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SHIRE OF KALAMUNDA

LOCAL GOVERNMENT ACT 1995

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

**AMENDMENT TO LOCAL LAWS RELATING TO SIGNS,
HOARDINGS AND BILL POSTING**

LOCAL LAWS RELATING TO FENCING

LOCAL GOVERNMENT PROPERTY LOCAL LAW

LOCAL LAWS RELATING TO PARKING

REPEAL LOCAL LAWS 2001

DOG ACT 1976

DOGS LOCAL LAW

LOCAL GOVERNMENT ACT 1995

SHIRE OF KALAMUNDA

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

TABLE OF CONTENTS

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Definitions
- 1.3 Application
- 1.4 Repeal

PART 2—TRADING IN THOROUGHFARES AND PUBLIC PLACES*Division 1—Stallholders and traders*

Subdivision 1—Preliminary

- 2.1 Interpretation

Subdivision 2—Permits

- 2.2 Stallholder's permit
- 2.3 Trader's permit
- 2.4 No permit required to sell newspaper
- 2.5 Relevant considerations in determining application for permit
- 2.6 Conditions of permit
- 2.7 Exemptions from requirement to pay fee or to obtain a permit

Subdivision 3—Conduct of stallholders and traders

- 2.8 Conduct of stallholders and traders

PART 3—PERMITS*Division 1—Applying for a permit*

- 3.1 Application for permit
- 3.2 Decision on application for permit

Division 2—Conditions

- 3.3 Conditions which may be imposed on a permit
- 3.4 Imposing conditions under a policy
- 3.5 Compliance with and variation of conditions

Division 3—General

- 3.6 Duration of permit
- 3.7 Renewal of permit
- 3.8 Transfer of permit
- 3.9 Production of permit
- 3.10 Cancellation of permit

PART 4—OBJECTIONS AND APPEALS

- 4.1 Application of Part 9 Division 1 of Act

PART 5—ENFORCEMENT*Division 1—Notices given under this local law*

- 5.1 Offence to fail to comply with notice
- 5.2 Local government may undertake requirements of notice

Division 2—Offences and penalties

Subdivision 1—General

5.3 Offences

Subdivision 2—Infringement notices and modified penalties

5.4 Prescribed offences

5.5 Forms

Schedule 1

PRESCRIBED OFFENCES

FORMS

FORM 5—Application for Traders Permit.

FORM 6—Traders Permit

FORM 7—Application for Stallholders Permit.

FORM 8—Stallholders Permit.

LOCAL GOVERNMENT ACT 1995

SHIRE OF KALAMUNDA

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

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Kalamunda resolved on 20th August 2001 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the Shire of Kalamunda 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 Shire of Kalamunda;

“**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 2.8(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 Shire of Kalamunda which are—
- (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—

Stalls Local Law—26th November 1976 and Amendments 19th November 1982, 28th September 1984, 10th March 1986 and repeal 31st March 1994.

Hawkers Local Law—16th August 1985

Trading in Public Places Local Law—31st March 1994 and amendment 17th November 1998.

(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—TRADING IN THOROUGHFARES AND PUBLIC PLACES

Division 1—Stallholders and traders

Subdivision 1—Preliminary

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

Subdivision 2—Permits

2.2 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.

2.3 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.

2.4 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.

2.5 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.

2.6 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;
- (j) the manner in which the permit holder's name and other details of a valid permit are to be displayed;
- (k) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;
- (l) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;
- (m) the acquisition by the stallholder or trader of public risk insurance;
- (n) the period for which the permit is valid; and
- (o) 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.

2.7 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—
- on a portion of a public place adjoining the normal place of business of the applicant; or
 - 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

2.8 Conduct of stallholders and traders

- (1) A stallholder while conducting a stall or a trader while trading shall—
- 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;
 - not display a permit unless it is a valid permit; and
 - 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—
- 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;
 - act in an offensive manner;
 - 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
 - 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.

PART 3—PERMITS

Division 1—Applying for a permit

3.1 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—
- be in the form determined by the local government;
 - be signed by the applicant;
 - provide the information required by the form; and
 - 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).

3.2 Decision on application for permit

- (1) The local government may—
- approve an application for a permit unconditionally or subject to any conditions; or
 - 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***3.3 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.

3.4 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.

3.5 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***3.6 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.

3.7 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*.

3.8 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.

3.9 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.

3.10 Cancellation of permit

(1) Subject to clause 4.1, 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 a—
 - (i) condition of the permit; or
 - (ii) 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 4—OBJECTIONS AND APPEALS

4.1 Application of Part 9 Division 1 of Act

When the local government makes a decision—

- (a) under clause 3.2(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 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 the person fails to comply with the notice, the 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 that person, as a debt, the costs incurred in so doing.

Division 2—Offences and penalties

Subdivision 1—General

5.3 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

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 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 \$
2.2(1)	Conducting of stall in public place without a permit	300
2.3(1)	Trading without a permit	300
2.8(1)(a)	Failure of stallholder or trader to display or carry permit	100
2.8(1)(b)	Stallholder or trader not displaying valid permit	100
2.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	100
2.8(2)	Stallholder or trader engaged in prohibited conduct	100
3.5	Failure to comply with a condition of a permit	100
3.9	Failure to produce permit on request of authorized person	100
5.1	Failure to comply with notice given under local law	100

Dated this 20th day of August 2001.

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

ELIZABETH TAYLOR, Shire President.
DAVID VAUGHAN, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF KALAMUNDA

**AMENDMENT TO LOCAL LAWS RELATING TO SIGNS,
HOARDINGS AND BILL POSTING**

In pursuance of the powers conferred upon it by the Local Government Act 1995 and all other powers enabling it, the Council of the Shire of Kalamunda hereby records having resolved on 20th August 2001, amend the following Local Law.

CLAUSE 1—PRELIMINARY**1.1 Amendment of Local Laws**

The Shire of Kalamunda By-Law Relating To Signs, Hoardings & Bill Posting published in the *Government Gazette* on 10 April 1981 and amended by notice published in the *Government Gazette* of 2 April 1982 and 19 November 1982 are hereby amended.

