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LOCAL GOVERNMENT ACT 1995

CITY OF MANDURAH

**CONSOLIDATED LOCAL LAWS
AMENDMENTS AND ADDITIONS
2000**

LOCAL GOVERNMENT ACT 1995

CITY OF MANDURAH

**CONSOLIDATED LOCAL LAWS AMENDMENTS AND
ADDITIONS 2000**

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LOCAL GOVERNMENT ACT 1995

CITY OF MANDURAH

**CONSOLIDATED LOCAL LAWS AMENDMENTS AND
ADDITIONS 2000**

IN pursuance of the powers conferred by the Local Government Act 1995, the Bush Fires Act 1954, the Cemeteries Act 1986, the Dividing Fences Act 1961 and the Dog Act 1976 and all other powers enabling it, the Council of the abovementioned Local Government hereby records having resolved on 21 November 2000 to make and amend the following Local Laws.

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

The Consolidated Local Laws Amendments and Additions as published in the *Government Gazette* in January 2000 are hereby revoked.

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

- By-law relating to Hawkers, Stall Holders and Trading in Public Places published in the *Government Gazette* 4 March, 1994.

The following Local Laws and all amendments thereto are hereby revoked—

- Part XII of the Consolidated Local Laws relating to Hawkers, Stallholders and Street Traders published in the *Government Gazette* 13 February, 1998.
- Part XIV of the Consolidated Local Laws relating to Signs, Hoardings and Bill Posting published in the *Government Gazette* 13 February, 1998.
- Part XVIII of the Consolidated Local Laws relating to Standing Orders published in the *Government Gazette* on 13 February, 1998.

PART II—GENERAL INTERPRETATION**2.1 GENERAL DEFINITIONS**

In these Local Laws, unless the context otherwise requires—

2.1.1 Delete—

“Authorized Person” means the CEO, or an Authorised Officer, or any other employee appointed in writing by the CEO as an Authorized Person under these Local Laws, or a Police Officer having authority under the Police Act 1892;”

Substitute with—

“Authorised Person” means the CEO, or an Authorised Officer, or any other employee appointed in writing by the CEO as an Authorised Person under these Local Laws, or a Police Officer having authority under the Police Act 1892, or any other person expressly authorised by the CEO in writing to perform a function under these Local Laws;

PART VI—DOGS*Division 4—General***6.4 MISCELLANEOUS PROVISIONS****6.4.2 Reserves—**

Delete paragraph—

“(r) “Bortolo Park Reserve” (Reserve No. 41733) bounded by Bortolo Drive, Murdoch Drive and Waldron Boulevard and Lowden Road, Greenfields.”

Substitute with—

- (r) “Bortolo Park Reserve” (Reserve No. 41733) the hall and total lower playing surface only being bounded by Bortolo Drive, Murdoch Drive and Waldron Boulevard and Lowden Road, Greenfields.

6.4.3 Reserves—

Insert paragraph—

- (f) Reserve No. 41733 “Bortolo Park Reserve” all areas other than the hall and lower playing surface, bounded by Bortolo Drive, Murdoch Drive, Waldron Boulevard and Lowden Road, Greenfields.

Delete sub-section 6.4.4—

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

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

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

PART VII—CEMETERIES

Division 4—Application for Funerals

7.4 REQUIREMENTS TO HOLD FUNERALS

7.4.5 Times for Burials

Delete paragraph—

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

- (a) on Christmas Day;*
- (b) on Good Friday; or*
- (c) at any time other than during the following days and hours—*
Monday to Friday—9:00am to 11:30am and 1:30pm and 3:30pm
Saturday, Sundays and Public Holidays—8.30am to 11.00am
except with the written permission of the Council.

Substitute with—

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

- (a) on Christmas Day;
- (b) on Good Friday; or
- (c) at any time other than during the following days and hours—
 Monday to Friday—9.00am to 3.00pm
 Saturday, Sundays and Public Holidays—8.30am to 11.00am
 except with the written permission of the Council or its authorised officer.

Division 7—Funerals

7.7 COFFINS, GRAVES AND FUNERAL PROCESSIONS

Delete sub-section—

“7.7.5 Niche Walls

- (1) A person other than the Council shall not construct a niche wall within a Cemetery.*
- (2) A niche wall must be—*
 - (a) constructed of brick, stone, concrete or similar durable material; and*
 - (b) adequately ventilated and drained; and*
 - (c) vermin proof; and*
 - (d) capable of being secured against entry by vandals or other unauthorised persons.*
- (3) The number of burials in a niche wall must not exceed the number for which the niche wall was designed.”*

Substitute with sub-section—

7.7.5 Niche Walls and Ground Niches

- (1) A person other than Council shall not construct a niche wall or place a ground niche within a Cemetery.
- (2) A niche wall must be—
 - (a) constructed of brick, stone, concrete or similar durable material; and
 - (b) adequately ventilated and drained; and
 - (c) vermin proof; and
 - (d) capable of being secured against entry by vandals or other unauthorised persons.
- (3) The number of burials in a niche wall must not exceed the number for which the niche wall was designed.
- (4) Memorial plaques placed on niche walls in the Cemetery shall—
 - (a) be made of admiralty bronze or other material as approved by the Council or its authorised officer; and

- (b) (i) for a single niche wall plaque be 143 x 117 mm.
- (ii) for a double niche wall plaque be 286 x 124 mm.
- (5) Other than those monuments as provided for purchase by Council, the placement of monuments on niche walls is prohibited.
- (6) At the expense of the grant holder a ground niche memorial plaque may be placed on the concrete plinth.
- (7) Memorial Plaques placed on a ground niche in the Cemetery shall—
 - (a) be made of admiralty bronze or other material as approved by Council or its authorised officer; and
 - (b) be 143 x 117 mm.
- (8) Other than those monuments as provided by Council for purchase at the grant holder's expense, the placement of monuments on or surrounding a ground niche is prohibited.

Division 8—Flowers and Memorials

7.8 FLOWERS AND MEMORIAL PLAQUES

7.8.1 Requirements of a Memorial Plaque

Delete paragraph—

“(1) Memorial plaques placed in the Cemetery shall—

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

Substitute with—

- (1) Memorial plaques placed in the Cemetery other than those memorial plaques contained within subsection 7.7.5 shall—
 - (a) be made of admiralty bronze or any other material approved by Council;
 - (b) be not less than 380mm x 280mm, nor more than 560mm x 305mm unless otherwise approved by Council or its authorised officer; and
 - (c) bear an inscription approved by Council.

