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SHIRE OF DENMARK

LOCAL GOVERNMENT ACT 1995

LOCAL LAWS RELATING TO FENCING

EXTRACTIVE INDUSTRIES LOCAL LAW

REPEAL LOCAL LAW 2000

PARKING AND PARKING FACILITIES LOCAL LAW

LOCAL GOVERNMENT PROPERTY LOCAL LAW

STANDING ORDERS LOCAL LAW 2000

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

CEMETERIES ACT 1986

**LOCAL LAWS RELATING TO THE DENMARK CEMETERY
(RESERVE 11655)**

DOG ACT 1976

DOGS LOCAL LAW

BUSH FIRES ACT 1954

BUSH FIRE BRIGADE LOCAL LAW

LOCAL GOVERNMENT ACT 1995

SHIRE OF DENMARK

LOCAL LAWS RELATING TO FENCING

TABLE OF CONTENTS

PART 1—PRELIMINARY

1. Citation
2. Repeal
3. Application of Local Laws
4. Interpretation
5. Licence Fees & Charges

PART 2—SUFFICIENT FENCES

6. Sufficient Fences

PART 3—GENERAL

7. Fences Within Front Setback Areas
8. Fences on a Rural Lot
9. Maintenance of Fences
10. General Discretion of the Local Government

PART 4—FENCING MATERIALS

11. Fencing Materials
12. Barbed Wire and Broken Glass Fences

PART 5—ELECTRIFIED AND RAZOR WIRE FENCES

13. Requirements for a Licence
14. Transfer of a Licence
15. Cancellation of a Licence

PART 6—NOTICES OF BREACH

16. Notices of Breach

PART 7—OFFENCES

17. Offences and Penalties
18. Modified Penalties
19. Form of Notices

FIRST SCHEDULE**SECOND SCHEDULE****THIRD SCHEDULE**

LOCAL GOVERNMENT ACT 1995

SHIRE OF DENMARK

LOCAL LAWS RELATING TO FENCING

Under the powers conferred by the *Local Government Act 1995* and by all other powers the Council of the *Shire of Denmark* resolved to make the following local laws on the 23rd day of January 2001.

PART 1—PRELIMINARY**1. Citation**

These Local Laws may be cited as the *Shire of Denmark* Local Laws Relating to Fencing.

2. Repeal

Deleted.

3. Application of Local Laws

These Local Laws apply throughout the district.

4. Interpretation

In these Local Laws, unless the context requires otherwise—

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

“**AS**” means an Australian Standard published by the Standards Association of Australia;

“**boundary fence**” has the meaning given to it for the purposes of the Act;

“**Building Surveyor**” means a Building Surveyor of the local government;

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

“**Commercial Lot**” means a lot where a commercial use—

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

“**dangerous**” in relation to any fence means—

- (a) an electrified fence other than a fence in respect of which a licence under Part 5 of these Local Laws has been issued and is current;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with these Local Laws;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

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

“**dividing fence**” has the meaning given to it in and for the purposes of the Act;

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

“**fence**” means any structure, including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

“**frontage**” means the boundary line between a lot and the thoroughfare upon which that lot abuts;

“**height**” in relation to a fence means the vertical distance between—

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

“**Industrial Lot**” means a lot where an industrial use—

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

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

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

“**notice of breach**” means a notice referred to in clause 15(1);

“**Residential Lot**” means a lot where a residential use—

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

“**retaining wall**” means any structure which prevents the movement of soil in order to allow ground levels of different elevations to exist adjacent to one another;

“**Rural Lot**” means a lot where a rural use—

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

“**Schedule**” means a Schedule to these Local Laws;

“**setback area**” has the meaning given to it for the purposes of the town planning scheme;

“**Special Rural Lot**” means a lot where a special rural use—

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

“**sufficient fence**” means a fence described in clause 6;

“**Tourist Lot**” means a lot where tourist use—

- (a) is or may be permitted under the town planning scheme; or
- (b) is or will be the predominant use of the lot;

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

5. Licence Fees and Charges

All licence fees and charges applicable under these Local Laws shall be as determined by the local government from time to time in accordance with section 6.16 of the *Local Government Act 1995*.

PART 2—SUFFICIENT FENCES

6. Sufficient Fences

(1) Unless by agreement between the owners of adjoining properties, a person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.

(2) Subject to sub-clauses (3) and (4), a sufficient fence—

- (a) on a Residential Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;
- (b) on a Tourist Lot, Commercial Lot and on an Industrial Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Second Schedule;
- (c) on a Rural Lot and on a Special Rural Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule.

(3) Where a fence is erected on or near the boundary between—

- (a) a Residential Lot and a Tourist Lot or an Industrial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;
- (b) a Residential Lot and a Commercial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Second Schedule;
- (c) a Residential Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule;
- (d) a Residential Lot and a Special Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule; and
- (e) a Special Rural Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule.

(4) Unless the Building Surveyor specifies otherwise, a sufficient fence on a boundary between lots other than those specified in subclause (3) is a dividing fence constructed in accordance with the specifications and requirements of the Second Schedule.

(5) Notwithstanding any other provisions in these Local Laws, a fence constructed of stone or concrete shall be a sufficient fence only if it is designed by a structural engineer where—

- (a) it is greater than 1800mm in height; or
- (b) the Building Surveyor so requires.

PART 3—GENERAL**7. Fences Within Front Setback Areas**

(1) A person shall not, without the written consent of the Building Surveyor, erect a free-standing fence greater than 1200mm in height, within the front set-back area of a Residential Lot within the district.

(2) The Building Surveyor may approve the erection of a fence of a height greater than 1200mm in the front setback area of a Residential Lot only if the fence on each side of the driveway into the Lot across the front boundary is to be angled into the Lot for a distance of not less than 1500mm along the frontage to a distance of not less than 1500mm from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.

(3) The provision of sub-clause (2) shall not apply to a fence—

- (a) of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare; or
- (b) that does not adjoin a footpath.

8. Fences on a Rural Lot

A person shall not without the written consent of the Building Surveyor, erect a fence on a Rural Lot, within 7.5m of a thoroughfare of a height exceeding 1500mm.

9. Maintenance of Fences

An owner and occupier of a lot on which a fence is erected shall maintain the fence in good condition and so as to prevent it from becoming dangerous, dilapidated, or unsightly.

10. General Discretion of the Local Government

(1) Notwithstanding clause 6, the local government may consent to the erection or repair of a fence which does not comply with the requirements of these Local Laws.

(2) In determining whether to grant its consent to the erection or repair of any fence, the local government may consider, in addition to any other matter that it is authorized to consider, whether the erection or retention of the fence would have an adverse effect on—

- (a) the safe or convenient use of any land; or
- (b) the safety or convenience of any person.