1.2 Title

This Local Law may be cited as the “Shire of Kalamunda, Local Laws Relating to Signs, Hoardings and Bill Posting”, and shall come into operation on the fourteenth day after the day that it is published in the *Government Gazette*.

1.3 Application of Local Law

These Local Laws shall apply to the whole of the Local Government Municipality of the Shire of Kalamunda together with any place to which the Governor has given approval for the Local Laws or any part of them to apply, as provided in Section 3.6 of the Act.

CLAUSE 2—INTERPRETATION**2.1 Definitions**

- “Local Government Act 1960” is deleted and the following is substituted. “Local Government Act 1995”.
- The following definitions are inserted in the appropriate alphabetical positions.
 - “Authorised Officer” means an employee of the Shire of Kalamunda;
 - “Building Surveyor” means Council’s Building Surveyor appointed pursuant to the “Act”;
 - “Community Association” means an institution, association, club, society or body, whether incorporated or not, the objectives of which are of charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and the members of which are not entitled to or permitted to receive any pecuniary profit from the transactions;
 - “Council” means the Council of the Shire of Kalamunda;
 - “Election Sign” means a bill, poster, placard or advertisement relating to any election or a prospective or forthcoming election of Parliament or the Commonwealth, or the State or municipal elections and to a referendum, but does include a sign erected by Council for public information;
 - “Planning Approval” means approval by the responsible authority under any Town Planning Scheme controlling land development and use within the district;
 - “Town Planning Scheme” means the Town Planning Scheme of the Shire of Kalamunda;
- The definition of “hoarding”.

The words “Local Government (Miscellaneous Provisions)” are to be added before the word “Act”.
- The definition of “sign”.

The words “or any message, direction or representation whatsoever displayed on a building or structure” are to be added after the word “signboard”. The words “an airborne device anchored to any land, building or thing,” are to be added after the words “portable sign”.

CLAUSE 3—LICENCES**3.4 Applications for Licences**

Paragraph 3.4.2.

- The words “a plan” are deleted and the following is substituted—“duplicate plans”.
- The words “the setbacks from the street, way, footpath or other public place or lot boundaries where applicable” are to be inserted following the word “sought”.

3.6 Special Permits

Paragraph 3.6.1

- The word “at” is deleted and the following is substituted—“for Community Associations such as”.

3.7 Public Liability Insurance and Indemnity

Add new clause, “3.7—Public Liability and Indemnity

Where required by the local government, the owner of a sign shall provide public liability insurance cover and enter into an agreement with the local government, indemnifying the local government against all actions, suits, claims, damages, losses and expenses made against or incurred by the local government arising from any activity, action or thing performed or erected under permit, issued in accordance with this local law, or as a result of the holding of the event.

CLAUSE 4—GENERAL**4.1 Restrictions**

- Add new paragraph “ (i)
 - (a) On land zoned or used for residential purposes unless it is a sale sign or a sign authorised under Council’s Town Planning Scheme;
- Previous paragraph “(i)” now becomes paragraph “(j)”.

4.3 Existing Signs

- Add new paragraph “4.3.1 If a licence or permit for a sign or advertising device was issued under a previous By-Law or Local Law of the Shire of Kalamunda, without a limitation as to time and the sign or advertising device does not comply with the provisions of these Local Laws, if any alteration is proposed to be made to the structure, area or message of it, the sign or advertising device shall be made to comply with the provisions of this Local Law.”
- Un-numbered paragraph becomes “4.3.2”.

CLAUSE 5—REQUIREMENTS FOR PARTICULAR SIGN**5.3 Direction Signs on Street Poles**

- Delete “150mm” and substitute with—“200mm”.
- Delete “750mm” and substitute with—“1.2 metres”.

5.11 Pylon Signs

Paragraph 5.11.1 (b)

- Sub-paragraph (iii) the words “not exceeding 20m in height” are deleted.
- Previous sub-paragraph “(iv)” now becomes “(iii)”.
- Previous sub-paragraph “(v)” now becomes “(iv)”.

5.17 Vertical Signs

Paragraph 5.17.3

- The words “a lesser distance from the end of the wall than that prescribed by” are deleted.

5.18 Portable Signs

- Add new clause; “5.18 Portable Signs—

A portable sign shall—

 - (a) Not exceed 1 metre in height;
 - (b) Not exceed 1 metre in area
 - (c) Be placed so not to be hazardous to, or impede vehicular traffic or pedestrian traffic;
 - (d) Be sound construction and maintained in good condition;
 - (e) Be so constructed or anchored to prevent them becoming hazardous during strong winds.

CLAUSE 7—REMOVAL AND DISPOSAL

- Add new heading “7. Removal and Disposal” following paragraph 6.4.
- Previous paragraph number “6.5” is deleted and substituted with—paragraph “7.2”

CLAUSE 7—PENALTIES

- Number “7” is deleted and substituted with “8”.

CLAUSE 9—RIGHTS OF APPEAL

- Add new Clause “ 9 Rights of Appeal

Where any provision is made for the granting, issuing or giving of any licence, authorisation, registration, approval or consent or the like under these Local Laws, or for the refusal, refusal of renewal, or cancellation of the same, or for the imposition of conditions, then the rights of objections and appeal and the procedures associated with them provided for in Part 9 Division 1 of the Act shall apply, together with the relevant provision of the Local Government (Functions and General) Regulations 1996.”

SECOND SCHEDULE**SCALE OF FEES**

- Illuminated Sign—the words and figures “under verandah—\$5.00” are deleted.
- Development Signs—the words “M1” are deleted and substituted with—“M2”.
- Rural Producers Signs—the figures “\$5.00” are deleted and substituted with “\$10.00”.
- Panel Sign—the figures “\$2.00” are deleted and substituted with “\$10.00”.

Dated this 20th day of August 2001.

