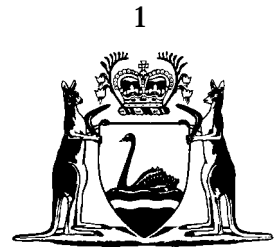


**WESTERN  
AUSTRALIAN  
GOVERNMENT  
Gazette**



**PERTH, THURSDAY, 9 AUGUST 2001 No. 159 SPECIAL**

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.30 PM

© STATE OF WESTERN AUSTRALIA

**LOCAL GOVERNMENT ACT 1995**

---

**SHIRE OF  
WYNDHAM-EAST KIMBERLEY**

**CONSOLIDATED LOCAL  
GOVERNMENT LAWS**



**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF WYNDHAM-EAST KIMBERLEY

**CONSOLIDATED LOCAL GOVERNMENT LAWS**

## CONTENTS

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

1. Revocation
2. Citation
3. Read as a Whole
4. General Application
5. Adjoining Waters and Reserves
6. Parking Region
7. Operations of the Consolidated Local Law

**PART II—GENERAL INTERPRETATION**

8. Part II Interpretations
9. Terms and Expressions

**PART III—PARKS, RESERVES, LAKES, RIVERS AND FORESHORES***Division 1—Preliminary*

10. Part III Interpretations
11. Terms and Expressions
12. Application

*Division 2—Prohibitions and Activities Requiring Consent*

13. Prohibited Activities
14. Prohibited Areas
15. Activities Requiring Consent
16. Conduct of Functions
17. Camping and Picnicking

*Division 3—Safety*

18. Vehicles

*Division 4—Permissions*

19. Permissions Under This Part
20. Activities Requiring Permission
21. Activities Specially Permitted

**PART IV—COUNCIL PROPERTY, PUBLIC SWIMMING POOLS AND RECREATION FACILITIES***Division 1—Preliminary*

22. Part IV Interpretations
23. Terms and Expressions

*Division 2—Public Swimming Pools and Other Recreation Facilities*

24. Public Swimming Pools and Other Recreation Facilities

*Division 3—Council Property (Management and Control)*

25. Saving of Long Term Leasing Power
26. Permissions
27. Application
28. Discretion
29. Conflicting Applications
30. Conditions

31. Times
32. Fees
33. Cancellation
34. Conduct in Hired Buildings
35. Recovery of Costs
36. Obligations of Permit Holder
37. Defacing Council Property
38. Rubbish

## **PART V—ANIMALS IN PUBLIC PLACES AND BEE KEEPING**

### *Division 1—Animals Generally*

39. Unattended Animals

### *Division 2—Bee Keeping*

40. Bee Keeping

## **PART VI—DOGS**

### *Division 1—Preliminary*

41. Part VI Interpretations
42. Terms and Expressions

### *Division 2—Impounding of Dogs*

43. Pounds

### *Division 3—Regulation of Commercial Dog Kennels*

44. Kennels

### *Division 4—Fencing*

45. Fencing Requirement

### *Division 5—General*

46. Miscellaneous Provisions  
Schedule A

## **PART VII—JETTIES**

### *Division 1—Preliminaries*

47. Part VII Interpretations
48. Terms and Expressions
49. Application

### *Division 2—Use of Jetties*

50. Use of Jetties
51. Moored Vessels to Jetty
52. Vessels Not to Remain at Jetty
53. Damage to Jetty
54. Fishing from Jetty
55. Obstruction of Jetty or Officer

## **PART VIII—OPERATION OF REFUSE AND RECYCLING FACILITY**

### *Division 1—Preliminary*

56. Part VIII Interpretations
57. Terms and Expressions

### *Division 2—Fees and Hours of Operation*

58. Fees and Hours of Operation

### *Division 3—Obligations of Persons Using Facility Property*

59. Obligations of Persons Using Facility Property

### *Division 4—Care of Facility*

60. Care of Facility

*Division 5—Conduct on Facility*

61. Conduct on Facility

*Division 6—Council Exempt from Fees*

62. Council Exempt From Fees

**PART IX—QUARRYING, EXCAVATING AND BLASTING***Division 1—Preliminary*

63. Part IX Interpretations  
64. Terms and Expressions  
65. Application

*Division 2—Licensing Provisions*

66. Licensing

*Division 3—Conditions*

67. Conditions  
68. Form  
69. Transfer of Licence  
70. Term of Licence  
71. Cancellation  
72. No Compensation  
73. Fees

*Division 4—Duties of Licensee*

74. Duties of Licensee  
75. Rehabilitation of Site  
76. General Conditions

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

77. Part X Interpretations  
78. Terms and Expressions  
79. Application

*Division 2—Activities on Streets and Public Places*

80. Prohibitions  
81. Activities Needing Permission  
82. Application  
83. Discretion  
84. Conditions  
85. Conditions for Pipe  
86. Conditions for Footpaths

*Division 3—Eating Areas in Streets and Other Public Places*

87. Prohibition  
88. Applications for Licence  
89. Determination of Application  
90. Terms and Conditions of Licence  
91. Variation of Licence Conditions  
92. Renewal of Licence  
93. Transfer of Licence  
94. Cancellation of Licence  
95. Obligations of Proprietor

*Division 4—Removal of Animals, Vehicles and Other Things*

96. In Public Places  
97. Obstructions

*Division 5—Shopping Trolleys*

98. Abandoned Shopping Trolleys

*Division 6—Driving on a Closed Thoroughfare*

99. No Driving on Closed Thoroughfare

*Division 7—Verge Treatments*

- 100. Permissible Treatments
- 101. Council's Powers of Enforcement
- 102. Powers to Carry out Public Works on Verges

**PART XI—HAWKERS, STALLHOLDERS, STREET TRADERS AND ITINERANT FOOD VENDORS***Division 1—Preliminary*

- 103. Part XI Interpretations
- 104. Terms and Expressions

*Division 2—Licences*

- 105. Hawkers
- 106. Stallholders
- 107. Traders
- 108. Itinerant Food Vendor
- 109. Application for Hawkers, Stallholders and Traders Licences
- 110. Application for Itinerant Food Vendor's Licence
- 111. Selling of Newspapers
- 112. Discretion
- 113. Conditions
- 114. Licence Certificate
- 115. Transfer of Licence
- 116. Length of Licence
- 117. Annual Renewal
- 118. Fees
- 119. Exemption
- 120. Cancellation of Licence
- 121. Return of Licence Certificate

*Division 3—Conduct*

- 122. Conditions
- 123. Consent of Council

**PART XII—PARKING AND PARKING FACILITIES***Division 1—Preliminary*

- 124. Part XII Interpretations
- 125. Terms and Expressions

*Division 2—Application*

- 126. Application of this Part
- 127. Vehicle Classification
- 128. Application of Signs

*Division 3—Parking on Street Verges and Private Property*

- 129. Prohibition

*Division 4—Standing and Parking Generally*

- 130. Determination of Parking Stalls and Parking Stations
- 131. Manner of Parking
- 132. Provisions for Commercial Vehicles
- 133. Parking for Bicycle
- 134. Establishing Provisions
- 135. Restrictions and Prohibitions on Parking
- 136. Parking on Carriageways
- 137. Parking on Private Land
- 138. Parking to be Within Stall: Angle Parking
- 139. Preventing Obstructions
- 140. Vehicle to be Moved on Direction of Authorised Person
- 141. Authorised Person May Mark Tyres
- 142. Essential Work Provisions

**PART XIII—FENCING***Division 1—Preliminary*

- 143. Part XIII Interpretations
- 144. Terms and Expressions
- 145. Objectives

*Division 2—Fencing*

- 146. General
- 147. Sufficient Fence – Minimum Standards
- 148. Dangerous Fences
- 149. Height of Fencing
- 150. Materials and Construction

*Division 3—Miscellaneous*

- 151. Maintenance of Fences
- 152. Notice to Owners or Occupiers
  - First Schedule (Residential Zone)
  - Second Schedule (Industrial and Commercial Zone)
  - Third Schedule (Rural Zone)
  - Fourth Schedule

**PART XIV—RUBBISH, DISUSED AND STORED THINGS***Division 1—Preliminary*

- 153. Part XIV Interpretations
- 154. Terms and Expressions

*Division 2—Old Refrigerators, Vehicles and Machinery*

- 155. Old Refrigerators
- 156. Old Vehicles and Machinery

*Division 3—Rubbish, Disused and Stored Material*

- 157. Rubbish and Disused and Stored Material

**PART XV—SIGNS, HOARDINGS AND BILL POSTING***Division 1—Preliminary*

- 158. Part XV Interpretations
- 159. Terms and Expressions

*Division 2—Licences*

- 160. Signs Requiring Planning Approval
- 161. Licence Application
- 162. Exemptions
- 163. Revocation of Licences
- 164. Transfer of Licences
- 165. Inspection of Licences
- 166. Application for Licences
- 167. Temporary Permits

*Divisions 3—Restrictions*

- 168. General Restrictions
- 169. Existing Signs
- 170. Fixing of Signs
- 171. Glass in Signs
- 172. Readily Combustible Material
- 173. Maintenance of Signs
- 174. Bill Posting
- 175. Fly Posting

*Division 4—Requirements for Particular Signs*

- 176. Clocks
- 177. Development Signs
- 178. Direction Signs on Street Poles
- 179. Display Home Direction Signs
- 180. Display Home Signs
- 181. Hoardings
- 182. Horizontal Signs
- 183. Illuminated Signs
- 184. Information Panels
- 185. Institutional Signs
- 186. Portable Signs
- 187. Pylon Signs
- 188. Roof Signs
- 189. Rural Producer Signs

- 190. Sale Signs
- 191. Semaphore Signs
- 192. Service Station Signs
- 193. Signs on Fences
- 194. Tower Signs
- 195. Verandah Signs
- 196. Vertical Signs
- 197. Wall Panels
- 198. Offences

## **PART XVI—AIRPORTS (AERODROMES)**

### *Division 1—Preliminaries*

- 199. Part XVI Interpretations
- 200. Terms and Expressions

### *Division 2—Conditions of Use*

- 201. Use by Aircraft

### *Division 3—Buildings and Notices*

- 202. Buildings and Notices

### *Division 4—Right of Entry*

- 203. Right of Entry to Airport

### *Division 5—Conduct of Persons on Airport*

- 204. Conduct of Persons on Airport

### *Division 6—Airport*

- 205. Access – Animals Restricted

### *Division 7—Landing Fees and Other Charges*

- 206. Landing Fees and Other Charges

## **PART XVII—BUSH FIRE BRIGADES**

### *Division 1—Preliminary*

- 207. Part XVII Interpretations
- 208. Terms and Expressions

### *Division 2—Establishment of Bush Fire Brigades*

- 209. Establishment
- 210. Name of Officers
- 211. Command of a Fire – Ranks
- 212. Application of Rules
- 213. Variation of Rules
- 214. Transitional – Existing Bush Fire Brigades
- 215. Dissolution of Bush Fire Brigade
- 216. New Arrangement After Dissolution

### *Division 3—Organisation and Maintenance of Bush Fire Brigade*

- 217. Council Responsibility for Structure
- 218. Officers to be Supplied With Act
- 219. Managerial Role of Chief Bush Fire Control Officer
- 220. Chief Fire Control Officer May Attend Meetings
- 221. Duties of Chief Fire Control Officer
- 222. Holding Annual General Meetings
- 223. Nominations of Bush Fire Control Officer to Bush Fire Advisory Committee
- 224. Nominations of Bush Fire Control Officer to Council
- 225. Tabling of Minutes for Bush Fire Advisory Committee
- 226. Function of Bush Fire Advisory Committee
- 227. Advisory Committee to Nominate Bush Fire Control Officer
- 228. Council to Have Regard to Nominees
- 229. Advisory Committee to Consider Bush Fire Brigade Motions

### *Division 4—Types of Bush Fire Brigade Membership*

- 230. Types of Membership
- 231. Fire Fighting Members
- 232. Associate Members
- 233. Cadet Members
- 234. Honorary Life Member
- 235. Notification of Membership



*Division 5—Appointment, Dismissal and Management of Members*

236. Rules to Govern

*Division 6—Equipment of Bush Fire Brigades*

237. Council Policies  
238. Equipment in Brigade Area  
239. Funding From Council Budget  
240. Consideration in Council Budget

**PART XVIII—CEMETERIES***Division 1—Preliminary*

241. Part XVIII Interpretation  
242. Terms and Expressions

*Division 2—Administration*

243. Powers and Functions of CEO

*Division 3—Application for Funerals*

244. Application for Burial  
245. Applications to be Accompanied by Certificates  
246. Certificate of Identification  
247. Minimum Notice Required

*Division 4—Funeral Directors*

248. Funeral Director's Licence Expiry  
249. Single Funeral Permits  
250. Application Refusal

*Division 5—Funerals*

251. Requirements for Funerals and Coffins  
252. Funeral Processions  
253. Vehicle Entry Restricted  
254. Vehicle Access and Speed Limitations  
255. Offenders May be Expelled  
256. Conduct of Funeral by Board  
257. Disposal of Ashes

*Division 6—Burials*

258. Depth of Graves  
259. Mausoleum

*Division 7—Memorials and Other Work*

260. Application for Monumental Work  
261. Placement of Monumental Work  
262. Removal of Rubbish  
263. Operation of Work  
264. Removal of Sand, Soil or Loam  
265. Hours of Work  
266. Unfinished Work  
267. Use of Wood  
268. Plants and Trees  
269. Supervision  
270. Australian War Graves  
271. Placing of Glass Domes and Vases  
272. Specifications of Monuments  
273. Headstones  
274. Requirements of a Memorial Plaque  
275. Monumental Mason's Licence  
276. Expiry Date, Non-Transferability  
277. Carrying out Monumental Work  
278. Responsibilities of the Holder of a Monumental Mason's Licence  
279. Cancellation of a Monumental Mason's Licence

*Division 8—General*

280. Animals  
281. Guide Dogs  
282. Damaging and Removing of Objects  
283. Withered Flowers  
284. Littering and Vandalism  
285. Advertising  
286. Obeying Signs and Directions

**PART XIX—ENFORCEMENT***Division 1—Preliminary*

- 287. Part XIX Interpretations
- 288. Terms and Expressions
- 289. General Powers of Authorised Persons
- 290. Identification

*Division 2—Impounding*

- 291. Power to Remove and Impound
- 292. Dealt with According to Law
- 293. Provision of Register
- 294. Prosecution or Notice
- 295. Prosecution is Instituted
- 296. Notice
- 297. Payment of Costs
- 298. Sale or Disposal
- 299. Disposal of Sick or Injured Animals
- 300. Recovery of Impounding Expenses
- 301. Claim for Damages

*Division 3—Infringement Notice Penalties*

- 302. Provision for Infringement Notices
- 303. Issue of Infringement Notices
- 304. Breach of Local Laws
- 305. Withdrawal of Infringement Notice
- 306. Issue of Infringement Notice in Lieu of Proceedings
- 307. Penalty
- 308. Schedule B Infringement Notice Penalties
- 309. Penalties  
Schedule B

*Division 4—General*

- 310. Unauthorised Signs
- 311. Exemption from Liability
- 312. Liability for Damage to Council Property
- 313. Performance of Duties
- 314. Applications
- 315. Forms
- 316. Removal From Premises

**PART XX—OBJECTIONS, APPEALS AND MISCELLANEOUS**

- 317. Rights of Objection and Appeal
- 318. Waiving of Requirements
- 319. Fees
- 320. Conditions

**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF WYNDHAM-EAST KIMBERLEY

**CONSOLIDATED LOCAL GOVERNMENT LAWS**

In pursuance of the powers conferred by the *Local Government Act 1995*, the *Bush Fires Act 1954*, the *Dividing Fences Act 1961*, the *Dog Act 1976* and the *Cemeteries Act 1986* and all other powers enabling it, the Council of the Shire of Wyndham-East Kimberley hereby records having resolved on 16th November 2000, to make the following Local Laws.

**PART I—REVOCATION, CITATION AND APPLICATION OF LOCAL LAWS****1. Revocation**

The following By Laws and all amendments thereto are hereby repealed—

By Laws—Building published in the *Government Gazette* 19<sup>th</sup> December 1960

By Laws—Control of Hawkers published in the *Government Gazette* 5<sup>th</sup> January 1961

By Laws—Removal of Refuse published in the *Government Gazette* 22<sup>nd</sup> June 1961

By Laws—Draft Model No.1—Prevention of Damage to Streets published in the *Government Gazette* 27<sup>th</sup> February 1962

By Laws—Draft Model No.3—Old Refrigerators & Cabinets published in the *Government Gazette* 6<sup>th</sup> February 1964

By Laws—Draft Model No.11—Street Lawns & Gardens published in the *Government Gazette* 6<sup>th</sup> February 1964

By Laws—Draft Model No.7—Obstructing Animals & Vehicles published in the *Government Gazette* 10<sup>th</sup> March 1964

By Laws—Long Service Leave published in the *Government Gazette* 10<sup>th</sup> June 1965

By Laws—Draft Model No.10—Petrol Pumps published in the *Government Gazette* 27<sup>th</sup> October 1966

By Laws—Removal of Verandahs & Balconies published in the *Government Gazette* 1<sup>st</sup> June 1967

By Laws—Draft Model No.9—Extractive Industries published in the *Government Gazette* 23<sup>rd</sup> January 1968

By Laws—Draft Model No.13—Signs, Hoardings & Billpostings published in the *Government Gazette* 28<sup>th</sup> May 1969

By Laws—Aerodromes published in the *Government Gazette* 11<sup>th</sup> September 1970

By Laws—Adopt—Draft Model No. 12—Storage of Inflammable Liquids published in the *Government Gazette* 9<sup>th</sup> March 1970

By Laws—Adopt Draft Model No. 18—Holiday Accommodation published in the *Government Gazette* 6<sup>th</sup> December 1974

By Laws—Adopt Draft Model No. 2—Caravan Parks & Camping Grounds published in the *Government Gazette* 6<sup>th</sup> December 1974

By Laws—Depositing & Removal of Refuse, Rubbish, Litter & Old Car Bodies and Disused Material published in the *Government Gazette* 16<sup>th</sup> March 1979

By Laws—Amend Draft Model No.3 Motels published in the *Government Gazette* 19<sup>th</sup> March 1982

By Laws—Adopt Stalls published in the *Government Gazette* 6<sup>th</sup> September 1985

By Laws—Adopt Dogs published in the *Government Gazette* 8<sup>th</sup> July 1988

By Laws—Amend Cemeteries published in the *Government Gazette* 7<sup>th</sup> July 1989

By Laws—Amend Parking Facilities published in the *Government Gazette* 23<sup>rd</sup> February 1990

By Laws—Adopt Centre, Multipurpose Centres, Equipment & Property, Control & Management of Halls, Recreation Centres published in the *Government Gazette* 31<sup>st</sup> August 1990

By Laws—Adopt Swimming Pools published in the *Government Gazette* 9<sup>th</sup> November 1990

By Laws—Adopt Reserves & Foreshores published in the *Government Gazette* 2<sup>nd</sup> August 1991

By Laws—Adopt Payment of Rates and Charges published in the *Government Gazette* 12<sup>th</sup> November 1993

By Laws—Bushfires published in the *Government Gazette* 22<sup>nd</sup> November 1985

**2. Citation**

These Local Laws may be cited as the *Shire of Wyndham-East Kimberley Consolidated Local Laws*.

**3. Read as a Whole**

These Local Laws shall be read as a whole and the treatment of the subject matter in one Part does not exclude the treatment of the same subject matter in another Part.

**4. General Application**

These Local Laws shall apply to the whole of the District of the Shire of Wyndham-East Kimberley together with any places to which the Governor has given approval for the Local Laws or any part of them to apply as provided in Section 3.6 of the Act. These Local Laws incorporate all the Local Laws of the Shire of Wyndham-East Kimberley with the exception of the Local Laws made under the *Health Act 1911*, and Planning Schemes made under the *Town Planning and Development Act 1928*.

**5. Adjoining Waters and Reserves**

Part III and Part VII of these Local Laws shall apply—

- (a) to lakes, rivers, water courses, tidal and non-tidal waters, in or outside but adjoining the District; and
- (b) to any other public place or public reserve adjoining any of the places mentioned in paragraph (a) of this Clause; and
- (c) to lakes and reserves specified by the Council from time to time for the purposes of this Part.

**6. Parking Region**

For the purposes of the provisions of Part XII of these Local Laws, the whole of the District but excluding any roads and bridges which are, or may, from time to time, come under the control of the Main Roads Western Australia, is constituted as a parking region.

**7. Operations of the Consolidated Local Law**

These consolidated Local Laws will come into operation on the fourteenth day after the day on which it is published in the *Government Gazette*.

**PART II—GENERAL INTERPRETATION****8. Part II Interpretations**

In these Local Laws, unless the context otherwise requires—

- “**Act**” means *Local Government (Miscellaneous Provisions) Act, 1960* or the *Local Government Act 1995* as the circumstances and context require;
- “**1960 Act**” means the *Local Government (Miscellaneous Provisions) Act 1960*;
- “**1995 Act**” means the *Local Government Act 1995* (as amended);
- “**Airport**” means any area of land under the control of the Council as an Airport or Aerodrome whilst and so long as licensed for the purpose of an Airport or Aerodrome under the Regulation;
- “**Airport Manager**” means the Officer or Officers appointed by or under the authority of the Council for the time being directing and controlling the traffic of aircraft on any Airport or of persons having business with aircraft on any Airport and includes any person appointed by or under the authority of the Council to control and supervise the use generally of any Airport or Aerodrome for the time being acting in the discharge of such duties;
- “**animal**” except in Part V means any animal other than a dog;
- “**Authorised Officer**” means in respect of any Part of these Local Laws, the CEO or other Officer of the Shire of Wyndham-East Kimberley authorised by the Council or the CEO (as appropriate) to administer that Part;
- “**Authorised Person**” means an Authorised Officer, or any other employee or person appointed by the Council or 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*;
- “**beehive**” means a moveable or fixed structure, container or object in which a colony of bees is kept;
- “**boat**” means any structure or vessel whether propelled manually or by the wind or power, made or used to float upon or travel under water;
- “**cattle**” includes horses, mares, fillies, foals, geldings, colts, camels, bulls, bullocks, cows, heifers, steers, calves, asses, mules, sheep, lambs, goats, swine, deer, alpacas, llamas, emus, ostriches, kangaroos or other animals of a like kind;
- “**CEO**” means the Chief Executive Officer of the Shire of Wyndham-East Kimberley and includes in the absence of the Chief Executive Officer, the Deputy or Acting Chief Executive Officer;
- “**Cemeteries Act**” means the *Cemeteries Act 1986*;
- “**Council**” means the Council of the Shire of Wyndham-East Kimberley;
- “**Council property**” means any land, building or structure owned by or under the care, control or management of the Shire of Wyndham-East Kimberley;
- “**District**” means the District of the Shire of Wyndham-East Kimberley;
- “**Dividing Fences Act**” means the *Dividing Fences Act 1961*;

“**Dog Act**” means the *Dog Act 1976*;

“**employee**” means an employee of the Shire of Wyndham-East Kimberley;

“**gender and number**” in these Local Laws words denoting a gender or genders include each other and words in the singular number include the plural and words in the plural number include the singular;

“**holiday accommodation**” means accommodation which, by way of trade or business, is held out as being available or is made available for holiday purposes for occupation by persons other than the proprietor, and which comprises not less than 4 units;

“**licence**” means a licence issued pursuant to these Local Laws;

“**licensee**” means a person to whom a licence is granted under these Local Laws;

“**Local Government**” where the context permits means the Council of the Shire of Wyndham-East Kimberley;

“**Local Laws**” means these Local Laws;

“**lot**” has the meaning given to the term in the *Town Planning and Development Act 1928*;

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

“**Minister**” means the Minister for Local Government;

“**nuisance**” means—

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

“**owner**” in relation to land has the meaning given to the term in Section 1.4 of the Act;

“**person**” and words applying to any person or individual include a body corporate and in the plural a group of persons and a club association or other body of persons;

“**public place**” means street, way or place which the public are allowed to use, whether the street, way or place is or is not on private property. It shall also include parklands, squares, reserves, beaches and other lands set apart for the use and enjoyment of the inhabitants of the District and includes all land vested in or under the care, control or management of the Shire of Wyndham-East Kimberley;

“**road**” means any highway, road, street, lane, thoroughfare or similar place open to, or used by the public and includes every carriageway, footpath, street verge, reservation, median strip, traffic island or similar place thereon which is within the parking region;

“**Shire**” means the Shire of Wyndham-East Kimberley;

“**Surveyor**” means the building surveyor for the time being appointed by the Council pursuant to the Act and includes, in the absence of the building surveyor, the acting building surveyor;

“**Town Planning Scheme**” means any Town Planning Scheme for the time being applying zoning or classification to land within the District;

“**unit**” means a cabin, apartment, chalet, cottage or flat;

“**vehicle**” includes—

- (a) every conveyance, not being a train, vessel, aircraft, or wheelchair and every object capable of being or designed to be propelled or drawn on wheels or tracks by any means, whether used in that way or not; and
- (b) a shopping trolley, and where the context permits, an animal driven or ridden, and whether currently licensed or not;

“**verge**” means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare, but does not include any footpath;

“**vessel**” means any ship or watercraft whatsoever, and without limiting the generality of the foregoing, has the same meaning as is given to the terms “ship” and “vessel” in the *Western Australian Marine Act 1982*;

“**watercraft**” means any bathing appliance, sailing boat, canoe, boat or jet ski.

## 9. Terms and Expressions

Terms and expressions used in these Local Laws shall—

- (a) unless otherwise defined herein the terms and expressions used in these Local Laws shall have the meanings given to them in the Act, and where a term is defined in each the 1960 Act and the 1995 Act, the meaning given in the 1995 Act shall prevail;
- (b) a reference to the Council having the power to do something in its discretion or a reference to the Council forming an opinion prior to the doing of anything shall be deemed to include a reference to any Authorised Officer or Authorised Person, or any other person, or any committee to whom or to which the Council has delegated the power of the doing of the thing exercising such discretion or forming such opinion; and

- (c) a reference to the CEO or any other employee of the Shire of Wyndham-East Kimberley includes a person duly appointed to act or from time to time acting in the position of that employee.

### **PART III—PARKS, RESERVES, LAKES, RIVERS AND FORESHORES**

#### *Division 1—Preliminary*

#### **10. Part III Interpretations**

In this Part, unless the context otherwise requires—

- “**building**” has the same meaning as is given to the term in Section 6 of the 1960 Act but without limiting of the generality of the term for the purpose of this Part includes any permanent or temporary structure including tents, marquees, and stalls;
- “**foreshore**” means all the land contiguous to the reserves and parks in or under the care, control or management of the Shire of Wyndham-East Kimberley, which lies between the low water mark and the high water mark;
- “**function**” means and includes a carnival, show, exhibition, gymkhana, sport, party or picnic or a matter of contest between opposing teams in any game;
- “**houseboat**” means a floating structure in the water of a vessel which may or may not be capable of self-propelled navigation, used for periods of time as accommodation on waterways and generally not used for active navigational use;
- “**owner**” means the person who is the lawful owner or the person entitled to possession of the particular vehicle, property or chattel;
- “**reserve**” means the public reserves or parks owned or vested in or under the care, control or management of the Shire of Wyndham-East Kimberley but do not include a road reserve.

#### **11. Terms and Expressions**

Terms and expressions used in this Part shall—

- (a) have the meanings given in Clause 10, which shall prevail over any other conflicting definition; and
- (b) otherwise be interpreted in accordance with Clause 8.

#### **12. Application**

The provisions of this Part shall apply throughout the District and to those areas defined in Clause 5 of these Local Laws and to all property vested in or under the care, control or management of the Shire of Wyndham-East Kimberley unless stated otherwise in the provision.

