of a dwelling house, public building or premises where people are employed or 12 metres from where food for sale is stored, prepared, or manufactured, or within 1.2 metres from the boundary of land in another occupation;
- (c) all poultry is kept in a properly constructed and securely fastened structure or enclosure which is provided with a concrete floor trowelled to a smooth finished and laid with a fall of 1—50 to the front;
- (d) the structure or enclosure is in a yard having an otherwise unobstructed area of at least 30m<sup>2</sup>;
- (e) no poultry is able to approach within 18 metres of a street other than a right-of-way unless, in the case of land at the junction of two or more streets, an authorised person has approved a lesser distance; and
- (f) all enclosures or cages within which poultry are kept shall be maintained at all times in a clean condition and shall be disinfected or otherwise dealt with in a way directed by an authorised person.

#### **Keeping of Poultry in Special Rural Areas**

2.40. The occupier of premises situated in any area zoned special rural under the town planning scheme, shall not keep or permit to be kept thereon, poultry other than under the following conditions:

- (a) in a shed designed to permit the use of a deep litter system or in open yards with a shed that has a concrete floor at least 50 millimetres thick;
- (b) the shed shall be of sound construction and its yard shall be maintained in a clean condition at all times;
- (c) the shed must not be less than 1.8 metres in height to allow easy entry for cleaning;
- (d) the shed shall not be nearer than 1 metre from the boundary of land in other occupation or 15 metres from any dwelling house or 15 metres from a street; and
- (e) no more than 25 head of poultry may be kept without the written approval of an authorised person.

#### **Keeping of Poultry in Rural Areas**

2.41. The occupier of premises in a area zoned rural under the town planning scheme, shall not keep or permit to be kept thereon, more than 50 head of poultry, without the written approval of an authorised person.

#### **Cattery**

2.42. (1) A person shall not establish or maintain a cattery on any lot within the district without having first obtained a certificate of registration from Council or an authorised person.

(2) A certificate of registration for a cattery shall be valid from its date of issue until the next 30 June.

2.43. (1) An application for a certificate of registration for a cattery shall be:

- (a) lodged by the applicant on the form approved by Council from time to time; and
- (b) lodged with the approved fee for the registration of the premises as a cattery.

(2) A certificate of registration issued by Council or an authorised person shall lapse upon the keeper vacating the premises although a transfer of the registration may be effected if the cattery operation remains continuous and the approved transfer fee is paid to Council.

2.44. An applicant for a certificate of registration of a cattery shall provide for each cat on the lot, a properly constructed shelter with an enclosure, which complies with the following requirements:

- (a) a floor area of not less than 0.56m<sup>2</sup> for each cat;
- (b) the area of the enclosure adjacent to any shelter or group of shelters forming a cattery shall be at least 3 times the area of the shelter or group of shelters;
- (c) no shelter or enclosure shall be closer than 9 metres from the boundary of the lot of the keeper or any other building on the property of the keeper; and
- (d) all enclosures, yards, runs and shelters within a cattery shall be maintained in a clean condition and shall be cleaned, disinfected or otherwise dealt with as an environmental health officer may direct.

#### *Division 7—Pigeons*

#### **Certificate of Registration**

2.45. (1) A person shall not keep more than 20 pigeons on any land in the district without having first obtained a certificate of registration from an authorised person for the place at which the pigeons are to be kept.

(2) A certificate of registration shall be valid from its date of issue until the next 30 June.

#### **Application for a Certificate of Registration**

2.46. An application for a certificate of registration shall be:

- (a) lodged by the applicant on the form approved by Council from time to time;
- (b) lodged with specifications, site and construction plans of proposed cages, enclosure or lofts; and
- (c) lodged with the approved fee.

#### **Adjoining Owners to be Consulted**

2.47. Prior to granting any certificate of registration, the applicant shall seek the written opinion of all owners and occupiers whose land is adjacent to the land owned by the applicant.

#### **Approval Limitations**

2.48. (1) Pigeons shall not be kept within a caravan park or on any land on which is situated a grouped dwelling or multiple dwellings.

(2) Pigeons shall not be kept on any land, which has an area of less than 600m<sup>2</sup>.

#### **Duties of Certificate Holder**

2.49. The holder of a certificate of registration to keep pigeons shall:

- (a) keep all pigeons confined continuously in cages, enclosures and lofts approved by an authorised person except that homing pigeons and racing pigeons registered in accordance with this local law may be released in accordance with this local law;
- (b) keep all cages, enclosures, lofts and their immediate surrounds clean and maintained in good order and condition at all times and the minimum standard to be adhered to shall be that which is specified in the Code of Practice; and
- (c) dispose of all loft litter by immediate burial or by being bagged and deposited in a household rubbish bin to ensure no nuisance occurs.

#### **Limit on Number of Pigeons**

2.50. (1) Subject to subsection (2), the maximum number of pigeons which may be kept on land the subject of a certificate of registration pursuant to each certificate of registration shall not exceed 50, excluding young birds.

(2) A person who on or before 30 June each year, produces to an authorised person satisfactory proof that the person is a current financial member of a recognised incorporated racing pigeon body, or is a registered pigeon fancier, may be permitted by an authorised person to keep up to 150 pigeons, excluding young birds, in any residential area, rural area or special rural area.

#### **Cage, Enclosure or Loft Requirements**

2.51. (1) An approved cage, enclosure or loft used to house pigeons shall aesthetically blend with its surrounds, be constructed of new materials and shall be constructed to the following minimum requirements:

- (a) the base floor of any loft shall be of 50mm thick concrete;
- (b) in the case of an elevated loft the suspended floor shall be constructed and maintained in accordance with the requirements in the Code of Practice;
- (c) cladding of a loft, including the roof shall be of smooth fibro cement sheeting, sheet metal or other smooth material;
- (d) except as provided in paragraph (e), a loft height shall not exceed 2.4 metres at any point when measured from ground level; and
- (e) where a loft has a gable roof the loft height shall not exceed 3 metres at any point when measured from ground level.

(2) A cage, enclosure or loft shall not be located nearer than:

- (a) 1.2 metres from the boundary of any land adjacent to the land, the subject of an application;
- (b) 9 metres from any dwelling house, church, school room, hall, factory, dairy or food premises; or
- (c) 9 metres from any street.

**Exercise of Pigeons**

2.52. (1) A person who keeps homing pigeons or racing pigeons may only release such homing pigeons or racing pigeons for exercise between the hours set out in the Code of Practice, unless otherwise authorised by an authorised person.

(2) A person shall not release more than 60 registered homing or racing pigeons for exercise or training at any one time.

**Alteration, Cancellation or Refusal of Certificate of Registration**

2.53. (1) At any time an authorised person may amend the conditions contained in or relating to a certificate of registration and without limiting the generality of the same, where any complaint of a nuisance is received, an authorised person may vary the hours for release of pigeons and impose any other conditions deemed necessary to minimise any nuisance from the keeping of pigeons or any associated activity.

(2) An authorised person may cancel, refuse to approve or refuse to renew a certificate of registration for any one or more of the following reasons:

- (a) the land is not maintained in accordance with this local law;
- (b) the cages, enclosures or loft have fallen into disrepair, are unclean or infested with vectors of disease;
- (c) the pigeons are being released outside the times permitted in section 2.30;
- (d) a condition imposed in accordance with this local law or a certificate of registration has not been complied with in the time limits set out for doing so;
- (e) the applicant or holder of the certificate of registration as the case may be, has two or more convictions under this local law; or
- (f) non payment of the approved fee.

**Notice of Breach**

2.54. The Council or an authorised person may order an owner or occupier of a house or land on which pigeons are or are in the habit of nesting or perching, to take adequate steps to prevent them continuing to do so.

**Compliance with Order Served**

2.55. Every owner or occupier on whom an order is served under section 2.54 shall comply with such order. Any owner or occupier who fails to comply with the terms of the order served commits an offence.

*Division 8—Bee Keeping***Limitations on Number of Hives**

2.56. (1) A person shall not keep a beehive in a residential area or a special rural area without the written approval of Council or an authorised person.

(2) Subject to subsections (3) and (4), a person shall not keep or permit the keeping of bees in more than 2 hives.

(3) Council or an authorised person may, upon written application, consent, with or without conditions, to a person keeping bees in more than 2 hives on a lot which is not zoned residential.

(4) A person shall comply with any conditions imposed by an authorised person under subsection (3).

**Restrictions of Keeping of Bees Hives**

2.57. Subject to section 2.34 a person shall not keep or permit the keeping of bees in a hive unless, at all times:

- (a) an adequate and permanent supply of water is provided on the lot within 10 metres of the hive or a lesser distance if a potential water supply is available on another lot less than 10 metres away;
- (b) the hive is kept:
  - (i) outside, and at least 10 metres from, any building other than a fence;
  - (ii) at least 10 metres from any footpath, street, right of way or public place; and
  - (iii) at least 5 metres from the boundary of the lot; and
- (c) the hive is enclosed on all sides by a fence, wall or other enclosure.

**Bees which cause a Nuisance not to be Kept**

2.58. (1) A person shall not keep, or permit the keeping of, bees, which cause a nuisance.

(2) Where Council or an authorised person forms the opinion that the keeping of bees on residential land or any other land within the district has caused a nuisance or has adversely affected the residential amenity of the locality, a notice may be served on the owner or occupier of the land who shall within the time specified in the notice remove the bees from the land.

**Compliance with Order Served**

2.59. Every owner or occupier on whom an order is served under section 2.36 shall comply with such order. Any owner or occupier who fails to comply with the terms of the order served commits an offence.

**PART III—RESERVES, FORESHORES AND BEACHES***Division 1—Preliminary***Interpretation**

3.1. In this Part, unless the context otherwise requires:

“**bathing**” includes entry into the sea or any body of water and/or emerging therefrom and includes the use of bathing appliances;

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

“**boat**” has the same meaning as given to the word “vessel” in the Western Australian Marine Act 1982;

“**foreshore or beach**” includes:

- (a) tidal and non-tidal waters in or outside but adjoining the district;
- (b) the area which adjoins the district and extends for a distance of 200 metres seawards from low water mark at ordinary spring tides; and
- (c) to any other public place or reserve adjoining the places mentioned in (a) or (b);

“**function**” means and includes a carnival, show, fete, concert, exhibition gymkhana, sporting event, a training or practice session in connection with a sport by a group or team of more than 2 persons, or a picnic or other gathering of more than 10 persons;

“**nude**” means not properly clad;

“**properly clad**” means that a person must at least wear a costume or clothing which completely covers the genital area and in the case of a female of twelve years or more the breast;

“**watercraft**” means any boat, bathing appliance, canoe, hovercraft or jetski.

*Division 2—Prohibited Areas and Activities***Prohibited Areas**

3.2. (1) For the safety, decency, convenience and comfort of persons in respects of bathing and other recreational conduct, the Council or an authorised person may set aside specific localities wherein all or any of the following things are prohibited:

- (a) entry by persons;
- (b) bathing;
- (c) the use of any bathing appliance or any particular kind of bathing appliance;
- (d) the entry and use of vehicles;
- (e) the launching of boats and other watercraft;
- (f) the playing of games;
- (g) the selling or displaying for sale or hiring of goods and merchandise; and
- (h) nude bathing.

(2) The Council or an authorised person may set aside such specified localities for the purpose of section 3.2 (1) for a particular period or until further notice by causing notices to that effect to be placed in the vicinity of the locality.

(3) An authorised person may set aside specified localities in which bathing is prohibited by the placement of notices, flags or such other indicators as are from time to time provided or required by the Council.

**Prohibited Activities**

3.3. A person shall not on a reserve, foreshore or beach:

- (a) carry on any activity which contravenes any notice given pursuant to the provisions of section 3.2 (2) or (3);
- (b) drive or take any watercraft into any place where persons are bathing in such a manner as to cause or be likely to cause annoyance or injury to any person bathing or about to bathe;
- (c) play games in such a way as to cause inconvenience or annoyance to other persons;
- (d) fish for sharks by use of set or buoyed lines or use blood or any other lure for the purpose of attracting sharks;
- (e) destroy, damage, injure, cause harm to, catch (excluding fish), snare or take any animal;
- (f) place any clothing, towel on a notice, remove or otherwise interfere with any notice, flags or specified indicator of the kind referred to in section 3.2 (2) and (3);
- (g) create, commit or take part in any nuisance or disturbance, behave in a disorderly or offensive manner or use indecent language or commit any act of indecency;
- (h) enter, look into or loiter inside or outside any lavatory, dressing shed or building or portion of a building used by the same sex or the opposite sex unless the person is present and performing any work or function with authority duly given;
- (i) except to put on or remove a garment or garments worn over a bathing costume, dress or undress or remove or disarrange any part of a bathing costume, in any place open to public view or in any building other than such as is specifically set aside by the Council for that purpose;

- (k) bathe, swim, wade, sun bathe, wander or loiter unless properly clad;
- (l) climb upon any wall, building or tree guard or over, under or through any fence or gate designed or installed for the purpose of prohibiting or restricting the entry of persons or vehicles;
- (m) enter any place that has been fenced off or otherwise closed to the public;
- (n) bathe, swim or wade in any sump, drain, fountain, pond or lake;
- (o) add any dye or chemical to the water of any sump, drain, fountain, pond or lake;
- (p) alter, cut, mutilate, deface, disfigure or damage any equipment, property, building or structure of any kind;
- (q) damage, destroy, interfere with or remove any water pipe, tap, hose, hose fitting, sprinkler, irrigator, watering device, valve, pump, motor, controller or switchboard;
- (r) break or permit to be broken any glass, metal, bottle or utensil or deposit or leave any rubbish, refuse, bottle, can, tin, paper, broken glass, china or litter of any kind other than in receptacles provided for that purpose;
- (s) climb, injure, cut, break, deface, pull up, pick, remove or destroy any tree, tree guard, shrub, flowers, grass or plant of any kind or description or, without the written consent of the Council or an authorised person, plant any such thing or sow any seeds;
- (t) consume any intoxicating liquor except on premises licensed under the Liquor Licensing Act 1988 or except with the written permission of Council or an authorised person;
- (u) take, inject, ingest or otherwise administer any illicit drug or substance;
- (v) be obviously under the influence of alcohol or other drugs, enter or remain in or fail to depart from any place upon being ordered to do so by an authorised person;
- (w) throw or release any stone, arrow, or other missile, whether of the same kind or not, except in the course of a function being lawfully held;
- (x) carry or discharge any firearm, airgun, or other missile discharging device, or throw or discharge any explosive device, firework, stone, spear or missile;
- (y) operate any musical instrument, radio, record or cassette player, radiogram, television, amplifying equipment or other sound producing, enhancing or amplifying electronic device at such volume as to cause a nuisance or annoyance to other persons in or near the locality;
- (z) use or operate any siren, starting gun or other device which causes a loud noise in such a manner as to cause a nuisance or annoyance to any person on or in the vicinity;
- (aa) fly any mechanically operated or remote controlled model aircraft;
- (ab) charge any person for entry thereto or for entry to any function being held thereon without written authorisation;
- (ac) unlock or unfasten any gate or door unless authorized by Council or an authorised person;
- (ad) without prejudice to any other provision of these local laws, bring on, or cause, or allow, or permit to be brought on, or to remain on any land to which these local laws apply, any vehicle, caravan, omnibus (whether in good order or derelict) or rubbish of any nature, except to park or deposit the same in a place on that land nominated by the Council for the parking of such vehicles or caravans or deposit such rubbish, without the written consent of Council or an authorised person first had and obtained, complying with all other provisions of these local laws in all respects on each occasion and in the event of an authorised person being unable to find within 72 hours the owner of any such thing or article and/or of the person occupying the adjoining camping site or building denying the ownership thereof or refusing to supply an authorised person with the name and address of the owner thereof an authorised person shall be at liberty to remove such rubbish from the land to Council's LandFill Site;
- (ae) play or practice at golf or strike a golf ball except on an area set aside for that purpose;
- (af) interfere with the conduct of any function for which a function licence has been issued;
- (ag) light a fire;
- (ah) wander abroad or be in any place to which the public has access to beg, to gather alms (whether money, food, clothing or goods) or cause or procure any child to do so, except for charitable causes not for personal benefit;
- (ai) without affecting the generality of the foregoing, commit or cause a nuisance;
- (aj) participate in the activity of archery;
- (ak) bet, gamble or call the odds or offer to bet or gamble.

The provisions of this section shall not apply to an authorised person acting in the course of his or her duty.

### **Activities Requiring Permission**

3.4. In relation to property under the care, control or management of Council a person shall not without the written permission of Council or an authorised person:

- (a) plant or sow any seed for any tree, shrub, flowers, grass or plant of any kind or description;
- (b) cut, collect or remove any timber, firewood, stone, sand or material other than seaweed;
- (c) advertise anything by any means or display or distribute any notice, pamphlet, document, advertisement or message;
- (d) except where permitted under the authority of any written law, permit any cattle under that person's control to enter or remain in any place to which this Part applies;

- (e) organize, conduct or address a gathering or meeting of persons or organize or take part in a procession or demonstration or carry a placard or notice;
- (f) in a public reserve, conduct or assist in the conduct of or take part in any function;
- (g) take onto a public reserve any spirituous or intoxicating liquor;
- (h) cause or allow to be ridden or driven any bicycle or other vehicle whether motorized or not (other than wheelchairs or other devices designed to assist the movement of disabled persons with disabilities) except upon a carriageway, road, path or footpath designated for use by such vehicle;
- (i) camp, lodge or tarry overnight, or frequent for the purpose of camping, lodging or tarrying overnight;
- (j) erect a tent, marquee or any other temporary cover for the purpose of entertainment or any other purpose;
- (k) land and/or take off a helicopter or other form of aircraft;
- (l) land by way of parachute or hang glider;
- (m) use or install any unauthorised power line, water pipe, irrigation system or drainage system, and a person shall not, otherwise than in accordance with the provisions of Part VI of these local laws:
- (n) carry on any trading activity; or
- (o) without limiting the generality of the foregoing paragraph, hire or offer for hire any vehicle, bicycle, watercraft, kite or other item or equipment for sport, entertainment or amusement.

