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**TOWN OF BASSENDEAN**

LOCAL GOVERNMENT ACT 1995

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

**LOCAL GOVERNMENT PROPERTY LOCAL LAW**

**PARKING AND PARKING FACILITIES  
LOCAL LAW**

**URBAN ENVIRONMENT AND NUISANCE  
LOCAL LAW**

**BEE KEEPING LOCAL LAW**

**REPEAL LOCAL LAW**

**SIGNS, HOARDINGS AND BILL POSTING  
LOCAL LAW**

DOG ACT 1976

**DOGS LOCAL LAW**



**LOCAL GOVERNMENT ACT 1995**

TOWN OF BASSENDEAN

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## LOCAL GOVERNMENT ACT 1995

## TOWN OF BASSENDEAN

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

Under the powers conferred by the Local Government Act 1995 and under all other powers enabling it, the Council of the Town of Bassendean resolved on 27 March 2001 to make the following local law.

**PART 1—PRELIMINARY****1.1 Citation**

This local law may be cited as the *Town of Bassendean Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*.

**1.2 Definitions**

In this local law unless the context otherwise requires—

“Act” means the Local Government Act 1995;

“Applicant” means a person who applies for a permit;

“Authorized Person” means a person authorized by the local government under section 9.10 of the Act to perform any of the functions of an authorized person under this local law;

“Built-Up Area” has the meaning given to it in the *Road Traffic Code 1975*;

“Bulk Rubbish Container” means a bin or container designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance, but does not include a bin or container used in connection with the local government’s regular domestic rubbish collection service;

“Carriageway” means the paved or made portion of a thoroughfare used or intended for use by vehicles;

“CEO” means the chief executive officer of the local government;

“Commencement Day” means the day on which this local law comes into operation;

“Council” means the council of the local government;

“Crossing” means a crossing giving access from a public thoroughfare to—

(a) private land; or

(b) a private thoroughfare serving private land;

“District” means the district of the local government;

“Footpath” means the paved or made portion of a thoroughfare used or intended for use by pedestrians and cyclists;

“Garden” means any part of a thoroughfare planted, developed or treated, otherwise than as a lawn, with one or more plants;

“Intersection” has the meaning given to it in the *Road Traffic Code 1975*;

“Kerb” includes the edge of a carriageway;

“Lawn” means any part of a thoroughfare which is planted only with grass, or with a similar plant, but will include any other plant provided that it has been planted by the local government;

“Liquor” has the meaning given to it in section 3 of the *Liquor Licensing Act 1988*;

“Local Government” means the Town of Bassendean;

“Local Government Property” means anything except a thoroughfare—

(a) which belongs to the local government;

(b) of which the local government is the management body under the *Land Administration Act 1997*; or

(c) which is an “otherwise unvested facility” within section 3.53 of the Act;

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

“Owner” or “Occupier” in relation to land does not include the local government;

“Permissible Verge Treatment” means any one of the 4 treatments described in clause 2.7(2), and includes any reticulation pipes and sprinklers;

- “Permit” means a permit issued under this local law;
- “Permit Holder” means a person who holds a valid permit;
- “Person” does not include the local government;
- “Premises” for the purpose of the definition of “public place” in both this clause and clause 6.1, means a building or similar structure, but does not include a carpark or a similar place;
- “Public Place” includes any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include—
- (a) premises on private property from which trading is lawfully conducted under a written law; and
  - (b) local government property;
- “Regulations” means the *Local Government (Functions and General) Regulations 1996*;
- “Sign” includes a notice, flag, mark, structure or device on which may be shown words, numbers, expressions or symbols;
- “Town Planning Scheme” means a town planning scheme of the local government made under the *Town Planning and Development Act 1928*;
- “Townsite” means the townsite of the Town of Bassendean which is—
- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
  - (b) referred to in clause 37 of Schedule 9.3 of the Act;
- “Vehicle” includes—
- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
  - (b) an animal being ridden or driven,
- but excludes—
- (a) a wheel-chair or any device designed for use by a physically impaired person on a footpath; and
  - (b) a pram, a stroller or a similar device; and
- “Verge” means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare, but does not include any footpath.

### 1.3 Application

This local law applies throughout the district.

### 1.4 Repeal

(1) The following local laws are repealed—

Town of Bassendean Local Laws relating to Eating Areas in Streets and Other Public Areas, Gazetted on 6 September 1991;

Town of Bassendean Local Laws relating to Street Lawns and Gardens, Gazetted on 9 October 1981;

Town of Bassendean Local Laws relating to the Prevention of Damage to Footpaths, Gazetted on 19 March 1982;

Town of Bassendean Local Laws relating to the Closure of Streets and Roads, Gazetted on 8 May 1981;

Town of Bassendean Local Laws relating to the Prevention of Damage and Obstruction to Streets, Public Places and Property Vested in or under the Control of the Council, Gazetted on 16 April 1982.

(2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.

(3) The Council may resolve that notwithstanding subclause (2) specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

## PART 2—ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES

### *Division 1—General*

#### 2.1 General prohibitions

A person shall not—

- (a) plant any plant which exceeds or which may exceed 0.75m in height on a thoroughfare so that the plant is within 6m of an intersection;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden in a thoroughfare or public place unless—
  - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
  - (ii) the person is acting under the authority of a written law;
- (c) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 2m of a carriageway;



- (d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (e) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare; or
- (g) within a mall, arcade or verandah of a shopping centre, ride any skateboard, rollerblades, bicycles and scooters or similar device.

## 2.2 Activities allowed with a permit—general

(1) A person shall not, without a permit—

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) subject to Division 3 of this Part, throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only during the period of time advertised in connection with that collection by the local government.

This should not include irregularly placed loads of building sand, bricks or mulch that may be present on a road verge for periods of up to four weeks.

- (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
- (d) cause any obstruction to a water channel or a water course in a thoroughfare;
- (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
- (f) damage a thoroughfare;
- (g) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose or under a permit issued under clause 5.13;
- (h) fell any tree onto a thoroughfare;
- (i) unless installing a permissible verge treatment—
  - (i) lay pipes under or provide taps on any verge; or
  - (ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
- (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
- (k) on a public place use anything or do anything so as to create a nuisance;
- (l) place or cause to be placed on a thoroughfare a bulk rubbish container; or
- (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.

(2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

## 2.3 No possession and consumption of liquor on thoroughfare

(1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless—

- (a) that is permitted under the *Liquor Licensing Act 1988* or under another written law; or
- (b) the person is doing so in accordance with a permit.

(2) Subclause (1) does not apply where the liquor is in a sealed container.

### *Division 2—Vehicle Crossings*

#### Subdivision 1—Temporary Crossings

## 2.4 Permit required

(1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works shall obtain a permit for the construction of a temporary crossing to protect the existing carriageway, kerb, drains and footpath, where—

- (a) a crossing does not exist; or
- (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.

(2) The “person responsible for the works” in subclause (1) is to be taken to be—

- (a) the builder named on the building licence issued under the *Local Government (Miscellaneous Provisions) Act 1960*, if one has been issued in relation to the works; or
- (b) the registered proprietor of the lot, if no building licence has been issued under the *Local Government (Miscellaneous Provisions) Act 1960* in relation to the works.

(3) If the local government approves an application for a permit for the purpose of subclause (1), the permit is taken to be issued on the condition that until such time as the temporary crossing is removed, the permit holder shall keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

*Subdivision 2—Redundant Vehicle Crossings***2.5 Removal of redundant crossing**

(1) Where works on a lot will result in a crossing no longer giving access to a lot, the crossing is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the local government.

(2) The local government may give written notice to the owner or occupier of a lot requiring her or him to—

- (a) remove any part of or all of a crossing which does not give access to the lot; and
- (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal,

within the period of time stated in the notice, and the owner or occupier of the lot shall comply with that notice.

*Division 3—Verge Treatments**Subdivision 1—Preliminary***2.6 Interpretation**

In this Division, unless the context otherwise requires—

“Acceptable Material” means any material which will create a hard surface, and which appears on a list of acceptable materials maintained by the local government.

*Subdivision 2—Permissible Verge Treatments***2.7 Permissible verge treatments**

(1) An owner or occupier of land which abuts on a verge may on that part of the verge directly in front of her or his land install a permissible verge treatment.

(2) The permissible verge treatments are—

- (a) the planting and maintenance of a lawn, including installation of basic reticulation of that lawn using retractable sprinkler heads;
- (b) the planting and maintenance of a garden provided that—
  - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare; and
  - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
- (c) the installation of an acceptable material; or
- (d) the installation over no more than one third of the area of the verge (excluding any vehicle crossing) of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

**2.8 Only permissible verge treatments to be installed**

(1) A person shall not install or maintain a verge treatment which is not a permissible verge treatment.

(2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 2.9.

**2.9 Obligations of owner or occupier**

An owner or occupier who installs or maintains a permissible verge treatment shall—

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) not place any obstruction on or around the verge treatment; and
- (c) not disturb a footpath on the verge.

**2.10 Notice to owner or occupier**

The local government may give a notice in writing to the owner or the occupier of a lot abutting on a verge to make good, within the time specified in the notice, any breach of a provision of this Division.

*Subdivision 3—Existing Verge Treatments***2.11 Transitional provision**

(1) In this clause—

“Former Provisions” means the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was repealed by this local law.

(2) A verge treatment which—

- (a) was installed prior to the commencement day; and
- (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions,

is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions.

#### Subdivision 4—Public Works

### 2.12 Power to carry out public works on verge

Where the local government or an authority empowered to do so under a written law disturbs a verge, the local government or the authority—

- (a) is not liable to compensate any person for that disturbance;
- (b) may backfill with sand, if necessary, any garden or lawn; and
- (c) is not liable to replace or restore any—
  - (i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or
  - (ii) sprinklers, pipes or other reticulation equipment.

#### Division 4—Property Numbers

##### Subdivision 1—Preliminary

### 2.13 Interpretation

In this Division, unless the context requires otherwise—

“Number” means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare.

##### Subdivision 2—Assignment and marking of numbers

### 2.14 Assignment of numbers

The local government may assign a Number to a lot in the district and may assign another Number to the lot instead of that previously assigned.

#### Division 5—Fencing

### 2.15 Public place—Item 4(1) of Division 1, Schedule 3.1 of Act

The following places are specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act—

- (a) a public place, as that term is defined in clause 1.2; and
- (b) local government property.

#### Division 6—Signs Erected by the Local Government

### 2.16 Signs

(1) A local government may erect a sign on a public place specifying any conditions of use which apply to that place.

(2) A person shall comply with a sign erected under subclause (1).

(3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose of giving notice of the effect of a provision of this local law.

### 2.17 Transitional

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 2.16 if—

- (a) the sign specifies a condition of use relating to the public place which gives notice of the effect of a provision of this local law; and
- (b) the condition of use specified is not inconsistent with any provision of this local law.

#### Division 7—Driving on a Closed Thoroughfare

### 2.18 No driving on closed thoroughfare

(1) A person shall not drive or take a vehicle on a closed thoroughfare unless—

- (a) that 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) In this clause—

“Closed Thoroughfare” means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.

**PART 3—ADVERTISING SIGNS ON THOROUGHFARES***Division 1—Preliminary***3.1 Interpretation**

In this Part, unless the context otherwise requires—

“Advertising Sign” means a sign used for the purpose of advertisement and includes an “election sign”;

“Direction Sign” means a sign which indicates the direction of another place, activity or event, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;

“Election Sign” means a sign or poster which advertises any aspect of a forthcoming Federal, State or Local Government election;

“Portable Direction Sign” means a portable free standing direction sign; and

“Portable Sign” means a portable free standing advertising sign.

*Division 2—Permit***3.2 Advertising signs and portable direction signs**

(1) A person shall not, without a permit—

- (a) erect or place an advertising sign on a thoroughfare; or
- (b) post any bill or paint, place or affix any advertisement on a thoroughfare.

(2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which neither exceeds 500mm in height nor 0.5m<sup>2</sup> in area, provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.

(3) Notwithstanding subclause (1), a person shall not erect or place an advertising sign—

- (a) on a footpath;
- (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5m;
- (c) on or within 3m of a carriageway;
- (d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
- (e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

**3.3 Matters to be considered in determining application for permit**

In determining an application for a permit for the purpose of clause 3.2(1), the local government is to have regard to—

- (a) any other written law regulating the erection or placement of signs within the district;
- (b) the dimensions of the sign;
- (c) other advertising signs already approved or erected in the vicinity of the proposed location of the sign;
- (d) whether or not the sign will create a hazard to persons using a thoroughfare; and
- (e) the amount of the public liability insurance cover, if any, to be obtained by the applicant.

*Division 3—Conditions on Permit***3.4 Conditions on portable sign**

If the local government approves an application for a permit for a portable sign, the application is to be taken to be approved subject to the following conditions—

- (a) the portable sign shall—
  - (i) not exceed 1m in height;
  - (ii) not exceed an area of 1m<sup>2</sup> on any side;
  - (iii) relate only to the business activity described on the permit;
  - (iv) contain letters not less than 200mm in height;
  - (v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;
  - (vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
  - (vii) be secured in position in accordance with any requirements of the local government;
  - (viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
  - (ix) be maintained in good condition; and
- (b) no more than one portable sign shall be erected in relation to the one building or business.

### **3.5 Conditions on election sign**

If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign—

- (a) being erected at least 30m from any intersection;
- (b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;
- (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access to a place by any person;
- (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
- (e) being maintained in good condition;
- (f) not being erected until the election to which it relates has been officially announced;
- (g) being removed within 24 hours of the close of polls on voting day;
- (h) not being placed within 100m of any works on the thoroughfare;
- (i) being securely installed;
- (j) not being an illuminated sign;
- (k) not incorporating reflective or fluorescent materials; and
- (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

## **PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS**

### *Division 1—Animals and Vehicles*

#### **4.1 Leaving an animal or vehicle in a public place or on local government property**

(1) A person shall not leave an animal or a vehicle, or any part of a vehicle, in a public place or on local government property so that it obstructs the use of any part of that public place or local government property, unless that person has first obtained a permit or is authorized to do so under a written law.

(2) A person will not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.

(3) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

#### **4.2 Prohibitions relating to animals**

(1) In subclause (2), “owner” in relation to an animal includes—

- (a) an owner of it;
- (b) a person in possession of it;
- (c) a person who has control of it; and
- (d) a person who ordinarily occupies the premises where the animal is permitted to stay.

(2) An owner of an animal shall not—

- (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
- (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
- (c) train or race the animal on a thoroughfare.

(3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.

### *Division 2—Shopping Trolleys*

#### **4.3 Interpretation**

In this Division—

“Retailer” means a proprietor of a shop in respect of which shopping trolleys are provided for the use of customers of the shop; and

“Shopping Trolley” means a wheeled container or receptacle supplied by a retailer to enable a person to transport goods.

#### **4.4 Shopping trolley to be marked**

A retailer shall clearly mark its name or its trading name on any shopping trolley made available for the use of customers.

#### **4.5 Person not to leave trolley in public place**

A person shall not leave a shopping trolley in a public place other than in an area set aside for the storage of shopping trolleys.

**4.6 Retailer to remove abandoned trolley**

(1) If a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, the local government may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.

(2) A retailer shall remove a shopping trolley within 24 hours of being so advised under subclause (1), unless the retailer—

- (a) requests the local government to collect and deliver the shopping trolley to the retailer; and
- (b) pays any fee for that collection and delivery (imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act) within the period specified by the local government.

**4.7 Retailer taken to own trolley**

In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the trolley.

**PART 5—ROADSIDE CONSERVATION***Division 1—Preliminary***5.1 Interpretation**

In this Part—

“MRWA” means Main Roads Western Australia;

“Protected Flora” has the meaning given to it in section 6(1) of the *Wildlife Conservation Act 1950*;

“Rare Flora” has the meaning given to it in section 23F of the *Wildlife Conservation Act 1950*;

“Roadside Conservation Committee” means the Roadside Conservation Committee established under the Land Resource Policy Council within the Office of Premier and Cabinet; and

“Special Environmental Area” means an area designated as such under clause 5.7.

**5.2 Application**

This Part does not apply to the townsite.

*Division 2—Special Environmental Areas***5.3 Designation of special environmental areas**

The local government may designate a thoroughfare, or any part of a thoroughfare, as a special environmental area which—

- (a) as protected flora or rare flora; or
- (b) in the opinion of the local government, has environmental, aesthetic or cultural significance.

**5.4 Marking of special environmental areas**

The local government is to mark and keep a register of each thoroughfare, or part of a thoroughfare, designated as a special environmental area.

*Division 3—Planting in Thoroughfares***5.5 Permit to plant**

A person shall not plant any plant or sow any seeds in a thoroughfare without first obtaining a permit.

**5.6 Relevant considerations in determining application**

In determining an application for a permit for the purpose of clause 5.5, the local government is to have regard to—

- (a) existing vegetation within that part of the thoroughfare in which the planting is to take place; and
- (b) the diversity of species and the prevalence of the species which are to be planted or sown.

*Division 4—Clearance of Vegetation***5.7 Permit to clear**

A person shall not clear and maintain in a cleared state, the surface of a thoroughfare within 1m of that person's land without first obtaining a permit and any other approvals which may be required under any written law.

**5.8 Application for permit**

In addition to the requirements of clause 7.1(2), a person making an application for a permit for the purpose of clause 5.7 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.

