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**CITY OF BELMONT**

LOCAL GOVERNMENT ACT 1995

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**LOCAL LAWS RELATING TO FENCING**

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**LOCAL GOVERNMENT PROPERTY LOCAL  
LAW**

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**URBAN ENVIRONMENT AND NUISANCE  
LOCAL LAW**

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**ACTIVITIES ON THOROUGHFARES AND  
TRADING IN THOROUGHFARES AND  
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**LOCAL GOVERNMENT ACT 1995**

CITY OF BELMONT

**LOCAL LAWS RELATING TO FENCING**

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## LOCAL GOVERNMENT ACT 1995

## CITY OF BELMONT

## LOCAL LAWS RELATING TO FENCING

Under the powers conferred by the *Local Government Act 1995* and by all other powers the Council of the City of Belmont resolved to make the following local laws on the 13th day of August 2001.

## PART 1—PRELIMINARY

**1. Citation**

These Local Laws may be cited as the *City of Belmont Local Laws Relating to Fencing*.

**2. Repeal**

The City of Belmont Local Laws Relating to Fencing published in the *Government Gazette* of 4 June 1982, are repealed.

**3. Application of Local Laws**

These Local Laws apply throughout the district.

**4. Interpretation**

In these Local Laws, unless the context requires otherwise—

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

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

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

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

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

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

(a) is or may be permitted under the town planning scheme; and

(b) is or will be the predominant use of the lot;

“dangerous” in relation to any fence means—

(a) an electrified fence other than a fence in respect of which a licence under Part 5 of these Local Laws has been issued and is current;

(b) a fence containing barbed wire other than a fence erected and maintained in accordance with these Local Laws;

(c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or

(d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

“district” means the district of the local government;

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

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

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

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

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

(a) the top of the fence at any point; and

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

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

(a) is or may be permitted under the town planning scheme; and

(b) is or will be the predominant use of the lot;

“local government” means the City of Belmont;

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

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

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

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

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

“Schedule” means a Schedule to these Local Laws;

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

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

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

## 5. Licence Fees and Charges

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

## PART 2—SUFFICIENT FENCES

### 6. Sufficient Fences

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

(2) Subject to sub-clauses (3) and (4), and any provision contained in a town planning scheme, a sufficient fence—

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

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

- (a) a Residential Lot and an Industrial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;
- (b) a Residential Lot and a Commercial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Second Schedule;

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

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

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

## PART 3—GENERAL

### 7. Fences Within Front Setback Areas

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

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

(3) The provision of sub-clause (2) shall not apply to a fence of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare.

### 8. Maintenance of Fences

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

### 9. General Discretion of the Local Government

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

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

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

#### PART 4—FENCING MATERIALS

##### 10. Fencing Materials

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

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

##### 11. Barbed Wire and Broken Glass Fences

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

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

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

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

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

#### PART 5—ELECTRIFIED AND RAZOR WIRE FENCES

##### 12. Requirements for a Licence

(1) An owner or occupier of a lot shall not—

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

(2) A licence to have and use an electrified fence shall not be issued—

- (a) in respect of a lot which is or which abuts a Residential Lot;
- (b) unless the fence complies with AS/NZS 3016:1994; and
- (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.

(3) A licence to have a fence constructed wholly or partly of razor wire shall not be issued—

- (a) if the fence is within 3m of the boundary of the lot;
- (b) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above the ground level.

(4) An application for a licence referred to in subclauses (2) or (3) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

(5) An application for a licence referred to in subclauses (2) or (3) may be—

- (a) approved by the local government;
- (b) approved by the local government subject to such conditions as it thinks fit; or
- (c) refused by the local government.

##### 13. Transfer of a Licence

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

##### 14. Cancellation of a Licence

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

- the fence no longer satisfies the requirements specified in clause 12(2) or 12(3) as the case may be; or
- the licence holder breaches any condition upon which the licence has been issued.