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

ELIZABETH TAYLOR, Shire President.
DAVID VAUGHAN, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF KALAMUNDA

LOCAL LAWS RELATING TO FENCING

TABLE OF CONTENTS

PART 1—PRELIMINARY

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

PART 2—SUFFICIENT FENCES

6. Sufficient Fences

PART 3—GENERAL

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

PART 4—FENCING MATERIALS

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

PART 5—ELECTRIFIED AND RAZOR WIRE FENCES

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

PART 6—NOTICES OF BREACH

16. Notices of Breach

PART 7—OFFENCES

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

FIRST SCHEDULE
SECOND SCHEDULE
THIRD SCHEDULE

LOCAL GOVERNMENT ACT 1995

SHIRE OF KALAMUNDA

LOCAL LAWS RELATING TO FENCING

Under the powers conferred by the Local Government Act 1995 and by all other powers the Council of the Shire of Kalamunda resolved to make the following local laws on the 20th day of August 2001.

PART 1—PRELIMINARY

1. Citation

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

2. Repeal

The Local Law Relating to Fencing published in the *Government Gazette* on 12th December 1980 and amendment 19th November 1982 are repealed.

3. Application of Local Laws

These Local Laws apply throughout the district of the Shire of Kalamunda.

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 6 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 [insert name of local government];

“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);

“R Codes” shall be the Residential Planning Codes of Western Australia and has the meaning given to it in and for the purposes of the *Town Planning and Development Act 1928*.

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

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

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

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

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;
- (c) is a lot zoned Rural, Rural Agriculture, Rural Conservation, Rural Landscape Interest, Rural Living under the provisions of Council’s Planning Scheme.

“Schedule” means a Schedule to these Local Laws;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) that does not adjoin a footpath, or is setback an equivalent distance from the footpath.

8. Fences on a Rural Lot

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

9. Maintenance of Fences

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

10. General Discretion of the Local Government

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

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

(a) the safe or convenient use of any land; or

(b) the safety or convenience of any person.

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

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

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

12. Barbed Wire and Broken Glass Fences

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

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

(3) An owner or occupier of an Industrial Lot shall not erect or affix on any fence bounding that Lot any barbed wire or other materials with spiked or jagged projections unless the wire or materials are carried on posts at an angle of 45 degrees, and unless the bottom row of wire or other materials is set back 150mm from the face of the fence and is not nearer than 2000mm from the ground level or in accordance with the provisions of subclause (4).

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

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

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

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

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

(a) have and use an electrified fence on that lot without first obtaining a licence under subclause (2); or

(b) construct a fence wholly or partly of razor wire on that lot without first obtaining a licence under subclause (3).

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

14. Transfer of a Licence

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

15. Cancellation of a Licence

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

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

PART 6—NOTICES OF BREACH

16. Notices of Breach

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

17. Offences and Penalties

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

18. Modified Penalties

- (1) An offence against any provision of these Local Laws is a prescribed offence for the purposes of section 9.16 (1) of the *Local Government Act 1995*.
- (2) Unless otherwise specified, the amount of the modified penalty for an offence against any provision of these Local Laws is \$100.

19. Form of Notices

For the purposes of these Local Laws—

- (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 of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*. Clause 6(2)(a)

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

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

1. Residential Code R2.5 and R5 and equivalent size Urban Development Zone (UDZ) lots.
 - (a) A sufficient fence shall be defined as a 1 metre high, 2.5mm wire mesh rail-less fence with steel posts at a maximum 3 metre spacing, terminal posts to be braced with a diagonal brace with a diagonal brace in the line of the fence.
2. Residential Code R10, R12.5, R15, R17.5, R20, R25, R35, R40, R50 and R60 and equivalent size Urban Development Zone (UDZ) lots.
 - (a) A picket timber fence which satisfies the following specifications—
 - (i) corner posts to be 125mm x 125mm x 2400mm and intermediate posts to be 125mm x 75mm x 2400mm spaced at 2400mm centres;
 - (ii) corner posts to be strutted two ways with 100mm x 50mm x 450mm sole plates and 75mm x 50mm struts;
 - (iii) intermediate posts to be doubled yankee strutted with 150mm x 25mm x 450mm struts;
 - (iv) all posts to have tops with a 60mm weather cut and to be sunk at least 600mm into the ground;
 - (v) rails to be 75mm x 50mm with each rail spanning two bays of fencing double railed or bolted to each post with joints staggered;
 - (vi) the fence to be covered with 75mm x 20mm sawn pickets, 1800mm in height placed 75mm apart and affixed securely to each rail; and
 - (vii) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7.
 - (b) A fence constructed of corrugated fibre reinforced pressed cement or steel sheeting which satisfies the following specifications—
 - (i) 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;
 - (ii) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet;
 - (iii) the sheets to be lapped and capped with extruded “snap-fit” type capping in accordance with the manufacturers written instructions; and
 - (iv) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7.
 - (c) A fence constructed of brick, stone or concrete, which satisfies the following specifications—
 - (i) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar;
 - (ii) 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;
 - (iii) expansion joints in accordance with the manufacturer’s written instructions; and
 - (iv) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7.
 - (d) A composite fence having a minimum overall height of 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7, which satisfies the following specifications for the brick construction—
 - (i) (a) brick piers of minimum 345mm x 345mm at 1800mm centres bonded to a minimum height base wall of 514mm;
 - (b) each pier shall be reinforced with one R10 galvanised starting rod 1500mm high with a 250mm horizontal leg bedded into a 500mm x 200mm concrete footing and set 65mm above the base of the footing. The top of the footing shall be 1 course (85mm) below ground level;
 - (c) the minimum ultimate strength of brickwork shall be 20MPa. Mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
 - (d) the ground under the footings is to be compacted to 6 blows per 300mm and checked with a standard falling weight penetrometer; and
 - (e) control joints in brickwork shall be provided with double piers at a maximum of 6 metre centres; or
 - (ii) (a) brick piers of a minimum 345mm x 345mm x 2700mm centres bonded to the base all; and
 - (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified;

Clause 6(2)(b)

Second Schedule**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT AND AN INDUSTRIAL LOT**

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

1. A fence constructed of galvanised or PVC coated rail-less link mesh, chain mesh or steel mesh which satisfies the following specifications—
 - (a) corner posts to be minimum 50mm normal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
 - (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5m centres and with footings of a 225mm diameter x 600mm;
 - (c) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and two at each corner post and with footings 225mm x 600mm;
 - (d) cables to be affixed to the top, centre and bottom of all posts and to consist of two or more 3.15mm wires twisted together or single 4mm wire;
 - (e) rail-less link, chain or steel mesh is to be to a height of 2000mm on top of which are to be three strands of barbed wire carrying the fence to a height of 2400mm in accordance with clause 12(3) of these Local Laws; and
 - (f) galvanised link mesh wire to be 2000mm in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than 3.6m and shall be constructed of 25mm tubular framework with one horizontal and one vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.
2. A fence of fibre reinforced cement sheet or steel sheeting constructed to the minimum specifications referred to in Item B of the First Schedule.
3. A fence constructed of aluminium sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1800mm but no greater than 2400mm.
4. Fences of timber, brick, stone or concrete constructed to the minimum specifications referred to in the First Schedule.

