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HEALTH ACT 1911

CITY OF BAYSWATER

HEALTH LOCAL LAWS 2001

**HEALTH (EATING-HOUSES) LOCAL
LAWS 2001**

**HEALTH (ITINERANT FOOD
VENDORS) LOCAL LAWS 2001**

HEALTH ACT 1911

CITY OF BAYSWATER

HEALTH LOCAL LAWS 2001

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HEALTH ACT 1911

CITY OF BAYSWATER

HEALTH LOCAL LAWS 2001

Made by the Council of the City of Bayswater under section 342 of the *Health Act 1911* in accordance with subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995*.

PART 1—PRELIMINARY**1.1 Citation**

These local laws may be cited as the “City of Bayswater Health Local Laws 2001”.

1.2 Repeal

- (1) The Health Local Laws adopted by the City of Bayswater and published in the *Government Gazette* on 24 January 1919, and amended from time to time, are repealed.
- (2) The Health Local Laws adopted by the City of Bayswater and published in the *Government Gazette* on 20 April 1945, and amended from time to time, are repealed.
- (3) The Health Local Laws adopted by the City of Bayswater on 29 October 1956 and published in the *Government Gazette* on 13 February 1957, and amended from time to time, are repealed.
- (4) The Health Local Laws adopted by the City of Bayswater on 8 April 1964 and published in the *Government Gazette* on 21 July 1964, and amended from time to time, are repealed.

1.3 Interpretation

- (1) In these Local Laws, unless the context otherwise requires—

“Act” means the *Health Act 1911* and includes subsidiary legislation made under the *Health Act 1911*;

“adequate supply of water” means a flow of water of not less than 4.56 litres per minute;

“approved” means approved by the Principal Environmental Health Officer;

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

“Building Code” means the latest edition of the Building Code of Australia published from time to time by, or on behalf of, the Australian Building Codes Board, as amended from time to time, but not including explanatory information published with that Code;

“Chief Executive Officer” means the Chief Executive Officer of the City of Bayswater and includes an Acting Chief Executive Officer;

“Council” means the Council of the City of Bayswater;

“district” means the district of the City of Bayswater and includes any area placed under the jurisdiction of the Council pursuant to section 22 of the Act;

“dwelling house” means a place of residence containing at least one sleeping room and includes a room or outbuilding separate from, but ancillary to, the building in which the sleeping room is located;

“Environmental Health Officer” means an Environmental Health Officer appointed by the local government under the Act;

“habitable room” means a room used for normal domestic activities, and—

- (a) includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, play-room, family room and sun-room; but
- (b) excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, lobby, photographic dark room, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods;

“house” in these Local Laws shall be the same as the definition given in Part 1 Section 3 of the *Health Act 1911*;

“hot water” means water at a temperature of at least 75 degrees Celsius;

“local government” means the City of Bayswater;

“Medical Officer” means the Medical Officer appointed by the Council under the Act and includes an Acting Medical Officer so appointed;

“Principal Environmental Health Officer” means an Environmental Health Officer appointed by the local government to the office of Principal Environmental Health Officer and includes an Acting Principal Environmental Health Officer;

“public place” includes every place to which the public ordinarily have access, whether by payment of a fee or not;

“sanitary convenience” includes urinals, water-closets, latrines, sinks, baths, showers, wash troughs, apparatus for the treatment of sewage or other receptacle for the deposit of faecal matter and urine and all similar conveniences;

“sewage” means any kind of sewage, faecal matter or urine, and any waste composed wholly or in part of liquid;

“sewer” includes sewers and drains of every description, except drains to which the word “drain” as defined in the Act applies, also water channels constructed of stone, brick, concrete, or any other material, including the property of a local government;

“street” includes any highway, and any public bridge, and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

“toilet” means a water closet, latrine or urinal and includes a room or cubicle in which one or more of these is located;

“water” means drinking water within the meaning of the Guidelines for Drinking Water Quality In Australia—1996, as published by the National Health and Medical Research Council and amended and endorsed by the Minister from time to time; and

“window” means a glass panel, roof light, glass brick, glass louvre, glazed sash, glazed door, or other device which transmits natural light directly from outside a building to the room concerned when in the closed position.

(2) Where in these Local Laws, a duty or liability is imposed on an “owner or occupier”, the duty or liability shall be deemed to be imposed jointly and severally on each of the “owner or occupier”.

(3) Where under these Local Laws an act is required to be done or forbidden to be done in relation to any premises, the owner or occupier of those premises has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.

(4) These Local Laws shall be construed subject to the limits of the power of the Council of the City of Bayswater and so as not to exceed that power to the intent that where any provision of these Local Laws, but for this clause, would be construed as being in excess of that power, it shall nevertheless be valid to the extent to which it is not in excess of that power.