**PART 6—NOTICES OF BREACH****15. Notices of Breach**

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

(2) A notice of breach shall—

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

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

**PART 7—OFFENCES****16. Offences and Penalties**

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

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

**17. Modified Penalties**

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

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

**18. Form of Notices**

For the purposes of these Local Laws—

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

Clause 6(2)(a)

**First Schedule****SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT**

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

A A fully enclosed timber fence built to manufacturer's specifications or in accordance with established construction techniques, the height of the fence to be 1800mm except with respect to the front setback area for which there is no minimum height but which is subject to clause 7.

B A fence constructed of corrugated fibre reinforced pressed cement or steel sheeting erected to manufacturer's specifications or which otherwise satisfies the following specifications—

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600mm;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet;
- (c) the sheets to be lapped and capped with extruded “snap-fit” type capping in accordance with the manufacturer's written instructions; and
- (d) the height of the fence to be 1800mm except with respect to the front setback area for which there is no minimum height but which is subject to clause 7.

C A fence constructed of brick, stone, concrete or any other masonry product which satisfies the following specifications—

- (a) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar;
- (b) fences to be offset a minimum of 200mm at maximum 3000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3000mm centres;
- (c) expansion joints in accordance with the manufacturer's written instructions; and
- (d) the height of the fence to 1800mm except with respect to the front setback area for which there is no minimum height but which is subject to clause 7.

D A composite fence having a minimum overall height of 1800mm except with respect to the front setback area for which there is no minimum height but which is subject to clause 7, which satisfies the following specifications for the brick construction—

- (1) (a) brick piers of minimum 345mm x 345mm at 180mm centres with an infill wall to a maximum height of 600mm bonded to the piers;
- (b) each pier shall be reinforced with one R10 galvanised starting rod 1500mm high with a 250mm horizontal leg bedded into a 500mm x 200mm concrete footing and set 65mm above the base of the footing. The top of the footing shall be 1 course (85mm) below ground level;
- (c) the minimum ultimate strength of brickwork shall be 20MPA. Mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
- (d) the ground under the footings is to be compacted to 6 blows per 300mm and checked with a standard falling weight penetrometer; and
- (e) control joints in brickwork shall be provided with double piers at a maximum of 6 metre centres; or
- (2) (a) brick piers of minimum 345mm x 345 mm x 2700mm centres bonded to the base wall; and
- (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified.

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***Second Schedule***

**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT**

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

- A. A fence constructed of galvanised or PVC coated rail-less link mesh, chain mesh or steel mesh which satisfies the following specifications—
  - (a) corner posts to be minimum 50mm nominal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
  - (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5m centers and with footings of a 225mm diameter x 600mm;
  - (c) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and two at each corner post and with footings 225mm x 600mm;
  - (d) cables to be affixed to the top, centre and bottom of all posts and to consist of two or more 3.15mm wires twisted together or single 4mm wire;
  - (e) rail-less link, chain or steel mesh is to be a height of 2000mm on top of which are to be three strands of barbed wire carrying the fence to a height of 2400mm in accordance with clauses 11(2) and (3) of these Local Laws; and
  - (f) galvanised link mesh wire to be 2000mm in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than 3.6m and shall be constructed of 25mm tubular framework with one horizontal and one vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.
- B. A fence of fibre reinforced cement sheet or metal sheeting constructed to the minimum specifications referred to in Item B of the First Schedule.
- C. Fences of timber, brick, stone, concrete or any other masonry product constructed to the minimum specifications referred to in the First Schedule.

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Dated this 13th day of August 2001.

The Common Seal of the City of Belmont was affixed in the presence of—

P. R. PASSERI JP, Mayor.  
B. R. GENONI, Chief Executive Officer.

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## LOCAL GOVERNMENT ACT 1995

## CITY OF BELMONT

## 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 City of Belmont resolved on the 13<sup>th</sup> August 2001 to make the following local law—

The Shire of Moora Local Government Property Local Law as published in the *Government Gazette* of 29 November 1999, is adopted as a local law of the City of Belmont with the modifications which follow.

**1. Preliminary**

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

**2. Clause 1.2—Definitions**

2.1 In the appropriate alphabetical position insert—

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

2.2 In the definition of “vehicle”, add a new paragraph—

“(e) a boat.”