PART 4—FENCING MATERIALS**11. Fencing Materials**

(1) A person shall construct a fence on a Residential Lot, a Tourist Lot, a Commercial Lot or an Industrial Lot from only brick, stone, concrete, wrought iron, tubular steel framed, link mesh, timber, plastic coated or galvanised link mesh, corrugated fibre reinforced cement sheeting, prepainted steel sheeting or a material approved by the Building Surveyor.

(2) Where the Building Surveyor approves the use of pre-used materials in the construction of a fence under subclause (1), that approval shall be conditional on the applicant for approval painting or treating the pre-used material as directed by the Building Surveyor.

12. Barbed Wire and Broken Glass Fences

(1) This clause does not apply to a fence constructed wholly or partly of razor wire.

(2) An owner or occupier of a Residential Lot or a Commercial Lot shall not erect or affix to any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of the Building Surveyor has been obtained.

(3) An owner or occupier of an Industrial Lot shall not erect or affix on any fence bounding that Lot any barbed wire or other materials with spiked or jagged projections unless the wire or materials are carried on posts at an angle of 45 degrees, and unless the bottom row of wire or other materials is set back 150mm from the face of the fence and is not nearer than 2000mm from the ground level.

(4) If the posts which carry the barbed wire or other materials referred to in subclause (3) are angled towards the outside of the lot bounded by the fence the face of the fence must be set back from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach on adjoining land.

(5) An owner or occupier of a lot shall not affix or allow to remain as part of any fence or wall, whether internal or external, on that lot any broken glass.

(6) An owner or occupier of a Rural Lot shall not place or affix barbed wire upon a fence on that Lot where the fence is adjacent to a thoroughfare or other public place unless the barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.

PART 5—ELECTRIFIED AND RAZOR WIRE FENCES**13. Requirements for a Licence**

(1) An owner or occupier of a lot, other than a Rural Lot, shall not—

- (a) have and use an electrified fence on that lot without first obtaining a licence under subclause (2); or
- (b) construct a fence wholly or partly of razor wire on that lot without first obtaining a licence under subclause (3).

- (2) A licence to have and use an electrified fence shall not be issued—
- in respect of a lot which is or which abuts a Residential Lot;
 - unless the fence complies with AS/NZS 3016:1994; and
 - unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.
- (3) A licence to have a fence constructed wholly or partly of razor wire shall not be issued—
- if the fence is within 3m of the boundary of the lot;
 - where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above the ground level.
- (4) An application for a licence referred to in subclauses (2) or (3) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.
- (5) An application for a licence referred to in subclauses (2) or (3) may be—
- approved by the local government;
 - approved by the local government subject to such conditions as it thinks fit; or
 - refused by the local government.

14. Transfer of a Licence

A licence referred to in clause 13 shall transfer with the land to any new occupier or owner of the lot.

15. Cancellation of a Licence

Subject to Division 1 Part 9 of the *Local Government Act 1995*, the local government may cancel a licence issued under this Part if—

- the fence no longer satisfies the requirements specified in clause 13(2) or 13(3) as the case may be; or
- the licence holder breaches any condition upon which the licence has been issued.

PART 6—NOTICES OF BREACH

16. Notices of Breach

(1) Where a breach of any provision of these Local Laws has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner or occupier of that lot ("notice of breach").

(2) A notice of breach shall—

- specify the provision of these Local Laws which has been breached;
- specify the particulars of the breach; and
- state that the owner or occupier of the lot is required to remedy the breach within 28 days from the giving of the notice.

(3) Should an owner or occupier fail to comply with a notice of breach, the local government may by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner or occupier of the lot, as the case may be, in a court of competent jurisdiction.

PART 7—OFFENCES

17. Offences and Penalties

(1) An owner or occupier who fails to comply with a notice of breach commits an offence and is liable upon conviction to a maximum penalty of \$5000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

(2) A person who fails to comply with or who contravenes any provision of these Local Laws commits an offence and is liable to a maximum penalty of \$5000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

18. Modified Penalties

(1) An offence against any provision of these Local Laws is a prescribed offence for the purposes of section 9.16 (1) of the *Local Government Act 1995*.

(2) Unless otherwise specified, the amount of the modified penalty for an offence against any provision of these Local Laws is \$100.

19. Form of Notices

For the purposes of these Local Laws—

- the form of the infringement notice referred to in section 9.17 of the *Local Government Act 1995* is to be in or substantially in the form of Form 2 of Schedule 1 of the Local Government (Functions and General) Regulations 1996;
- the form of the notice referred to in section 9.20 of the *Local Government Act 1995* is to be in or substantially in the form of Form 3 in Schedule 1 of the Local Government (Functions and General) Regulations 1996.

Clause 6(2)(a)***First Schedule*****SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT**

Each of the following is a "sufficient fence" on a Residential Lot—

- A. A picket timber fence which satisfies the following specifications—
- (a) corner posts to be 125mm x 125mm x 2400mm and intermediate posts to be 125mm x 75mm x 2400mm spaced at 2400mm centres;
 - (b) corner posts to be strutted two ways with 100mm x 50mm x 450mm sole plates and 75mm x 50mm struts;
 - (c) intermediate posts to be doubled yankee strutted with 150mm x 25mm x 450mm struts;
 - (d) all posts to have tops with a 60mm weather cut and to be sunk at least 600mm into the ground;
 - (e) rails to be 75mm x 50mm with each rail spanning two bays of fencing double railed or bolted to each post with joints staggered;
 - (f) the fence to be covered with 75mm x 20mm sawn pickets, 1800mm in height placed 75mm apart and affixed securely to each rail; and
 - (g) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7.
- B. A fence constructed of corrugated fibre reinforced pressed cement or steel sheeting erected to manufacturer's specifications which satisfies the following specifications—
- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600mm;
 - (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet;
 - (c) the sheets to be lapped and capped with extruded "snap-fit" type capping in accordance with the manufacturers written instructions; and
 - (d) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7.
- C. A fence constructed of brick, stone or concrete, which satisfies the following specifications—
- (a) footings of minimum 225mm x 150mm concrete 15MPA or 300mm x 175mm brick laid in cement mortar;
 - (b) fences to be offset a minimum of 200mm at maximum 3000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3000mm centres;
 - (c) expansion joints in accordance with the manufacturer's written instructions; and
 - (d) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7.
- D. A composite fence having a minimum overall height of 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7, which satisfies the following specifications for the brick construction—
- (1) (a) brick piers of minimum 345mm x 345mm at 1800mm centres bonded to a minimum height base wall of 514mm;
 - (b) each pier shall be reinforced with one R10 galvanised starting rod 1500mm high with a 250mm horizontal leg bedded into a 500mm x 200mm concrete footing and set 65mm above the base of the footing. The top of the footing shall be 1 course (85mm) below ground level;
 - (c) the minimum ultimate strength of brickwork shall be 20MPA. Mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
 - (d) the ground under the footings is to be compacted to 6 blows per 300mm and checked with a standard falling weight penetrometer; and
 - (e) control joints in brickwork shall be provided with double piers at a maximum of 6 metre centres; or
 - (2) (a) brick piers of a minimum 345mm x 345mm x 2700mm centres bonded to the base all; and
 - (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified;