*Division 5—Fire Management***5.9 Permit to burn thoroughfare**

A person shall not burn part of a thoroughfare without first obtaining a permit or unless acting under the authority of any other written law.

**5.10 Application for permit**

In addition to the requirements of clause 7.1(2), an application for a permit for the purposes of clause 5.9 shall—

- (a) include a sketch plan showing the portions of a thoroughfare which are proposed to be burned; and
- (b) advise of the estimated fire intensity and the measures to be taken to protect upper storey vegetation from the burn.

**5.11 When application for permit can be approved**

The local government may approve an application for a permit for the purpose of clause 5.9 only if the burning of the particular part of the thoroughfare will—

- (a) reduce a fire hazard and alternative means of reducing that hazard, such as slashing or the use of herbicides, are considered by the local government to be not feasible or more detrimental to native flora and fauna than burning; or
- (b) in the opinion of the local government, be beneficial for the preservation and conservation of native flora and fauna.

**5.12 Prohibitions on burning**

Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 5.9 is not to be approved by the local government—

- (a) for burning between 31 August and 1 May of the following year where the intensity of the burn could damage native flora and fauna; or
- (b) in any year to any person for any part of a thoroughfare which is on the opposite side of the carriageway to that portion of the thoroughfare for which a permit to burn has been approved in the same year.

*Division 6—Firebreaks***5.13 Permit for firebreaks on thoroughfares**

A person shall not construct a firebreak on a thoroughfare without first obtaining a permit.

**5.14 When application for permit cannot be approved**

- (1) The local government is not to approve an application for a permit for the purpose of clause 5.13 where the thoroughfare is less than 20m wide.
- (2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

**PART 6—TRADING IN THOROUGHFARES AND PUBLIC PLACES***Division 1—Stallholders and Traders**Subdivision 1—Preliminary***6.1 Interpretation**

In this Division, unless the context otherwise requires—

“Competition Principles Agreement” means the Competition Principles Agreement executed by each State and Territory of the Commonwealth and the Commonwealth of Australia on 11 April 1995;

“Public Place” includes—

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

but does not include premises on private property from which trading is lawfully conducted under a written law.

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

“Stallholder” means a person in charge of a stall;

“Stallholder’s Permit” means a permit issued to a stallholder;

“Trader” means a person who carries on trading;

“Trader’s Permit” means a permit issued to a trader; and

“Trading” includes—

- (a) the selling or hiring of, the offering for sale or hire of or the soliciting of orders for goods or services in a public place;
- (b) displaying goods in any public place for the purpose of—
  - (i) offering them for sale or hire;
  - (ii) inviting offers for their sale or hire;
  - (iii) soliciting orders for them; or
  - (iv) carrying out any other transaction in relation to them; and
- (c) the going from place to place, whether or not public places, and—
  - (i) offering goods or services for sale or hire;
  - (ii) inviting offers or soliciting orders for the sale or the hire of goods or services; or
  - (iii) carrying out any other transaction in relation to goods or services,

but does not include—

- (d) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder’s permit;
- (e) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from a person who sells those goods or services;
- (f) the selling or the offering for sale or hire by a person of goods of his or her own manufacture or services which he or she provides; and
- (g) the selling or hiring or the offering for sale or hire of—
  - (i) goods by a person who represents a manufacturer of the goods; or
  - (ii) services by a person who represents a provider of the services,

which are sold directly to consumers and not through a shop.

#### Subdivision 2—Permits

##### **6.2 Stallholder’s permit**

- (1) A person shall not conduct a stall on a public place unless that person is—
  - (a) the holder of a valid stallholder’s permit; or
  - (b) an assistant specified in a valid stallholder’s permit.
- (2) Every application for a stallholder’s permit shall—
  - (a) state the full name and address of the applicant;
  - (b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;
  - (c) specify the proposed location of the stall;
  - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;
  - (e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and
  - (f) be accompanied by an accurate plan and description of the proposed stall.

##### **6.3 Trader’s permit**

- (1) A person shall not carry on trading unless that person is—
  - (a) the holder of a valid trader’s permit; or
  - (b) an assistant specified in a valid trader’s permit.
- (2) Every application for a trader’s permit shall—
  - (a) state the full name and address of the applicant;
  - (b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;
  - (c) specify the location or locations in which the applicant proposes to trade;
  - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;
  - (e) specify the proposed goods or services which will be traded; and
  - (f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.
- (3) The conditions subject to which the local government may approve an application for a trader’s permit include that the permit holder is permitted to remain at a particular location for as long as there is a customer making a purchase, but if there is no customer making a purchase the permit holder must move on from that location within a reasonable time of the last purchase having been made.

##### **6.4 No permit required to sell newspaper**

Notwithstanding any other provision of this local law, a person who sells, or offers for sale, a newspaper is not required to obtain a permit.



**6.5 Relevant considerations in determining application for permit**

(1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to—

- (a) any relevant policies of the local government;
- (b) the desirability of the proposed activity;
- (c) the location of the proposed activity;
- (d) the principles set out in the Competition Principles Agreement; and
- (e) such other matters as the local government may consider to be relevant in the circumstances of the case.

(2) The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds—

- (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;
- (b) that the applicant is not a desirable or suitable person to hold a permit;
- (c) that—
  - (i) the applicant is an undischarged bankrupt or is in liquidation;
  - (ii) the applicant has entered into any composition or arrangement with creditors; or
  - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property; or
- (d) such other grounds as the local government may consider to be relevant in the circumstances of the case.

**6.6 Conditions of permit**

(1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include—

- (a) the place, the part of the district, or the thoroughfare to which the permit applies;
- (b) the days and hours during which a permit holder may conduct a stall or trade;
- (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;
- (d) the goods or services in respect of which a permit holder may conduct a stall or trade;
- (e) the number of persons and the names of persons permitted to conduct a stall or trade;
- (f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;
- (g) whether and under what terms the permit is transferable;
- (h) any prohibitions or restrictions concerning the—
  - (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;
  - (ii) the use of amplifiers, sound equipment and sound instruments;
  - (iii) the use of signs; and
  - (iv) the use of any lighting apparatus or device;
- (i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;
- (j) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;
- (k) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;
- (l) the acquisition by the stallholder or trader of public risk insurance;
- (m) the period for which the permit is valid; and
- (n) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.

(2) Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may at the request of that permit holder authorize another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit shall apply to the nominee as if he or she was the permit holder.

**6.7 Exemptions from requirement to pay fee or to obtain a permit**

(1) In this clause—

“Charitable Organisation” means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium; and

“Commercial Participant” means any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit.

(2) The local government may waive any fee required to be paid by an applicant for a stallholder's permit or a trader's permit on making an application for or on the issue of a permit, or may return any such fee which has been paid, if the stall is conducted or the trading is carried on—

- (a) on a portion of a public place adjoining the normal place of business of the applicant; or
- (b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of a stall or trading, and any assistants that may be specified in the permit are members of that charitable organisation.

(3) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place, from the requirements of this Division.

#### Subdivision 3—Conduct of stallholders and traders

##### **6.8 Conduct of stallholders and traders**

(1) A stallholder while conducting a stall or a trader while trading shall—

- (a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting a stall or trading;
- (b) not display a permit unless it is a valid permit; and
- (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *Weights and Measures Act 1915*.

(2) A stallholder or trader shall not—

- (a) deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;
- (b) act in an offensive manner;
- (c) use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or
- (d) in the case of a trader, carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading.

#### *Division 2—Street Entertainers*

##### Subdivision 1—Preliminary

##### **6.9 Interpretation**

In this Division, unless the context otherwise requires—

“Perform” includes to play a musical instrument, sing, mime, dance, give an acrobatic or aerobic display or entertain, but does not include public speaking;

“Permit” means a permit issued for the purpose of clause 6.10;

“Permitted Area” means the area or areas, specified in a permit, in which the permit holder may perform; and

“Permitted Time” means the time or times, specified in a permit, during which the permit holder may perform.

##### Subdivision 2—Permits

##### **6.10 Permit required to perform**

A person shall not perform in a public place without a permit.

##### **6.11 Variation of permitted area and permitted time**

(1) The local government may by notice in writing to a permit holder vary—

- (a) the permitted area;
- (b) the permitted time; or
- (c) both the permitted area and the permitted time,

shown on a permit.

(2) The local government may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

##### **6.12 Duration of permit**

A permit is valid for a period of 3 months after the date on which it is issued unless it is sooner cancelled under this local law.

##### **6.13 Cancellation of permit**

The local government may cancel a permit if in her or his opinion the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place, or if, in her or his opinion, or in the opinion of an authorized person, the performance otherwise constitutes a nuisance.

**6.14 Obligations of permit holder**

A permit holder shall not in a public place—

- (a) perform wearing dirty, torn or ragged clothing;
- (b) act in an offensive manner; or
- (c) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier—
  - (i) other than in the permitted area; and
  - (ii) unless the musical instrument or device is specified in the permit.

*Division 3—Outdoor Eating Facilities on Public Places*

**6.15 Interpretation**

In this Division—

“Facility” means an outdoor eating facility or establishment on any part of a public place, but does not include such a facility or establishment on private land;

“Permit Holder” means the person to whom a permit has been issued for the purpose of clause 6.16; and

“Public Place” has the meaning given to it in clause 6.1.

**6.16 Permit required to conduct Facility**

A person shall not establish or conduct a Facility without a permit.

**6.17 Matters to be considered in determining application**

In determining an application for a permit for the purpose of clause 6.16, the local government may consider in addition to any other matter it considers relevant, whether or not—

- (a) the Facility is conducted in conjunction with and as an extension of food premises which abut on the Facility, and whether the applicant is the person conducting such food premises;
- (b) any abutting food premises are registered in accordance with the *Health Act 1911* and whether the use of the premises is permitted under the town planning scheme;
- (c) the Facility will comply with any local law made under section 172 of the *Health Act 1911*;
- (d) users of the Facility will have access to proper and sufficient sanitary and ablutionary conveniences;
- (e) the Facility would—
  - (i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or
  - (ii) impede pedestrian access; and
- (f) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

**6.18 Obligations of permit holder**

(1) The permit holder for a Facility shall—

- (a) ensure that the Facility is conducted at all times in accordance with the provisions of this local law and any local law made under section 172 of the *Health Act 1911*;
- (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 in the eating area in a good, clean and serviceable condition at all times;
- (d) be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the Facility; and
- (e) be solely responsible for all rates and taxes levied upon the land occupied by the Facility.

(2) Whenever, in the opinion of the local government, any work is required to be carried out to a Facility, the local government may give a notice to the permit holder for the Facility to carry out that work within the time limited by the notice.

(3) In subclause (2), “work” includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a Facility.

**6.19 Removal of Facility unlawfully conducted**

Where a Facility is conducted without a permit, or in contravention of a condition of a permit, any tables, chairs, umbrellas or other equipment may be removed by an authorized person and impounded in accordance with the Act.

**6.20 Use of Facility by public**

(1) A person shall not occupy a chair or otherwise use the equipment in a Facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the Facility.

(2) A person shall leave a Facility when requested to do so by the permit holder.

**6.21 Temporary removal of Facility may be requested**

(1) The permit holder for a Facility is to temporarily remove the Facility when requested to do so on reasonable grounds by an authorized person or a member of the Police Service or an emergency service in the event of an emergency.

(2) The permit holder may replace the Facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

**PART 7—PERMITS***Division 1—Applying for a permit***7.1 Application for permit**

(1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).

(2) An application for a permit under this local law shall—

- (a) be in the form determined by the local government;
- (b) be signed by the applicant;
- (c) provide the information required by the form; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

(4) The local government may require an applicant to give local public notice of the application for a permit.

(5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

**7.2 Decision on application for permit**

(1) The local government may—

- (a) approve an application for a permit unconditionally or subject to any conditions; or
- (b) refuse to approve an application for a permit.

(2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.

(3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

(4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).

(5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

*Division 2—Conditions***7.3 Conditions which may be imposed on a permit**

The local government may approve an application for a permit subject to conditions relating to—

- (a) the payment of a fee;
- (b) the duration and commencement of the permit;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the approval of another application for a permit which may be required by the local government under any written law;
- (f) the area of the district to which the permit applies;
- (g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;
- (h) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government; and
- (i) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder.

**7.4 Imposing conditions under a policy**

(1) In this clause—

“Policy” means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 7.2(1)(a).

(2) Under clause 7.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.

(3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 7.2(2).

(4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.

(5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy is to be taken to be information within section 5.94(u)(i) of the Act.

#### **7.5 Compliance with and variation of conditions**

(1) Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder shall comply with each of those conditions.

(2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

### *Division 3—General*

#### **7.6 Duration of permit**

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

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 7.10.

#### **7.7 Renewal of permit**

(1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.

(2) The provisions of—

- (a) this Part; and
- (b) any other provision of this local law relevant to the permit which is to be renewed,

shall apply to an application for the renewal of a permit *mutatis mutandis*.

#### **7.8 Transfer of permit**

(1) An application for the transfer of a valid permit is to—

- (a) be made in writing;
- (b) be signed by the permit holder and the proposed transferee of the permit;
- (c) provide such information as the local government may require to enable the application to be determined; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.

(3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by—

- (a) an endorsement on the permit signed by the CEO; or
- (b) issuing to the transferee a permit in the form determined by the local government.

(4) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

#### **7.9 Production of permit**

A permit holder is to produce to an authorized person her or his permit immediately upon being required to do so by that authorized person.

#### **7.10 Cancellation of permit**

(1) Subject to clause 8.1, a permit may be cancelled by the local government on any one or more of the following grounds—

- (a) the permit holder has not complied with—
  - (i) a condition of the permit; or
  - (ii) a provision of any written law which may relate to the activity regulated by the permit; or
- (b) if it is relevant to the activity regulated by the permit—
  - (i) the permit holder has become bankrupt, or gone into liquidation;
  - (ii) the permit holder has entered into any composition or arrangement with creditors; or
  - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the permit holder's undertakings or property.

(2) On the cancellation of a permit the permit holder—

- (a) shall return the permit as soon as practicable to the local government; and
- (b) is to be taken to have forfeited any fees paid in respect of the permit.

**PART 8—OBJECTIONS AND APPEALS****8.1 Application of Part 9 Division 1 of Act**

When the local government makes a decision—

- (a) under clause 7.2(1); or
- (b) as to whether it will renew, vary, or cancel a permit,

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations apply to that decision.

**PART 9—MISCELLANEOUS NOTICES****9.1 Notice to redirect or repair sprinkler**

Where a lawn or a garden is being watered with a sprinkler which is on the lawn or the garden, in a manner which causes or may cause an inconvenience or obstruction to any person or vehicle using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting the lawn or the garden, requiring the owner or the occupier or both to move or alter the direction of the sprinkler or other watering equipment.

**9.2 Hazardous plants**

(1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.

**9.3 Notice to repair damage to thoroughfare**

Where any portion of a thoroughfare has been damaged, the local government may by notice to the person who caused the damage order the person to repair or replace that portion of the thoroughfare to the satisfaction of the local government.

**9.4 Notice to remove thing unlawfully placed on thoroughfare**

Where any thing is placed on a thoroughfare in contravention of this local law, the local government may by notice in writing to the owner or the occupier of the property which abuts that portion of the thoroughfare where the thing has been placed, or such other person who may be responsible for the thing being so placed, require the relevant person to remove the thing.

**PART 10—ENFORCEMENT***Division 1—Notices Given Under This Local Law***10.1 Offence to fail to comply with notice**

Whenever the local government gives a notice under this local law requiring a person to do any thing, if the person fails to comply with the notice, the person commits an offence.