### **Playgrounds**

- 3.5. (1) The Council may set aside a portion of a reserve as a children's playground.
- (2) The Council or an authorised person may limit the ages of persons who are permitted to use a playground set aside under subsection (1) and may erect a notice to that effect on the playground.
- (3) A person over the age specified in a notice erected on a playground set aside under subsection (1) other than a person having charge of a child or children in that playground, shall not enter or use that playground, in any event such person shall not interfere with the use of the playground by a child or children of whom the person does not have charge.

### *Division 3—Safety and Decency*

#### **Vehicles**

- 3.6. On any reserve, foreshore or beach:
- (a) a person shall not drive or ride a motorised vehicle (other than a wheelchair or other device designed to assist the movement of persons with a disability) on any footpath or area set aside for use by pedestrians or bicycles otherwise than on those parts of the reserve, foreshore or beach set aside as a road, driveway or vehicle parking area;
  - (b) a person shall not park or stand any vehicle except on an area set aside as a parking area;
  - (c) the Council or an authorised person may in special circumstances grant permission to allow a motorised vehicle to enter upon a reserve, foreshore or beach for a specific purpose and Council may apply such conditions, as it thinks fit to such permission; and
  - (d) a person shall not drive, park or stand any vehicle in breach of any condition imposed on a permission under (c) above.

#### **Decency**

- 3.7. With respect to decency:
- (a) any person over the age of 5 years bathing in water exposed to the public view or using a reserve, foreshore or beach for sun bathing or any other activity in public view shall in order to secure the observance of decency, be properly clad;
  - (b) a parent or other adult person who is a person on or in the near vicinity of the foreshore or beach and is responsible for the custody, care or control of a child between the age of 5 years and 15 years shall ensure that the child is properly adequately clad in accordance with paragraph (a) of this section.

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

#### **Safety**

- 3.9. (1) An authorised person may in or on any place where this Part applies, seize any device used for surf riding including a surfski, jetski, surfboard, malibu board or boat where the device is being used contrary to the provisions of this Part.
- (2) Any device of the kind referred to in subsection (1) may be impounded after seizure for any period not exceeding 3 months as may be specified by the authorised person to the person having custody of such device immediately prior to the time of seizure.
- (3) Where such device is not claimed by the owner thereafter within 2 months after the expiration of the period for which the device was impounded the device may be sold by the Council and the proceeds of such sale may be applied towards recouping the costs of and incidental to impounding it.

(4) Where the costs referred to in subsection (3) exceed the costs of the impoundment then the excess shall be paid to the owner of the device or where the identity or whereabouts of that owner are unknown placed in a trust fund.

(5) Any surplus of the proceeds referred to in subsection (4), if not paid to the owner within ten (10) years may be paid into the municipal fund.

#### **Permissions Under This Part**

3.10. Every application for permission in this Part shall be in the form approved by Council from time to time.

3.11. Council or an authorised person may grant permission or refuse to grant permission under this part or grant permission subject to conditions.

3.12. Where permission has been granted by Council or an authorised person under this part subject to conditions the person to whom the permission has been granted shall ensure that those conditions are observed at all times. If any such condition is not observed that person commits an offence against these local laws Council or an authorised person may cancel the permission.

3.13. Every permission granted for a function pursuant to paragraph (f) of section 3.4 shall include the condition whether expressed in the permission or not that the person to whom permission has been granted shall ensure that persons obviously under the influence of alcohol or acting in a disorderly manner are excluded from attendance at the function.

### **PART IV—BUILDINGS**

#### *Division 1—Preliminary*

#### **Interpretation**

4.1. In this Part, unless the context otherwise requires:

“**AS/NZS**” means Australian and New Zealand Standard published by Standards Australia and Standards New Zealand jointly;

“**commercial area and industrial area**” means any portion of the District that is zoned or set apart for those uses in the town planning scheme;

“**dangerous fence**” means:

- (a) an electrified fence (other than a fence in respect of which a licence under this Part has been issued and is current); or
- (b) a fence containing razor wire or angel wire; or
- (c) a fence containing barbed wire (other than a fence erected and maintained in accordance with these local laws); or
- (d) a fence containing exposed broken glass, asbestos fibre or any other harmful projection or material; or
- (e) a fence which through lack of maintenance or repair is or for any other reason is or becomes dangerous;

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

“**Dividing Fences Act**” means the Dividing Fence Act 1961;

“**electrified fence**” means a fence carrying or designed to carry an electric charge;

“**estate entry statement**” means a fence or a wall constructed of masonry or other materials in accordance with a licence to identify the entrance of an estate and may include but not be limited to a sign indicating the estate name and locality sculptures, flagpoles and flags;

“**estate**” means a subdivision or other development of land for sale or lease;

“**fence**” means any structure, used or functioning as a fence irrespective of where it is located;

“**intersection**” means the prolongation of the boundary lines of a lot and the street reserve;

“**non sacrificial graffiti protection**” means a coating applied to a fence or wall, which is not removed in the process of removing graffiti;

“**sacrificial graffiti protection**” means a coating applied to a fence or wall, which is removed in the process of removing graffiti;

“**sufficient fence**” means a fence which Council has declared or otherwise approved or accepted as a sufficient fence to be erected on the boundaries of land in any particular area.

#### *Division 2—Construction of Particular Structures*

#### **Dividing Fences in a Residential Area**

4.2. (1) A person shall not erect a fence which is on the frontage or side of an allotment at the intersection of two streets and which exceeds the height of 750 millimetres for a distance of 6 metres from the intersection.

(2) The fence on the side street shall be constructed for a distance from the corner of at least 6 metres along that street and shall be of design and materials similar to that of the fence along the frontage of the allotment.

(3) In an industrial area a link mesh fence may be permitted of a greater height than 750 millimetres if the Council or an authorised person is satisfied that it does not materially affect the visibility of the intersection or its approaches for any driver in any direction.

**Dividing Fences in a Commercial Area or an Industrial Area**

4.3. A person shall not, without the issue of a building licence, erect, commence to erect or maintain a fence in a commercial area or an industrial area.

**Fencing Materials**

4.4. (1) A person shall not construct a fence in a residential area, a commercial area or an industrial area of material other than brick, stone, concrete, wrought iron, tubular steel, link mesh, timber, plastic coated or galvanized link mesh, corrugated fibre reinforced cement sheeting, colour bonded metal or a material approved by an authorised person.

(2) In a rural area or a special rural area, in addition to the materials stated in subsection (1), a fence may be constructed of post and wire or post and rail.

**Retaining Walls**

4.5. A person shall not, without the issue of a building licence commence or continue to erect or maintain a retaining wall.

**Barbed Wire Fences**

4.6. A person shall not, without the issue of a building licence, erect, commence or continue to erect or maintain a fence constructed wholly or partly of barbed wire except in an industrial area or a commercial area and then only if:

- (a) the barbed wire is 2100mm or more above the ground level; and
- (b) the fence does not abut a residential area.

**Dangerous Fence**

4.7. Subject to section 4.10, a person shall not erect or maintain or permit the erection or maintenance on any land of any dangerous fence.

**Maintenance of Fences**

4.8. (1) For the purpose of this section, "state of disrepair" includes dangerous, neglected, ruinous, dilapidated, unsightly or prejudicial to the amenity of the locality.

(2) An owner or occupier of land on which a fence is erected shall maintain the fence in good condition and so as to prevent it from falling into disrepair.

(3) Where, in the opinion of the Council or an authorised person, a fence is in a state of disrepair or is otherwise in breach of a provision of these local laws, an authorised person may give notice in writing to the owner or occupier of the land upon which the fence is erected requiring the owner or occupier to modify, repair, paint or maintain the fence within the time stipulated in the notice.

(4) An owner or occupier of land, who has been given notice under subsection (3) and fails to comply with the requirements of the notice commits an offence.

**Prohibited Fence Materials**

4.9. (1) Subject to section 4.10 a person shall not cover any fence with previously used material.

(2) Where in the opinion of the Council or an authorised person a fence, wall, hedge, tree or other thing is so situated as to obstruct a vehicle driver's view of traffic in an adjacent street, the Council or authorised person may issue a notice requiring the removal or modification of the obstructing thing within the time and in the manner (if any) stipulated in the notice.

**General Discretion**

4.10 (1) The Council or an authorised person may consent to the erection or maintenance of a fence, which does not comply, with the requirements of these local laws.

(2) In determining whether to grant consent for the erection or retention of a fence on any land, the Council or an authorised person may consider, in addition to any other matters that it is authorized to consider, whether the erection or retention of the fence might have an adverse effect on:

- (a) the safe or convenient use of any other land;
- (b) the safety or convenience of any person;
- (c) the orderly and proper planning of the locality; or
- (d) the amenity of the locality.

(3) A consent given under this section may be made subject to such terms or conditions as to the Council or the authorised person deems fit.

(4) The Council or an authorised person may under this section consent to the retention of a fence erected without prior consent, but the giving of retrospective consent does not prevent the Council from taking action in respect of any breach which may have occurred in the original erection or maintenance of the fence prior to the consent being given.

**Estate Fencing**

4.11. A person must not erect or maintain an estate boundary fence or an estate entry statement, without having first obtained planning approval and a building licence.

**Estate Boundary Fences**

4.12. (1) Where approval has been given to construct an estate boundary fence using specific materials for the purpose of defining the outer perimeter of an estate, the colour and type of materials first used, shall be the minimum standard to which that fence is to be kept repaired and maintained.



(2) An owner of a lot within an estate abutting an estate boundary fence of that estate shall, where the abutting portion of the fence is damaged, dilapidated or in need of repair, cause it to be repaired or replaced with the same or similar materials with which it was first constructed, so that as far as practicable the repaired or replaced section shall be the same as the original fence.

(3) The Council or an authorised person may issue a notice requiring an estate boundary fence to be repaired or replaced under the preceding subsection, within a time stipulated in the notice which time should be not less than 3 months.

(4) If a fence repaired under this section has been treated with graffiti protection, the owner repairing or replacing it must cause the repaired or replaced portion to be treated in the same way.

#### **Graffiti Protection**

4.13. (1) A person must not erect a fence or wall constructed of masonry or other materials, adjacent to a public place or reserve without treating the fence or wall with non sacrificial graffiti protection.

(2) A person, owner or occupier of a lot with a fence or wall erected adjacent to a public place or reserve shall treat that fence or wall with non sacrificial graffiti protection when required by an authorised person.

(3) The graffiti protection treatment required in accordance with subsection (1) and (2) shall be applied to the manufacturer's specifications.

#### **Record of Graffiti Protection**

4.14. Where in accordance with these local laws, a person is required to treat a fence or wall adjacent to a public place or reserve with graffiti protection, that person must cause to be affixed to that fence or wall a plate inscribed with the approved number relating to the data base which identifies the name of the graffiti protection applied to the fence or wall, plus details of the manufacturer's recommended treatment including materials to be used for removal of graffiti.

#### **Recovery of Expenses**

4.15. Where the owner or occupier does not comply with the notice served under this Part, the Council is authorised without payment of any compensation in respect thereof to satisfy the terms of the notice at the expense of the owner or occupier of the land, and recover it in a court of competent jurisdiction, the amount of the expenses from the owner or occupier to whom the notice was given.

### *Division 3—Electrified Fences*

#### **Requirements for a Licence**

4.16. (1) A person shall not:

- (a) erect, commence to erect or maintain an electrified fence without first having applied for and the Council or an authorised person having issued or transferred to that person under this Division a licence to erect or maintain that fence; or
- (b) alter an electrified fence without obtaining the written consent of Council or an authorised person.

(2) A licence for an electrified fence shall not be issued:

- (a) in respect of premises within or abutting a residential Area;
- (b) unless the fence complies with AS/NZS 3016: 1994;
- (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations of the premises where it is erected.

#### **Licence Application**

4.17. (1) An application for a licence to erect and operate an electrified fence shall be:

- (a) in the form approved by Council from time to time and addressed to the CEO;
- (b) made either:
  - (i) by the owner of the land on which the fence is to be erected; or
  - (ii) with the written consent of the owner of the land on which the fence is to be erected, by the occupier of that land.
- (c) accompanied by:
  - (i) a site plan clearly identifying both the land and the location on that land on which the electrified fence is, or is to be, erected;
  - (ii) plans and specifications of the fence;
  - (iii) any other information that the Council or an authorised person may require to enable the application to be determined;
  - (iv) proof that all necessary approvals for the erection of the fence have been obtained from other statutory authorities; and
  - (v) the approved fee.

(2) Upon receipt of an application for a licence, the Council or an authorised person may:

- (a) grant the application subject to conditions;
- (b) require the applicant to forward further information as the Council or an authorised person may require to enable the application to be determined; or
- (c) refuse to grant the licence.

- (3) A licence granted by the Council or an authorised person shall be:
- (a) in the form approved by Council from time to time;
  - (b) signed by an authorised person; and
  - (c) issued upon and subject to the following conditions, namely that the licence holder shall:
    - (i) display the licence in a prominent position on the land on which the fence has been erected;
    - (ii) upon request, produce the licence to Council or an authorised person;
    - (iii) within 14 days of any change in the ownership or occupation of the land in respect of which the licence has been granted, notify the Council or authorised person in writing of the details of that change or those changes;
    - (iv) obtain the written consent of Council or an authorised person prior to the commencement of any alteration, addition or other work relating to or affecting the fence;
    - (v) comply with AS/NZS 3016:1994; and
    - (vi) provide Council or an authorised person with a certificate of electrical compliance in the form approved by Council from time to time.

#### **Transfer of Licence**

- 4.18. (1) An application for the transfer of a licence shall be:
- (a) made either:
    - (i) by the owner of the land on which the fence is erected; or
    - (ii) with the written consent of the owner of the land on which the fence is erected, by the occupier of that land;
  - (b) made in writing and addressed to the CEO;
  - (c) signed by the proposed transferee of the licence and the holder of the licence; and
  - (d) forward to the CEO the approved fee.
- (2) Upon receipt of an application for the transfer of a licence, the Council or an authorised person may:
- (a) grant the application subject to conditions;
  - (b) require the applicant to forward further information as the Council or an authorised person may require to enable the application to be determined; or
  - (c) refuse to grant the application.
- (3) Where the Council or an authorised person grants an application for the transfer of a licence:
- (a) an endorsement to that effect, signed by an authorised person, shall be completed on the licence in the form approved by Council from time to time;
  - (b) the licence shall be subject to the conditions set out in section 4.19.

#### **Cancellation of Licence**

- 4.19. Council or an authorised person may, at any time during the currency of a licence, cancel the licence if:
- (a) the licence holder has ceased to be the owner or occupier of the land or premises upon which the electrified fence is erected or maintained;
  - (b) the licence holder has been convicted of an offence against this Division of these local laws;
  - (c) the licence holder has procured the issue of the licence by means of any false or misleading statement or conduct;
  - (d) for safety, environmental, town planning or other reasons the Council or an authorised person considers that the electrified fence should not be retained;
  - (e) the Council or an authorised person considers that the electrified fence does not comply with AS/NZS 3016:1994; or
  - (f) the Council or an authorised person considers that the holder of the licence has, during the currency of the licence, by reason of his or her conduct or on any other grounds become unsuitable or has ceased to be a fit and proper person to hold a licence.

### **PART IV—DANGEROUS AND OFFENSIVE THINGS**

#### *Division 1—Preliminary*

#### **Interpretation**

5.1. In this Part, unless the context otherwise requires:

“**disused**” means in relation to any thing whatsoever that the thing:

- (a) is not in use for the purpose for which it was designed or appears to have been designed or intended; or
- (b) has been stored or left stationary on land in the district for more than 3 months.

#### *Division 2—Disused Refrigerators, Disused Material, Vehicles and Machinery*

#### **Disused Refrigerators, Freezers and Other Disused Material**

5.2. A person shall not place in, on or about any public place, waste disposal site, tip, dump or unfenced land any refrigerator, ice chest, ice box, furniture, trunk or other thing, that has in it a compartment of a capacity of 0.04 cubic metres or more, unless, before so placing it, he or she removes from the compart-

ment every door, lid, lock and hinge thereof or otherwise renders such door or lid incapable of being fastened.

#### **Old Vehicles and Machinery**

5.3. Without affecting the generality of any other provisions of these local laws a person shall not on any land within the district:

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

#### *Division 3—Nuisance*

#### **Nuisance**

5.4. A person shall not:

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

so as to create a nuisance.

#### **Outdoor Lighting and Light Spill**

5.5. No person shall install or cause or permit the installation of outdoor lighting otherwise than in accordance with the requirements of Australian Standard AS 4282 – 1997 Control of the Obtrusive Effects of Outdoor Lighting.

#### **Fibreglassing (Fibre Reinforced Plastics or Resins) and Spraypainting**

5.6. (1) No person shall:

- (a) apply, use, manufacture or repair fibre reinforced plastics or resins; or
- (b) engage in spraypainting,

on any land zoned residential, rural or special rural in the town planning scheme without the prior written consent of an authorised person.

(2) An authorised person may apply such stated conditions to any approval granted under subsection (1) as deem fit.

(3) Any person granted an approval under subsection (2) must comply with the conditions stipulated in the approval given.

#### **Notice of Breach**

5.7. Where there is a non-compliance with section 5.4, 5.5 or 5.6 the Council or an authorised person may cause a notice to be served on the owner or occupier of any land on which the non-compliance occurs, and the notice must specify the requisites to rectify the non-compliance within the time and date specified in the notice.