**3. Clause 1.5—Repeal**

Delete clause 1.5(1) and substitute—

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

By-Laws relating to—

Halls, published in the *Government Gazette* dated 26 July 1929;

the Control and Management of Halls, Equipment and Property under the Control of the Council published in the *Government Gazette* of 24 December 1980;

the use of Reserves, Beaches, Foreshores and the use of Amplifiers, published in the *Government Gazette* of 31 December 1982;

Swimming Pools, published in the *Government Gazette* of 9 November 1971 as amended in the *Government Gazettes* of 30 May 1975, 1 October 1976 and 29 February 1980; and

Jetties, published in the *Government Gazette* of 12 December 1980.

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

4.1 In clause 2.7(1)—

(a) in paragraph (c) delete “aeroplane” and substitute “vehicle, boat or aircraft”;

(b) renumber paragraphs (e) to (h) inclusive to (g) to (j) respectively and insert the following two paragraphs—

“(e) launch, beach or leave a boat;

(f) take or use a boat, or a particular class of boat;”.

4.2 In clause 2.7(2)(d), insert “boats,” after “vehicles,” in both places where this occurs.

**5. Clause 2.8—Activities which may be prohibited on specified local government property**

5.1 In clause 2.8(1)—

(a) delete paragraph (g);

(b) renumber paragraphs (e) and (f) to (f) and (g) respectively; and

(c) insert the following paragraph—

“(e) taking or using a boat, or a particular class of boat;”.

5.2 In clause 2.8(2)(c), insert “boats,” after “vehicles,” in both places where this occurs.

**6. Clause 4.5—No prohibited drugs**

Delete clause 4.5.

**7. Clause renumbered**

Renumber clause 4.6 to 4.5.

**8. Clause 5.1 - When entry must be refused**

In paragraph (a) subparagraph (i) delete "7" and substitute "12".

**9. Divisions, clauses renumbered**

In Part 5, renumber Divisions 2 and 3 to 3 and 4 respectively and clauses 5.2 and 5.3 to 5.5 and 5.6 respectively.

**10. New clause and Division inserted**

10.1 In Part 5, after clause 5.1 insert—

**"Consumption of food or drink may be prohibited**

5.2 A person shall not consume any food or drink in an area where consumption is prohibited by a sign".

10.2 In Part 5, after Division 1 insert the following Division—

*"Division 2—Jetties***Interpretation**

5.3 In this Division—

"jetty" means and includes any jetty, pier, wharf and landing place which is local government property whether in or adjacent to the Swan River;

"animal" means any horse or other animal but does not include a dog."

**Prohibitions on use of Jetty**

5.4 A person shall not on a jetty—

(a) drive or ride any vehicle or animal unless with the consent of the local government;

(b) use any fishing net or hang or dry the same;

(c) tie or moor any boat so as to cause obstruction or prevent others from lawfully using the jetty."

**11. Schedule 1**

In Schedule 1, Prescribed Offences—

(a) In the "Clause" column—

delete "4.6(2)" and substitute "4.5(2)";

delete "5.2" and substitute "5.5";

delete "5.3" and substitute "5.6"; and

(b) Under the headings "Clause, Description, Modified Penalty \$" insert the following prescribed offences in the appropriate numerical position—

5.2 Consuming food or drink in prohibited area 100

5.4(a) Driving or riding vehicle or animal on jetty 200

5.4(b) Use of fishing net on jetty 100

5.4(c) Tie or moor boat so as to obstruct 100

**12. SCHEDULE 2—Determinations**

Insert the following determination—

**"Playing or practice of golf prohibited**

1.3 A person is prohibited from the playing or practice of golf on local government property except on a reserve set aside for the purpose."

Dated this 13th day of August 2001.

The Common Seal of the City of Belmont was affixed by authority of a resolution of the Council in the presence of—

P. R. PASSERI JP, Mayor.  
B. R. GENONI, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**

CITY OF BELMONT

**URBAN ENVIRONMENT AND NUISANCE LOCAL LAW**

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SCHEDULE 1

## LOCAL GOVERNMENT ACT 1995

## CITY OF BELMONT

## 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 City of Belmont resolved on the 13<sup>th</sup> August 2001 to make the following local law.