**10.2 Local government may undertake requirements of notice**

Where a person fails to comply with a notice referred to in clause 10.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

*Division 2—Offences and Penalties**Subdivision 1—General***10.3 Offences**

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

*Subdivision 2—Infringement notices and modified penalties***10.4 Prescribed offences**

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorized person should be satisfied that—
  - (a) commission of the prescribed offence is a relatively minor matter; and
  - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

**10.5 Forms**

Unless otherwise specified, for the purposes of this local law—

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

***Schedule 1***  
**PRESCRIBED OFFENCES**

| Clause    | Description  | Modified Penalty \$ |
|-----------|--|---------------------|
| 2.1(a)    | Plant of 0.75m in height on thoroughfare within 6m of intersection   | 100                 |
| 2.1(b)    | Damaging lawn or garden  | 100                 |
| 2.1(c)    | Plant (except grass) on thoroughfare within 2m of carriageway  | 100                 |
| 2.1(d)    | Placing hazardous substance on footpath  | 100                 |
| 2.1(e)    | Damaging or interfering with signpost or structure on thoroughfare   | 300                 |
| 2.1(f)    | Playing games so as to impede vehicles or persons on thoroughfare  | 100                 |
| 2.1(g)    | Riding of skateboard, rollerblade, bicycles, scooters or similar device on mall or verandah of shopping centre | 100                 |
| 2.2(1)(a) | Digging a trench through a kerb or footpath without a permit   | 100                 |
| 2.2(1)(b) | Throwing or placing anything on a verge without a permit   | 100                 |
| 2.2(1)(c) | Causing obstruction to vehicle or person on thoroughfare without a permit                                      | 100                 |
| 2.2(1)(d) | Causing obstruction to water channel on thoroughfare without a permit  | 200                 |
| 2.2(1)(e) | Placing or draining offensive fluid on thoroughfare without a permit   | 200                 |
| 2.2(1)(g) | Lighting a fire on a thoroughfare without a permit   | 300                 |
| 2.2(1)(h) | Felling tree onto thoroughfare without a permit  | 100                 |
| 2.2(1)(i) | Installing pipes or stone on thoroughfare without a permit   | 100                 |
| 2.2(1)(j) | Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit          | 300                 |
| 2.2(1)(k) | Creating a nuisance on a thoroughfare without a permit   | 100                 |
| 2.2(1)(l) | Placing a bulk rubbish container on a thoroughfare without a permit  | 100                 |
| 2.2(1)(m) | Interfering with anything on a thoroughfare without a permit   | 100                 |
| 2.3(1)    | Consumption or possession of liquor on thoroughfare  | 100                 |
| 2.4(1)    | Failure to obtain permit for temporary crossing  | 200                 |
| 2.5(2)    | Failure to comply with notice to remove crossing and reinstate kerb  | 300                 |
| 2.8(1)    | Installation of verge treatment other than permissible verge treatment   | 200                 |
| 2.9       | Failure to maintain permissible verge treatment or placement of obstruction on verge                           | 100                 |
| 2.10      | Failure to comply with notice to rectify default   | 100                 |
| 2.16(2)   | Failure to comply with sign on public place  | 100                 |
| 2.18(1)   | Driving or taking a vehicle on a closed thoroughfare   | 300                 |

| Clause    | Description   | Modified Penalty \$ |
|-----------|---|---------------------|
| 3.2(1)    | Placing advertising sign or affixing any advertisement on a thoroughfare without a permit   | 100                 |
| 3.2(3)    | Erecting or placing of advertising sign in a prohibited area                                | 100                 |
| 4.1(1)    | Animal or vehicle obstructing a public place or local government property                   | 100                 |
| 4.2(2)(a) | Animal on thoroughfare when not led, ridden or driven                                       | 100                 |
| 4.2(2)(b) | Animal on public place with infectious disease  | 100                 |
| 4.2(2)(c) | Training or racing animal on thoroughfare in built-up area                                  | 100                 |
| 4.2(3)    | Horse led, ridden or driven on thoroughfare in built-up area                                | 100                 |
| 4.5       | Person leaving shopping trolley in public place other than trolley bay                      | 100                 |
| 4.6(2)    | Failure to remove shopping trolley upon being advised of location                           | 100                 |
| 5.5       | Planting in thoroughfare without a permit   | 200                 |
| 5.7       | Failure to obtain permit to clear a thoroughfare  | 500                 |
| 5.9       | Burning of thoroughfare without a permit  | 500                 |
| 5.13      | Construction of firebreak on thoroughfare without a permit                                  | 500                 |
| 6.2(1)    | Conducting of stall in public place without a permit  | 300                 |
| 6.3(1)    | Trading without a permit  | 300                 |
| 6.8(1)(a) | Failure of stallholder or trader to display or carry permit                                 | 100                 |
| 6.8(1)(b) | Stallholder or trader not displaying valid permit   | 100                 |
| 6.8(1)(c) | Stallholder or trader not carrying certified scales when selling goods by weight            | 100                 |
| 6.8(2)    | Stallholder or trader engaged in prohibited conduct   | 100                 |
| 6.10      | Performing in a public place without a permit   | 100                 |
| 6.11(2)   | Failure of performer to move onto another area when directed                                | 100                 |
| 6.14      | Failure of performer to comply with obligations   | 100                 |
| 6.16      | Establishment or conduct of outdoor eating facility without a permit                        | 300                 |
| 6.18      | Failure of permit holder of outdoor eating facility to comply with obligations              | 100                 |
| 6.20(1)   | Use of equipment of outdoor eating facility without purchase of food or drink from facility | 50                  |
| 6.20(2)   | Failure to leave outdoor eating facility when requested to do so by permit holder           | 50                  |
| 7.5       | Failure to comply with a condition of a permit  | 100                 |
| 7.9       | Failure to produce permit on request of authorized person                                   | 100                 |
| 10.1      | Failure to comply with notice given under local law   | 100                 |

Dated this 12<sup>th</sup> day of July 2001.

The Common Seal of the Town of Bassendean was affixed by authority of a resolution of the Council in the presence of—

Cr G. K. PETERSON, Mayor.  
Mr GRAEME MACKENZIE, Chief Executive Officer



**LOCAL GOVERNMENT ACT 1995**

## TOWN OF BASSENDEAN

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## DETERMINATIONS

**LOCAL GOVERNMENT ACT 1995**

## TOWN OF BASSENDEAN

**LOCAL GOVERNMENT PROPERTY LOCAL LAW**

Under the powers conferred by the Local Government Act 1995 and under all other powers enabling it, the Council of the Town of Bassendean resolved on 27 March 2001 to make the following local law.

**PART 1—PRELIMINARY****1.1 Citation**

This local law may be cited as the Town of Bassendean Local Government Property Local Law.

**1.2 Definitions**

In this local law, unless the context otherwise requires—

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

“Applicant” means a person who applies for a permit under clause 3.2;

“Authorized Person” means a person authorized by the local government under section 9.10 of the Act to perform any of the functions of an authorized person under this local law;

“Boat” means any ship, vessel or structure capable of being used in navigation by water, however propelled or moved, and includes a jet ski;

“Building” means any building which is local government property and includes a—

- (a) hall or room;
- (b) corridor, stairway or annexe of any hall or room; and
- (c) jetty;

“CEO” means the chief executive officer of the local government;

“Commencement Day” means the day on which this local law comes into operation;

“Council” means the council of the local government;

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

“Determination” means a determination made under clause 2.1;

“District” means the district of the local government;

“Function” means an event or activity characterised by all or any of the following—

- (a) formal organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;
- (c) organisation by or on behalf of a club;
- (d) payment of a fee to attend it; and
- (e) systematic recurrence in relation to the day, time and place;

“Liquor” has the same meaning as is given to it in section 3 of the *Liquor Licensing Act 1988*;

“Local Government” means the Town of Bassendean;

“Local Government Property” means anything except a thoroughfare—

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

“Manager” means the person for the time being employed by the local government to control and manage a facility which is local government property and includes the person’s assistant or deputy;

“Permit” means a permit issued under this local law;

“Permit Holder” means a person who holds a valid permit;

“Person” does not include the local government;

“Regulations” means the *Local Government (Functions and General) Regulations 1996*;

“Sign” includes a notice, flag, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols;

“Trading” means the selling or hiring, or the offering for sale or hire of goods or services, and includes displaying goods for the purpose of—

- (a) offering them for sale or hire;
- (b) inviting offers for their sale or hire;
- (c) soliciting orders for them; or
- (d) carrying out any other transaction in relation to them; and

“Vehicle” includes—

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
- (b) an animal being ridden or driven,

but excludes—

- (a) a wheel-chair or any device designed for use, by a physically impaired person on a footpath;
- (b) a pram, a stroller or a similar device; and
- (c) a boat.

### 1.3 Interpretation

In this local law unless the context otherwise requires a reference to local government property includes a reference to any part of that local government property.

### 1.4 Application

- (1) This local law applies throughout the district.
- (2) Notwithstanding anything to the contrary in this local law, the local government may—
  - (a) hire local government property to any person; or
  - (b) enter into an agreement with any person regarding the use of any local government property.

### 1.5 Repeal

- (1) The following local laws are repealed—

Town of Bassendean Local Laws relating to the Use of Reserves, Beaches, Foreshores and the Use of Amplifiers published in the *Government Gazette* on 11 November 1965.
- (2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.
- (3) The Council may resolve that notwithstanding subclause (2), specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

## PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

### *Division 1—Determinations*

#### 2.1 Determinations as to use of local government property

- (1) The local government may make a determination in accordance with clause 2.2—
  - (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
  - (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
  - (c) as to the matters in clauses 2.7(2) and 2.8(2); and
  - (d) as to any matter ancillary or necessary to give effect to a determination.
- (2) The determinations in Schedule 2—
  - (a) are to be taken to have been made in accordance with clause 2.2;
  - (b) may be amended or revoked in accordance with clause 2.6; and
  - (c) have effect on the commencement day.

#### 2.2 Procedure for making a determination

- (1) The local government is to give local public notice of its intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that—
  - (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
  - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
  - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to:
  - (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
  - (b) amend the proposed determination, in which case subclause (5) will apply; or
  - (c) not continue with the proposed determination.

- (4) If submissions are received in accordance with subclause (2)(c) the Council is to—
- (a) consider those submissions; and
  - (b) decide—
    - (i) whether or not to amend the proposed determination; or
    - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice—
- (a) of the effect of the amendments; and
  - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

### **2.3 Discretion to erect sign**

The local government may erect a sign on local government property to give notice of the effect of a determination which applies to that property.

### **2.4 Determination to be complied with**

A person shall comply with a determination.

### **2.5 Register of determinations**

- (1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

### **2.6 Amendment or revocation of a determination**

- (1) The Council may amend or revoke a determination.
- (2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the Council revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

#### *Division 2—Activities which may be pursued or prohibited under a determination*

### **2.7 Activities which may be pursued on specified local government property**

- (1) A determination may provide that specified local government property is set aside as an area on which a person may—
- (a) bring, ride or drive an animal;
  - (b) take, ride or drive a vehicle, or a particular class of vehicle;
  - (c) fly or use a motorised model aeroplane;
  - (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
  - (e) launch, beach or leave a boat;
  - (f) take or use a boat, or a particular class of boat;
  - (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
  - (h) play or practice—
    - (i) golf or archery;
    - (ii) pistol or rifle shooting, but subject to the compliance of that person with the Firearms Act 1973; or
    - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
  - (i) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and
  - (j) wear no clothing.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular—
- (a) the days and times during which the activity may be pursued;
  - (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;

- (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
- (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;
- (e) may specify that the activity can be pursued by a class of persons or all persons; and
- (f) may distinguish between different classes of the activity.

### **2.8 Activities which may be prohibited on specified local government property**

(1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property—

- (a) smoking on premises;
- (b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
- (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
- (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
- (e) taking or using a boat, or a particular class of boat;
- (f) the playing or practice of—
  - (i) golf, archery, pistol shooting or rifle shooting; or
  - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
- (g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
- (h) the traversing of sand dunes or land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.

(2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular—

- (a) the days and times during which the activity is prohibited;
- (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
- (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;
- (d) that an activity is prohibited in respect of a class of persons or all persons; and
- (e) may distinguish between different classes of the activity.

(3) In this clause—

“Premises” means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

#### *Division 3—Transitional*

### **2.9 Signs taken to be determinations**

(1) Where a sign erected on local government property has been erected under a local law of the local government repealed by this local law, then it is to be taken to be and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 2.1.

(2) Clause 2.5 does not apply to a sign referred to in subclause (1).

## **PART 3—PERMITS**

### *Division 1—Preliminary*

#### **3.1 Application of Part**

This Part does not apply to a person who uses or occupies local government property under a written agreement with the local government to do so.

### *Division 2—Applying for a permit*

#### **3.2 Application for permit**

(1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).

(2) An application for a permit under this local law shall—

- (a) be in the form determined by the local government;
- (b) be signed by the applicant;
- (c) provide the information required by the form; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

(4) The local government may require an applicant to give local public notice of the application for a permit.

(5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

### **3.3 Decision on application for permit**

(1) The local government may—

- (a) approve an application for a permit unconditionally or subject to any conditions; or
- (b) refuse to approve an application for a permit.

(2) If the local government approves an application for a permit, it is to issue to the applicant, a permit in the form determined by the local government.

(3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

#### *Division 3—Conditions*

### **3.4 Conditions which may be imposed on a permit**

(1) Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to—

- (a) the payment of a fee;
- (b) compliance with a standard or a policy of the local government adopted by the local government;
- (c) the duration and commencement of the permit;
- (d) the commencement of the permit being contingent on the happening of an event;
- (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (f) the approval of another application for a permit which may be required by the local government under any written law;
- (g) the area of the district to which the permit applies;
- (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
- (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government.

(2) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued—

- (a) when fees and charges are to be paid;
- (b) payment of a bond against possible damage or cleaning expenses or both;
- (c) restrictions on the erection of material or external decorations;
- (d) rules about the use of furniture, plant and effects;
- (e) limitations on the number of persons who may attend any function in or on local government property;
- (f) the duration of the hire;
- (g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;
- (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Licensing Act 1988*;
- (i) whether or not the hire is for the exclusive use of the local government property;
- (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
- (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

### **3.5 Imposing conditions under a policy**

(1) In this clause—

“Policy” means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 3.3(1)(a).

(2) Under clause 3.3(1)(a) the local government may approve an application subject to conditions by reference to a policy.

(3) The local government shall give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 3.3(2).



(4) An application for a permit shall be deemed not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.

(5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy shall be deemed to be information within section 5.94(u)(i) of the Act.

### **3.6 Compliance with and variation of conditions**

(1) Where an application for a permit has been approved subject to conditions, the permit holder shall comply with each of those conditions.

(2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

#### *Division 4—General*

### **3.7 Agreement for building**

Where a person applies for a permit to erect a building on local government property the local government may enter into an agreement with the permit holder in respect of the ownership of the materials in the building.

### **3.8 Duration of permit**

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

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 3.12.

### **3.9 Renewal of permit**

(1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.

(2) The provisions of this Part shall apply to an application for the renewal of a permit *mutatis mutandis*.

### **3.10 Transfer of permit**

(1) An application for the transfer of a valid permit is to—

- (a) be made in writing;
- (b) be signed by the permit holder and the proposed transferee of the permit;
- (c) provide such information as the local government may require to enable the application to be determined; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(2) The local government may approve an application for the transfer of a permit, refuse to approve it, or approve it subject to any conditions.

(3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by an endorsement on the permit signed by the CEO.

(4) Where the local government approves the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

### **3.11 Production of permit**

A permit holder is to produce to an authorized person her or his permit immediately upon being required to do so by that authorized person.

### **3.12 Cancellation of permit**

(1) Subject to clause 9.1, a permit may be cancelled by the local government if the permit holder has not complied with a—

- (a) condition of the permit; or
- (b) determination or a provision of any written law which may relate to the activity regulated by the permit.

(2) On the cancellation of a permit the permit holder:

- (a) shall return the permit as soon as practicable to the CEO; and
- (b) is to be taken to have forfeited any fees paid in respect of the permit.

#### *Division 5—When a permit is required*

### **3.13 When a permit is required**

(1) A person shall not without a permit—

- (a) subject to subclause 3, hire local government property;
- (b) advertise anything by any means on local government property;
- (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;

- (d) teach, coach or train, for profit, any person in a pool area or an indoor recreation facility which is local government property;
  - (e) plant any plant or sow any seeds on local government property;
  - (f) carry on any trading on local government property unless the trading is conducted—
    - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
    - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
  - (g) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose—
    - (i) drive or ride or take any vehicle on to local government property; or
    - (ii) park or stand any vehicle on local government property;
  - (h) conduct a function on local government property ;
  - (i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
  - (j) light a fire on local government property except in a facility provided for that purpose;
  - (k) parachute, hang glide, abseil or base jump from or on to local government property;
  - (l) erect a building or a refuelling site on local government property;
  - (m) make any excavation on or erect or remove any fence on local government property;
  - (n) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person; or
  - (o) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

### **3.14 Permit required to camp outside a facility**

- (1) In this clause—  
 “Facility” has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.
- (2) This clause does not apply to a facility operated by the local government.
- (3) A person shall not without a permit—
- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or
  - (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.
- (4) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

### **3.15 Permit required for possession and consumption of liquor**

- (1) A person, on local government property, shall not consume any liquor or have in her or his possession or under her or his control any liquor, unless—
- (a) that is permitted under the *Liquor Licensing Act 1988*; and
  - (b) a permit has been obtained for that purpose.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

#### *Division 6—Responsibilities of permit holder*

### **3.16 Responsibilities of permit holder**

- A holder of a permit in respect of local government property to which the permit relates shall—
- (a) ensure that an authorized person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
  - (b) leave the local government property in a clean and tidy condition after its use;
  - (c) report any damage or defacement of the local government property to the local government; and
  - (d) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Licensing Act 1988* for that purpose.

**PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY***Division 1—Behaviour on and interference with local government property***4.1 Behaviour which interferes with others**

A person shall not in or on any local government property behave in a manner which—

- (a) is likely to interfere with the enjoyment of a person who might use the property; or
- (b) interferes with the enjoyment of a person using the property.

**4.2 Behaviour detrimental to property**

(1) A person shall not behave in or on local government property in a way which is or might be detrimental to the property.

(2) In subclause (1) “detrimental to the property” includes—

- (a) removing any thing from the local government property such as a rock, a plant or a seat provided for the use of any person; and
- (b) destroying, defacing or damaging any thing on the local government property, such as a plant, a seat provided for the use of any person or a building.

**4.3 Taking or injuring any fauna**

(1) A person shall not, take, injure or kill or attempt to take, injure or kill any fauna which is on or above any local government property, unless that person is authorized under a written law to do so.

(2) In this clause—

“Animal” means any living thing that is not a human being or plant; and

“Fauna” means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes in relation to any such animal—

- (a) any class of animal or individual member;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur.

**4.4 Intoxicated persons not to enter local government property**

A person shall not enter or remain on local government property while under the influence of liquor or a prohibited drug.

**4.5 No prohibited drugs**

A person shall not take a prohibited drug on to, or consume or use a prohibited drug on, local government property.