#### **Compliance of Notice Served**

5.8. An owner or occupier of land to whom a notice is served under section 5.7 shall comply with such notice within the time specified therein. Any occupier who fails to comply with the terms of the notice so served commits an offence.

#### *Division 4—Sand Drift and Dust Management*

#### **Dust Management**

5.9. If an owner or occupier of land intends to undertake any work involving the clearing of land, from which any sand or dust is likely to be released whether by means of wind or any other cause shall:

- (a) submit to an authorised person a Dust Management Plan in accordance with Council's "Guidelines for the Preparation of a Dust Management Plan for Development Sites within the City of Cockburn"; and
- (b) obtain written approval of the Dust Management Plan from an authorised person before the commencement of any work.

#### **Abatement of Sand Drift or Dust**

5.10. An owner or occupier of land or premises, from which any sand or dust is released or escapes, whether by means of wind, water or any other cause, commits an offence.

5.11. Council may serve on an owner or occupier of any land or premises in the district from, which any

sand or dust has been released or escaped a notice requiring the owner or occupier to clean up and make good any damage resulting from that release or escape, and where the notice specifies a time and date, the requirements set out in the notice must be completed by the time specified therein.

#### **Notice of Breach**

5.12. Where the Council is of the opinion that sand or dust may be released or escape as a result of an activity being carried on or likely to be carried on from any land or premises, the Council may cause to be given to the owner or occupier a notice providing that the activity can only be carried on subject to conditions and the notice shall specify the conditions.

5.13. If an owner or occupier:

- (a) fails to comply with a notice issued pursuant to section 5.11; or
- (b) fails to comply with any conditions specified in section 5.12,

the Council may undertake or cause to be undertaken that work.

5.14. Where the Council undertakes or causes to be undertaken any work or carries out or causes to be carried out any conditions, it may cause to be given to the owner or occupier of the land or premises written notice of the amount expended by Council in carrying out that work.

5.15. The amount specified in the notice referred to in section 5.14 must be paid to Council within 14 days of the service of the notice and if the amount specified is not paid within the prescribed time from the service of the notice, Council may recover it, as well as the costs of proceeding, and interest thereon, in a Court of competent jurisdiction.

5.16. (1) Where a notice is served on the owner or occupier of any land or premises and the owner or occupier satisfies the Council within 14 days from the date of the giving of the notice that:

- (a) it was not responsible for the conduct in respect of which the notice was given pursuant to section 5.10 or 5.11, or the activity in respect of which conditions were imposed pursuant to section 5.12 as the case may be; and
- (b) it took all reasonable precautions to prevent the conduct or all reasonable steps to comply with, or cause the conditions to be complied with, as the case may be; and
- (c) where another person was responsible for the conduct, it identifies the person responsible for the conduct sufficiently to enable the notice to be issued to that person,

the Council may cancel the notice.

(2) Without derogating from the generality of paragraph (a) of subsection (1), an owner or occupier will be responsible for the conduct or compliance with conditions within the meaning of paragraph (a) of subsection (1):

- (a) in the case of conduct, the conduct took place with the owner or occupier's knowledge, consent or approval; or
- (b) in the case of conditions, the owner or occupier was aware of the activity in respect of which the conditions were imposed.

(3) If the Council decides to cancel the notice it may within 28 days from the date of cancellation cause a notice ("the second notice") to be issued to the person identified by the person to whom the notice was originally given as being responsible for the conduct in respect of which the notice was issued.

(4) Where the second notice is issued pursuant to subsection (3) the provisions of this Division shall apply to the second notice on and from the date of service of the notice.

5.17. The Council may lawfully enter upon any land or premises for the purpose of giving effect to, or carrying out, any provision of this Division.

#### *Division 5—Clearing of Refuse, Rubbish or Disused Material*

##### **Rubbish and Disused and Stored Material**

5.18. (1) If there is on any land within the district any vegetation, refuse, rubbish or disused material which in the opinion of the Council or an authorised person gives the land an untidy appearance and does not conform with the general appearance of other land in that part of the district the Council or an authorised person may cause a notice to be served on the owner or occupier of such land requiring that person, within the time specified in such notice to clear the land of such vegetation and rubbish or remove such refuse, rubbish or disused material from the land.

(2) An owner or occupier of land upon whom a notice is served pursuant to subsection (1) shall comply with such notice within the time specified.

(3) Where the owner or occupier does not clear the land of such vegetation and rubbish, or remove such refuse, rubbish or disused materials as required by the notice given under subsection (1) the Council by its authorised persons, contractors and agents may enter onto the land and without payment of any compensation to the owner or occupier in respect thereof remove that vegetation rubbish refuse or disused material and dispose of it at the expense of the owner or occupier to whom the notice was given and recover from the owner or occupier in a Court of competent jurisdiction any costs and expenses incurred in such clearing or removal.

(4) A person served with a notice pursuant to these local laws has a right of appeal pursuant to Division 1 of Part 9 of the Act.

(5) Any person who contravenes a provision of these local laws or fails to comply with a notice issued under subsection (1) commits an offence and is upon conviction liable to a penalty as provided in Part XII hereof.

*Division 6—Litter Control on Construction Sites***Litter Control**

5.19. (1) Upon commencement of construction works, the owner or occupier of any land, is required to implement one of the following measures to prevent building litter or rubbish of any kind whatsoever from being blown from the construction site:

- (a) provide a receptacle of a capacity not less than 4 m<sup>3</sup> fitted with a lid on site for the disposal of all rubbish; or
  - (b) provide an equivalent wire enclosure on site with a lid for the disposal of all rubbish.
- (2) All rubbish and offensive matter on the construction site is to be placed in the receptacle.  
 (3) The receptacle is to be maintained on the construction site for the duration of the construction work.  
 (4) A lid is to be kept secure on the receptacle at all times.

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

6.1. In this Part, unless the context otherwise requires:

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

“**hawker**” means a hawker, pedlar or other person who travels and trades from place to place soliciting orders for goods, wares or merchandise;

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

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

“**trading**” means selling or hiring of goods, wares, merchandise or services, or offering goods, wares, merchandise or services for sale or hire, in a street or other public place and includes displaying goods, wares or merchandise for the purpose of offering them for sale or hire, inviting offers for sale or hire, soliciting orders or carrying out any other transaction therein, but does not include the setting up of a stall, or the conducting of business at a stall, under the authority of a licence issued under these local laws.

*Division 2—Licences***Hawkers**

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

**Application (Hawkers)**

6.3. Every application for a hawker’s licence shall be accompanied by the approved fee, which is non-refundable, and shall be in the form approved by Council from time to time.

**Stallholders**

6.4. A person shall not conduct a stall for the sale of goods, wares or merchandise within the district unless that person holds a current licence issued pursuant to these local laws.

**Application (Stallholders)**

6.5 Every application for a stallholders licence shall be accompanied by the approved fee, which is non-refundable, and shall be in the form approved by Council from time to time.

**Traders**

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

**Application (Traders)**

6.7. Every application for a trader’s licence shall be accompanied by the approved fee, which is non-refundable, and shall be in the form approved by Council from time to time.

**Selling of Newspapers**

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

**Discretion**

6.9. (1) The Council or an authorised person may cancel a licence if the applicant or licensee:

- (a) has been twice convicted during the preceding 2 years, or has paid two modified penalties in the space of 2 years, in respect of an offence against the local laws of any Local Government relating to Hawkers, Stallholders and Traders; or
- (b) does not conform to the requirements of the Health Act 1911.

(2) The Council or an authorised person may refuse to issue a licence if the needs of the district or the portion thereof for which the licence is sought are adequately catered for by established shops or by persons to whom licences have been issued.

#### **Conditions**

6.10. Where a licence has been granted by the Council or an authorised person under this Part subject to conditions, the person to whom the licence has been granted shall ensure that the conditions are observed at all times. If any condition is not observed that person commits an offence against these local laws and the Council or an authorised person additionally or in the alternative to any court action it undertakes in respect of such offence may exercise the power of section 6.17 to cancel the licence.

#### **Licence Certificate**

6.11. The Council or an authorised person shall issue to every licensee a licence certificate in the form approved by Council from time to time for which the licensee shall pay the approved fee, which shall be displayed by the licensee hawking, conducting a stall or trading as the case may be and while that person is the holder of a hawker's, stallholder's or trader's licence under this Part but not otherwise.

#### **Transfer of Licence**

6.12. The holder of a licence issued under this Part may apply to the Council or an authorised person to transfer the licence in the form approved by Council from time to time. The Council or an authorised person shall determine the application for transfer upon consideration of the matters set out in section 6.9 to the extent that they are applicable.

#### **Term of Licence**

6.13. A licence under this Part shall be issued for a period of 12 months commencing from 1 July of that year until 30 June next after it is granted, or such lesser period as specified in the licence.

#### **Annual Renewal**

6.14. (1) Every application for the renewal of a licence for 12 months shall be made annually during the month of June.

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

#### **Exemption**

6.15. The Council or an authorised person may grant without fee, a licence to conduct a stall in any street or way or on any land for any period specified in such licence if the stall or trading is conducted by a community association or if the trading is carried on in a portion of a street or public place adjoining the normal place of business of the licence holder.

#### **Cancellation**

6.16. (1) The Council or an authorised person may by written notice sent to the last known address cancel any licence issued under this Part for any of the reasons set out in section 6.9 (2) or on the grounds:

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

(2) Upon cancellation of a licence the holder thereof shall forthwith return the licence certificate issued pursuant to section 6.11 to the CEO and shall forfeit fees paid in respects of the licence.

(3) An authorised person shall have the right to seize the licence when it has been cancelled.

### *Division 3—Conduct*

#### **Presentation of Authority**

6.17. A hawker while hawking, a stallholder while conducting a stall or a person carrying out trading shall:

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

#### **Operating Standards**

6.18. (1) A hawker, stallkeeper or trader shall not:

- (a) hawk, conduct a stall or carry on trading between the hours of sunset and sunrise the next day, without obtaining the written consent of Council or an authorised person;

- (b) attempt to conduct business within a distance of 1 kilometre of any shop, stallholder or trader or permanent place of business that has for sale any goods, wares, merchandise or services of the kind being hawked or offered for sale by the stallholder or trader;
  - (c) call the licensee's wares or cause or make any outcry noise or disturbance likely to be a nuisance or cause annoyance to any person in that vicinity;
  - (d) deposit or store any box or basket containing goods wares or merchandise under the vehicle of the licensee or upon the roadway or footpath;
  - (e) obstruct the free passage of pedestrians or vehicles on any footpath or roadway;
  - (f) act in an offensive manner; or
  - (g) in the case of a stallholder, conduct a stall on private property unless there is adequate provision on the private property adjacent to the stall for the parking of customer's vehicles.
- (2) A person shall not display a licence certificate without being the holder of a valid licence under this Part.

## PART VII—MANAGEMENT AND CONTROL OF COUNCIL PROPERTY

### *Division 1—Preliminary*

#### **Interpretation**

7.1. In this Part, unless the context otherwise requires:

- “**Assessed Waste**” means waste that can be demonstrated to the Site Controller to have been certified by an independent analyst and falls within criteria specified by the Waste Management Division of the Department of Environmental Protection for acceptance at a Class 2 Site;
- “**Class 2 Site**” means a land fill site approved and licensed by the Waste Management Division of the Department of Environmental Protection as a Class 2 Site;
- “**collection time**” where used in connection with any premises, means the time when rubbish or refuse is collected and removed from the premises by the Council or its contractor;
- “**Facility**” means the Henderson Landfill Site;
- “**fauna**” and “**flora**” have the meanings given to them in section 6 of the Wildlife Conservation Act 1950;
- “**Green Waste**” includes branches of shrubs and trees, vegetation, lawn clippings, but excludes any branch or shrub greater than 300 millimetres in diameter and excludes all inorganic material;
- “**Mixed Waste**” includes builder's rubble, inert and putrescible waste;
- “**receptacle**” where used in connection with any premises, means:
  - (a) a polyethylene or other approved material cart fitted with wheels, a handle and a lid and having a capacity of at least 120 litres or 240 litres;
  - (b) a container provided by the Council or its contractor for the deposit, collection and recycling of specific materials, and supplied to the premises by the Council or its contractor;
- “**Responsible Officer**” means the Principal Environmental Health Officer or the Waste Services Engineer;
- “**rubbish or refuse**” includes any filth, dirt, ashes, vegetation, garden refuse, waste material, waste food, sludge, offensive matter, cinders, wood or metal shavings and sawdust but does include liquid waste or liquid refuse;
- “**Site Controller**” means an authorised person charged with the conduct of operations at the Henderson Landfill Site facility and includes any person acting in that position;
- “**to deposit waste**” includes to dump, to dispose of or in any way to place or leave waste at the facility;
- “**Waste**” means all manner of material discarded, as being no longer required by the person owning or in possession of that material.

#### **Application**

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

### *Division 2—Permissions*

#### **Application**

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

7.4. Every application for permission to hire under section 7.3 shall be in the form approved by Council from time to time at least 24 hours before the time that such building, furniture or other property are required.

#### **Discretion**

7.5. (1) The Council or an authorised person in exercising discretion may grant permission to hire or refuse to grant permission to hire or grant permission subject to conditions.

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

**Conditions**

7.6. Every permission to hire shall contain the following conditions whether expressed in the permission or not:

- (a) the applicant shall lodge a bond for an amount estimated to cover any damage that might occur during the term of engagement prior to the commencement of the hiring in addition to any deposit the Council or an authorised person may require as an advance payment of the hiring fee;
- (b) the applicant shall pay a cleaning deposit in the amount stipulated by the Council from time to time which shall be refunded, if in the opinion of Council or an authorised person the building is left in a clean and tidy condition and if all property therein is present clean and undamaged;
- (c) no furniture or other property shall be removed, except with the permission of the CEO and under the supervision of the caretaker or an authorised person;
- (d) the applicant shall comply with the provisions of the Health Act 1911 and any other written law in force for the time being applicable to the hiring and use of the building; and
- (e) the Council or an authorised person may at any time cancel any permission to hire giving its reasons for the cancellation and refund all or portion of the hire fee.

**Cancellation**

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

*Division 3—Conduct in Hired Building***Hire of Buildings**

7.8. (1) No person in any building shall:

- (a) enter or be allowed to enter while intoxicated;
- (b) use profane or improper language;
- (c) be guilty of any misbehaviour whatsoever;
- (d) damage, mark or deface any wall or other part of the building;
- (e) drive nails, tacks, pins or screws into any of the woodwork or walls of the hall without the consent of an authorised person;
- (f) erect internal or external decorations without the permission in writing from an authorised person;
- (g) stand, loiter or cause any obstruction whatsoever in the entrance halls, exits, or passageways of any building;
- (h) perform offensive impersonations or representations of living persons, or anything calculated to produce a disturbance, riots or breach of peace.

(2) The Council may recover the cost of making good any damage to any building or its property therein from the holder of the permission to hire. The cost of making good the damage may be deducted from any bond or deposit paid by the hirer of the building or property and the whole amount or excess over the amount of the bond may be recovered by the Council:

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

(3) The holder of permission to hire any building, furniture or other property shall:

- (a) maintain and keep such building, furniture or other property in good order;
- (b) be solely and entirely responsible for the carrying out of the provisions of this Part;
- (c) be solely and entirely responsible for any damage done to the building, furniture or other property;
- (d) pay such damages as shall be assessed by an authorised person and furniture or other property damaged or not accounted for shall be paid for at current replacement cost or the actual cost of repair as the case may be;
- (e) allow the CEO or an authorised person seeking to enforce these local laws or any other written law or otherwise acting in accordance with any written law and any member of the Police Service free ingress to the building, hall, changeroom or room;
- (f) if the hirer fails to allow ingress to the building in accordance with the provisions of paragraph (e) of this subsection, an authorised person may at any time prior to or during the term of hire forbid and prevent the use or continued use of the building in addition to any other action the authorised person may take for the breach of this Part, and the Council or an authorised person shall not be held responsible to the hirer for any loss or damage incurred as a consequence;
- (g) in addition to any action taken by the hirer in accordance with paragraph (f) of this subsection, a hirer in breach of the provisions of this section may be required by the Council or an authorised person to forfeit any fee, bond or deposit or any portion hereof in relation to the hiring of the building.



*Division 4—Operation of Refuse and Recycling Facility***Operation of Facility**

7.9. (1) All persons entering Council's Landfill Facility shall be subject to this division.

(2) The Site Controller may determine in his or her absolute discretion, the classification of any waste being deposited at the facility.

**Depositing of Waste**

7.10. The person depositing Mixed Waste shall pay the disposal charge at a rate assessed by the Site Controller, notwithstanding that some part of the waste otherwise could have been charged at a lower rate.

7.11. Unless otherwise authorised in writing by the CEO, no person shall enter or deposit waste at the Facility without first having paid the approved fee or charge or has a credit arrangement in place with Council.

**Hours of Operation**

7.12. Council or an authorised person may from time to time set the hours of operation of the Facility and shall advertise such hours of operation by public notice.

**Payment of Additional Assessed Fees**

7.13. If Council incurs any extra costs in the depositing, treating or disposal of waste, then the person depositing that waste shall pay to the Council within 7 days or on demand (as determined by the Site Controller) those extra costs as certified by the Site Controller.

**Compliance With Directions Given**

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

7.15. No person shall deposit waste at the Facility other than:

- (a) at a location designated by notice; or
- (b) as directed by the Site Controller.

**Prohibitions**

7.16. No person shall:

- (a) enter the Facility to deposit waste unless the approved fee has been paid or a credit arrangement is in place with Council;
- (b) remove any waste from the Facility without prior written authorisation from the Council or Site Controller;
- (c) deposit at the Facility any waste which is toxic, poisonous or hazardous, or the depositing of which is regulated or prohibited by any statute;
- (d) deposit any liquid waste at the Facility;
- (e) light a fire within the Facility;
- (f) remove from or otherwise damage flora on the Facility;
- (g) trap, chase, worry or otherwise injure or maim any fauna at the Facility except during an authorised program approved by Council to eradicate vermin;
- (h) damage, deface or destroy any building, sign, plant or equipment or property of the Council situated in and on the Facility.