Clause 6(2)(b)***Second Schedule*****SPECIFICATIONS FOR A SUFFICIENT FENCE ON A TOURIST LOT, COMMERCIAL LOT AND AN INDUSTRIAL LOT**

Each of the following is a "sufficient fence" on a Tourist Lot, a Commercial Lot and an Industrial Lot—

- A. A fence constructed of galvanised or PVC coated rail-less link mesh, chain mesh or steel mesh which satisfies the following specifications—
- (a) corner posts to be minimum 50mm normal bore x 3.5mm and with footings of a 225mm diameter x 900mm;

- (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5m centres and with footings of a 225mm diameter x 600mm;
 - (c) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and two at each corner post and with footings 225mm x 600mm;
 - (d) cables to be affixed to the top, centre and bottom of all posts and to consist of two or more 3.15mm wires twisted together or single 4mm wire;
 - (e) rail-less link, chain or steel mesh is to be to a height of 2000mm on top of which are to be three strands of barbed wire carrying the fence to a height of 2400mm in accordance with clause 12(3) of these Local Laws; and
 - (f) galvanised link mesh wire to be 2000mm in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than 3.6m and shall be constructed of 25mm tubular framework with one horizontal and one vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.
- B. A fence of fibre reinforced cement sheet or steel sheeting constructed to the minimum specifications referred to in Item B of the First Schedule.
- C. A fence constructed of aluminium sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1800mm but no greater than 2400mm.
- D. Fences of timber, brick, stone or concrete constructed to the minimum specifications referred to in the First Schedule.

Clause 6(2)(c)

Third Schedule

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT

- (1) In the case of a non-electrified fence, a sufficient fence on a Rural Lot is a fence of posts and wire construction, the minimum specifications for which are—
- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of five wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases.
 - (b) posts shall be of timber or other suitable material including—
 - timber impregnated with a termite and fungicidal preservative;
 - standard iron star pickets; or
 - concrete;
 cut not less than 1800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn. Posts to be set minimum 600mm in the ground and 1200mm above the ground; and
 - (c) strainer posts shall be not less than 2250mm long and 50mm diameter at the small end (tubular steel to be 50mm in diameter) and shall be cut from timber or other suitable material. These shall be placed a minimum of 1000mm in the ground.
- (2) An electrified fence having four wires only is a sufficient fence if constructed generally in accordance with (1).

Dated this 21st day of May 2001.

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

C. DONNELLY, President.

P. DURTANOVICH, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF DENMARK

EXTRACTIVE INDUSTRIES LOCAL LAW

Under the powers conferred by the Local Government Act 1995 and by all other powers, the local government of the Shire of Denmark resolved to make the following local laws on the 23rd day of January 2001.

PART 1—PRELIMINARY**Definitions**

1.1 In this local law, unless the context otherwise requires—

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

“**carry on an extractive industry**” means quarrying and excavating for stone, gravel, sand and other material;

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

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

“**excavation**” includes quarry;

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

“**licensee**” means the person named in the licence as the licensee;

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

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

“**secured sum**” means the sum required to be paid or the amount of a bond, guarantee or other security under clause 5.1;

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

Application

1.2 (1) The provisions of this local law—

(a) subject to paragraphs (b), (c), (d) and (e)—

(i) apply and have force and effect throughout the whole of the district; and

(ii) apply to every excavation whether commenced prior to or following the coming into operation of this local law;

(b) do not apply to the extraction of minerals under the Mining Act 1978;

(c) do not apply to the carrying on of an extractive industry on Crown land;

(d) do not apply to the carrying on of an extractive industry on land by the owner or occupier of that land for use on that land; and

(e) do not affect the validity of any licence issued under the local law repealed by clause 1.3 of this local law if that licence is currently in force at the date of gazettal of this local law.

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

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

2.1 A person must not carry on an extractive industry—

(a) unless the person is the holder of a valid and current licence; and

(b) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

Penalty \$5000 and a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which an offence has continued.

Applicant to Advertise Proposal

2.2 (1) Unless the local government first approves otherwise, a person seeking the issue of a licence shall, before applying to the local government for a licence—

- (a) forward by registered mail a notice in the form determined by the local government from time to time to—
 - (i) the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the granting of a licence, advising of the application and specifying that they may, within twenty-one days from the date of service of the letter, object to or make representations in writing in respect of the issue of a licence by the local government;
 - (ii) every authority or person having control or jurisdiction over any of the things referred to in clause 2.3(1)(a)(vii) and (viii) within 500 metres from the boundaries of the land, or within an area determined by the local government as likely to be affected by the granting of a licence; and
- (b) as soon as practicable after complying with the requirements of paragraph (a)—
 - (i) forward a copy of the notice to the CEO; and
 - (ii) public the notice in a newspaper circulating in the area in which the proposed excavation is located.

(2) The local government may, within 14 days after receiving a copy of a notice referred to in subclause (1), cause to be displayed, or require the proposed applicant to display, in a prominent position on the land one or more notices—

- (a) in the form determined by the local government from time to time;
- (b) the content, size and construction of which have been approved by the CEO;
- (c) specifying particulars of the proposed excavation; and
- (d) inviting objections or comments within 21 days from the placement of the notice.

Application for Licence

2.3 (1) Subject to subclause (3), a person seeking the issue of a licence in respect of any land shall apply in the form determined by the local government from time to time and shall forward the application duly completed and signed by both the applicant and the owner of the land to the CEO together with—