Delete sub-section—

“7.8.2 Flowers and Memorials

- (1) The Cemetery is a lawn cemetery and all flowers must be placed in vases or receptacles provided.*
- (2) An Authorised Officer will remove all withered flowers on Friday of each week and all faded and unsightly plastic or other artificial flowers and memorials on the last Friday of each calendar month.*
- (3) No person shall place any wooden, metal, plastic or stone memorials or vases, statues or photographs within the Cemetery except within the concrete plinths and no such memorial vase statue or photograph is to extend over the concrete plinth area.*
- (4) No person shall plant trees, shrubs or plants in the Cemetery without the prior approval of the Council.”*

Substitute with sub-section—

7.8.2 Flowers and Memorials

- (1) The Cemetery is a lawn cemetery and all flowers must be placed in vases or receptacles provided.
- (2) An Authorised Officer will remove all withered flowers on Friday of each week and all faded and unsightly plastic or other artificial flowers and memorials on the last Friday of each calendar month.
- (3) No person shall place or affix by any method any wooden, metal, plastic or stone memorials or vases, statues or photographs, pots or other memorials within the Cemetery or on the concrete plinth without the approval of an authorised officer.
- (4) No person shall plant or place within pots any trees, shrubs or plants in the Cemetery without the prior approval of Council or its authorised officer.

PART IX—BUILDINGS

Division 1—Preliminary

Delete sub-section—

“9.1.2 Terms and expressions used in this Part—

- (a) shall have the meanings given in subsection 9.11 which shall prevail over any other conflicting definitions; and*
- (b) subject to paragraph (a) shall have the meanings given to them in the Dividing Fences Act 1961 which shall prevail over any conflicting definition in subsection 2.1.1 or the Act; and*
- (c) subject to paragraphs (a) and (b) shall be interpreted in accordance with section 2.1.”*

Substitute with—

9.1.2 Terms and expressions used in this Part—

- (a) shall have the meanings given to them in the Dividing Fences Act; and
- (b) subject to paragraph (a) shall have the meanings given to them in subsection 9.1.1 which shall prevail over any conflicting definition in subsection 2.1.1; and
- (c) subject to paragraphs (a) and (b) shall be interpreted in accordance with section 2.1.

PART XII—HAWKERS, STALLHOLDERS AND STREET TRADERS

Delete Part XII—Hawkers, Stallholders and Street Traders in its entirety as gazetted on 13 February 1998.

Substitute with—

PART XII—TRADING IN PUBLIC PLACES

Division 1—Preliminary

12.1 DEFINITIONS

12.1.1 In this Part, unless the context otherwise requires—

“applicant” means a person who applies for a licence;

“commencement day” means the day on which this Part comes into operation;

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

“licence” means a licence issued under this Part;

“local government property” means anything except a thoroughfare—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an “otherwise unvested facility” within section 3.53 of the 1995 Act;

“person” has the meaning given to it in subsection 2.1.1, but does not include the City;

“Trading in Public Places Policy” means a policy made by Council under Division 4 of this Part;

“public place” includes—

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

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

“trader” means a person who carries on trading under a valid trader’s licence;

“trader’s licence” means a licence issued to a trader; and

“trading” includes—

- (a) the selling or hiring of, the offering for sale or hire of, or the soliciting of orders for, goods or services in a public place;
- (b) displaying goods in any public place for the purpose of—
 - (i) offering them for sale or hire;
 - (ii) inviting offers for their sale or hire;
 - (iii) soliciting orders for them; or
 - (iv) carrying out any other transaction in relation to them;
- (c) the going from place to place, whether or not either place is a public place, and—
 - (i) offering goods or services for sale or hire;
 - (ii) inviting offers or soliciting orders for the sale or the hire of goods or services; or
 - (iii) carrying out any other transaction in relation to the sale or hire of goods or services;
- (d) the setting up of a stall or the conducting of a business at a stall on a public place.

but does not include—

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

12.1.2 In this Part, unless the context requires otherwise a reference to a section is a reference to a section of these Local Laws.

*Division 2—Licences***12.2 NEED FOR A TRADER'S LICENCE**

- 12.2.1 Unless exempted under section 12.3, a person shall not carry on trading unless that person is—
- (a) the holder of a valid trader's licence; or
 - (b) a person specified in the valid trader's licence.

12.3 EXEMPTIONS

- 12.3.1 Council may by written notice exempt a person or class of persons from the need to have a licence.
- 12.3.2 In granting any exemption, the Council shall have regard to the matters set out in the Trading In Public Places Policy.

12.4 APPLICATION FOR LICENCE

- 12.4.1 An application for a trader's licence shall—
- (a) comply with the requirements of the Trading in Public Places Policy; and
 - (b) be forwarded to the CEO together with any fee imposed and determined by the City.
- 12.4.2 Council may require an applicant to give local public notice of the application for a licence.
- 12.4.3 Where an applicant proposes to trade in a location which is on or abuts land which is not local government property, but which is under the control of a public authority, Council is to refer the application for a licence to that public authority for its comments.
- 12.4.4 If the public authority referred to in subsection 12.4.3 does not respond within 28 days after Council refers the application to it, it is deemed to have no objection to the application and the applicant may then proceed for further consideration.

12.5 COUNCIL MAY REFUSE TO CONSIDER APPLICATION

Council may refuse to consider an application for a licence that is not in accordance with subsection 12.4.1.

12.6 DECISION ON APPLICATION FOR LICENCE

- 12.6.1 Council may—
- (a) approve an application for a licence unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a licence.
- 12.6.2 If Council approves an application for a licence, it is to issue to the applicant a licence in the form determined by the Council and set out in the Trading in Public Places Policy.
- 12.6.3 If Council refuses to approve an application for a licence, it is to give written notice of that refusal to the applicant.
- 12.6.4 Without limiting the scope of Council's discretion under subclause 12.6.1, the Trading in Public Places Policy may set out—
- (a) the considerations to which Council may, or is to, have regard in determining an application for a licence; and
 - (b) the grounds on which Council may refuse to approve an application for a licence; and
 - (c) where Council approves an application for a licence subject to conditions, the conditions that may be imposed.

12.7 VARIATION OF LICENCE CONDITIONS

- 12.7.1 A licensee may apply in writing to Council to vary or remove any of the provisions or conditions of the licence.
- 12.7.2 Council may, in respect of an application made under this clause—
- (a) refuse the application; or
 - (b) approve, in whole or in part, the application on such conditions, if any, as it sees fit.
- 12.7.3 In determining an application under this section, Council is to have regard to the Trading in Public Places Policy.
- 12.7.4 Where Council approves an application under this section it is to advise the licence holder in writing of the variation and the provisions and conditions (or either, as the case may be) applying in respect of the licence are to be varied accordingly.

12.8 COMPLIANCE WITH CONDITIONS

- 12.8.1 Where an application for a licence has been approved subject to conditions, or where a licence is to be taken to be subject to conditions under this Part, the licence holder shall comply with each of those conditions.

12.8.2 Where a licence holder by reason of illness, accident or other sufficient cause is unable to comply with this Part, Council may at the request of that licence holder authorise another person to be a nominee of the licence holder for a specified period, and this Part and the conditions of the licence shall apply to the nominee as if he or she was the licence holder during that period.