Clause 6(2)(c)

Third Schedule**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT**

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

Dated this 20th day of August 2001.

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

ELIZABETH TAYLOR, Shire President.
DAVID VAUGHAN, Chief Executive Officer.

Form 1

[1]

LICENCE TO HAVE AND USE AN ELECTRIFIED FENCE IN ACCORDANCE WITH AS/NZS 3016:1994

This is to certify that
of
is licensed , subject to the conditions set out below, to have and use an electrified fence on
.....
(address)
from 20 and until this licence is transferred or cancelled.

Dated this day of 20.....

.....
Chief Executive Officer
Shire of Kalamunda

This licence is issued upon and subject to the following conditions, namely that the holder of the licence shall—

Display the licence in a prominent position on the land or premises on which the electrified fence has been erected.

Upon the request of a Building Surveyor produce to him or her the licence.

Within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes.

Obtain the written consent of the Local Government prior to the commencement of any alteration, addition or other work relating to or affecting the electrified fence.

Comply with AS/NZS 3016:1994.

Following erection of the fence, lodge with Western Power a certificate of installation from a qualified electrician and comply with any requirements of Western Power regarding the erection of the fence.

Transfer by Endorsement

This licence is transferred to
.....
of
.....
from and including the date of this endorsement.

Dated this day of 20.....

.....
Chief Executive Officer
Shire of Kalamunda

Form 2

[1]

LICENCE TO HAVE A FENCE CONSTRUCTED WHOLLY OR PARTIALLY OF RAZOR WIRE

This is to certify that
of
is licensed , subject to the conditions set out below, to have a fence constructed wholly or partially of razor wire on
.....
(address)
from 20 and until this licence is transferred or cancelled.

Dated this day of 20.....

.....
Chief Executive Officer
Shire of Kalamunda

This licence is issued upon and subject to the following conditions, namely that the holder of the licence shall—

Display the licence in a prominent position on the land or premises on which the fence has been erected.

Upon the request of a Building Surveyor produce to him or her the licence.

Within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes.

Obtain the written consent of the Local Government prior to the commencement of any alteration, addition or other work relating to or affecting the fence.

.....
.....

Transfer by Endorsement

This licence is transferred to

.....

of

.....

from and including the date of this endorsement.

Dated this day of 20.....

.....
Chief Executive Officer
Shire of Kalamunda

LOCAL GOVERNMENT ACT 1995

SHIRE OF KALAMUNDA

LOCAL GOVERNMENT PROPERTY LOCAL LAW

TABLE OF CONTENTS

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Definitions
- 1.3 Interpretation
- 1.4 Application
- 1.5 Repeal

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY*Division 1—Determinations*

- 2.1 Determinations as to use of local government property
- 2.2 Procedure for making a determination
- 2.3 Discretion to erect sign
- 2.4 Determination to be complied with
- 2.5 Register of determinations
- 2.6 Amendment or revocation of a determination

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

- 2.7 Activities which may be pursued on specified local government property
- 2.8 Activities which may be prohibited on specified local government property

Division 3—Transitional

- 2.9 Signs taken to be determinations

PART 3—PERMITS*Division 1—Preliminary*

- 3.1 Application of Part

Division 2—Applying for a permit

- 3.2 Application for permit
- 3.3 Decision on application for permit

Division 3—Conditions

- 3.4 Conditions which may be imposed on a permit
- 3.5 Imposing conditions under a policy
- 3.6 Compliance with and variation of conditions

Division 4—General

- 3.7 Agreement for building
- 3.8 Duration of permit
- 3.9 Renewal of permit
- 3.10 Transfer of permit
- 3.11 Production of permit
- 3.12 Cancellation of permit

Division 5—When a permit is required

- 3.13 Activities needing a permit
- 3.14 Permit required for possession and consumption of liquor

Division 6—Responsibilities of permit holder

3.15 Responsibilities of permit holder

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
- 4.2 Behaviour detrimental to property
- 4.3 Taking or injuring any fauna
- 4.4 Intoxicated persons not to enter local government property
- 4.5 No prohibited drugs

Division 2—Signs

4.6 Signs

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY*Division 1—Swimming pool areas*

5.1 When entry must be refused

Division 2—Fenced or closed property

5.2 No entry to fenced or closed local government property

Division 3—Toilet blocks and change rooms

5.3 Only specified gender to use entry of toilet block or change room

PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY

6.1 No unauthorised entry to function

PART 7—OBJECTIONS AND APPEALS

7.1 Application of Division 1, Part 9 of the Act

PART 8—MISCELLANEOUS

- 8.1 Authorised person to be obeyed
- 8.2 Persons may be directed to leave local government property
- 8.3 Disposal of lost property
- 8.4 Liability for damage to local government property

PART 9—ENFORCEMENT*Division 1—Notices given under this local law*

- 9.1 Offence to fail to comply with notice
- 9.2 Local government may undertake requirements of notice

Division 2—Offences and penalties

Subdivision 1—General

9.3 Offences and general penalty

Subdivision 2—Infringement notices and modified penalties

- 9.4 Prescribed offences
- 9.5 Form of notices

Division 3—Evidence in legal proceedings

9.6 Evidence of a determination

SCHEDULE 1—PRESCRIBED OFFENCES**SCHEDULE 2—DETERMINATIONS**

LOCAL GOVERNMENT ACT 1995

SHIRE OF KALAMUNDA

LOCAL GOVERNMENT PROPERTY LOCAL LAW

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Kalamunda resolved on 20th August 2001 to make the following local law.