## PART 1—PRELIMINARY

**1.1 Citation**

This local law may be cited as the *City of Belmont 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;

“local government” means the *City of Belmont*;

“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*;

“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;

(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 City of Belmont Local Law Relating to Old Refrigerators and Cabinets published in the *Government Gazette* of 31 August 1962 and amended in the *Government Gazettes* of 5 September 1975 and 24 April 1980, is repealed.

## PART 2—GENERAL—NOISE, LIGHT AND VIBRATIONS

*Division 1—Amusements***2.1 Definitions**

In this Division—

“Amusement” means any thing usually conducted for amusement at a fair, a carnival or a show, whether conducted at a fair, a carnival or a show or elsewhere.

**2.2 Nuisance**

A person shall not provide or conduct any amusement on land so as to create or be a nuisance to any owner or occupier of land in the district.

**2.3 Abatement by authorized person**

Subject to Subdivision 3 of Division 3 of Part 3 of the Act, an authorized person may enter on any land where an amusement is provided or conducted and may do any act or thing reasonably required to abate a nuisance referred to in clause 2.2.

*Division 2—Light***2.4 Emission or reflection of light**

Where artificial light is emitted or reflected from anything on a lot so as to illuminate land outside the lot to more than 50 lux, then every owner and occupier of the lot commits an offence.

Where natural light is reflected from anything on a lot so as to create or be a nuisance to any—

- (a) owner or occupier of land; or
- (b) person using a thoroughfare as a thoroughfare,

then every owner and occupier of the lot commits an offence.

**2.5 Use of floodlights**

An owner or occupier of a lot on which floodlights or other exterior lights are erected or used shall not allow the floodlights or other exterior lights to shine directly onto an adjoining lot.

**2.6 Notice**

The local government may give a notice to the owner or occupier of a lot—

- (a) requiring that any reflective surfaces creating a nuisance within clause 2.4(2) be painted or otherwise treated so as to abate the nuisance; and
- (b) on which floodlights or other exterior lights are erected, requiring that—
  - (i) the hours of use of the lighting be limited to the hours specified in the notice; or
  - (ii) the direction in which the lights are shining be altered as specified in the notice.

*Division 3—Truck noise from residential land***2.7 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 11pm 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 3,000 kgs.

**PART 3—DISPOSING OF DISUSED REFRIGERATORS****3.1 Disposing of disused refrigerators or similar containers**

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 2.7 (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.

*Schedule 1***PRESCRIBED OFFENCES**

<b>Clause</b>	<b>Description</b>	<b>Modified Penalty \$</b>
2.2	Conducting an amusement so as to create a nuisance	100
2.4 (1)	Emitting light of more than 50 lux	100
2.5	Erection or use of lights other than in accordance with requirements	100
2.7 (1)	Starting or driving a truck on residential land without consent	100
3.1	Disposing of disused refrigerator or similar container with door or lid that can be fastened	250
5.1	Failure to comply with notice	100

Dated the 13th day of August 2001.

The Common Seal of the City of Belmont was affixed by authority of a resolution of the Council in the presence of—

P. R. PASSERI JP, Mayor.  
B. R. GENONI, Chief Executive Officer.

## LOCAL GOVERNMENT ACT 1995

## CITY OF BELMONT

**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 *City of Belmont* resolved on the 13<sup>th</sup> August 2001 to make the following local law—

The Town of Victoria Park Activities on Thoroughfares and Trading on Thoroughfares and Public Places Local Law as published in the *Government Gazette* of 31 May 2000, is adopted as a local law of the *City of Belmont*, with the modifications which follow.

**1. Preliminary**

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

1.2 Wherever the “Town of Victoria Park” is mentioned in the local law substitute “*City of Belmont*”.

**2. Clause 1.2—Definitions**

In clause 1.2—

- (a) delete the definition of “footpath” and substitute—  
“footpath” has the meaning given to it in the *Road Traffic Code 2000*; and
- (b) in the definition of “intersection” delete “1975” and substitute “2000”.