#### *Division 2—Prohibitions and Activities Requiring Consent*

#### **13. Prohibited Activities**

A person shall not on any parks, reserves, lakes, rivers and foreshores within the Shire of Wyndham-East Kimberley—

- (a) throw or release any stone, arrow, or other missile, whether of the same kind or not, (except in the course of a function being lawfully held);
- (b) climb upon any wall, building, tree guard or over, under or through any fence or gate designed or installed for the purposes of prohibiting or restricting the entry of persons or vehicles;
- (c) commit or cause a nuisance;
- (d) enter any place that has been fenced off or otherwise closed to the public;
- (e) alter, cut, mutilate, deface or disfigure or damage any equipment, building or structure of any kind;
- (f) damage, destroy, interfere with, or remove any water pipe, tap, hose, hose fitting, sprinkler, irrigator, water device, valve, pump, motor, controller or switchboard;
- (g) break or permit to be broken any glass, metal, bottle, or utensil or deposit or leave any rubbish, refuse, bottle, can, tin, paper, broken glass, china or litter of any kind other than in a receptacle provided for that purpose;
- (h) climb, injure, cut, break, deface, pull up, pick, remove or destroy any tree, tree guard, shrub, flowers, grass, or plant of any kind or description;
- (i) consume any intoxicating liquor on a park, reserve, lake, river or foreshore unless pursuant to a consumption permit issued by the Council;
- (j) carry or discharge any firearm, air gun or other missile discharging device or throw or discharge any explosive device, firework (except in the course of a function being lawfully held);
- (k) play or practice golf or strike a golf ball except in an area set aside for that purpose;
- (l) operate any musical instrument, radio, recorder, cassette player, radiogram, television, amplifying equipment or other sound producing, enhancing or amplifying electronic device at such volume as to cause a nuisance or annoyance to other persons in or near the locality;
- (m) use or operate any siren, starting gun or other device which causes a loud noise in such a manner as to cause a nuisance or annoyance to any person on or in the vicinity;

- (n) create, commit or take part in any nuisance or disturbance or behave in a disorderly or offensive manner or use indecent language or commit an act of indecency;
- (o) destroy, damage, injure, cause harm to, catch, snare or take any animal;
- (p) interfere with the conduct of any function for which a function licence has been issued;
- (q) enter, look into, or loiter outside any lavatory, dressing shed or building or portion of a building expressly reserved for the use of the opposite sex;
- (r) without prejudice to any other provisions of these Local Laws bring on or cause or allow or permit to be brought on or to remain on any land to which these Local Laws apply, any vehicle, caravan, omnibus (whether in good order or derelict) or rubbish of any nature, except to park or deposit the same in a place on that land nominated by the Council for the parking of such vehicles or caravans or deposit of such rubbish without the written consent of Council first having been obtained and complying with all other provisions of these Local Laws in all respects on each occasion and in the event of the Council being unable to find the owner of any such thing or article and/or of the person denying the ownership thereof or refusing to supply the Council with the name and address of the owner thereof the Council shall be at liberty to remove such vehicle, caravan or omnibus from the land to a place where it may be impounded and to remove such rubbish from the land to the Council's rubbish tip;
- (s) drive or take any watercraft into any place where persons are bathing in such a manner as to cause or be likely to cause annoyance or injury to any person bathing or about to bathe;
- (t) play games in such a way as to cause inconvenience or annoyance to persons bathing or using the park, lake, river, foreshore or reserve;
- (u) leave or deposit fish offal;
- (v) remove or otherwise interfere with any notice, flag or specified indicator of the kind referred to in Clause 14(2) and 14(3); or
- (w) release into any waterway upon or passing through a reserve under the control of the Council any fish, animal or plant.

The prohibitions of this Part shall not apply to an Authorised Officer or person acting in the course of his or her duty.

#### **14. Prohibited Areas**

(1) For the safety, convenience or comfort of persons in respect of bathing and other recreational conduct, the Council may set aside specific localities wherein all or any of the following things are prohibited, or are prohibited without the prior approval of the Council in writing—

- (a) entry by persons;
- (b) entry by animals;
- (c) bathing;
- (d) fishing;
- (e) houseboats;
- (f) the entry of and use of vehicles; or
- (g) the launching and operation of vessels or watercraft.

(2) The Council may set aside a specified locality for the purpose of sub clause (1) of this Clause for a particular period or until further notice by causing notices to that effect to be placed in the vicinity of the locality.

(3) Without limiting the generality of Clause 2 an Authorised Officer or Authorised Person may set aside specific localities in which bathing is prohibited by the placement of notices, flags or such other indicators as are from time to time provided or required by the Council.

#### **15. Activities Requiring Consent**

(1) A person shall not without written permission granted by the Council on any park, reserve, lake, river or foreshore to which this Part applies—

- (a) sell, expose for sale or invite any offer to buy any goods, wares, food, refreshment, fruit or other merchandise or things (whether of a like kind as the foregoing or not), except in an area set apart for that purpose and subject to conditions imposed by the Council;
- (b) hire, expose for hire, invite any offer to take on hire any vehicle, boat or other vessel or thing (whether of the like kind as the foregoing or not), except in an area set aside for that purpose by Council and then only subject to conditions imposed by the Council;
- (c) organise, conduct or address a gathering or meeting of persons, or organise a function or sporting event, or take part in a procession or demonstration, or carry a placard or notice;
- (d) take onto a public park, reserve or foreshore any spirituous or intoxicating liquor;
- (e) remove, damage, erect, place, alter or relocate any building, fence, gate, garden furniture, sign, playground equipment, goalpost, goal net or floodlighting equipment;
- (f) stamp, stencil, affix, construct or erect or cause to be stamped, stencilled or fixed, constructed or erected any signboard, hoarding, placard, hand bill, notice, advertisement or document whatsoever;
- (g) light a fire other than in a fireplace provided;
- (h) erect a tent or any other temporary cover for the purpose of entertainment or the display of any merchandise;

- (i) plant or sow seeds, shrubs, trees, or any plant of any kind or description;
- (j) fly any mechanically operated model aeroplane;
- (k) land and/or take off a helicopter or other form of aircraft;
- (l) land by way of parachute, hang glider or parasail;
- (m) cut, damage or remove any soil, turf, sand or vegetation;
- (n) participate in the activity of archery;
- (o) damage or injure any plant, lawn, flower, shrub or tree;
- (p) bet, gamble or call the odds or offer to bet or gamble;
- (q) use or install any unauthorised power lines, water pipe, irrigation system or drainage system;
- (r) ride a bicycle except in areas set aside for that purpose; or
- (s) erect or use or permit or authorise the erection or use of any building on a public park, reserve or foreshore without the written consent of Council or otherwise than in accordance with the terms of the written consent of the Council.

(2) Any person desirous of erecting a building on a public reserve shall make application to the Council for its consent thereto.

(3) Any person who shall erect or use or permit or authorise the erection or use of any building on a public park, reserve or foreshore without the written consent of Council or otherwise than in accordance with the terms of the written consent of the Council shall be guilty of an offence.

### **16. Conduct of Functions**

(1) No person shall organise, arrange or take part in a function on a public reserve unless a licence to organise a function has been granted by Council.

(2) The Council may grant a licence to a person to hold or organise a function on a park, reserve or foreshore subject to such conditions, if any, as it may deem fit and may authorise a charge to be made for admission to the function.

(3) A licence to hold a function on a public park, reserve or foreshore may be in a prescribed form, but in any event shall specify—

- (a) the person to whom the licence is issued;
- (b) the purpose for which such licence is granted;
- (c) the dates and times during which the function may be held;
- (d) the charge, if any, which has been authorised by Council for admission to the function;
- (e) the area or part of the public park, reserve or foreshore where the function may be held;
- (f) conditions pertinent to the conduct of the function; and
- (g) that further licences or permits may be required under the *Liquor Licensing Act 1988* for the supply or consumption of liquor on a reserve or foreshore (which is a public place), and that the Council's licence is not a licence or permit for supply or consumption of liquor.

(4) No person to whom a licence has been granted shall exclude any member of the general public from attending the function if such person pays the authorised charge for admission.

(5) A person to whom a licence has been granted shall prevent persons under the influence of alcohol or drugs or persons acting in a riotous or disorderly manner from attending a function.

(6) Any person to whom a licence has been granted who permits the commission of a breach of any of the terms and conditions of the licence shall be guilty of an offence.

(7) If the Council is satisfied that the person to whom a licence has been granted has committed or permitted or authorised the commission of a breach of any of the terms or conditions of the licence or has committed a breach of any of these Local Laws it may by notice in writing to such person, cancel the licence and thereupon the licence shall be cancelled.

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

### **17. Camping and Picnicking**

(1) A person shall not on any park, reserve or foreshore to which this Part applies without written permission granted by the Council, camp, erect any tent, hut or other structure or light a fire except in a fireplace or barbecue facility provided for that purpose.

(2) Sub clause (1) of this Clause shall not apply to any person who has been authorised in writing by the Council to occupy any park, reserve or foreshore.

### *Division 3—Safety*

### **18. Vehicles**

(1) A person shall not on any park, reserve or foreshore to which this Part applies drive or ride a motorised vehicle (other than a wheelchair or other device to assist the movement of persons with a disability) on any footpath or area set aside for use by pedestrians or bicycles otherwise than on those part of the park, reserve, foreshore or public place set aside as roads, driveways or vehicle parking areas.



- (2) A person shall not park or stand any vehicle except on areas set aside as a parking area.
- (3) The Council may in special circumstances grant permission to allow a motorised vehicle to enter upon a public park, reserve or foreshore for a specific purpose and the Council may apply such conditions as it thinks fit. A person shall not park or stand any vehicle in breach of any such conditions.

*Division 4—Permissions*

**19. Permissions Under This Part**

- (1) Every application for permission in this Part shall be in the form prescribed by the Council from time to time.
- (2) The Council may in its discretion grant permission or refuse to grant permission under this Part or grant subject to such conditions as it thinks fit.
- (3) Where permission has been granted by the Council under this Clause, subject to conditions, the person to whom the permission has been granted shall ensure that those conditions are observed at all times. If any such condition is not observed, that person commits an offence against these Local Laws and the Council may by written notice cancel the permission.

**20. Activities Requiring Permission**

A person shall not without written permission granted by the Council on any park, reserve, lake, river or foreshore reserve to which this Part applies—

- (a) carry on any trading activity; or
- (b) without limiting the generality of the foregoing paragraph, hire or offer for hire any bicycle, watercraft, houseboat, vessel or any other item or equipment for sport, entertainment or amusement.

**21. Activities Specially Permitted**

Dogs may be exercised without leash within the reserves or parts thereof referred to in Schedule A of Part VI but not on any other reserve.

**PART IV—COUNCIL PROPERTY, PUBLIC SWIMMING POOLS AND RECREATION FACILITIES**

*Division 1—Preliminary*

**22. Part IV Interpretations**

In this Part, unless the context otherwise requires—

- “**Attendant**” means an employee of the Council performing duties in connection with a public swimming pool or other recreation facility under the control and management of the Council;
- “**building**” has the same meaning as is given to the term in Section 6 of the 1960 Act but without limiting the generality of the term for the purpose of this Part specifically includes a hall or room, or a corridor, stairway or annexe of any hall or room owned by or under the care, control or management of the Council;
- “**Manager**” means the person appointed by Council to direct, control and manage the recreation facility;
- “**premises**” means and includes each of the public swimming pools and other recreation facilities owned by or for the time being under the care control and management of the Council, and all buildings, fences, gardens, car parks, structures, car parking areas, access ways, fixtures, fittings, machinery, chattels, furniture and equipment forming part of such public swimming pools or other recreational facility or used in connection therewith;
- “**recreation facility**” includes spa bath, solarium, sauna, stadium, function and/or meeting room, change-room, community hall, community centre and pavilion.

**23. Terms and Expressions**

Terms and expressions used in this Part shall—

- (a) have the meanings given in Clause 22 which shall prevail over any other conflicting definition; and
- (b) otherwise be interpreted in accordance with Clause 8.

*Division 2—Public Swimming Pools and Other Recreation Facilities*

**24. Public Swimming Pools and Other Recreation Facilities**

- (1) The provision of this Clause relates to any public swimming pool or other recreational facility under the care control and management of the Council—
- (a) any premises shall be open for the admission of the public during such hours and periods as the Council may from time to time determine; and
  - (b) the premises or any part of them and any facility or equipment therein may at any time at the discretion of the Manager be set aside for the use of certain persons to the exclusion of others.
- (2) The Council may from time to time and for such periods as it determines, close the premises to the public.

- (3) The Council may refuse a person admission to any premises at any time.
- (4) (a) every person using the premises shall obey all reasonable directions of the Manager or attendant with regard to such use; and
- (b) the Manager or Attendant may temporarily suspend admittance to or remove from the premises or any part thereof any person or persons if, in his or her opinion that action is necessary or desirable in the interest of the comfort and convenience of the users generally of the premises and the preservation of the premises or its contents.
- (5) If a person shall appear in public at the premises or recreation facility and in the opinion of the Manager or Attendant be indecently or insufficiently clad, the Manager or Attendant may direct that person forthwith to resume the person's ordinary clothing and the person shall forthwith comply with such direction.
- (6) It shall be the duty of the Manager or Attendant who is hereby so empowered and directed, to refuse admission to or remove or cause to be removed from the premises a person who, in the opinion of the Manager or Attendant—
- (a) is a child under the age of twelve (12) years unaccompanied by a responsible person over the age of fifteen (15) years;
- (b) contravened or failed to comply with any of the provisions of these Local Laws;
- (c) is by his or her past or present conduct within or about the premises undesirable;
- (d) is under or apparently under the influence of alcohol or drugs; or
- (e) is apparently suffering from an infectious, contagious or offensive disease or skin complaint or wounds or bleeding.
- (7) Any such person when requested by the Manager or Attendant to withdraw from the premises shall immediately do so quietly and peaceably.
- (8) Any person banned or refused entry to any premises shall be given formal notification of the reasons as determined by the Manager.
- (9) A person who has been refused admission to any premises or has been requested to leave any premises and who feels aggrieved by the action of the Manager or Attendant may appeal to the Council by letter addressed to the CEO against that action.
- (10) Right of appeal given by these Local Laws does not imply any right of action for damages or other remedy against the Council or Manager or Attendant arising out of any refusal of admission or direction to leave any premises.
- (11) No person shall—
- (a) enter any portion of any premises set apart exclusively for the opposite sex except a person under the age of 6 years; or
- (b) without the consent of an occupier enter or attempt to enter any bathroom or dressing room or other part of the premises, which is already occupied.
- (12) No person upon the premises shall in any way interfere with any other person therein or such last mentioned persons use thereof, nor throw or push nor attempt to throw or push any person into a swimming pool, spa or sauna, or throw any stones, sticks or any other matter or thing to the annoyance of any other person using the premises.
- (13) No person or group of persons shall play any ball games or take any action whatsoever which shall in any way limit the enjoyment of the users of the premises provided that this shall not apply to the playing of any games or sport organised and conducted on the premises by the Council or any club, association or organisation or other person at such time and in such manner as shall be approved by the Council, in writing.
- (14) No person being the owner or person in charge of any dog or other animal shall cause or allow such dog or animal or remain in or about the premises.
- (15) Any person may deposit with the Manager or Attendant any articles or money for safekeeping in lockers or other facilities provided for such purposes. Such deposit shall be made subject to the following terms and conditions and any person making a deposit of any article or money shall be deemed to agree to such conditions being applicable thereto. If the article deposited be damaged, destroyed, lost or stolen neither the Council nor the Manager, Attendant or any other employee of the Council shall in any way be responsible for such damage, destruction, loss or theft howsoever occurring. Upon production to the Manager or Attendant of a receipt or token given in respect of such article or money deposited, the article or money may be handed to the person producing the receipt or token without proof that such person is the person to whom such receipt or token was originally issued. If any article or money deposited is not reclaimed within three (3) months of the date of the deposit, the Council or some person duly authorised by it in that behalf may sell or otherwise dispose of the article or money and shall be under no liability either to the owner or depositor thereof by reason of such sale or disposal.
- (16) (a) every person finding within the premises any article which may have been left or lost therein shall immediately deliver it to the Manager who shall thereupon register a description of such article and all particulars relating thereto in a book which shall be kept for that purpose and any person claiming the article who satisfies the Manager that he or she is the lawful owner of the article shall upon signing a receipt for it have the article returned to them.
- (b) all articles left in the premises and not claimed within a period of three (3) calendar months shall be dealt with by Council according to law.
- (17) (a) a person, club, organiser or association shall not conduct any function, carnival, event, or competition in any premises unless with the prior written consent of the Council or the Manager which may be given subject to any conditions the Council or Manager as the case may be thinks fit.

(b) the consent given under sub-clause (17)(a) above maybe withdrawn at any time without assigning any reason for such refusal.

(c) a person, club, association or organisation conducting any function, event, carnival or competition at any premises shall be responsible for the conduct and safety of the participants, officials and spectators during the conduct of such function, carnival, event or competition and shall prevent overcrowding and ensure that no damage is done to any building or fence or any other portion of the premises and that these Local Laws by all participants, officials, instructors, teachers, coaches and spectators attending the function, carnival, event or competition.

(18) (a) no person shall for reward or profit, teach, coach or train any person in the premises except with the consent in writing of the Council or the Manager, which may be given subject to such conditions that the Council or Manager deems fit.

(b) the Council or Manager may at any time withdraw the consent given in sub clause (1) of this Clause above.

(19) No person shall—

- (a) not being an Officer in the employ of the Council in the course of his or her duties enter the premises without having paid to the Manager or Attendant the proper charge for admission or to have the authorisation of the Manager to be on the premises;
- (b) obstruct the Manager or an Attendant in the carrying out of their duties;
- (c) enter or depart from any part of the premises except by means of the respective entrances or exits set apart for that purpose;
- (d) appear in public unless properly attired in clothing of such a nature as to preserve public decency and to cover the body so as to prevent indecent exposure of the person;
- (e) enter or be in the premises while affected by liquor or drugs;
- (f) take into the premises or have in his or her possession any glass container or any intoxicating liquor unless authorised by the Council;
- (g) use any soap in any part of the premises other than in the dressing rooms, shower recess, kitchen or washroom;
- (h) in any part of the premises behave in an unseemly, improper, disorderly, riotous or indecent manner, swear or to use any indecent, obscene, offensive or abusive language or gamble or commit any other form of misconduct;
- (i) climb up to or upon any roof, fence, wall, partition or other portion of the premises;
- (j) deposit any filth or rubbish in any part of the premises except in places set aside for that purpose;
- (k) except in areas approved for such purpose consume any food or drink;
- (l) wastefully use the water or leave any taps dripping in the dressing rooms or elsewhere in any premises;
- (m) spit or expectorate in the premises or in any way commit any nuisance on or in any part of the such premises;
- (n) whilst in the swimming pool use any substance or preparation whereby the water thereof may become discoloured or rendered turbid or otherwise unfit for the proper use of bathers;
- (o) foul or pollute water in any shower, bath or swimming pool, or soil, damage, injure, destroy, use improperly, disfigure or write in or upon a dressing room, closet, compartment or other part of any premises or any furniture or other article of equipment therein;
- (p) damage, improperly use or interfere with any tap, valve, locker or other fitting or appliance in or about the premises or discharge litter of any description on, in or about the premises or bring or deposit any filth or rubbish onto or into the premises;
- (q) smoke in any premises as directed by Council;
- (r) whilst suffering from any contagious, infectious or cutaneous disease, or whilst in an unclean condition, enter or use or attempt to enter or use the swimming pool, spa or any other part of any premises;
- (s) soil, defile or damage any article hired from the Manager or Attendant;
- (t) enter or attempt to enter any premises if the Council or if the Manager has refused the person permission to do so; or
- (u) break, injure, damage or destroy lifesaving, fire fighting or other equipment or any property of the Council.

(20) A person shall not pay nor shall the Manager or Attendant or any other Officer or employee of the Council receives any fee for admission to or the use of any facility in any premises except the prescribed fee determined by the Council.

(21) A person shall, when leaving the premises incorporating a swimming pool, spa or sauna, if requested to do so, produce the person's bag costume or towel for inspection by the Manager or Attendant.

(22) No ticket, token, licence or receipt issued for admission to the premises shall be transferable and no person other than the persons to whom it was originally issued shall enjoy any benefit there from or any privileges there under.

(23) Neither the Council, nor the Manager or Attendant or other Officer or employee of the Council shall in any way be responsible for any article or money lost by or stolen from any person whilst in any premises or for any article damaged or destroyed whilst in or about the premises.

*Division 3—Council Property (Management and Control)*

**25. Saving of Long Term Leasing Power**

Nothing in this Part shall be construed to limit the power of the Council to enter into long term leasing of any building, hall or room in such manner on such terms as it sees fit subject to compliance with the provisions of the Act.

**26. Permissions**

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

**27. Application**

- (1) Shall be in accordance with the form as prescribed by the Council from time to time.
- (2) Every application for permission to hire under Clause 26 shall be made in writing at least 24 hours before the time that such premises, furniture or other property are required.

**28. Discretion**

The Council may in its discretion grant permission to hire or refuse to grant permission to hire or grant permission subject to such conditions as it thinks.

**29. Conflicting Applications**

In the event of two or more applications being made for the hire of any premises or other thing referred to in Clause 26 for the same date and time, the application shall be dealt with in accordance with Council policy.

**30. Conditions**

Every permission to hire premises shall contain the following conditions whether expressed in the permission or not—

- (a) the applicant shall, prior to the commencement of the hiring and in addition to any deposit the Council may require as an advance payment of the hiring fee, lodge a bond for an amount estimated by the Council to cover—
  - (i) any damage that might occur during the term of engagement; and
  - (ii) any cleaning of Council property which is required following the term of engagement; provided that the bond shall be repayable upon the termination of the hiring except to the extent of any deduction under Clause 35;
- (b) no furniture or other property shall be removed, except with the permission of the CEO or other duly appointed person;
- (c) the applicant shall comply with the provisions of the *Health Act, 1911* and any other written law and policy in force for the time being applicable to the hiring and use of the building; and
- (d) the Council may at any time cancel any permission to hire without giving the applicant any reason for so doing.

**31. Times**

A building, furniture or other property shall be hired for the period stipulated in the permission but if no period is so stipulated the hiring shall be for a period of 4 hours.

**32. Fees**

The fees to be charged for an application for permission to hire, for hiring any building, furniture or other property shall be in accordance with those prescribed by Council from time to time. No permission to hire is valid until the applicable fees have been paid.

**33. Cancellation**

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

**34. Conduct in Hired Buildings**

No person in any building shall—

- (a) enter or be allowed to enter while affected by alcohol or drugs;
- (b) use profane or improper language;
- (c) be guilty of any misbehaviour whatsoever;
- (d) damage, mark or deface any wall or other part of the building;
- (e) drive nails, tacks, pins or screws into any of the woodwork or walls of the building without the written permission of the Council;
- (f) erect internal or external decorations without permission in writing from the Council;
- (g) remove any piano from the floor of the building to the stage or vice versa, without the permission of the Council;
- (h) stand, loiter or cause any obstruction whatsoever in the entrance halls, exits or passageways of any buildings;

- (i) perform offensive impersonations or representations of living persons, or anything calculated to produce a disturbance, riot or breach of the peace; or
- (j) smoke in any area of the building.

### **35. Recovery of Costs**

The Council may recover the cost of cleaning or making good any damage to any reserve, building or its premises therein from a person who caused or contributed to the damage or the need for cleaning. The cost of cleaning or making good the damage may be deducted from any bond or deposit paid by the hirer of the building or property and the whole amount or excess over the amount of the bond or deposit may be recovered by the Council—

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

### **36. Obligations of Permission Holder**

The holder of permission to hire any building, furniture or other property shall—

- (a) maintain and keep such building, furniture or other property in good order;
- (b) be solely and entirely responsible for the carrying out of the provisions of this Part;
- (c) be solely responsible for any damage done to the building, furniture or other property;
- (d) pay such damages as shall be assessed by the Council for property damaged or not accounted. Such costs shall be paid for at the current replacement cost or the actual cost of repair if that is greater;
- (e) allow the CEO or any employee seeking to enforce these Local Laws or any other written law or otherwise acting in accordance with any written law and any member of the Police Force free ingress to the building;
- (f) if the hirer fails to allow ingress to the premises in accordance with the provisions of paragraph (e) of this Clause, the Council may at any time prior to or during the term of hire forbid and prevent the use or continued use of the building in addition to any other action the Council may take for the breach of this Part, and the Council shall not be held responsible to the hirer for any loss or damage incurred as a consequence;
- (g) in addition to any action taken against the hirer in accordance with paragraph (f) of this Clause, a hirer in breach of the provisions of this Part may be required by Council to forfeit any fee, bond or deposit or any portion thereof in relation to the hiring of the building, furniture or other property; and
- (h) if intending as part of the use of the premises to allow—
  - (i) the consumption of alcohol within the building or reserve, in addition to the permission to hire and any other licence or permission required under the law, obtain a permit from the Council; or
  - (ii) the sale of alcohol within the building or reserve in addition to the permission to hire, obtain an appropriate licence under the *Liquor Licensing Act 1988*.

### **37. Defacing Council Property**

No person unless authorised in writing by the Council shall—

- (a) post, stick, paint or write or cause to be posted, stuck, painted or written any placard, bill advertisement, sign or any other matter within or on any jetty, post, fence, gate, platform, wall or building or other property or premises of the Council;
- (b) deface any writing or printing on or attached to any board or any notice authorised to be maintained on any jetty or any fence or building upon the jetty, or premises of the Council; or
- (c) write any indecent words, draw any indecent or obscene pictures or representation on any part of the jetty.

### **38. Rubbish**

No person shall throw or cause to be thrown at or from or onto any Council property, any glass, stone or any other missile or any filth, dirt, rubbish or other matter of a similar nature.

## **PART V—ANIMALS IN PUBLIC PLACES AND BEE KEEPING**

### *Division 1—Animals Generally*

### **39. Unattended Animals**

- (1) The provisions of this Part shall not affect the operation of Part XX of the 1960 Act, and in the event of any inconsistency between the provisions of this Part and the provisions of Part VI of these Local Laws, the provisions of Part VI shall prevail.
- (2) Subject to the provisions of sub clause (3) of this Clause a person shall not permit an animal to remain unattended in a public place.
- (3) An animal may be secured in any portion of a public place wherein animals may lawfully be secured for the purposes of these Local Laws but only if secured for a period not exceeding one (1) hour unless the consent in writing of the CEO is first obtained.
- (4) Impounding—Where an Authorized Person or a member of the Police Force finds an animal unattended in a public place, contrary to the provisions of sub clause (2) or (3) of this Clause, he or she may remove the animal there from and shall thereupon place it in a pound in accordance with the provisions of Part VI.

(5) Fencing—The yard or place in which any cattle is kept shall be surrounded by fencing to at least the standard prescribed by Council but in any event shall be maintained to a standard adequate to contain the cattle so kept in all circumstances.

(6) Diseased Animals—A person shall not drive or ride or permit the driving or riding of an animal having a contagious or infectious disease in a street or other public place.

(7) The Council may cause any animal which is certified by a qualified veterinary surgeon or other suitably qualified person as having a contagious or infectious disease and which is in a street or other public place to be killed and its carcass disposed of at the expense of the person having the custody of the animal and to recover the expense from that person in a court of competent jurisdiction.

*Division 2—Bee Keeping*

**40. Bee Keeping**

(1) No person shall keep or permit to be kept, bees within a Gazetted townsite area without written approval from the Council.

(2) A written approval from the Council to keep beehives may be given with or without conditions and the person to whom the approval is given shall comply with such conditions.

(3) Notwithstanding sub clause (1) and (2) of this Clause, a person shall not keep or permit to be kept, bees in beehives on any lot within the District unless at all times—

(a) an adequate and permanent supply of water in a receptacle is provided on such lot within 3 metres of the beehive; and

(b) the beehive is kept not closer than 8 metres from any footpath, street or public place and not closer than 8 metres from the boundary of the lot.