**Assessed Waste**

7.17. Notwithstanding the provisions of paragraph (c) of section 7.16 a person may deposit Assessed Waste subject to the production to the Site Controller of a certificate from a laboratory certified by the National Association of Testing Authorities, which certifies that the Assessed Waste complies with standards prescribed by the Waste Management Division of the Department of Environmental Protection for a Class 2 site.

**Vehicular Compliance With Signs**

7.18. The drivers of all vehicles entering the Facility shall comply with any directional and speed limit signs erected by the City on the Facility.

**Offences**

7.19. Any person convicted of an offence against sections 7.11, 7.14, 7.16, 7.17 and 7.18 shall, in addition to any penalty imposed and costs awarded, be liable to Council for the costs of removing and lawfully disposing of such liquid, toxic, hazardous or poisonous waste, and for making good any damage caused to the facility and for any other expenses incurred by Council, as a result of the illegal depositing. Those further cost may be recovered by the Council in a competent court of civil jurisdiction.

**Fee Exemption**

7.20. The provisions of these local laws requiring payment of an approved fee do not apply to the deposit of waste, owned by, or in possession of Council or an authorised person.

*Division 6—Receptacles***General**

7.21. An owner or occupier of premises shall:

- (a) at all times keep the lid of the receptacle closed except when depositing rubbish or refuse or cleaning the receptacle;
- (b) except for a reasonable period before and after the collection time, keep the receptacle on the premises and located:
  - (i) behind the street alignment and so not to be visible from a street or public place; or
  - (ii) in such other position as is approved by the Responsible Officer;
- (c) within a reasonable period prior to collection time, place the receptacle in the street:
  - (i) within 1 metre of the carriageway;
  - (ii) so that it does not obstruct any footpath, cycleway, right-of-carriageway;
  - (iii) facing squarely to the edge of and opening towards the carriageway; or
  - (iv) in such other position as is approved by the Responsible Officer;
- (d) if the receptacle is lost, stolen, damaged or defective, notify Council within 7 days after the event; and
- (e) ensure that the premises are provided with an adequate number of receptacles.

**Exemption**

7.22. (1) An owner or occupier of premises may apply in writing to the Responsible Officer for an exemption from compliance with the requirements of section 7.23 (b).

(2) The Responsible Officer may grant or refuse, with or without conditions, an application for exemption for compliance under this section.

(3) An exemption granted under this section shall state:

- (a) the premises to which the exemption applies;
- (b) the period during which the exemption applies; and
- (c) any conditions imposed by the Responsible Officer.

(4) An exemption granted under this section shall cease to apply if and when the person to whom it is granted fails to comply with a condition of the exemption.

**Use of Receptacle**

7.23. An owner or occupier of premises shall:

- (a) not deposit or permit to be deposited in a receptacle:
  - (i) more than 70 kilograms of rubbish or refuse in the case of a receptacle with the capacity of 240 litres;
  - (ii) more than 50 kilograms of rubbish or refuse in the case of a receptacle with the capacity of 120 litres;
  - (iii) hot or burning ash;
  - (iv) oil, motor spirit or other flammable liquid;
  - (v) liquid, paint or other solvent;
  - (vi) bricks, concrete, building rubble, earth or other like substances;
  - (vii) drugs, dressings, bandages, swabs or blood samples unless placed in a sealed impervious and leak-proof container;
  - (viii) hospital, medical, veterinary, laboratory or pathological substances containing blood unless placed in a sealed impervious and leak-proof container;
  - (ix) syringes, needles, surgical hardware, broken glass, sharps or other sharp objects unless placed in a sealed impervious leak-proof container;
  - (x) cytotoxics, radioactive substances and dangerous chemicals;
  - (xi) any object which is greater in length, width, or breadth than the corresponding dimension of the receptacle or which will not allow the lid of the receptacle to be tightly closed;
  - (xii) rubbish or refuse which is or is likely to become offensive or a nuisance, or give off an offensive or noxious odour, or to attract flies or cause fly breeding unless placed in a sealed impervious container; or
  - (xiii) commercial swill, sewerage, manure, nightsoil, faeces or urine.
- (b) unless authorised by the Responsible Officer, not mark or disfigure the receptacle in any manner other than by the placement of a street number or other identifying mark;
- (c) at all times keep the receptacle in a clean condition;
- (d) whenever directed to do so by a Responsible Officer, thoroughly clean, disinfect, deodorise and apply a residual insecticide to the receptacle;
- (e) take all reasonable steps to prevent:
  - (i) fly breeding and keep the receptacle free of flies, maggots, cockroaches, rodents and vermin; and
  - (ii) the emission of offensive and noxious odours from the receptacle;
- (f) ensure that the receptacle does not cause a nuisance to the occupiers of adjoining premises.

**Damage to Receptacles**

7.24. A person, other than the Council or its contractor, shall not:

- (a) damage, destroy or interfere with a receptacle; or
- (b) except as permitted by these local laws or as authorised by the Responsible Officer, remove a receptacle from any premises to which it was delivered by the Council or its contractor.

**Use of Other Containers**

7.25. (1) In the case of premises consisting of 4 or more dwellings, any premises used for commercial or industrial purposes or as food premises, the Responsible Officer may authorise rubbish or refuse to be deposited in a container other than a receptacle.

(2) The owner or occupier of premises who is authorised under this section to deposit rubbish or refuse in a container shall:

- (a) unless approved by the Responsible Officer, not deposit or permit to be deposited in the container anything specified in section 7.23 (a) (iii)-(xiii);
- (b) take all reasonable steps to prevent fly breeding in, and the emission of offensive or noxious odours from, the container;
- (c) whenever directed by a Responsible Officer to do so, thoroughly clean, disinfect, deodorise and apply a residual insecticide to the container;
- (d) cause the container to be located on the premises in an enclosure constructed and located as approved by the Responsible Officer;
- (e) ensure that the container is not visible from the street but is readily accessible for the purposes of collection; and
- (f) ensure that the container does not cause a nuisance to an occupier of adjoining premises.

(3) An owner or occupier shall:

- (a) be responsible for the provision of a sufficient number of receptacles to contain all commercial swill, rubbish and refuse which accumulates or may accumulate in or from the premises;
- (b) ensure that each receptacle on the premises:
  - (i) has a close fitting lid;
  - (ii) is constructed of smooth non-absorbent and easily cleanable material; and
  - (iii) is clearly marked, for the use of, and is used only for, the temporary deposit of either:
    - (A) commercial swill; or
    - (B) rubbish or refuse;
  - (iv) or as otherwise approved by the Responsible Officer;
- (c) keep or cause to be kept each receptacle thoroughly clean and in good condition and repair;
- (d) place any commercial swill in, and only in, a receptacle marked for that purpose;
- (e) place any rubbish or refuse in, and only in, a receptacle marked for that purpose;
- (f) keep the cover on each receptacle except when it is necessary to place something in, or remove something from, it; and
- (g) ensure that the receptacles are emptied at least weekly or as directed by a Responsible Officer.

**Suitable Enclosure**

7.26. (1) An owner or occupier of premises:

- (a) consisting of more than 4 dwellings that have not been provided with individual receptacles; or
- (b) used for commercial, industrial purposes, or as an eating house or food premises, that have been provided with receptacles, shall:
  - (c) if required by the Responsible Officer:
    - (i) provide a suitable enclosure for the storage and cleaning of receptacles on the premises; and
    - (ii) install in the enclosure a tap connected to an adequate supply of water.

(2) An owner or occupier of premises required to provide a suitable enclosure under this section shall keep the enclosure thoroughly clean and disinfected.

(3) For the purposes of this section, a "suitable enclosure" means an enclosure:

- (a) of sufficient size to accommodate all receptacles used on the premises but in any event having a floor area not less than a size approved by the Responsible Officer;
- (b) having walls not less than 1.5 metres in height and having an access way of not less than 1.5 metres in width and fitted with a self-closing gate;
- (c) containing a smooth and impervious floor:
  - (i) of not less than 75 millimetres in thickness; and
  - (ii) which is evenly graded to an approved liquid refuse disposal system; and
- (d) which is easily accessible to allow for the removal of the receptacles as approved by the Responsible Officer.

**Removal of Rubbish from Premises or Receptacles**

7.27. A person shall not remove any rubbish or refuse from any premises, receptacle or place unless that person is:

- (a) the owner or occupier of the premises;
- (b) authorised to do so by the owner or occupier of the premises; or
- (c) authorised in writing to do so by the Responsible Officer.

**PART VIII—SIGNS, HOARDINGS, BILL POSTING***Division 1—Preliminary***Interpretation**

8.1. In this Part, unless the context otherwise requires:

**“advertising device”** means any object or structure on which any word, letter, number, symbol, figure, drawing, image or other representation or message whatsoever is written, placed, affixed, attached, painted, projected or otherwise displayed or on which provision is made for the same, for the purpose of giving any message or direction or promoting or publicising any business, project, enterprise, or undertaking, or any function or event, or any person, body or group, or any product or article, or other thing whatsoever, and includes an airborne device anchored to any land, building or other thing whatsoever, and includes any vehicle or trailer or other similar object placed or located so as to serve the advertising purpose hereinbefore referred to and without limiting the generality of the foregoing includes a hoarding used or intended to be used wholly or partly for advertising purposes;

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

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

**“directional sign”** means a sign erected in a street or public place by or with the approval of the Council, to indicate the direction to another place but does not include a sign erected or affixed by the Council or The Commissioner of Main Roads or a road direction sign erected or affixed by a duly incorporated association or union of motorists authorized in that regard by the Minister for the time being administering the Road Traffic Act 1974;

**“display home sign”** means a sign erected on a lot on which a house is erected and which notifies members of the public that the house is open for inspection;

**“electoral advertisement”** includes an advertisement relating to an election or a prospective or forthcoming election of the Parliament of Australia or of the State or either House thereof respectively or to a Local Government election and to a referendum;

**“electoral sign”** means a sign containing an electoral advertisement;

**“fly posting”** means advertising by means of posters placed on fences, walls, trees, rocks or other like places and to “fly post” has a corresponding meaning;

**“hoarding”** means a detached or detachable structure other than a pylon sign, that is erected for the sole purpose of displaying a sign or signs and includes a poster panel, a wall panel or an illuminated panel but does not include a hoarding within the meaning of section 377 of the Local Government (Miscellaneous Provisions) Act 1960;

**“horizontal sign”** means a sign affixed or attached with its largest dimension horizontal to the wall of a building or a structure to which it is attached;

**“illuminated panel”** means posted or painted advertisement externally illuminated by an artificial source of light;

**“illuminated sign”** means a sign that is so arranged as to be capable of being lit either from within or outside the sign by artificial light provided, or mainly provided, for that purpose;

**“information panel”** means a panel used for displaying Government and Local Government notices, functional and dated announcements of a religious, educational, cultural, recreational or similar character, general information for the benefit of the public and travellers and general advertising;

**“institutional sign”** means a sign erected or placed on land or a building used for or in connection with a surgery, clinic, hospital, rest home, home for the aged, or other institution or place of a similar nature;

**“portable sign”** means a sign which is designed or intended to be carried by hand and readily movable from one place to another;

**“projection sign”** means a sign that is made by the projection of light on a wall or similar structure;

**“pylon sign”** means a sign supported by one or more piers and not attached to a building and includes a detached sign framework supported on one or more piers to which sign infills can be added;

**“residential area”** means an area that has been designated as a residential zone under a town planning scheme having effect within the district;

“**roof sign**” means a sign erected on or attached to the roof of a building;

“**rural producers’ sign**” means a sign erected on land lawfully used for rural purposes which advertises goods or products produced, grown or lawfully manufactured on the land within the boundaries of which the sign is located;

“**sale sign**” means a sign indicating that the premises whereon it is affixed are for sale, for letting or to be auctioned;

“**semaphore sign**” means a sign affixed to a building or wall and supported at, or by, one of its ends only;

“**sign**” unless the context otherwise requires, includes an advertising device, a portable sign, a sign board, wall panel or a bunting sign and a clock, other than a clock which is built into a wall and does not project beyond the face of the wall but does not include flags and bunting which carry no written message, and includes every kind of special sign, panel or advertisement defined in this section or otherwise referred to in this Part;

“**sign infill**” means a panel which can be fitted into a pylon sign framework;

“**tower sign**” means a sign affixed to, or placed on a chimney stack or an open structural mast or tower;

“**verandah sign**” includes a sign above a verandah fascia, a sign on a verandah fascia and a sign under a verandah;

“**vertical sign**” means a sign attached to a building in which the vertical dimension exceeds the horizontal dimension exclusive of a back projection;

“**wall panel**” means a panel used for displaying a posted or painted advertisement and affixed to or adjoining the wall of business premises or erected on the forecourt of any business premises.

#### *Division 2—Licences*

#### **Licences**

8.2. A person shall not erect, or maintain a sign or hoarding and the owner or occupier of premises shall not suffer or permit a sign or hoarding to remain in, on or above, or within a distance of 100 metres of a street, way, footpath or other public place, or in the case of an airborne device, to be anchored from land, except pursuant to a licence issued under these local laws, unless it is exempt under section 8.5.

8.3. Every licence shall be granted annually subject to the payment of the approved fee and shall subsist subject only to the provisions of these local laws.

8.4. Notwithstanding that a sign or hoarding would otherwise comply with the provisions of this Part, the Council or an authorised person may refuse a licence if:

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

#### **Exemptions**

8.5. The following are exempt from the requirements of this division:

- (a) a sign erected or maintained pursuant to and under authority of a written law;
- (b) a sale sign not exceeding 0.5 m<sup>2</sup> in area;
- (c) a plate not exceeding 0.2 m<sup>2</sup> in area erected or affixed on the street alignment or between that alignment and the building line to indicate the name and occupation or profession of the occupier of the premises;
- (d) a sign used solely for the direction and control of people, animals or vehicles or to indicate the name or street number of a premises, if the area of the sign does not exceed 0.2 m<sup>2</sup>;
- (e) an advertisement affixed to or painted on a shop window by or on behalf of the occupier thereof and relating to the business carried on therein provided that not more than 25 per cent of the window is so used;
- (f) the name of any occupier or business printed on, or affixed to, a fascia, window or wall of those premises, provided also that:
  - (i) the height of the lettering does not exceed 1 metre in height; and
  - (ii) in the case of a fascia the sign does not extend above or below the fascia;
- (g) a sign within a building unless:
  - (i) it is clearly visible from a public place outside the building; and
  - (ii) is not exempted under any other paragraph of this section.
- (h) a sign not larger than 0.6 metres x 0.9 metres on an advertising pillar or panel approved by or with the consent of the Council for the purpose of displaying public notices for information;
  - (i) a building name sign on residential flats or home units where it is of a single line of letters not exceeding 300 millimetres in height fixed to the façade of a building;
- (k) a newspaper poster;
- (l) an institutional sign not exceeding 4 m<sup>2</sup> in area.

**Term of Licence**

8.6. A licence issued under this Part shall be issued for a period of 12 months.

**Annual Renewal of Licence**

8.7. Every application for the renewal of a licence shall be made two weeks prior to the expiration date of the licence and shall be in the form approved by Council from time to time accompanied by a copy of the licence then in force and the approved fee.

**Transfer of Licence**

8.8. (1) A licence issued under this Part shall not be transferred to another person except with the consent of Council or an authorised person and on the payment of an approved fee.

(2) Every application to transfer a licence under subsection (1) shall be in the form approved by Council from time to time and shall be signed by both the transferor and transferee.

**Revocation of Licences**

8.9. The Council or an authorised person may, without derogation of any penalty to which a person may be liable, by notice in writing revoke a licence:

- (a) where anything purporting to be done pursuant to the licence issued under this Part is not done in conformity with the licence or with this Part or the sign or hoarding or the message displayed thereon is so altered that, in the opinion of Council or an authorised person, it is objectionable or in its altered form would have been refused a licence on the application of the provisions of section 8.4;
- (b) where the licensee is convicted of an offence against this Part of these local laws in respect of a sign or hoarding the subject of that licence.

**Inspection of Licences**

8.10. (1) A licensee shall, on demand by an authorised person produce the licence for inspection.

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

**Application for Licences**

8.11. (1) An application for a licence under this Part of these local laws shall be in the form approved by Council from time to time.

(2) An application for the first issue of a licence in respect of a sign shall be accompanied by duplicate plans, drawn to a scale of not less than 1:50 showing the size, position, design and inscriptions to appear thereon, the method of construction and fixing of the sign device for which the licence is sought and any other information the Council or an authorised person requires.

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

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

(5) Every applicant for a licence shall furnish in writing such further particulars as are required by an authorised person for the time being administering this Part of these local laws.

(6) A licence shall be issued annually in the form approved by Council from time to time.

(7) An authorised person may issue a licence or permit under this Part of these local laws except where it is provided otherwise. In any case where an authorised person exercises the power of the Council to issue a licence or permit, the relevant reference in this Part to the Council in relation to the exercise of any power or discretion shall be deemed to be a reference to an authorised person.

(8) Subject to section 8.8 and except where otherwise stated in this Part a licence remains valid until:

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

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

**Derelict or Poorly Maintained Signs**

8.12. Where, in the opinion of Council or an authorised person, a sign has been permitted to deteriorate to the point where it is injurious to the amenity or safety of the area, the Council or an authorised person may require the owner or occupier of the property to:

- (a) repair, repaint or otherwise restore the sign to a standard specified in the notice; or
- (b) remove the sign.