**3. Clause 1.4—Repeal**

Delete subclause (1) and substitute—

- “(1) The following local laws are repealed—
  - (a) Relating to Removal and Disposal of Obstructing Animals or Vehicles, published in the *Government Gazette* of 29 August 1963, and amended in the *Government Gazettes* of 29 December 1972, 24 April 1980, and 8 May 1981;
  - (b) Relating to Street Lawns and Gardens, published in the *Government Gazette* of 12 June 1981 and amended in the *Government Gazette* of 27 November 1987;
  - (c) Relating to the Use and Misuse of Streets, Kerbs, Verges and Footpaths, published in the *Government Gazette* of 2 July 1982 and amended in the *Government Gazette* of 26 July 1991;
  - (d) Footpaths, published in the *Government Gazette* of 11 November 1955;
  - (e) Relating to Hawkers, Stallholders and Trading in Public Places, published in the *Government Gazette* of 19 April 1991 and amended in the *Government Gazette* of 4 March 1994; and
  - (f) Relating to Signs, Hoardings and Bill Posting, published in the *Government Gazette* of 8 April 1988.”

**4. Clause 2.1—General prohibitions**

In clause 2.1—

- (a) in paragraph (a) subparagraph (ii)—
  - (i) delete “0.75” and substitute “0.5”;
  - (ii) after “height” insert “measured from the level of the adjacent kerb”; and
  - (iii) delete “so that the plant is”; and
- (b) in paragraph (f), insert “bicycle,” after “any”.

**5. Clause 2.2—Activities allowed with a permit—general**

In clause 2.2 (1)—

- (a) in paragraph (b), after “only” insert “in accordance with the terms and conditions and”;
- (b) in paragraph (i) after “installing” insert “or in order to maintain”;
- (c) in paragraph (k) after “,” insert “or”;
- (d) delete paragraph (1); and
- (e) renumber paragraph (m) to paragraph (l).

**6. Clause 2.7—Permissible verge treatments.**

In clause 2.7 (2)—

- (a) in paragraph (c) subparagraph (i) after “thoroughfare” in the second place where it occurs insert “or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare”;
- (b) in paragraph (c) subparagraph (ii) after “;” insert “or”;
- (c) delete paragraph (d); and
- (d) renumber paragraph (e) to paragraph (d).

**7. Clause 3.1—Interpretation**

In Clause 3.1, in the definition of “advertising sign” delete “and includes” and substitute “but does not include”.

**8. Division and clauses renumbered**

In Part 3, renumber *Division 2* to *Division 3*, clause 3.2 to clause 3.3 and clause 3.3 to clause 3.4.

**9. New Division and clause inserted**

In Part 3, after clause 3.1 insert—

***Division 2—Prohibition*****3.2 Portable sign prohibited**

A person shall not erect or place a portable sign other than a portable direction sign on a thoroughfare.”.

**10. Clause 3.3—Advertising signs and portable direction signs**

In subclause 1—

- (a) delete “A” and substitute “Subject to clause 3.2, a “; and
- (b) in paragraph (a), insert - “or a portable direction sign,” after “sign”.

**11. Clause 3.4—Matters to be considered in determining application for permit**

Delete “3.2(1)” and substitute “3.3(1)”.

**12. Division heading and clause deleted**

In Part 3, delete the heading “*Division 3—Conditions on permit*” and clause 3.4.

**13. Clause 3.5**

13.1 In the heading of clause 3.5 delete—

“Conditions on election sign” and substitute “Election sign”.

13.2 Insert before “If” the subclause designation (2).

13.3 Insert before subclause (2) the following subclause—

“(1) A person shall not without a permit erect or place an election sign on a thoroughfare”.

**14. Clause 4.2—Prohibitions relating to animals**

In subclause (3) delete “unless that person does so under a permit or under the authority of a written law” and substitute “so as to damage a footpath or any other portion of the thoroughfare”.

**15. Clause 5.1—Interpretation**

In clause 5.1—

- (a) in paragraph (e) after “;” insert “and”;
- (b) delete paragraph (f); and
- (c) renumber paragraph (g) to paragraph (f) and insert “only” before “sold”.

**16. Clause 5.12—Cancellation of permit**

In subclause (2) delete “local government” and substitute “CEO”.