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

- (ix) a description of any proposed buildings, water supply, treatment plant, tanks and other improvements;
 - (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
 - (xi) a description of the measures to be taken to minimise sand drift, dust nuisance, erosion, watercourse siltation and dangers to the general public;
 - (xii) a description of the measures to be taken to comply with the Environmental Protection (Noise) Regulations 1997;
 - (xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;
 - (xiv) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation; and
 - (xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby thoroughfares or other areas;
- (c) 3 copies of a rehabilitation and decommissioning programme indicating—
- (i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
 - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
 - (iii) how any face is to be made safe and batters sloped;
 - (iv) the method by which topsoil is to be replaced and revegetated;
 - (v) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
 - (vi) how rehabilitated areas are to be maintained; and
 - (vii) the programme for the removal of buildings, plant, waste and final site clean up;
- (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public thoroughfare or such other land in the vicinity;
- (e) a certificate from a licensed surveyor certifying the correctness of—
- (i) the plan referred to in paragraph (a); and
 - (ii) the datum peg and related point referred to in paragraph (d);
- (f) evidence that the requirements of clause 2.2(1) and (2) have been carried out;
- (g) copies of all land use planning approvals required under any planning legislation;
- (h) copies of any environmental approval required under any environmental legislation;
- (i) copies of any geotechnical information relating to the excavation site;
- (j) the consent in writing to the application from the owner of the excavation site;
- (k) evidence that a notice of clearing has been given to the Commissioner of Soil and Land Conservation if that is required under regulation 4 of the Soil and Land Conservation Regulations 1992;
- (l) any other information that the local government may reasonably require; and
- (m) the licence application fee specified by the local government from time to time.
- (2) All survey data supplied by an applicant for the purpose of sub clause (1) shall comply with Australian Height Datum and Australian Map Grid standards.
- (3) The local government may exempt a person making application for a licence under subclause (1) from providing any of the data otherwise required under subclause (1), if, in the opinion of the local government, the location and size of the proposed excavation are such that no significant adverse environmental affects will result therefrom.

PART 3—DETERMINATION OF APPLICATION

Determination of Application

- 3.1 (1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 2.3, and in any event shall refuse an application for a licence where planning approval for an extractive industry use of the land has not first been obtained.
- (2) The local government may, in respect of an application for a licence—
- (a) refuse the application; or
 - (b) approve the application—
 - (i) over the whole or part of the land in respect of which the application is made; and
 - (ii) on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for a licence, it shall—
- (a) determine the licence period, not exceeding 21 years from the date of issue; and
 - (b) approve the issue of a licence in the form determined by the local government from time to time.

(4) Where the local government approves the issue of a licence, the CEO upon receipt by the local government of—

- (a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 31st December next, determined by the local government from time to time;
- (b) payment of the secured sum if any, imposed under clause 5.1;
- (c) the documents, if any, executed to the satisfaction of the CEO, under clause 5.1; and
- (d) a copy of the public liability insurance policy required under clause 7.1(1) shall issue the licence to the applicant.

(5) Without limiting subclause (2), the local government may impose conditions in respect of the following matters—

- (a) the orientation of the excavation to reduce visibility from other land;
- (b) the appropriate siting of access thoroughfares, buildings and plant;
- (c) the stockpiling of material;
- (d) the hours during which any excavation work may be carried out;
- (e) the hours during which any processing plant associated with, or located on, the site may be operated;
- (f) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the local government;
- (g) the depths below which a person shall not excavate;
- (h) distances from adjoining land or roads within which a person must not excavate;
- (i) the safety of persons employed at or visiting the excavation site;
- (j) the control of dust and wind-blown material;
- (k) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
- (l) the prevention of the spread of dieback or other disease with due consideration to the Shire of Denmark Planning Policy for Dieback Disease Management;
- (m) the drainage of the excavation site and the disposal of water;
- (n) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
- (o) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
- (p) requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation programme;
- (q) requiring the licensee to enter into an agreement with the local government by which it agrees to pay any extraordinary expenses incurred by the local government in repairing damage caused to thoroughfares in the district by heavy or extraordinary traffic conducted by or on behalf of the licensee under the licence;
- (r) requiring the licensee to enter into an agreement with the local government in respect of any condition or conditions imposed under this local law; and
- (s) any other matter for properly regulating the carrying on of an extractive industry.

Payment of Annual Licence Fee

3.2 On or before 31st December in each year, a licensee shall pay to the local government the annual licence fee determined by the local government from time to time.

PART 4—TRANSFER, CANCELLATION AND RENEWAL OF LICENCE

Transfer of Licence

4.1 (1) An application for the transfer of a licence shall—

- (a) be made in writing;
- (b) be signed by the licensee and the proposed transferee of the licence;
- (c) be accompanied by the current licence;
- (d) be accompanied by the consent in writing to the transfer from the owner of the excavation site;
- (e) include any information that the local government may reasonably require; and
- (f) be forwarded to the CEO together with the fee determined by the local government from time to time.

(2) Upon receipt of any application for the transfer of a licence, the local government may—

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

(3) Where the local government approves an application for the transfer of a licence, the local government shall transfer the licence by an endorsement on the licence in the form determined by the local government from time to time, signed by the CEO.

(4) Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

Cancellation of Licence

4.2 (1) The local government may cancel a licence where the licensee has—

- (a) been convicted of an offence against—
 - (i) this local law; or
 - (ii) any other law relating to carrying on an extractive industry; or
- (b) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government;
- (c) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law;
- (d) failed to pay the annual licence fee under clause 3.2; or
- (e) failed to have a current public liability insurance policy under clause 7.1(1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 7.1(2).

(2) Where the local government cancels a licence under this clause—

- (a) the local government shall advise the licensee in writing of the cancellation;
- (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice; and
- (c) the local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

Renewal of Licence

4.3 (1) A licensee who wishes to renew a licence must apply in writing to the local government at least 45 days before the date of expiry of the licence and shall submit with the application for renewal—

- (a) the fee determined by the local government from time to time;
- (b) a copy of the current licence;
- (c) a plan showing the contours of the excavation carried out to the date of that application;
- (d) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 2.3(1)(b) and (c); and
- (e) any other things referred to in clauses 2.3 and 3.1.

(2) The local government may waive any of the requirements specified in clause 4.3(1)(d) or (e).

(3) If—

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

then the applicant shall not be obliged, unless otherwise required by the local government to submit details of any of the things referred to in clauses 2.3 and 3.1.

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

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

PART 5—SECURED SUM AND APPLICATION THEREOF

Security for Restoration and Reinstatement

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

- (a) as a condition of a licence; or
- (b) before the issue of a licence,

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

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

Use by the Local Government of Secured Sum

5.2 (1) If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions either—

- (a) within the time specified in those conditions; or
- (b) where no such time has been specified, within 60 days of the completion of the excavation or

- portion of the excavation specified in the licence conditions, then; subject to the local government giving the licensee 14 days notice of its intention to do so;
- (c) the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work as remains undone; and
 - (d) the licensee shall pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause.
- (2) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 5.1 towards its costs under this clause.
- (3) The liability of a licensee to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 5.1.

PART 6—LIMITATIONS, OBLIGATIONS OF THE LICENSEE AND PROHIBITIONS

Limits on Excavation Near Boundary

6.1 Subject to any licence conditions imposed by the local government, a person shall not, without the written approval of the local government, excavate within—

- (a) 20 metres of the boundary of any land on which the excavation site is located;
- (b) 20 metres of any land affected by a registered grant of easement;
- (c) 40 metres of any thoroughfare; or
- (d) 40 metres of any watercourse.