*Division 2—Signs***4.6 Signs**

(1) A local government may erect a sign on local government property specifying any conditions of use which apply to that property.

(2) A person shall comply with a sign erected under subclause (1).

(3) A condition of use specified on a sign erected under subclause (1) is—

- (a) not to be inconsistent with any provision of this local law or any determination; and
- (b) to be for the purpose of giving notice of the effect of a provision of this local law.

**PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY***Division 1—Swimming pool areas***5.1 When entry must be refused**

A Manager or an authorized person shall refuse admission to, may direct to leave or shall remove or cause to be removed from a pool area any person who—

- (a) in his or her opinion is—
  - (i) under the age of 6 years and who is unaccompanied by a responsible person over the age of 14 years;
  - (ii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
  - (iii) under the influence of liquor or a prohibited drug; or
- (b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.

*Division 2—Fenced or closed property***5.2 No entry to fenced or closed local government property**

A person must not enter local government property which has been fenced off or closed to the public by a sign or otherwise, unless that person is authorized to do so by the local government.

*Division 3—Toilet blocks and change rooms***5.3 Only specified gender to use the entry of a toilet block or change room**

Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by—

- (a) females, then a person of the male gender shall not use that entry of the toilet block or change room; or
- (b) males, then a person of the female gender shall not use that entry of the toilet block or change room.

**PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY****6.1 No unauthorized entry to function**

(1) A person shall not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorized, except—

- (a) through the proper entrance for that purpose; and
- (b) on payment of the fee chargeable for admission at the time.

(2) The local government may exempt a person from compliance with subclause (1)(b).

**PART 7—JETTIES AND BRIDGES***Division 1—Preliminary***7.1 Interpretation**

(1) This Part only applies to bridges and jetties which are local government property.

(2) In this Part—

- “Jetty” means any jetty, pier, wharf or landing place which is local government property; and  
“Bulk Cargo” means bulk produce, such as grain, coal, oil or mineral ore, which is not packaged.

*Division 2—Consents and fees***7.2 Application for consent and application fee**

(1) Where a person is required to obtain the consent of the local government under this Part, the person is to apply for that consent in the manner required by the local government.

(2) The local government may require an application for consent made under subclause (1) to be accompanied by a fee.

(3) If an application for consent is not made in the manner required by the local government or the fee which is to accompany that application is not paid, the local government may refuse to consider the application for consent.

(4) The local government shall give its decision on an application for consent, in writing to the person who applied for that consent.

(5) Where a fee is referred to in this Part, the fee must be imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

*Division 3—Prohibitions on use of jetty***7.3 When use of jetty is prohibited**

A person shall not land at, use, or go on any part of a jetty which is—

- (a) under construction or repair; or
- (b) closed,

unless that person has first obtained the consent of the local government.

*Division 4—Mooring boats to jetties***7.4 Method of mooring boat**

A person in control of a boat shall not moor or make fast the boat to a jetty, or to any part of the jetty, except to such mooring piles, ring bolts or other fastenings as are provided.

*Division 5—When boats may remain at jetty***7.5 When boat may remain moored**

A person in control of a boat shall not moor or make fast the boat to a jetty unless—

- (a) the boat is in distress and then only to effect the minimum repairs necessary to enable the boat to be moved elsewhere;
- (b) the embarking or disembarking of passengers is in progress, and then not for a consecutive period exceeding 2 hours without the prior consent of the local government;
- (c) the loading or discharging of cargo or other goods is in progress in accordance with Division 7; or

- (d) where the boat is used at that time for commercial purposes, the person has first paid the fee (if any) for such mooring or making fast to the local government.

#### **7.6 Authorized person may order removal of boat**

Notwithstanding anything to the contrary in this Part, a person in control of a boat moored or fastened to or alongside a jetty shall remove it immediately upon being directed to do so by an authorized person.

#### *Division 6—Launching of boats*

#### **7.7 Restrictions on launching**

A person shall not launch a boat from or over any jetty (other than a boat ramp) unless she or he has first obtained the consent of the local government.

#### *Division 7—Cargo or other goods*

#### **7.8 Loading and discharging**

A person in control of a boat shall not allow the boat to come alongside or be moored or made fast to a jetty for the purpose of loading or discharging cargo or other goods—

- (a) until the cargo or other goods are ready to be loaded or discharged; or
- (b) without the consent of the local government—
  - (i) between the hours of 6.00pm to 6.00am on the next day; or
  - (ii) for longer than 2 consecutive hours.

#### **7.9 Outgoing cargo not to be stored on jetty**

A person in control of cargo or other goods intended for loading on to a boat shall—

- (a) not allow them to be stored or placed on a jetty unless and until the boat is moored or fastened to or alongside the jetty; and
- (b) load them on to the boat as soon as practicable after the boat is moored or fastened to or alongside the jetty.

#### **7.10 Removal of incoming cargo from jetty**

Any person unloading cargo or other goods from a boat on to a jetty shall remove them, or cause them to be removed from the jetty as soon as practicable, but not later than 6.00pm on the day on which they were placed there.

#### **7.11 Authorized person may direct removal**

An authorized person may direct a person who, in the opinion of the authorized person, is in charge of cargo or other goods which remain on a jetty contrary to any provision of this Part to remove them from the jetty.

#### **7.12 Handling of bulk cargo**

Except with the prior consent of the local government, a person shall not place or deposit bulk cargo from a vehicle, boat or container on to a jetty.

#### *Division 8—Polluting surrounding area*

#### **7.13 Polluting surrounding area**

A person shall not tip or deposit anything on to a jetty so as to pollute the surrounding area.

#### *Division 9—Fishing from jetties and bridges*

#### **7.14 Limitations on fishing**

A person shall not—

- (a) fish from a jetty or a bridge so as to obstruct or interfere with the free movement of a boat approaching or leaving the jetty or the bridge or so as to unreasonably interfere with the use of the jetty or the bridge by any other person; or
- (b) hang or spread a fishing net from, on or over any part of a jetty or a bridge.

### **PART 8—OBJECTIONS AND APPEALS**

#### **8.1 Application of Division 1, Part 9 of the Act**

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

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

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations apply to that decision.

**PART 9—MISCELLANEOUS****9.1 Authorized person to be obeyed**

A person on local government property shall obey any lawful direction of an authorized person and shall not in any way obstruct or hinder an authorized person in the execution of her or his duties.

**9.2 Persons may be directed to leave local government property**

An authorized person may direct a person to leave local government property where she or he reasonably suspects that the person has contravened a provision of any written law.

**9.3 Disposal of lost property**

An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by the local government in any manner it thinks fit.

**9.4 Liability for damage to local government property**

(1) Where a person unlawfully damages local government property, the local government may by notice in writing to that person require that person within the time required in the notice to, at the option of the local government, 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 is to be taken to have damaged local government property within subclause (1) where—

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

(3) On a failure to comply with a notice issued under subclause (1), the local government may recover the costs referred to in the notice as a debt due to it.

**PART 10—ENFORCEMENT***Division 1—Notices given under this local law***10.1 Offence to fail to comply with notice**

Whenever the local government gives a notice under this local law requiring a person to do any thing, if a person fails to comply with the notice, that person commits an offence.

**10.2 Local government may undertake requirements of notice**

Where a person fails to comply with a notice referred to in clause 10.1, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

*Division 2—Offences and penalties**Subdivision 1—General***10.3 Offences and general penalty**

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

*Subdivision 2—Infringement notices and modified penalties***10.4 Prescribed offences**

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorized person should be satisfied that—
  - (a) commission of the prescribed offence is a relatively minor matter; and
  - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

**10.5 Form of notices**

- (1) For the purposes of this local law—
  - (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
  - (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and

(c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

(2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

*Division 3—Evidence in legal proceedings*

**10.6 Evidence of a determination**

(1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.

(2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.

(3) Subclause (2) does not make valid a determination that has not been properly made.

**Schedule 1**  
**PRESCRIBED OFFENCES**

| Clause  | Description  | Modified<br>Penalty<br>\$ |
|---------|--|---------------------------|
| 2.4     | Failure to comply with determination.....  | 100                       |
| 3.6     | Failure to comply with conditions of permit .....  | 100                       |
| 3.13(1) | Failure to obtain a permit.....  | 100                       |
| 3.14(3) | Failure to obtain permit to camp outside a facility .....  | 100                       |
| 3.15(1) | Failure to obtain permit for liquor .....  | 100                       |
| 3.16    | Failure of permit holder to comply with responsibilities .....   | 100                       |
| 4.2(1)  | Behaviour detrimental to property.....   | 100                       |
| 4.4     | Under influence of liquor or prohibited drug.....  | 100                       |
| 4.6(2)  | Failure to comply with sign on local government property .....   | 100                       |
| 5.2     | Unauthorized entry to fenced or closed local government property .....   | 100                       |
| 5.3     | Gender not specified using entry of toilet block or change room .....  | 100                       |
| 6.1(1)  | Unauthorized entry to function on local government property.....   | 100                       |
| 7.3     | Unauthorized use of any part of jetty which is closed or under repair or<br>construction .....                 | 100                       |
| 7.4     | Mooring of boats in unauthorized manner.....   | 100                       |
| 7.5     | Unauthorized mooring of a boat to jetty .....  | 100                       |
| 7.6     | Failure to remove moored boat on direction of authorized person.....   | 100                       |
| 7.7     | Launching of boat from jetty without consent .....   | 100                       |
| 7.8     | Mooring when not ready to load or discharge cargo, at times not<br>permitted or for longer than permitted..... | 100                       |
| 7.9     | Unlawful storing of goods on jetty.....  | 100                       |
| 7.10    | Removing goods from jetty during other than permitted hours .....  | 100                       |
| 7.11    | Failure to remove cargo on jetty on direction of authorized person.....  | 100                       |
| 7.12    | Unauthorized deposit of bulk cargo on jetty .....  | 100                       |
| 7.14    | Fishing from jetty or bridge so as to obstruct a boat or another person.....                                   | 100                       |

**Schedule 2**  
**DETERMINATIONS**

The following determinations are to be taken to have been made by the local government under clause 2.1.

**PART 1—PRELIMINARY**

**1.1 Definitions**

In these determinations unless the context otherwise requires—

“Local Law” means the Local Government Property Local Law made by the local government;

**1.2 Interpretation**

Unless the context otherwise requires, where a term is used but not defined in a determination and that term is defined in the local law then the term shall have the meaning given to it in the local law.

Dated this 9th day of July 2001.

The Common Seal of the Town of Bassendean was affixed by authority of a resolution of the Council in the presence of—

Cr G. K. PETERSON, Mayor.  
Mr GRAEME MACKENZIE, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**

## TOWN OF BASSENDEAN

**PARKING AND PARKING FACILITIES  
LOCAL LAW****TABLE OF CONTENTS****PART 1—DEFINITION AND OPERATION**

- 1.1 Commencement
- 1.2 Repeal
- 1.3 Interpretation
- 1.4 Application and pre-existing signs
- 1.5 Classes of vehicles
- 1.6 Part of thoroughfare to which sign applies

**PART 2—PARKING STALLS AND PARKING STATIONS**

- 2.1 Determination of parking stalls and parking stations
- 2.2 Vehicles to be within parking stall on thoroughfare
- 2.3 Vehicles to be within parking stall in parking station
- 2.4 Parking prohibitions and restrictions

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- 3.1 Prohibition and regulation of parking by signs
- 3.2 Restrictions on parking in particular areas
- 3.3 Parking vehicle on a carriageway
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- 4.1 Removal of notices on vehicle
- 4.2 Unauthorized signs and defacing of signs
- 4.3 Signs must be complied with
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- 4.7 Impersonation of an Authorised Person
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**PART 5—PENALTIES**

- 5.1 Offences and penalties
- 5.2 Averment on complaint as to clause 1.4 (2) agreement
- 5.3 Form of notices

**FIRST SCHEDULE**

Parking Region



**SECOND SCHEDULE**

Prescribed Offences

**THIRD SCHEDULE**

Notice to Owner of Vehicle Involved in Offence  
Infringement Notice  
Infringement Notice  
Withdrawal of Infringement Notice

**FOURTH SCHEDULE**

Deemed Parking Stations

**LOCAL GOVERNMENT ACT 1995**

## TOWN OF BASSENDEAN

**PARKING AND PARKING FACILITIES LOCAL LAW**

Under the powers conferred by the Local Government Act 1995 and under all other powers, the Council of the Town of Bassendean resolved on 27 March 2001 to make the following local law.

**PART 1—DEFINITION AND OPERATION****1.1 Commencement**

This local law will come into operation on the fourteenth day after the day on which it is published in the *Government Gazette*.

**1.2 Repeal**

The Town of Bassendean's local law relating to parking commercial vehicles on street verges, published in the *Government Gazette* on 4 September 1992, is repealed.

**1.3 Interpretation**

(1) In this Local Law unless the context otherwise requires—

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

“Authorized Person” means a person authorized by the local government under section 9.10 of the Act, to perform any of the functions of an Authorized Person under this Local Law;

“Authorized vehicle” means a vehicle authorized by the local government, Chief Executive Officer, Authorized Person or by any written law to park on a thoroughfare or parking facility;

“Bicycle” means any wheeled vehicle that is designed to be propelled solely by human power;

“Bus” means an omnibus as defined by the *Road Traffic Act 1974*;

“Bus Embayment” has the meaning given to it in the Code;

“Caravan” means a vehicle that is fitted or designed to allow human habitation and which is drawn by another vehicle, or which is capable of self-propulsion;

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

“Centre” in relation to a carriageway, means a line or a series of lines, marks or other indications placed at, or near, the middle of the carriageway or, in the absence of any such lines, marks or other indications, the middle of the main travelled portion of the carriageway;

“Children's Crossing” has the meaning given to it in the Code;

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

“Code” means the *Road Traffic Code 1975*;

“Commercial Vehicle” means a motor vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a motor vehicle for the conveyance of passengers, and includes any motor vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

“District” means the district of the local government;

“Driver” means any person driving or in control of a vehicle;

“Drop-Off Zone” means the parking stalls which are set aside for the use by persons collecting and setting down of people;

“Emergency Vehicle” has the meaning given to it in the Code;

“Footpath” includes every footpath, pedestrian access way or other place—

(a) intended for the use of pedestrians only, or in the case of a dual use path, for the use of pedestrians and bicyclists only; or

(b) habitually used by pedestrians and not by vehicles or, in the case of a dual use path, by pedestrians and bicyclists and not by vehicles other than bicycles;

“Head of a cul-de-sac” means that portion of a cul-de-sac within the tangent points where the carriageway curvature departs from the general road width;

- “Loading Zone” means a parking stall which is set aside for use by commercial vehicles if there is a sign referable to that stall marked ‘Loading Zone’;
- “Local government” means the Town of Bassendean
- “Median Strip” has the meaning given to it in the Code;
- “Motorcycle” means a motor vehicle that has two wheels or, where a sidecar is attached, three wheels;
- “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;
- “No Parking Area” means a portion of a carriageway that lie—
- (a) between two consecutive signs inscribed with the words “No Parking” or with an equivalent symbol depicting this purpose and each with an arrow pointing generally towards the other of them; or
  - (b) between a sign inscribed with the words “No Parking” or with an equivalent symbol depicting this purpose, and the end of the carriageway or an area in which parking is prohibited and that lies in the general direction indicated by an arrow inscribed on the sign;
- “Notice” means a notice in the form of Form No. 1, Form No. 2, Form No. 3, or Form No. 4 in the third schedule to these Local Laws;
- “Obstruction” means a vehicle which is parked in any position of a public place, where vehicles may not lawfully be parked, is deemed to be causing an obstruction;
- “Occupier” has the meaning given to it in the Act;
- “Offence” shall have the same meaning as defined in the Act;
- “Owner” where used in relation to a vehicle, means a person who is the registered holder of the requisite vehicle licence under the *Road Traffic Act 1974* in respect of that vehicle, or if the vehicle is not licensed under that Act, the person who owns the vehicle or is entitled to its possession; and where used in relation to land has the meaning given to it by the Act;
- “Park”, in relation to a vehicle, means to permit a vehicle, whether occupied or not by any person, to remain stationary for any period of time except for the purpose of—
- (a) avoiding conflict with other traffic; or
  - (b) complying with the provisions of any law when the vehicle is being driven;
- “Parking Area” means a portion of a carriageway—
- (a) between two consecutive signs inscribed with the word “Parking” or with an equivalent symbol depicting this purpose and each with an arrow pointing generally towards the other of them; or
  - (b) extending from a sign inscribed with the word “Parking” or with an equivalent symbol depicting this purpose in the general direction indicated by the arrow inscribed on the sign, to any other sign inscribed with the words “No Parking” or with an equivalent symbol depicting this purpose, or to the end of the carriageway or an area in which the parking of vehicles is prohibited,
- and is on that side of the carriageway of the thoroughfare nearest the sign;
- “Parking Facilities” includes land, buildings, shelters, parking stalls and other facilities open to the public generally for the parking of vehicles and signs, notices and facilities used in connection with the parking of vehicles;
- “Parking Region” means the area described in the First Schedule;
- “Parking Stall” means a section or part of a thoroughfare or of a parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked;
- “Parking Station” means any land, or structure provided for the purpose of accommodating vehicles;
- “Pedestrian Crossing” has the meaning given to it in the Code;
- “Private Driveway” means that area of land located within the boundaries of privately owned property which has been constructed, formed, shaped or otherwise designated for use by vehicles;
- “Property Line” means the boundary between the land comprising a street and the land that abuts thereon;
- “Public Place” means any place to which the public has access whether or not that place is on private property;
- “Reserve” means any land—
- (a) which belongs to the local government;
  - (b) of which the local government is the management body under the *Land Administration Act 1997*; or
  - (c) which is an “otherwise unvested facility” within section 3.53 of the Act;
- “Road Traffic Act” means the *Road Traffic Act 1974*;
- “Schedule” means a Schedule to this Local Law;

“Sign” includes a traffic sign, inscription, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols, and which is placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking of vehicles;

“Special Purpose Vehicle” means a public utility service truck, a tow truck, a vehicle being used for official duties by a member of the Police Service, a motor breakdown service vehicle or a vehicle being used by a government authority or a local government in connection with its functions, but does not include an emergency vehicle;

“Symbol” includes any symbol specified by Australian Standard 1742.11-1989 and any symbol specified from time to time by Standards Australia for use in the regulation of parking and any reference to the wording of any sign in this Local Law shall be also deemed to include a reference to the corresponding symbol;

“Taxi” has the same meaning as “taxi-car” in section 47Z of the *Transport Co-ordination Act 1966*;

“Thoroughfare” has the meaning given to it in the Act;

“Traffic Island” means any physical provision other than lines marked on a carriageway to guide the vehicular traffic;

“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; and

“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 definitions “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 1974* or in the Code, then the term shall have the meaning given to it in that Act or the Code.