(4) A person shall not keep or permit to be kept, bees or beehives on a footpath, street or public place.

(5) A person shall not keep bees in such a manner as to cause a nuisance.

(6) Whenever in the opinion of the Council a nuisance arises because of the keeping of bees, the Council may direct the occupier of the land to remove beehives from the land within a time specified in a written notice, and the occupier shall comply with any such direction.

**PART VI—DOGS**

*Division 1—Preliminary*

**41. Part VI Interpretations**

In this Part unless the context otherwise requires—

“**approved kennel establishment**” means any kennel or kennels, yards or yards, and communal exercise areas the subject of kennel licence issued pursuant to these Local Laws;

“**communal exercise area**” means an area on premises the subject of a kennel licence, constructed and fenced in accordance with these Local Laws wherein dogs may exercise;

“**kennel**” means a structure for housing a dog or dogs;

“**kennel compartment**” means a single kennel with an abutting yard;

“**kennel licence**” means a licence granted pursuant to these Local Laws;

“**leash**” includes a chain, cord, leash or harness no greater than 2 metres in length and of sufficient strength to restrain the dog on which it is used in all circumstances;

“**pound**” means any land including any enclosures or structures thereon, established or maintained by Council pursuant to the *Dog Act*;

“**yard**” means an area fenced and constructed in accordance with these Local Laws and abutting a kennel.

**42. Terms and Expressions**

Terms and expressions used in this Part shall—

(a) have the meanings given in Clause 41 which shall prevail over any other conflicting definition; and

(b) otherwise have the meanings given to them in the *Dog Act* which shall prevail over any conflicting definition in sub-section 2.1.1 of the Act; and

(c) otherwise be interpreted in accordance with Clause 8.

*Division 2—Impounding of Dogs*

**43. Pounds**

(1) The Council may establish and maintain a pound or pounds for the impounding of dogs seized pursuant to the provisions of the *Dog Act* or these Local Laws.

(2) Subject to Council’s power and discretion to establish and maintain a pound or pounds within its District, the pounds used by the Shire of Wyndham-East Kimberley, are established and maintained at locations as determined by the Council from time to time.

(3) If a person being the owner or a person apparently acting on behalf of the owner of a dog impounded claims the dog, then upon payment of the fee prescribed for the purpose by the Council from time to time (“the prescribed fee”) the dog shall be released to that person.

(4) The payment of fees in respect to the seizure, care, detention or destruction of a dog shall not relieve the owner of liability to a penalty under the *Dog Act* Regulations or these Local Laws.

(5) The fees and charges payable under Section 29(4) of the *Dog Act* in relation to seizure and impounding of a dog and maintenance thereof in pounds and fees payable by the owner of a dog, which has been destroyed pursuant to the provisions of the *Dog Act*, shall be those as prescribed by the Council from time to time.

*Division 3—Regulation of Commercial Dog Kennels*

**44. Kennels**

(1) Any application for a kennel licence shall be made in the form prescribed under the *Dog Act* or prescribed by the Council if no form is prescribed under the *Dog Act* and shall be accompanied by—

- (a) plans containing full details and specifications of all present and proposed kennels and yards on the premises and showing the distance from the kennels to the boundaries of land on which the premises are situated and showing the distance from the kennels to all buildings on the land;
- (b) details of the proposed maximum number of dogs to be kept in the kennel establishment; and
- (c) the prescribed fees.

(2) No person shall erect a kennel establishment until plans, specifications and the location plan showing the proposed site for the kennel establishment has been approved by the Council and is in conformity with the Shire of Wyndham-East Kimberley's Town Planning Scheme or any Local Law adopted by the Council.

(3) The Council acting in accordance with the provisions of the *Dog Act* may grant or refuse a kennel licence, or may grant a licence subject to conditions.

(4) On approving a kennel establishment, a licence in the prescribed form shall be issued upon payment to the Council of the annual licence fee, and—

- (a) the kennel licence may be renewed annually by the 30<sup>th</sup> June each year on payment of the prescribed fee; and
- (b) a kennel licence is not transferable.

(5) Duties of Licence Holder—The holder of a kennel licence or person occupying premises the subject of a kennel licence shall—

- (a) maintain all kennels, yards and communal exercise areas in a clean, sanitary and tidy condition;
- (b) dispose of all refuse, faeces and food waste daily in a manner approved by the Council;
- (c) take all practical measures for the destruction and prevention of fleas, flies and vermin; and
- (d) ensure that any dog measuring more than 30cm at the shoulder is provided with a kennel of minimum internal floor area of 1.5m<sup>2</sup>, such kennel to have a minimum width of 1m.

(6) Standards of construction—Each kennel shall be constructed according to the following standards—

- (a) no kennel compartment is to be constructed or used unless it has a minimum internal floor area of 1m<sup>2</sup> and a minimum width of 1m;
- (b) each kennel compartment shall have an abutting yard, equal to or greater in area than that of the kennel compartment it abuts;
- (c) each yard shall be securely fenced in accordance with Clause 45;
- (d) unless otherwise approved in writing by the Council—
  - (i) each kennel and yard shall be constructed no less than the following distances from a lot boundary—
    - front boundary—15m
    - side boundary—5m
    - rear boundary—7.5m; and
  - (ii) no kennel on a corner lot shall be constructed closer than 15m to a side boundary of that lot;
- (e) no kennel or communal exercise area shall be closer than 10m to any dwelling house;
- (f) all kennel compartment walls shall be constructed of flush jointed single brick or other material approved by the Council and shall be provided with a minimum 25mm coved radius between vertical walls and floors;
- (g) the floor of each kennel and yard shall not be less than 75mm higher than the surface level of the surrounding ground and be constructed of granolithic cement with a minimum thickness of 75mm, and reinforced with F42 steel reinforcing mesh;
- (h) a kennel compartment roof shall be constructed of impervious material and the internal height of each shall be at least 1.8m from the floor;
- (i) all kennel compartments and yard floors shall be graded to an open spoon drain. The drain shall be trapped and ventilated prior to discharging into an approved septic tank and effluent disposal system;
- (j) all surfaces of a kennel shall be maintained in a good condition and when directed by the Council shall be sealed or painted in an approved manner with material as specified by the Council; and

- (k) the holder of a kennel licence may construct a communal exercise area in addition to the prescribed yard subject to the following—
  - (i) the area shall be securely fenced in accordance with Clause 45; and
  - (ii) all gates to the communal exercise area shall be provided with proper catches or means of fastening.

*Division 4—Fencing*

**45. Fencing Requirement**

- (1) The owner or occupier of premises within the District in which a dog is kept shall cause portion of those premises on which the dog is kept to be fenced in a manner capable of containing the dog to that portion and is in accordance with the provisions of this Clause.
- (2) The fence used to confine the dog and every part of the fence shall be of a type, height and construction, which having regard to the breed, age, size and physical condition of the dog, shall be capable of preventing the dog at all times from passing over, under or through it.
- (3) Where a gate forms part of the fence the gate shall—
  - (a) be kept closed at all times except when the dog is not kept on the premises; and
  - (b) be fitted with—
    - (i) an effective self-closing mechanism;
    - (ii) an effective self latching mechanism attached to the inside of the gate; and
    - (iii) a mechanism, which enables the gate to be permanently locked.
- (4) In reference to sub clauses (1) to (3) of this Clause the term “fence” includes a wall.

*Division 5—General*

**46. Miscellaneous Provisions**

- (1) Prohibited places - A person liable for the control of a dog shall prevent that dog from entering or being in or on any of the following places—
  - (a) a shop or business premises, with the exception of a veterinarian or a shop or business premises where dogs are sold;
  - (b) a public building - the provisions of this Clause do not apply to a person who is accompanied by a guide dog; or
  - (c) Airport.
- (2) The person liable for the control of a dog who permits the dog to excrete on any street or public place or on any other land within the District without the consent of the occupier commits an offence unless the excreta is removed forthwith and disposed of either on private land with the consent of the occupier or placed in a receptacle provided for that purpose.
- (3) The owner or occupier of any premises within the District shall not keep, permit or suffer to remain thereon more than two (2) dogs over the age of eighteen (18) weeks and the young of those dogs under that age unless—
  - (a) the premises are on land situated within a part of the District where kennels are permissible under a Town Planning Scheme of the Shire of Wyndham-East Kimberley; and
  - (b) the premises are licensed as an approved kennel establishment.
- (4) Dog exercise areas—
  - (a) the public places described in Schedule “A” of this Part being placed under the care control and management of the Council are hereby specified as Dog Exercise Areas for the purposes of Sections 31 and 32 of the *Dog Act*; and
  - (b) a notice may be erected in a conspicuous position on or at the entrance to a reserve or other public place advising whether or not it is a dog exercise area. Where the Council adds a reserve to those detailed in Schedule “A” of this Part, the additional reserve shall for all purposes of enforcement or otherwise be treated as if it was listed in Schedule “A” of this Part.
- (5) A dog in an exercise area shall be controlled in accordance with the provisions of Section 32 (2) of the *Dog Act*.
- (6) Any person who contravenes or fails to comply with any of the provisions of this Clause commits an offence and may be issued with an Infringement Notice and shall upon conviction in a court of competent jurisdiction be liable to a penalty prescribed under the *Dog Act* for penalties under Local Laws.

***Schedule A***

**Dog Exercise Areas**

1. The whole of the Shire of Wyndham-East Kimberley outside of Gazetted townsites except areas signed as prohibited dog exercise areas.
2. Areas within Gazetted townsites only as prescribed by the Council from time to time and signed appropriately.



**PART VII—JETTIES***Division 1—Preliminaries***47. Part VII Interpretations**

In this part unless the context otherwise requires—

“**jetty**” means any jetty, pier, wharf or landing place which is in or adjacent to the sea or any lake, river or estuary; and under the care, control or management of the Council;

“**motor boat**” means a vessel propelled by any means other than oars or sail and includes a speed boat and a sailing vessel which is equipped with propelling machinery and propelled by mechanical power;

“**owner**” means the person who is the lawful owner or the person entitled to possession of any vessel, vehicle, cargo, property or chattel.

**48. Terms and Expressions**

Terms and expressions used in this Part shall—

- (a) have the meanings given in Clause 47 which shall prevail over any other conflicting definition; and
- (b) otherwise have the meanings given to them in accordance with Clause 8.

**49. Application**

The provisions of this Part shall apply throughout the District and to those areas defined in Part I Clause 5 of these Local Laws and to all property vested in or under the care control or management of the Shire of Wyndham-East Kimberley unless stated otherwise in the provision.

*Division 2—Use of Jetties***50. Use of Jetties**

- (1) No person shall land at, use or enter the jetty except in accordance with these Local Laws.
- (2) No person shall land at, use or enter the jetty when it is under construction, under repair or is closed by order of the Council.

**51. Moored Vessels to Jetty**

- (1) No vessels shall be moored or made fast to the jetty or any part thereof except for the purpose of and during—
  - (a) embarking and disembarking of passengers; or
  - (b) whilst loading and unloading a vessel from a trailer.
- (2) No person shall cause any obstruction on or to any public steps or landing place for passengers on or at the jetty or impede the free passage of other persons on or along such steps or places.

**52. Vessels Not to Remain at Jetty**

Any vessel fastened to or alongside the jetty shall be removed forthwith on order for removal being given by an Authorised Officer of the Council.

**53. Damage to Jetty**

- (1) Without prejudice to the liability of other persons, if any, the owner of a vessel is personally responsible for all damage to the jetty caused by a person.
- (2) Where damage to the jetty is caused by an owner or by a person, the Council may repair the damage and the cost of such repair shall be a debt due to the Council and payable by the owner and may be recovered in a court of competent jurisdiction.

**54. Fishing from Jetty**

- (1) No person fishing from the jetty shall obstruct, delay or interfere with the free movement of vessels approaching or leaving the jetty.
- (2) No person fishing from or using the jetty shall cause a nuisance on the jetty.
- (3) No person shall cause a nuisance to persons on or using the jetty or impede vessels using the jetty.

**55. Obstruction of Jetty or Officer**

- (1) No person shall place or cause to be placed on the jetty any obstruction without permission in writing of the Council.
- (2) No person shall obstruct, any representative, officer or workman of the Council in constructing, repairing, adding to or working on the jetty.

**PART VIII—OPERATION OF REFUSE AND RECYCLING FACILITY***Division 1—Preliminary***56. Part VIII Interpretations**

In this Part unless the context otherwise requires—

“**Facility**” means the property and buildings at any Council landfill site;

“**flora and fauna**” have the meanings given to them in Section 6 of the *Wildlife Conservation Act 1950*;

“**Site Controller**” means an Authorised Officer or contractor charged with the conduct of operations at the Landfill Site Facility and includes any person acting in that position;

“**to deposit waste**” includes dumping, to dispose of or in any way to place or leave waste at the facility;

“**waste**” means all manner of material discarded, as being not longer required by the person owning or in possession of that material.

### **57. Terms and Expressions**

Terms and expressions used in this Part shall—

- (a) have the meanings given in Clause 56 which shall prevail over any other conflicting definition; and
- (b) otherwise be interpreted in accordance with Clause 8.

#### *Division 2—Fees and Hours of Operation*

### **58. Fees and Hours of Operation**

(1) The Council may from time to time set by resolution a scale of fees and charges payable for admission to the Facility for the purpose of depositing waste. Such scale of fees and charges may specify charges, which may vary according to the class of waste being deposited.

(2) Unless otherwise authorised in writing by the CEO, no person shall deposit waste at the Facility without first having paid the prescribed admission fee or charge.

(3) Council may from time to time set the hours of operation of the Facility and may advertise such hours of operation by public notice.

#### *Division 3—Obligations of Persons Using Facility Property*

### **59. Obligations of Persons Using Facility Property**

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

(2) No person shall deposit waste at the Facility other than—

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

(3) No person shall remove any waste from the Facility without prior written authorisation from the Site Controller.

(4) No person shall deposit any liquid waste at the Facility without prior written authorisation from the Site Controller.

(5) No person shall deposit at the Facility any waste that is toxic, poisonous or hazardous, or the depositing of which is regulated or prohibited by any statute.

(6) Any person convicted of an offence against sub clauses (4) or (5) of this Clause shall, in addition to any penalty imposed and costs awarded, be liable to Council for the costs of removing and lawfully disposing of such liquid, toxic, hazardous or poisonous waste, and for making good any damage caused to the Facility and for any other expenses incurred by Council, as a result of the illegal depositing.

#### *Division 4—Care of Facility*

### **60. Care of Facility**

(1) No person shall light a fire within the Facility unless authorised to do so by the Site Controller in accordance with the *Shire of Wyndham-East Kimberley Health Local Laws* and all other relevant laws.

(2) No person shall remove from or otherwise damage flora on the Facility unless authorised by the Site Controller.

(3) No person shall trap, chase, worry or otherwise injure or maim any fauna at the Facility, unless authorised by the Site Controller.

(4) No person shall damage, deface or destroy any building, sign, plant or equipment or property of the Council situated in and on the Facility.

#### *Division 5—Conduct on Facility*

### **61. Conduct on Facility**

(1) All persons entering the Facility shall be subject to these Local Laws.

(2) The drivers of all vehicles entering the Facility shall comply with any speed limit signs erected by the Council on the Facility.

#### *Division 6—Council Exempt from Fees*

### **62. Council Exempt from Fees**

The provisions of these Local Laws requiring payment of fees, do not apply to the deposit of waste, owned by, or in the possession of the Council.

**PART IX—QUARRYING, EXCAVATING AND BLASTING***Division 1—Preliminary***63. Part IX Interpretations**

In this Part unless the context otherwise requires—

“**excavation**” in its substantive sense includes a quarry and when used as a verb includes the activity of quarrying, and in a like manner the term refers to any other process or activity for removal of substances from the earth;

“**excavation licence**” means a licence to carry out on an extractive industry issued in accordance with this Part;

“**excavation site**” means a defined area of land upon which an extractive industry is, or is proposed to be carried on;

“**extractive industry**” means an industry or process or any other activity whatsoever involving the quarrying, excavation or other removal whatsoever from its natural state in the earth of any material;

“**material**” means any stone, gravel, sand, clay, limestone, loam or any other substance of a like kind.

**64. Terms and Expressions**

Terms and expressions used in this Part shall—

- (a) have the meanings given in Clause 63 which shall prevail over any other conflicting definition; and
- (b) otherwise be interpreted in accordance with Clause 8.

**65. Application**

The provisions of this Part do not apply to the carrying on of an extractive industry on Crown land.

*Division 2—Licensing Provisions***66. Licensing**

(1) **Excavation Licence Required**—A person shall not, without an excavation licence first having been issued by the Council under this Clause, carry on any extractive industry on any land within the District.

(2) **Blasting Permits**—A Blasting Permit must be obtained from Council before any blasting is carried out.

(3) An applicant for an excavation licence shall provide the Council with such additional information concerning the proposed excavation as the Council may reasonably require over and above the planning approval.

(4) An application for an excavation licence must be accompanied by—

- (a) evidence that the applicant has served notice by certified mail on—
  - (i) every owner or occupier of land within 300 metres from the property boundary of the excavation site advising that application is being made and that such owner may within 14 days of service of such notification lodge with the CEO a written objection to the granting of the application; and
  - (ii) every Authority or the person having control or jurisdiction over any power lines or telephone cables or pole, or pylons in respect thereof, public or private easements, sewers, pipelines, reserves, bridges, railway lines, dams, water courses, drains or sumps within 300 metres from the boundaries of the property of the excavation site;
- (b) evidence that the applicant advertised notice of the intended application in the newspapers circulating within the District on a date not less than one month or more than two months prior to the date upon which the application is lodged with the CEO;
- (c) copies of all planning approvals required under any Town Planning Scheme with respect to the proposed carrying out of the extractive industry; and
- (d) a plan showing the site of the proposed excavation with contours and levels and the extent of the proposed excavation and its distance from the nearest buildings, roads and footpaths.

(5) **Discretion**—The Council may in its discretion issue or refuse to issue a licence or issue a licence subject to such conditions as it thinks fit.

*Division 3—Conditions***67. Conditions**

(1) **Imposition of Conditions on Licence**—Without limiting the generality of Clause 66(5) the Council may impose conditions on an excavation licence relating to any or all of the following which will be over and above the planning conditions—

- (a) the hours during which excavation work may be carried out;

- (b) the hours during which blasting operations may be carried out;
- (c) the hours during which any processing plant associated with, or located on, the excavation site may be operated;
- (d) the depths below which a person shall not excavate;
- (e) distances from adjoining land or streets within which a person shall not excavate;
- (f) the safety of persons employed at the excavation site;
- (g) 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;
- (h) the drainage of the excavation site and the disposal of water therein;
- (i) the restoration and reinstatement of the excavation site, including, but without limiting the generality of the foregoing, the provision of a reinstatement plan and programme and the provision in the form satisfactory to the Council of a bond, bank guarantee or other security to guarantee the reinstatement of the site to a condition satisfactory to the Council;
- (j) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
- (k) requiring the licensee to enter into an agreement with the Council in respect of any condition or conditions imposed;
- (l) distances from adjoining land or streets within which a person shall not excavate;
- (m) requiring the licensee to furnish to the Council a Surveyor's certificate each year one month prior to the annual fee being payable to certify that material has not been excavated below the final contour levels outlined within the approved excavation programme;
- (n) otherwise regulating the carrying on of an extractive industry; and
- (o) approved haulage routes to be used.

(2) Without limiting the generality of paragraph (k) of sub clause (1) of this Clause Council may, before granting any licence under these Local Laws, require the applicant to enter into an agreement for the payment to the Council of a sum of money, being the expense estimated by the Council as likely to be incurred by it, in repairing and maintaining roads under its control in the neighbourhood of the proposed excavation by reason of extraordinary damage, as a result of heavy or extraordinary traffic conducted by the licensee or any person acting on the licensee's behalf in the exercise of the licence, if granted; and any such agreement shall be deemed to have been entered into under the provisions of Section 85(1) of the *Road Traffic Act, 1974*.

(3) The due observance of any agreement entered into by the applicant pursuant to sub clause (2) of this Clause shall be a condition of the granting and holding of the licence.

(4) In the event of a disagreement between the applicant and the Council as to the amount of the expense estimated by the Council pursuant to these Local Laws, that disagreement shall be referred to the Minister whose decision shall be binding on both the applicant and the Council.

(5) A person to whom a licence has been issued under this Part shall ensure that the provisions of these Local Laws and any conditions of such licence are observed at all times. If any provision of these Local Laws or any condition of a licence is not observed and complied with that person commits an offence against these Local Laws and in addition to any other penalty which might be imposed under these Local Laws, if the default continues for 14 days after the service on the licensee of a written notice of the default, the Council may by further written notice cancel the licence.

(6) Default Under Agreement—Where an agreement has been made between the licensee and the Council in accordance with paragraph (k) of sub clause (1) or (3) of this Clause and there is default in complying with any of the terms of the agreement which continues following the expiration of a period of 14 days from service upon the licensee of written notice from the Council of such default, the licensee commits an offence against these Local Laws and in addition to any other penalty which might be imposed under these Local Laws or any other order, the Council may by further written notice cancel the excavation licence of the defaulting licensee.

#### **68. Form**

An excavation licence issued under this Part, shall be in accordance with the form (if any) prescribed by the Council for the purpose.

#### **69. Transfer of Licence**

(1) A licence issued under this Part shall not be transferred to another person except with the written consent of the Council and such additional conditions as the Council may impose.

(2) Every application to transfer a licence shall be in the form as prescribed by the Council from time to time and shall be signed by both the transferor and transferee, and shall be accompanied by a consent in writing to the application signed by the owner of the excavation site where the applicant is not the owner of the excavation site. Without limiting the discretion of the Council in that regard, the Council may refuse to transfer a licence to a person who has failed to comply with a condition of any excavation licence issued by the Council, or who has defaulted under an agreement with the Council relating to excavation.

#### **70. Term of Licence**

An excavation licence issued under this Part shall be valid for a term not exceeding 5 years from the date of issue as the Council at that date determines and may in the discretion of the Council be renewed thereafter by the Council for a further term or terms. Without limiting the discretion of the Council in that regard, the Council may refuse to renew a licence on the application of any person

who has failed to comply with a condition of the licence, or who has defaulted under an agreement with the Council relating to excavation or breached a duty under Clause 75. The refusal of renewal shall not excuse the licensee from the obligation to comply with the conditions on the licence previously issued, or from compliance with the provisions of any agreement with the Council.

#### **71. Cancellation**

If a licensee fails to comply with any condition of an excavation licence or breaches a duty provided in Clause 75, the Council after giving reasonable notice, may cancel the licence.

#### **72. No Compensation**

The Council's refusal to transfer a licence under Clause 69, refusal to renew a licence under Clause 70, or cancellation of a licence under Clause 71 shall not give rise to any claim for compensation or damage.

#### **73. Fees**

The fees to be charged for an application for licence and for every renewal thereof and for an application to transfer a licence shall be as prescribed by the Council from time to time. No licence is valid until the fees have been paid.

#### *Division 4—Duties of Licensee*

#### **74. Duties of Licensee**

(1) A licensee shall, subject to conditions imposed by the Council pursuant to this Part—

- (a) not remove any tree or shrub within 40 metres (or such lesser distance specified as a condition of the excavation licence) of the boundary of any road reserve on land in respect of which an excavation licence has been granted, except for the purpose of constructing access roads or erecting buildings for use in connection with the excavation and then only with the express approval of the Council;
- (b) securely fence the excavation and keep the gateways locked when not actually in use in order that unauthorized persons will not enter the excavation. Provide signage on the fence indicating danger, quarry site, every 100m;
- (c) drain and keep drained the excavation site in such a manner as to prevent the accumulation of water therein;
- (d) refrain from carrying out blasting operations in or about an excavation site on Christmas Day and Good Friday and except between the hours of 8.00 a.m. and 5.00 p.m. Mondays to Saturdays (inclusive);
- (e) refrain from carrying out conducting excavation for the purpose of recovering any material between the hours of 7.00 p.m. and 7.00 a.m.;
- (f) take all reasonable steps to prevent the emission of dust, noise and other forms of nuisance from the excavation site;
- (g) not excavate otherwise than in accordance with the terms of the application and accompanying site plans and excavation and management programmes approved by the Council;
- (h) restore, and reinstate the excavation site in accordance with the terms of the application and accompanying site plans and excavation and management programmes approved by the Council;
- (i) give the Council at least 7 days written notice of his or her intention to—
  - (i) temporarily cease operations for a period of 12 months or more; or
  - (ii) to cease operating under his or her licence permanently;
- (j) unless an exemption is given in writing by the Council, ensure that all crushing or other treatment plant is enclosed within suitable buildings or otherwise treated to reduce noise, dust and any other emissions whatsoever to the point where they do not cause nuisance or disturbance to the occupiers or users of any neighbouring properties;
- (k) comply with the safe working provisions of the *Mines Regulations Act, 1946*; and
- (l) apply for a blasting permit for any blasting from Council.

(2) The conditions of the blasting permit shall be in accordance with Council policy relating to blasting and the permit shall be in accordance with the form as determined by Council.

#### **75. Rehabilitation of Site**

(1) Upon the expiration or cancellation of any excavation licence or the sooner cessation of any excavation work, the licensee shall ensure that—

- (a) the excavation is restored and reinstated in accordance with the proposals approved by the Council or in such manner, as the Council shall subsequently agree with the licensee in writing;
- (b) any face permitted to remain upon the excavation site is left safe to the satisfaction of the Council and with all loose materials removed there from, and the sides sloped to a batter of not more than 1:4;
- (c) the agreed floor level of the excavation site is graded to an even surface or otherwise in accordance with any excavation and rehabilitation programme approved by the Council; and
- (d) all dumps of stone, sand, ore other material are so left that no portion of that stone or other

material can escape onto land not owned or occupied by the licensee nor into any stream, water-course or drain that is not wholly situated within the land owned or occupied by the licensee.

(2) Upon satisfactory restoration and reinstatement of the excavation site by the licensee the Council shall refund any moneys paid by the licensee for that purpose.

(3) If the licensee does not carry out restoration and reinstatement of the excavation site at the licensee's own cost upon completion of the excavation or the expiration of the licence, the Council may—

- (a) apply monies deposited or otherwise secured by the licensee to the Council towards the restoration and reinstatement of the excavation site; and/or
- (b) forfeit the bond or guarantee obtained from the licensee for the purpose of restoration and reinstatement and apply the amount of the bond or guarantee forfeited or so much of that amount as is required, towards the carrying out of such restoration and reinstatement work.

## 76. General Conditions

Subject to any condition imposed by the Council in accordance with this Part, a person shall not without the written approval of the Council—

- (a) excavate within 20 metres of a boundary of any land not the subject of an excavation licence held by, and not owned by, that person;
- (b) excavate within 20 metres of any land affected by a registered grant of easement or 40 metres of any water course; or
- (c) excavate within a distance of 40 metres of any road reserve.

## PART X—STREETS AND PUBLIC PLACES

### *Division 1—Preliminary*

## 77. Part X Interpretations

In this Part unless the context otherwise requires—

“**carriageway**” means every part of a street used or intended for use by vehicles and includes footpath or kerb;

“**closed thoroughfare**” means a thoroughfare wholly or partially closed under Section 3.50 or 3.50A of the Act;

“**commercial vehicle**” means a motor vehicle constructed, fitted, adapted or used for the conveyance therein or thereon of any goods or merchandise or any materials used in any trade, business or industry;

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

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

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

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

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

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

“**motor vehicle**” in this Part means a self-propelled vehicle that is not operated on rails; and the expression includes a trailer, semi-trailer or caravan while attached to a motor-vehicle, but does not include a power assisted pedal cycle;

“**omnibus**” means a motor vehicle equipped to carry more than eight (8) adult passengers;

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

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

“**street**” and “**street alignment**” have the same meanings as given to “**thoroughfare**” in the Act;

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

“**acceptable material**” means brick, brick paving, concrete, stabilised gravel and concrete blocks;

“**verge treatment**” means any one of the three treatments permitted by these Local Laws and shall include any reticulation pipes and sprinklers.