Penalty \$2000.

Obligations of the Licensee

6.2 A licensee shall—

- (a) where the local government so requires, securely fence the excavation to a standard determined by the local government and keep the gateways locked when not actually in use in order to prevent unauthorised entry;
- (b) erect and maintain warning signs along each of the boundaries of the area excavated under the licence so that each sign—
 - (i) is not more than 200 metres apart;
 - (ii) is not less than 1.8 metres high and not less than 1 metre wide; and
 - (iii) bears the words "DANGER EXCAVATIONS KEEP OUT";
- (c) except where the local government approves otherwise, drain and keep drained to the local government's satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;
- (d) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (e) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
- (f) otherwise comply with the conditions imposed by the local government in accordance with clause 3.1.

Penalty \$5000 for each offence, and if an offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

Prohibitions

6.3 A licence shall not—

- (a) remove any trees or shrubs within 40 metres (or such lesser distance as may be allowed, in writing, by the local government) of the boundary of any thoroughfare on land in respect of which a licence has been granted, except for the purpose of constructing access thoroughfares, erecting buildings or installing plant for use in connection with the excavation and then only with the express approval of the local government and subject to any conditions which the local government may impose in accordance with clause 3.1;
- (b) store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than with the approval of the local government and the Department of Minerals and Energy; or
- (c) fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government.

Penalty \$5000 for each offence, and if an offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

Blasting

6.4 (1) A person shall not carry out or permit to be carried out any blasting in the course of excavating unless—

- (a) the local government has otherwise given approval in respect of blasting generally or in the case of each blast;

- (b) subject to sub-clause (2), the blasting takes place only between the hours of 8.00am and 5.00pm, or as determined by the local government, on Mondays to Fridays inclusive;
- (c) the blasting is carried out in strict accordance with the AS2187 SAA Explosives Code, the Mines Safety and Inspection Act 1994, the Environmental Protection Act 1986, and all relevant local laws of the local government; and
- (d) in compliance with any other conditions imposed by the local government concerning—
 - (i) the time and duration of blasting;
 - (ii) the purposes for which the blasting may be used; and
 - (iii) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.

Penalty \$5000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

(2) A person shall not carry out or permit to be carried out any blasting on a Saturday, Sunday or Public Holiday except with the prior approval of the local government.

Penalty \$2000

PART 7—MISCELLANEOUS PROVISIONS

Public Liability

7.1 (1) A licensee shall have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum of not less than \$10,000,000 in respect of any one claim relating to any of the excavation operations.

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

Mines Safety and Inspection Act and Environmental Protection Act

7.2 (1) In any case where the Mines Safety and Inspection Act 1994 or the Environmental Protection Act 1986 applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site shall—

- (a) comply with all applicable provisions of that Act or those Acts; and
- (b) provide to the local government within 14 days full particulars of any inspection or report made under that Act or those Acts.

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

Notice of Cessation of Operations

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

- (a) temporarily for a period in excess of 12 months; or
- (b) permanently,

the licensee shall, as well as complying with clause 7.4, given the local government written notice of the cessation not later than 1 week after those operations have ceased.

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

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

Works to be Carried Out on Cessation of Operations

7.4 Where the carrying on of an extractive industry on the site permanently ceases or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee shall, as well as complying with the provisions of clause 7.3—

- (a) restore and reinstate the excavated site in accordance with the proposals approved by the local government or in such other manner as the local government may subsequently agree in writing with the licensee;
- (b) ensure that any face permitted to remain upon the excavation site is left safe with all loose materials removed and where the excavation site is—
 - (i) sand, the sides are sloped to a batter of not more than 1:3 (vertical:horizontal); and
 - (ii) limestone or material other than sand, the sides are sloped to a batter which, in the opinion of the local government, would enable the site to be left in a stable condition;
- (c) ensure that the agreed floor level of the excavation is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning programme approved by the local government;

- (d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;
- (e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;
- (f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and
- (g) break up, scarify, cover with topsoil and plant with grass, trees and shrubs all parts of the site where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this local law.

Penalty \$5000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

PART 8—OBJECTIONS AND APPEALS

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

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

the provisions of Division 1 or Part 9 of the Act and regulations 33 and 34 of the Local Government (Functions and General) Regulations 1996 shall apply to that decision.

PART 9—MODIFIED PENALTIES

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

9.2 The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in the Schedule.

Forms

9.3 For the purposes of this local law—

- (a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Local Government (Functions and General) Regulations 1996; and
- (b) the form of the notice sent under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the Local Government (Functions and General) Regulations 1996.

Schedule

PRESCRIBED OFFENCES

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
2.1	Carry on extractive Industry without licence or in breach of terms and conditions	300
6.1	Excavate near boundary	200
6.2(a)	Gateways not kept locked where required	300
6.2(b)	Warning signs not erected or maintained as required	300
6.2(c)	Excavation not drained as required	300
6.3(a)	Remove trees or shrubs near boundary without approval	250
6.3(b)	Store without required approval explosives or explosive devices	300
6.3(c)	Fill or excavate in breach of licence	300
6.4(1)(a)	Blasting without approval of the local government	200
6.4(1)(b)	Blasting outside times authorised	300
6.4(1)(d)	Blasting in breach of conditions imposed by the local government	300
6.4(2)	Blasting without approval on Saturday, Sunday or public holiday	200

Dated this 21st day of May 2001.

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

C. DONNELLY, Shire President.
P. DURTANOVICH, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995**SHIRE OF DENMARK****REPEAL LOCAL LAW 2000**

Under the powers conferred by the Local Government Act 1995 and by all other powers, the local government of the Shire of Denmark resolved to make the following Local Law on the 23rd day of January 2001.

The following Local Laws are repealed—

- (a) Relating to the Deposit of Refuse and Litter published in the *Government Gazette* of 10 February, 1966;
- (b) Relating to Caravan Parks, published in the *Government Gazette* of 13 January, 1971; and
- (c) (Local Government Miscellaneous) Local Laws, published in the *Government Gazette* of 25 June 1997.

Dated this 21st day of May 2001.

The Common Seal of the Shire of Denmark was affixed by authority of a Resolution of the Council in the Presence of—

C. DONNELLY, Shire President.
P. DURTANOVICH, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF DENMARK

PARKING AND PARKING FACILITIES LOCAL LAW

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Denmark resolved on 23rd day of January 2001 to make the following local law.

The Shire of Coorow Parking and Parking Facilities Local Law published in the Government Gazette of 4 October 1999, is adopted as a local law of the Shire of Denmark with the modifications which follow—

1. Preliminary

Wherever the “Shire of Coorow” is mentioned in the local law substitute “Shire of Denmark”.