12.9 DURATION OF LICENCE

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

- (a) otherwise stated in these Local Laws or in the licence; or
- (b) cancelled under section 12.12.

12.10 RENEWAL OF LICENCE

12.10.1 A licence holder may apply to Council in writing, not more than 2 months before the expiry of the licence, for the renewal of the licence.

12.10.2 Where an application for the renewal of a licence is received within a period of 2 weeks after the expiry of the licence, Council may renew the licence as if it were valid during that period.

12.10.3 The provisions of—

- (a) this Part; and
- (b) any other provision of these Local Laws relevant to the licence which is to be renewed,

shall apply, with such modifications as are required, to an application for the renewal of a licence.

12.11 TRANSFER OF LICENCE

12.11.1 An application for the transfer of a valid licence is to—

- (a) comply with the Trading in Public Places Policy; and
- (b) be forwarded to the CEO together with any fee imposed and determined by the local government.

12.11.2 Council may approve an application for the transfer of a licence, refuse to approve it or approve it subject to any conditions.

12.11.3 Where Council approves an application for the transfer of a licence, the transfer may be effected by—

- (a) an endorsement on the licence signed by the CEO; or
- (b) issuing to the transferee a permit in the form determined by Council and set out in the Trading in Public Places Policy.

12.11.4 Where Council approves an application for the transfer of a licence, it is not required to refund any part of any fee paid by the former licence holder.

12.12 CANCELLATION, SUSPENSION OR VARIATION OF LICENCE

12.12.1 Subject to section 21.1 (of Part XXI of these Local Laws), a licence may be cancelled by Council on any one or more of the following grounds—

- (a) the licence holder has not complied with—
 - (i) a condition of the licence; or
 - (ii) a provision of any written law which may relate to the activity regulated by the licence; or
- (b) if it is relevant to the activity regulated by the licence the licence holder is an insolvent under administration within the meaning of the *Corporations Law*.

12.12.2 On the cancellation of a licence the licence holder—

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

12.12.3 Where Council has the power to cancel a licence under this section it may, instead, vary a provision or condition or impose a new condition of the licence.

12.12.4 Council may cancel or suspend a licence if Council or a public authority requires access to or near the place over which the licence applies for the purpose of carrying out works in or in the vicinity of that place.

12.13 CONDUCT OF TRADERS

A trader shall—

- (a) ensure that the business for which his or her licence has been issued is conducted at all times in accordance with the provisions of these Local Laws and the conditions of the licence; and
- (b) comply with any obligations which may be specified in the Trading in Public Places Policy.

Division 3—Transitional

12.14 LICENCES ISSUED UNDER FORMER PART XII

12.14.1 In this section—

“former provisions” means Part XII of these Local Laws immediately prior to the commencement day.

- 12.14.2 A licence issued under the former provisions continues in force after the commencement day until the time when it would have done so had the former provisions continued, and section 12.20 of the former provisions continues in operation after the commencement day for the purposes of the cancellation of such a licence.

12.15 POLICY MADE BEFORE THE COMMENCEMENT DAY

- 12.15.1 If Council commences and completes the policy making process under section 12.17 in relation to a proposed policy prior to the commencement day, then the proposed policy is to have effect as a policy made under section 12.16 on and from the commencement day.
- 12.15.2 If Council commences but does not complete the policy making process under section 12.17 in relation to a proposed policy prior to the commencement day, then that partial compliance is to have effect as if it had occurred after the commencement day.
- 12.15.3 For the purposes of applying this section, the reference in subsections 12.17.3, 12.17.5 and 12.17.6 to the "date of publication" shall be construed as a reference to the "commencement day" and Council is to apply those subsections accordingly.

Division 4—Trading in Public Places Policy

12.16 POLICY MAKING POWER

- 12.16.1 Council may, in accordance with this division, make a policy, known as the *Trading in Public Places Policy*, as to any matter in this Part of these Local Laws or as to any matter which Council considers is necessary or convenient for applying, administering or enforcing this Division of these Local Laws.
- 12.16.2 Without limiting the generality of subclause 12.16.1, the Trading in Public Places Policy may, in addition to the matters set out in subsection 12.6.4—
- (a) include standard conditions that apply, unless varied or excluded by Council in a particular case, to each licence holder;
 - (b) the circumstances in which a licence is not required to carry on trading, and the conditions (if any) to which the exemption is subject;
 - (c) the locations in which trading is prohibited;
 - (d) the obligations of a licence holder; and
 - (e) any matter ancillary or necessary to give effect to a policy.

12.17 PROCEDURE FOR MAKING POLICY

- 12.17.1 Council is to give local public notice of its intention to make a policy.
- 12.17.2 The local public notice referred to in subsection 12.17.1 is to state that—
- (a) Council intends to make a policy, the purpose and effect of which is summarised in the notice;
 - (b) a copy of the proposed policy may be inspected and obtained from the offices of the City; and
 - (c) submissions in writing about the proposed policy may be lodged with the City within 14 days after the date of publication.
- 12.17.3 If no submissions are received in accordance with subsection 12.17.2(c), Council is to decide—
- (a) to give local public notice that the proposed policy has effect as a policy on and from the date of publication;
 - (b) to amend the proposed policy, in which case subsection 12.17.5 will apply; or
 - (c) to not continue with the proposed policy.
- 12.17.4 If submissions are received in accordance with subsection 12.17.2(c), Council is—
- (a) to consider those submissions; and
 - (b) to decide—
 - (i) whether or not to amend the proposed policy; or
 - (ii) not to continue with the proposed policy.
- 12.17.5 If Council decides to amend the proposed policy, it is to give local public notice—
- (a) of the effect of the amendments; and
 - (b) that the proposed policy has effect as a policy on and from the date of publication.
- 12.17.6 If Council decides not to amend the proposed policy, it is to give local public notice that the proposed policy has effect as a policy on and from the date of publication.
- 12.17.7 A proposed policy is to have effect as a policy on and from the date of publication of the local public notice referred to in subsections 12.17.3, 12.17.5 and 12.17.6.
- 12.17.8 A decision under subsection 12.17.3 or 12.17.4 is not to be delegated by Council.

12.18 REGISTER OF POLICIES

- 12.18.1 The City is to keep a register of policies made under section 12.16, and of any amendments to or revocations of policies made under section 12.19.
- 12.18.2 Sections 5.94 and 5.95 of the 1995 Act are to apply to the register referred to in subsection 12.18.1 and for that purpose the register is deemed to be information within section 5.94(u)(i) of the 1995 Act.

12.19 AMENDMENT OR REVOCATION OF A POLICY

- 12.19.1 Council may amend or revoke a policy.
- 12.19.2 The provisions of section 12.17 are to apply to an amendment of a policy as if the amendment were a proposed policy.
- 12.19.3 If Council revokes a policy it is to give local public notice of the revocation and the policy is to cease to have effect on the date of publication.