#### **1.4 Application and pre-existing signs**

(1) Subject to subclause (2), this Local Law applies to the parking region.

(2) This Local Law does not apply to a parking facility or a parking station that is not occupied by the local government, unless the local government and the owner or occupier of that facility or station have agreed in writing that this Local Law will apply to that facility or station.

(3) The agreement referred to in subclause (2) may be made on such terms and conditions as the parties may agree.

(4) Where a parking facility or a parking station is identified in the Fourth Schedule, then the facility or station shall be deemed to be a parking station to which this Local law applies and it shall not be necessary to prove that it is the subject of an agreement referred to in subclause (2).

(5) A sign that—

(a) was erected by the local government or the Commissioner of Main Roads prior to the coming into operation of this Local Law; and

(b) relates to the parking of vehicles within the parking region, shall be deemed for the purposes of this Local Law to have been erected by the local government under the authority of this Local Law.

(6) An inscription or symbol on a sign referred to in subclause (5) operates and has effect according to its tenor, and where the inscription or symbol relates to the standing of vehicles, it shall be deemed for the purposes of this Local Law to operate and have effect as if it related to the parking of vehicles.

#### **1.5 Classes of vehicles**

For the purpose of this Local Law, vehicles are divided into classes as follows—

(a) buses;

(b) commercial vehicles;

(c) motorcycles and bicycles;

(d) taxis; and

(e) all other vehicles.

#### **1.6 Part of thoroughfare to which sign applies**

Where under this Local Law the parking of vehicles in a thoroughfare which is controlled by a sign, the sign shall be read as applying to that part of the thoroughfare which—

(a) lies beyond the sign;

(b) lies between the sign and the next sign beyond that sign; and

(c) is on that side of the thoroughfare nearest to the sign.

**PART 2—PARKING STALLS AND PARKING STATIONS****2.1 Determination of parking stalls and parking stations**

The local government may by resolution constitute, determine and vary and also indicate by signs—

- (a) parking stalls;
- (b) parking stations;
- (c) permitted time 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.

**2.2 Vehicles to be within parking stall on thoroughfare**

(1) Subject to subclause (2), a person shall not park a vehicle in a parking stall in a thoroughfare otherwise than—

- (a) parallel to and as close to the kerb as is practicable;
- (b) wholly within the stall; and
- (c) headed in the direction of the movement of traffic on the side of the thoroughfare in which the stall is situated.

(2) Where a parking stall in a thoroughfare is set out otherwise than parallel to the kerb, then a person must park a vehicle in that stall wholly within it.

**2.3 Vehicles to be within parking stall in parking station**

Unless otherwise directed by an Authorized Person, a person shall not park a vehicle in a parking station otherwise than wholly within a parking stall.

**2.4 Parking prohibitions and restrictions**

(1) A person shall not—

- (a) park a vehicle so as to obstruct an entrance to, or an exit from a parking station, or an access way within a parking station;
- (b) except with the permission of the local government or an Authorized Person park a vehicle on any part of a parking station contrary to a sign referable to that part;
- (c) permit a vehicle to park on any part of a parking station, if an Authorized Person directs the driver of such vehicle to move the vehicle; or
- (d) park or attempt to park a vehicle in a parking stall in which another vehicle is parked but this paragraph does not prevent the parking of a motorcycle and a bicycle together in a stall.

**PART 3—PARKING GENERALLY****3.1 Prohibition and regulation of parking by signs**

The local government may by resolution prohibit or regulate by signs or otherwise the parking of any vehicle or class of vehicles in any part of the parking region but must do so consistently with the provisions of this Local Law.

**3.2 Restrictions on parking in particular areas**

(1) A person shall not park a vehicle in a thoroughfare or part of a thoroughfare, or part of a parking station—

- (a) if by a sign it is set apart for the parking of vehicles of a different class;
- (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
- (c) during any period when the parking of vehicles is prohibited by a sign.

(2) A person shall not park a vehicle—

- (a) in a no parking area;
- (b) in a parking area, except in accordance with both the signs associated with the parking area and with this Local Law; or
- (c) in a stall marked "M/C" unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.

(3) A person shall not, without the prior permission of the local government, the CEO, or an Authorized Person, park a vehicle in an area designated by a sign stating "Authorized Vehicles Only".

(4) In a Loading Zone, a person shall not—

- (a) park a vehicle other than a commercial vehicle which is being loaded or unloaded with goods; or
- (b) park a commercial vehicle which is being loaded or unloaded with goods for more than 30 minutes.

(5) In paragraph (b) of subclause (4) "goods" means an article or collection of articles weighing at least 13.6kg and of which the cubic measurement is not less than 0.17m<sup>3</sup>.

### 3.3 Parking vehicle on a carriageway

A person parking a vehicle on a carriageway shall park it—

- (a) in the case of 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 thoroughfare on which the vehicle is parked;
- (b) in the case of 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 thoroughfare on which the vehicle is parked;
- (c) so that at least 3 metres of the width of the carriageway lies between the vehicle and the farther boundary of the carriageway, or between the vehicle and a vehicle parked on the farther side of the carriageway;
- (d) so that it is not less than 1.2 metres from any other vehicle, except a motorcycle without a trailer, or a bicycle parked in accordance with this Local Law;
- (e) so that it does not obstruct any vehicle on the carriageway; and
- (f) so that it is entirely within the confines of any parking stall marked on the carriageway.

### 3.4 Vehicle to be wholly within parking area

A person shall not park a vehicle partly within and partly outside a parking area.

### 3.5 When parallel and right-angled parking apply

Where a traffic sign associated with a parking area is not inscribed with the words “angle parking” (or with an equivalent symbol depicting this purpose), then unless a sign associated with the parking area indicates or marks on the carriageway indicate that vehicles have to park in a different position where the parking area is—

- (a) adjacent to the boundary of a carriageway, a person parking a vehicle in the parking area shall park it as near as practicable to and parallel with that boundary; and
- (b) at or near the centre of the carriageway, a person parking a vehicle in that parking area shall park it at approximately right angles to the centre of the carriageway.

### 3.6 When angle parking applies

(1) This clause does not apply to—

- (a) a passenger vehicle or a commercial vehicle with a mass including any load, of over three tonnes; or
- (b) a person parking either a motor cycle without a trailer or a bicycle.

(2) Where a sign associated with a parking area is inscribed with the words “angle parking” (or with an equivalent symbol depicting this purpose), a person parking a vehicle in the area shall park 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.

### 3.7 General prohibitions on parking

- (1) (a) This clause does not apply to a vehicle parked in a parking stall nor to a bicycle in a bicycle rack.
  - (b) Paragraphs (c), (e) and (g) of subclause (2) do not apply to a vehicle which parks in a bus embayment.
- (2) A person shall not park a vehicle so that any portion of the vehicle is—
- (a) between any other stationary vehicles and the centre of the carriageway;
  - (b) on or adjacent to a median strip;
  - (c) obstructing a right of way, private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway;
  - (d) alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic;
  - (e) on or within 9 metres of any portion of a carriageway bounded by a traffic island;
  - (f) on any footpath or pedestrian crossing;
  - (g) on a bridge or other elevated structure or within a tunnel or underpass;
  - (h) between the boundaries of a carriageway and any double longitudinal line consisting of two continuous lines or between a double longitudinal line consisting of a continuous line and a broken or dotted line and the boundary of a carriageway nearer to the continuous line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;
  - (i) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;
  - (j) within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug;
  - (k) within 3 metres of a public letter pillar box, unless the vehicle is being used for the purposes of collecting postal articles from the pillar box; or
  - (l) within 6 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked; and
  - (m) within the head of a cul-de-sac.

(3) A person shall not park a vehicle so that any portion of the vehicle is within 9 metres of the departure side of—

- (a) a sign inscribed with the words “Bus Stop” or “Hail Bus Here” (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers;
- (b) a children’s crossing established on a two-way carriageway; or
- (c) the nearest rail of a railway level crossing.

(4) A person shall not park a vehicle so that any portion of the vehicle is within 18 metres of the approach side of—

- (a) a sign inscribed with the words “Bus Stop” or “Hail Bus Here” (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers;
- (b) a pedestrian crossing or children’s crossing; or
- (c) the nearest rail of a railway level crossing.

(5) A person shall not park a vehicle in a “Drop-Off Zone”—

- (a) unless the driver remains in the vehicle; and
- (b) for a period exceeding five (5) minutes.

### **3.8 Parking on verges**

(1) A person shall not—

- (a) park a vehicle;
- (b) park a commercial vehicle or bus, or a trailer or caravan unattached to a motor vehicle; or
- (c) park a vehicle during any period when the parking of vehicles on that verge is prohibited by a sign adjacent and referable to that verge,

so that any portion of it is on a verge.

(2) Subclause 1(a) does not apply to the person if he or she is the owner or occupier of the premises adjacent to that verge, or is a person authorised by the occupier of those premises to park the vehicle so that any portion of it is on the verge.

(3) Subclause 1(b) does not apply to a commercial vehicle when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials collected from or delivered to the premises adjacent to the portion of the verge on which the commercial vehicle is parked, provided no obstruction is caused to the passage of any vehicle or person using a carriageway or a footpath.

### **3.9 Limitation on parking of vehicles with tare in excess of 2,000kgs on carriageway**

A person shall not park a vehicle having a tare in excess of 2,000kgs on a carriageway for more than two hours consecutively.

### **3.10 Limitation on parking of over length vehicles on carriageway**

A person shall not park a vehicle or any combination of vehicles that together with anything in or on that vehicle is more than 8 metres in length, on a carriageway for more than two hours consecutively.

### **3.11 Authorized person may order vehicle on thoroughfare to be moved**

The driver of a vehicle shall not park that vehicle on any part of a thoroughfare in contravention of this Local Law after an Authorized Person or Police Officer has directed the driver to move it.

### **3.12 Authorized person may mark tyres**

(1) An Authorized Person may mark the tyres of a vehicle parked in a parking facility with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties or powers.

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

### **3.13 No movement of vehicles to avoid time limitation**

(1) Where the parking of vehicles in a parking facility is permitted for a limited time, a person shall not move a vehicle within the parking facility so that the total time of parking exceeds the maximum time allowed for parking in the parking facility, unless the vehicle has first been removed from the parking facility for at least 2 hours.

(2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person shall not move a vehicle along that thoroughfare so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from the thoroughfare for at least two hours.

### **3.14 No parking of vehicles exposed for sale and in other circumstances**

A person shall not park a vehicle on any portion of a thoroughfare—

- (a) for the purpose of exposing it for sale;
- (b) if that vehicle is not licensed under the *Road Traffic Act 1974*;
- (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.

**3.15 Parking on reserves**

No person other than an employee of the local government in the course of his or her duties or a person authorized by the local government shall drive or park a vehicle upon or over any portion of a reserve other than upon an area specifically set aside for that purpose.

**3.16 Suspension of parking limitations for urgent, essential or official duties**

(1) Where by a sign the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the local government, the CEO or an Authorized Person may, subject to the Code, permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time in order that the person may carry out urgent, essential or official duties.

(2) Where permission is granted under subclause (1), the local government, the CEO or an Authorized Person may prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates, for the duration of that permission.

**3.17 Obstruct/Hinder an Authorised Person**

No person shall in any way obstruct or hinder an authorised person in the execution of that person's duty.

**PART 4—MISCELLANEOUS****4.1 Removal of notices on vehicle**

A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle, shall not remove from the vehicle any notice put on the vehicle by an Authorized Person.

**4.2 Unauthorized signs and defacing of signs**

A person shall not without the authority of the local government—

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government under this Local Law;
- (b) remove, deface or misuse a sign or property, set up or exhibited by the local government under this Local Law or attempt to do any such act; or
- (c) affix a board, sign, placard, notice or other thing to or paint or write upon any part of a sign set up or exhibited by the local government under this Local Law.

**4.3 Signs must be complied with**

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this Local Law.

**4.4 General provisions about signs**

(1) A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary presumed to be a sign marked, erected, set up, established or displayed under the authority of this Local Law.

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

**4.5 Special purpose and emergency vehicles**

Notwithstanding anything to the contrary in this Local Law, the driver of—

- (a) a special purpose vehicle may, only in the course of his or her duties and when it is expedient and safe to do so, stop, or park the vehicle in any place, at any time; and
- (b) an emergency vehicle may, in the course of his or her duties and when it is expedient and safe to do so or where he or she honestly and reasonably believes that it is expedient and safe to do so, stop, or park the vehicle at any place, at any time.

**4.6 Removal of Vehicles**

(1) Any obstructing vehicle or any vehicle which remains standing in a parking facility for more than twenty four (24) hours without the consent in writing of the CEO may be towed away or otherwise removed to the Council depot or other place authorised by Council from time to time.

(2) Any person who contravenes the provisions of sub-clause (1) commits an offence.

(3) Any vehicle impounded under the provisions of sub-clause (1) once impounded shall then be dealt with in accordance with the provisions of the Council's Local Law relating to Activities on Thoroughfares and Trading in Thoroughfares and Public Places.

**4.7 Impersonation of an Authorised Person**

A person who is not an Authorised Person shall not in any way assume or attempt to assume the duties of an Authorised Person.

**4.8 Authorised Person may require name and place of abode**

(1) An authorised person or a member of the Police Force who finds a person committing or who on reasonable grounds suspects a person of having committed a breach of the provisions of these Local Laws, may demand from the person his/her name and place of abode.

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



**PART 5—PENALTIES****5.1 Offences and penalties**

(1) Any person who fails to do anything required or directed to be done under this Local Law, or who does anything which under this Local Law that person is prohibited from doing, commits an offence.

(2) An offence against any provision of this Local Law is a prescribed offence for the purposes of section 9.16(1) of the Act.

(3) Any person who commits an offence under this Local Law shall be liable, upon conviction, to a penalty not exceeding \$1,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$100 for each day or part of a day during which the offence has continued.

(4) The amount appearing in the final column of the Second Schedule directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

**5.2 Averment on complaint as to clause 1.4 (2) agreement**

An averment on a complaint that this Local Law applies to a parking facility or a parking station under an agreement referred to in clause 1.4 (2), shall be sufficient proof that this Local Law applies to that facility or station, unless there is proof to the contrary that such an agreement does not exist.

**5.3 Form of notices**

For the purposes of this Local Law:

- (a) the form of the notice referred to in section 9.13 of the Act is that of Form 1 in the Third Schedule;
- (b) the form of the infringement notice referred to in section 9.17 of the Act is that of Form 2 in the Third Schedule;
- (c) the form of the infringement notice referred to in section 9.17 of the Act which incorporates the notice referred to in section 9.13 of the Act, is that of Form 3 in the Third Schedule; and
- (d) the form of the notice referred to in section 9.20 of the Act is that of Form 4 in the Third Schedule.

**First Schedule****PARKING REGION**

The parking region is the whole of the district, but excludes the following portions of the district—

- (a) the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;
- (b) prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads;
- (c) any thoroughfare which comes under the control of the Commissioner of Main Roads unless the control of parking and parking facilities on that thoroughfare has been delegated by the Commissioner of Main Roads to the local government; and
- (d) Private land, other than private land, which Council has resolved to control at the landowners request.