**17. Clause 5.19—Use of Facility by public**

17.1 Insert before “A” the subclause designation (2).

17.2 Insert before subclause (2) the following subclause—

“(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.”.

**18. Clause 5.20—Temporary removal of Facility may be requested**

In subclause (1) delete “in the event of an emergency”.

**19. Clause 8.2—Hazardous plants**

Delete clause 8.2.

**20. Clauses renumbered**

Renumber clauses 8.3 and 8.4 to 8.2 and 8.3 respectively



**21. Schedule 1**

In Schedule 1—

- (a) in the “**DESCRIPTION**” column following clause 2.1(a) (ii), delete “0.75” and substitute “0.5”;
- (b) in the “**DESCRIPTION**” column following clause 2.1(f) delete “of” and insert “bicycle”;
- (c) in the columns “**CLAUSE**”, “**DESCRIPTION**” and “**MODIFIED PENALTY \$**”, delete “2.2(1)(l), “Placing a bulk rubbish container on a thoroughfare without a permit” and “100” respectively;
- (d) in the “**CLAUSE**” column delete “2.2(1) (m)” and substitute “2.2(1)(l)”;
- (e) in the columns “**CLAUSE**”, “**DESCRIPTION**” and “**MODIFIED PENALTY \$**”, insert in the appropriate numerical position “3.2”, “Erecting or placing portable sign on thoroughfare” and “100” respectively;
- (f) in the “**CLAUSE**” column delete “3.2(1)” and substitute “3.3(1)” and in the “Description” column following this, after “sign” insert”, portable direction sign”;
- (g) in the “**CLAUSE**” column delete “3.2(3)” and substitute “3.3(3)”;
- (h) in the columns “**CLAUSE**”, “**DESCRIPTION**” and “**MODIFIED PENALTY \$**”, insert in the appropriate numerical position “3.5(1)”, “Erecting or placing an election sign on a thoroughfare without a permit” and “100” respectively;
- (i) in the “**DESCRIPTION**” column following clause 4.2(3), delete “in built up area” and substitute “so as to cause damage”;
- (j) in the “**CLAUSE**” column after “5.19” insert the subclause designation “(2)”; and
- (k) in the columns “**CLAUSE**”, “**DESCRIPTION**” and “**MODIFIED PENALTY \$**” insert in the appropriate numerical position “5.19(1)”, “Use of equipment of outdoor eating Facility without purchase of food or drink from Facility”, and “50” respectively.

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Dated this 13th day of August 2001.

The Common Seal of The City of Belmont was affixed in the presence of—

P. R. PASSERI JP, Mayor.  
B. R. GENONI, Chief Executive Officer.

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**LOCAL GOVERNMENT ACT 1995****CITY OF BELMONT****REPEAL LOCAL LAW 2000**

Under the powers conferred by the *Local Government Act 1995* and by all other powers, the local government of the City of Belmont resolved to repeal local laws relating to the matters listed below and gazetted on the dates shown, on the 13th August 2001.

- Long Service Leave, published in the *Government Gazettes* of 23 December 1949, 2 April 1958, 26 July 1972, and 24 December 1975;
- Control of Frontage of Buildings, published in the *Government Gazette* of 4 November 1955;
- Construction, Establishment, Operation and Maintenance of Motels, published in the *Government Gazettes* of 29 December 1961, 29 December 1972, and 5 September 1975;
- Extractive Industries, published in the *Government Gazette* of 16 December 1963 as amended by publications in the *Government Gazettes* of 22 August 1975, 5 September 1975, and 24 April 1981;
- Storage of Inflammable Liquids, published in the *Government Gazette* of 16 December 1963;
- Plot Ratios, Site Coverage and Height of Buildings, published in the *Government Gazette* of 4 May 1965;
- Keeping of Bees, published in the *Government Gazette* of 15 December 1966 as amended in the *Government Gazette* of 10 March 1978;
- Plot Ratios, Site Coverage and Height of Buildings, published in the *Government Gazette* of 8 February 1974;
- Petrol Pumps, published in the *Government Gazettes* of 30 September 1966, 29 December 1972, 22 August 1975, 5 September 1975 and 24 December 1980;
- Removal of Refuse, Rubbish or Disused Material, published in the *Government Gazette* of 6 June 1980;
- Accumulation of Sick Leave, published in the *Government Gazette* of 24 October 1980;
- Payment of Rates, published in the *Government Gazette* of 22 July 1994.