PART XIV—SIGNS, HOARDINGS, BILL POSTING

Delete Part XIV—Signs, Hoardings, Bill Posting in its entirety as gazetted on 13 February 1998.
Substitute with—

PART XIV—ADVERTISING DEVICES*Division 1—Preliminary***14.1 DEFINITIONS**

- 14.1.1 In this Part, unless the context otherwise requires—
- “advertising device” means a device used for the purpose of advertising any business, function, operation, event, undertaking, product or thing and includes an electoral advertisement;
- “Advertising Devices Policy” means a policy made by Council under this Part;
- “applicant” means a person who applies for a licence;
- “application” means an application for a licence referred to in section 14.4;
- “commencement day” means the day on which this Part comes into operation;
- “date of publication” means, where local public notice is required to be given of a matter under this Part, the date on which notice of the matter is published in a newspaper circulating generally throughout the district;
- “device” means any object, sign, or thing, whether or not affixed to a structure and includes—
- (a) an airborne object anchored to land; and
 - (b) a vehicle where its primary purpose is advertising;
- “electoral advertisement” includes a device which advertises any aspect of a forthcoming Federal, State or Local Government election or a referendum;
- “licence” means a licence given by Council under subsection 14.7.1;
- “licensee” means the person to whom a licence is issued, and includes the holder of a valid planning approval referred to in subsection 14.2.2;
- “person” has the meaning given to it in subsection 2.1.1, but does not include Council;
- “planning approval” means an approval granted under clause 7.6 of the City of Mandurah District Town Planning Scheme No. 3 and “valid planning approval” means a planning approval which has not lapsed or expired under, respectively, clauses 7.6.3 and 7.6.4 of the Scheme;
- “provisions” when used in relation to a licence includes such matters as the permitted location, the duration of the licence and such other matters which are not specified in the licence as conditions of the licence;
- “sign” means a notice, flag, plate, structure or thing on which may be shown words, numbers, expressions or symbols.
- Note: “land” has the meaning given to it in the Interpretation Act 1984. More generally, the Interpretation Act 1984 contains various provisions which assist in the interpretation of these Local Laws.*
- 14.1.2 In this Part, unless the context otherwise requires a reference to a section is a reference to a section of these Local Laws.

*Division 2—Licences***14.2 LICENCE REQUIRED**

- 14.2.1 Unless exempted under section 14.3, a person shall not erect, maintain, display or use an advertising device without a valid licence.
- 14.2.2 Where an advertising device is the subject of a valid planning approval then—
- (a) a licence is not required in respect of the erection, maintenance, display or use of the advertising device;
 - (b) a licence is deemed to have been issued to the holder of the planning approval—
 - (i) on the same conditions as those attaching to the planning approval;
 - (ii) subject to a condition that the licence is to be valid while the planning approval remains valid; and
 - (iii) on the date of the grant of the planning approval; and
 - (c) the holder of the planning approval is deemed to be a licensee.

14.3 EXEMPTIONS

- 14.3.1 Council may exempt a person or class of persons from the need to have a licence.

- 14.3.2 An exemption may be—
- (a) made by written notice; or
 - (b) specified in the Advertising Devices Policy.
- 14.3.3 The power to exempt may be exercised—
- (a) on the application of a person; or
 - (b) at Council's own initiative.
- 14.3.4 An exemption under subsection 14.3.1 may be given subject to whatever conditions Council thinks fit.
- 14.3.5 For example, an exemption may apply to, or in respect of—
- (a) a particular event;
 - (b) particular goods or services; or
 - (c) a period of time.

14.4 APPLICATION FOR LICENCE

An application for a licence under subsection 14.2.1 shall be—

- (a) made in the form determined by Council and set out in the Advertising Devices Policy or the Local Laws; and
- (b) lodged with any plans, specifications or other matters which Council may require under the Advertising Devices Policy or written notice.

14.5 DETERMINATION OF APPLICATION

- 14.5.1 Council may refuse to determine an application for a licence that is not in accordance with section 14.4.
- 14.5.2 In determining an application Council is to have regard to—
- (a) where the Advertising Devices Policy has been made in relation to the class of advertising device which is the subject of the application—
 - (i) the Advertising Devices Policy; and
 - (ii) any other matters which Council considers to be relevant to the application; or
 - (b) where the Advertising Devices Policy has not been made in relation to the class of advertising device which is the subject of the application, any matter which Council considers to be relevant to the application.
- 14.5.3 Council may—
- (a) approve an application unconditionally or subject to any conditions; or
 - (b) refuse to approve an application.
- 14.5.4 Notwithstanding anything in this Part or in the Advertising Devices Policy which relates to the class of advertising device which is the subject of an application, Council may approve, unconditionally or subject to any conditions, or refuse to approve an application.

14.6 RETROSPECTIVE APPROVAL

- 14.6.1 Where an advertising device has been erected, maintained, displayed or used contrary to subsection 14.2.1, then under section 14.5 Council may consider and determine an application for a licence in respect of the advertising device notwithstanding the prior erection, maintenance, display or use of the device.
- 14.6.2 This Part is to apply to an application referred to in subsection 14.6.1 as if the application was made prior to the erection, maintenance, display or use of the advertising device which is the subject of the application.
- 14.6.3 Council may approve an application referred to in subsection 14.6.1, so that the licence is to apply retrospectively—with the result that the erection, maintenance, display or use of the relevant advertising device, in accordance with and under the licence, is taken to have been, and is, lawful.
- 14.6.4 Notwithstanding the retrospective application of a licence referred to in subsection 14.6.3, such a licence is valid for one year from the date on which the application for that licence is approved unless it is—
- (a) otherwise stated in the licence; or
 - (b) sooner cancelled under section 14.14.

14.7 NOTICE OF DECISION ON APPLICATION

- 14.7.1 If Council approves an application, it is to give to the applicant a licence in the form determined by Council and set out in the Advertising Devices Policy or the Local Laws.
- 14.7.2 If Council refuses to approve an application, it is to give written notice of that refusal to the applicant.

14.8 VARIATION OF LICENCE CONDITIONS

- 14.8.1 A licensee may apply in writing to Council to vary or remove any of the provisions or conditions of the licence.

- 14.8.2 Council may, in respect of an application made under this section—
- (a) refuse the application; or
 - (b) approve, in whole or in part, the application on such conditions, if any, as it sees fit.
- 14.8.3 In determining an application under this section, Council is to have regard to the Advertising Devices Policy.
- 14.8.4 Where Council approves an application under this section it is to advise the licence holder in writing of the approved variation or removal and the provisions and conditions (or either, as the case may be) applying in respect of the licence are to be varied accordingly.