**Second Schedule****PRESCRIBED OFFENCES**

| Item No. | Clause No.  | Nature Of Offence  | Modified Penalty \$ |
|----------|-------------|--|---------------------|
| 1        | 2.4 (1) (a) | Causing obstruction in parking station .....                     | 45                  |
| 2        | 2.4 (1) (b) | Parking contrary to sign in parking station .....                | 45                  |
| 3        | 2.4 (1) (c) | Parking contrary to directions of Authorised Person.....         | 45                  |
| 4        | 3.2 (1) (a) | Parking wrong class of vehicle .....                             | 35                  |
| 5        | 3.2 (1) (b) | Parking by persons of a different class.....                     | 40                  |
| 6        | 3.2 (1) (c) | Parking during prohibited period .....                           | 40                  |
| 7        | 3.2 (2) (a) | Parking in no parking area .....                                 | 45                  |
| 8        | 3.2 (2) (b) | Parking contrary to signs or limitations.....                    | 35                  |
| 9        | 3.2 (2) (c) | Parking vehicle in motor cycle only area .....                   | 35                  |
| 10       | 3.2 (3)     | Parking vehicle in an 'Authorised Vehicle Only' area.....        | 35                  |
| 11       | 3.2 (4) (a) | Parking in Loading Zone .....                                    | 40                  |
| 12       | 3.3 (a)     | Fail to park on the left of two-way carriageway.....             | 35                  |
| 13       | 3.3 (b)     | Fail to park on boundary of one-way carriageway .....            | 35                  |
| 14       | 3.3 (c)     | Parking when distance from farther boundary less than 3 metres.. | 40                  |
| 15       | 3.3 (e)     | Causing obstruction.....   | 45                  |
| 16       | 3.7 (2) (a) | Double parking.....  | 40                  |
| 17       | 3.7 (2) (c) | Denying access to private drive or right of way .....            | 40                  |

| Item No. | Clause No.         | Nature Of Offence   | Modified Penalty \$ |
|----------|--------------------|---|---------------------|
| 18       | 3.7 (2) (d)        | Parking beside excavation or obstruction so as to obstruct traffic ...                    | 45                  |
| 19       | 3.7 (2) (e)        | Parking within 9 metres of traffic island.....  | 40                  |
| 20       | 3.7 (2) (f)        | Parking on footpath/pedestrian crossing .....   | 45                  |
| 21       | 3.7 (2) (g)        | Parking on bridge or in tunnel .....  | 40                  |
| 22       | 3.7 (2) (i)        | Parking on intersection.....  | 40                  |
| 23       | 3.7 (2) (l)        | Parking within 6 metres of intersection .....   | 40                  |
| 24       | 3.7 (2) (m)        | Parking within the head of a cul-de-sac.....  | 40                  |
| 25       | 3.7 (3) (a)        | Parking vehicle within 9 metres of departure side of bus stop.....                        | 45                  |
| 26       | 3.7 (4) (a)        | Parking vehicle within 18 metres of approach side of bus stop.....                        | 45                  |
| 27       | 3.7 (4) (b)        | Parking vehicle within 18 metres of approach side of pedestrian/children's crossing ..... | 45                  |
| 28       | 3.7 (5)(a) or (b)  | Parking in a Drop-Off Zone .....  | 35                  |
| 29       | 3.8 (1) (a) or (b) | Parking vehicle or unattached trailer or caravan on verge .....                           | 35                  |
| 30       | 3.8 (1) (c)        | Parking on verge contrary to sign.....  | 35                  |
| 31       | 3.9                | Parking vehicle with tare of over 2000kgs for over 2 hours.....                           | 50                  |
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**Third Schedule**

LOCAL GOVERNMENT ACT 1995

Form 1

*Parking and Parking Facilities Local Law*

**NOTICE TO OWNER OF VEHICLE INVOLVED IN OFFENCE**

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

To: (1).....

of: (2).....

It is alleged that on ..... / ..... / ..... at (3).....

at (4) ..... your vehicle:

make: .....

model: .....

registration: .....

was involved in the commission of the following offence—.....

contrary to clause ..... of the Parking and Parking Facilities Local Law.

You are required under section 9.13 of the *Local Government Act 1995* to identify the person who was the driver or person in charge of the vehicle at the time when the offence is alleged to have been committed. If you do not prove otherwise, you will be deemed to have committed the offence unless—

(a) within 28 days after being served with this notice—

(i) you inform the Chief Executive Officer or another authorized officer of the local government as to the identity and address of the person who was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed; and

(ii) you satisfy the Chief Executive Officer that the vehicle had been stolen, or was being unlawfully used, at the time the offence is alleged to have been committed;

or

(b) you were given an infringement notice for the alleged offence and the modified penalty specified in it is paid within 28 days after the notice was given or such further time as is allowed.

(5) .....

(6) .....

Insert—

- (1) Name of owner or “the owner”
- (2) Address of owner (not required if owner not named)
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Signature of authorized person
- (6) Name and title of authorized person giving notice

**Third Schedule**

LOCAL GOVERNMENT ACT 1995

Form 2

*Parking and Parking Facilities Local Law*

**INFRINGEMENT NOTICE**

Serial No .....

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

To: (1) .....

of: (2) .....

It is alleged that on ..... / ..... / ..... at (3) .....

at (4) ..... your vehicle:

make: .....

model: .....

registration: .....

was involved in the commission of the following offence—.....

.....

.....

contrary to clause ..... of the Parking and Parking Facilities Local Law.

The modified penalty for the offence is \$ .....

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorized person at (5) ..... within a period of 28 days after the giving of this notice.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver’s licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver’s licence or any vehicle licence you hold being suspended without your knowledge.

(6) .....

(7) .....

Insert—

- (1) Name of alleged offender or “the owner”
- (2) Address of alleged offender
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Place where modified penalty may be paid
- (6) Signature of authorized person
- (7) Name and title of authorized person giving notice

**Third Schedule**

LOCAL GOVERNMENT ACT 1995

Form 3

*Parking and Parking Facilities Local Law*

**INFRINGEMENT NOTICE**

Serial No .....

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

To: (1) .....

of: (2) .....

It is alleged that on ..... / ..... / ..... at (3) .....  
at (4) ..... your vehicle:

make: ..... ;

model: ..... ;

registration: ..... ,

was involved in the commission of the following offence—

.....  
.....  
.....

contrary to clause ..... of the Parking and Parking Facilities Local Law.

The modified penalty for the offence is \$ .....

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorized person at (5) ..... within a period of 28 days after the giving of this notice.

Unless within 28 days after being served with this notice—

- (a) you pay the modified penalty; or
- (b) you—
  - (i) inform the Chief Executive Officer or another authorized officer of the local government as to the identity and address of the person who was the driver or person in charge of the above vehicle at the time the offence is alleged to have been committed; or
  - (ii) satisfy the Chief Executive Officer that the above vehicle had been stolen or was being unlawfully used at the time the offence is alleged to have been committed, you will, in the absence of proof to the contrary, be deemed to have committed the above offence and court proceedings may be instituted against you.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver's licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable. If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

(6) .....

(7) .....

Insert—

- (1) Name of owner or "the owner"
- (2) Address of owner (not required if owner not named)
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Place where modified penalty may be paid
- (6) Signature of authorized person
- (7) Name and title of authorized person giving notice

**Third Schedule**

LOCAL GOVERNMENT ACT 1995

Form 4

*Parking and Parking Facilities Local Law*

**WITHDRAWAL OF INFRINGEMENT NOTICE**

Serial No .....

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

To: (1) .....

of: (2) .....

It is alleged that on ..... / ..... / ..... at (3) .....

at (4) ..... your vehicle:

make: ..... ;

model: ..... ;

registration: ..... ,

was involved in the commission of the following offence—.....

.....

has been withdrawn.

The modified penalty of \$ .....

\* has been paid and a refund is enclosed.

\* has not been paid and should not be paid.

\* *delete as appropriate.*

(3) .....

(4) .....

Insert—

(1) Name of alleged offender to whom infringement notice was given or “the owner”.

(2) Address of alleged offender.

(3) Signature of authorized person

(4) Name and title of authorized person giving notice

\_\_\_\_\_

**Fourth Schedule**

*Parking and Parking Facilities Local Law*

**DEEMED PARKING STATIONS**

• PARKING STATION NO. 1—BASSENDEAN VILLAGE SHOPPING CENTRE CARPARK

• PARKING STATION NO. 2—WILSON STREET CARPARK

\_\_\_\_\_

Dated 9<sup>th</sup> day of July 2001.

The Common Seal of the Town of Bassendean was affixed by authority of a resolution of the Council in the presence of—

Cr G. K. PETERSON, Mayor.

Mr GRAEME MACKENZIE, Chief Executive Officer.

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**LOCAL GOVERNMENT ACT 1995**

## TOWN OF BASSENDEAN

**URBAN ENVIRONMENT AND NUISANCE  
LOCAL LAW**

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**SCHEDULE 1**

**LOCAL GOVERNMENT ACT 1995**

## TOWN OF BASSENDEAN

**URBAN ENVIRONMENT AND NUISANCE LOCAL LAW**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Town of Bassendean resolved on 27 March 2001 to make the following local law.

**PART 1—PRELIMINARY****1.1 Citation**

This local law may be cited as the *Town of Bassendean Urban Environment and Nuisance Local Law*.

**1.2 Application**

This local law applies throughout the district.

**1.3 Definitions**

In this local law, unless the context otherwise requires—

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

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

“Council” means the Council of the local government;

“District” means the district of the local government;

“Livestock” includes cattle, sheep, pigs, goats and horses;

“Local Government” means the Town of Bassendean;

“Local Government Property” means anything, except a thoroughfare, which belongs to the local government—

(a) of which the local government is the management body under the *Land Administration Act 1997*; or

(b) which is an “otherwise unvested facility” within section 3.53 of the Act;

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

“Nuisance” includes—

(a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;

(b) an unreasonable interference with the use and enjoyment of a person in her or his ownership or occupation of land; and

(c) interference which causes material damage to land or other property on the land affected by the interference;

“Person” does not include the local government;

“Regulations” means the *Local Government (Functions and General) Regulations 1996*; and

“Vehicle” includes—

(a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; or

(b) an animal being ridden or driven,

but excludes—

(c) a wheelchair or any device designed for use by a physically impaired person on a footpath; and

(d) a pram, a stroller or a similar device.

**1.4 Repeal**

The Old Refrigerators and Cabinets Local Law published in the Government Gazette on the 18 July 1963 is repealed.

**PART 2—GENERAL—PARKING OF LIVESTOCK TRUCKS AND TRUCK NOISE FROM RESIDENTIAL LAND***Division 1—Parking of livestock trucks***2.1 Livestock trucks**

(1) A person shall not park a vehicle containing livestock in the Town of Bassendean for a period in excess of 30 minutes.

(2) A person shall not park a vehicle which contains or has been used for the carriage of livestock so as to create or be a nuisance to any person, by reason of the odour emanating from the vehicle.

(3) If a person parks a vehicle containing livestock in the Town of Bassendean under and in accordance with subclause (1), then the person does not contravene subclause (2).

*Division 2—Truck noise from residential land*

**2.2. Truck noise from residential land**

(1) A person shall not start or drive a truck on land zoned, approved or used for residential purposes between the hours of 10pm and 7am on the following day without first obtaining the written consent of the local government.

(2) In this clause, a truck means a vehicle having a tare in excess of 2,000 kgs.

**PART 3—DISPOSING OF DISUSED REFRIGERATORS**

*Division 1—Disposing of Disused Refrigerators or Similar Containers*

**3.1 Disposing of disused refrigerators or similar containers**

(1) A person shall not place, leave or dispose of a disused refrigerator, ice-chest, ice-box, trunk, chest or other similar article having a compartment which has a capacity of 0.04 cubic metres or more on any land without first—

- (a) removing every door and lid and every lock, catch and hinge attached to a door or lid; or
- (b) rendering every door and lid incapable of being fastened.

**PART 4—OBJECTIONS AND APPEALS**

**4.1 Application of Part 9 Division 1 of the Act**

When the local government makes a decision under clause 2.6 or 2.8 (1) the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations apply to that decision.

**PART 5—ENFORCEMENT**

*Division 1—Notices given under this local law*

**5.1 Offence to fail to comply with notice**

Whenever the local government gives a notice under this local law requiring a person to do any thing, if a person fails to comply with the notice, that person commits an offence.

**5.2 Local government may undertake requirements of notice**

Where a person fails to comply with a notice referred to in clause 5.1, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

*Division 2—Offences and penalties*

Subdivision 1—General

**5.3 Offences and general penalty**

(1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

(2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

Subdivision 2—Infringement notices and modified penalties

**5.4 Prescribed offences**

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

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorized person should be satisfied that—

- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

**5.5 Form of notices**

For the purposes of this local law—

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;



- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

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**Schedule 1**  
**PRESCRIBED OFFENCES**

| Clause  | Description  | Modified<br>Penalty<br>\$ |
|---------|--|---------------------------|
| 2.1(1)  | Parking a livestock truck in a townsite in excess of 30 minutes.....                                 | 100                       |
| 2.2 (1) | Starting or driving a truck on residential land without consent .....                                | 100                       |
| 3.1     | Disposing of disused refrigerator or similar container with door or<br>lid that can be fastened..... | 250                       |
| 5.1     | Failure to comply with notice .....  | 100                       |

Dated this 9<sup>th</sup> day of July 2001.

The Common Seal of the Town of Bassendean was affixed by authority of a resolution of the Council in the presence of—

Cr G K PETERSON, Mayor.

Mr GRAEME MACKENZIE, Chief Executive Officer.

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**LOCAL GOVERNMENT ACT 1995**

TOWN OF BASSENDEAN

**BEE KEEPING LOCAL LAW****TABLE OF CONTENTS**

1. Citation and Application
2. Repeal
3. Interpretation
4. Permit Required to Keep Bees
5. Application for a Permit
6. Determination of Application
7. Conditions of Approval
8. Variation or Cancellation of Permit and Conditions
9. Permit Holder to Notify of Cessation of Registration or Keeping of Bees
10. Permit Not Transferable
11. Nuisance
12. Notice to Remove Bees
13. Offences and Penalties
14. Forms
15. Objections and Appeals

**SCHEDULE 1**

Prescribed Offences

**LOCAL GOVERNMENT ACT 1995**

## TOWN OF BASSENDEAN

**BEE KEEPING LOCAL LAW**

Under the powers conferred by the *Local Government Act 1995* and under all other powers, the Council of the Town of Bassendean resolved on 27 March 2001 to make the following local law.

**1. Citation and Application**

This local law may be cited as the *Town of Bassendean Bee Keeping Local Law* and shall apply throughout the district.

**2. Repeal**

The Local Laws relating to the Keeping of Bees published in the *Government Gazette* of 8 May 1981 are repealed.

**3. Interpretation**

In this local law, unless the context requires otherwise—

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

“Bee Hive” means a hive standing alone or any 2 or more hives standing in a group;

“District” means the district of the local government;

“Local government” means the Town of Bassendean;

“Nuisance” includes—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person in her or his ownership or occupation of land; and
- (c) interference which causes material damage to land or other property on the land affected by the interference;

“Permit” means a permit issued under this local law;

“Permit Holder” means a person who holds a valid permit—

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

**4. Permit Required to Keep Bees**

(1) A person shall not keep bees or allow bees to be kept on land except in accordance with a valid permit issued in relation to the land.

(2) Subclause (1) does not apply where an occupier of land keeps bees on the land—

- (a) for a continuous period not exceeding 8 weeks in a 12 month period; and
- (b) for the purpose of pollinating a crop on the land.

(3) An occupier referred to in subclause (2), in keeping bees under that subclause, shall provide a good and sufficient water supply on the land which is readily accessible by the bees.

(4) Subclause (1) does not apply where a person keeps bees on Crown land.

**5. Application for a Permit**

An applicant for a permit shall—

- (a) be a person registered as a beekeeper under section 8 of the *Beekeepers Act 1963*;
- (b) provide such details as may be required by the local government;
- (c) apply in the form determined by the local government; and
- (d) pay any application fee imposed and determined by the local government under sections 6.16-6.19 of the Act.

**6. Determination of Application**

(1) The local government may—

- (a) refuse to determine an application for a permit which does not comply with clause 5;
- (b) approve an application for a permit subject to the conditions referred to in clause 7 and to such other conditions as it considers appropriate; or
- (c) refuse to approve an application for a permit.

- (2) Where an application for a permit is approved subject to conditions, the permit holder is to comply with those conditions or is to cause those conditions to be complied with.
- (3) Where the local government approves an application under subclause (1)(b), it is to issue to the applicant a permit in the form determined by the local government.
- (4) A permit is valid from the date of issue unless and until it is cancelled under this local law.

### **7. Conditions of Approval**

- (1) Without limiting the generality of clause 6 (1)(b), an application for a permit may be approved by the local government, subject to the following conditions—
- (a) the provision of a good and sufficient water supply on the land which is readily accessible by the bees on the land;
  - (b) each bee hive shall be—
    - (i) kept at a distance specified by the local government from any thoroughfare, public place or boundary of the land; or
    - (ii) located near a screen or other barrier so as to prevent the bees flying low over a thoroughfare, public place or adjoining land;
  - (c) no more than 2 bee hives are to be kept on land of less than 2,000 square metres in area; and
  - (d) no more than 15 bee hives are to be kept on land between 2,000 and 20,000 square metres in area.
- (2) In respect of a particular application for a permit, the local government may vary any of the conditions referred to in subclause (1).

### **8. Variation or Cancellation of Permit and Conditions**

- (1) The local government may vary the conditions of a permit after it has been issued.
- (2) The local government may cancel a permit on the request of a permit holder to do so.
- (3) Notwithstanding clause 12, a permit shall be cancelled on—
- (a) the permit holder ceasing to be registered as a beekeeper under section 8 of the *Beekeepers Act 1963*; or
  - (b) the expiration of a continuous period of 12 months during which the permit holder has not kept any bees on the land to which the permit relates,
- without any action required on the part of the local government.