**Special Permits**

8.13. (1) Notwithstanding anything contained in these local laws the Council or an authorised person may on application issue a special sign permit to a community association to allow it to display signs for

charitable or non-profit meetings, functions, artistic and cultural activities or other events of public interest, upon such terms and for such periods as deemed fit.

(2) If a permit does not adequately define the period during which it applies, any sign permitted in accordance with subsection (1) shall not be erected earlier than 2 weeks before the event to which it relates and shall be removed by the applicant not later than 2 days after the conclusion of the event unless it is revoked.

(3) The Council or an authorised person may at any time for reasonable cause revoke a permit granted pursuant to subsection (1).

(4) Upon the expiration or revocation of a permit issued under subsection (1) the person to whom it was issued shall forthwith remove any sign to which it relates.

#### *Division 3—Restrictions*

##### **General**

8.14. (1) A person shall not erect or maintain a sign or hoarding or suffer or permit a sign or hoarding to be or remain on any land or building:

- (a) so as to obstruct a person's view from a street or public place of traffic in a street or public place;
- (b) so as to be likely to be confused with or mistaken for an official traffic light or sign or so as to contravene the Road Traffic Act 1974 or the regulations made thereunder;
- (c) except with the specific approval in writing of the Council or an authorised person on an ornamental tower, spire, dome or similar architectural feature or on a lift machinery room, bulk-head over stairs, or other superstructure over the main roof of a building;
- (d) subject to section 8.5 and paragraph (a) of section 8.28 on land that is zoned by a town planning scheme or local laws for the time being in force for residential purposes other than land so zoned that is lawfully used for a purpose other than residential purposes unless permitted under section 8.12;
- (e) on a building the stability of which is, in the opinion of an authorised person, likely to be affected by the sign;
- (f) as a movable or portable sign in a street or public place, unaffixed to a building;
- (g) on a light or power pole without the approval of the relevant authority responsible for the erection or maintenance of that pole;
- (h) in a position where it obstructs or obscures a person's view from a dwelling of a river, the sea or any other natural feature of beauty or interest;
- (i) if the sign is an advertising device and is erected or proposed to be erected in a position where, in the opinion of Council or an authorised person, it would be injurious to the amenity or natural beauty of the area in which the sign is erected or proposed to be erected, or would be unsuitable to the locality.

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

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

(3) Any person who does, or permits or suffers the doing of any of the things prohibited by subsection (2) commits an offence.

##### **Inscriptions on Signs**

8.15. Except in the case of a hoarding, signboard or wall panel, direction sign, a sign generally shall only display one or more of the following:

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

##### **Fixing of Signs**

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

##### **Headroom**

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

##### **Obstruction to Doors Etc**

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

##### **Glass in Signs**

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

**Readily Combustible Material**

8.20. Except in the case of posters securely affixed to a hoarding, signboard, direction sign or wall panel, or other structure, readily combustible materials including but not limited to paper, cardboard or cloth shall not form part of or be attached to any sign.

**Signs to be Kept Clean**

8.21. Every sign whether licensed or required to be licensed or not shall be kept clean and free from unsightly matter and shall be maintained by the licensee (if any) and owner in good order and repair to the satisfaction of Council or an authorised person.

**Bill Posting**

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

**Fly Posting**

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

*Division 4—Requirements for Signs***Clocks**

8.24. A clock shall:

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

Height of Bottom of Clock above Footway	Maximum Diameter of Width of Clock Face and Depth of Clock Including Lettering
2150 mm and under 3700 mm	460 mm
700 mm and under 6000 mm	700 mm
6000 mm and under 12000 mm	1070 mm
12000 mm and over	1520 mm
- (c) be fixed either parallel or at right angles to the wall to which it is attached;
- (d) not project from the wall to which it is attached:
  - (i) if parallel to the wall, more than 300 millimetres; or
  - (ii) if at right angles to the wall, more than 2 metres;
- (e) afford a minimum headway of 2.75 metres;
- (f) be maintained from sunset to midnight;
- (g) if fitted with chimes, not be permitted to strike between 10.00 p.m. and 7.00 a.m. without the approval in writing of Council or an authorised person; and
- (h) be maintained so as to show the correct time.

**Development Signs**

8.25. (1) A development sign shall:

- (a) only be erected where the area of residential land being subdivided exceeds 5 hectares;
- (b) only be erected in the ratio of 1 m<sup>2</sup> of area per hectare up to a maximum of 50 m<sup>2</sup> with no individual sign exceeding 20 m<sup>2</sup>;
- (c) be removed from the site within 2 years or when 80 percent of the Lots in the subdivision have been sold, whichever is the sooner.

**Directional Signs**

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

**Display Home Signs**

8.27. (1) A display home sign shall:

- (a) be provided in a ratio not exceeding 2 m<sup>2</sup> per house in a centre with no individual sign exceeding 4 m<sup>2</sup>;
- (b) except with the approval of the Council or an authorised person be erected within 25 metres of a street or other public place and in any case not closer than its own height to a street or public place;
- (c) be of greater area than 22 m<sup>2</sup>.

(2) A licence issued in respect of a hoarding is valid in terms of the licence for the period specified in the licence but not exceeding 10 years and is renewed annually.

**Horizontal Signs**

8.28. (1) A horizontal sign shall:

- (a) afford a minimum headway of 2.75 metres;
- (b) be fixed parallel to the wall of the building to which it is attached;



(c) conform, as to depth, with the following table:

Minimum Distance of Sign Above Street	Maximum Depth of Sign
Less than 7.6 metres	610 millimetres
7.6 metres to 9.1 metres	760 millimetres
9.1 metres to 12 metres	910 millimetres
More than 12 metres (if there is no roof sign on building)	4.5 metres

(d) not project more than 600 millimetres from the wall to which it is attached; and

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

(2) Notwithstanding the provisions of paragraph (c) of section 8.26 the Council or an authorised person may permit an increase of not more than 50 percent of the depths therein mentioned in any part or parts of a sign to permit the inclusion therein of a motif or capital letter.

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

(4) The name of the building, owner or occupier may without any licence or permit be shown on the facade of a building but:

- unless otherwise approved by the Council or an authorised person, only one such name shall be placed on any facade;
- the letters of the name shall not exceed 1.2 metres in height;
- the letters shall be of metal or other incombustible material; and
- the letters shall not be lit or illuminated unless the Council or an authorised person has approved all illuminated lettering.

### **Illuminated Signs**

8.29. (1) An illuminated sign shall:

- have any boxing or casing in which it is enclosed constructed of incombustible material;
- have its electrical installation constructed and maintained to the satisfaction of Western Power Corporation or the appropriate electricity supply authority and in accordance with the S.A.A. Code 3000-1991;
- be maintained to operate as an illuminated sign; and
- not have a light of such intensity as to cause annoyance to the public.

### **Information Panels**

8.30. The Council may at its cost provide information panels or bays of varying sizes and may recover such of the cost, as it deems appropriate for the inclusion of advertisements in such panels or bays.

### **Institutional Signs**

8.31 An institutional sign shall not exceed 0.5 m<sup>2</sup> in area except with the approval of the Council or an authorised person but in any case shall not exceed 2 m<sup>2</sup>.

### **Projection Signs**

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

(2) A licence shall not be issued by the Council or an authorised person for such a sign:

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

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

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

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

### **Pylon Signs**

8.33. (1) A pylon sign shall:

- not have any part thereof less than 2.75 metres or more than 6 metres above the level of the ground immediately below it, or, exceed 2.5 metres measured in any direction across the face of the sign or have a greater superficial area than 4 square metres except in a business area or

large shopping complex with the approval of Council or an authorised person and unless it complies with the following:

- (i) the sign is the motif or emblem of the centre;
  - (ii) only one sign is erected;
  - (iii) the sign does not exceed 20 metres in height;
  - (iv) the sign does not exceed 10 m<sup>2</sup> on any face;
  - (v) the sign is not erected within its own overall height of any street or right of way;
  - (b) not project more than 1 metre over any street;
  - (c) be supported on one or more piers or columns of brick, stone, concrete, or, steel of sufficient size and strength to support the sign under all conditions;
  - (d) where the sign is supported on two or more piers or columns not be erected unless the space between the piers or columns is not wholly or partly filled in with any material below 2.75 metres above the ground level;
  - (e) not, as to any part thereof, project over any street at a height of less than 2.75 metres;
  - (f) not be within 1.8 metres of the side boundaries of the lot on which it is erected unless the lot on which it is erected abuts an intersecting street or right of way in which the Council or an authorised person may authorise the erection of the sign at a lesser distance than 1.8 metres;
  - (g) not have any part thereof more than 6 metres from any part of another sign erected on the same lot.
- (2) Where two or more pylon signs are to be erected on a lot on which unit factories, offices, showrooms or small shops are erected or are to be erected the Council or an authorised person may require all the pylon signs to be incorporated into one sign. All infills are to be of an equal size and space with one infill for each shop or unit on the lot.
- (3) Where the Council or an authorised person requires two or more signs to be incorporated into one sign:
- (a) the total area of the infill signs specified under paragraph (a) of subsection (2) of section 8.33 may be increased by up to 50 percent or to a maximum of 6 m<sup>2</sup>;
  - (b) the approval of the Council or an authorised person to each additional infill to be fitted into the sign is required.

### Roof Signs

8.34. (1) A roof sign shall:

- (a) not at any point be closer than 4 metres to the ground;
- (b) not extend laterally beyond the external walls of the building; and
- (c) comply, as regards height above ground and height of sign, with the following table:

Height of Main Building above Ground Level at Point where Sign is to be Erected	Maximum Height of Sign
3.7 metres and under 4.5 metres	1.2 metres
4.5 metres and under 6 metres	1.8 metres
6 metres and under 12 metres	3 metres
12 metres and under 18 metres	4.5 metres
18 metres and upward	6 metres

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

(3) A licence for a roof sign requires the approval of the Council or an authorised person.

### Rural Producer's Sign

8.35. (1) A rural producer's sign shall:

- (a) show only the name and address of the occupier of the land or the name of the property or both and only advertise goods or products produced, grown or lawfully manufactured upon the land;
- (b) not exceed 1 square metre in area or 3 metres in height; and
- (c) only be erected and maintained on land on which the goods or products are produced, grown or lawfully manufactured.

### Sale/Lease Signs

8.36. (1) Subject to the provisions of this Part of these local laws a person shall not erect or maintain a sale or lease sign:

- (a) exceeding 10 m<sup>2</sup> in area;
- (b) in respect of an auction sale for more than 24 days before the date on which the auction sale is to be held or for more than 48 hours after that date;
- (c) in respect of the sale of land under 5 hectares in area for a period exceeding 6 months nor within the period of 12 months from the date of expiration of the period during which another sign advertising the same land or any part thereof was erected or maintained;
- (d) advertising that flats or dwellings units in a building erected or to be erected on the land on which the sign is situated are or will be available for letting or for purchase before the date of issue of the building licence in respect of the building or after 3 months following the completion of the building;
- (e) not be erected or placed outside the boundaries of the lot.

**Semaphore Signs**

8.37. (1) A semaphore sign shall:

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

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

**Tower Signs**

8.38. A tower sign shall not, unless otherwise approved by Council or an authorised person:

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

**Verandah Signs**

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

(2) A sign fixed to the outer or return fascia of a verandah:

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

(3) An illuminated sign fixed to the outer fascia on a building shall:

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

(4) Where such a sign is to be fixed to the outer fascia of a verandah which has already been constructed at the time that these local laws come into force, the outer face of the sign shall not be less than 600 millimetres from a line drawn vertically from the kerb line of the footpath beneath such verandah.

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

(6) A sign under a verandah shall:

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

**Vertical Signs**

8.40. (1) A vertical sign shall:

- (a) afford a minimum headway of 2.75 metres;
- (b) subject to subsection (2) not project more than 1 metre from the face of the building to which it is attached;

- (c) subject to subsection (3), not be within 1.75 metres of either end of the wall to which it is attached;
- (d) be of a height of at least twice its width;
- (e) not project more than 1 metre above the top of the wall to which it is attached nor more than 1 metre back from the face of that wall;
- (f) not be within 4 metres of another vertical sign on the same building;
- (g) not be placed on a corner of a building, except at a street intersection when it may be placed at an angle with the walls so as to be visible from both streets; and
- (h) except with the approval of the Council or an authorised person not exceed one metre in width exclusive of the back projection.

(2) Where a vertical sign is affixed to the face of a building that is set back beyond the face of another building within 3 metres of it, the sign may project 500 millimetres further than the distance prescribed by paragraph (b) of subsection (1) or the distance by which the building to which it is affixed is set back beyond the face of the other, whichever is the lesser.

(3) Where a building to which a vertical sign is to be affixed is set back from the boundary or abuts on an intersecting street or right of way, the Council or an authorised person may authorise the affixing of a sign at a lesser distance from the end of the wall than that prescribed by paragraph (c) of subsection (1).

### Wall Panels

8.41. A wall panel shall:

- (a) not exceed 6m x 3 m; and
- (b) be fixed to the face of a wall of a building; and
- (c) not project beyond the boundaries of the lot.

### Offences

8.42. (1) A person who erects or maintains or permits or suffers to be erected or maintained a sign:

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

(2) Where by this Part of these local laws a licence is required to erect or maintain a sign, a person who erects or maintains or permits or suffers a sign to be erected or maintained without a licence or in respect of which the licence has expired or been cancelled, commits an offence.

(3) Neither the owner nor the occupier of any land or premises shall permit a sign to remain thereon unless the sign complies with this Part of these local laws.

### Remedy for Breach

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

(2) The Council or an authorised person may remove to the pound a sign or hoarding placed or erected on or over a street, way, footpath or other public place under the care control and management of the Council unless so placed or erected pursuant to this Part of these local laws.

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

(4) The Council or an authorised person, may remove from private property any hoarding or any bill, placard or advertisement which is attached to, or pasted, or painted, or stenciled on a hoarding and which in the opinion of the Council or an authorised person is dangerous or objectionable and the Council may recover the expenses of the removal from the owner of the property in a Court of competent jurisdiction.

## PART IX—STREETS AND PUBLIC PLACES

### *Division 1—Preliminary*

#### Interpretation

9.1. In this Part, unless the context otherwise requires:

“**footpath**” means a path used by, or set aside or intended for use by both pedestrians and cyclists, but not vehicles;

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

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

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

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

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

“**motor vehicle**” in this part means self-propelled vehicle of any kind designed for operation on land other than a wheelchair, and that is not operated on rails;

“**numbering**” means a number with or without an alphabetical suffix indicating the address of land as assigned by an authorised person, in accordance with these local laws;

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

### Application

9.2. Nothing in this Part shall be construed so as to inhibit or preclude employees, contractors or agents of the Council carrying out their normal and lawful duties.

#### *Division 2—Activities on Streets and Public Places*

### Activities Prohibited

9.3. A person shall not:

- (a) stand a vehicle or permit a vehicle to stand so that any part of the vehicle is on the verge of any part of the road, that is to say, between the edge of the carriageway of that part of the road and the boundary of the road nearest to that edge, provided that the prohibition in this paragraph shall not apply to the occupier of premises adjacent to the verge or any part of a road or to a person authorized by the occupier of those premises to stand a vehicle on that verge unless by a sign adjacent or referable to that verge the standing of vehicles on that verge is prohibited but nothing in this paragraph shall authorise an occupier of premises adjacent to the verge of any part of a road or a person authorized by the occupier of those premises to stand any portion of a vehicle on or over a footpath;
- (b) park a commercial vehicle or a caravan, omnibus or trailer on a street verge for more than 4 hours consecutively or for more than 4 hours in a day unless in between each period that the commercial vehicle or caravan, omnibus or trailer is parked or allowed to remain stationary on the street verge has been removed from the street verge for at least 24 hours;
- (c) on a street verge repair, service or clean any vehicle;
- (d) plant a lawn or garden or permit a garden or lawn to grow on or over any footpath or carriage-way;
- (e) grow or maintain any tree, shrub or plant on any part of a street which is thorny or which is or may be injurious to health;
- (f) water a lawn or garden in a manner or at any time as will or may occasion inconvenience or obstruction to any person using a carriageway or footpath;
- (g) plant any tree, shrub or plant, exceeding 0.75 metres in height or of a variety likely to exceed 0.75 metres in height in any part of a street situated within 6 metres of a junction or intersection;
- (h) except as otherwise authorised in this Part damage a lawn or garden or any part thereof or, if other than the owner or occupier or a person authorized by the owner or occupier of land abutting on part of a street in which a garden is planted, remove any flower, plant or shrub from that garden;
- (i) plant anything other than grass on any part of a street within 2 metres of the carriageway;
- (j) drive or stand a vehicle or animal on any lawn or garden unless with the consent of the owner or occupier of the land abutting that part of the street;
- (k) place any household rubbish or garden waste of any kind in a “litter” bin provided by the Council for the use of the public;
- (l) leave or place or deposit any rubbish, refuse, disused material, garden waste, clippings or any other material of whatever kind on a street verge:
  - (i) unless placed there in accordance with Council’s advice relating to the recycling collection; or
  - (ii) placed there in accordance with Council’s advice regarding the annual bulk cleanup;
- (m) subject to the provisions of these local laws leave or permit to remain on a street verge a receptacle of any kind used to collect garden waste, refuse or any other material; or
- (n) spit on a footpath, street or public place.