14.9 COMPLIANCE WITH CONDITIONS

- 14.9.1 Where an application has been approved subject to conditions, the licensee shall comply with each of those conditions.
- 14.9.2 Where a licence is deemed to have been issued under subsection 14.2.2, then the licensee shall comply with the conditions of that licence as varied by that section.

14.10 DURATION OF LICENCE

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

- (a) otherwise stated in this Part or in the licence; or
- (b) sooner cancelled under section 14.14.

14.11 RENEWAL OF LICENCE

- 14.11.1 A licensee may apply to Council in writing, not more than 2 months before the expiry of the licence, for the renewal of the licence.
- 14.11.2 Where an application for the renewal of a licence is received within a period of 2 weeks after the expiry of the licence, Council may renew the licence as if it were valid during that period.
- 14.11.3 The provisions of—
- (a) this Part; and
 - (b) any other provision of these Local Laws relevant to the licence which is to be renewed,
- shall apply, with such modifications as are required, to an application for the renewal of a licence.

14.12 TRANSFER OF LICENCE

- 14.12.1 An application for the transfer of a valid licence is to—
- (a) comply with the Advertising Devices Policy; and
 - (b) be forwarded to the CEO together with any fee imposed and determined by Council.
- 14.12.2 Council may approve an application for the transfer of a licence, refuse to approve it or approve it subject to any conditions.
- 14.12.3 Where Council approves an application for the transfer of a licence, the transfer may be effected by—
- (a) an endorsement on the licence signed by the CEO; or
 - (b) issuing to the transferee a licence in the form determined by Council and set out in the Advertising Devices Policy or the Local Laws.
- 14.12.4 Where Council approves the transfer of a licence, it is not required to refund any part of any fee paid by the former licensee.

14.13 PRODUCTION OF LICENCE

A licensee is to produce to an authorised person her or his licence immediately upon being required to do so by that authorised person, or in any case where the licensee cannot produce the licence immediately to that authorised person within a period of 48 hours.

Note: 'authorised person' means a person appointed by the City under section 9.10 of the 1995 Act to be an authorised person.

14.14 CANCELLATION OR VARIATION OF LICENCE

- 14.14.1 Subject to section 21.1 (of Part XXI of these Local Laws), a licence may be cancelled by Council on any one or more of the following grounds—
- (a) the licensee has not complied with—
 - (i) a term or condition of the licence; or
 - (ii) a provision of any written law which may relate to the activity regulated by the licence; or
 - (b) if it is relevant to the activity regulated by the licence the licensee is an insolvent under administration within the meaning of the *Corporations Law*.
- 14.14.2 On the cancellation of a licence the licensee—
- (a) shall return the licence as soon as practicable to the City; and
 - (b) is to be taken to have forfeited any fees paid in respect of the licence.

- 14.14.3 Where Council has the power to cancel a licence under this section it may, instead, vary a provision or condition of the licence.
- 14.14.4 Council may cancel or suspend a licence if Council or a public authority requires access to or near the place over which the licence applies for the purpose of carrying out works in or in the vicinity of that place.

14.15 OBLIGATIONS

A person who erects, maintains, displays or uses an advertising device shall—

- (a) keep the advertising device clean;
- (b) maintain the advertising device free of dilapidation; and
- (c) comply with any obligations imposed on her or him in relation to an advertising device under the Advertising Devices Policy.

Division 3—Enforcement

14.16 OFFENCES AND PENALTIES

- 14.16.1 A person who breaches sections 14.2.1, 14.9, 14.13 or 14.15 commits an offence.
- 14.16.2 A person who commits an offence under subsection 14.16.1 or against a clause of the Advertising Devices Policy (where the policy states that a breach of the clause is an offence) is liable, on conviction, to the penalties specified in section 20.17.

14.17 PRESCRIBED OFFENCES AND INFRINGEMENT NOTICES

- 14.17.1 An offence against subsection 14.2.1 or section 14.9, 14.13 or 14.15 or against a clause of the Advertising Devices Policy (where the Policy states that a breach of the clause is an offence) is a prescribed offence for the purposes of section 9.16(1) of the 1995 Act.
- 14.17.2 The amount of the modified penalty for a prescribed offence in subsection 14.17.1 is as prescribed by Council from time to time.
- 14.17.3 For the purposes of this Part—
- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the 1995 Act is that of the form referred to in section 20.12;
 - (b) the form of the infringement notice given under section 9.16 of the 1995 Act is that of the form referred to in section 20.12; and
 - (c) the form of the notice referred to in section 9.20 of the 1995 Act is that of the form referred to in section 20.14.

Note: 'vehicle' means a vehicle described in the First Schedule to the Road Traffic Act 1974.

14.18 OFFENDER FOR PURPOSES OF SUBSECTION 14.2.1

- 14.18.1 In the absence of any proof to the contrary, where the name of a person or business appears on an advertising device, that person or the person who is or owns the business, as the case may be, is deemed to have erected or to be maintaining, displaying or using the advertising device for the purposes of subsection 14.2.1.
- 14.18.2 In proceedings for an offence against subsection 14.2.1, an averment in a complaint that a person has erected, maintained, displayed or used an advertising device is evidence of that fact in the absence of proof to the contrary.

Division 4—Transitional

14.19 ADVERTISING DEVICES ERECTED UNDER FORMER PART XIV

- 14.19.1 In this section—
- “former provisions” means Part XIV of these Local Laws immediately prior to the commencement day.
- 14.19.2 An advertising device which—
- (a) was erected prior to the commencement day; and
 - (b) immediately prior to the commencement day was permitted under and complied with the former provisions,
- is deemed to be the subject of a valid licence for so long as the advertising device remains of the same type and continues to comply with the former provisions.
- 14.19.3 A licence issued under the former provisions continues in force after the commencement day until the time when it would have done so had the former provisions continued, and section 14.5 of the former provisions continues in operation after the commencement day for the purposes of the cancellation of such a licence.

14.20 ADVERTISING DEVICES POLICY MADE BEFORE THE COMMENCEMENT DAY

- 14.20.1 If Council commences and completes the policy making process under this Part in relation to a proposed policy prior to the commencement day, then the proposed policy is to have effect as the Advertising Devices Policy made under section 14.21 on and from the commencement day.

- 14.20.2 If Council commences but does not complete the policy making process under this Part in relation to the proposed Advertising Devices Policy prior to the commencement day, then that partial compliance is to have effect as if it had occurred after the commencement day.
- 14.20.3 For the purposes of applying this section, the reference in subsections 14.22.3, 14.22.5 and 14.22.6 to the "date of publication" shall be construed as a reference to the "commencement day" and Council is to apply those subsections accordingly.