### **9. Permit Holder to Notify of Cessation of Registration or Keeping of Bees**

- (1) In this clause a “permit holder” includes the holder of a permit cancelled by clause 8(3).
- (2) A permit holder is to notify the local government in writing as soon as practicable after—
- (a) the permit holder ceases to be registered as a beekeeper under section 8 of the *Beekeepers Act 1963*; or
  - (b) a continuous period of 12 months passes during which the permit holder has not kept any bees on the land described in her or his permit.
- (3) A permit holder shall, within 7 days of the local government giving the permit holder a written notice to do so, provide to the local government—
- (a) written proof of her or his registration as a beekeeper under section 8 of the *Beekeepers Act 1963*;
  - (b) in respect of land identified by the local government in its notice, a signed statement as to whether or not he or she has kept bees on the land within the 12 months preceding the date of the notice; or
  - (c) both.

### **10. Permit Not Transferable**

A permit is personal to the permit holder and applies only to the land described in the permit.

### **11. Nuisance**

A person shall not keep or allow to be kept bees or beehives, or both, on land so as to create a nuisance.

### **12. Notice to Remove Bees**

- (1) Whenever in the opinion of the local government a person has contravened any provision of the *Beekeepers Act 1963* or of this local law which relates to the keeping of bees or bee hives, the local government may give the permit holder in relation to that land, or if there is no valid permit in relation to that land an owner or occupier of the land a written notice requiring her or him to remove any bees or bee hives, or both, from the land within the time specified in the notice.
- (2) Subject to Division 1 of Part 9 of the Act, on the giving of a notice referred to in subclause (1), any valid permit given by the local government relating to the keeping of bees or bee hives on that land is cancelled from the time specified in the notice, being not less than 7 days from the date it is given.
- (3) Where a person fails to comply with a notice given under subclause (1), the local government may dispose of the bees or the bee hives or both in such manner as it sees fit and recover the costs of so doing from the permit holder or an owner or occupier, as the case may be, as a debt due to it.

**13. Offences and Penalties**

(1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing commits an offence.

(2) A person who commits an offence under this local law is liable to a penalty of \$5,000 and a daily penalty of \$500 in respect of each day or part of a day during which the offence has continued.

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

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

**14. Forms**

For the purposes of this local law—

(a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and

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

**15. Objections and Appeals**

When the local government makes a decision under this local law as to whether it will—

(a) grant a person a permit;

(b) vary or cancel a permit; or

(c) give a person a notice under clause 12(1),

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

—————  
**Schedule 1**  
**PRESCRIBED OFFENCES**

| Clause | Description  | Modified<br>Penalty<br>\$ |
|--------|--|---------------------------|
| 4(1)   | Failure to obtain permit to keep bees .....  | 100                       |
| 4(3)   | Failure to comply with obligation when temporarily keeping bees .....                          | 100                       |
| 6(2)   | Failure to comply with a condition of a permit to keep bees ....                               | 100                       |
| 9(3)   | Failure to comply with notice of local government.....   | 100                       |
| 11     | Creation of nuisance from keeping of bees or beehives.....                                     | 100                       |
| 12(1)  | Failure to comply with notice to remove bees or bee hives for contravention of local law ..... | 100                       |

Dated this 9<sup>th</sup> day of July 2001.

The Common Seal of the Town of Bassendean was affixed by authority of a resolution of the Council in the presence of—

Cr G K PETERSON, Mayor.

Mr GRAEME MACKENZIE, Chief Executive Officer.

—————

**LOCAL GOVERNMENT ACT 1995**

## TOWN OF BASSENDEAN

**REPEAL LOCAL LAW**

Local Law Relating to Repeal of Defunct and Obsolete Local Laws Made Under the *Local Government Act 1960* and Earlier Legislation.

Under the powers conferred by the *Local Government Act 1995* and by all other powers, the local government of the Town of Bassendean resolved on 27 March 2001 to repeal local laws relating to the matters listed below and gazetted on the dates shown.

| <b>Local Law</b>   | <b>Date of Gazettal</b> |
|--|-------------------------|
| A.3 Discount of Rates  | 27 June 1924            |
| A.4 Payment of Rates   | 13 July 1984            |
| C.1 Motels,  | 28 September 1960       |
| C.3 Vehicle Wrecking   | 7 September 1966        |
| C.4 Dog Kennels  | 25 February 1983        |
| C.6 Petrol Pumps   | 16 November 1966        |
| F.2 Filling of Land within the District of the<br>Town of Bassendean | 29 December 1972        |
| F.3 Construction of Television Masts and<br>Antennae                 | 8 April 1960            |

Dated this 9<sup>th</sup> day of July 2001.

The Common Seal of the Town of Bassendean was affixed by authority of a resolution of the Council in the presence of—

Cr G K PETERSON, Mayor.

Mr GRAEME MACKENZIE, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**

## TOWN OF BASSENDEAN

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**LOCAL GOVERNMENT ACT 1995**

## TOWN OF BASSENDEAN

**SIGNS, HOARDINGS AND BILL POSTING LOCAL LAW**

Pursuant to the power conferred on it by the abovementioned Act and of all other powers enabling it, the Local Government known as the Town of Bassendean records that on 27 March 2001 Council resolved to make the following local law.

**PART 1—PRELIMINARY****1.1 Citation**

This local law may be cited as the Town of Bassendean Signs, Hoardings and Bill Posting Local Law.

**1.2 Repeal**

The Town of Bassendean Local Laws Relating to Signs, Hoardings and Bill Posting published in the *Government Gazette* on 7 September 1966 and all subsequent amendments are now repealed.

**1.3 Interpretation**

In this local law, unless the context otherwise requires—

“Act” means the *Local Government Act 1995*, as amended;

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

“Council” means the Council of the Town of Bassendean;

“Direction Sign” means a sign which indicates the direction of another place, activity or event, but does not include any such sign erected or affixed by the local government or by the Commissioner of Main Roads;

“Election Sign” means a sign or poster which advertises any aspect of a forthcoming Federal, State, or Local Government election;

“Hoarding” means a detached structure, other than a pylon sign, that is erected for the sole purpose of displaying a sign or signs and does not include a hoarding within the meaning of Section 377 of the *Local Government (Miscellaneous Provisions) Act 1960*;

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

“Local Government” means the Town of Bassendean;

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

“Pylon Sign” means a sign supported by one or more piers and not attached to a building;

“Residential Area” means an area classified as a residential zone under the town planning scheme;

“Sale Sign” means a sign indicating that the premises where it is erected are for sale or for letting;

“Semaphore Sign” means a sign fixed and supported at, or by, one of its ends, only;

“Sign” includes a signboard and a clock, other than a clock that is built into a wall and that does not project beyond the face of the wall;

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

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

“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.

**1.4 Application**

This local law applies throughout the district but does not apply to the erection or maintenance of signs, hoardings or bill posting on land which is—

- (a) a thoroughfare; or
- (b) local government property.



**PART 2—SIGNS—BASIC PROVISIONS****2.1 Licensing Requirement**

A person shall not erect or maintain a sign, and the owner or occupier of premises shall not permit a sign to remain on those premises within 100 metres of a thoroughfare or other public place, except pursuant to a licence issued under this local law, or as permitted under clause 11.

**2.2 Fixing of Signs**

Every sign shall be securely fixed to the structure by which it is supported, to the satisfaction of the Building Surveyor, and shall be safely maintained.

**2.3 Glass in Signs**

Glass shall not be used in any sign, other than in an illuminated sign.

**2.4 Readily Combustible Material**

Except in the case of posters securely affixed to a sign board, paper, cardboard, cloth or other readily combustible material shall not form part of, or be attached to, any sign.

**2.5 Signs to be Kept Clean**

Every sign shall be kept clean and free from unsightly matter.

**2.6 Certain Signs Prohibited or Restricted**

A sign shall not be erected or maintained—

- (a) so as to obstruct the view, from a thoroughfare or public place, of traffic in the same thoroughfare or public place;
- (b) so as to be confused with, or mistaken for, an official traffic light or sign, or so as to contravene the *Road Traffic Act, 1974*, or regulations made under that Act;
- (c) on any ornamental tower, spire, dome or similar architectural feature or on a lift machinery room, bulk-head over stairs or other superstructure over the main roof of a building;
- (d) on a lot in a residential area, unless the lot is being used for a non residential purpose and Council has granted development approval under the town planning scheme;
- (e) on any building of which the stability is, in the opinion the Building Surveyor, likely to be affected by the sign;
- (f) in any position where it obstructs or obscures a person's view from a dwelling of a river or any other natural feature of beauty; and
- (g) so as to obstruct access to or from a door, fire escape or window, other than a window designed for the display of goods.

**2.7 Licence Exemptions**

(1) The following signs are exempt from the requirements of clause 5—

- (a) a sign erected or maintained in accordance with an Act;
- (b) a sale sign not exceeding 1.2m<sup>2</sup> erected on private property;
- (c) a plate not exceeding 0.2m<sup>2</sup> in area erected or affixed on the thoroughfare alignment or between that alignment and the building line to indicate the name and occupation or profession of the occupier of the premises;
- (d) a direction sign;
- (e) an advertisement affixed to or painted on a shop window by the occupier thereof and relating to the business carried on therein;
- (f) a sign displaying solely the name and occupation of any occupier of business premises and the business carried on therein painted on a window or wall of those premises provided that the sign does not exceed 1.2m<sup>2</sup> in area and a height of 0.6m;
- (g) a sign within a building unless it is considered objectionable by the local government;
- (h) a building name sign on any building, where it is a single line of letters not exceeding 300mm in height, fixed to the façade of the building;
- (i) newspaper or magazine posters, provided they are displayed against the outside wall of the business premises from which the newspapers or magazines are sold;
- (j) a sign or signs erected in accordance with a permit issued under this local law;
- (k) subject to the provisions of clause 9, an election sign which is—
  - (i) erected on private property with the approval of the owner or occupier of the land, where such approval has been obtained prior to the erection of the election sign;
  - (ii) not in excess of 0.75m<sup>2</sup> in area, except that in the case of a corner lot the owner or occupier may display or allow the display of two such signs, one facing each thoroughfare;
  - (iii) erected not more than 28 days prior to the date of the election to which it relates, and removed within 7 days of the date of the election; and
- (l) a sign permanently affixed or painted on a vehicle to identify a company, business, service or product supplied or sold by that company.

(2) Notwithstanding the provisions of subclause (1) a sign is not exempt from the requirement of clause 5 if it contains—

- (a) any illumination or radio;

- (b) animation or movement in its design or structure; or
- (c) reflective, retro-reflective or fluorescent materials in its design or structure.

### **PART 3—MISCELLANEOUS PROVISIONS ABOUT LICENCES**

#### **3.1 Licence to be Subject to Local Laws**

Every licence shall be granted, and shall subsist, subject only to the provisions of this local law.

#### **3.2 Revocation of Licences**

Subject to Division 1 of Part 9 of the *Local Government Act 1995*, where anything purporting to be done pursuant to a licence issued under this local law, is not done in conformity with the licence, or with this local law, or where the licensee is guilty of an offence against this local law the Council may, without derogation of any penalty to which that person may be liable, by notice in writing revoke the licence.

#### **3.3 Licences to be Produced**

A licensee shall, on demand by the Building Surveyor, produce his licence for inspection.

#### **3.4 Applications for Licences**

(1) An application for a licence under this local law shall be made in the form of an application as set out in the First Schedule or by means of a building licence application, at the discretion of the Building Surveyor and in the case of an application for a licence for a roof sign shall be accompanied by the certificate required under clause 27.2.

(2) An application for a licence in respect of a sign shall be accompanied by a plan drawn to a scale of not less than 1:50 showing—

- (a) position, design, method of construction and colours to be used in painting;
- (b) the method of illumination of the sign for which the licence is sought; and
- (c) details of any radio, animation or movement, or reflective materials incorporated in or to be built in to the design or structure.

(3) Every applicant for a licence shall furnish, in writing, further particulars as may be required by the Building Surveyor.

#### **3.5 Expiry of Licence**

(1) Unless otherwise provided within this local law, a licence issued under this local law remains valid until any alteration is made to the sign in respect of which it is issued, and in that event the licensee shall apply for a new licence.

(2) A licence shall be in the form set out in the Second Schedule to this local law, or in the form of a building licence.

#### **3.6 Licence Fees**

(1) All licence fees and charges applicable under this local law shall be as determined by the local government in accordance with section 6.16 of the Act.

(2) In the event of cancellation of a licence, a licensee shall not be entitled to a refund of licence fees for the remainder of the licence period.

#### **3.7 Discretionary Powers of Local Government**

(1) Notwithstanding that a sign or hoarding would otherwise comply with the provisions of this local law, the local government may refuse a licence if the sign or hoarding—

- (a) would, in its opinion, increase the number or variety of signs so as to become too numerous or various; and/or
- (b) should be refused having regard to the safety, free passage of traffic and to the suitability or otherwise of the sign or hoarding to the locality; and/or
- (c) would in its opinion be injurious to the amenity or natural beauty or safety of the area.

(2) The local government may grant a licence in respect of a sign or hoarding that would otherwise be in contravention of this local law providing that the local government is satisfied that the sign is not injurious to the amenity or natural beauty or safety of the area.

#### **3.8 Right of Appeal**

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

- (a) grant a person a licence or permit under this local law; either unconditionally or subject to any conditions; or
- (b) renew, vary, or revoke a licence or permit that a person has under this local law,

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

### **PART 4—PARTICULAR SIGNS**

#### **4.1 Illuminated Signs**

Every illuminated sign shall—

- (a) have any boxing or casing in which it is enclosed constructed of non combustible material;

- (b) where comprising glass (other than fluorescent tubing), have the glass protected to prevent its falling into a public place, in the event of breakage;
- (c) have its electrical installation constructed and maintained to the satisfaction of the appropriate electric supply authority (Western Power);
- (d) be maintained to operate as an illuminated sign;
- (e) not have a light of such intensity as to cause, in the opinion of the council, annoyance to the public or an interference with traffic control lights;
- (f) display one or more of the following—
  - (i) the name of one or more of the occupiers of the premises;
  - (ii) the business or businesses carried on in the premises; and
  - (iii) the goods sold in the premises, to which it is fixed,

and nothing more.

#### 4.2 Portable Signs

(1) In this clause, "portable sign" means a portable free standing sign that only advertises a product or service available on the land on which it is erected, and includes a sandwich board sign consisting of two sign boards attached to each other at the top by hinges or other means, with a sign face not exceeding 1m<sup>2</sup> on each side.

- (2) A business may erect and maintain not more than one portable sign which—
- (a) does not project into the thoroughfare reserve adjacent to the business to which it is related;
  - (b) does not exceed a height of 900mm measured from the ground;
  - (c) is displayed only during normal business hours of the business to which it relates; and
  - (d) does not have any mechanically or wind driven rotating component part.

#### 4.3 Signs on Verandah Fascias

A sign fixed to the outer or return fascia of a verandah—

- (a) shall not exceed 0.6m in height;
- (b) shall not project beyond the outer metal frame, or surround of the fascia; and
- (c) if an illuminated sign, may be of changing colours, but shall not emit a flashing light.

#### 4.4 Signs under Verandas

A sign under a veranda shall—

- (a) afford a headway of at least 2.7m;
- (b) not exceed 2.4m in length, or 0.3m in height;
- (c) not weigh more than 50kg;
- (d) be fixed at right angles to the front wall of the building on which it is erected, except on a corner of a building at a thoroughfare intersection, where the sign may be placed at an angle with the wall, so as to be visible from both thoroughfares;
- (e) be placed an equal distance between the outer edge of the veranda and the edge of the building to which such veranda is attached.

#### 4.5 Horizontal Signs

(1) A horizontal sign shall—

- (a) afford a minimum headway of 2.7m;
- (b) be fixed parallel to the wall of the building to which it is attached and with the bottom of the sign attached to the wall;
- (c) conform, as to depth, to the following table—

| Minimum Distance of Sign Above Thoroughfare Level        | Maximum Depth of Sign |
|--|-----------------------|
| Less than 7.6m   | 0.6m                  |
| 7.6m to 9.0m   | 0.7m                  |
| 9.1m to 12m  | 0.9m                  |
| More than 12m (if there is no roof sign on the building) | 4.5m                  |

- (d) not project more than 0.6m from the wall to which it is attached; and
  - (e) not be within 0.6m of either end of the wall to which it is attached.
- (2) The name of the building owner or occupier may be placed on the facade of a building, but—
- (a) only one such name shall be placed on any facade;
  - (b) the letters of the name shall not exceed 0.6m in depth; and
  - (c) the letters shall be of metal or other incombustible material.

#### 4.6 Vertical Signs

- (1) A vertical sign shall—
- afford a minimum headway of 0.3m;
  - not project more than 0.6m from the face of the building to which it is attached;
  - not be within 1.8m of either end of the wall to which it is attached;
  - not project more than 1m above the top of the wall to which it is attached;
  - be of a height at least twice its width;
  - not be within 3.6m of another vertical sign on the same building;
  - not be placed on a corner of a building, except at a thoroughfare intersection where it may be placed at an angle with the walls, so as to be visible from both thoroughfares; and
  - not exceed 0.6m width.
- (2) Where a vertical sign is fixed to the face of a building that is set back beyond the face of another building by 3m or more, the sign may project 0.6m further than the distance prescribed in subclause (1)(b) or where a vertical sign is fixed to the face of a building that is set back less than 1.2m beyond the face of the other, the projection is to be no more than that setback.
- (3) Where a building to which a vertical sign is to be fixed abuts on an intersecting thoroughfare, the Building Surveyor may allow the fixing of the sign at a lesser distance from the end of the wall than that prescribed in subclause (1)(c).