2. Clause 1.2—Repeal

Delete clause 1.2

3. Clause 3.8—Parking on Verges

Delete clause 3.8 and substitute—

“3.8 Parking on verges

- (1) A person shall not park a vehicle so that any portion of it is on a verge.
- (2) Unless in contravention of a sign adjacent and referable to that verge which prohibits the parking of vehicles on that verge, subclause (1) does not apply in the following circumstances—
 - (a) if the person is the occupier of the premises adjacent to that verge, or is a person authorized by the occupier of those premises to park the vehicle so that any portion of it is on the verge; or
 - (b) to a commercial vehicle when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials collected from or delivered to the premises adjacent to the portion of the verge on which the commercial vehicle is parked, provided no obstruction is caused to the passage of any vehicle or person using a carriageway or a footpath.”.

4. Second Schedule, Prescribed Offences.

- 4.1** In item 28, delete “3.8 (2) (a)” and substitute “3.8 (1) and after “Parking” delete “commercial” and, “bus or caravan”.
- 4.2** In item 29, delete “3.8 (2) (b)” and substitute “3.8 (2)”.

Dated this 21st day of May 2001.

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

C. DONNELLY, Shire President.
P. DURTANOVICH, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF DENMARK

LOCAL GOVERNMENT PROPERTY LOCAL LAW

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Denmark resolved on 23rd day of January 2001 to make the following local law.

The Shire of Exmouth Local Government Property Local Law as published in the Government Gazette of 10 July 2000, is adopted as a local law of the Shire of Denmark, with the modifications which follow—

1. Preliminary

Wherever the Shire of Exmouth is mentioned in the local law substitute Shire of Denmark.

2. Clause 1.4—Application

In clause 1.4 (1) delete all words after “seawards from” and substitute “its southern district boundary which is bounded by the shores of the Southern Ocean”.

3. Clause 1.5—Repeal

Delete clause 1.5(1) and substitute—

“1.5 (1) The following local laws are repealed—

- (a) Shire of Denmark Local Laws Relating to Control and Management of Civic Centre, Hall, Equipment and Property, published in the Government Gazette of 22 June 1984, as amended by publication in the Government Gazette of 3 April 1987; and
- (b) Shire of Denmark (Beaches and Reserves) Local Laws published in the Government Gazette of 25 June 1997.”.

4. Clause 2.7 Activities which may be pursued on specified local government property

At (1)(h)(ii) the word “Shotgun,” be inserted before “pistol”.

5. Clause 3.13—Activities needing a permit

5.1 In paragraph (g) subparagraph (ii) delete “stand” and substitute “stop”.

5.2 Insert the following subclause—

“(4) A permit shall not be issued by the local government under subclause (1)(h), for public entertainment or otherwise, if the function—

- (a) involves the display or performance of—
 - (i) lions, tigers, leopards, other great cats, elephants, bears, giraffes, monkeys or apes; or
 - (ii) any other type of animal which, in the opinion of the local government, is either dangerous or wild by nature.”.

6. Part 5—Matters Relating to Particular Local Government Property

Delete Division 5—Aerodrome (airport).

7. Schedule 2—Determinations

Delete clause 1.3 relating to Speed of Vehicles on Recreation Grounds.

Dated this 21st day of May 2001.

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

C. DONNELLY, Shire President.
P. DURTANOVICH, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF DENMARK

STANDING ORDERS LOCAL LAW 2000

Under the powers conferred by the Local Government Act 1995, the Council of the Shire of Denmark hereby records having resolved on the 23rd day of January 2001, to adopt the Model Standing Orders Local Law published in the Government Gazette on 3 April, 1998, with such modifications as are here set out.

Part 1

1. In clause 1.4, after "of the" insert "Shire of Denmark" and after "on" insert "25 June 1997".

Part 2

2. Delete the whole of Part 2 and substitute the following—

" PART 2—Ordinary Meetings, When Held**2.1 Council to Determine Meeting Schedule**

The Council shall decide at the first meeting held after each ordinary elections day—

- (a) the day or days in each month when an ordinary meeting is to be held;
- (b) the hours during which an ordinary meeting is to be held; and
- (c) the place at which each ordinary meeting is to be held.

2.2 Council May Extend Meeting or Adjourn

If the business of an ordinary meeting is not completed within the time specified in clause 2.1(b), the Council is to resolve—

- (a) that unresolved business be adjourned until a later time on the same day or to any other day; or
- (b) that the meeting be continued, to determine all unresolved business; or
- (c) that the meeting be continued, to determine specified unresolved business, after which the meeting adjourn until a later time on the same day or any other day.

2.3 Council Can Change Meeting Schedule

The Council may alter the day or days, hours and place of meetings determined under clause 2.1, for a particular meeting or on a regular basis—

- (a) on a motion moved without notice under clause 3.10, by an absolute majority decision of the Council; or
- (b) on a motion of which previous notice has been given, by a simple majority decision of the Council."

Part 3

3. Delete clauses 3.2 and 3.3 and substitute—

"3.2 Order of Business

(1) Subject to subclauses (2) and (3), unless otherwise decided by the Council the order of business at any ordinary meeting of the Council is to be as follows—

- (a) Declaration of opening/Announcement of visitors
- (b) Record of attendance/Apologies/Leave of absence (previously approved)
- (c) Response to previous public questions taken on notice
- (d) Public question time
- (e) Applications for leave of absence
- (f) Petitions
- (g) Confirmation of minutes
- (h) Announcements by the person presiding without discussion
- (i) Matters for which meeting may be closed
- (j) Reports
- (k) Motions of which previous notice has been given
- (l) Questions by members of which due notice has been given

- (m) New business of an urgent nature
- (n) Matters behind closed doors
- (o) Closure.

(2) In addition to the public question time to be held under section 5.24 of the Act, a second public question time is to be held at each ordinary meeting of the council at a time deemed by the council to be convenient to members of the public and local public notice of public question times is to be given at least once each year.

(3) At an ordinary meeting of the council at the time appointed for the holding of the second public question time under sub clause (2) the business of the meeting is automatically suspended to enable the public question time to be held.

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

(5) Notwithstanding subclauses (1) and (4) in the order of business for any meeting of the Council or a committee, the time at which public question time is to be held under the Act and Regulations is to be observed.

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

3.3 Public Question Time

(1) For the purpose of this clause, "a public question time" means a public question time to be held under the Act and Regulations and the public question time held under clause 3.2(2).

(2) During a public question time—

- (a) a member of the public who raises a question is to state his or her name and address;
- (b) a question may be taken on notice for later response;
- (c) when a question is taken on notice under paragraph (b) a response is to be given to the member of the public in writing by the CEO, and a copy is to be included in the agenda of the next ordinary meeting;
- (d) the procedures and time allocation provided under section 5.24(2) of the Act apply."