Division 5—Policy

14.21 POLICY MAKING POWER

- 14.21.1 Council may, in accordance with this Division, make the Advertising Devices Policy as to any matter in this Part of these Local Laws or as to any matter which Council is necessary or convenient for applying, administering or enforcing this Part of these Local Laws.
- 14.21.2 Without limiting the generality of subsection 14.21.1, the Advertising Devices Policy may specify—
- (a) when a licence is not required for an advertising device, and the conditions (if any) to which the exemption is subject;
 - (b) the information which is to accompany an application for an advertising device;
 - (c) the matters which the City is to have regard to in determining an application for an advertising device;
 - (d) the locations in which an advertising device may be placed, and the requirements attaching to the placement;
 - (e) the locations in which an advertising device is not to be placed or is to be restricted in its placement and the requirements attaching to the placement;
 - (f) the dimensions and other specifications of a class of advertising device;
 - (g) when a breach of a clause of the Advertising Devices Policy is an offence;
 - (h) the conditions subject to which an application can be approved;
 - (i) whether or not the conditions in paragraph (h) are to apply automatically on the approval of an application;
 - (j) the obligations of a person who erects, maintains, displays or uses an advertising device; and
 - (k) any matter ancillary or necessary to give effect to the Advertising Devices Policy.

14.22 PROCEDURE FOR MAKING THE ADVERTISING DEVICES POLICY

- 14.22.1 Council is to give local public notice of its intention to make a policy.
- 14.22.2 The local public notice referred to in subsection 14.22.1 is to state that—
- (a) Council intends to make the Advertising Devices Policy, the purpose and effect of which is summarised in the notice;
 - (b) a copy of the proposed Advertising Devices Policy may be inspected and obtained from the offices of the City; and
 - (c) submissions in writing about the proposed Advertising Devices Policy may be lodged with the City within 21 days after the date of publication.
- Note: 'local public notice' is defined in section 1.7 of the 1995 Act.*
- 14.22.3 If no submissions are received in accordance with subsection 14.22.2(c), Council is to decide to—
- (a) give local public notice that the proposed Advertising Devices Policy has effect as the Advertising Devices Policy on and from the date of publication;
 - (b) amend the proposed Advertising Devices Policy, in which case subsection 14.22.5 will apply; or
 - (c) not continue with the proposed Advertising Devices Policy.
- 14.22.4 If submissions are received in accordance with subsection 14.22.2(c) Council is to—
- (a) consider those submissions; and
 - (b) decide—
 - (i) whether or not to amend the proposed Advertising Devices Policy; or
 - (ii) not to continue with the proposed Advertising Devices Policy.
- 14.22.5 If Council decides to amend the proposed policy, it is to give local public notice—
- (a) of the effect of the amendments; and
 - (b) that the proposed Advertising Devices Policy has effect as the Advertising Devices Policy on and from the date of publication.
- 14.22.6 If Council decides not to amend the proposed Advertising Devices Policy, it is to give local public notice that the proposed policy has effect as the Advertising Devices Policy on and from the date of publication.
- 14.22.7 A proposed Advertising Devices Policy is to have effect as the Advertising Devices Policy on and from the date of publication of the local public notice referred to in subsections 14.22.3, 14.22.5 and 14.22.6.
- 14.22.8 A decision under subsection 14.22.3 or 14.22.4 is not to be delegated by Council.

14.23 REGISTER OF POLICIES

14.23.1 Council is to keep a register of policies made under this Part, and of any amendments to or revocations of policies made under section 14.24.

14.23.2 Sections 5.94 and 5.95 of the 1995 Act are to apply to the register referred to in subsection 14.23.1 and for that purpose the register is deemed to be information within section 5.94(u)(i) of the 1995 Act.

14.24 AMENDMENT OR REVOCATION OF A POLICY

14.24.1 Council may amend or revoke a policy.

14.24.2 The provisions of section 14.22 are to apply to an amendment of the Advertising Devices Policy as if the amendment were a proposed Advertising Devices Policy.

14.24.3 If Council revokes the Advertising Devices Policy it is to give local public notice of the revocation and the Advertising Devices Policy is to cease to have effect on the date of publication.

PART XV—STREETS AND PUBLIC PLACES*Division 1—Preliminary*

15.1 Amend so that after the definition of “omnibus” a definition appears as follows—

“Wheeled recreational device” means a wheeled device built to transport a person, propelled by human power or gravity, and ordinarily used for recreational play—

(a) including—

(i) in-line skates, roller skates, a skateboard or similar wheeled device;

(ii) a scooter being used by a person aged 12 years of age or older; and

(iii) a unicycle, but

(b) not including a golf buggy, pram, stroller or trolley, or a bicycle, wheelchair or wheeled toy.

Division 2—Activities on Streets and Public Places

15.3 Amend by inserting new clause 15.3(l) and read as follows—

15.3 A person shall not—

(l) (i) travel in or on a wheeled recreational device on any part of the local government property contained within the border of the area shown in Appendix 1 to these Local Laws;

(ii) travel in or on a wheeled recreational device on any part of the local government property the subject of resolution of Council.

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

16.1.1 In this Part, unless the context otherwise requires—

Add in alphabetical order—

“commercial vehicle” has the same meaning as the term motor wagon as defined within the first schedule of the Road Traffic Act, 1974;

“goods” means an article, or collection of articles, weighing at least 14 kilograms and having a volume of at least .02 cubic metres;

*Division 3—Standing and Parking Generally***16.6 PARKING CONDUCT**

Insert new paragraph—

(g) A person shall not stand or permit a vehicle to continue standing in a parking stall which is at the time set aside for use by commercial vehicles unless the vehicle is a commercial vehicle and a person is actively engaged in the loading or unloading of goods to or from that vehicle. A parking stall is set aside for use by commercial vehicles if there is a sign thereon or adjacent marked “Loading Zone”.

Division 5—Miscellaneous

Delete section—

“16.33 PENALTIES

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

Substitute with—

16.33 PENALTIES

Notwithstanding the provisions relating to penalties in Part XX, Council may from time to time, prescribe specific penalties for the purpose of this Part, and if that occurs any reference to the penalty provisions of Part XX shall apply to the extent necessary as a reference to this Part.

PART XVIII—STANDING ORDERS

Delete Part XVIII—Standing Orders in its entirety as gazetted on 13 February 1998.

PART XX—ENFORCEMENT OF LOCAL LAWS

Delete Part XX—Enforcement of Local Laws in its entirety as gazetted on 13 February 1998.

Substitute with—

PART XX—ENFORCEMENT OF LOCAL LAWS*Division 1—Preliminary*

- 20.1 In this part, unless the context otherwise requires—
 “alleged offender” means the person who is alleged to have committed a contravention that can lead to impounding;
 “contravention that can lead to impounding” means anything prescribed under the authority of the 1995 Act to be a contravention that can lead to impounding;
 “specified”, in relation to a notice, means specified in the notice.
- 20.2 It shall be a breach of these Local Laws for any person to hinder or interfere with an Authorised Person acting in the course of a duty, power or function under these Local Laws.