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

### Activities Needing Permission

9.4. A person shall not, without the permission of Council or an authorised person:

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) drive any vehicle over or across a kerb or footpath except at a specially constructed crossing place;

- (c) drive a vehicle or permit a vehicle to be driven across a kerb or footpath if such a vehicle is so heavy or is of such a nature that it causes or is likely to cause damage to the kerb or the paving of the footpath;
- (d) commit any of the following acts:
  - (i) leave an animal or vehicle or any part of a vehicle in a public place so as to obstruct any portion of that place except that an animal secured in any public place wherein animals may lawfully be secured and a vehicle parked in a public place wherein vehicles may lawfully be parked is not obstructing for the purposes of this section unless, in the case of an animal it is secured for any period exceeding 1 hour unless the consent in writing of an authorised person has first been obtained and, in the case of a vehicle (notwithstanding paragraphs (a) and (b) of section 10.3), it is so parked for any period exceeding 24 hours;
  - (ii) throw, place or deposit any obstruction, box, case, crate, bottle, coal, timber, brick, or other material on or in any public place;
  - (iii) cause any obstruction to or prevent vehicles or persons having the free unhindered use of any street, way or footpath;
  - (iv) break up, damage, or destroy any street, way, footpath or other public place;
  - (v) throw, place or deposit any rubbish, vegetable substance, garden clippings or any offensive noxious or dangerous substance or utensils or glass or any litter on any public place;
  - (vi) light any fire or burn any rubbish or material on any public place; or
  - (vii) fall any tree on or across any public place;
- (e) cause or permit any water from a hose or sprinkler to interfere with the use of any street, way or footpath by pedestrians;
- (f) in a street plant or maintain a lawn or a garden or plant a tree except that the owner or occupier of land abutting any part of a street may plant a lawn in that part of the street if such lawn does not form part of a garden;
- (g) lay pipes under or provide taps in any street verge for watering a garden or lawn;
- (h) deposit, place or install any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark, sawdust or any other thing whether of the same kind as, or, a different kind from those here specified, on any part of a street; or
- (i) deposit or store any material on a street, way or other public place contrary to Regulation 29 of the Local Government (Miscellaneous Provisions) Act 1960 Building Regulations 1989.

### Application

9.5. Every application for the permission of Council or an authorised person in accordance with section 9.4 shall be in the form approved by Council from time to time and shall:

- (a) in the case of paragraph (f) of section 9.4 be made in the name of the owner or occupier of the land abutting the garden and shall be accompanied by a plan depicting the proposed lawn and garden or tree and in the case of a garden, setting out details of all trees, shrubs and plants, and the positions thereof in relation to the street alignment and the carriageway and to any footpath;
- (b) in the case of paragraph (d) (iii) of section 9.4:
  - (i) be made in the name of the owner or occupier of land abutting the street, which is to be closed for the purpose of conducting a neighbourhood street party and the application must be accompanied by supporting evidence that other owners or occupiers within the street are in agreement with the application; or
  - (ii) where the event is a public meeting, a procession, a cycling event, a marathon or a fun run be accompanied by an authorisation of the event in writing by the person, body, or agency responsible under any written law for authorising such events;
- (c) in the case of paragraph (h) of section 9.4 be made by the owner or occupier of the land abutting onto that street upon which the thing referred to in paragraph (h) of section 9.4 is proposed to be deposited, placed or installed and shall be accompanied by a plan depicting the location and details of any thing proposed to be deposited, placed or installed in a street;
- (d) in the case of paragraphs (b) and (c) of section 9.4 specify the place at which such crossing is to be made and be accompanied by the approved deposit;
- (e) in the case of paragraph (i) of section 9.4 be made in the name of the Builder intending to deposit materials in a street and the application is to be accompanied by the approved licence fee.

### Discretion

9.6. (1) The Council or an authorised person may under this Part exercise discretion to give or refuse to give any permission or give any permission subject to conditions.

(2) Where permission has been granted by the Council or an authorised person under this Part subject to conditions, the person to whom the permission has been granted shall ensure that the conditions are observed at all times. If any condition is not observed that person commits an offence against these local laws and the Council or an authorised person may by written notice cancel the permission and the site being reinstated at the applicant's expense.

**Conditions for Pipes**

9.7. Any permission to lay pipes pursuant to paragraph (g) of section 9.4 is subject to the following conditions, whether expressed in the permission or not, that the pipe:

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

**Conditions for Footpaths etc**

9.8. Any permission for the purpose of paragraphs (b) and (c) of section 9.4 is subject to the following conditions whether expressed in the permission or not to be performed by the applicant:

- (a) if the paved portion of the footpath is constructed of concrete slabs the applicant shall carefully remove them from the footpath for a width of 4.8 metres at the proposed crossing and neatly stack them on the adjoining land so as not to cause an obstruction;
- (b) if the kerbing at the edge of the paved road is constructed of concrete kerbing blocks the applicant shall carefully remove them from the kerb for a width of 4.8 metres at the proposed crossing and neatly stack them on the adjoining land so as not to cause an obstruction;
- (c) the applicant shall place in the position from which the slabs have been removed a temporary crossing of 4.8 metres in width and of a length equal to the width of the paved portion of the footpath. The temporary crossing shall be constructed of hardwood planks at least 200 millimetres wide and 50 millimetres thick of which the ends shall be chamfered downwards securely nailed together with hoop iron straps at 1.2 metre centres. The planking shall be firmly bedded and laid true to the level of the original footpath;
- (d) the applicant shall place in the position from which concrete kerbing has been removed a temporary crossing 4.8 metres wide and at least 1 metre in length. The temporary crossing shall be constructed of hardwood planks of at least 200 millimetres long and 50 millimetres wide of which the ends shall be chamfered downward securely nailed together with hoop iron straps at 1.2 metre centres. The said planking shall be firmly bedded and laid true to the level of the edge of the paved road and shall be held in position by pegs inserted sufficiently far into the soil as to prevent movement of the temporary crossing away from the abutting edge of the paved road;
- (e) when the necessity no longer exists for the temporary crossing referred to in paragraphs (c) and (d) of this section or when called upon to do so by notice in writing from the Council or an authorised person, the applicant shall remove the planking, replace the slabs or kerbing in a proper workmanlike manner to the satisfaction of Council or an authorised person and shall replace with new slabs or kerbing of equal quality and size any slabs or kerbing which have been lost, damaged or broken;
- (f) in the case of a footpath constructed in total or part of bitumen surfaced gravel, gravel, limestone, concrete or crushed metal the applicant shall place in position where the crossing is to be made a temporary crossing 4.8 metres wide and of a length equal to the width of the paved portion of the footpath. The temporary crossing shall be constructed of hardwood planks of at least 200 millimetres long and 50 millimetres wide of which the ends shall be chamfered downwards to the existing footpath surface and securely nailed together with hoop iron straps at 1.2 metre centres. The said planking shall be firmly bedded and laid true;
- (g) when the necessity no longer exists for the temporary crossing referred to in paragraph (f) or when called upon to do so by notice in writing from the Council or an authorised person the applicant shall remove the planking and clean off the footpath;
- (h) the applicant shall make good all damage caused to the footpath and the kerbing, guttering and paved road during the whole of the time the works are in progress and in the event that damage shall have occurred and shall not have been made good, the Council or an authorised person may make good such damage and deduct the cost from the deposit;
- (i) if the cost of making good the damage referred to in paragraph (h) of this section exceeds the amount of the deposit the applicant shall pay to the Council on demand by an authorised person the amount by which the cost exceeds the amount of the deposit held and in default of payment the Council may recover the excess in a Court of competent jurisdiction;
- (j) if no damage has been caused or if the damage has been made good to the satisfaction of Council or an authorised person, the authorised person shall repay the deposit or the portion remaining after the costs incurred by the Council have been paid.

*Division 3—Removal of Animals, Vehicles and Other Things***In Public Places**

9.9. (1) The provisions of this section shall not affect the operation of Part XX of the Local Government (Miscellaneous Provisions) Act 1960.

(2) Where an authorised person or a member of the Police Service finds an animal or vehicle left in a public place, contrary to the provisions of this Part that person may remove the animal or vehicle therefrom and shall thereupon:

- (a) in the case of an animal, place it in the pound and deal with it according to law; and
- (b) in the case of a vehicle, place it in the pound.

**Obstructions**

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

*Division 4—Shopping Trolleys***Abandoned Shopping Trolleys**

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

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

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

(4) Where the owner of the shopping trolley is known an authorised person shall cause written notification of the seizure of the same to be forwarded to the owner and the owner given not less than 14 days' notice within which to recover the trolley.

(5) If the owner of the shopping trolley is not known an authorised person shall exhibit on the notice board at the Council a notice describing the shopping trolley and the place at which it was seized and the place at which it is being kept, and unless the shopping trolley is sooner recovered shall keep the notification exhibited for a period of not less than 2 months.

(6) A shopping trolley seized by Council or an authorised person under this section which is not recovered by the owner or any other person lawfully entitled thereto within 2 months after the notice referred to in the preceding subsection has been exhibited, may be disposed of in such manner and under such conditions as the Council or an authorised person may deem fit.

(7) The proceeds of sale of any such shopping trolley shall:

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

*Division 5—Street Numbering***Assignment of Street Number**

9.12. (1) Street numbers shall be assigned and displayed on different lots to assist in the ready identification of the street address for that land.

(2) The Council or an authorised person may assign a number to land in a street, thoroughfare or way in the district and may from time to time assign another number instead of that which was previously assigned.

**Street Number to be Displayed**

9.13. (1) The owner or occupier of land in the district must paint or affix and maintain, the current street number assigned by the Council or an authorised person, in a conspicuous place on the front of the building, fence or gate adjacent to the street fronting the land.

(2) A sign painted on a kerb, adjacent to a property used for residential purposes, depicting the house number and in accordance with specifications approved by the Council or an authorised person is satisfactory for the purposes of subsection (1).

**Location of Number not to be Misleading**

9.14. (1) The owner or occupier of land must not place the street number of the land in such a way as to cause confusion or be misleading.

(2) Where in the opinion of an authorised person, the location of a street number causes confusion or is misleading, a notice may be served on the owner or occupier of the land to which the number refers, specifying remedial action to be taken. Failure to take the specified remedial action within the time if any stipulated in the notice but in any event not being less than 14 days shall be a breach of this Division.

**Works on Private Property**

9.15. (1) Where a breach of this Division has occurred on private property, the Council may serve a notice on the owner or occupier of that property:

- (a) specifying details of the breach of these local laws;
- (b) requiring the owner or occupier to remedy the breach within the time specified in the notice; and



- (c) advising that where the owner or occupier fails to comply with the requirements of the notice within the time specified, the Council or an authorised person may enter the property and do the required work.
- (2) Where the owner or occupier of the property fails to comply with the requirements of the notice, the Council may by its employees, agents or contractors enter upon the property and carry out all works and do all things necessary to comply with the requirements of the notice.
- (3) The Council may recover the expenses incurred in carrying out the works in accordance with subsection (2) from the owner or occupier of the property in a court of competent jurisdiction.

## PART X—TRAFFIC AND VEHICLES

### *Division 1—Preliminary*

#### **Interpretation**

10.1. In this Part, unless the context otherwise requires:

- “**bus**” means an omnibus within the meaning of the Road Traffic Act;
- “**driver**” means any person driving, or in control of, a vehicle or animal;
- “**footway**” includes every footpath, path, land or other place used by, or set aside or intended for use by, pedestrians or both pedestrians and cyclists;
- “**median strip**” has the meaning as shown at section 103 (1) of the Road Traffic Code 1975;
- “**motor cycle**” means a motor vehicle that has two wheels or, where a sidecar is attached thereto, has three wheels or quad type bikes having either three or four wheels;
- “**no parking area**” means a portion of a carriageway that lies:
- (a) between consecutive signs inscribed with the words, “No Parking”, or a symbol or symbols to that effect, and each with an arrow pointing generally towards the other of them; or
  - (b) between a sign, inscribed with the words “No Parking”, or a symbol or symbols to that effect, and a dead end or a cul-de-sac or an area in which standing is prohibited and that lies in the general direction indicated by an arrow inscribed on the sign;
- “**no standing area**” means portion of the carriageway:
- (a) between consecutive signs inscribed with the words “No Standing”, or a symbol or symbols to that effect, and each with an arrow pointing generally towards the other of them; or
  - (b) between a sign inscribed with the words “No Standing”, or a symbol or symbols that effect, and a dead end or a cul-de-sac or an area in which standing is prohibited and that lies in the general direction indicated by an arrow inscribed on the sign;
- “**obstruct**” means to interfere with or impede or hinder the passing of any vehicle or person and “obstruction” has a corresponding meaning;
- “**occupier**” where used in relation to land means the person by whom or on whose behalf the land is actually occupied or, if there is no occupier, the person entitled to possession of the land, and includes a person in unauthorised occupation of Crown land and where under a licence or concession there is a right to take profit of Crown land specified in the licence or concession, means the person having that right;
- “**owner**” of a vehicle means the person who is the holder of the requisite vehicle licence under the Road Traffic Act in respect of that vehicle, or, if the vehicle is not licensed under that Act, the person who owns the vehicle or is entitled to its possession;
- “**parking area**” means a portion of a carriageway:
- (a) between two consecutive signs, inscribed with the word “Parking” or a symbol or symbols to that effect, each with an arrow pointing generally towards the other of them; or
  - (b) extending from a sign inscribed with the word “Parking” or a symbol or symbols to that effect in the general direction indicated by an arrow inscribed on the sign, to any other sign inscribed with the words “No Parking” or “No Standing”, or symbols to the same effect, or to a dead end or a cul-de-sac or an area in which the parking or standing of vehicles is prohibited and is that half of the carriageway of the road nearest to the sign;
- “**parking facility**” includes land, buildings, shelters, metered zones, metered spaces, signs, notices and other facilities open to the public, generally, for the parking of vehicles with or without charge;
- “**parking stall**” means a section or part of a street which is marked or defined by painted lines or by metallic studs or similar devices for the purpose of indicating where a vehicle may stand or be parked, whether on payment of a fee or charge or otherwise, but does not include a metered space;
- “**Road Traffic Act**” means the Road Traffic Act 1974;
- “**sign**” means a traffic sign, mark, structure or device on which are shown words, numbers, expressions or symbols under the care, control or management of the Council placed or erected on or near a road or reserve for the purpose of prohibiting, regulating, guiding or directing the standing or parking of vehicles;
- “**specified place**” means a yard, depot, pound or other land or building set aside by the Council as a place to which impounded vehicles or animals may be removed;
- “**symbol**” means a letter, figure, or other character or mark, or a combination of letters or the like, used to represent something, and without limiting the generality of the foregoing includes any

symbol issued or specified by Australian Standard 1742.11-1989 for use in the regulation of parking, and any reference to the wording of any sign in these local laws shall be also deemed to include a reference to the corresponding symbol.

#### *Division 2—Application*

##### **Application**

- 10.2. (1) The provisions of this Part of these local laws shall apply to the parking region.
- (2) The provisions in respect of parking on verges and obstruction of streets in Part IX of these local laws, shall be read with and apply *mutatis mutandis* to the Part, with the exception of Division 4 and 5.
- (3) In this Part a reference to a word or words in a sign shall be taken to include a reference to a symbol or symbols to the same effect and a reference to a symbol shall be taken to include a reference to a word or words to the same effect.

##### **Vehicle Classification**

- 10.3. For the purposes of this Part of these local laws, vehicles are divided into classes as follows:
- (a) commercial vehicles;
  - (b) motorcycles and bicycles;
  - (c) taxis;
  - (d) all other vehicles not otherwise classified.

#### *Division 3—Standing and Parking Generally*

##### **Signs to Regulate Parking**

10.4. The Council or an authorised person may determine and vary, and also indicate by signs, from time to time:

- (a) prohibitions;
- (b) regulations and restrictions of standing and parking of vehicles of a specified class or of specified classes,

in all streets, or specified streets or in specified parts of streets or reserves at all times or specified times.

##### **Private Property**

- 10.5. (1) A person shall not stand or park a vehicle on land that is not a road or a parking facility, unless with the consent of the owner or occupier of the land on which the vehicle is parked.
- (2) Where an authorised person or a member of the Police Service finds a vehicle, which he or she reasonably suspects, is on private land without consent of the owner or occupier, that person may:
- (a) remove the vehicle therefrom and place the vehicle in a specified place;
  - (b) use such force as is necessary to enter the vehicle for the purpose of removing it.

##### **Repairs to and Sale of Vehicles**

- 10.6. A person shall not park a vehicle on any portion of a street or verge:
- (a) for the purposes of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a road; or
  - (b) if the vehicle is exposed for sale.

##### **Intersections, Footways and Traffic Obstructions**

- 10.7. A person shall not stand or park a vehicle so that any portion of the vehicle is:
- (a) within 6 metres of the nearest street alignment of any road intersecting the road on the side on which the vehicle is standing or parked;
  - (b) on or over a footway, cycleway or a pedestrian crossing;
  - (c) in front of a right of way, passage or private drive or carriageway or a cross-over or so close thereto as to deny vehicles reasonable access to, or egress from, the right of way, passage or private drive, carriageway or cross-over or to hinder or obstruct the vision so as to likely, in the opinion of an authorised person to cause or be likely to cause a visual impediment to vehicular access or egress ;
  - (d) upon the intersection except adjacent to a carriageway boundary that is broken by an intersecting carriageway;
  - (e) alongside any hoarding, scaffolding, obstacle or impediment to traffic;
  - (f) on a bridge or other elevated structure or within a tunnel or underpass;
  - (g) alongside, or opposite, any excavation in, or obstruction on, the carriageway, if the vehicle would thereby obstruct traffic;
  - (h) between the boundaries of a carriageway, and any double longitudinal line consisting of two continuous lines or between a double longitudinal line consisting of a continuous line and a broken or dotted line and the boundary of the carriageway nearer to the continuous line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;
  - (i) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;
  - (j) obstructing the turning circle of a cul-de-sac.

**Direction to Move Vehicle**

10.8. (1) A person shall not permit a vehicle to stand in any part of a street if an authorised person or member of the Police Service directs the driver of the vehicle to move it.

(2) Where a person fails to observe a lawful direction given under subsection (1) a member of the Police Service may remove the vehicle to a specified place.