4. Delete clause 3.8.

5. In clause 3.9(2), delete "four (4)" and substitute "seven (7)".

6. In clause 3.10(1), delete "four (4)" and substitute "seven (7)".

7. Delete the title to clause 3.11 and substitute "**New Business of an Urgent Nature**".

Part 5

8. Delete the whole of Part 5.

Part 9

9. In clause 9.1—delete the heading "9.1 Members to Rise" and substitute "9.1 Members Wishing to Speak"; and delete the whole of the second sentence.

Part 10

10. In clause 10.16, in the last sentence, delete "rises to explain" and substitute "makes a personal explanation".

Part 13

11. In clause 13.2, after the title, insert the subclause designation (1) and insert a new subclause—
 "(2) Subclause (1) has no effect in regard to a secret ballot conducted under Schedule 2.3 of the Act."

Part 14

12. Delete the whole of Part 14.

Part 15

13. In clause 15.3, delete "and be seated".

14. Delete clause 15.8.

Part 17

15. In clause 17.6, delete paragraph (b).

Part 19

16. Delete subclause 19.1(4).

Dated this 21st day of May 2001.

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

C. DONNELLY, Shire President.
 P. DURTANOVICH, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF DENMARK

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

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Denmark resolved on 23rd January 2001 to make the following local law. The Shire of Kojonup Activities On Thoroughfares and Trading in Thoroughfares and Public Places Local Law as published in the Government Gazette of 16 May 2000, is adopted as a local law of the Shire of Denmark, with the modifications which follow—

1. Preliminary

Wherever the “Shire of Kojonup” is mentioned in the local law substitute “Shire of Denmark”.

2. Clause 1.2—Definitions

Delete the definition of “townsite” and substitute—

“townsite” means the townsite of Denmark, which is—

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

3. Clause 1.4—Repeal

After clause 1.3 delete the clause heading “**Repeal**” and the three subclauses under that heading.

4. Clause 6.5—Relevant considerations in determining application for permit

In subclause (2)—

- (a) after “,” in subparagraph (iii) of paragraph (c) delete “or”;
- (b) renumber paragraph (d) to paragraph (e);
- (c) insert a new paragraph (d) as follows—
 - “(d) that the needs of the district, or the part for which the permit is sought, are adequately catered for by established shops or by persons who have valid permits to carry on trading or to conduct a stall; or”.

5. Clause 6.8—Conduct of stallholders and traders

In subclause (2)—

- (a) renumber paragraphs (a) to (d) to (b) to (e) respectively;
- (b) insert a new paragraph (a) as follows—
 - “(a) attempt to conduct a business within a distance of 300m of any shop or permanent place of business that is open for business and has for sale any goods or services of the kind being offered for sale by the stallholder or trader;”.

6. Part 6—Division 2 deleted

Delete the whole of Part 6, Division 2, “Street Entertainers”.

7. Schedule 1

7.1 Under the column headed “Clause”, after the clause designation 2.2 wherever it occurs insert the subclause designation “(1)” before each paragraph designation.

7.2 Delete prescribed offences in respect of deleted clauses 6.10, 6.11(2) and 6.14.

8. Forms

Delete Forms 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12.

Dated this 21st day of May 2001.

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

C. DONNELLY, Shire President.
P. DURTANOVICH, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF DENMARK

**LOCAL LAWS RELATING TO THE DENMARK CEMETERY
(RESERVE 11655)**

Under the powers conferred by the Cemeteries Act 1986, the Shire of Denmark resolved on the 23rd day of January 2001 to adopt the Model Local Law (Cemeteries) 1998 published in the *Government Gazette* on 12 May 1998 in relation to the Denmark Cemetery (Reserve 11655), with such modifications as are here set out.

1. Preliminary

In construing the following modifications, where a modification requires the renumbering of a clause, subclause or paragraph, subsequent modifications have been drafted on the basis that the renumbering has been effected.

2. Clause 1.1—Citation

After “the” insert “Denmark Cemetery (Reserve 11655) Local Law 2000.”.

3. Clause 1.3—Repeal

Insert after “The following Local Laws are repealed— “—“ Local Laws Relating to the Denmark Cemetery (Reserve 11655), published in the *Government Gazette* of 25 June 1997 as amended by publication in the *Government Gazette* of 21 March 2000.

4. Clause 2.2 inserted

In the appropriate numerical position, insert the following new clause—

“ 2.2 No Division by Religious Affiliation

In plans to be kept and maintained under section 40 (2) of the Act, the cemetery is not to be divided into sections, nor rights of burial granted, according to religious affiliation.”.

5. Clause 3.2—Application for Cremation

Delete clause 3.2.

6. Clause 3.4—Certificate of Identification

In subclause (1), delete “ or crematorium within the cemetery”.

7. Clause 4.2—Single Funeral Permits

Delete “ ,or crematorium”.

8. Clause 4.3—Application Refusal

Delete “ or crematorium,” .

9. Clause 4.4 inserted

In the appropriate numerical position, insert the following new clause—

“ 4.4 Propriety in Conduct of Funeral

A person shall not conduct a funeral under a single funeral permit issued under section 20 or 21 of the Act in a manner which is likely to offend the propriety of any person.”.

10. Clause 5.1—Requirements for Funerals and Coffins

In paragraph (a), delete “ or cremation”.

11. Clause 5.2—Funeral Processions

Delete “or cremation” and “or clause 3.2”.

12. Clause 5.6—Conduct of Funeral by Board

Delete paragraph (d).

13. Part 5, Division 2

Delete the whole of this Division.

14. Clause 5.12—Disposal of Ashes

In subclause (1), delete—

- Memorial Wall
- Garden of Remembrance
- Ground Niche
- Memorial Rose, Tree or Shrub
- Family Shrub
- Memorial Desk
- Granite Seat
- Book of Remembrance
- Memorial Gardens.

15. Clause 5.13—Availability of Ashes

Delete clause 5.13.

16. Clause 5.14—Ashes held by the Board

Delete clause 5.14.

17. Clause 6.2—Mausoleum

Delete Clause 6.2

18. Part 7 rearranged**18.1 Clauses Renumbered—**

Renumber clauses 7.1 to 7.12 inclusive to 7.2 to 7.13 respectively and clauses 7.16 to 7.20 to 7.18 to 7.22 respectively.

18.2 Clause references renumbered—

In clause 7.19 paragraph (a) delete “7.20” and substitute “7.22” and in clause 7.20 paragraph (a) delete “7.16” and substitute “7.18”.

18.3 Insert a new clause—**“7.1 Headstone Only Allowed on Grave**

Unless a right of burial to a grave was issued prior to 23 December 1982, no memorial works other than a headstone shall be erected on a grave.”.