20.3 IDENTIFICATION

An Authorised Person shall on demand show an identification of that person as such.

*Division 2—Impounding***20.4 CATTLE TRESPASS**

The provisions of this Division do not apply to cattle to the extent that they are in conflict with any provision in Part XX of the 1960 Act.

20.5 POWER TO REMOVE AND IMPOUND

- (1) An Authorised Person may remove and impound any animal, vehicle or goods 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) (1995 Act s.3.39).
- 20.6 Where an Authorised Person places an animal, vehicle or goods in a local government depot, public pound, or other place set aside for that purpose, the animal, vehicle or goods shall thereafter be dealt with according to law.
- 20.7 Every animal, vehicle or thing seized under these Local Laws shall be entered in a register, provided by Council for that purpose, details of the time and date, a description of the animal, vehicle or goods and of the place from which it was removed and shall notify the CEO who shall exhibit on the noticeboard of Council notification that an animal, vehicle or goods therein described has been taken into custody and shall, unless the animal, vehicle or goods is sooner recovered, keep that notification exhibited for a period of not less than 7 days.

20.8 PROSECUTION OR NOTICE

- (1) When any animal, vehicle or goods has been impounded under section 20.5 Council is required to either—
- (a) institute a prosecution against the alleged offender; or
 - (b) give the alleged offender notice that the animal, vehicle or goods may be collected from a place specified during such hours as are specified.
- (2) If after the expiration of 7 days after the animal, vehicle or goods was removed for impounding, 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, Council is to be taken to have given that notice. (1995 Act s.3.42).
- (3) In an appropriate case Council may both prosecute and give a notice under subsection (1)(b).
- 20.9 Where an animal, vehicle or goods has been removed and impounded under section 20.5 and a prosecution is instituted, if the alleged offender—
- (a) is not convicted; or
 - (b) is convicted but the court does not order that animal, vehicle or goods be confiscated, and if the animal, vehicle or goods continues to be impounded, Council is required to give the alleged offender notice that the goods may be collected from the place specified during such hours as are specified. (1995 Act s.3.44).
- 20.10 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 1995 Act.
- 20.11 A person may recover a seized animal, vehicle or goods from custody by paying to Council the costs of removing, impounding and keeping the animal, vehicle or goods and Council may refuse to allow an animal, vehicle or goods impounded under section 20.5 to be collected until those costs have been paid. (1995 Act s.3.46(1)).

- 20.12 (1) Council may sell or otherwise dispose of any animal, vehicle or goods that has been ordered to be confiscated by a court in a prosecution by the City. (1995 Act s.3.47(1)).
- (2) Council may sell or otherwise dispose of an impounded animal, vehicle or goods that has not been collected within the period specified in subsection (3) of—
- (a) a notice having been given under section 20.8(1)(b) or section 20.9 hereof; or
- (b) being impounded if 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, vehicle or goods may be sold or otherwise disposed of under subsection (2) is—
- (a) for an animal—7 days; and
- (b) for a vehicle or goods—2 months.
- (4) Section 3.58 of the 1995 Act applies to the sale of an animal, vehicle or goods under this section as if they were property referred to in that section of the 1995 Act.
- (5) Money received by Council from the sale of an animal, vehicle or goods under subsection (2) is to be credited to its trust fund except to the extent required to meet the costs and expenses incurred by Council in removing, impounding and selling the animal, vehicle or goods. (1995 Act s.3.47)).

20.13 DISPOSAL OF SICK OR INJURED ANIMALS

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 1995 Act.

20.14 RECOVERY OF IMPOUNDING EXPENSES

If a vehicle, animal or goods is removed and impounded under section 20.5 and the alleged offender is convicted, Council may take the recovery action referred to in section 3.48 of the 1995 Act.

- 20.15 A person is not entitled to claim, by way of damages or otherwise against an Authorised Person Council or the City in respect of any animal, vehicle or goods seized and dealt with under the provisions of these Local Laws or against any person who purchases an animal, vehicle or goods sold by Council under the provisions of this Part.

Division 3—Infringement Notices

20.16 DEFINITIONS

For the purpose of this Division, the terms “Authorised Person” and “owner” have the meanings given to them in section 9.15 of the Act.

- 20.17 These provisions for Infringement Notices apply only to such of these Local Laws as are made under the Act. Where Parts of these Local Laws are made under other statutes, any Infringement Notice provisions in those statutes shall apply to those Parts respectively.
- 20.18 Notices and Infringement Notices issued pursuant to this Division shall be issued in the circumstances referred to in section 9.16(2) of the Act, and in accordance with the provisions of Part 9 Division 2 Subdivision 2 of the Act, and Part 5 of the Local Government (Functions and General) Regulations 1966, and the forms prescribed in the Regulations shall apply.
- 20.19 Every breach of any of these Local Laws made under the Act (excluding specifically Parts VI, VII and XVII) is hereby prescribed as a breach in respect of which an infringement notice may be issued provided that the infringement notice procedure may only be adopted if the CEO or an Authorised Person under this Division is satisfied that the breach in the circumstances of the particular case has the characteristics referred to in paragraphs (a) and (b) of section 9.16(2) of the Act.
- 20.20 An infringement notice may be withdrawn in the manner provided and subject to the provisions in section 9.20 of the Act and regulation 27 of the Local Government (Function and General) Regulations, and using the form prescribed in the Regulations.
- 20.21 Where any Act allows an infringement notice to be issued in respect of an offence under these Local Laws an infringement notice may be issued in lieu of proceedings by way of Summons but upon failure of the offender to pay the modified penalty under the infringement notice proceedings may be commenced in Court without further notice.

20.22 INFRINGEMENT NOTICE PENALTIES

- 20.22.1 Notwithstanding any other provision of this section, the amount of the penalty, which may be provided in any infringement notice, shall not exceed—
- (a) \$500 for an offence involving a breach of a Local Law made under the Act; and
- (b) the maximum amount permitted under the relevant Act in respect of any of these Local Laws made under that Act.
- 20.22.2 Council may prescribe from time to time infringement notice penalties for any offence or class of offences under these Local Laws by an entry in the schedule at the end of these Local Laws. If no entry appears in the schedule for any offence, the infringement notice penalty is hereby prescribed as—
- (a) where no previous penalty is known to have been imposed under these Local Laws for that offence—\$50; and
- (b) where a previous penalty is known to have been imposed under these Local Laws for that offence, the penalty shall increase by \$25 for each repeat offence up to the maximum penalty of \$500.

- 20.22.3 Where a penalty is set out in the Schedule at the end of these Local Laws for any offence, that penalty shall be the penalty prescribed for that offence and in that case, the general infringement notice penalty in the proceeding subsection shall not apply.
- 20.23 The amount of the penalty which may be provided in any infringement notice shall not exceed—
- (a) \$500 for an offence involving a breach of a local law made under the Act; and the maximum amount permitted under the relevant Act in respect of any of these local laws made under that Act.