PART 1—PRELIMINARY

Citation

1.1 This local law may be cited as the Shire of Kalamunda Local Government Property Local Law.

Definitions

1.2 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;

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

“**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

“**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 Shire of Kalamunda;

“**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 pool area or other 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;

“**pool area**” means any swimming and wading pools and spas and all buildings, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of or used in connection with such swimming and wading pools and spas which are local government property;

“**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—
- (c) a wheel-chair or any device designed for use, by a physically impaired person on a footpath;
 - (d) a pram, a stroller or a similar device.

Interpretation

1.3 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.

Application

1.4 (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.

Repeal

1.5 (1) The following local laws are repealed—

- | | | | |
|---|-----------------|---|-------------------------------------------------------|
| — | Public Reserves | — | 9th November 1979 and
amendment 19th November 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—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

Division 1—Determinations

Determinations as to use of local government property

2.1 (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.

Procedure for making a determination

2.2 (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.

Discretion to erect sign

2.3 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.

Determination to be complied with

2.4 A person shall comply with a determination.

Register of determinations

2.5 (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.

Amendment or revocation of a determination

2.6 (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

Activities which may be pursued on specified local government property

2.7 (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) 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;

(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, equipment or things, or may extend it to all vehicles, 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.

Activities which may be prohibited on specified local government property

2.8 (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) 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;
 - (f) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
 - (g) the traversing of 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, equipment or things, or all vehicles, 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

Signs taken to be determinations

- 2.9 (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

Application of Part

3.1 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

Application for permit

- 3.2 (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).

Decision on application for permit

- 3.3 (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***Conditions which may be imposed on a permit**

3.4 (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.

Imposing conditions under a policy

3.5 (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.

Compliance with and variation of conditions

3.6 (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***Agreement for building**

3.7 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.

Duration of permit

3.8 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.

Renewal of permit

3.9 (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*.

Transfer of permit

3.10 (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.

Production of permit

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

Cancellation of permit

3.12.1 (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

Activities needing a permit

3.13 (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) plant any plant or sow any seeds on local government property;
- (e) 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;
- (f) 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;
- (g) conduct a function on local government property ;
- (h) light a fire on local government property except in a facility provided for that purpose;
- (i) parachute, hang glide, abseil or base jump from or on to local government property;
- (j) erect a building or a refuelling site on local government property;
- (k) 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).

Permit required for possession and consumption of liquor

- 3.14 (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

Responsibilities of permit holder

- 3.15 A holder of a permit shall in respect of local government property to which the permit relates
- (a) ensure that an authorised 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

Behaviour which interferes with others

- 4.1 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.

Behaviour detrimental to property

- 4.2 (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.

Taking or injuring any fauna

- 4.3 (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 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.

Intoxicated persons not to enter local government property

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

No prohibited drugs

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

Division 2—Signs

Signs

- 4.6 (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

When entry must be refused

5.1 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 her or his 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

No entry to fenced or closed local government property

5.2 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

Only specified gender to use entry of toilet block or change room

5.3 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

No unauthorized entry to function

6.1 (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—OBJECTIONS AND APPEALS

Application of Division 1, Part 9 of the Act

7.1 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 8—MISCELLANEOUS

Authorized person to be obeyed

8.1 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.

Persons may be directed to leave local government property

8.2 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.

Disposal of lost property

8.3 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.

Liability for damage to local government property

8.4 (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 caused the damage, the person was the person responsible, at the time the damage occurred, for the control of the vehicle 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 9—ENFORCEMENT*Division 1—Notices given under this local law***Offence to fail to comply with notice**

9.1 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.

Local government may undertake requirements of notice

9.2 Where a person fails to comply with a notice referred to in clause 9.1, 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***Offences and general penalty**

9.3 (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***Prescribed offences**

9.4 (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.

Form of notices

9.5 (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***Evidence of a determination**

9.6 (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 Penalty \$
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
9.1	Failure to comply with notice	200

Schedule 2
DETERMINATIONS

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

1. A person shall not without the consent of the Council play or practise at golf or strike a golf ball unless on land (if any) set aside for that purpose.
2. A person shall not without the consent of the Council practise or play in or at any game between opposing teams.
3. A person shall not drive or bring, park or stand a vehicle on any reserve or part thereof that has not been set aside for that purpose.
4. A person shall not bring drive or ride an animal on any reserve or part thereof that has not been set aside for that purpose.

PART 1—PRELIMINARY

Definitions

1.1 In these determinations unless the context otherwise requires—

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

Interpretation

1.2 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 20th day of August 2001.

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

ELIZABETH TAYLOR, Shire President.
DAVID VAUGHAN, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995**SHIRE OF KALAMUNDA****LOCAL LAWS RELATING TO PARKING****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

PART 3—PARKING GENERALLY

- 3.1 Prohibition and regulation of parking by signs
- 3.2 Restrictions on parking in particular areas
- 3.3 Parking vehicle on a carriageway
- 3.4 Vehicle to be wholly within parking area
- 3.5 When parallel and right-angled parking apply
- 3.6 When angle parking applies
- 3.7 General prohibitions on parking
- 3.8 Parking on verges
- 3.9 Limitation on parking of commercial vehicles on carriageway
- 3.10 Limitation on parking of commercial vehicles on verges where approval has been granted to park that vehicle on private property.
- 3.11 Authorised person may order vehicle on thoroughfare to be moved
- 3.12 Authorised person may mark tyres
- 3.13 No movement of vehicles to avoid time limitation
- 3.14 No parking of vehicles exposed for sale and in other circumstances
- 3.15 Parking on private land
- 3.16 Parking on reserves
- 3.17 Suspension of parking limitations for urgent, essential or official duties

PART 4—MISCELLANEOUS

- 4.1 Removal of notices on vehicle
- 4.2 Unauthorised signs and defacing of signs
- 4.3 Signs must be complied with
- 4.4 General provisions about signs
- 4.5 Special purpose and emergency vehicles
- 4.6 Vehicles not to obstruct a public place

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

SCHEDULE 1—PARKING REGION**SCHEDULE 2—PRESCRIBED OFFENCES****SCHEDULE 3—FORM 1****FORM 2****FORM 3****FORM 4****SCHEDULE 4—DEEMED PARKING STATIONS**

LOCAL GOVERNMENT ACT 1995

SHIRE OF KALAMUNDA

PARKING AND PARKING FACILITIES LOCAL LAW

Under the powers conferred by the Shire of Kalamunda and under all other powers, the Council of the Shire of Kalamunda resolved to make the following Local Law on the 20th day of August 2001.