**78. Terms and Expressions**

Terms and expressions used in this Part shall—

- (a) have the meaning given in Clause 77 which shall prevail over any other conflicting definition; and
- (b) otherwise be interpreted in accordance with Clause 8.

**79. Application**

(1) Nothing in this Part shall be construed so as to inhibit or preclude an employee, contractor or agent of the Council carrying out his or her normal and lawful duties.

(2) Where before the coming into operation of these Local Laws a garden has been planted in the street, the owner or occupier of the land that abuts on that portion of the street in which the garden is planted shall ensure that the garden complies with the provisions of these Local Laws but is not required to obtain permission pursuant to these Local Laws.

*Division 2—Activities on Streets and Public Places***80. Prohibitions**

A person shall not—

- (a) stand a vehicle or permit a vehicle to stand so that any part of the vehicle is on the verge of any part of the road, that is to say, between the edge of the carriageway of that part of the road and the boundary of the road nearest to that edge, provided that the prohibition in this paragraph shall not apply to the occupier of premises adjacent to the verge or any part of a road or to a person authorised by the occupier of those premises to stand a vehicle on that verge unless by a sign adjacent or referable to that verge the standing of vehicles on that verge is prohibited but nothing in this paragraph shall authorise an occupier of premises adjacent to the verge of any part of a road or a person authorised by the occupier of those premises to stand any portion of a vehicle on or over a footpath;
- (b) park a caravan or trailer on a street verge for more than 4 hours consecutively or for more than 4 hours in a day unless between each period that the caravan or trailer is parked or allowed to remain stationary on the street verge has been removed from the street verge for at least 2 hours;
- (c) on a street verge repair, service or clean any vehicle;
- (d) plant a lawn or garden or permit a garden or lawn to grow on or over any footpath or carriageway;
- (e) grow or maintain any tree, shrub or plant on any part of a street which is thorny or which is or may be injurious to health;
- (f) water a lawn or garden in a manner or at any time as will or may occasion inconvenience or obstruction to any person using a carriageway or footpath;
- (g) plant any tree, shrub or plant, exceeding 0.75 metres in height or of a variety likely to exceed 0.75 metres in height in any part of a street situated within 6 metres of a junction or intersection;
- (h) except as otherwise authorised in this Part damage a lawn or garden or any part thereof or, if other than the owner or occupier or a person authorised by the owner or occupier of land abutting on part of a street in which a garden is planted, remove any flower, plant or shrub from that garden;
- (i) plant anything other than grass on any part of a street within 2 metres of the carriageway;
- (j) drive or stand a vehicle or animal on any lawn or garden unless with the consent of the owner or occupier of the land abutting that part of the street; or
- (k) place any household rubbish or garden waste of any kind in a "litter" bin provided by the Council for the use of the public.

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

**81. Activities Needing Permission**

A person shall not, without the permission of the Council—

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) drive any vehicle over or across a kerb or footpath except at a specially constructed crossing place;
- (c) drive a vehicle or permit a vehicle to be driven across a kerb or footpath if such vehicle is so heavy or is of such a nature that it causes or is likely to cause damage to the kerb or the paving of the footpath;
- (d) commit any of the following acts—
  - (i) leave an animal or vehicle or any part of a vehicle in a public place so as to obstruct any portion of that place except that an animal secured in any public place wherein animals may lawfully be secured and a vehicle parked in a public place wherein vehicles may lawfully be parked is not obstructing for the purposes of this Part unless, in the case of an animal it is secured for any period exceeding 1 hour unless the consent in writing of an Authorised Officer has first been obtained and, in the case of a vehicle (notwithstanding paragraphs (a) and (b) of Clause 80), it is so parked for any period exceeding 24 hours;

- (ii) cause any obstruction to or prevent vehicles or persons have the free unhindered use of any street, way or footpath;
- (iii) break up, damage, or destroy any street, way, footpath or other public place;
- (iv) throw, place or deposit any obstruction, building material, rubbish, vegetable substance, garden clippings or any offensive noxious or dangerous substance or utensils or glass or any litter on any public place;
- (v) light any fire or burn any rubbish or material on any public place; or
- (vi) fell any tree or significant vegetation on or across any public place;
- (e) in a street plant or maintain a lawn or a garden or plant a tree unless being the owner or occupier of land abutting that part of a street;
- (f) lay pipes under or provide taps in any street verge for watering a garden or lawn;
- (g) deposit, place or install any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark, sawdust or any other thing, whether of the same kind as, or a different kind from those here specified, on any part of a street; or
- (h) install a stock fence on a road reserve.

### **82. Application**

Every application for permission of the Council under Clause 81 shall be in writing in the form provided or prescribed by the Council for the purpose, and shall—

- (a) in the case of paragraph (e) of Clause 81 be made in the name of the owner or occupier of the land abutting the garden and shall be accompanied by a plan depicting the proposed lawn and garden or tree and in the case of a garden, setting out details of all trees, shrubs and plants, and the positions thereof in relation to the street alignment and the carriageway and to any footpath;
- (b) in the case of paragraph (g) of Clause 81 be made by the owner or occupier of the land abutting on that part of the street upon which the thing referred to in paragraph (g) of Clause 81 is proposed to be deposited, placed or installed and shall be accompanied by a plan depicting the location and details of anything proposed to be deposited, placed or installed in a street;
- (c) in the case of paragraphs (b) or (c) of Clause 81 specify the place at which such crossing is to be made and with the application pay to the Council a deposit of the amount prescribed by the Council from time to time; and
- (d) specify the name of the owner or occupier and such other information as is relevant and as the Council may request and any deposit requested to be lodged with the Council.

### **83. Discretion**

The Council may under this Part in its discretion give or refuse to give any permission or give any permission subject to such conditions as it thinks fit.

### **84. Conditions**

Where permission has been granted by the Council under this Part subject to conditions, the person to whom the permission has been granted shall ensure that the conditions are observed at all times. If any condition is not observed that person commits an offence against these Local Laws and the Council may by written notice cancel the permission.

### **85. Conditions for Pipe**

(1) Any permission to lay pipes pursuant to paragraph (f) of Clause 81 is subject to the following conditions, whether expressed in the permission or not, that the pipe—

- (a) is laid beneath the surface of the street to a depth of not more than 0.3 metres or less than 0.15 metres and so that any fitting connected to the pipe or pipes does not project above the surface of the street and any lawn;
- (b) if connected to a public water supply, is laid to comply with the requirements of the body constituted for and have the control of that supply;
- (c) if connected to a private supply, is constructed of PVC, polyethylene or other material approved by the Council; and
- (d) approved valves associated with the installation are located within the property where they are connected to the water supply and fitted so as to give complete control of the flow of water from that supply.

(2) Where a person, in the course of laying pipes pursuant to these Local Laws causes damage to any road, pavement, footpath or crossing, or to any water, gas or sewerage pipes, to any power or telephone cables, or to a fire hydrant, that damage may be made good by the Authority having control of the infrastructure damaged at the expense of that person or of the person on whose behalf the pipes were laid, and the amount of that expense may be recovered in any court of competent jurisdiction.

### **86. Conditions for Footpaths**

Any permission for the purpose of paragraphs (b) or (c) of Clause 81 is subject to the following conditions whether expressed in the permission or not to be performed by the applicant—

- (a) if the paved portion of the footpath is constructed of concrete slabs or brick paving the applicant shall carefully remove them from the footpath at the proposed crossing and neatly stack them on the adjoining land;



- (b) if the kerbing at the edge of the paved road is constructed of concrete kerbing blocks the applicant shall carefully remove them from the kerb at the proposed crossing and neatly stack them on the adjoining land so as not to cause an obstruction;
- (c) the applicant shall place in the position from which the slabs have been removed a temporary crossing of width and length equal to the paved portion of the footpath. The temporary crossing shall be constructed of compacted limestone or rock-base;
- (d) the applicant shall place in the position from which concrete kerbing has been removed a temporary crossing of one metre in length. The temporary crossing shall be constructed of compacted limestone or rock-base;
- (e) when the necessity no longer exists for the temporary crossing referred to in paragraphs (c) and (d) of this Clause or when called upon to do so by notice in writing from the Council, the applicant shall remove limestone or rock-base, replace the slabs, brick-paving or kerbing in a proper workmanlike manner to the Councils' satisfaction and shall replace with new slabs of equal quality and size any slabs which have been lost, damaged or broken;
- (f) the applicant shall make good all damage caused to the footpath and the kerbing, guttering and paved road during the whole of the time the works are in progress and in the event that damage shall have occurred and shall not have been made good, the Council may make good such damage and deduct the cost from the deposit;
- (g) if the cost of making good the damage referred to in paragraph (f) of this Clause exceeds the amount of the deposit the applicant shall pay to the Council on demand the amount by which the cost exceeds the amount of the deposit held, and in default of payment the Council may recover the excess in a court of competent jurisdiction; and
- (h) if no damage has been caused or if the damage has been made good to the satisfaction of the Council, the Council shall repay the deposit or the portion remaining after the costs incurred by the Council have been paid.

*Division 3—Eating Areas in Streets and Other Public Places*

**87. Prohibition**

A person shall not establish or conduct an eating area in a street or public place—

- (a) other than in a portion of a street or public place adjoining an eating house;
- (b) unless the person is the proprietor of the eating house referred to in paragraph (a) of this Clause;
- (c) unless the person is the holder of a valid and current licence issued under these Local Laws; and
- (d) otherwise than in accordance with the licence plan and any terms and conditions set out in, or applying in respect of the licence.

**88. Applications for Licence**

The proprietor of an eating-house seeking the issue of a licence to establish and conduct an eating area in a street or public place shall make application in accordance with the form as prescribed by the Council from time to time, together with—

- (a) the fees as prescribed by the Council from time to time;
- (b) two copies of a plan and specifications of the proposed eating area on a scale of 1:50 showing—
  - (iii) the location and dimensions of the proposed eating area and the means by which the eating area is to be separated from the balance of the street or public place; and
  - (iv) the position of all tables, chairs and other structures proposed to be provided in the eating area and which of such items, if any, are to be retained within the eating area at all times;
- (c) a colour photograph or photographs, or colour brochures of the tables, chairs and other structures to be set up in the eating area;
- (d) a written statement of the manner in which foodstuffs and other dining accessories are to be conveyed to, and protected from contamination within, the eating area;
- (e) a certificate of currency for a policy of insurance in the name of the applicant Council for public liability for a sum of not less than \$10,000,000.00; and
- (f) any other information that the Council considers necessary in the circumstances of the case.

**89. Determination of Application**

- (1) The Council may refuse to consider an application for a licence, which does not comply with the requirements of Clause 88.
- (2) The Council may in respect of an application for a licence—
  - (a) refuse the application; or
  - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the Council approves an application for a licence, it shall—
  - (a) issue a licence in accordance with the form as prescribed by the Council from time to time; and

- (b) cause to be attached to the licence a licence plan showing the area of a street or public place within which the eating area may be set up and conducted.
- (4) For the purposes of these Local Laws, a licence plan attached to a licence shall be deemed to form part of that licence.
- (5) A licence issued by the Council under these Local Laws is valid until the 30<sup>th</sup> of June of each year of issue unless it is sooner cancelled under these Local Laws.

#### **90. Terms and Conditions of Licence**

An outdoor area shall—

- (a) not obstruct pedestrian movement;
- (b) maintain a minimum clear footpath width of 2.0 metres at all times, except—
  - (i) in areas of low pedestrian volumes, a minimum width of 1.5 metres may be acceptable; or
  - (ii) in areas of high pedestrian volumes, a width greater than 2.0 metres shall be provided;
- (c) not normally require extension of the existing footpath, if any widening of the footpath is required it shall be at the full cost of the applicant and to the design and satisfaction of Council;
- (d) not obstruct sight lines for either vehicles or pedestrian;
- (e) not conflict with or inconvenience other retail and commercial activities, not obstruct the views of, or access to, adjacent properties. If in the opinion of Council such a problem may arise, council may consult with the owners and/or occupiers of the affected premises before reaching a decision on the application;
- (f) have tables, chairs and other structures designed to ensure that they are unable to be blown over or dislodged under normal climatic conditions. Umbrellas should be fixed to a mass table;
- (g) not have tables and chairs fixed in a manner to the footpath or any other structure. If this is requested by the applicant, fixing may be considered if—
  - (i) there are positive benefits to the public;
  - (ii) detailed conditions on the method of the fixing is provided; and
  - (iii) the costs and any subsequent removal and restoration being borne by the licence holder;
- (h) have adequate provision for the disposal of all rubbish, foodstuffs and cigarette ends; and
- (i) not serve alcohol until the relevant approval has been obtained from the Liquor Licensing Division of the Office of Racing and Gaming.

#### **91. Variation of Licence Conditions**

A licensee may apply in writing to the Council to vary or remove any of the terms and conditions of the licence.

#### **92. Renewal of Licence**

- (1) A licensee may apply in writing to the Council by the 30<sup>th</sup> June in each year for the renewal of the licence and shall submit with the application for renewal—
- (a) fees as prescribed by the Council from time to time; and
  - (b) a certificate of currency for a policy of insurance in the name of the applicant Council for public liability for a sum of not less than \$10,000,000.00 for the renewal period.
- (2) Upon receipt of an application for the renewal of a licence, the Council, subject to sub clause (3) of this Clause, may—
- (a) refuse the application; or
  - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) If any application for the renewal of a licence is not received by the Council by the 30<sup>th</sup> June in the year prior to which the licence has been sought, the Council may refuse to consider the application.

#### **93. Transfer of Licence**

- (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) include any information that the Council may require to enable the application to be determined; and
  - (d) be forwarded to the CEO together with the fee prescribed by the Council from time to time.
- (2) Upon receipt of an application for the transfer of a licence, the Council may—
- (a) refuse the application; or
  - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the Council approves the application for transfer of a licence, the Council shall transfer the licensee by—
- (a) an endorsement on the licence to that effect signed by the CEO; and
  - (b) the issue of its consent prescribed by the Council for the purpose.
- (4) Where the Council approves the transfer of a licence it shall not be required to refund any part of the fee or charge paid by the former licensee.

**94. Cancellation of Licence**

- (1) The Council may cancel a licence where the licensee has—
  - (a) been convicted of an offence against—
    - (ii) these Local Laws;
    - (iii) the *Health Act 1911*; or
    - (iv) any other law relating to the setting up or conducting of eating areas; or
  - (b) transferred or assigned or attempted to transfer or assign the licence without the consent of the Council.
- (2) Where the Council cancels a licence under this Division—
  - (a) the Council 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 Council shall not be required to refund any part of the fee or charge paid by the licensee in respect of the cancelled licence.

**95. Obligations of Proprietor**

- (1) A proprietor shall—
  - (a) ensure that the eating area is conducted at all times in accordance with the provisions of these Local Laws;
  - (b) ensure that the eating area is kept in a clean and tidy condition at all times;
  - (c) maintain the chairs, tables and other structures set up in the eating area in good and serviceable condition at all times;
  - (d) comply with all relevant Health Legislation prescribed in the *Health Act 1911* and associated regulations and Local Laws; and
  - (e) display licence in a conspicuous place in the adjoining eating house and whenever requested by an Environmental Health Officer to do so shall produce to him or her the licence.
- (2) Whenever, in the opinion of the Council, any work is required to be carried out as a result of the setting or conduct of an eating area, the Council may give notice to the proprietor of that eating area to carry out that work within the time limited by the notice.
- (3) A proprietor who neglects or refuses to comply with a notice given under sub clause (2) of this Clause commits an offence.
- (4) Where a proprietor neglects or refuses to comply with a notice given under these Local Laws, the Council may do the work required by that notice to be done and recover from the proprietor, in a court of competent jurisdiction, the expense incurred by it in so doing.
- (5) In this Part, "work" includes the removal, alteration, repair, reinstatement or construction of a street or footpath or any part of a street or footpath arising from or in connection with the setting up or conduct of an eating area.

*Division 4—Removal of Animals, Vehicles and Other Things***96. In Public Places**

- (1) The provisions of this Clause shall not affect the operation of any other provision in the Act which latter provisions shall prevail in the case of any inconsistency.
- (2) Where any Authorised Person or a member of the Police Force finds an animal or vehicle left in a public place, contrary to the provisions of this Part that person may remove the animal or vehicle there from and shall thereupon—
  - (a) in the case of an animal, place it in a public pound and deal with it according to law; or
  - (b) in the case of a vehicle, place it in a place appointed by the CEO for that purpose.

**97. Obstructions**

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

*Division 5—Shopping Trolleys***98. Abandoned Shopping Trolleys**

- (1) A shopping trolley that has been left unattended, shall for the purpose of this Clause, be deemed to be abandoned.
- (2) Subject to the provisions of the Act, the Council may seize any shopping trolley that has been abandoned for a period in excess of 60 minutes in any street or way or other place under the care, control and management of the Council.
- (3) Any shopping trolley seized under this Clause shall be dealt with in accordance with Part XIX Division 2.

*Division 6—Driving on a Closed Thoroughfare***99. No Driving on Closed Thoroughfare**

- (1) A person shall not drive or take a vehicle on a closed thoroughfare unless—
- (a) it is in accordance with any limits or exceptions specified in the order made under Section 3.50 of the Act; or
  - (b) the person has first obtained a permit.
- (2) Where damage to the thoroughfare is caused by a vehicle driven by an owner or by a person employed by him the Council may repair the damage and the cost of such repair shall be a debt due to the Council and payable by the owner and may be recovered in a court of competent jurisdiction.

*Division 7—Verge Treatments***100. Permissible Treatments**

- (1) The owner or occupier of land abutting onto a street may on the street in front of such land install any one of the following three treatments—
- (a) **treatment One**—Plant and maintain a lawn;
  - (b) **treatment Two**—Plant and maintain a garden in conjunction with a lawn provided that this is in accordance with Councils' Policy in place at the time and written application has been made and approval given; or
  - (c) **treatment Three**—Install a hard verge over portion of the area of the verge (excluding any crossover) with an acceptable material and plant and maintain either a lawn or a garden on the balance provided that this is in accord with Councils' Policy in place at the time and written application has been made and approval given.
- (2) An owner or occupier who installs and maintains a verge treatment shall—
- (a) indemnify the Council against all or any damage or injury caused to any person or thing including any street, pavement, footpath or crossing of any pipe or cable and shall make good at such owners' or occupiers' expense all such damage caused;
  - (b) keep the verge treatment in good and tidy condition and ensure, where the verge treatment is a garden or a lawn that no obstruction of any sort is caused to any footpath, pavement or street;
  - (c) lay, install or pave a hard surface with an acceptable material only;
  - (d) not place any obstruction on or around any verge treatment; and
  - (e) not water or maintain a verge treatment in such a manner as to cause a nuisance or inconvenience to any other person and in particular any person using any street or footpath or access way adjoining the verge.

**101. Council's Powers of Enforcement**

- (1) The Council may by notice require the owner or occupier of any land to make good in the time period specified in the said notice any breach of these Local Laws and failure to do so shall be an offence.
- (2) Where an owner or occupier who has been served with a notice pursuant to these Local Laws fails to make good the breach complained of then the Council may at the sole cost of the owner or occupier, itself make good the breach and recover the costs involved from the owner or occupier in a court of competent jurisdiction.

**102. Powers to Carry out Public Works on Verges**

- (1) For the purpose of carrying out any works for the purpose of making good any breach of these Local Laws the Council or any other Authority empowered by law to dig up a street, may, without being liable to compensate any person, dig up all or any part of a street and disturb any verge treatment placed thereon by an owner or occupier.
- (2) Where pursuant to these Local Laws a street verge treatment is dug up or disturbed, Council shall use its best endeavours to—
- (a) replace and restore any reticulation pipes and sprinklers; and/or
  - (b) backfill with sand any lawn area or garden, but otherwise shall not be liable to replace or restore any verge treatment and in particular any plant or other vegetation or any hard surface, and Council shall in any event not be liable to any person for any damage or disturbance so caused.

**PART XI—HAWKERS, STALLHOLDERS, STREET TRADERS AND ITINERANT FOOD VENDORS***Division 1—Preliminary***103. Part XI Interpretations**

In this Part, unless the context otherwise requires—

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

“**hawker**” means a salesman, vendor, pedlar or other person who, with or without any vehicle, travels and trades and goes from place to place or to other persons’ houses soliciting orders for or carrying to sell or exposing for sale any goods, ware or merchandise but does not include commercial travellers or other persons selling or seeking orders for goods, wares, or merchandise to or from persons who are dealers therein;

“**itinerant food vendor**” means a person who travels along the road looking for customers and who sells food from his vehicle parked temporarily on the road to customers who stop him or come to him while he is so parked;

“**stall**” means a moveable or temporarily fixed structure, stand or table and including but without limiting the generality of the foregoing a vehicle, on or from which goods, wares, merchandise or services are sold, hired, or offered for sale or hire;

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

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

#### **104. Terms and Expressions**

Terms and expressions used in this Part shall—

- (a) have the meanings given in Clause 103 which shall prevail over any other conflicting definition; and
- (b) otherwise be interpreted in accordance with Clause 8.

#### *Division 2—Licences*

#### **105. Hawkers**

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

#### **106. Stallholders**

A person shall not conduct a stall for the sale of goods, wares or merchandise within the District unless that person holds a current licence issued pursuant to these Local Laws.

#### **107. Traders**

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

#### **108. Itinerant Food Vendor**

An itinerant food vendor shall not offer for sale or sell food unless he or she—

- (a) is the holder of an itinerant food vendor’s licence issued by the Council; and
- (b) complies with any conditions to which the licence is subject.

#### **109. Application for Hawkers, Stallholders and Traders Licence**

Every application for a Hawkers, Stallholders and Traders Licence shall be in the form as prescribed by the Council from time to time.

#### **110. Application for Itinerant Food Vendor’s Licence**

(1) An application for an Itinerant Food Vendors’ Licence shall be in the form as prescribed by the Council from time to time by the proprietor or, where there is more than one proprietor, by each proprietor.

(2) The Council may approve the application, with or without conditions, or reject the application.

(3) A licence issued under this Clause shall be valid until 30<sup>th</sup> June next following the date of issue of the licence by the Council.

#### **111. Selling of Newspapers**

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

#### **112. Discretion**

(1) The Council may in its discretion under this Division grant a licence or refuse to grant a licence or grant a licence subject to such conditions as it thinks fit and for a period of 12 months or less but for not less than one month.

(2) The Council may refuse to issue a licence and may cancel a licence if the applicant or licensee does not conform to the requirements of the *Health Act, 1911*.

(3) The Council may refuse to issue a licence if—

- (a) in its opinion the needs of the District or the portion thereof for which the licence is sought are adequately catered for by established shops or by persons to whom licences have been issued;

- (b) the gathering of customers would impede pedestrian or vehicle movements, or cause conflict with other activities; and/or
- (c) the trading location is not provided with sufficient off-road parking so as to prevent a traffic hazard or danger to the public.

### **113. Conditions**

(1) Where a licence has been granted by the Council under this Part subject to conditions, the person to whom the licence has been granted shall ensure that the conditions are observed at all times. If any condition is not observed that person commits an offence against these Local Laws and the Council additionally or in the alternative to any court action it undertakes in respect of such offence may exercise the power in Clause 120 to cancel the licence.

(2) The Council may not issue or renew any hawkers, stallholders, traders or itinerant food vendor's licence until it has been provided with a certificate of currency for a policy of insurance in the name of the applicant Council for public liability for a sum to be specified by the Council.

### **114. Licence Certificate**

The Council shall issue to every licensee a licence certificate in the form provided or prescribed by the Council for the purpose for which the licensee shall pay the fee prescribed by the Council from time to time which shall be displayed by the licensee hawking, conducting a stall or trading as the case may be and while that person is the holder of a hawkers, stallholders, traders or itinerant food vendor's licence under this Part but not otherwise.

### **115. Transfer of Licence**

A licence issued under these Local Laws shall not be transferable.

### **116. Length of Licence**

A licence under this Part shall be valid until the 30th day of June next after it is granted or such lesser period as specified in the licence except where the licence is granted in the months of May or June when it shall extend to the 30th day of June in the year next following or such lesser period as specified.

### **117. Annual Renewal**

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

### **118. Fees**

The fees to be charged for an application for registration and for every renewal thereof and for an application to transfer a registration shall be those prescribed by the Council from time to time. No licence is valid until the fees have been paid.

### **119. Exemption**

(1) Notwithstanding Clause 118 the Council may grant without fee, a licence to conduct a stall in any street or way or on any land for any period specified in such licence if the stall or trading is conducted by a community association or if the trading is carried on in a portion of a street or public place adjoining the normal place of business of the licence holder.

(2) A licence granted to a hawker or trader is valid for the hawking or trading of the goods, wares, merchandise or services therein described only, and in the case of a licence limited to a part of the District, is valid for that part of the District only.

(3) The Council may in its absolute discretion and subject to such conditions as it thinks fit permit—

- (a) a particular class of stallholder; or
- (b) stallholders conducting stalls within particular premises or areas within the District,

to conduct a stall without a stallholders licence.

### **120. Cancellation of Licence**

The Council may by written notice cancel any licence issued under this Part for any of the reasons set out in Clause 112(2) or on the grounds—

- (a) that the licensee is not conducting the business the subject of the licence in a respectable or satisfactory manner;
- (b) that the licensee has assigned the licence or no longer carries on the business the subject of the licence;
- (c) that the licensee is not regularly carrying on the business for which the licence was granted;
- (d) that the licensee has breached a condition of the licence; or
- (e) that the proposed activity or place of trading is in the opinion of Council undesirable.

### **121. Return of Licence Certificate**

Upon cancellation of a licence the holder thereof shall forthwith return the licence certificate issued pursuant to Clause 114 to the CEO and shall forfeit fees paid in respect of the licence.

*Division 3—Conduct***122. Conditions**

A hawker whilst hawking, a stallholder while conducting a stall, a person carrying out trading or an itinerant food vendor shall—

- (a) display the licence certificate in a conspicuous place on the vehicle or temporary structure (in the case of a hawker, trader or itinerant food vendor) or on the stall (in the case of a stallholder);
- (b) have the name of the hawker (or his or her assistant where appropriate), stallholder, trader or itinerant food vendor displayed on the vehicle or stall;
- (c) when selling goods, wares or merchandise by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *Weights and Measures Act, 1915*; and
- (d) in the case of a stallholder, maintain the stall and any surrounding area in good order and conditions and free from litter.

**123. Consent of Council**

A hawker, stall-keeper, trader or itinerant food vendor shall not without obtaining the written consent of the Council—

- (a) hawk, conduct a stall or carry on trading between the hours of sunset and sunrise the next day, or on any, Christmas Day or Good Friday;
- (b) attempt to conduct business within a distance of 100 metres of any shop or permanent place of business that has for sale any goods, wares, merchandise or services of the kind being hawked or offered for sale by the stallholder, trader or itinerant food vendor;
- (c) deposit or store any box or basket containing goods, wares or merchandise under the vehicle of the licensee or upon the roadway or footpath;
- (d) obstruct the free passage of pedestrians or vehicles on any footpath or roadway;
- (e) act in an offensive manner; or
- (f) use any flashing or intermittent light apparatus or device in connection with the stall or trading.