**Traffic Islands and Median Strips**

10.9. A person shall not stand or park a vehicle on any part of a road so that any portion of the vehicle is:

- (a) on a median strip;
- (b) adjacent to a median strip otherwise than in a parking stall or metered space;
- (c) on, or within 9 metres of, any portion of a carriageway bounded on one or both sides by a traffic island.

**Double Parked**

10.10. A person shall not stand or park a vehicle on a road so that portion of the vehicle is between any vehicle which is parked or standing on a carriageway of that road and the centre of that road.

**Parking Near a Fire Hydrant and Post Box**

10.11. (1) A person shall not stand or park a vehicle so that any portion of the vehicle is within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug.

(2) A person shall not stand or park a vehicle within 3 metres of a public post box, unless the vehicle is being used for the purpose of collecting postal articles from the post box.

**Bus Stops, Pedestrian and Children's Crossings**

10.12. (1) A person shall not stand a vehicle so that any portion of the vehicle is within 9 metres of the departure side of:

- (a) a sign inscribed with the words "Bus Stop" or "Hail Bus Here", unless the vehicle is a bus stopped to take up or set down passengers; or
- (b) a pedestrian and children's crossing established on any road.

(2) A person shall not stand a vehicle on a road so that any portion of the vehicle is within 18 metres of:

- (a) the approach side of a sign inscribed with the words "Bus Stop" or "Hail Bus Here", unless that vehicle is a bus stopped to take up or set down passengers;
- (b) a pedestrian crossing or children's crossing; or
- (c) the approach and departure side of a railway crossing

**Verge Parking**

10.13. A person shall not stand or park a vehicle so that any portion of that vehicle is on a street verge if a sign on, adjacent or referable thereto, indicates otherwise.

**Commercial Vehicles**

10.14. A person shall not:

- (a) park a commercial vehicle or allow a commercial vehicle to remain stationary on a street verge for more than 4 hours consecutively or for more than 4 hours in a day unless in between each period that the commercial vehicle is parked or allowed to remain stationary in the street it has been removed from the street for at least 2 hours;
- (b) on a street verge repair, service or clean a commercial vehicle; or
- (c) park or stand a vehicle within the parking region on land that is not a street or a parking facility without the consent of the owner or occupier of the land.

**Authorised Parking**

10.15. A person shall not, without the permission of the CEO or an authorised person stand or park a vehicle in an area designated by signs for the parking of authorised vehicles only.

**Parking Generally**

10.16. (1) A person shall not stand or park a vehicle in a street or part of a street:

- (a) which is by a sign thereon or adjacent or referable thereto set apart for the standing or parking of vehicles of a different class; or
- (b) if by such a sign the standing or parking of vehicles is prohibited or restricted during a period or periods, during that period or periods; or
- (c) if by such a sign the standing of vehicles is permitted for a specified time, for longer than that time.

(2) A person shall not stand a vehicle:

- (a) in a no standing area;
- (b) in a parking area, except in a manner indicated by the inscription on the sign or signs associated with the parking area and in parking stalls except as provided in these local laws with reference to the parking stalls;
- (c) in a parking area contrary to any limitation in respect of days, periods of the day, classes of persons or classes of vehicles indicated by the inscription on the sign or signs associated with the area; or
- (d) in a defined area marked "M/C", unless it is a motor cycle without a sidecar or a bicycle.

(3) A person shall not park a vehicle in a no parking area.

- (4) A person shall not stand a motor cycle without a sidecar or a bicycle in a parking stall unless the traffic sign "M/C" is marked on that stall.
- (5) Subject to the provisions of this section a person shall not stand or park a vehicle or permit a vehicle to stand or park on a carriageway otherwise than:
- (a) on a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the road on which the vehicle is standing;
  - (b) on a one-way carriageway, so that it is as near as practicable to, and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic;
  - (c) so that at least 3 metres of the width of the carriageway between the vehicle and the farther boundary of the carriageway or between it and a vehicle standing on the far side of the carriageway, is available for the passage of other vehicles;
  - (d) so that it does not cause undue obstruction on the carriageway; and
  - (e) so that it is entirely within the confines of any parking stall marked on the carriageway.
- (6) A person shall not stand or park a vehicle partly within and partly outside a parking area.
- (7) (a) Where the traffic sign or signs associated with a parking area are not inscribed with "Angle Parking", then:
- (i) where the parking area is adjacent to the boundary of a carriageway a person standing a vehicle in the parking area shall stand it as near as practicable to and parallel with that boundary; and
  - (ii) where the parking area is at or near the centre of the carriageway, a person standing a vehicle in that parking area shall stand it approximately at right angles to the centre of the carriageway, unless a sign associated with the parking area indicates, or marks on the carriageway indicate, that vehicles are to stand in different position;
- (b) where a traffic sign associated with a parking area is inscribed with the words "Angle Parking" a person standing a vehicle in the parking area shall stand the vehicle at an angle of approximately 45 degrees to the centre of the carriageway unless otherwise indicated by the inscription on the parking sign or by marks on the carriageway surface;
- (c) in paragraph (b) of this subsection "vehicle" means a car or motor wagon;
- (d) paragraph (b) of this subsection does not apply to a person standing a motor cycle or bicycle in a parking area except for an area specifically designated for such use.

### **Chalking of Tyres**

10.17. (1) An authorised person may mark the tyres of a parked vehicle with chalk or any other non-indelible substance for a purpose connected with or arising out of that authorised person's duties and powers.

(2) A person shall not remove a mark made by an authorised person so that the purpose of the affixing of such mark is defeated or likely to be defeated.

### **Inspection of Parking**

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

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

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

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

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

(4) Nothing in these local laws mitigates the limitations or conditions imposed by any other local law or by any traffic sign relating to the parking or standing of vehicles.

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

10.19. A person except an employee or a contractor of Council or a person authorized by the Council in the course of that person's duties shall not drive or park a vehicle upon or over any portion of a reserve other than an area specifically set aside for that purpose.

10.20. A person shall not park a vehicle on any part of a reserve, including any paved areas, for the purpose of conducting a business without a licence.

10.21. An authorised person may permit a person who requires a space in an area where by a sign the

standing of vehicles is permitted for a limited time in order to carry out urgent, essential or official duties to occupy such space with a vehicle for a longer time than the maximum period prescribed by the sign or from time to time provided such permission does not contravene the Road Traffic Code and may prohibit the use of such space by any other vehicle during such time.

#### **Loading Zones**

10.22. (1) Subject to subsections (2) and (3) a person shall not stand or park a vehicle in a loading zone.

(2) A person may stand or park a vehicle in a loading zone:

- (a) if the vehicle is a registered commercial vehicle; and
- (b) if a person is continuously engaged in loading or unloading goods to or from the vehicle.

(3) A person shall not stand a vehicle other than a commercial vehicle in a loading zone for more than 15 minutes.

#### *Division 4—Removal of Vehicles*

#### **Removal of Vehicles**

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

10.24. For the purposes of this Part of these local laws a vehicle that is stood or parked in a portion of a street or public place wherein vehicles may lawfully be stood or parked is not obstructing if it is so stood or parked in contravention of the limits as to time imposed by the Council or an authorised person with respect to that portion of the street or public place.

10.25. Where an authorised person or a member of the Police Service finds a vehicle stood or parked contrary to the provisions of section 10.16 of these local laws so as in the opinion of that person to cause an obstruction, the authorised person or a member of the Police Service may remove the vehicle to a specified place and may use such force as is necessary to enter the vehicle for the purpose of so removing it.

10.26. The provision of Division 2 of Part XII shall apply to any vehicle removed under this Part.

#### *Division 5—Miscellaneous*

#### **Removal of Notice**

10.27. A person, other than the driver of the vehicle, shall not remove from the vehicle any infringement notice affixed to or on it by an authorised person or a member of the Police Service.

#### **Affixing Signs and Notices**

10.28. (1) A person shall not:

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

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

#### **Further Provisions Relating to Signs**

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

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

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

## **PART XI – LAW, ORDER AND SECURITY**

### *Division 1—Preliminary*

#### **Interpretation**

11.1. In this Part, unless the context otherwise requires:

“**Implement**” means a spray paint can, felt pen, crayon or any other article or instrument capable of being used to deface property.

*Division 2 — Damage to Property***Unlawful Act**

11.2. (1) A person, who destroys or damages any real or personal property of any kind, owned by the Council, commits an offence.

(2) A person who commits an offence contrary to the provisions of subsection (1) where the damage consists of graffiti is liable to a fine of \$1,000.00 and Council may seek from a court of competent jurisdiction an order for compensation to cover the cost of removing or obliterating the graffiti.

(3) Where a person commits an offence other than that which is referred to in subsection (2) the offender is liable to a fine not exceeding \$1,000.00 and Council may seek from a court of competent jurisdiction an order for the restitution of the damage caused.

**Graffiti Implements**

11.3. (1) Any person who is found having in his or her possession, without lawful excuse, the proof of which lies on that person, any graffiti implement commits an offence.

(2) The penalty for an offence under subsection (1) hereof is a fine of not more than \$1,000.00 and not less than:

- (a) in the case of the first offence \$300.00: or
- (b) in the case of a second or subsequent offence \$600.00.

**Removal of Graffiti**

11.4. Council may cause a notice to be served on an owner or occupier of any land or premises within the district to obliterate any graffiti, which appears on any structure, fence, wall or building and the notice shall specify the requisites to rectify the breach within time specified in the notice.

**Compliance With Notice Served**

11.5. An owner or occupier on whom a notice is served under section 11.4 shall comply with such notice within the time specified.

**Recovery of Expenses**

11.6. Where the owner or occupier does not comply with the notice served under section 11.4, the Council is authorised without payment of any compensation in respect thereof to satisfy the terms of the notice at the expense of the owner or occupier of the land or premises, and recover in a court of competent jurisdiction, the amount of the expense incurred from the owner or occupier to whom the notice is given.

**PART XII—ENFORCEMENT OF LOCAL LAWS***Division 1—Appointment of Authorised Persons***Appointment of Authorised Persons**

12.1. (1) The Council may appoint a person as an authorised person for the purpose of enabling these local laws to be given full Force and effect.

(2) An authorised person shall be furnished with a certificate of appointment in a form determined by the Chief Executive Officer from time to time.

(3) An authorised person may be appointed on an honorary basis for the purposes of section 12.3 (a), (b) and (c) to administer the provisions of Part X of these local laws.

12.2. A member of the Western Australian Police Service, either with or without a warrant, is authorised to arrest and remove persons offending against Part III of these Local Laws.

**Responsibilities of Authorised Persons**

12.3. An authorised person may and is authorised by Council to:

- (a) carry into effect the provision of these local laws;
- (b) report to Council on the working effectiveness of these local laws;
- (c) recommend to the Chief Executive Officer the institution of prosecutions; and
- (d) institute and conduct prosecutions as directed by Council or the Chief Executive Officer.

**Impersonation of an Authorised Person**

12.4. A person who is not an authorised person shall not in any way assume the duties of an authorised person.

**Obstruction of an Authorised Person**

12.5. A person shall not in any way obstruct or hinder an authorised person in the execution of any duty under these local laws.

**Name and Address and Date of Birth to be Given on Demand**

12.6. (1) An authorised person or member of the Police Service who finds a person committing or who on reasonable grounds suspects a person of having committed a breach of the provisions of these local laws, may demand from the person that person's name and, place of abode and date of birth.

(2) A person who refuses to state his or her name and place of abode, or who states a false name or place of abode, or both on demand being so made, commits an offence against these local laws.

**False or Misleading Statement**

12.7. A person making a false or misleading statement in connection with any application, requirement or demand under these local laws commits an offence.

**Application**

12.8. The provisions of this Part relating to Impounding shall not affect the operations of Part XX of the Local Government (Miscellaneous Provisions) Act 1960.

*Division 2 — Impounding***Power to Remove and Impound**

12.9. (1) An authorised person may remove and impound any animal or vehicle involved in a contravention under these local laws that can under these local laws or under any other law lead to impounding.

(2) An authorised person may use reasonable force to exercise the power referred to in subsection (1).

12.10. Where an authorised person places an animal or vehicle in a specified place the animal or vehicle shall thereafter be dealt with according to law.

**Recording of Animals and Vehicles in Appointed Place**

12.11 Every animal or vehicle seized under these local laws shall be entered in a register, provided by the Council for that purpose, details of the time and date, a description of the animal or vehicle, and of the place from which it was removed and shall notify the CEO who shall exhibit on the notice board of the Council notification that an animal or vehicle therein described has been taken into custody and shall, unless the animal or vehicle is sooner recovered, keep that notification exhibited for a period of not less than 7 days.

**Prosecution or Notice**

12.12 (1) When any animal or vehicle has been dealt with under section 12.9 the Council is required to either:

- (a) institute a prosecution against the alleged offender; or
- (b) the alleged offender is given notice that the animal or vehicle may be collected from a specified place during such hours as are specified.

(2) If after the expiration of 7 days after the animal or vehicle was removed for impounding, the Council has been unable to give the alleged offender a notice under subsection (1) (b) because it has been unable, after making reasonable efforts to do so, to find the alleged offender, the Council is to be taken to have given that notice.

(3) In an appropriate case the Council may both prosecute and give a notice under subsection (1) (b).

12.13. Where an animal or vehicle has been removed and impounded under section 12.9 and a prosecution is instituted, if the alleged offender:

- (a) is not convicted; or
- (b) is convicted but the court does not order that the animal or vehicle be confiscated,

and if the animal or vehicle continues to be impounded, the Council is required to give the alleged offender notice that the goods may be collected from a specified place during such hours as are specified.

12.14. A notice referred to in the preceding section is to include a short statement of the effect of the relevant provisions of sections 3.46, 3.47 and 3.48 of the Act.

12.15. A person may recover a seized animal from custody by paying to the Council the costs of removing, impounding and keeping the animal or a vehicle, and the Council may refuse to allow an animal or vehicle impounded under section 12.9 to be collected until those costs have been paid.

12.16. (1) The Council may sell or otherwise dispose of any animal or vehicle that has been ordered to be confiscated by a court in a prosecution by the City.

(2) The Council may sell or otherwise dispose of an impounded animal or vehicle that has not been collected within the period specified in subsection (3) of:

- (a) a notice having been given under section 12.12 (1) (b) or section 12.13 hereof; or
- (b) being impounded if the Council has been unable, after making reasonable efforts to do so, to give that notice to the alleged offender.

(3) The period after which an animal or vehicle may be sold or otherwise disposed of under subsection (2) is:

- (a) for an animal 7 days; and
- (b) for a vehicle 2 months.

(4) Section 3.48 of the Act applies to the sale of animals or vehicles under this section as if they were property referred to in that section of the Act.

(5) Money received by the Council from the sale of an animal or vehicle under subsection (2) is to be credited to its trust fund except to the extent required to meet the costs and expenses incurred by the Council in removing, impounding and selling the animal or vehicle.

**Disposal of Sick or Injured Animals**

12.17. If an impounded animal is ill or injured to such an extent that treating it is not practicable, the animal shall be dealt with in accordance with section 3.47A of the Act.

**Recovery of Impounding Expense**

12.18. (1) If an animal or vehicle is removed and impounded under section 12.9 and the alleged offender is convicted, the Council may take the recovery action referred to in section 3.48 of the Act.

(2) A person is not entitled to claim, by way of damages or otherwise against an authorised person of the Council or the City in respect of any animal or vehicle seized and dealt with under the provisions of these local laws or against any person who purchases an animal or vehicle sold by the Council under the provisions of this Part.

*Division 3—Infringement Notices***Application**

12.19. These provisions for infringement notices apply only to such of these local laws as are made under the Act. Where Parts of these local laws are made under other statutes, any infringement notice provisions in those statutes shall apply to those Parts respectively.

**Notices and Infringement Notices**

12.20. Notices and infringement notices issued pursuant to this Division shall be issued in the circumstances referred to in section 9.16 (2) of the Act, and in accordance with the provisions of Part 9 Division 2 Subdivision 2 of the Act, and Part 5 of the Local Government (Functions and General) Regulations 1996.

12.21. Every breach of any of these local laws made under the Act (or under the Dog Act as to the offences relating to dogs referred to in Schedule 2) is hereby prescribed as a breach in respect of which an infringement notice may be issued provided that the infringement notice procedure may only be adopted if the CEO or an authorised person under this Division is satisfied that the breach in the circumstances of the particular case has the characteristics referred to in paragraphs (a) and (b) of section 9.16 (2) of the Act.

12.22. An infringement notice may be withdrawn in the manner provided and subject to the provisions in section 9.20 of the Act and regulation 27 of the Local Government (Functions and General) Regulations 1996.

12.23. Where any Act allows an infringement notice to be issued in respect of an offence under these local laws an infringement notice may be issued in lieu of proceedings by way of Summons but upon failure of the offender to pay the modified penalty under the infringement notice, proceedings may be commenced in Court without further notice.

*Division 4—General Offence and Penalty Provisions***Offences**

12.24. (1) A person who fails to do anything required or directed to be done under these local laws, or who does anything which under these local laws that person is prohibited from doing, commits an offence under the Division in which the prohibition is contained.

(2) A person who fails to comply with the requirements of a notice issued under these local laws commits an offence under the Division in which provision for the notice is made.

(3) An offence against any provision of these local laws is a prescribed offence for the purposes of section 9.16 (1) of the Act.

(4) Any person who commits an offence under Division 3 of Part II of these local laws shall be liable, upon conviction, to a penalty:

(a) not exceeding \$2,000.00; and

(b) if the offence is of a continuing nature, an additional penalty of \$200.00 for each day or part thereof during which the offence has continued.

(5) Subject to subsection (4) any person who commits an offence under these local laws shall be liable, upon conviction, to a penalty:

(a) not exceeding \$5,000.00; and

(b) if the offence is of a continuing nature, an additional penalty of \$500.00 for each day or part of a day during which the offence has continued.