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 Shire of Kalamunda Local Law Relating to Parking Facilities published in the Government Gazette on 25th September 1981 and amendments of 21st April 1989, 12th August and 8th August 2000 are 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;

“**authorised 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;

“**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;

“**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;

- “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 Shire of Kalamunda;
- “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—
- 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
 - 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;
- “occupier”** has the meaning given to it 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 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—
- avoiding conflict with other traffic; or
 - complying with the provisions of any law when the vehicle is being driven;
- “parking area”** means a portion of a carriageway—
- 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
 - 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;
- “public place”** means any place to which the public has access whether or not that place is on private property;
- “reserve”** means any land—
- which belongs to the local government;
 - of which the local government is the management body under the *Land Administration Act 1997*; or
 - 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;

“**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 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 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 marked “M/C”, if the bicycle is parked in accordance with subclause (2).
- (2) No person shall park any bicycle—
- (a) in a parking stall other than in a stall marked “M/C”; and
 - (b) in such stall other than against the kerb.

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;
 - (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 park a motorcycle without a sidecar or a trailer, or a bicycle in a parking stall unless the stall is marked “M/C”.
- (4) 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”.
- (5) 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.
- (6) In paragraph (b) of subclause (5) “goods” means an article or collection of articles weighing at least 13.6kg and of which the cubic measurement is not less than 0.17m³.

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.

(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.

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 for a period in excess of 2 hours, furthermore such a vehicle shall not be moved to another such position within 50 metres of the first mentioned position;
- (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 commercial vehicles on carriageway

A person shall not park a commercial vehicle on a carriageway for a period in excess of one hour.

3.10 Limitation on parking of commercial vehicles on verges where approval has been granted to park that vehicle on private property

Notwithstanding the provisions of Clause 3.8(1)(b) a commercial vehicle is not permitted to be parked on the verge where the occupier of the land has approval to park that commercial vehicle on that property to which the verge abuts.

3.11 Authorised 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 has directed the driver to move it.

3.12 Authorised 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.

(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;
- (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 private land

(1) In this clause a reference to "land" does not include land—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*;
- (c) which is an "otherwise unvested facility" within section 3.53 of the Act;
- (d) which is the subject of an agreement referred to in clause 1.4 (2); or
- (e) which is identified in the Fourth Schedule.

(2) A person shall not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.

3.16 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.

3.17 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.

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 Unauthorised 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 Vehicles not to obstruct a public place

(1) A person shall not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place without the permission of the local government or unless authorized under any written law.

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

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; and
- (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.

Second Schedule
PARKING AND PARKING FACILITIES LOCAL LAW
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 Authorized 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 motor cycle in stall not marked "M/C"	35
11	3.3 (a)	Fail to park on the left of two-way carriageway	35
12	3.3 (b)	Fail to park on boundary of one-way carriageway	35
13	3.3 (a)+(b)	Parking against the flow of traffic	40
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
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 (3) (a)	Parking vehicle within 9 metres of departure side of bus stop	45
25	3.7 (4) (a)	Parking vehicle within 18 metres of approach side of bus stop	45
26	3.7 (4) (b)	Parking vehicle within 18 metres of approach side of pedestrian/children's crossing	45
27	3.8 (1) (a) or (b)	Parking vehicle or unattached trailer or caravan on verge	35
28	3.8 (1) (c)	Parking on verge contrary to sign	35
29	3.9	Parking commercial vehicle on carriageway for over 1 hour	50
30	3.10	Parking commercial vehicle on verge where permit issued	50
31	3.11	Parking contrary to direction of Authorized Person	45
32	3.14 (a) (b) (c)	Parking a of vehicle exposed for sale etc	35
33	3.15 (2)	Parking on land that is not a parking facility without consent	50

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
34	3.16	Driving or parking on reserve	35
35	4.6 (1)	Leaving vehicle so as to obstruct a public place	45
36		All other offences not specified	30

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⁾
in respect of vehicle:

make: ;
model: ;
registration: ,
you committed 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⁾
in respect of vehicle:

make: ;
model: ;
registration: ,
you committed 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)

Infringement Notice No. dated / /

in respect of vehicle:

make:

model:

registration:

for the alleged offence of

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

1. **53 (lot 17) Railway Road, Kalamunda**

Dated this 20th day of August 2001.

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

ELIZABETH TAYLOR, Shire President.
DAVID VAUGHAN, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995
SHIRE OF KALAMUNDA**REPEAL LOCAL LAWS 2001**

In pursuance of the powers conferred upon it by the Local government Act 1995 and all other powers enabling it, the Council of the Shire of Kalamunda hereby records having resolved on 20th August 2001 to make and adopt the following Local Law.

The Local Laws relating to the following, published in the *Government Gazette* on the stated dates are hereby repealed.

<u>Local Laws</u>	<u>Date Published in Government Gazette</u>
Dogs	- 7 th August 1981 and amendment 5 th February 1993;
Parking Facilities	- 25 th September 1981, amendments 21 st April 1989, 12 th August and 8 th August 2000
Uniform General—Parking For Disabled Persons	- 5 th February 1988
Animals	- 26 th June 1981 and amendment 19 th November 1982.
Control of Noise and and Nuisance	- 28 th January 1965
Hawkers	- 16 th August 1985
Stalls	- 26 th November 1976 and Amendments 19 th November 1982, 28 th September 1984 10 th March 1986, and repeal 31 st March 1994
Trading in Public Places	- 31 st March 1994 and amendment 17 th November 1998.
Public Reserves	- 9 th November 1979 and amendment 19 th November 1982
Fencing	- 12 th December 1980 and amendment 19 th November 1982
Streets	- 14 th October 1983

Dated this 20th day of August 2001.