Division 4—General Offence and Penalty Provisions

20.23 GENERAL PENALTY PROVISION

- 20.23.1 Any person failing to do any act directed to be done, or doing any act forbidden to be done by these Local Laws, or any notice or order under these Local Laws commits an offence.
- 20.23.2 The maximum penalty in respect of—
- (a) an offence involving a breach of any of these Local Laws made under the Act shall be \$5,000; and
- (b) an offence involving a breach of any of these Local Laws made under any other Act shall be the maximum penalty under that Act for a breach of local laws made under the authority of that Act.
- 20.23.3 Subject to subsection 20.23.2, any person who commits a first offence under these Local Laws shall be liable, if no inconsistent penalty is provided by these Local Laws or any other law—
- (a) a minimum penalty of \$100.00 and a maximum penalty of \$1,000.00; and
- (b) in addition, if the Court thinks fit, a minimum daily penalty of \$10.00 per day and a maximum daily penalty of \$100.00 per day.
- 20.23.4 Any minimum penalty or minimum daily penalty referred to in subsection 20.23.3 shall increase in severity by one-tenth for each successive breach of the same provision by the same offender but shall not in any event exceed the maximum provided in subsection 20.23.2.
- 20.23.5 The imposition of any penalty pursuant to these Local Laws shall not be inconsistent with or repugnant to any of the provisions of the Act or any other law in force, and in the case of inconsistency the other law shall apply.

20.24 SEIZURE OF ARTICLES UNDER PART III

- An Authorised Person may in or on any place to which Part III applies, seize any device used for surf riding, including a surf-ski, surf-board, malibu board, or boat where the device is being used contrary to the provisions of these Local Laws.
- 20.25 Any device of the kind referred to in section 20.24 may be impounded after seizure for any period not exceeding 2 months as may be specified by the Authorised Officer to the person having the custody of such device immediately prior to the time of seizure.
- 20.26 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 Council and the proceeds of such sale may be applied towards recouping the costs of and incidental to impounding it.
- 20.27 Where the costs referred to in section 20.26 exceed the cost of the impoundment then the excess shall be paid to the owner of the device or where the identity or whereabouts of that owner are unknown placed in a trust fund and dealt with in accordance with the relevant provisions of the Act.

Division 5—General

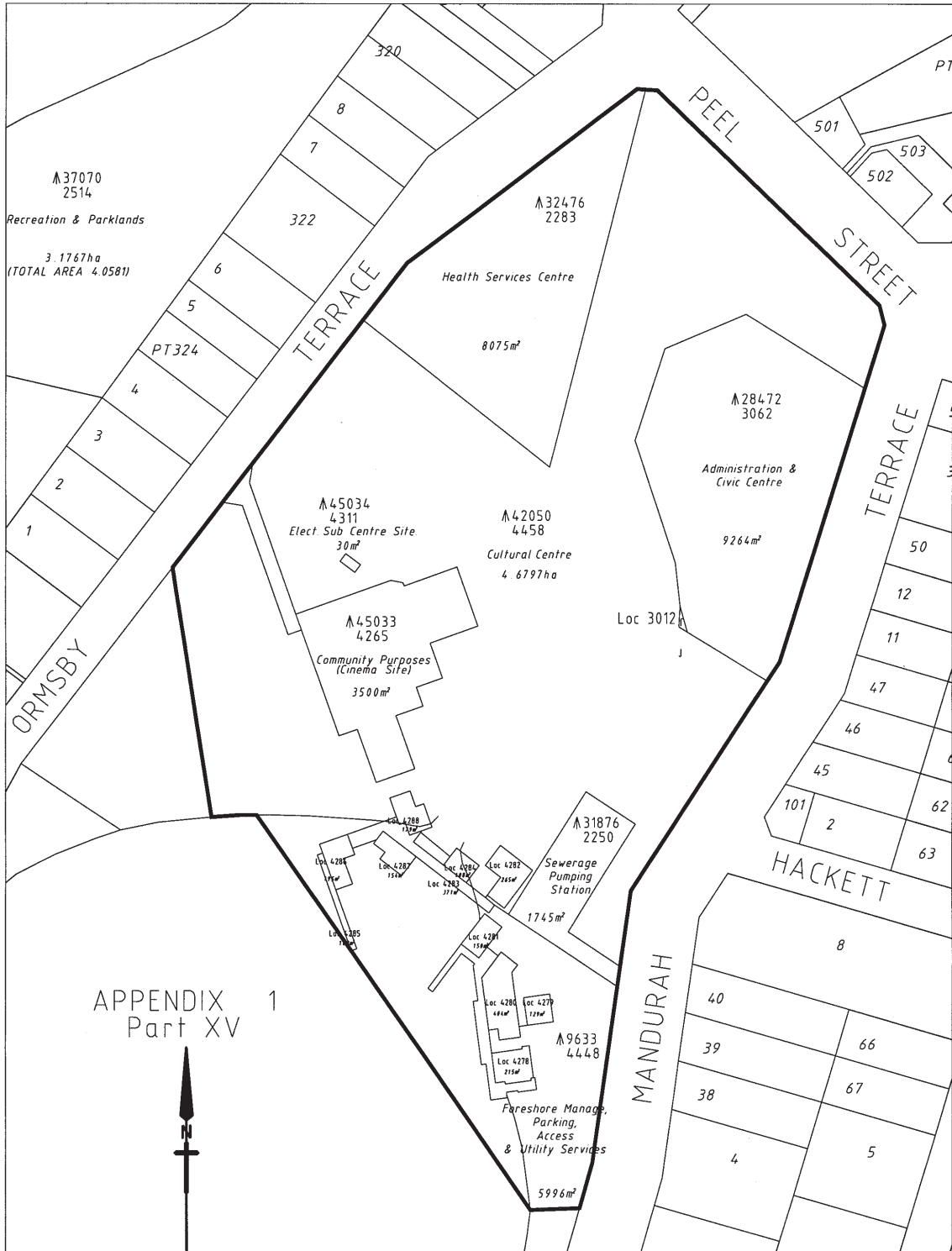
- 20.28 No person shall, without the authority of Council, mark, set up or exhibit any sign purporting to be or resembling a sign marked, set up or exhibited by Council under the authority of these Local Laws.
- 20.29 Council shall not be liable or be held responsible for any injury, accident, loss, 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 Council except in the case of negligence or breach of statutory duty by Council.

Dated this 23rd day of November 2000.

THE COMMON SEAL OF THE CITY OF MANDURAH was hereunto affixed by a resolution of Council in the presence of—

KEITH HOLMES, Mayor.
STEPHEN GOODE, Chief Executive Officer.

Dated this 23rd day of November 2000.







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