**PART XII—PARKING AND PARKING FACILITIES***Division 1—Preliminary***124. Part XII Interpretations**

(1) In this Part, unless the context otherwise requires—

“**bicycle**” means any two wheeled, three wheeled or four-wheeled vehicle that is designed to be propelled solely by human power;

“**built up area**” has the meaning as shown at Section 103(1) of the *Road Traffic Code 1975*;

“**bus**” means omnibus within the meaning of the *Road Traffic Act*;

“**carriageway**” means every part of a street used or intended for use by vehicles and includes kerbs;

“**children’s crossing**” has the meaning as shown at Section 103(1) of the *Road Traffic Code 1975*;

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

“**driver**” means a person in control of a vehicle or animal;

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

“**intersection**” means the area contained within the prolongation or connection of the lateral boundaries of the carriageway of two or more streets that meet one another at, or approximately at, right angles, or the area within which vehicles, travelling by, on, or from different streets that meet at any other angle, may come into conflict;

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

“**median strip**” has the meaning as shown at Section 103(1) of the *Road Traffic Code 1975*;

“**motor vehicle**” means a self-propelled vehicle that is not operated on rails and the expression includes a trailer, semi-trailer or caravan while attached to a motor vehicle, but does not include a power assisted pedal cycle;

“**motorcycle**” means a motor vehicle that has two wheels or where a sidecar is attached thereto has three wheels;

“**No Parking Area**” means a portion of a carriageway that lies—

- (a) between two consecutive signs inscribed with the words: “No Parking” or a symbol or symbols to that effect, and each with an arrow pointing generally towards the other of them; or
- (b) between a sign inscribed with the words: “No Parking” or a symbol or symbols to that effect, and a dead end or an area in which standing is prohibited and that lies in the general direction indicated by an arrow inscribed on the sign;

“**No Standing Area**” means a portion of a carriageway that lies—

- (a) between consecutive signs inscribed with the words: “No Standing” or a symbol to that effect, and each with an arrow pointing generally towards the other of them; or
- (b) between a sign inscribed with the words: “No Standing” or a symbol to that effect, and a dead end of an area in which standing is prohibited and that lies in the general direction indicated by an arrow inscribed on the sign;

“**obstruct**” means to interfere with or impede or hinder the passing of any vehicle or person and “obstruction” has a corresponding meaning;

“**omnibus**” means a motor vehicle equipped to carry more than eight (8) adult passengers;

“**occupier**” means the person who has the right of exclusive possession of any land and without affecting the generality of the foregoing—

- (a) in the case of a residential property means a person who resides in and appears to be in control of the property; and
- (b) in the case of any other than residential property means a person who appears to be the proprietor, manager or to be in control of the land or a building on the land, or to be in control of the use thereof;

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

“**parking area**” means a portion of a carriageway that—

- (a) lies between two consecutive signs inscribed with the word: “Parking”; or a symbol or symbols to that effect, and each with an arrow pointing generally towards the other of them; or
- (b) extends from a sign inscribed with the word: “Parking”, or a symbol or symbols to that effect, in the general direction indicated by an arrow inscribed on the sign, to any other sign inscribed with the words: “No Parking” or “No Standing”, or symbols to that effect, or to a dead end of an area in which the parking or standing of vehicles is prohibited and is that half of the carriageway of the road nearest to the sign;

“**parking facilities**” includes land, buildings, shelters, metered zones, metered spaces, signs, notices, and other facilities open to the public, generally, for the parking of vehicles with or without charge;

“**parking region**” means the portion of the District constituted a parking region as defined in Part I Clause 6;

“**parking stall**” means a section or part of a street which is marked or defined by painted lines or by metallic studs or means similar devices, for the purpose of indicating where a vehicle may stand or be parked, whether on payment of a fee or charge or otherwise, but does not include a metered space;

“**parking station**” means any land, or structure provided for the purpose of accommodating vehicles with or without charge, but does not include a metered zone or metered space;

“**pedestrian crossing**” means a portion of the road designated by a sign where pedestrians can cross over the road with the right of way advantage over vehicles travelling on the road;

“**property line**” means a lateral boundary of the road reserve of a street;

“**public place**” includes a street, way or place which the public are allowed to use whether the street, way or place is or is not on private property. It shall also include parklands, squares, reserves, beaches and other lands set apart for the use and enjoyment of the inhabitants of the District and includes all lands vested in or under the care, control or management of the Shire of Wyndham-East Kimberley;

“**reserve**” means a public reserve as defined in the 1960 Act;

“**road**” means any highway, road, street, lane, thoroughfare or similar place open to, or used by the public and includes every carriageway, footpath, street verge, reservation, median strip, traffic island or similar place thereon which is within the parking region;

“**Road Traffic Act**” means the *Road Traffic Act 1974*;

“**sign**” means a traffic sign, mark, structure or device on which are shown words, numbers, expressions or symbols, under the care, control or management of the Council placed or erected on or near a road or reserve for the purpose of prohibiting, regulating, guiding or directing the standing or parking of vehicles;



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

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

“**street verge**” means that portion of the street which lies between the portion of a street that is improved, paved, designed or ordinarily used for vehicular traffic and the nearest property line;

“**symbol**” means a letter, figure, or other character or mark or a combination of letters or the like, used to represent something and without limiting the generality of the foregoing includes any symbol issued or specified by *Australian Standard 1742.11-1989* for use in the regulation of parking, and any reference to the wording of any sign in these Local Laws shall be also deemed to include a reference to the corresponding symbol;

“**taxi**” means a vehicle which—

- (a) is equipped to carry not more than seven (7) passengers; and
- (b) is used for the purpose of standing or plying for hire or otherwise for the carrying of passengers for reward;

“**thoroughfare**” has the meaning given to it in the Act;

“**ticket issuing machine**” means a parking meter which issues, as a result of money being inserted in the machine or such other form of payment as may be permitted to be made, a ticket showing the period during which it shall be lawful to remain parked in a metered space to which the machine is referable;

“**trailer**” means any vehicle without motive power of its own, designed for attachment to a motor vehicle for the purpose of being towed, but does not include the rear portion of an articulated vehicle, or a side car;

“**vehicle**” includes every conveyance not being a train, vessel or aircraft, and every object capable of being propelled or drawn on wheels by any means;

“**verge**” means the portion of a thoroughfare which lies between the boundary of a carriageway and the adjacent property line but does not include a footpath.

(2) For the purposes of the application of the interpretations “No Parking Area” and “Parking Area” an arrow inscribed on a traffic sign erected at an angle to the boundary of the carriageway is deemed to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the boundary.

(3) Unless the context otherwise requires, where a term is used, but not defined, in this Local Law, and that term is defined in the *Road Traffic Act* or in the Code, then the term shall have the meaning given to it in that Act or the Code.

### 125. Terms and Expressions

Terms and expressions used in this Part shall—

- (1) have the meanings given in Clause 124 which shall prevail over any other conflicting definitions; and
- (2) otherwise be interpreted in accordance with Clause 8.

#### *Division 2—Application*

### 126. Application of this Part

(1) The provisions of this Part of these Local Laws shall apply to the parking region and all parking facilities therein.

(2) The provisions in respect to parking on verges and obstruction of streets in Part X (Streets and Public Places) of these Local Laws shall be read with and apply to this Part, with the exception of Division 4 with all changes made that need to be made to make the provisions fully applicable.

(3) In this Part a reference to a word or words in a sign shall be taken to include a reference to a symbol or symbols to the same effect and a reference to a symbol shall be taken to include a reference to a word or words to the same effect.

### 127. Vehicle Classification

For the purpose of this Part vehicles are divided into classes as follows—

- (a) buses and omnibuses;
- (b) commercial vehicles;
- (c) motorcycles and bicycles;
- (d) taxis; and
- (e) all other vehicles not otherwise classified.

### 128. Application of Signs

(1) Where under this Part the standing or parking of vehicles in a street is controlled by a sign, that sign shall be read as applying to the part of the street including the street verge which—

- (a) lies beyond the sign;
- (b) lies between the sign and the next sign beyond that sign; and
- (c) is the side of the carriageway of the street nearest to the sign.

- (2) Any sign that—
- (a) was erected by the Commissioner of Main Roads prior to the coming into operation of this Part within the Shire of Wyndham-East Kimberley; and
  - (b) relates to the parking or standing of vehicles within the parking region,
- shall be deemed to have been erected by the Council under the authority of this Part.
- (3) A sign marked, erected, established or displayed on or near a road and purporting to be a parking control sign is, in the absence of evidence to the contrary presumed to be a sign marked, erected, established or displayed under the authority of these Local Laws.
- (4) The first three letters of any day of the week when used on a sign indicate that day of the week.
- (5) A sign associated with a no parking area, no standing area or parking area or a sign of a kind referred to in these Local Laws is limited in its operation and effect in respect of days, periods of the day, classes of persons, classes of vehicle, or circumstances to the extent, if any, shown on the sign.
- (6) Subject to sub clause (7) of this Clause, these Local Laws apply to the parking region.
- (7) These Local Laws do not apply to a parking facility or a parking station that is not occupied by the Council, unless the Council and the owner or occupier of that facility or station have agreed in writing that these Local Laws will apply to that facility or station.
- (8) The agreement referred to in sub clause (7) of this Clause may be made on such terms and conditions as the parties may agree.
- (9) Where a parking station is identified in a register kept by Council for that purpose, then the station shall be deemed to be a parking station to which these Local Laws apply and it shall not be necessary to prove that it is the subject of an agreement referred to in sub clause (7) of this Clause.

*Division 3—Parking on Street Verges and Private Property*

**129. Prohibition**

- (1) A person shall not stand or park or permit a vehicle to stand or be parked on land which is not a road or parking facility without the consent of the owner or occupier of that land.
- (2) Where the owner or occupier of the land, which is not a road or parking facility, by a sign referable to that land or otherwise consents to vehicles of a specified class or classes being stood or parked thereon or to vehicles being stood or parked thereon for a limited period, a person shall not stand or park or permit a vehicle to stand or be parked thereon if it is not of the specified class or for more than the time so limited as the case may be.
- (3) A person shall not stand or park, or permit to stand or be parked an omnibus or commercial vehicle so that any portion of the omnibus or commercial vehicle is on a street verge.
- (4) A person shall not stand a vehicle so that any portion of that vehicle is on the street verge—
- (a) during any period when the standing or parking of a vehicle on the road adjacent to such verge is prohibited, or is prohibited for more than a specified time; or
  - (b) during any period when the standing or parking of vehicles on that verge is prohibited by a sign adjacent or referable to that verge.
- (5) Subject to sub clause (3) and 4(a) and (b) of this Clause a person shall not stand a vehicle so that all or any portion of that vehicle is on the street verge, unless he or she is an occupier of the premises adjacent to that verge or is a person authorised by an occupier of those premises.
- (6) On those residential streets where parking restrictions are in force the driver of a commercial vehicle is exempt from the above provisions during any period the commercial vehicle is being loaded or unloaded with reasonable expedition with goods, merchandise or materials collected from or delivered to premises adjacent to the portion of the street verge on which the commercial vehicle is parked or stood, provided that the owner or occupier of the adjacent premises has consented to the standing or parking.

*Division 4—Standing and Parking Generally*

**130. Determination of Parking Stalls and Parking Stations**

The Council may by resolution constitute, determine and vary and also indicate by sign—

- (a) parking stalls;
- (b) parking stations;
- (c) permitted times and conditions of parking in parking stalls and parking stations which may vary with the locality;
- (d) permitted classes of vehicles which may park in parking stalls and parking stations;
- (e) permitted classes of persons who may park in specified parking stalls or parking stations; and
- (f) the manner of parking in parking stalls and parking stations.

**131. Manner of Parking**

- (1) No person shall stand a vehicle in a parking stall in a street otherwise than parallel to the kerb and as close thereto as practicable and wholly within such stall and headed in the direction of the movement of traffic on the side of the street on which the stall is situated, provided that where a

parking stall is set out otherwise than parallel to the kerb the provisions of these Local Laws other than the provision that a vehicle shall stand wholly within such space, shall not apply.

(2) No person shall stand or attempt to stand a vehicle in a parking stall in which another vehicle is standing, but these Local Laws does not prevent the parking of a motorcycle and a bicycle together in a stall marked "M/C" if the bicycle is parked in accordance with Clause 133.

### **132. Provisions for Commercial Vehicles**

(1) No person shall permit a vehicle to stand in a parking stall that is at the time set aside for use by commercial vehicles unless—

- (a) the vehicle is a commercial vehicle; and
- (b) some person is actively engaged in loading or unloading goods to or from the vehicle, and in any case, for more than a period of thirty (30) minutes.

(2) A parking stall is set aside for use by commercial vehicles if there is a sign thereon or adjacent thereto marked "Loading Zone".

### **133. Parking for Bicycle:**

No person shall stand or permit to stand any bicycle—

- (a) in a parking stall other than in a stall marked "M/C"; or
- (b) in such stall other than against the kerb.

### **134. Establishing Provisions**

The Council may constitute, determine and vary and also indicate by signs, from time to time, prohibitions, regulations and restrictions of parking and standing of all vehicles or of a specified class of vehicle in all street or specified streets or in specified parts of streets or reserves in the parking region at all times or at specified times.

### **135. Restrictions and Prohibitions on Parking**

(1) A person shall not stand a vehicle in a street or part of street—

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

(2) A person shall not stand a vehicle—

- (a) in a No Standing area;
- (b) in a parking area, except in a manner indicated by the inscription on the sign or signs associated with the parking area and parking stalls except as provided in these Local Laws with reference to parking stalls;
- (c) in a parking area contrary to any limitations in respect of time, days, periods of the day, classes of persons or classes of vehicles indicated by the inscription on the sign or signs associated with the area; or
- (d) in a defined area marked "M/C", unless it is a motorcycle without a sidecar, or bicycle.

(3) A person shall not stand a vehicle in a Loading Zone unless it is—

- (a) a commercial vehicle engaged in the picking up or setting down of goods; or
- (b) a vehicle taking up or setting down passengers.

(4) A person shall not park a vehicle in a No Parking area.

(5) Subject to Clause 129 a person shall not park a vehicle on any portion of a street or a street verge—

- (a) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a road; or
- (b) if the vehicle is exposed for sale.

(6) A person shall not stand a motorcycle without a sidecar or a bicycle in a parking stall unless the traffic signs "M/C" is marked on that stall.

(7) A person shall not park a vehicle on any part of a road or street verge so as in the opinion of an Authorised Person to cause an obstruction.

### **136. Parking on Carriageways**

A person standing a vehicle on a carriageway shall stand it—

- (a) on a two-way carriageway, so that it is as near as practicable to, and parallel with the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the road on which the vehicle is standing;
- (b) on a one-way carriageway, so that it is as near as practicable to, and parallel with, either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the road on which the vehicle is standing;
- (c) so that it is not less than 1.2 metres from any other vehicle, except a motorcycle or a bicycle parked in accordance with this Part;

- (d) so that at least three (3) metres of the width of the carriageway, between the vehicle and the farther boundary of the carriageway, or between it and a vehicle standing on the far side of the carriageway, is available for the passage of other vehicles;
- (e) so that it does not cause undue obstruction on the carriageway; and
- (f) so that it is entirely within the confines of any parking stall marked on the carriageway.

### 137. Parking on Private Land

- (1) In this Clause a reference to "land" does not include land—
  - (a) which belongs to the Council;
  - (b) of which the Council is the management body under the *Land Administration Act 1997*;
  - (c) if that vehicle is a trailer or a caravan unattached to a motor vehicle; or
  - (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.
- (2) A person shall not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.
- (3) Where the owner or occupier of the land, by a sign referable to that land or otherwise, consents to the parking of vehicles of a specified class or classes on the land for a limited period, a person shall not park a vehicle on the land otherwise than in accordance with the consent.

### 138. Parking to be Within Stall—Angle Parking

- (1) A person shall not stand a vehicle partly within and partly outside a parking stall.
- (2) Where the traffic sign or signs associated with a parking area are not inscribed with the words "Angle Parking", then—
  - (a) where the parking area is adjacent to the boundary of a carriageway, a person standing a vehicle in the parking area shall stand it as near as practicable to and parallel with, that boundary; and
  - (b) where the parking area is at or near the centre of the carriageway, a person standing a vehicle in that parking area shall stand it approximately at right angles to the centre of the carriageway, unless a sign associated with the parking area indicates, or marks on the carriageway indicate, that the vehicles are to stand in a different position.
- (3) Where a traffic sign associated with a parking area is inscribed with the words "Angle parking", a person standing a vehicle in the parking area shall stand the vehicle at an angle of approximately 45 degrees to the centre of the carriageway, unless otherwise indicated by the inscription on the parking sign or by marks on the carriageway surface.
- (4) Sub-clause (3) of this Clause above does not apply to a person standing a motorcycle or a bicycle in a parking area.
- (5) In sub-clause (3) of this Clause above, "vehicle" means a car or motor-wagon (utility type up to 3 tonne gross).

### 139. Preventing Obstructions

- (1) A person shall not stand or park a vehicle so that any portion of the vehicle is—
  - (a) between any other standing vehicles and the centre of the carriageway;
  - (b) on or adjacent to a median strip;
  - (c) in or in front or adjacent to a road, right-of-way, private street, cross-over, passage or private driveway or so close thereto as to—
    - (i) deny any vehicle reasonable access or egress; or
    - (ii) create an obstruction or unreasonable visual restriction to any lawful user of a road, right-of-way, private street, crossover, passage or private driveway;
  - (d) in front of a footway constructed across a reservation;
  - (e) alongside, or opposite, any excavation in, or obstruction on, the carriageway, if the vehicle would thereby obstruct traffic;
  - (f) on, or within nine (9) metres of, any portion of a carriageway bounded on one or both sides by a traffic island;
  - (g) on any footway or pedestrian crossing;
  - (h) upon a bridge or other elevated structure or within a tunnel or underpass;
  - (i) between the boundaries of a carriageway and any double longitudinal line consisting of two continuous lines or between a double longitudinal line consisting of a continuous line and a broken or dotted line and the boundary of the carriageway nearer to the continuous line, unless there is a distance of at least three (3) metres clear between the vehicle and the double longitudinal line; or
  - (j) upon an intersection.
- (2) The provision of sub clause (1) paragraphs (c), (f), (h) of this Clause do not apply to an omnibus that stands in a bus stand marked on the carriageway, for the purpose of setting down or taking up passengers.
- (3) A person shall not stand a vehicle so that any portion of the vehicle is—
  - (a) within one (1) metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug; or

- (b) within three (3) metres of a public letter pillar box, unless the vehicle is being used for the purpose of collecting postal articles from the pillar box.
- (4) A person shall not stand a vehicle so that any portion of the vehicle is within six (6) metres of the nearer property line of any road intersecting the road on the side on which the vehicle is standing, or alongside any hoarding, scaffolding, obstacle or impediment to traffic.
- (5) A person shall not stand a vehicle so that any portion of the vehicle is within nine (9) metres of the departure side of—
- sign inscribed with the words “Bus Stop”, or “Hail Bus Here”, unless the vehicle is a bus stopped to take up or set down passengers; or
  - a children’s crossing established on a two-way carriageway.
- (6) A person shall not stand a vehicle so that any portion of the vehicle is within eighteen (18) metres of—
- the approach side of a sign inscribed with the words “Bus Stop” or “Hail Bus Here”, unless the vehicle is a bus stopped to take up or set down passengers;
  - the approach side of a pedestrian crossing or children’s crossing; or
  - the nearest rail of a railway level crossing.
- (7) A person shall not stand in the parking region a vehicle or any combination of vehicles that, together with any projection on or load carried by the vehicle or combination of vehicles, is more than eight (8) metres in length—
- on a carriageway in a built-up area for any period exceeding one hour during any twenty-four (24) hour period; or
  - on a carriageway outside a built-up area, except in a truck bay or other area set aside for the parking of vehicles of that type.
- (8) Limitation on parking of vehicles with tare in excess of 3,000 kgs on carriageway or verge - a person shall not park a vehicle having a tare in excess of 3,000 kgs on a carriageway or verge for more than two hours consecutively except in a parking bay set aside for the purpose.
- (9) Limitation on parking of vehicles (not including a trailer) with tare not in excess of 3,000 kgs on a verge—a person shall not park a vehicle having a tare not in excess of 3,000 kgs on a verge for more than twenty eight (28) days consecutively.

#### **140. Vehicle to be Moved on Direction of Authorised Person**

A person shall not permit a vehicle to stand in any part of a street if an Authorised Person or a member of the Police Force directs the driver of such vehicle to move it.

#### **141. Authorised Person May Mark Tyres**

An Authorised Person may mark the tyres of a parked vehicle with chalk or any other non-indelible substance for any purpose connected with or arising out of his/her duties and powers and no person shall remove a mark made by an Authorised Officer so that the purpose of the affixing of such mark is defeated or likely to be defeated.

#### **142. Essential Work Provisions**

The Council may—

- permit a person who requires the use of a parking stall or other space, in order to carry out urgent or essential work, for a longer period than that prescribed as the maximum period for which the space may ordinarily be used, to use that space for such a longer period upon payment of the normal fee, if any, together with fees as prescribed by Council from time to time; and
- prohibit the standing of any other vehicle in that space during the period in which the space is set aside pursuant to paragraph (a) of this Clause.

### **PART XIII—FENCING**

#### *Division 1—Preliminary*

#### **143. Part XIII Interpretations**

In this Part, unless the context otherwise requires—

- “**boundary**” means the cadastral boundary of a lot or lots and includes any boundary on a strata title lot;
- “**dangerous**” in respect of a fence means a fence or part of a fence which presents a danger or risk of injury to persons and may include a fence which is perilous, hazardous, unsafe or potentially injurious; and without limiting the generality of the foregoing includes a fence which is likely to collapse or fall, by reason of its faulty design, location or construction, deterioration of materials, damage by termites, decay, changes in ground level or other cause whatsoever; but does not include an electric fence which is constructed in accordance with these Local laws;
- “**dividing fence**” means a fence that separates the lands of different owners whether the fence is on the common boundary of adjoining lands or on a line other than the common boundary;
- “**fence**” includes a wall, fence, enclosure, barrier, freestanding wall or retaining wall, abutting a street, on or near a boundary;

“**front setback area**” means that portion of a lot situated within 6m of the street alignment, including a secondary street alignment;

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

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

“**Industrial and Commercial Zone**” means the portions of the District classified in a Town Planning Scheme in the following zones: Town Centre, Mixed Business, Light Industry, Local Centre, Tourist, Composite Industry, Industrial and Special Site zone;

“**Residential Zone**” means the portions of the District classified in a Town Planning Scheme as a Residential or Residential Development zone;

“**Rural Zone**” means the portions of the District classified in a Town Planning Scheme in the following zones: Rural, General Rural, Rural Agriculture, Rural Pastoral, Rural Living, and Special Rural zone;

“**sheet**” in relation to the materials used in the construction of fencing, means material in the form of panels such as fibre cement or pressed metal and includes the term “sheeting”, but is not restricted to such materials;

“**street alignment**” means the boundary between the land comprising a street and the land that abuts thereon, unless a new street alignment is prescribed under the provisions of a Town Planning Scheme or a Local Law under the provisions of the *Town Planning Act* or a Local Law under the provisions of the Local Government Act, in which case that new street alignment so prescribed prevails.

#### 144. Terms and Expressions

Terms and expressions used in this Part shall—

- (a) have the meanings given in the *Dividing Fences Act*; and
- (b) subject to paragraph (a) of this Clause have the meanings given to them in Clause 143 above which shall prevail over any conflicting definitions; and
- (c) otherwise be interpreted in accordance with Clause 8.

#### 145. Objectives

The objectives are to—

- (a) prescribe minimum standards for fencing within the District for the purposes of the *Dividing Fences Act*; and
- (b) ensure that adequate standards of safety, structural sufficiency and amenity in relation to fencing are maintained throughout the District.

### *Division 2—Fencing*

#### 146. General

(1) A fence that was erected and maintained lawfully under previous Local Laws of the Shire of Wyndham-East Kimberley shall not become unlawful merely by reason of the revocation of those Local Laws.

(2) Nothing in this Part shall be deemed to interfere with the right of the Crown or any Statutory Authority or Agency to carry out a power or duty authorised under an Act.

#### 147. Sufficient Fence—Minimum Standard

(1) For the purposes of the *Dividing Fences Act*—

- (a) a fence constructed in accordance with the specifications set out in the First Schedule is hereby prescribed as a sufficient fence within Residential Zones;
- (b) a fence constructed in accordance with the specifications set out in the Second Schedule is hereby prescribed as a sufficient fence within the Industrial and Commercial Zones;
- (c) a fence constructed in accordance with the specifications set out in the Third Schedule is hereby prescribed as a sufficient fence within the Rural Zones;
- (d) a boundary fence between a Residential Zone and another zone shall comply with the standard prescribed for the Residential Zone in this Part unless the Council has otherwise approved in writing; or
- (e) where a fence is erected on the boundary between Industrial or Commercial Zones, and Rural Zones, a sufficient fence shall comply with the specification contained in either the Second or Third Schedule as determined by Council.

(2) A fence may be constructed to a higher specification than that prescribed for a sufficient fence in the relevant zone provided that the fence is constructed and maintained in accordance with this Part.

#### 148. Dangerous Fences

An owner of land on which a fence is erected or in relation to which a boundary fence is erected shall not permit the erection or continued presence of a dangerous fence.

**149. Height of Fencing**

(1) In a Residential Zone a person shall not, without the prior approval of the Council in writing erect or commence to erect—

- (a) a fence higher than 1000mm on the street alignment or within the front setback area;
- (b) a dividing fence behind the front setback area, higher than 1.8m; or
- (c) a fence adjoining a vehicular access way onto any allotment exceeding 1000mm in height for a distance of 1.8m, measured from the point of intersection of the access way and street alignment as depicted in the diagram in the Fourth Schedule.

(2) No person shall erect on land situated at the intersection of two streets a fence on or adjacent to the street alignment greater than 1000mm in height, within 6m of that street intersection without the prior approval of the Council. Council shall not grant its approval under this Clause unless it is satisfied that there are adequate sight lines for both pedestrians and vehicular traffic.

(3) No person shall erect a fence of a height exceeding the height specified in sub clause (1) of this Clause and in the Schedule applicable to the zone in which the land is situated, without the approval of the Council. The Council shall not grant its approval under this Part unless it is satisfied that the proposed fence will complement the streetscape and not detract from the amenity of the locality. In any case the maximum height of a fence within the front setback area in a residential area shall be 1.8m.

(4) A fence shall be so constructed so as to allow sufficient and effective drainage.

**150. Materials and Construction**

(1) A person shall not, without the prior approval of the Council in writing of the proposed materials, erect or commence to erect a fence—

- (a) constructed of a material other than timber, fibre-cement, brick, concrete, masonry, wrought iron, tubular steel, colorbond, bound brushwood or any other material specified in whichever of the First, Second or Third Schedules related to the zone in which the fence is to be erected; or
- (b) constructed of pre-used material.

(2) Notwithstanding sub clause (1)(a) of this Clause, a fence shall not be constructed of sheeting in a Rural Zone.

(3) The Council shall not grant its approval under this Clause unless it is satisfied that the proposed fence will complement the streetscape and not detract from the amenity of the locality.

(4) Sheet material shall not be used in the construction of front fencing unless it takes the form of infill panels between columns with a maximum spacing of 4 metres, and which otherwise accords with a form of fencing approved by the Council.

(5) No person shall erect a fence wholly or partially constructed of barbed wire or other similar wire except with the consent of Council other than—

- (a) on land in a Rural Zone; or
- (b) on land in an Industrial Zone where such wire is at a height of not less than 1.8m.

(6) No person shall erect an electric fence in the District unless—

- (a) it is on land within the Rural, Industrial or Commercial zones;
- (b) the prior approval of the Council has been granted if in the Industrial or Commercial Zone;
- (c) any conditions imposed by the approval granted pursuant to paragraph (b) of this Clause have been complied with; and
- (d) the fence is constructed and maintained in accordance with—
  - (i) *Australian Standard 3129/1989*;
  - (ii) *Australian Standard 3014* in the case of an electric fence on land in a Rural zone; or
  - (iii) *Australian Standard 3016* in the case of an electric fence on land in an Industrial or Commercial zone.