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Dated this 13th day of August 2001.

The Common Seal of the City of Belmont was affixed by authority of a resolution of the Council in the presence of—

P. R. PASSERI JP, Mayor.  
B. R. GENONI, Chief Executive Officer.

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**DOG ACT 1976**

## CITY OF BELMONT

**DOGS LOCAL LAW**

Under the powers conferred by the *Dog Act 1976* and under all other powers enabling it, the Council of the City of Belmont resolved on the 13<sup>th</sup> August 2001 to make the following local law—

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

**1. Preliminary**

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

**2. Clause 1.2—Repeal**

Delete clause 1.2 and substitute—

“The City of Belmont Local Laws Relating to Dogs, published in the *Government Gazettes* on 13 November 1953, 13 April 1972, 15 March 1974, 23 January 1976, 26 August 1977, 19 January 1979, 8 May 1981, 25 September 1981, 26 June 1987 and 29 November 1991, are repealed.”

**3. Clause 3.2—Limitation on the number of dogs**

Delete clause 3.2(2) and substitute—

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

**4. Clause 5.1—Places where dogs are prohibited absolutely**

In clause 5.1(1)—

- (a) renumber paragraphs (b) and (c) to (c) and (d) respectively;
- (b) insert the following paragraphs—
  - “(b) a theatre or picture gardens;
  - (c) a construction, building or demolition site;
  - (d) Belmont Sports and Recreation Club, Part Lot 1000 Keane Street, Cloverdale;
  - (e) Gerry Archer Athletic Centre, Part Lot 2 Robinson Avenue, Cloverdale; and
  - (f) Wilson Park (netball and basketball areas), Part lot 5522, Gerring Court, Rivervale.”.

**5. Clause 5.2—Places which are dog exercise areas**

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

**“Belmont**

Harman Park                      Lot 411 Daly Street

**Cloverdale**

Arlunya Park                      Lot 44 Arlunya Avenue  
 Belmont Park                      Lot 1 & Part lot 56 Abernethy Road  
 Forster Park                      Part lot 278 Keane Street  
 Hoskin Street                      Lot 167 Hoskin Street  
 McLarty Street Reserve        Lot 121 McLarty Street  
 Middleton Park                      Lot 205 Middleton Street  
 Miles Park                         Lot 6561 Belgravia Street  
 Willow Lake Park                Lot 45 and Loc 8428 Knutsford Avenue

**Kewdale**

Nance Street Reserve        Lot 24 Reen Street  
 Peachey Park                      Lot 92 Peachey Avenue  
 Peet Park                         Lot 1184 Sydenham Street  
 Wicca Park                        Lot 40 Wicca Street

**Redcliffe**

Brearley Avenue  
 Reserve (↑27446)                Brearley Avenue  
 Cracknell Park                      Lot 28 Riverdale Road  
 Parkview Chase                      Part lot 1433 Parkview Parade  
 Redcliffe Park                      Lot 166 Grand Parade  
 Selby Park                         Lot 5230 Great Eastern Highway

**Rivervale**

Copley Street Reserve	Lot 12643 Toorak Road
Grove Farm	Lot 247 Great Eastern Highway
Lions Park	Lot 1915 St Kilda Road
Mozart Mews Park	Loc 4245 Mozart Mews
Wilson Park (grassed area)	Lot 5522 Gerring Court "

**6. Schedule 3—Offences in respect of which Modified Penalty Applies**

In the column headed "**Modified Penalty \$**", in respect of clause 3.1, delete "50" and substitute "100".

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Dated this 13th day of August 2001.

The Common Seal of the City of Belmont was affixed by authority of a resolution of the Council in the presence of—

P. R. PASSERI JP, Mayor.  
B. R. GENONI, Chief Executive Officer.