18.4 New Divisions provided—

Delete Part 7 Divisions 2 and 3 and substitute—

“Division 2—Remembrance Tree Area

7.14 Tree May be Planted in Remembrance

A person may plant a tree of a variety authorized by the Board, in a section of the cemetery set aside for the purpose, in remembrance, subject to the approval of the CEO.

7.15 Trees Planted in Remembrance not to be Identified

A tree planted in a section of the cemetery in accordance with clause 7.14 is not to be marked with a nameplate or other form of identification.

Division 3—Lawn Section

7.16 Specification of Monuments

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

- (a) be made of natural stone; and
- (b) be placed upon a base of natural stone; and
- (c) comply with the following specifications—
 - (i) the overall height of the monument above the original surface of the grave shall not exceed 1.05m;
 - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150mm nor more than 450mm;
 - (iii) the width of the base of the monument shall not exceed 1.20m;
 - (iv) the depth of the base of the monument shall not exceed 300mm; and
- (d) have foundations extending to the bottom of the grave unless concrete beam foundations are provided by the Board.

(2) An admiralty bronze memorial plaque may be attached to a monument erected or being erected in the lawn section of the cemetery.

(3) The number of the grave shall be indelibly and legibly inscribed in the base of any headstone erected upon it.

(4) A person shall not display any trade names or marks upon any monument erected within the lawn section of the cemetery.

7.17 Headstones

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

19. First Schedule

Delete the First Schedule and substitute the following—

“

First Schedule

CEMETERIES ACT 1986

Shire of Denmark

Denmark Cemetery (Reserve 11655) Local Law 2000

MODIFIED PENALTIES

Item No	Clause	Nature of Offence	Modified Penalty
1	5.4	Excessive speed	\$50.00
2	5.4	Unauthorised use—driving of vehicles	\$50.00
3	7.1	Erecting memorial works other than headstone on grave	\$50.00
4	7.4	Placing and removal of rubbish and surplus materials	\$50.00
5	7.8	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
6	8.1	Animal at large	\$50.00
7	8.5	Dumping of Rubbish	\$50.00
8	8.6	Unauthorised advertising, and/or trading	\$50.00
9	8.7	Disobeying sign or lawful direction	\$50.00

”.

Dated this 21st day of May 2001.

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

C. DONNELLY, Shire President.
P. DURTANOVICH, Chief Executive Officer.

DOG ACT 1976

SHIRE OF DENMARK

DOGS LOCAL LAW

Under the powers conferred by the *Dog Act 1976* and under all other powers enabling it, the Council of the Shire of Denmark resolved on 23rd January 2001 to make the following local law.

The Shire of Moora Dogs Local Law as published in the *Government Gazette* of 29 November 1999, is adopted as a local law of the Shire of Denmark, with the modifications which follow—

1. Preliminary

Wherever the “Shire of Moora” is mentioned in the local law substitute “Shire of Denmark”.

2. Clause 1.2—Repeal

Delete clause 1.2 and substitute—

“The Shire of Denmark Local Laws Relating to Dogs published in the *Government Gazette* of 28 September 1990 as amended by publication in the *Government Gazettes* of 25 June 1997 and 21 March 2000, are repealed.”.

3. Clause 3.2—Limitation on the number of dogs

Delete clause 3.2(2) and substitute—

“(2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act, 2 dogs over the age of 3 months and the young of those dogs under that age.”.

4. Clause 5.1—Places where dogs are prohibited absolutely

Delete subclause (1) and substitute—

“(1) Dogs are prohibited absolutely from entering or being in any of the following places—

- (a) a public building, unless permitted by a sign;
- (b) a theatre or picture gardens;
- (c) all premises or vehicles classified as food premises or food vehicles under the *Health (Food Hygiene) Regulations 1993*;
- (d) portion of reserves 20578 and 24596—total grassed area surrounding Prawn Rock Channel (both sides of Channel) proceeding from the most southern pontoon bridge to a distance of 120 metres south of the Denmark Surf Life Saving Club clubrooms;
- (e) Berridge Park—Reserve 14376—total grassed area; and
- (f) Thornton Park—Reserve 19912 and 15700—total grassed area.”.

5. Clause 5.2—Places which are dog exercise areas

In clause 5.2(1) delete paragraphs (a), (b) and (c) and substitute—

“(a) Reserve 24913—Portion from the National Park of William Bay to the end of Back beach to the south (high watermark);

(b) Reserve 20578—from the first pontoon bridge, all of the sand area to the south, except for grassed area around Prawn Rock Channel which is DOG FREE;

(c) Reserve 15513—Portion of Reserve on corner of Barnett & Hollings Road known as “Old Hockey Oval” (total grassed area); and

(d) Reserve 22248 bounded by Inlet Drive and Crowea Road.”.

Dated this 21st day of May 2001.

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

C. DONNELLY, Shire President.
P. DURTANOVICH, Chief Executive Officer.

BUSH FIRES ACT 1954

SHIRE OF DENMARK

BUSH FIRE BRIGADE LOCAL LAW

Under the powers conferred by the *Bush Fires Act 1954* and under all other powers enabling it, the Council of the Shire of Denmark resolved on 23rd day of January 2001 to make the following local law.

The Bush Fires Brigades Local Law of the Shire of Bridgetown-Greenbushes as published in the *Government Gazette* of 20th October 2000, is adopted as a local law of the Shire of Denmark, with the modifications which follow—

1. Preliminary

- 1.1 Wherever the “Shire of Bridgetown-Greenbushes” is mentioned in the local law, substitute “Shire of Denmark”.
- 1.2 In clause 1.2 delete the definition of “Bush Fire Management Committee”.
- 1.3 Wherever “Bush Fire Management Committee” or “Management Committee” are mentioned in the local law, substitute “Bush Fire Advisory Committee” and “Advisory Committee” respectively.

2. Clause 1.3—Repeal

Delete clause 1.3 and substitute “All previous Local Laws of the Shire of Denmark relating to the Organisation, Establishment, Maintenance and Equipment of Bush Fire Brigades, are repealed.”

3. Clause 2.2

After (1)(c)(viii) add—

“(ix) any other position/s deemed necessary for the effective management of brigades activities.”

4. First Schedule - Rules Governing the Operation of Bush Fire Brigades**4.1 Clause 2.4—Applications for membership**

Delete clause 2.4 and replace with—

“Applications for membership are to be in the form/s approved from time to time by Council.”

4.2 Clause 2.9—Existing Liabilities to continue

In sub clause (1) delete “2.6” and substitute “2.7”.

4.3 Delete Appendixes I, II and III.

Dated this 21st day of May 2001.

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

C. DONNELLY, Shire President.
P. DURTANOVICH, Chief Executive Officer.