*Division 3—Miscellaneous***151. Maintenance of Fences**

The owner of land on which a fence is erected shall maintain the fence so as to prevent it from becoming dangerous, in need of repair, dilapidated, unsightly or in the opinion of Council, prejudicial to the amenity or value of property in the neighbourhood.

**152. Notices to Owners or Occupiers**

(1) The Council may give notice in writing to the owner of any land upon which is erected a fence which is—

- (a) in the opinion of the Council, dangerous, in need of repair, dilapidated;
- (b) in the opinion of the Council unsightly or prejudicial to the amenity or value of property in the neighbourhood; or
- (c) erected or maintained contrary to the provisions of this Part,

requiring the owner to pull down, remove, repair, paint or otherwise maintain the fence within a time stipulated in the notice.

(2) Where an owner of land has been given notice under sub clause (1) of this Clause and the terms contained in the notice have not been complied with, the Council may enter upon the land and carry out the works specified in the notice and recover the costs and expenses incurred by the Council in doing so from the owner, in a court of competent jurisdiction.

(3) Any notice required to be served under this Part may be delivered personally to the person to whom it is directed, or sent by security post to the last known address of that person.

#### **First Schedule**

##### **Residential Zone**

For the purposes of the *Dividing Fences Act 1961*, a sufficient fence within a Residential Zone is a corrugated metal fence (neetascreen or similar) erected as follows—

- (a) an above ground height of 1.5 m behind the front setback area;
- (b) a minimum in-ground length of 33 percent of the total length of the post with a minimum in-ground length of 850mm; and
- (c) corrugated metal sheets are to be lapped, and capped with a “snap-fit” type capping in accordance with the manufacturers’ specifications.

#### **Second Schedule**

##### **Industrial and Commercial Zones**

For the purposes of the *Dividing Fences Act 1961*, a sufficient fence within the Industrial or Commercial Zones shall accord with the following specifications—

- (a) a fence consisting of rail-less link mesh to a height of 1.8m above finished ground level supported by galvanised steel posts and bracing stays encased in concrete footings. Specification of materials and construction in accordance with *Australian Standard 1725-75*;
- (b) link mesh shall be poly vinyl chloride coated or galvanised 2.5mm wire, formed into a uniform 50mm mesh. The link shall be strained and neatly secured and laced to supporting members in accordance with *Australian Standard 1725-75*;
- (c) vehicle entry gates shall be covered with link mesh to match the fence and strained and neatly laced to the frame. The gates shall be constructed and fitted to gateposts in accordance with *Australian Standard 1725-75* and restrained from opening by 16mm galvanised drop bolts in keepers set in concrete.

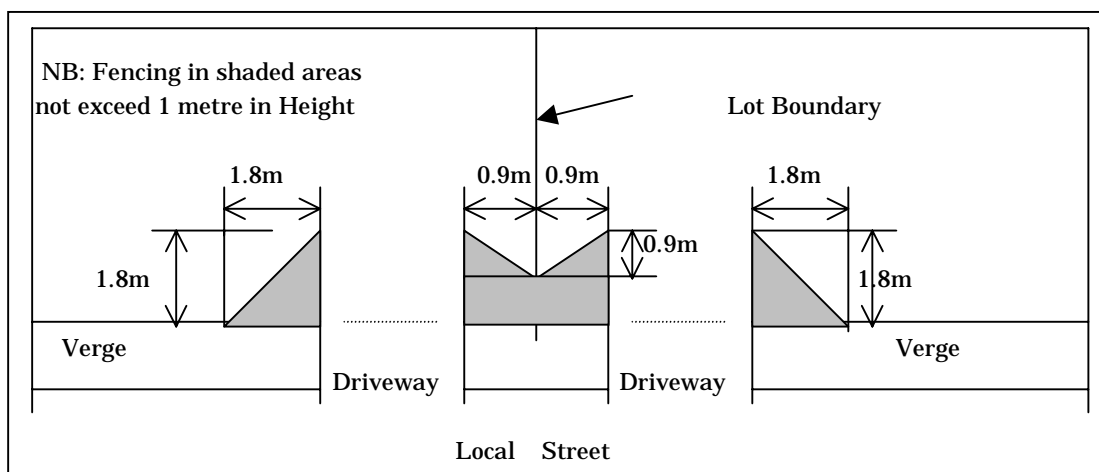
#### **Third Schedule**

##### **Rural Zones**

For the purposes of the *Dividing Fences Act 1961*, a sufficient fence within the Rural Zones shall accord with the following specifications—

- (a) the fence shall be constructed of sawn, split or round wooden posts set not less than 600mm in the ground and spaced not more than 7000mm apart with strainer posts set 1000mm in the ground and suitably and securely strutted at all corners, gateways and fence-line angles. Wire shall be wrapped around the strainer and strained tight. Posts are to be threaded with not less than 5 plain galvanised wires through evenly spaced 12mm diameter holes;
- (b) star pickets or concrete posts may be used instead of wooden posts. Installation shall be the same as for wooden posts;
- (c) the height of the fence shall be 1.2m above finished ground level; and/or
- (d) the materials used must accord with the following specifications—
  - (i) wire shall be steel galvanised wire of not less than 2.5mm diameter;
  - (ii) posts if of timber, shall be cut not less than 1800mm long by 100mm diameter at the small end if round or 125mm x 50mm if split or sawn; and
  - (iii) strainer posts to be not less than 2250mm long and 150mm diameter at the small end and shall be cut from treated pine or indigenous timbers unless otherwise approved by the Building Surveyor.

#### **Fourth Schedule**





**PART XIV—RUBBISH, DISUSED AND STORED THINGS***Division 1—Preliminary***153. Part XIV Interpretations**

In this Part unless the context otherwise requires—

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

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

**154. Terms and Expressions**

Terms and expressions used in this Part shall—

- (a) have the meanings given in Clause 153 which shall prevail over any other conflicting definition; and
- (b) otherwise be interpreted in accordance with Clause 8.

*Division 2—Old Refrigerators, Vehicles and Machinery***155. Old Refrigerators**

A person shall not place in, on or about any public place, waste disposal site, tip, dump or unfenced land any refrigerator, ice chest, ice box, furniture, trunk or other thing, that has in it a compartment of a capacity of 0.04 cubic metres or more, unless, before so placing it, he or she removes from the compartment every door, lid, lock and hinge thereof or otherwise renders such door or lid incapable of being fastened.

**156. Old Vehicles and Machinery**

Without affecting the generality of any other provisions of these Local Laws a person shall not on any land within the District—

- (a) store any disused machinery or a disused motor vehicle or any part thereof or dismantle or break up any machinery or a disused motor vehicle or any part thereof unless inside a building, or unless with the written permission of the Council and within an area enclosed by a fence, a wall, trees or shrubs, not less than 1.8 metres in height and of such a nature as to screen all things stored, dismantled or broken up thereon and the parts thereof from any adjacent street and from any adjoining property;
- (b) dispose of, abandon or leave in one place for more than 24 hours in a public place continuously any substantial part of a disused motor vehicle, an old motor vehicle body, or a motor vehicle wreck, or any old machinery or appliance except at a place set aside or approved of by the Council for that purpose or on land where such a use is lawful under all written laws relating to land use; or
- (c) stand, park or leave the body of a motor vehicle, any substantial part of a disused motor vehicle, an old motor vehicle, or a motor vehicle on a road otherwise than in accordance with the Council's Local Laws relating to parking and parking facilities.

*Division 3—Rubbish, Disused and Stored Material***157. Rubbish and Disused and Stored Material**

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

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

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

(4) A person served with a notice pursuant to this Local Law has a right of appeal pursuant to Part 9 of the Act.

(5) Any person who contravenes a provision of this Local Law or fails to comply with a notice issued under sub clause (1) of this Clause commits an offence and is upon conviction liable to a penalty.

**PART XV—SIGNS AND HOARDINGS AND BILL POSTING***Division 1—Preliminary***158. Part XV Interpretations**

In this Part, unless the context otherwise requires—

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

“**bill**” means any written, printed or illustrated message or matter on paper, plastic or similar material;

“**bill posting**” means the attaching, sticking, painting, or stencilling of any bill, poster, placard or advertisement on any building, wall, hoarding or structure whether erected upon private property or upon a public place and to “post a bill” has a corresponding meaning;

“**development sign**” means a sign erected on an area of land which has been approved for subdivision into smaller lots, advertising the subdivided lots for sale;

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

“**display centre**” means a group of two or more display homes;

“**display home sign**” means a sign erected on a lot on which a display home has been erected;

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

“**election sign**” means a bill, poster, placard or advertisement relating to any election, attached to or pasted, painted, or stencilled, on any hoarding, wall, building, or structure whether erected upon private property or upon a public place, but does not include a sign erected by the Council for the purpose of public information;

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

“**hoarding**” means a detached or detachable structure other than a pylon sign, that is erected for the sole purpose of displaying a sign or signs and includes a poster panel, a wall panel or an illuminated panel but does not include a hoarding erected as a barrier or screen on a building site;

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

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

“**illuminated sign**” means a sign that is so arranged as to be capable of being lit either from within or from without the sign by artificial light provided, or mainly provided, for that purpose;

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

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

“**licensee**” means the holder of a licence issued by the Council pursuant to these Local Laws;

“**non site specific advertising**” means any advertising which is not site-specific advertising;

“**planning approval**” means approval by the responsible Authority under any Town Planning Scheme controlling land development and use within the District and without affecting the generality of the foregoing, includes development approval or planning consent;

“**portable sign**” means a sign not permanently attached to the ground or to a structure, wall, fence or building and including but not limited to a sandwich board sign consisting of two sign boards attached to each other at the top or elsewhere by hinges or other means;

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

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

- “**residential area**” means an area that has been designated as a residential zone under a Town Planning Scheme having effect within the District;
- “**roof sign**” means a sign erected on or attached to the roof of a building;
- “**rural producer’s sign**” means a sign erected on land zoned rural or land having a non-conforming use right for a rural use;
- “**sale sign**” means a sign indicating that the property or premises whereon the sign is affixed, are for sale, for leasing, for letting or to be auctioned;
- “**semaphore sign**” means a sign attached or affixed to a structure or building which sign is affixed and supported at, or by, one of its ends only;
- “**service station sign**” means a sign used primarily for the purpose of advertising the price of petrol, diesel, gas or other like products sold from land used as a motor vehicle service station;
- “**sign**” unless the context otherwise requires, includes an advertising device, a sign-board, a portable sign or a bunting sign and a clock, other than a clock which is built into a wall and does not project beyond the face of the wall but does not include flags and bunting which carry no written message;
- “**sign infill**” means a panel which can be fitted into a pylon sign framework;
- “**site specific advertising**” means any advertising of a message or thing which only identifies the name and/or principal business and/or a thing or service, produced, stored, displayed, sold or supplied in the principal business of an occupier of the land or building on which the advertising appears or is proposed to appear;
- “**tower sign**” means a sign affixed to or placed on a chimneystack or an open structural mast or tower;
- “**verandah**” includes cantilever awnings, cantilever verandahs and balconies whether over a street, way, footpath, public place or private property;
- “**verandah sign**” includes a sign above a verandah fascia, a sign on a verandah fascia and a sign under a verandah;
- “**vertical sign**” means a sign affixed or attached to the wall of a building or a structure, of which the vertical dimension of the sign exceeds the horizontal dimension of the sign exclusive of the back projection of the sign;
- “**wall panel**” means a panel used for displaying a posted or painted message and affixed to or adjoining the wall of business premises or erected on the forecourt of any business premises.

### 159. Terms and Expressions

Terms and expressions used in this Part shall—

- (a) have the meanings given in Clause 158 which shall prevail over any other conflicting definitions; and
- (b) otherwise be interpreted in accordance with Clause 8.

### *Division 2—Licences*

### 160. Signs Requiring Planning Approval

- (1) Where under any written law operating within the District a sign or advertising device requires planning approval, the requirement of planning approval shall be additional to the requirement of a licence under these Local Laws.
- (2) Where planning approval is required for a sign or advertising device the Council shall not consider or determine an application for a licence therefore under this Local Law unless and until planning approval has been granted.

### 161. Licence Application

- (1) A person shall not erect, maintain or display a sign or hoarding and the owner or occupier of premises shall not suffer or permit a sign or hoarding to remain, in on or above, a street, way, footpath or other public place, or in the case of an airborne device, to be anchored from land, except pursuant to a licence issued under these Local Laws, unless it is exempt under Clause 162.
- (2) Every licence shall be granted and shall subsist subject only to the provisions of these Local Laws.
- (3) Notwithstanding that a sign or hoarding would otherwise comply with the provisions of this Part, the Council may refuse a licence if in its opinion—
  - (a) the addition of the sign or hoarding would increase the number or variety of signs in the locality so as to become too numerous or various; or
  - (b) the licence should be refused having regard to—
    - (i) the safety, free passage of traffic or the carrying out of authorised works in a street, way, footpath or public place;
    - (ii) the suitability or otherwise of the sign or hoarding to the locality; and
    - (iii) the question whether the sign or hoarding would be injurious to the amenity or natural beauty or safety of the area.
- (4) A licence shall be issued upon payment of the fee prescribed by the Council from time to time for a sign or hoarding of the kind applied for, but the payment of a licence fee pursuant to any Local Laws that were in operation prior to the coming into operation of these Local laws is deemed to be a payment for the purposes of this Part.

**162. Exemptions**

The following signs and things are exempt from the requirement of Clause 161—

- (a) a sign erected or maintained pursuant to any Statute having operation within the State other than the Act;
- (b) a sale sign not exceeding 1m<sup>2</sup> in the area;
- (c) a plate not exceeding 0.2m<sup>2</sup> in area erected or affixed on the street alignment of a building or between that alignment and the building line to indicate the name and occupation or profession of an occupier of a building on the land;
- (d) an advertisement affixed to or painted on a shop window by or on behalf of the occupier thereof and relating to the business carried on therein provided that not more than 25 per cent of the area of the window is so used;
- (e) a sign within a building unless such sign is deemed to be objectionable by Council;
- (f) a sign not larger than 0.7m x 0.9m on an advertising pillar or panel approved by or with the consent of the Council for the purpose of displaying public notices for information;
- (g) a building name sign on residential flats or home units when such sign is of a single line of letters not exceeding 300m in height, fixed to the façade of the building;
- (h) a sign for use solely for the direction and/or control of people, animals and/or vehicles to indicate the name, and/or street number of premises, provided that the area of the sign does not exceed 0.2m<sup>2</sup> and the sign is located wholly within the boundaries of private property or premises owned or occupied by a person who erected or who has maintained the sign or proposes to do so;
- (i) a sign that is required by the Builders Registration Board or any Statutory Body or Authority to be displayed on a building site, provided that the area of the sign does not exceed 1.5m<sup>2</sup>; any such sign shall be removed within seven days of completion of the building works on the building site;
- (j) a sign erected by the Council or with the approval of Council on land under the care, control and management of the Council, where the sign is not otherwise subject of provisions of these Local Laws;
- (k) a portable sign;
- (l) an after hours pharmacy sign;
- (m) an institutional sign not exceeding 0.5m<sup>2</sup> in area, which is the only institutional, sign on the subject land or building;
- (n) "home open for inspection" sign; and/or
- (o) a direction sign indicating the direction to a display home.

**163. Revocation of Licences**

Where anything purporting to be done pursuant to a licence issued under this Part is not done in conformity with the licence or the conditions thereon or with this Part or where the licensee is convicted of an offence against these Local Laws the Council may without derogating from any penalty to which that person may be liable, by notice in writing revoke the licence.

**164. Transfer of Licences**

(1) A licence issued under this Part shall not be transferred to another person except with the written consent of the Council.

(2) Every application to transfer a licence under sub clause (1) in this Clause shall be in writing in the form prescribed by the Council from time to time and shall be signed by both the transferor and transferee.

**165. Inspection of Licences**

A licensee shall, on demand by a person authorised in writing by the Council produce the licence for inspection.

**166. Application for Licences**

(1) An application for a licence under this Part of these Local Laws shall be in the form as prescribed by the Council from time to time.

(2) An application for the first issue of a licence in respect of a sign or hoarding shall be accompanied by duplicate plans, drawn to a scale of not less than 1 to 100 showing the size, position, design and inscriptions to appear thereon, the method of construction and fixing of the sign or hoarding device to a building or structure, setbacks of the sign or hoarding from a street, way, footpath, other public place or lot boundaries where applicable together with such further information as the Surveyor requires generally or in any particular case.

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

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

- (5) Every applicant for a licence shall furnish in writing such further particulars as are required by the Surveyor or other Officer for the time being administering this Part of these Local Laws.
- (6) A licence shall be issued in the form prescribed or provided by the Council for the purpose.
- (7) The Surveyor may issue a licence or permit under this Part of these Local Laws except where it is provided otherwise. In any case where the Surveyor exercises the power of the Council to issue a licence or permit, the relevant reference in this Part to the Council in relation to the exercise of any power or discretion shall be deemed to be a reference to the Surveyor.
- (8) Subject to Clause 163 and except where otherwise stated in this Part a licence remains valid until—
- (a) the sign or hoarding is removed;
  - (b) change is made in the message of the sign or its illumination which is so significant as to amount to a different sign than that in respect of which the licence was issued; or
  - (c) an alteration is made to the structure or area of the sign or hoarding in respect of which the licence was issued, in any of which events an application must first be made and a new licence issued before the sign or hoarding can be re-erected, changed or altered as the case may be, or a new sign or hoarding erected.

### **167. Temporary Permits**

- (1) Notwithstanding anything contained in these Local Laws the Council may on receipt of an application issue a temporary sign permit to a community association to allow it to display signs or advertisements for charitable or non-profit meetings, functions, artistic and cultural activities, or other events of public interest, upon such terms and for such period as Council deems fit.
- (2) The Council may revoke any such permit at any time without assigning any reason for such revocation.
- (3) Any sign or advertisement approved by Council pursuant to sub clause (1) of this Clause shall not be erected earlier than 2 months before the event and shall be removed by the applicant not later than 2 days after the conclusion of the event.
- (4) Upon the expiration or revocation of a permit issued under sub clause (1) of this Clause the person to whom it was issued shall forthwith remove any advertisement to which it relates and failure to remove the advertisement is an offence.

#### *Division 3—Restrictions*

### **168. General Restrictions**

- (1) A sign or hoarding shall not be erected or maintained—
- (a) so as to obstruct a person's view from a street or public place of traffic in a street or public place;
  - (b) so as to be likely to be confused with or mistaken for an official traffic light or sign or so as to contravene the *Road Traffic Act 1974* or the regulations made there under;
  - (c) except with the specific approval in writing of the Council on an ornamental tower, spire, dome or similar architectural feature or on a lift machinery room, bulkhead over stairs, or other superstructure over the main roof of a building;
  - (d) subject to Clause 162 and paragraph (a) of Clause 160 (1) on land that is zoned by a Town Planning Scheme or Local Laws for the time being in force for residential purposes other than land so zoned that is lawfully used for a purpose other than residential purposes unless permitted under Clause 167;
  - (e) on a building the stability of which is, in the opinion of the Council, likely to be affected by the sign or hoarding;
  - (f) as a movable or portable sign in a street or public place, un-affixed to a building;
  - (g) on a light or power pole without the approval of the relevant Authority responsible for the erection or maintenance of that pole;
  - (h) in a position where it obstructs or obscures a person's view from a dwelling of a river, the sea or any other natural feature of beauty or interest;
  - (i) if the sign is an advertising device and is erected or proposed to be erected in a position where, in the opinion of the Council, it would be injurious to the amenity or natural beauty of the area in which the sign is erected or proposed to be erected, or would be unsuitable to the locality;
  - (j) so as to have all or part thereof projected, flashing, animated, moving or rotating, except as follow—
    - (i) where the sign has first received an approval from the Main Roads Western Australia; or
    - (ii) as or on any pylon sign the face of which rotates,  
notwithstanding paragraph (j), (i) and (ii) above no sign shall generate light of such intensity as to constitute in the opinion of Council a hazard to traffic or a nuisance to the public; or
  - (k) as an election sign.
- (2) Except in the case of a hoarding or direction sign, a sign or hoarding shall only display—
- (a) the name of one or more of the occupiers of the premises;
  - (b) details of a business or businesses carried on in the premises;

- (c) details of the goods sold in the premises to which it is affixed; and/or
  - (d) any other matter approved by the Council.
- (3) Notwithstanding that a sign or hoarding would otherwise comply with these Local Laws, the Council may refuse a licence if the sign or advertising device would in the opinion of the Council for any reason whatsoever be injurious to the amenity of the area.
- (4) Any sign or hoarding erected and maintained or proposed to be erected in accordance with this law shall—
- (a) in design, colour and location be sympathetic and harmonious with the surrounding street, way, footpath, public place or private property and environment and any building or structure to which it is attached or affixed; and/or
  - (b) be designed, placed and constructed so as not to endanger public safety.

#### **169. Existing Signs**

- (1) Subject to the provisions of this Part a sign or hoarding which was erected and maintained lawfully under a previous Local Law of the Shire of Wyndham-East Kimberley shall not become unlawful merely by reason of the revocation of that Local Law.
- (2) Any sign or advertising device in respect of which a licence or permit was issued under a previous Local Law of the Shire of Wyndham-East Kimberley for a limited period of time shall, upon the expiration of that time, be made to comply with the provisions of these Local Laws.
- (3) If a licence or permit for a sign or hoarding was issued under a previous Local Law of the Shire of Wyndham-East Kimberley without limitation as to time and the sign or hoarding does not comply with the provisions of these Local Laws, if any alteration is proposed to be made to the structure, area or message of it, the sign or hoarding shall be made to comply with the provisions of these Local Laws.
- (4) A licence shall not be issued under these Local Laws in respect of a sign or hoarding which is required under sub clause (2) or (3) of this Clause to comply with these Local Laws, unless the application for a new or renewed licence proposes changes which would make the sign or advertising device comply with these Local Laws.
- (5) If it appears to the Council that in respect of any sign or advertising device—
- (a) that it is not the subject of a valid licence or permit;
  - (b) that a licence or permit issued in respect of it has expired; or
  - (c) that it has been altered as to its structure, area or message without a licence or permit having been issued by the Council, the Council may give notice in writing to the owner of the land on which it is erected and the licensee (if any)—
    - (i) requiring application to be made to the Council for a licence within a stipulated period of time where the sign or hoarding complies or can be made to comply with these Local Laws; or
    - (ii) requiring the sign or hoarding to be removed within a stipulated period of time where it cannot be made to comply with this Local Law.
- (6) An owner or licensee that receives a notice referred to in sub clause (5) shall comply with the requirement of the notice within the period of time stipulated therein.
- (7) In the case of a sign in respect of which a notice is issued under paragraph (a) of sub clause (5) of this Clause: if a licence for the sign or hoarding is refused by the Council; and the time for appealing against the refusal has expired or an appeal made against the refusal is dismissed, then the sign or advertising device shall be removed forthwith.
- (8) A sign or advertising device referred to in sub clause (3) of this Clause shall not be altered as to its structural area or message unless a licence for the sign or hoarding as altered has first been issued under these Local Laws.

#### **170. Fixing of Signs**

Every sign or advertising device shall be securely fixed to the structure by which it is supported, to the satisfaction of the Surveyor, and the structure and the method of securing shall be maintained in good order and repair to the satisfaction of the Surveyor.

#### **171. Glass in Signs**

Glass shall not be used in any sign or hoarding unless it is part of an illuminating globe or tube.

#### **172. Readily Combustible Material**

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

#### **173. Maintenance of Signs**

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

#### **174. Bill Posting**

A person shall not bill post within the District of the Shire of Wyndham-East Kimberley.

**175. Fly Posting**

- (1) A person shall not fly post at any place or location within the District.
- (2) A person shall not erect or display or allow the erection or display of bunting, streamers, streamer strips, banner strips, flag strips or decorations of a similar nature, except with the approval of the Council.

*Division 4—Requirements for Particular Signs***176. Clocks**

A clock shall—

- (a) if suspended under a verandah or in an arcade, have its centre coinciding with the centre line of the footway there under shall comply as to size to the following table—

<b>Height of bottom of clock above footway maximum diameter of width of clock face</b>	<b>Depth of Clock including lettering</b>
2.7 metres and under 4 metres	500 millimetres
4.0 metres and under 6 metres	750 millimetres
6.0 metres and under 12 metres	1.0 metres
12.0 metres and over	1.50 metres

- (b) be fixed either parallel or at right angles to the wall to which it is attached;
- (c) not project from the wall to which it is attached—
- (i) if parallel to the wall, more than 300 millimetres; or
  - (ii) if at right angles to the wall, more than 2 metres;
- (d) afford a minimum headway of 2.70 metres;
- (e) be maintained so as to show the correct time;
- (f) be illuminated from sunset to midnight; and
- (g) if fitted with chimes, not be permitted to strike between 10.00pm and 7.00am without the approval in writing of the Council.

**177. Development Signs**

A development sign shall—

- (a) only be erected where the area of residential land being subdivided exceeds 5 hectares;
- (b) no individual sign shall exceed 22 square metres; and
- (c) be removed from the site within two years or when 80 per cent of the lots in the subdivision have been sold, whichever is the sooner.

**178. Direction Signs on Street Poles**

(1) Approval is required for the erection of any direction sign on a street pole and such approval shall only be granted by the resolution of the Council.

(2) Council may at any time revoke any approval for a sign under sub clause (1) of this Clause.

**179. Display Home Direction Signs**

No more than two direction signs shall be erected or placed on street verges or other public places for any individual display home, and if two or more display homes are situated together in the same area then no more than four direction signs may be so erected or placed in respect of all of those display homes. Any such direction sign shall—

- (a) only be displayed during the times the display home or homes to which the sign is directed is open to the public;
- (b) be sited so as not to create a hazard to vehicular or pedestrian traffic; and/or
- (c) not have dimensions exceeding 600mm x 450mm and not have a height exceeding 600mm.

**180. Display Home Signs**

Display home signs—

- (a) may be provided in a ratio not exceeding 2m<sup>2</sup> per home in a display centre, with no individual sign exceeding 4m<sup>2</sup>, the overall height of the sign shall not exceed 4m;
- (b) shall not be illuminated after 9.00pm; and
- (c) shall not be erected or maintained for a continuous period exceeding twelve (12) months without the approval of the Council.

**181. Hoardings**

(1) A hoarding shall not—

- (a) be erected on land that is zoned for residential purposes by a Town Planning Scheme or Local Laws for the time being in force;
- (b) except with the approval of the Council be erected within 15 metres of a street or other public place and in any case not closer than its own height to a street or public place; and
- (c) be of greater area than 22 square metres.

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

(3) The licence fee for a hoarding is the annual licence fee prescribed by the Council from time to time and is payable annually so long as the hoarding is maintained with the approval of the Council.

### **182. Horizontal Signs**

(1) A horizontal sign shall—

- (a) afford a minimum headway of 2.70 metres;
- (b) be fixed parallel to the wall of the building to which it is attached;
- (c) not project more than 500 millimetres from the wall to which it is attached; and
- (d) not be within 600 millimetres of either end of the wall to which it is attached, unless the end of the sign abuts against a brick, stone or cement corbel, pier or pilaster which is at least 225 millimetres wide and projects at least 25 millimetres in front of and 75 millimetres above and below the sign.

(2) Notwithstanding the provision of paragraph (c) of Clause 181(1) the Council may permit an increase of not more than 50 per cent of the depths therein mentioned in any part or parts of a sign to permit the inclusion therein of a motif or capital letter.

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

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

- (a) unless otherwise specifically approved by the Council, only one such name shall be placed on any façade;
- (b) the letter of the name shall not exceed 1.2 metres in height;
- (c) the letters shall be of metal or other incombustible material; and
- (d) the letters shall not be lit or illuminated unless all illuminated lettering has been approved by the Council.