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

ELIZABETH TAYLOR, Shire President.
DAVID VAUGHAN, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF KALAMUNDA

DOGS LOCAL LAW

TABLE OF CONTENTS

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Repeal
- 1.3 Definitions
- 1.4 Application

PART 2—IMPOUNDING OF DOGS

- 2.1 Charges and costs
- 2.2 Attendance of pound keeper at pound
- 2.3 Release of impounded dog
- 2.4 No breaking into or destruction of pound

PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

- 3.1 Dogs to be confined
- 3.2 Limitation on the number of dogs

PART 4—APPROVED KENNEL ESTABLISHMENTS

- 4.1 Interpretation
- 4.2 Application for licence for approved kennel establishment
- 4.3 Notice of proposed use
- 4.4 Exemption from notice requirements
- 4.5 When application can be determined
- 4.6 Determination of application
- 4.7 Where application cannot be approved
- 4.8 Conditions of approval
- 4.9 Compliance with conditions of approval
- 4.10 Fees
- 4.11 Form of licence
- 4.12 Period of licence
- 4.13 Variation or cancellation of licence
- 4.14 Transfer
- 4.15 Notification
- 4.16 Inspection of kennel

PART 5—DOGS IN PUBLIC PLACES

- 5.1 Places where dogs are prohibited absolutely
- 5.2 Places which are dog exercise areas

PART 6—ENFORCEMENT

- 6.1 Interpretation
- 6.2 Modified penalties
- 6.3 Issue of infringement notice
- 6.4 Failure to pay modified penalty
- 6.5 Payment of modified penalty
- 6.6 Withdrawal of infringement notice
- 6.7 Service

SCHEDULE 1

SCHEDULE 2

SCHEDULE 3

LOCAL GOVERNMENT ACT 1995

SHIRE OF KALAMUNDA

DOGS LOCAL LAW

Under the powers conferred by the *Dog Act 1976* and under all other powers enabling it, the Council of the Shire of Kalamunda resolved on 20th August 2001 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the Shire of Kalamunda Dogs Local Law.

1.2 Repeal

The By Laws Relating to Dogs published in the Government Gazette on 7th August 1981 and as amended on 5th February 1993 is repealed.

1.3 Definitions

In this local law unless the context otherwise requires—

“Act” means the *Dog Act 1976*;

“authorized person” means a person authorized by the local government to perform all or any of the functions conferred on an authorized person under this local law;

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

“local government” means the Shire of Kalamunda;

“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*;

“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.

2.2 Attendance of pound keeper at pound

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.

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.

(2) The pound keeper is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper, satisfactory evidence—

- (a) of her or his ownership of the dog or of her or his 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.

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 subclause (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—

- (a) licensed under Part 4 as an approved kennel establishment; or
- (b) 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—

- (a) 2 dogs over the age of 3 months and the young of those dogs under that age.

PART 4—APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2—

“licence” means a licence to keep an approved kennel establishment on premises;

“licensee” means the holder of a licence;

“premises”, in addition to the meaning given to it in section 3 of the Act, means the premises described in the application for a licence; and

“transferee” means a person who applies for the transfer of a licence to her or him under clause 4.14.

4.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form of that in Schedule 1, and must be lodged with the local government together with—

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;
- (c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government; and
- (e) the fee for the application for a licence referred to in clause 4.10(1).

4.3 Notice of proposed use

(1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged—

- (a) once in a newspaper circulating in the district; and
- (b) to the owners and occupiers of any premises adjoining the premises.

- (2) The notices in subclause (1) must specify that—
- (a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
 - (b) the application and plans and specifications may be inspected at the offices of the local government.
- (3) Where—
- (a) the notices given under subclause (1) do not clearly identify the premises; or
 - (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the local government may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.

4.4 Exemption from notice requirements

Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a—

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements,

under a town planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence.

4.5 When application can be determined

An application for a licence is not to be determined by the local government until—

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 Determination of application

In determining an application for a licence, the local government is to have regard to—

- (a) the matters referred to in clause 4.7;
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.7 Where application cannot be approved

The local government cannot approve an application for a licence where—

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a town planning scheme; or
- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

4.8 Conditions of approval

(1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.

(2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.

4.9 Compliance with conditions of approval

A licensee who does not comply with the conditions of a licence commits an offence.

Penalty: Where a dog involved in the contravention is a dangerous dog, \$2,000 and a daily penalty of \$200; otherwise \$1,000 and a daily penalty of \$100.

4.10 Fees

(1) On lodging an application for a licence, the applicant is to pay a fee to the local government.

(2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.

(3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.

(4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16—6.19 of the *Local Government Act 1995*.

4.11 Form of licence

The licence is to be in the form determined by the local government and is to be issued to the licensee.

4.12 Period of licence

(1) The period of effect of a licence is set out in section 27(5) of the Act.

(2) A licence is to be renewed if the fee referred to in clause 4.10(2) is paid to the local government prior to the expiry of the licence.

(3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

4.13 Variation or cancellation of licence

(1) The local government may vary the conditions of a licence.

(2) The local government may cancel a licence—

- (a) on the request of the licensee;
- (b) following a breach of the Act, the Regulations or this local law; or
- (c) if the licensee is not a fit and proper person.

(3) The date a licence is cancelled is to be, in the case of—

- (a) paragraph (a) of subclause (2), the date requested by the licensee; or
- (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.

(4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.14 Transfer

(1) An application for the transfer of a valid licence from the licensee to another person must be—

- (a) made in the form determined by the local government;
- (b) made by the transferee;
- (c) made with the written consent of the licensee; and
- (d) lodged with the local government together with—
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.10(3).

(2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).

(3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.

(4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.15 Notification

The local government is to give written notice to—

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.13(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.13(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.13(2), which notice is to be given in accordance with section 27(6) of the Act.

4.16 Inspection of kennel

With the consent of the occupier, an authorized person may inspect an approved kennel establishment at any time.