#### 4.7 Semaphore Signs

- (1) A semaphore sign shall—
- afford a minimum headway of 3m;
  - be fixed at right angles to the wall to which it is attached;
  - not project more than 0.9m from the point of attachment, or be more than 0.6m high;
  - be fixed over, or adjacent to, the entrance to a building; and
  - not be fixed over or under a veranda.
- (2) Not more than one semaphore sign shall be fixed over, or adjacent to, any one entrance to a building.

#### 4.8 Roof Signs

- (1) Approval for the erection of a sign on a roof of a building shall only be granted by the Council, and where approval is so granted, a roof sign shall—
- not at any part be within 3.6m of the ground;
  - not extend laterally beyond the external walls of the building;
  - comply, as regards height above ground and height of sign, with the following table—

| Height of Main Building Above Ground Level at Point where Sign is to be Erected. | Maximum Height of sign |
|--|------------------------|
| 3.7m and under 4.5m  | 0.9m                   |
| 4.5m and under 6m  | 1.2m                   |
| 6m and under 12m   | 2.0m                   |
| 12m and under 18m  | 3.0m                   |
| 18m and upwards  | 4.0m                   |

- not be at any part more than 30m above the ground.
- (2) The Council shall not approve the erection of a roof sign unless the application is accompanied by a certificate from a structural engineer certifying that the building on which it is proposed to erect the sign is of sufficient strength to support the sign under all conditions, and that the sign is itself of structurally sound design.
- (3) Roof signs may be erected on awnings and covered areas of service stations, but shall not—
- project over any thoroughfare;
  - exceed a maximum height of 1.2m where the sign is more than 1.8m long; and
  - exceed 3m in length.

#### 4.9 Pylon Signs

- A pylon sign shall—
- not have any part less than 2.7m or more than 6m above the level of the ground immediately below it;
  - not exceed 2m measured in any direction across the face of the sign or have a greater area than 4m<sup>2</sup>;
  - not project more than 0.9m over any thoroughfare;
  - be supported on one or more piers or columns of brick, stone, concrete or steel of sufficient size and strength to support the sign under all conditions;

- (e) not be within 1.8m of the side boundaries of the lot on which it is erected; and
- (f) not have any part less than 6m from any part of another sign erected on the same lot.

#### 4.10 Clocks

(1) A clock shall, if suspended under a veranda, have its centre coinciding with the centre of the footpath.

(2) A clock shall—

- (a) comply, as regards to size, with the following table—

| Height of Bottom of Clock above Footway | Maximum Diameter of Width of Clock Face and Depth of Clock including Lettering |
|---|--|
| 2.7m and under 3.7m                     | 0.5m   |
| 3.7m and under 6m                       | 0.8m   |
| 6m and under 12m                        | 1m   |
| 12m and over                            | 1.5m   |

- (b) be fixed either parallel with, 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 0.3m; or
  - (ii) if at right angles to the wall, more than 1.5m;
- (d) afford a minimum headway of 2.7m;
- (e) be maintained to show the correct time; and
- (f) be illuminated from sunset to midnight.

(3) The clock chime shall comply with noise emission limits specified in the *Environmental Protection (Noise) Regulations 1997*.

(4) Notwithstanding the provisions of this clause, a clock suspended in an arcade, may be suspended over the centre of the arcade.

#### 4.11 Institutional Signs

Signs erected or placed on any land, building, fence or other structure used for, or in connection with, a surgery, clinic, hospital, older persons accommodation or other institution or place of a similar nature, shall not exceed 3m<sup>2</sup> in area.

#### 4.12 Hoardings

(1) A hoarding shall not—

- (a) be erected on land that is zoned for residential purposes;
- (b) except with the approval of the local government be erected within 15m of a thoroughfare or other public place and in any case not closer than its own height to a thoroughfare or public place; or
- (c) be of greater area than 36m<sup>2</sup>.

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

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

#### 4.13 Bill Posting, etc

(1) A person shall not post any bill, or paint, stencil, place or fix any advertisement on any building, structure, fence, wall, hoarding, sign, post, blind or awning, within 15 m of any thoroughfare except pursuant to a licence issued under this Local Law.

(2) Subclause (1) does not apply to a sign exempt from the licensing requirement under clause 11.

#### 4.14 Dimensions and Specifications of Signs

(1) Unless otherwise provided in this local law, where an advertisement is painted, stencilled, placed or fixed on or to a building, structure, fence, wall, roof, hoarding, sign, post, blind or awning within 15 metres of a thoroughfare it shall conform to the following table—

| Minimum Distance of Advertisement above Thoroughfare Alignment | Maximum Depth of Advertisement |
|--|--------------------------------|
| Less than 7m   | 0.6m                           |
| 7m to 9m   | 0.7m                           |
| 9m to 12m  | 0.9m                           |
| More than 12m (if there is no sign on the building)            | 0.4m                           |

(2) The Council may permit an increase of not more than 50% of the depths mentioned to allow the inclusion of a motif or capital letter.

(3) There shall be not more than one line of horizontal wording of an advertisement facing any one thoroughfare on a storey of a building.

#### 4.15 Special Permits for signs in the Public Interest

(1) Notwithstanding anything contained in this local law, the local government may, by permit under the hand of the Building Surveyor, allow the display of advertisements of meetings, charitable functions, art or cultural activities (other than those conducted by a person for the purpose of commercial gain) or events of public interest or the display of advertisements at theatres and other places of public entertainment upon terms and conditions decided by the local government in each case.

(2) A person shall not erect or maintain a sign more than four weeks before the meeting, function, event or activity to which it relates and the person by whom it was erected, shall cause it to be removed not later than one week after the conclusion of the meeting, function, event or activity to which it relates.

### PART 5—PENALTIES

#### 5.1 Offences

(1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

(2) Any person who commits an offence under this local law shall be liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$100 for each day or part of a day during which the offence has continued.

#### 5.2 Modified Penalties

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

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

#### 5.3 Infringement and Infringement Withdrawal Notices

For the purposes of this local law—

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

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

#### 5.4 Records To Be Kept

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

### Schedule 1

#### TOWN OF BASSENDEAN

#### APPLICATION FOR A SIGN LICENCE

Application No. .... Date: .....

Type of Signage and Number of Signs Applied for—

|                  |                          |                |                          |
|------------------|--------------------------|----------------|--------------------------|
| Sign—Clock       | <input type="checkbox"/> | Sign—Pylon     | <input type="checkbox"/> |
| Sign—Direction   | <input type="checkbox"/> | Sign—Roof      | <input type="checkbox"/> |
| Sign—Illuminated | <input type="checkbox"/> | Sign—Semaphore | <input type="checkbox"/> |

To be erected, posted, painted or affixed on the premises known as—

.....  
subject to the local laws of the Town of Bassendean.

Full Name and address of registered owner of property—

.....  
Telephone No..... Facsimile/e-mail: .....

Full Name and address of applicant—

.....  
Telephone No..... Facsimile/e-mail: .....

Site plan of proposed position of sign and two (2) copies of plans and dimensions of sign—scale at 1:50—must be submitted

Material and Construction of Sign and Supports—

.....

Inscription or device on sign—

.....

Signature of registered owner:.....

Signature of Applicant:.....

*Please note: Any application submitted without the signature of the registered owner of the property, required plans and fee payable, will not be accepted.*

—————  
**Schedule 2**  
**TOWN OF BASSENDEAN**  
**LICENCE**

No. .... Date: .....

This licence is granted to ..... of  
..... in respect of a  
..... on premises known as No. .... in accordance  
with Application No. .... and subject to the Signs, Hoardings and Bill Posting 2001 Local Law.  
This licence shall remain valid unless any alteration is made to the sign, then in such event the  
licensee must apply for a new licence. If this licence is issued in respect of a hoarding, the licence  
expires on ..... 2001.

—————  
Dated this 1st day of August 2001.

The Common Seal of the Town of Bassendean was hereunto affixed by authority of a resolution of the  
Council passed on 27 March 2001 in the presence of—

Cr G K PETERSON, Mayor.  
Mr GRAEME MACKENZIE, Chief Executive Officer.

—————

**DOG ACT 1976**

TOWN OF BASSENDEAN

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**SCHEDULE 1**

Offences in respect of which modified penalty applies

**SCHEDULE 2**



**DOG ACT 1976**

## TOWN OF BASSENDEAN

**DOGS LOCAL LAW**

Under the powers conferred by the *Dog Act 1976* and under all other powers enabling it, the Council of the Town of Bassendean resolved on 27 March 2001 to make the following local law.

**PART 1—PRELIMINARY****1.1 Citation**

This local law may be cited as the *Town of Bassendean Dogs Local Law*.

**1.2 Repeal**

The local law Relating to Dogs published in the *Government Gazette* on 13 July 1984 is repealed.

**1.3 Definitions**

In this local law, unless the context otherwise requires—

“Act” means the Dog Act 1976;

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

“District” means the Local government of the Town of Bassendean;

“Local Government” means the Town of Bassendean;

“Pound Keeper” means a person authorized by the local government to perform all or any of the functions conferred on a “pound keeper” under this local law;

“Regulations” means the Dog Regulations 1976;

“Shop” means a shop or other building used in conjunction with the sale of goods by retail or the supply of services direct to the public, including—

(a) an eating room, café, restaurant, milk or soft-drink bar;

(b) a dining room, bar, shop or kiosk portion of a hotel or motel;

(c) a hairdresser’s or barber’s shop, public laundry, or under-taker’s establishment; and

(d) market or sale room, show room or service station.

“Thoroughfare” has the meaning given to it in section 1.4 of the Local Government Act 1995; and

“Town Planning Scheme” means a town planning scheme made by the local government under the Town Planning and Development Act 1928 which applies throughout the whole or a part of the district.

**1.4 Application**

This local law applies throughout the district.

**PART 2—IMPOUNDING OF DOGS****2.1 Charges and costs**

The following are to be imposed and determined by the local government under sections 6.16 - 6.19 of the *Local Government Act 1995*—

(a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;

(b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and

(c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

For the charges allocated for 2.1 (a)(b)(c) refer to Schedule 2.

**2.2 Attendance of pound keeper at pound**

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

(2) The pound keeper is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are determined by the CEO.

(3) Subject to the provisions of section 29(8) of the Act, any dog which has been seized or impounded and which is not claimed may be sold by the pound keeper or other officer authorised by the Council. In this Local Law, the claiming of a dog means and includes delivery of the dog to its owner and payment of the prescribed fee.

(4) The proceeds of the sale of any dog pursuant to the preceding Local Law are the property of the Council and shall be disposed of in such a manner as the Council thinks fit. The owner of any such dog shall have no claim against the Council or any of its employees in respect of such sale.

(5) Any owner at whose request a dog is destroyed, whether such dog shall have been seized or impounded or not, shall pay to the Council the fee specified in the Second Schedule hereto.

### **2.3 Release of impounded dog**

(1) A claim for the release of a dog seized and impounded is to be made to the pound keeper or in the absence of the pound keeper, to the CEO or authorised person.

(2) The pound keeper or authorised person is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper or authorised person, satisfactory evidence—

- (a) of his or her ownership of the dog, or his or her authority to take delivery of it; or
- (b) that he or she is the person identified as the owner on a microchip implanted in the dog.

(3) If the pound keeper or other authorised person is satisfied that a person is the owner of a dog impounded or is acting on behalf of the owner thereof, the dog shall be released to such person upon payment of the fees prescribed in the second Schedule hereto.

### **2.4 No breaking into or destruction of pound**

A person who—

- (a) unless he or she is the pound keeper or a person authorized to do so, releases or attempts to release a dog from a pound; or
- (b) destroys, breaks into, damages, or in any way interferes with or renders not dog-proof—
  - (i) any pound; or
  - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog,

commits an offence.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

## **PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS**

### **3.1 Dogs to be confined**

(1) An occupier of premises on which a dog is kept must—

- (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
- (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
- (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises and is fitted with a proper latch or other means of fastening it;
- (d) maintain the fence and all gates and doors in the fence in good order and condition; and
- (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.

(2) Where an occupier fails to comply with sub clause (1), he or she commits an offence.

Penalty: Where the dog kept is a dangerous dog, \$2,000; otherwise \$1,000.

### **3.2 Limitation on the number of dogs**

(1) This clause does not apply to premises which have been granted an exemption under section 26 (3) of the Act.

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

## **PART 4—DOGS IN PUBLIC PLACES**

### **4.1 Places where dogs are prohibited absolutely**

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

- (a) where so indicated by a sign, a public building;
- (b) a theatre or picture gardens;
- (c) all premises or vehicles classified as food premises or food vehicles under the *Health (Food Hygiene) Regulations 1993*;
- (d) a public swimming pool; and
- (e) the following beaches, reserves and freehold land—
  - (i) a shop;
  - (ii) a house of worship;

- (iii) all that piece of land known as Point Reserve, Bassendean, comprising of Reserve Nos. 9099 and 9100; and
- (iv) a place in which dogs are prohibited by any other written law operating within the Local government of the Town of Bassendean.

(2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

#### **4.2 Places which are dog exercise areas**

(1) Subject to clause 4.1 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, the following are dog exercise areas—

- |                               |  |
|-------------------------------|--|
| (a) Carman Way Reserve        | Entire Reserve   |
| (b) Ireland Way Reserve       | Entire Reserve   |
| (c) Palmerston Square Reserve | Entire Reserve   |
| (d) Pickering Park Reserve    | Entire Reserve   |
| (e) Gary Blanch Park          | Entire Reserve   |
| (f) Freeland Way Reserve      | Entire Reserve   |
| (g) Padbury Court Reserve     | Entire Reserve   |
| (h) Mary Crescent Reserve     | Entire Reserve   |
| (i) Troy Street Reserve       | Entire Reserve   |
| (j) May Holman Reserve        | Entire Reserve   |
| (k) Anzac Terrace Reserve     | Entire Reserve   |
| (l) Parmelia Way Reserve      | Entire Reserve   |
| (m) Ashfield Reserve          | All that portion of the Reserve, No. 25430 Location 6851, lying between Guildford Road and the line of the fire track. |

(2) Subclause (1) does not apply to—

- (a) land which has been set apart as a children's playground;
- (b) an area being used for sporting or other activities, as permitted by the local government, during the times of such use; or
- (c) a car park.

### **PART 5—MISCELLANEOUS**

#### **5.1 Offence to excrete**

(1) A dog must not excrete on—

- (a) any thoroughfare or other public place; or
- (b) any land which is not a public place without the consent of the occupier.

(2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

Penalty: \$200.

(3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

### **PART 6—ENFORCEMENT**

#### **6.1 Interpretation**

In this Part—

“Infringement Notice” means the notice referred to in clause 6.3; and

“Notice of Withdrawal” means the notice referred to in clause 6.6(1).

#### **6.2 Modified penalties**

(1) The offences contained in Schedule 1 are offences in relation to which a modified penalty may be imposed.

(2) The amount appearing in the third column of Schedule 1 directly opposite an offence is the modified penalty payable in respect of that offence if—

- (a) the dog is not a dangerous dog; or
- (b) the dog is a dangerous dog, but an amount does not appear in the fourth column directly opposite that offence.

(3) The amount appearing in the fourth column of Schedule 1 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

#### **6.3 Issue of infringement notice**

Where an authorized person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 7 of the First Schedule of the Regulations.

**6.4 Failure to pay modified penalty**

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

**6.5 Payment of modified penalty**

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

**6.6 Withdrawal of infringement notice**

(1) Whether or not the modified penalty has been paid, an authorized person may withdraw an infringement notice by sending a notice in the form of Form 8 of the First Schedule of the Regulations.

(2) A person authorized to issue an infringement notice under clause 6.3 cannot sign or send a notice of withdrawal.

**6.7 Service**

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.

**Schedule 1**

(clause 6.2)

**OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES**

| Offence          | Nature of Offence   | Modified penalty | Dangerous Dog Modified Penalty |
|------------------|---|------------------|--------------------------------|
|                  |   | \$               | \$                             |
| 2.4(a)           | Attempting to or causing the unauthorized release of a dog from a pound                           | 200              | 400                            |
| 2.4(b)(i) & (ii) | Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs | 200              |                                |
| 3.1              | Failing to provide means for effectively confining a dog  | 100              | 200                            |
| 5.1              | Dog in place from which prohibited absolutely   | 200              | 400                            |
| 6.1(1)           | Dog excreting in prohibited place   | 40               |                                |

**Schedule 2**

(clause 62.1)

|  |                                 |
|--|---------------------------------|
| For the seizure or impounding of a dog:.....   | \$35.00                         |
| For the keeping and maintenance of a dog in a pound:.....  | \$7.00 per day or part of a day |
| For the destruction of a dog:.....   | \$15.00                         |
| For the surrender of a dog:.....   | \$27.50                         |
| For the release of an impounded dog. When an authorised person is required to attend the pound outside their normal shift (additional charge)..... | \$10.00                         |

Dated this 9<sup>th</sup> day of July 2001.

The Common Seal of the Town of Bassendean was affixed by authority of a resolution of the Council in the presence of—

Cr G K PETERSON, Mayor.

Mr GRAEME MACKENZIE, Chief Executive Officer.









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