### **183. Illuminated Signs**

An illuminated sign shall—

- (a) have any boxing or casing in which it is enclosed constructed of incombustible material;
- (b) have its electrical installation constructed and maintained to the satisfaction of the appropriate electricity supply authority and in accordance with the *Australian Standard 3000-1991*;
- (c) be maintained to operate as an illuminated sign; and
- (d) not have or produce light of such intensity or colour as to cause annoyance to the public or constitute a hazard to traffic or interfere with traffic control lights.

### **184. Information Panels**

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

### **185. Institutional Signs**

An institutional sign shall not exceed 2m<sup>2</sup>.

### **186. Portable Signs**

(1) A portable sign shall—

- (a) not exceed 1.2m in height;
- (b) not exceed 1m<sup>2</sup> in total area on any face;
- (c) except for those signs referred to in Clauses 162(1)(k) to Clause 162(1)(n) (inclusive) be placed within the boundaries of the lot to which the sign relates or refers;
- (d) be placed so as not to cause interference or be hazardous to vehicular traffic or cause any interference or hazard to or impede pedestrians; or
- (e) be of sound construction, maintained in good condition, neatly sign written and fixed in position to the satisfaction of the Surveyor.

(2) A person shall not erect a portable sign in any position other than adjacent to the building to which the sign relates.

(3) A person shall not erect more than one portable sign in relation to a shop or business unit or premises.

(4) A person who erects a portable sign shall remove the same at the close of business each day and shall not erect the same again until the commencement of business on the following or a subsequent trading day.

### **187. Pylon Signs**

(1) A pylon sign—

- (a) shall not have any part thereof less than 2.7m or more than 6m above the level of the ground immediately below it;
- (b) shall not exceed 2.5m measured in any direction across the face of the sign or have a greater superficial area than 4m<sup>2</sup>;



- (c) shall be supported on one or more piers or columns of brick, stone, concrete or steel of sufficient size, strength and construction to support the sign under all conditions;
- (d) shall not be within 1.8m of the side boundaries of the lot on which it is erected unless the lot on which the pylon sign is erected abuts an intersecting street or right-of-way, in which case the Council may authorise the erection of a sign at a lesser distance than 1.8m; or
- (e) shall not have any part thereof less than 6m from any part of another pylon sign erected on the same lot.

except with the approval of Council.

(2) Where more than one pylon sign is proposed to be erected on a lot on which unit factories, offices, showrooms or small shops are erected or are to be erected Council may require all the pylon signs to be incorporated into one sign in which event—

- (a) initial approval shall be given to the pylon sign framework together with one or more sign infills;
- (b) an application is to be submitted and approval obtained for each additional infill;
- (c) all infills are to be an equal size, and space is to be provided to the sign for one infill for each shop or unit on the lot; or
- (d) the total area of the infill signs specified under sub clause (1)(b) of this Clause may be increased by up to 50 per cent (i.e. to a maximum of 6m<sup>2</sup>).

(3) Notwithstanding the provisions of sub clause (1) and (2) of this Clause, Council may approve a pylon sign which exceeds the provisions of those Clauses subject to the following—

- (a) the sign shall display only the logo or emblem of a business use or activity conducted on the lot;
- (b) there shall be no more than one such sign on any lot;
- (c) the sign shall not exceed 20m in height; or
- (d) the sign shall not exceed 12m<sup>2</sup> on any face.

(4) Approval for the erection of a pylon sign that does not meet the requirements of these Local Laws may only be granted by resolution of the Council.

### 188. Roof Signs

(1) A roof sign shall—

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

<b>Height of Main Building Above Ground Level at Point where Sign is to be fixed</b>	<b>Maximum Height of Sign</b>
Under 4.5 metres	1.2 metres
4.5 metres and under 6 metres	1.8 metres
6 metres and over	3 metres

- (d) not have a horizontal side longer than 2.4 metres in length; and
- (e) not have an area greater than 1.5 square metres.

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

(3) A licence for a roof sign requires the approval of the Council.

### 189. Rural Producer Signs

A rural producers sign shall—

- (a) show only the name and address of the occupier of the land and the name of the property and shall only advertise goods or products produced, grown or lawfully manufactured upon the land;
- (b) only be erected and maintained on land on which the goods or products are produced, grown or lawfully manufactured; and
- (c) not exceed 1m<sup>2</sup> in area or 3m in height.

### 190. Sale Signs

(1) Any sale sign of any description shall be erected on the land to which it relates and not elsewhere.

(2) A land sale sign advertising for sale lots created by a subdivision shall—

- (a) not exceed 10m<sup>2</sup> in area;
- (b) not be erected or maintained for a period exceeding six months without the approval of the Council; and
- (c) not be erected until—
  - (i) the plan of subdivision has been approved by the Department of Planning and Urban Development; or
  - (ii) the land has been zoned for the appropriate use.

- (3) A sale sign advertising an auction shall—
- not exceed 10m<sup>2</sup> in area;
  - not be erected more than 28 days before the proposed date of the auction;
  - be removed no later than 48 hours after the auction has been held;
  - where such a sign is erected on land having a frontage to a road that is a main road within the meaning of the *Main Roads Act 1928*, consist of letters not less than 150mm in size; and
  - not be erected or placed outside the boundaries of the lot.
- (4) A sale sign advertising that flats and dwelling units in a building erected or to be erected are or will be available for letting or for purchase shall—
- not exceed 3m<sup>2</sup> in area;
  - not be erected before the issue of a building licence for any such building; and
  - not be erected or maintained for a period exceeding three months following completion of any such building, without the approval of the Council.

### 191. Semaphore Signs

- (1) A semaphore sign shall—
- afford a minimum headway of 2.7m;
  - be affixed at right angles to the wall to which it is affixed or attached;
  - not project more than 1m horizontally from the point of attachment nor be of greater heights at any point than 1m; and
  - not be erected under or over any verandah.
- (2) Not more than one semaphore sign shall be fixed over or adjacent to any one entrance to a building.

### 192. Service Station Signs

- (1) A maximum of two service station signs are permitted on service station sites. In addition to the aforementioned, a service station sign shall—
- not exceed 8m<sup>2</sup> total area including all faces;
  - be located wholly within the boundaries of the site used as a service station; and
  - be located so as not to cause a traffic or safety hazard and in any case not be within an arc of 15m of the intersection of the boundaries of two street or road reserves or the imaginary prolongation of those two boundaries of the two street or road reserves.
- (2) Approval for the erection of a service station sign that does not meet the requirements of these Local Laws may only be granted by resolution of the Council.

### 193. Signs on Fences

A person shall not erect, attach, affix, paint or maintain a sign or hoarding on or as part of a fence on any part of a lot and the owner or occupier shall not permit or suffer a sign or advertising device to be erected, affixed, painted or maintained on any fence on any part of a lot.

### 194. Tower Signs

- A tower sign shall not, unless otherwise specifically approved by the Council—
- indicate or display any matter other than the name of the owner or occupier of the land or premises on which the mast, tower or chimney stack is erected;
  - if illuminated, be a flashing sign;
  - exceed in height one-sixth of the height of the mast, tower or chimneystack on which it is placed;
  - exceed in width the width or diameter of the mast, tower or chimney stack on which it is placed; or
  - extend laterally beyond any part of the mast, tower or chimneystack on which it is placed.

### 195. Verandah Signs

- (1) Signs above verandah fascias—Signs comprising free standing letters only may be erected above the outer fascia of a verandah parallel to the kerb, if the lettering does not exceed 400mm in height and is mounted on a base of at least 75mm in width, and in any event shall be the subject of a licence issued under this Part.
- (2) Signs on verandah fascias - A sign fixed to the outer or return fascia of a verandah—
- shall not exceed 600mm in depth;
  - shall not project beyond the outer metal frame or surround of the fascia by more than 50mm; and
  - if an illuminated sign may be of changing colours but shall not emit a flashing light.
- (3) Signs under verandahs - a sign under a verandah shall—
- afford headway of at least 2.7m, or 2.4m when approved by the Council;
  - not exceed 2.4m in length, or 2.70m in length with the approval of Council, or 500mm in depth;
  - not weigh more than 50kg unless certified by a practising structural engineer that the structure to which the sign is to be attached is capable in all respects of withstanding the total load to be imposed by the sign under all conditions;

- (d) not, if it exceeds 300mm in width, be within 2.70m (or where it does not exceed 300mm in width be within 1.75m) of another sign under that same verandah;
- (e) be fixed at right angles to the front wall of the building to which it is erected except on a corner of a building at a street intersection where the sign may be placed at an angle with the walls so as to be visible from both streets;
- (f) not be so placed unless the centre of its base longitudinally is equidistant from the outer edge of the verandah and the vertical plane of the shop from directly opposite the end of such sign; and
- (g) not be constructed of glass or any material which upon impact or breaking produces particles or shapes which may be hazardous to the public.

### 196. Vertical Signs

(1) A vertical sign shall—

- (a) afford a minimum headway of 2.70 metres;
- (b) subject to sub clause (2) of this Clause, not project more than 1 metre from the face of the building to which it is attached;
- (c) subject to sub clause (3) of this Clause, not be within 1.75 metres of either end of the wall to which it is attached;
- (d) be of a height of at least twice its width;
- (e) not project more than 1 metre above the top of the wall to which it is attached nor more than 1 metre back from the face of that wall;
- (f) not be within 4 metres of another vertical sign on the same building;
- (g) not be placed on a corner of a building, except at a street intersection when it may be placed at an angle with the walls so as to be visible from both streets; and
- (h) except with the approval of the Council not exceed 1 metre in width exclusive of the back projection.

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

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

### 197. Wall Panels

A wall panel shall—

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

### 198. Offences

(1) A person who erects or maintains or permits or suffers to be erected or maintained a sign or hoarding which does not comply with the provisions of this Part.

(2) Where by this Part of these Local Laws a licence is required to erect or maintain a sign or hoarding, a person who maintains or permits or suffers to be maintained a sign or a hoarding without a licence or in respect of which the licence has expired or been cancelled.

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

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

(5) The Council may remove to a place appointed by the Council a sign or hoarding placed or erected on or over a street, way, footpath or other public place under the care and control and management of the Council unless so placed or erected pursuant to this Part. The sign or hoarding removed may be returned by the Council to the person producing adequate proof of ownership upon payment of the prescribed fee.

(6) The Council may, without being liable in damages or otherwise, dispose of any sign or hoarding and reinstate the street, way, footpath or public place at the expense of the person or persons responsible for the erection or display of the sign or hoarding thereon or the injury thereto and the amount of the expense from that person in a court of competent jurisdiction.

(7) The Council, or any person acting under the authority of the Council, may remove from private property any hoarding or any bill, placard or advertisement which is attached to, or pasted, or painted, or stencilled on a hoarding and which in the opinion of the Council is dangerous or objectionable and the Council may recover the expenses of the removal from the owner of the property in a court of competent jurisdiction.

(8) The rights of objection and appeal set out in Part XX shall apply to this Part.

**PART XVI—AIRPORTS (AERODROMES)***Division 1—Preliminaries***199. Part XVI Interpretation**

In this Part unless the context otherwise requires—

“**The Air Navigation Acts**” means the *1920-1966 of the Commonwealth of Australia* or other Act or Acts of the Commonwealth relating to air navigation for the time being in force;

“**Airport**” means any area of land under the control of the Council as an Airport or Aerodrome whilst and so long as licensed for the purpose of an Airport (Aerodrome) under the Regulation;

“**Owner**” includes lessee, charterer, and person for the time being in control of the aircraft;

“**Pilot**” means the person actually controlling an aircraft at the relevant time. If there is no such person, then the person entitled to such control;

“**Regulations**” means *The Air Navigation Regulations* made under the Act and for the time being in force by virtue of the Act.

**200. Terms and Expressions**

Terms and expressions used in this Part shall—

- (a) have the meanings given in Clause 199 which shall prevail over any other conflicting definitions; and
- (b) otherwise be interpreted in accordance with Clause 8.

*Division 2—Conditions of Use***201. Use by Aircraft**

(1) The Owner of every aircraft shall be entitled, upon and subject to compliance with these Local Laws, to use any Airport for the landing, servicing and departure of his aircraft and the embarkment and disembarkment of aerial passengers and freights.

(2) Unless and until so determined by the Airport Manager, any Airport shall not be open to use for flying where the surface of the Airport may be or may reasonably be expected to be unsafe for landing or departure of aircraft.

(3) Provided that, in the case of emergency, landings may be made, entirely at the Owner's risk, upon such Airport.

*Division 3—Buildings and Notice***202. Buildings and Notices**

Subject to the Act and Regulations, the Council may—

- (a) erect, make, or place upon any Airport in such positions as it may see fit such buildings, structures, barriers, conveniences, amenities, signposts, notices, marketing and other things as it may see fit for the more complete, effective, convenient, and safe use and enjoyment of any Airport as a public landing ground for aircraft; and
- (b) grant to any person, upon application, permission to erect buildings, refueling sites, or any other structure or thing consistent with the use of the land as an Airport, subject, if the Council considers fit, to the payment of a rental for the use of the land upon which such buildings, refueling sites, or other structure or thing are or is erected. Such permission may be granted by the Council subject to such terms and conditions as it may deem fit.

*Division 4—Right of Entry***203. Right of Entry to Airport**

(1) Subject to these Local Laws, a person other than –

- (a) persons lawfully employed upon duties in or about the supervision and control of any Airport, or in or about the arrival, departure, or servicing of, or other attention upon aircraft lawfully using any Airport; or
- (b) passengers or intending passengers by aircraft lawfully using any Airport.

shall not enter or be upon any airport or any part thereof.

(2) The Council may, from time to time, set apart any specified part or parts of any Airport—

- (a) to which persons other than those mentioned in sub-clause (a) of sub clause (1) of this Clause of these Local Laws shall not be admitted;
- (b) to which the general public, or any limited classes of the general public, may be admitted, either at all times or at specified times, or for limited periods and generally upon such terms and conditions as the Council may determine; and
- (c) to which no vehicle may be admitted, or to which vehicles may be admitted only on such terms and conditions as the Council may determine.

(3) Suitable notices shall be placed by the Council indicating the limits of any part of any Airport set apart from any special or limited use under these Local Laws.

(4) Notwithstanding the provisions of these Local Laws and Clause 206 the Council may on special occasions, such for instance, as an aerial pageant or other event of public interest, make such arrangements for the control of any Airport and charge such fees for participation and for admission as it may by resolution impose.

(5) No person shall bring, or permit to stray, on to any Airport, any cattle or other animal without authority from the Council. Any such animal so found, trespassing without authority, may be removed from the Airport by any Officer or employee of the Council, or by any Authorized Person.

*Division 5—Conduct of Persons on Airport*

**204. Conduct of Persons on Airport**

(1) Every person admitted to or being upon any Airport shall whilst thereon behave himself in a proper and becoming manner and so as not to cause any annoyance or inconvenience to any other person lawfully thereon; and shall obey any directions reasonably given to him by the Airport Manager or Authorised Person acting under him, for the purpose of preserving order or promoting or facilitating, the lawful use and enjoyment of any Airport.

(2) All passengers and intending passengers by any aircraft shall, whilst upon any Airport, obey the directions of the Airport Manager or Authorised Person as to their conduct and movements.

(3) Any person, whether or not a passenger or intending passenger by an aircraft, who the Airport Manager or Authorised Person may consider to be intoxicated, dangerous to himself or others, or offensive to others, or otherwise undesirable, may be removed by the Airport Manager or Authorised Person.

(4) A person shall not use any building, structure, convenience, or amenity provided upon any Airport for any purpose other than that for which it is provided or intended, or destroy, remove, obliterate, deface, alter or otherwise interfere with any barrier, notice, sign, or marking designed or intended for the direction, guidance, warning or information of persons using any Airport.

*Division 6—Airport*

**205. Access—Animals Restricted**

(1) A person shall not bring an animal on to an Airport unless—

- (a) the person is a person referred to in Section 8 of *The Dog Act 1976* acting in accordance with that provision;
- (b) the animal is being air freighted from the Airport; or
- (c) the animal has been air freighted to the Airport.

(2) The person in charge of an animal shall keep the animal under control and shall not allow it to wander at large on the Airport.

(3) If an animal is at any time on an Airport in contravention of sub clause (2) of this Clause, in addition to the person specified in that sub-clause, the owner of the animal at that time commits an offence against sub clause (2) of this Clause.

*Division 7—Landing Fees and Other Charges*

**206. Landing Fees and Other Charges**

(1) The Council may require the Owner of every private or commercial Aircraft using any Airport to pay fees as determined and approved by the Council.

(2) In the case of a regular air service, the Council may allow payment of an annual charge in respect of such service, of such amount as it may see fit, such charge not to exceed the total fees that would be payable in respect of the service for the year at daily rates.

(3) If any aircraft remains on any Airport more than twenty-four (24) hours, a fee shall be payable as for one landing for each day after the first day during which it so remains. Provided that this provision shall not apply to aircraft parked within leased hangars or on leased sites.

(4) If any arrangements have been made for the landing or departure of an aircraft, but such arrangements are cancelled after the Airport Manager has attended for the purpose of such landing or departure, a charge equal to half a landing fee shall be payable, unless the Airport Manager considers the cancellation warranted by adverse weather conditions, defects in the aircraft or the like.

(5) The Owner of any aircraft not running to a regular schedule, which it is intended shall land upon or depart from any Airport, shall give notice of sufficient length of time before the time of anticipated arrival or departure, to enable the necessary arrangements to be made. Where extra expense is incurred by the Council through failure to give adequate notice, the Owner of the aircraft shall on demand pay the Council the extra expense so incurred.

(6) The fees payable under sub clause (1) of this Clause shall be payable at or before the time of landing of the aircraft or at such other time as may be specially fixed by the Council; other charges and expenses under that Local Law shall be payable upon demand, for the purpose of which demand the Pilot may be treated as the agent of the Owner.

(7) Any fee, charge, or expense payable in accordance with these Local Laws shall constitute a debt due by the Owner of the aircraft concerned, and may be recovered by the Council from him in any court of competent jurisdiction.

**PART XVII—BUSH FIRE BRIGADE***Division 1—Preliminary***207. Part XVII Interpretations**

In this Part unless the context otherwise requires—

“**Act**” means the *Bush Fires Act 1954*;

“**Authority**” means the Fire and Emergency Services Authority of Western Australia established by Section 4 of the *Fire and Emergency Services Authority of Western Australia Act 1998*;

“**Brigade area**” is defined in Clause 210(1) (b);

“**Brigade Officer**” means a person holding a position referred to in Clause 210(1) (c), whether or not he or she was appointed by the Council or elected at an annual general meeting of a Bush Fire Brigade or otherwise appointed to the position;

“**Bush Fire Advisory Committee**” means the persons appointed to a Bush Fire Advisory Committee under and in accordance with Section 67 of the Act;

“**Bush Fire Brigade**” is defined in Section 7 of the Act;

“**Bush Fire Operating Procedures**” means the Bush Fire Operating Procedures adopted by Council as amended from time to time;

“**fire fighting member**” is defined in Clause 231;

“**Regulations**” means “Regulations made under the Act”;

“**Rules**” means the Rules Governing the Operation of Bush Fire Brigades.

**208. Terms and Expressions**

Terms and expressions used in this Part shall—

(a) have the meanings given in Clause 207 which shall prevail over any other conflicting definitions;

(b) unless the context otherwise requires, as reference to—

(ii) a Captain;

(iii) a First Lieutenant;

(iv) a Second Lieutenant;

(v) any additional Lieutenants;

(vi) an Equipment Officer;

(vii) a Secretary;

(viii) a Treasurer; or

(ix) a Secretary/Treasurer combined;

means a person holding that position in a Bush Fire Brigade; and

(c) otherwise shall be interpreted in accordance with Clause 8.

*Division 2—Establishment of Bush Fire Brigades***209. Establishment**

(1) Council may establish a Bush Fire Brigade for the purpose of carrying out normal brigade activities.

(2) A Bush Fire Brigade is established on the date of Councils' decision under sub clause (1) of this Clause.

**210. Name and Officers**

(1) On establishing a Bush Fire Brigade under Clause 209(1), Council is to—

(a) give a name to the Bush Fire Brigade;

(b) specify the area in which the Bush Fire Brigade is primarily responsible for carrying out the normal brigade activities (the “Brigade area”); and

(c) appoint—

(i) a Captain;

(ii) a First Lieutenant;

(iii) a Second Lieutenant;

(iv) additional Lieutenants if Council considers it necessary;

(v) an Equipment Officer;

(vi) a Secretary; and

(vii) a Treasurer; or

(viii) a Secretary/Treasurer combined.

(2) When considering the appointment of persons to the position in sub clause (1) (c) of this Clause, Council is to have regard to the qualifications and experience, which may be required to fill each position.

(3) A person appointed to a position in sub clause (1) (c) of this Clause is to be taken to be a brigade member.

(4) The appointments referred to in sub clause (1) (c) of this Clause expire at the completion of the first annual general meeting of the Bush Fire Brigade.

(5) If a position referred to in sub clause (1) (c) of this Clause becomes vacant prior to the completion of the first annual general meeting, then the Council is to appoint a person to fill the vacancy in accordance with sub clause (2) of this Clause.

#### **211. Command of a Fire - Ranks**

(1) Where under the Act and Bush Fire Operating Procedures members of the Bush Fire Brigade have command of a fire, unless a Bushfire Control Officer is in attendance at the fire, the Captain has full control over other persons fighting the fire, and is to issue instructions as to the methods to be adopted by the fire fighters. In the absence of the Captain, the First Lieutenant, and in the absence of the First, the Second Lieutenant and so on, in the order of seniority determined, is to exercise all the powers and duties of the Captain.

(2) Where a Bushfire Control Officer is in attendance at a fire which the members of the Bush Fire Brigade have command of under the Act and the Bush Fire Operating Procedures, the most senior Bushfire Control Officer has full control over other persons fighting the fire and is to issue instructions as to the methods to be adopted by the fire fighters.

#### **212. Application of Rules**

(1) The Rules govern the operation of a Bush Fire Brigade.

(2) A Bush Fire Brigade and each brigade member is to comply with the Rules.

#### **213. Variation of Rules**

(1) Council may vary the Rules in their application to all Bush Fire Brigades or in respect of a particular Bush Fire Brigade.

(2) The Rules, as varied, have effect on and from the date of a decision under sub clause (1) of this Clause.

(3) Council is to notify a Bush Fire Brigade of any variation to the Rules as soon as practicable after making a decision under sub clause (1) of this Clause.

#### **214. Transitional - Existing Bush Fire Brigades**

(1) Where Council has established a Bush Fire Brigade prior to the commencement date, then on and from the commencement day—

- (a) the Bush Fire Brigade is to be taken to be a Bush Fire Brigade established under and in accordance with these Local Laws;
- (b) the provisions of these Local Laws apply to the Bush Fire Brigade save for Clause 210; and
- (c) any rules governing the operation of the Bush Fire Brigade are to be taken to have been repealed and substituted with the Rules.

(2) In this Clause “commencement day” means the day on which this Local Law comes into operation.

#### **215. Dissolution of Bush Fire Brigade**

In accordance with Section 41 (3) of the Act, Council may cancel the registration of a Bush Fire Brigade if it is of the opinion that the Bush Fire Brigade is not complying with the Act, these Local Laws, the Bush Fire Operating Procedures or the Rules, or is not achieving the objectives for which it was established.

#### **216. New Arrangement After Dissolution**

If Council cancels the registration of a Bush Fire Brigade, alternative fire control arrangements are to be made in respect of the Brigade area.

### *Division 3—Organisation and Maintenance of Bush Fire Brigades*

#### **217. Council Responsibility for Structure**

The Council is to ensure that there is an appropriate structure through which the organization of Bush Fire Brigade is maintained.

#### **218. Officers to be Supplied With Act**

Council is to supply each Brigade Officer with a copy of the Act, the Regulations, the Bush Fire Operating Procedures, these Local Laws and any other written laws which may be relevant to the performance of the Brigade Officer's function, and any amendments which are made thereto from time to time.

#### **219. Managerial Role of Chief Bush Fire Control Officer**

Subject to any directions by Council the Chief Bush Fire Control Officer has primary managerial responsibility for the organization and maintenance of Bush Fire Brigades.

#### **220. Chief Bush Fire Control Officer May Attend Meetings**

The Chief Bush Fire Control Officer or her or his nominee (who is to be a Bush Fire Control Officer) may attend as a non-voting representative of Council at any meeting of a Bush Fire Brigade.

**221. Duties of Chief Bush Fire Control Officer**

The duties of the Chief Bush Fire Control Officer include—

- (a) provide leadership to volunteer Bush Fire Brigades;
- (b) monitor Bush Fire Brigade's re-sourcing, equipment (including protective clothing) and training levels and report thereon with recommendations at least once a year to Council.
- (c) liaise with Council concerning fire prevention/suppression matters generally and directions to be issued by Council to Bush Fire Control Officers (including those who issue permits to burn) Bush Fire Brigades or Brigade Officers; and
- (d) ensure that Bush Fire Brigades are registered with Council and that lists of brigade members are maintained.

**222. Holding Annual General Meetings**

A Bush Fire Brigade is to hold an annual general meeting.

**223. Nominations of Bush Fire Control Officers to the Bush Fire Advisory Committee**

At the annual general meeting of a Bush Fire Brigade, one brigade member is to be nominated to the Bush Fire Advisory Committee to serve as the Bush Fire Control Officer for the Brigade area until the next general meeting.

**224. Nomination of Bush Fire Control Officer to Council**

If Council has not established a Bush Fire Advisory Committee, then at the annual general meeting of a Bush Fire Brigade, the Bush Fire Brigade is to nominate one brigade member to Council to serve as the Bush Fire Control Officer for the Brigade area until the next annual general meeting.

**225. Tabling of Minutes for the Bush Fire Advisory Committee**

- (1) The Secretary is to forward a copy of the minutes of the annual general meeting of a Bush Fire Brigade to the Chief Bush Fire Control Officer within one month after the meeting.
- (2) The Chief Bush Fire Control Officer is to table the minutes of a Bush Fire Brigade's annual general meeting at the next meeting of the—
  - (a) Bush Fire Advisory Committee; or
  - (b) Council, if there is no Bush Fire Advisory Committee.

following their receipt under sub-clause (1) of this Clause.

**226. Function of Bush Fire Advisory Committee**

The Bush Fire Advisory Committee is to have the functions set out in Section 67 of the Act and is to include such number of nominees of the Bush Fire Brigades as is determined by Council.

**227. Advisory Committee to Nominate Bush Fire Control Officers**

As soon as practicable after the annual general meeting of each Bush Fire Brigade in the District, the Bush Fire Advisory Committee is to nominate to Council from the persons nominated by each Bush Fire Brigade a person for the position of a Bush Fire Control Officer for the Brigade area.

**228. Council to Have Regard to Nominees**

When considering persons for the position of a Bush Fire Control Officer, Council is to have regard to those persons nominated by the Bush Fire Advisory Committee, but is not bound to appoint the persons nominated.

**229. Advisory Committee to Consider Bush Fire Brigade Motions**

The Bush Fire Advisory Committee is to make recommendations to Council on all motions received by the Bush Fire Advisory Committee from Bush Fire Brigades.

*Division 4—Types of Bush Fire Brigade Membership*

**230. Types of Membership**

The membership of a Bush Fire Brigade consists of the following—

- (a) fire fighting members;
- (b) associate members;
- (c) cadet members; and
- (d) honorary life members.

**231. Fire Fighting Members**

Fire fighting members are those persons being at least 16 years of age who undertake all normal Bush Fire Brigade activities.

**232. Associate Members**

Associate members are those persons who are willing to supply free vehicular transport for fire fighting members or fire fighting equipment, or who are prepared to render other assistance required by the Bush Fire Brigade.