PART 5—DOGS IN PUBLIC PLACES

5.1 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, reserves and freehold land—

- (i) Public reserve known as Stirk Park being Canning Locations 205, 101, Lot 8 and Reserve No 41268, bordered by Kalamunda, Headingly Roads and Elizabeth Street, Kalamunda.

(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.

(3) Notwithstanding anything contained elsewhere in this local law a person who is blind or partially blind—

- (a) is entitled to be accompanied by a dog *bona fide* used by him as a guide dog, in any building or place open to or used by the public, for any purpose, or in any public transport; and
- (b) is not guilty of an offence by reason only that he takes that dog into or permits that dog to enter any building or place open to or used by the public or on any public transport.

5.2 Places which are dog exercise areas

(1) Subject to clause 5.1 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, the following are dog exercise areas—

- (a) “Jorgenson Park”, Kalamunda—locations 563, 972, lot 58, 59 and 76, bounded by Spring and Crescent Roads.
- (b) Reserve 27154—bordering Huntley Street and Longfellow Road, Gooseberry Hill.
- (c) “Old Railway Reserve”—Reserve 27799 bordering Williams, Elizabeth and Tella Streets and Railway Road, Kalamunda /Gooseberry Hill.
- (d) Reserve 30142, adjacent to Alpine and Bird Roads, Kalamunda.
- (e) “Old Railway Reserve”—Reserve 27800, Lesmurdie to Kennedy’s Road, Walliston.
- (f) “Alan Anderson Park”—Reserve 37174, Lawnbrook and Pomeroy Roads, Bickley.
- (g) “Seaton Park”—Reserve 31137, locations 2378, 2359, 2746, bordered by Fletcher and Lesmurdie Roads, Lesmurdie.
- (h) Reserve 29757, location 3115, bordered by Orangedale Road and Walyunga Street, Lesmurdie.
- (i) “Hugh Sanderson Reserve”—Reserve 34183, location 2824, Warlingham Drive, Lesmurdie.
- (j) SEC Easement Lot 3 Maida Vale Road—eastern side of Roe Highway between Kalamunda and Maida Vale Roads, Maida Vale.
- (k) “Pioneer Park”, Forrestfield—Reserve 41156, the designated area is the unfenced area in the South Eastern corner bordering Hicks Street and Dawson Avenue. Commencement point is the corner of Dawson Avenue and Hicks Street then proceed in a south west direction parallel to Hicks Street for a distance of 360 metres, then proceed in a north west direction 150 metres, then in a north east direction of 370 metres to Dawson Avenue then in a south east direction for 120 metres to the point of commencement.
- (l) SEC easement lot 120 Hale Road, Forrestfield between Holmes Road and Passiflora Drive.
- (m) Reserve 27946 and 27589, The Boulevard, Gooseberry Hill.
- (n) SEC Easement Lot 5 Bickley bordering Palmateer Drive from Halleendale and Lawnbrook Roads.
- (o) “Ray Owen Reserve” Lesmurdie—Reserve 26127. The designated area is the south western corner with the starting point at the corner of Gladys and Willoughby Roads. Proceed in an easterly direction adjacent to Willoughby Road for 238 metres to the boundary of reserve 26126 then proceed along the boundary of this reserve in a northerly direction 203 metres, then a westerly direction of 174 metres to Gladys Road then south west 203 metres to the point of commencement.
- (p) Reserve 32613 Booralie Way and lot 66 Tambulan Road, Maida Vale.
- (q) Reserve 22502 location 5131 Hawtin Road, Maida Vale, corner of Norwood and Hawtin Roads.
- (r) “Old Railway Reserve” Kalamunda—Reserve 40367 between Collins and Lesmurdie Roads.
- (s) “Scott Reserve”, High Wycombe—Reserve 34946. Designated area is south western corner, starting point is at the intersection of Norling and Newburn Roads. Proceed parallel to Newburn Road in an easterly direction for a distance of 81 metres then a northerly direction 81 metres, then a westerly direction of 81 metres to Norling Road, followed by a southerly direction adjacent to Norling Road for 81 metres to the point of commencement.
- (t) “Hartfield Park” Forrestfield—Reserve 17098. Designated area is south of Hartfield Road and the eastern side of Morrison Road. Point of commencement is 160 metres south east of the intersection of Morrison and Hartfield Roads then proceed 140 metres south east along Hartfield Road to the boundary of Darling Range Pony Club, then in a south west direction 400 metres, then in a north west direction 400 metres to Morrison Road, then east 145 metres then north east 110 metres then south east 123 metres, then north east 66 metres, then south east 40 metres, then 120 metres north east to the point of commencement.
- (u) Reserve 33977 and 36287 Swan Road, High Wycombe.

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 3 are offences in relation to which a modified penalty may be imposed.

(2) The amount appearing in the third column of Schedule 3 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 3 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 4.2)

LOCAL LAWS RELATING TO DOGS**APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT**

I/we (full name)

of (postal address)

(telephone number)

(facsimile number)

(E-mail address)

Apply for a licence for an approved kennel establishment at (address of premises)

For (number and breed of dogs)

* (insert name of person) will be residing at the premises on and from (insert date)

* (insert name of person) will be residing (sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare) at (insert address of residence) on and from (insert date).

Attached are—

(a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;

- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) written evidence that a person will reside—
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as, in the keeping of dogs at the proposed kennel establishment.

Signature of applicant

Date

* delete where inapplicable.

Note: a licence if issued will have effect for a period of 12 months—section 27.5 of the Dog Act.

OFFICE USE ONLY

Application fee paid on *[insert date]*.

Schedule 2

(Clause 4.8(1))

CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

An application for a licence for an approved kennel establishment may be approved subject to the following conditions—

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than—
 - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be—
 - (i) at least 100mm above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;

- (h) the kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of—
 - (i) 2m; or
 - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorized person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside—
 - (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

Schedule 3

(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)&(c)	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	50	200
4.9	Failing to comply with the conditions of a licence	100	200
5.1(2)	Dog in place from which prohibited absolutely	200	400

Dated this 20th day of August 2001.

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

ELIZABETH TAYLOR, Shire President.
DAVID VAUGHAN, Chief Executive Officer.



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