**Offence Description and Modified Penalties**

12.25. The amount appearing in column 3 of Schedule 2 directly opposite an offence described in that Schedule is the modified penalty for an offence if the offence is dealt with under section 9.16 of the Act.

**Recovery of Penalties**

12.26. The Council in proceedings in a Court of Petty Sessions may recover a penalty, other than a modified penalty, for an offence against this part, from the alleged offender.

**Records to be kept**

12.27. The Council shall cause adequate records to be kept of all infringement notices served and modified penalties received.

**Seizure of Articles Under Part III**

12.28. (1) An authorised person may in or on any place to which Part III of these local laws apply, seize any device used for surf riding, including a surfski, surfboard, malibu board, or boat where the device is being used contrary to the provisions of these local laws.

(2) Any device of the kind referred to in subsection (1) may be impounded after seizure for any period not exceeding three (3) months as may be specified by the authorised person to the person having the custody of such device immediately prior to the time of seizure.

(3) Where such device is not claimed by the owner thereof within 2 months after the expiration of the period for which the device was impounded, the device may be sold by the Council and the proceeds of such sale may be applied towards recouping the costs of and incidental to impounding it.

(4) Where the costs referred to in subsection (3) exceed the cost of the impoundment then the excess shall be paid to the owner of the device or where the identity or whereabouts of that owner are unknown placed in a trust fund and after a period of 10 years may be paid into the municipal fund.



*Division 5—General***Prohibition of Signs**

12.29. No person shall, without the authority of the Council or an authorised person, mark, set up or exhibit any sign purporting to be or resembling a sign marked, set up or exhibited by the Council under the authority of these local laws.

**Exemption from Liability**

12.30. The Council shall not be liable or be held responsible for any injury, accident, loss, or damage whatsoever which occurs to or is sustained by any person, or any damage or loss to any private property, while on any public park, land, or public reserve or other public place whatsoever under the care, control and management of the Council except in the case of negligence or breach of statutory duty by the Council.

**Objections and Appeals**

12.31. (1) When the Council makes a decision as to whether it will:

- (a) grant a person a licence under these local laws; or
- (b) renew, vary, or cancel a licence,

an affected person may elect to invoke the provisions of Division 1 of Part 9 the Act.

(2) The preceding subsection shall not apply to Division 3 and 4 of Part II —Animals, except to the extent that there will be no inconsistency with the Acts under which those Divisions are made, and to the extent that the rights of appeal provided by the Act are applicable.

**Liability for Damage to Council Property**

12.32. (1) Where a person unlawfully damages Council property, the Council may by notice in writing to that person require that person within the time stipulated in the notice at the option of the Council to pay the costs of:

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

(2) Unless there is proof to the contrary, a person shall be deemed to have damaged Council's property within subsection (1) where:

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

(3) On a failure to comply with a notice issued under subsection (1) the Council may recover the costs referred to in the notice as a debt due to it in a court of competent jurisdiction.

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**Schedule 1**

The land specified herein is designated as Dog Exercise Areas.

Lot Pt. 50 Bibra Drive, Bibra Lake.

Reserve 44060 Bibra Drive, Bibra Lake.

Reserve 37783 Lachian Way, Bibra Lake [known as Ferris Park].

Reserve 35933 Parkway Road, Bibra Lake [known as Aubin Park].

Reserve 38676 Amity Boulevard, Coogee [known as Powell Reserve].

Reserve 38760 Archidamus Road, Coolbellup [known as Mamillius Park].

Reserve 29602 Hargreaves Road, Coolbellup [known as Hargreaves Park].

Reserve 30992 Rinaldo Crescent, Coolbellup.

Reserve 38587 Simons Street, Coolbellup [known as Jarvis Park].

Reserve 24550 Hurford Street, Hamilton Hill [known as Dixon Park].

Reserves 26337 and 27960 Hyman Street, Hamilton Hill.

Reserve 32870 Packham Road, Hamilton Hill [known as Isted Reserve].

Reserve 37996 Arnold Crescent, North Lake [known as Welby Park].

Lots 146, 210 and 518 Southwell Crescent, Hamilton Hill.

Reserve 36349 Palmerose Court, North Lake [known as Monaco Park].

Reserve 38463 Progress Drive, North Lake [known as De Marchi Park].

Reserve 35232 Huxley Place, Spearwood [known as Bishop Park].

Reserve 35541 Fenimore Avenue, Munster [known as Hagan Park].

Lots 60 and 112 MacMorris Way, Spearwood [known as Bavich Park].

Lots 54, 67 and 113 Falstaff Crescent, Spearwood [known as Macfaul Park].

Lots 23, 69 and 116 Melun Street, Spearwood [known as Macfaul Park].

Lot 124 Pomfret Road, Spearwood [known as Macfaul Park].

Reserve 39554 Glenbawn Drive, South Lake [known as Glen Mia Park].

Reserve 39817 Wella Court, Coolbellup [known as Matilda Birkett Reserve].

Reserve 39774 Plover Drive, Yangebup [known as Levi Park].

Reserve 27968 Miro Street, Wattleup [known as Miro Reserve].

**Schedule 2**  
**MODIFIED PENALTIES**

Section	Nature of Offence	Penalty \$
<b>Part II—Animals</b>		
2.5	Exercising a dog not in a Dog Exercise Area .....	100.00
2.6 (1)	Permitting a dog to be in a public building, place of worship, shop or business or on Coogee Beach .....	100.00
2.6 (3)	Permitting a dog to be on a sports ground, public recreational area or a car park .....	100.00
2.7	Permitting a dog to excrete on a street, public place or other land and failing to remove excrete in an approved manner .....	100.00
2.8 (a)	Fence not adequate to confine dog of the species, age, size and physical condition of the dog .....	100.00
2.8 (b)	Failing to keep gate closed when the dog is at the premises .....	100.00
2.8 (c)	Failing to have a gate fitted with self closing/self latching and/or permanently locking mechanisms .....	100.00
2.10	Keeping a kennel establishment without a licence .....	100.00
2.15 (a)	Failing to maintain a kennel establishment in a clean, sanitary and tidy condition .....	100.00
2.15 (b)	Failing to dispose of refuse, faeces and food waste daily in an approved manner .....	100.00
2.15 (c)	Failing to take practical measures to destroy fleas, flies and other vermin .	100.00
2.16	Keeping a greater number or breed of dogs than specified in the licence .....	100.00
2.18 (2)	Permitting livestock to stray or be at large in a street, public place or private property without consent .....	100.00
2.20	Failing to keep property fenced in a manner capable of confining livestock .	100.00
2.21	Exercising a horse outside the prescribed hours .....	100.00
2.22	Permitting a horse to excrete on a street, public place or other land and failing to remove excreta in an approved manner .....	100.00
2.24 (a)	Fail to keep premise free from excrement, filth, food waste and other matter likely to be offensive or injurious to health, attracts, vermin or insects .....	100.00
2.24 (b)	Fail to keep premises clean and disinfected when directed by an environmental health officer .....	100.00
2.24 (c)	Fail to keep premise free of flies or when directed by an environmental health officer spray premises with residual insecticide or use other means to kill or repel flies .....	100.00
2.25	Failure to maintain adequate enclosures .....	100.00
2.26 (1) (a)	Keeping large animal on land less than 2020m <sup>2</sup> in area .....	100.00
2.26 (1) (b)	Permit large animal to approach within 9 metres of dwelling, shop, church, or any premises where food is stored, manufactured or sold .....	100.00
2.27 (1)	Keep a sterilised miniature horse on land less than 1000m <sup>2</sup> not registered with Council and non payment of registration fee .....	100.00
2.27 (2) (a)	Keep more than one miniature horse on land zoned residential, special rural without approval .....	100.00
2.27 (2) (b)	Permit a miniature horse within 9 metres of a house .....	100.00
2.28 (1)	Keep a pig on land zoned residential, rural, special rural, commercial or industrial .....	100.00
2.28 (4)	Keep an unregistered miniature pig in residential or special rural area and/or non payment of registration fee .....	100.00
2.28 (5) (a)	Keep an unsterilised pig or fail to retain written proof of its sterilisation ...	100.00
2.28 (5) (b)	Fail to confine animal on property at all times .....	100.00
2.28 (5) (c)	Fail to ensure animal does not cause a nuisance to any neighbour through noise, dust or odour .....	100.00
2.28 (5) (d)	Fail to maintain documentary evidence of an animal's veterinary treatment against roundworm and tapeworm is current .....	100.00
2.29 (a)	Keeping an unregistered stable .....	100.00
2.29 (b)	Keeping a greater number of horses than registered .....	100.00
2.30 (1)	Fail to have stable constructed to required standards .....	100.00
2.30 (2)	Permit a stable within 9 metres of a dwelling or building .....	100.00
2.31	Permit a trainers/stablehand's room to be within 9 metres of a stable .....	100.00
2.36 (a)	Fail to provide in a convenient position, an impervious receptacle with tight fitting lid .....	100.00
2.36 (b)	Fail to keep lid of manure receptacle closed except when manure is being deposited or removed .....	100.00
2.36 (c)	Fail to empty manure receptacle once a week or more often to prevent it becoming offensive or breeding place for flies .....	100.00
2.37 (1)	Dispose of dead animals or birds without approval .....	100.00
2.37 (2)	Fail to cover carcass of dead animal with lime before burial on any rural or special rural land .....	100.00
2.38 (1)	Keep an ostrich or emu on any land in residential area or land zoned commercial or industrial .....	100.00
2.38 (2)	Keep an ostrich or emu on any rural or special rural land without approval	100.00

Section	Nature of Offence	Penalty \$
2.38 (3)	Keep more than 3 adult pairs of ostrich or emu for each 2 hectares or single pair in less than 0.1 hectares .....	100.00
2.39 (1)	Keep or suffer to remain in a residential area a rooster, turkey, goose or geese, peacock or a peahen .....	100.00
2.39 (2)	Keep or permit to be kept in any residential area any poultry, not in accordance with conditions of these local laws .....	100.00
2.40	Keep or permit to be kept in any special rural area any poultry, not in accordance with conditions .....	100.00
2.41	Keep or permit to be kept in any rural area more than 50 head of poultry without written approval .....	100.00
2.42	Establish or maintain a Cattery on any lot within the district without approval .....	100.00
2.44	Fail to confine cats in effective cage system on the property .....	100.00
2.45 (1)	Keeping of pigeons without approval .....	100.00
2.48 (1)	Keeping of pigeons within:	
	a caravan park: .....	100.00
	a grouped dwelling: .....	100.00
	a premise classified as part of a 'multiple dwelling': .....	100.00
2.49 (b)	Failing to keep cages, enclosures and lofts maintained to minimum standard specified in the Code of Practice .....	100.00
2.49 (c)	Failing to dispose of loft litter in approved manner to ensure no nuisance occurs .....	100.00
2.50 (1)	Keeping more than 50 pigeons for each certificate of registration .....	100.00
2.50 (2)	Keeping more than maximum number of birds approved .....	100.00
2.52 (1)	Releasing registered pigeons outside hours permitted .....	100.00
2.52 (2)	Releasing more than 60 pigeons for exercise or training at any one time ....	100.00
2.56 (1)	Keeping a beehive in a residential area or special rural area without approval .....	100.00
2.56 (2)	Keeping more than 2 hives .....	100.00
2.57 (a)	Failing to provide adequate water for bees .....	100.00
	All other offences not specified .....	80.00

### Part III—Reserves, Foreshore and Beaches

3.3 (g)	Create a nuisance or disturbance or behave in a disorderly or offensive manner or use indecent language or commit any act of indecency .....	100.00
3.3 (h)	Enter, look into or loiter inside or outside any lavatory, dressing shed or building or portion of a building used by the same sex or the opposite sex other than for the purpose of its design .....	100.00
3.3 (i)	Not to dress or undress in any public place open to public view .....	100.00
3.3 (k)	Not to bathe, swim, wade, sun bathe, wander or loiter unless properly clad .....	100.00
3.3 (v)	Not to throw or release any stone, arrow, or other missile, whether or the same kind or not, except in the course of the function being lawfully held ..	100.00
3.3 (af)	Light a fire .....	100.00
3.3 (ag)	Wander abroad or be in any place to which the public has access to beg, to gather alms or causing or procuring any child to do so, except for charitable causes not for personal benefit .....	100.00
	All other offences not specified .....	80.00

### Part IV—Buildings

4.2 (1)	Erect fence on frontage or side of allotment at intersection exceeding prescribed height and distance from intersection .....	100.00
4.6	Erected barbed wire fence without approval .....	100.00
4.7	Erect a dangerous fence .....	100.00
4.8 (2)	Failure to maintain fence in good condition and to prevent falling into disrepair .....	100.00
4.10 (1)	Erection or maintenance of fence which does not comply with these local laws .....	100.00
4.11	Erect or maintain estate boundary fence or estate entry statement without planning approval and/or licence .....	200.00
4.12 (2)	Failure to repair/replace damaged estate boundary fence with same or similar materials as original fence .....	100.00
4.12 (3)	Failure to treat repair/replace fence/wall with non sacrificial graffiti protection .....	100.00
4.16 (1)	Erect or maintain electrified fence without approval .....	100.00
	All other offences not specified .....	80.00

### Part V—Dangerous and Offensive Things

5.2	Disposing of old refrigerator, freezer, ice chest, ice box without rendering the lid incapable of being fastened .....	100.00
5.3	Storage, dismantle or break-up of old vehicles and machinery contrary to the stipulated manner .....	100.00
5.5	Failure to install outdoor lighting to the required standard .....	100.00

Section	Nature of Offence	Penalty \$
5.6 (1)	Use of fibreglass, resins or spraypainting without approval.....	100.00
5.6 (3)	Use of fibre glass, resins or spraypainting not in accordance with conditions of approval.....	100.00
5.9 (1)	Commencing work without approval of Dust Management Plan.....	500.00
5.11	Failure to comply with notice.....	500.00
5.12	Failure to comply with conditions of notice.....	500.00
5.18 (1)	Rubbish adversely affecting neighbours.....	100.00
5.19 (1)	Failure to provide a receptacle or wire enclosure on site.....	500.00
	All other offences not specified.....	80.00
<b>Part VI - Hawkers, Stallholders and Street Trades</b>		
6.2	Hawking without a licence.....	150.00
6.4	Maintaining a stall without a licence.....	150.00
6.6	Trading without a licence.....	150.00
6.17 (a)	Failure to display licence certificate.....	150.00
6.17 (b)	Failure to display name of hawker or trader on vehicle or name of stallholder on stall.....	150.00
	All other offences not specified.....	80.00
<b>Part VII—Management and Control of Council Property</b>		
7.3	Use of property without approval.....	100.00
7.15 (a)	Depositing waste at a location not designated by a notice.....	100.00
7.15 (b)	Depositing waste contrary to the direction of the Site Controller.....	100.00
7.16 (a)	Entering the facility to deposit waste without paying the approved fee.....	100.00
7.16 (b)	Removal of any waste from the Facility without approval.....	100.00
7.16 (c)	Depositing waste at the Facility any waste which is toxic, poisonous or hazardous, or the depositing of which is regulated or prohibited by any statute.....	500.00
7.16 (d)	Depositing any liquid waste at the Facility.....	500.00
7.16 (e)	Removal from or otherwise damage flora on the Facility.....	100.00
	All other offences not specified.....	80.00
<b>Part VIII—Signs, Hoardings, Bill Posting</b>		
8.2	Erect or maintain a sign within a distance of 100 metres of a street, way, footpath or a airborne device anchored to land without a licence.....	100.00
8.10 (1)	Failure to produce licence on demand.....	100.00
8.10 (2)	Failure to maintain licence number on any sign.....	100.00
8.12	Fail to keep sign in good condition.....	100.00
	All other offences not specified.....	80.00
<b>Part IX—Streets and Public Places</b>		
9.3 (b)	Park commercial vehicle or a caravan, omnibus or trailer on a street verge for more than 4 hours consecutively or for more than 4 hours in a day unless otherwise removed from the street verge for at least 24 hours.....	100.00
9.3 (c)	A person shall not on a street verge repair, service or clean any vehicle.....	100.00
9.4 (i)	Deposit or store any material on a street, way, or other public place without approval.....	100.00
9.12 (1)	Failure to paint/affix/maintain current street number in a conspicuous place on the building, fence/gate to street.....	100.00
9.14 (1)	Place street number so as to cause confusion or be misleading.....	100.00
	All other offences not specified.....	80.00
<b>Part X—Traffic and Vehicles</b>		
10.5 (1)	Parking on private property without consent.....	100.00
10.6 (b)	A person shall not park a vehicle on any portion of a street or verge if the vehicle is exposed for sale.....	100.00
10.7 (b)	A person shall not stand or park a vehicle so that any portion of the vehicle is on or over a footway, cycleway or a pedestrian crossing.....	100.00
10.8	Failure to move vehicle on lawful direction.....	100.00
	All other offences not specified.....	80.00
<b>Part XI—Law, Order and Security</b>		
11.3 (1)	Having possession of graffiti implements.....	80.00

Section	Nature of Offence	Penalty \$
<b>Part XII—Enforcement of Local Laws</b>		
12.4	Impersonation of an authorised person .....	200.00
12.5	Obstruct and hinder an authorised person .....	200.00
12.6 (2)	Refusal to give name and place of abode .....	100.00
12.7	Making a false or misleading statement in connection with any application, requirement or demand under these local laws .....	100.00
	All other offences not specified .....	80.00

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Dated this 8th day of September 2000.

The Common Seal of the City of Cockburn was hereunto affixed in the presence of:

Mr J. DONALDSON, Chairman of Commissioners.  
Mr R. W. BROWN, Chief Executive Officer.

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