**233. Cadet Members**

Cadet members are—

- (a) to be aged 11 to 15 years;



- (b) to be admitted to membership only with the consent of their parent or guardian;
- (c) admitted for the purpose of training and are not to attend or be in attendance at an uncontrolled fire or other emergency incident;
- (d) to be supervised by a fire fighting member when undertaking normal brigade activities as defined by paragraphs (c), (d), (e), (f) and (g) of Section 35A of the Act;
- (e) ineligible to vote at Bush Fire Brigade meetings;
- (f) not to be assigned ranks under the Authority's rank structure.

#### **234. Honorary Life Member**

- (1) The Bush Fire Brigade may by a simple majority resolution appoint a person as an honorary life member in recognition of services by that person to the Bush Fire Brigade.
- (2) No membership fees are to be payable by an honorary life member.

#### **235. Notification of Membership**

No later than 31<sup>st</sup> May in each year, the Bush Fire Brigade is to report to the Chief Fire Control Officer the name, contact details and type of membership of each brigade member.

#### *Division 5—Appointment, Dismissal and Management of Members*

#### **236. Rules to Govern**

The appointment, dismissal and management of brigade members by the Bush Fire Brigade are governed by the Rules.

#### *Division 6—Equipment of Bush Fire Brigades*

#### **237. Council Policies**

The Council may make policies under which it—

- (a) provides funding to Bush Fire Brigades for the purchase of protective clothing, equipment and appliances; and
- (b) keeps Bush Fire Brigades informed of opportunities for funding from other bodies.

#### **238. Equipment in Brigade Area**

Not later than 31<sup>st</sup> May in each year, the Bush Fire Brigade is to report to Council the nature, quantity and quality of all protective clothing, equipment and appliances of the Bush Fire Brigade which are generally available within the Brigade area (or at a station of the Bush Fire Brigade).

#### **239. Funding from Council Budget**

A request to Council from the Bush Fire Brigade for funding of protective clothing, equipment or appliance needs is to be received by Council by 31<sup>st</sup> March in order to be considered in the next following Council budget, and is to be accompanied by the last audited financial statement and a current statement of assets and liabilities of the Bush Fire Brigade.

#### **240. Consideration in Council Budget**

Council may approve or refuse an application for funding depending upon the assessment of budget priorities for the year in question.

### **PART XVIII CEMETERIES**

#### *Division 1—Preliminary*

#### **241. Part XVIII Interpretation**

In this Part unless the context otherwise requires—

- “ashes” means so much of the remains of a dead body after the due processes of cremation as may be contained in a standard sized cremation urn;
- “Authorised Officer” means an employee of the Board authorised by the Board for the purposes of performing any function or exercising any power conferred upon an Authorised Officer by these Local Laws;
- “Board” means the Council of the Shire of Wyndham-East Kimberley;
- “CEO” means the Chief Executive Officer for the time being, of the Board;
- “Funeral Director” means a person holding a current Funeral Director's licence;
- “mausoleum” means a building or construction wholly above or partially above and below ground level, so constructed as to allow the deposition of dead bodies into a compartment in the wall or floor and being sealed from view;
- “monumental mason” means a person holding a current monumental mason's licence;
- “personal representative” means the administrator or executor of an estate of a deceased person;
- “set fee” refers to fees and charges set by a resolution of the Board and published in the *Government Gazette*, under Section 53 of the Act;
- “single funeral permit” means a permit issued by the Board under Section 20 or 21 of the Act which entitles the holder to conduct at the cemetery a funeral of a person named in the permit;

“**vault**” means a below ground lined grave with one or more sealed compartments constructed to specifications approved from time to time by the Board.

#### **242. Terms and Expressions**

Terms and expressions used in this Part shall—

- (a) have the meanings given in Clause 241 which shall prevail over any other conflicting definitions;
- (b) otherwise have the meaning given to them in the Cemeteries Act which shall prevail over any conflicting definition in sub section 2.1.1. of the Act; and
- (c) otherwise shall be interpreted in accordance with Clause 8.

#### *Division 2—Administration*

#### **243. Powers and Functions of CEO**

Subject to any directions given by the Board, the CEO shall exercise all the powers and functions of the Board in respect of the cemetery.

#### *Division 3—Application for Funerals*

#### **244. Application for Burial**

(1) A person may apply for approval to bury a dead body or ashes in the cemetery in the form prescribed by the Board from time to time.

(2) An application under sub clause (1) of this Clause is to be accompanied by the set fee.

#### **245. Applications to be Accompanied by Certificates**

All applications referred to in Clause 244 shall be accompanied by either a medical certificate of death or a Coroner’s order of burial, and a certificate issued under Clause 246, in respect of the body.

#### **246. Certificate of Identification**

(1) After a dead body is placed in a coffin and prior to a dead body being removed to the cemetery, or crematorium within the cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification in the form determined by the Board from time to time, unless—

- (a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed; or
- (b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body.

(2) Where—

- (a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed; or
- (b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body,

then the Funeral Director shall complete a certificate in the form determined by the Board from time to time.

#### **247. Minimum Notice Required**

All bookings to hold a funeral shall be made with the Board at least twenty four hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

#### *Division 4—Funeral Directors*

#### **248. Funeral Director’s Licence Expiry**

A Funeral Director’s licence shall expire on the 30th day of June in each year.

#### **249. Single Funeral Permits**

Every application for a single funeral permit made under Section 20 or 21 of the Act shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.

#### **250. Application Refusal**

The Board may refuse an application for a single funeral permit if, in the opinion of the Board, either the coffin specifications or the details of the vehicle transporting the dead body to the gravesite, are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

#### *Division 5—Funerals*

#### **251. Requirements for Funerals and Coffins**

A person shall not bring a dead body into the cemetery unless—

- (a) the Board has approved an application for the burial of that dead body in accordance with Division 3 of this Part;
- (b) it is enclosed in a coffin, which in the opinion of the Board is structurally sound, and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin’s lid; or

- (c) under the plate referred to in paragraph (b) of this Clause there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 mm in height.

#### **252. Funeral Processions**

The time fixed by the Board for any burial shall be the time at which the funeral procession is to arrive at the cemetery gates, and, if not punctually observed, then the applicant who applied to hold the funeral under Clause 244 shall pay the set fee for being late.

#### **253. Vehicle Entry Restricted**

(1) Subject to sub clause (2) of this Clause, every funeral procession shall enter by the principal entrance, and no vehicle except the hearse, and official mourning coaches, shall be permitted to enter the cemetery.

(2) This Clause shall not apply to persons using wheelchairs or motorised wheelchairs.

#### **254. Vehicle Access and Speed Limitations**

Vehicles shall proceed within the cemetery by the constructed roadway or other areas designated for the use of vehicles and shall not exceed the speed limit as displayed.

#### **255. Offenders May be Expelled**

A person committing an offence under Clause 251 may be expelled from the cemetery by the CEO or an Authorised Officer.

#### **256. Conduct of Funeral by Board**

When conducting a funeral under Section 22 of the Act the Board may—

- (a) require a written request for it to conduct a funeral to be lodged with it;
- (b) in its absolute discretion, charge any person requesting it to conduct a funeral the set fee for the conduct of that funeral by it;
- (c) where no fee or a reduced fee has been charged by it for the conduct of the funeral, determine the manner in which the funeral shall be conducted;
- (d) bury that dead body;
- (e) specify an area in the cemetery where the dead body is to be buried or the ashes placed;
- (f) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under these Local Laws; and
- (g) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

#### **257. Disposal of Ashes**

(1) The personal representative of a deceased person whose body has been cremated may apply, in an application under Clause 251 or otherwise, for permission to dispose of the ashes in the cemetery and upon payment of the set fee the Board may grant permission for the ashes to be disposed of by one of the following methods—

Niche Wall	Memorial Wall
Garden of Remembrance	Ground Niche
Memorial Rose, Tree or Shrub	Family Shrub
Memorial Desk	Granite Seat
Family Grave	Book of Remembrance
Scattering to the Winds	Memorial Gardens
Other memorials approved by the Board	

(2) Subject to sub clause (3) and (4) of this Clause, a person shall not place the ashes of a deceased person in the cemetery.

(3) An Authorised Officer may place the ashes of a deceased person in a cemetery in accordance with the Board approval provided—

- (a) the person requesting the placement of the ashes has the permission of the Board; and
- (b) the ashes are placed within an area set aside for that purpose by the Board.

(4) An Authorised Officer may place the ashes of a deceased person within a grave in accordance with the Board approval, provided the person requesting the placement of the ashes has the written permission of the Board and the approval of the holder of the right of burial of the grave.

#### *Division 6—Burials*

#### **258. Depth of Graves**

(1) A person shall not bury a coffin within the cemetery so that the distance from the top of the coffin to the original surface of the ground is—

- (a) subject to paragraph (b) of this Clause, less than 750mm, unless that person has the permission of an Authorised Officer; or
- (b) in any circumstances less than 600mm.

(2) The permission of the Authorised Officer in paragraph (a) of this Clause will only be granted where in the opinion of the Authorised Officer exceptional circumstances require granting of that permission.

#### **259. Mausoleum**

(1) A person other than the Board shall not construct a brick grave, crypt, vault or mausoleum within the cemetery.

(2) A person may request the Board to construct a vault or mausoleum within the cemetery which vault or mausoleum shall at all times remain the property of the Board.

(3) An application under sub clause (2) of this Clause shall be in writing and shall be accompanied by payment of the set fee.

(4) A person shall not place a dead body in a mausoleum except—

- (a) in a closed coffin;
- (b) in a soundly constructed chamber; and
- (c) in accordance with sub clause (5) of this Clause.

(5) The number of burials in a chamber must not exceed the number for which the chamber was designed.

#### *Division 7—Memorials and Other Work*

#### **260. Application for Monumental Work**

A Board may require the written consent of the holder of the right of burial of the grave to accompany an application under Section 30 of the Act.

#### **261. Placement of Monumental Work**

Every memorial shall be placed on proper and substantial foundations.

#### **262. Removal of Rubbish**

All refuse, rubbish or surplus material remaining after memorial works are completed under a permit issued under Section 30 of the Act shall be immediately removed from the cemetery by the person carrying out the same.

#### **263. Operation of Work**

All material required in the erection and completion of any work shall, as far as possible, be prepared before being taken to the cemetery, and all materials required by tradesmen shall be admitted at such entrance as the CEO or an Authorised Officer shall direct.

#### **264. Removal of Sand, Soil or Loam**

No sand, earth or other material shall be taken from any part of the cemetery for use in the erection of any memorial or work except with the written approval of the Board.

#### **265. Hours of Work**

Persons shall not be permitted to carry out memorial or other work on graves within the cemetery other than during the hours of 6.00am and 6pm Monday to Saturdays, without the written permission of the Board.

#### **266. Unfinished Work**

Should any work by masons or others be not completed before 6pm Monday to Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an Authorised Officer.

#### **267. Use of Wood**

No wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave, other than as a temporary marker and with the prior approval of the Board.

#### **268. Plants and Trees**

No trees or shrubs shall be planted on any grave or within the cemetery except such as shall be approved by the CEO.

#### **269. Supervision**

All workers, whether employed by the Board or by any other person, shall at all times whilst within the boundaries of the cemetery be subject to the supervision of the CEO or an Authorised Officer and shall obey such directions as the CEO or an Authorised Officer may give.

#### **270. Australian War Graves**

Notwithstanding anything in this Part to the contrary, the Office of Australian War Graves—

- (a) may place a memorial on a military grave; and
- (b) is not required to pay the set fee for any memorial that is placed upon a military grave.

#### **271. Placing of Glass Domes and Vases**

A person shall not place glass domes, vases or other grave ornaments—

- (a) outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under Section 40 (2) of the Act; or
- (b) on the lawn in an area set aside by the Board as a lawn or a memorial plaque section.

**272. Specifications of Monuments**

- (1) All monuments in the lawn section of a cemetery shall—
- (a) be made of natural stone;
  - (b) be placed upon a base of natural stone;
  - (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) A person shall not display any trade names or marks upon any monument erected within the lawn section of the cemetery.

**273. Headstones**

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

**274. Requirements of a Memorial Plaque**

- (1) All memorial plaques placed in a memorial plaque section of the cemetery shall—
- (a) be made of admiralty bronze or any other material approved by the Board; and
  - (b) not be less than the dimensions 380mm x 280mm, nor more than 560mm x 305mm.
- (2) All memorial plaques made of admiralty bronze shall—
- (a) not exceed 20mm in thickness; and
  - (b) be placed upon a base mounting approved by the Board.
- (3) All memorial plaques made of stone shall—
- (a) not exceed 50mm in thickness placed upon a base mounting approved by the Board; or
  - (b) not be less than 100mm in thickness if it is not to be placed upon a base mounting.

**275. Monumental Mason's Licence**

- (1) The Board may upon receipt of an application in writing by any person and upon payment of the set fee issue to the applicant a monumental mason's licence.
- (2) A licence issued under sub clause (1) of this Clause authorises the holder to carry out monumental works within the cemetery subject to the provisions of this Part and such conditions, as the Board shall specify upon the issue of that licence.

**276. Expiry Date, Non-Transferability**

A monumental mason's licence—

- (a) shall, subject to Clause 275, be valid from the date specified therein until the 30th day of June next following; and
- (b) is not transferable.

**277. Carrying out Monumental Work**

A person shall not carry out monumental work within the cemetery unless that person—

- (a) is the holder of a current monumental mason's licence issued pursuant to Clause 275 or does so as the employee of a person who holds such a licence; or
- (b) is authorised by the Board to do so.

**278. Responsibilities of the Holder of a Monumental Mason's Licence**

The holder of a monumental mason's licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within the cemetery pursuant to that licence with all the requirements and conditions of the licence, these Local Laws, the Act and any other written law which may affect the carrying out of monumental works.

**279. Cancellation of a Monumental Mason's Licence**

- (1) The Board may by notice in writing to the holder of a monumental mason's licence terminate the licence on any of the following grounds—
- (a) that the holder of the licence has committed a breach of the requirements and conditions of the licence, these Local Laws, the Act or any other written law which may affect the carrying out of monumental works; or
  - (b) that, in the opinion of the Board, the conduct of the holder of the licence or any person in the employ of that holder in carrying out or attempting to carry out any works within the cemetery, is inappropriate or unbecoming; or that the holder of the licence has purported to transfer the licence issued to that holder.

(2) Upon the termination of a monumental mason's licence under this Part no part of any fee paid for the issue of that licence is refundable by the Board.

(3) An aggrieved person whose licence has been terminated under sub clause (1) of this Clause may appeal to a Local court against a decision of the Board under this Part in the manner stated in Section 19 (3) of the Act.

#### *Division 8—General*

##### **280. Animals**

Subject to Clause 279, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than with the approval of the CEO or an Authorised Officer.

##### **281. Guide Dogs**

Subject to Clause 278 shall not apply to a hearing impaired person or a person who is blind or partially blind and is accompanied by a hearing or guide dog.

##### **282. Damaging and Removing of Objects**

Subject to Clause 281, a person shall not damage, remove or pick any tree, plant, shrub or flower in the cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.

##### **283. Withered Flowers**

A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Board for that purpose.

##### **284. Littering and Vandalism**

A person shall not—

- (a) break or cause to be broken any glass, ceramic or other material in or upon the cemetery; or
- (b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in or upon the cemetery other than in a receptacle provided for that purpose.

##### **285. Advertising**

A person shall not carry on or advertise any trade, business or profession within the cemetery without the prior written approval of the Board which consent may be granted subject to such conditions as the Board thinks fit.

##### **286. Obeying Signs and Directions**

A person shall obey all signs displayed, marked, placed or erected by the Board within the cemetery and any other lawful direction by the CEO or an Authorised Officer.

## **PART XIX—ENFORCEMENT**

### *Division 1—Preliminary*

##### **287. Part XIX Interpretations**

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.

##### **288. Terms and Expressions**

Terms and expressions used in this Part shall—

- (a) have the meanings given in Clause 287 which shall prevail over any other conflicting definition; and
- (b) otherwise be interpreted in accordance with Clause 8.

##### **289. General Powers of Authorised Persons**

(1) It shall be a breach of these Local Laws for any person to hinder or interfere with an Authorised Officer or person acting in the course of a duty, power or function under these Local Laws.

(2) A person on Council property shall obey any lawful direction of an Authorised Person relating to the use of or the person's conduct on that property.

(3) Any person failing to comply with any provisions of these Local Laws or behaving in a manner that in the opinion of the CEO or an Authorised Officer is inappropriate on any Council premises or reserve may in addition to any penalty provided by these Local Laws be ordered to leave the Council premises or reserve by the CEO or Authorised Officer.

##### **290. Identification**

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

*Division 2—Impounding***291. Power to Remove and Impound**

- (1) An Authorised Person may remove and impound any animal or vehicle involved in a contravention under these Local Laws that can under these Local Laws or under any other law lead to impounding.
- (2) An Authorised Person may use reasonable force to exercise the power referred to in sub section (1). (1995 Act s.3.39).

**292. Dealt with According to Law**

Where an Authorised Person places an animal or vehicle in the Councils' depot, public pound, or other place set aside for that purpose, the animal or vehicle shall thereafter be dealt with according to law.

**293. Provision of Register**

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

**294. Prosecution or Notice**

- (1) When any animal or vehicle has been impounded under Clause 291 the Council is required to either—
- (a) institute a prosecution against the alleged offender; or
  - (b) give the alleged offender notice that the animal or vehicle may be collected from a place specified during such hours as are specified.
- (2) If after the expiration of 7 days after the animal or vehicle was removed for impounding, the Council has been unable to give the alleged offender a notice under sub clause (1)(b) of this Clause because it has been unable, after making reasonable efforts to do so, to find the alleged offender, the Council is to be taken to have given that notice (1995 Act s.3.42).
- (3) In an appropriate case the Council may both prosecute and give a notice under sub clause (1)(b) of this Clause.

**295. Prosecution is Instituted**

Where an animal or vehicle has been removed and impounded under Clause 290 and a prosecution is instituted, if the alleged offender—

- (a) is not convicted; or
- (b) is convicted but the court does not order that the animal or vehicle be confiscated, and if the animal or vehicle continues to be impounded, the Council is required to give the alleged offender notice that the goods may be collected from a place specified during such hours as are specified. (1995 Acts.3.44).

**296. Notice**

A notice referred to in the preceding Clause 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.

**297. Payment of Costs**

A person may recover a seized animal or vehicle from custody by paying to the Council the costs of removing, impounding and keeping the animal or vehicle, and the Council may refuse to allow an animal or vehicle impounded under Clause 290 to be collected until those costs have been paid. (1995 Act s.3.46 (1)).

**298. Sale or Disposal**

- (1) The Council may sell or otherwise dispose of any animal or vehicle that has been ordered to be confiscated by a court in a prosecution by the Shire of Wyndham-East Kimberley. (1995 Act s.3.47 (1)).
- (2) The Council may sell or otherwise dispose of an impounded animal or vehicle that has not been collected within the period specified in sub clause (3) of this Clause of—
- (a) a notice having been given under Clause 294(1)(b) or Clause 295 hereof; or
  - (b) being impounded if the Council has been unable, after making reasonable efforts to do so, to give that notice to the alleged offender.
- (3) The period after which an animal or vehicle may be sold or otherwise disposed of under sub clause (2) of this Clause is—
- (a) for an animal—7 days; and
  - (b) for a vehicle—2 months.
- (4) Section 3.58 of the 1995 Act applies to the sale of an animal or vehicle under this Clause as if they were property referred to in that Section of the 1995 Act.
- (5) Money received by the Council from the sale of an animal or vehicle under sub clause (2) of this Clause is to be credited to its trust fund except to the extent required to meet the costs and expenses incurred by the Council in removing, impounding and selling the animal or vehicle. (1995 Act s.3.47)).

**299. 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.

**300. Recovery of Impounding Expenses**

If a vehicle or animal is removed and impounded under Clause 291 and the alleged offender is convicted, the Council may take the recovery action referred to in Section 3.48 of the 1995 Act.

**301. Claim for Damages**

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

*Division 3—Infringement Notice Penalties***302. Provision for Infringement Notices**

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.

**303. Issue of Infringement Notices**

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.

**304. Breach of Local Laws**

Every breach of any of these Local Laws made under the Act (or under the *Dog Act* as to the offences relating to dogs referred to in Schedule A in this Part) 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 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.

**305. Withdrawal of Infringement Notice**

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.

**306. Issue of Infringement Notice in Lieu of Proceedings**

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 a court without further notice.

**307. Penalty**

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.

**308. Schedule B Infringement Notice Penalties**

The Council may from time to time prescribe a Schedule B in this Part of Infringement Notice penalties applicable to any one or more specific offences under these Local Laws. The Council may prescribe from time to time Infringement Notice penalties for any offence or class of offences by an entry in the Schedule B of this Part. If no entry appears in Schedule B of this Part 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, one hundred dollars (\$100); or
- (b) where a previous penalty is known to have been imposed under these Local Laws for that offence the penalty shall increase by fifty dollars (\$50) for each repeat offence.

**309. Penalties**

(1) Where a penalty is set out in Schedule B in this Part for any offence, that penalty shall be the penalty prescribed for that offence and in that case the general Infringement Notice penalty in the preceding Clause shall not apply.

(2) 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 direction notice or order under these Local Laws commits an offence.

(3) The maximum penalty in respect of—

- (a) an offence involving a breach 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 maximum penalty under that Act for a breach of these Local Laws made under the authority of that Act.



(4) Subject to sub clause (3) of this Clause, any person who commits a first offence under these Local Laws shall be liable, if no consistent 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.

(5) Any minimum penalty or minimum daily penalty referred to in sub clause (4) of this Clause 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 sub clause (3) of this Clause.

(6) 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.

**Schedule B**  
**INFRINGEMENT NOTICE PENALTIES**

Local Law	Nature of Offence	Modified Penalty
13	Prohibited activities in parks, reserves, lakes, rivers and foreshores	\$500.00
15	Activities requiring permission in parks, reserves, lakes, rivers and foreshores	\$100.00
44(5)(a)	Failing to maintain a kennel establishment in a clean, sanitary and tidy condition	\$40.00
44(5)(b)	Failing to dispose of all refuse, faeces and food waste from a kennel establishment daily in an approved manner	\$40.00
44(5)(c)	Failing to take all practical measures for the destruction of fleas, flies and other vermin	\$40.00
45(1)	Failing to keep premises fenced as required	\$40.00
46(1)(a)	Permitting a dog to enter or be in or on a shop or business premises	\$40.00
46(1)(b)	Permitting a dog to enter or be in a public building	\$40.00
46(2)	Permitting a dog to excrete on a street or other public place or public reserve or on other land and failing to remove and dispose of such excreta in an approved manner on private land with the consent of the occupier of the land	\$40.00
99	Driving on a closed thoroughfare	\$500.00
129(3)	Standing or parking on a street verge	\$30.00
131(1)	Standing not headed in direction of movement of traffic	\$40.00
135(2)(a)	Standing vehicle in a "No Standing" area	\$40.00
135(2)(b)	Parking vehicle contrary to limitation inscribed on sign associated with that area	\$30.00
135(3)	Standing vehicle in a loading zone unless picking up or setting down goods or passengers	\$30.00
135(4)	Parking a vehicle in a "No Parking" area	\$40.00
135(5)(a)&(b)	Parking a vehicle on any portion of the street or street verge for purposes of repairs to vehicle or exposing vehicle for sale	\$30.00
136	Parking so as to be not close and parallel to kerb	\$30.00
139(1)	Parking of a vehicle so that any portion of it is -	
	—between any other standing vehicle and the centre of the carriageway	\$40.00
	—in front of a right of way, private street, crossover, passage or private driveway	\$40.00
	—parked in such a manner as to obstruct traffic on any footpath or pedestrian crossing	\$30.00
139(4)	Standing within 6 metres of property line at intersection	\$30.00
139(5) &(6)	Standing in a bus stand	\$30.00
253	Unauthorised use—driving of vehicles in cemeteries	\$100.00

Local Law	Nature of Offence	Modified Penalty
254	Excessive speed in cemeteries	\$100.00
262	Placing and removal of rubbish and surplus materials in cemeteries	\$100.00
266	Leaving uncompleted works in an untidy or unsafe condition in cemeteries	\$100.00
280	Animal at large in cemeteries	\$100.00
284	Dumping of Rubbish in cemeteries	\$100.00
285	Unauthorised advertising, and/or trading in cemeteries	\$100.00

*Division 4—General*

### **310. Unauthorised Signs**

No person shall, without the authority of the Council, mark, set up or exhibit any sign purporting to be or resembling a sign marked, set up or exhibited by the Council under the authority of these Local Laws.

### **311. Exemption from Liability**

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

### **312. Liability for Damage to Council Property**

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

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

(2) Unless there is proof to the contrary, a person shall be deemed to have damaged Council property within sub clause (1) of this Clause where—

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

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

### **313. Performance of Duties**

(1) Prohibitions of these Local Laws shall not apply to an Authorised Officer or person acting in the course of his or her duty.

(2) An Authorised Officer or person performing duties imposed under these Local Laws or any other laws of the Shire of Wyndham-East Kimberley is exempt from the provisions of these Local Laws in relation to the parking or standing of any Council vehicle.

### **314. Applications**

Every application for an approval or licence issued pursuant to these Local Laws shall be in the form prescribed by the Council from time to time.

### **315. Forms**

Where provision is made for a form to be prescribed or provided, if none is prescribed or provided then a form appropriate to the circumstances will suffice if it provides information needed by the Council to perform its relevant function under these Local Laws.

### **316. Removal From Premises**

Any person failing to comply with any provisions of these Local Laws or behaving in a manner that in the opinion of the CEO or an Authorised Officer is inappropriate on any Council premises or reserve may in addition to any penalty provided by these Local Laws be ordered to leave the Council premises or reserve by the CEO or Authorised Officer.

## **Part XX—OBJECTIONS, APPEALS AND MISCELLANEOUS**

### **317. Rights of Objection and Appeal**

(1) Where any provision is made for the granting, issuing or giving of any licence, authorisation, registration, notice, approval or consent or the like under these Local Laws, or for the refusal, refusal of renewal, or cancellation of the same, or for the imposition of conditions, then the rights of objection and appeal and the procedures associated with them provided for in Part 9 Division 1 of the Act shall

apply, together with the relevant provision of the *Local Government (Functions and General Regulations) 1996*.

(2) The proceeding sub clause shall not apply to Part VI – Dogs, except to the extent that there will be no inconsistency with the Acts under which that Part is made, and to the extent that the rights of appeal provided by the Act are applicable.

### **318. Waiving of Requirements**

The Council and by delegation to the CEO, in its absolute discretion may, either generally or for specific use or purpose, waive all or any of the requirements of these Local Laws.

### **319. Fees**

Where provision is made for fees to be prescribed, if no fees are prescribed by the Council at the time the same fall due, the CEO shall assess a fee appropriate to cover the administrative expenses involved in the relevant Council function, and as soon as possible thereafter request the Council to prescribe the relevant fee or fees. Until the Council has prescribed a fee the fee assessed by the CEO in accordance with this Clause shall be the prescribed fee.

### **320. Conditions**

If provision is made in these Local Laws for the granting or issuing of any licence, authorisation, registration, approval or consent or the like subject to conditions, the person to whom the same is granted issued or given and every other person operating under or within the terms of such licence, authorisation, registration, approval or consent or the like shall comply with such conditions and any failure to comply shall be a breach of this Part and subject to the penalties applicable to the relevant Part of these Local Laws.

---

Passed by resolution at a meeting of the Council of the Shire of Wyndham-East Kimberley held on the 19th day of April 2001.

Dated 6th day of August 2001.

The Common Seal of the Shire of Wyndham-East Kimberley was affixed by authority of a resolution of the Council in the presence of—

B. JOHNSON, Shire President.

P. ROB, Chief Executive Officer.

---



2 0 0 1 0 0 1 5 9 6 6