(5) Save where defined herein, where words and phrases used in these Local Laws are defined or used in the *Health Act 1911*, those words and phrases have the same meaning unless the context otherwise requires.

PART 2—SANITATION

Division 1—Sanitary Conveniences

2.1 Interpretation

In this Part, unless the context otherwise requires—

“festival” includes a fair, function or event;

“organiser” means a person—

- (a) to whom approval has been granted by the Council or the local government to conduct the festival; or
- (b) responsible for the conduct of the festival;

“public sanitary convenience” means a sanitary convenience to which the public ordinarily have access, whether by payment of a fee or not; and

“temporary sanitary convenience” means a sanitary convenience, temporarily placed for use by—

- (a) patrons in conjunction with a festival; or
- (b) employees at construction sites or the like.

2.2 Dwelling House

(1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house unless it has at least one toilet.

(2) A room in which a toilet is located shall have lighting in accordance with the requirements of the Building Code.

2.3 Premises other than a Dwelling House

(1) The owner of premises other than a dwelling house shall not use or occupy, or permit to be used or occupied, premises other than a dwelling house unless—

- (a) the premises have sanitary conveniences in accordance with the Building Code and this Part;
- (b) the toilets required by these local laws are situated within a reasonable distance and are easily accessible to the persons for whom they are provided; and
- (c) the premises have handbasins—
 - (i) in accordance with the Building Code;
 - (ii) for the use of persons employed or engaged on the premises;

- (iii) provided with an adequate supply of water supplied by taps located over each basin;
 - (iv) separate from any trough, sink or basin used in connection with any process carried out on the premises; and
 - (v) situated within a reasonable distance of the sanitary conveniences and easily accessible to the person for whom they are provided.
- (2) The occupier of premises other than a dwelling house shall ensure that—
- (a) clean toilet paper is available at all times in each cubicle;
 - (b) a sanitary napkin disposal facility is provided in each toilet set aside for the use of females; and
 - (c) each handbasin is provided with—
 - (i) an adequate supply of soap or other hand cleaning substances; and
 - (ii) hand drying facilities, situated adjacent to and visible from the hand basin.

2.4 Outdoor Festivals

- (1) The organiser of an outdoor festival at which not more than 20,000 people are expected to attend shall provide sanitary conveniences in accordance with the following scale—
- (a) for the first 1,000 males—
 - (i) one water closet for each 333;
 - (ii) one urinal stall for each 100; and
 - (iii) one handbasin for each 500;
 - (b) for additional males—
 - (i) one water closet for each 500;
 - (ii) one urinal stall for each 100; and
 - (iii) one handbasin for each 500;
 - (c) for the first 1,000 females—
 - (i) one water closet for each 77; and
 - (ii) one handbasin for each 500; and
 - (d) for additional females—
 - (i) one water closet for each 100; and
 - (ii) one handbasin for each 500.

(2) Where, under subsection (1), the number of a particular sanitary convenience to be provided is not a whole number, that number shall be rounded up to the next higher whole number.

(3) The organiser of an outdoor festival at which more than 20,000 people are expected to attend shall provide sanitary conveniences of a number as directed by the Principal Environmental Health Officer.

2.5 Toilets

Toilets on premises other than a dwelling house shall be maintained in accordance with the following additional requirements—

- (a) toilets for the exclusive use of males shall not adjoin any toilet for the exclusive use of females unless the toilets are separated by a wall extending from floor to ceiling;
- (b) where more than one toilet is provided on the premises, the entrance to each toilet shall bear a suitable sign indicating for which sex its use is intended.

2.6 Temporary Works

A person who undertakes temporary work at any place shall ensure every temporary sanitary convenience is installed and maintained in accordance with the requirements of the *Health (Temporary Sanitary Conveniences) Regulations 1997*.

2.7 Maintenance of Sanitary Conveniences and Fittings

- (1) The occupier of premises shall—
- (a) keep clean, in good condition and repair; and
 - (b) whenever required by an Environmental Health Officer, effectively disinfect and clean,
- all sanitary conveniences including sanitary fittings in or on the premises.
- (2) The owner of premises shall—
- (a) keep or cause to be kept in good repair; and
 - (b) maintain an adequate supply of water to,
- all sanitary conveniences including sanitary fittings in or on the premises.

2.8 Ventilation of Toilets

A toilet in any premises shall be ventilated in accordance with the *Sewerage (Lighting, Ventilation and Construction) Regulations 1971* and the Building Code.

2.9 Public Sanitary Conveniences

- (1) A person shall not—
- (a) foul;
 - (b) damage or vandalise; or

(c) write on or otherwise deface,
a public sanitary convenience or sanitary fixtures or fittings or the premises in or on which the sanitary convenience is located.

(2) A person using a public sanitary convenience shall where the convenience has been provided by the local government and a charge for its use has been levied, forthwith pay that charge.

(3) A person shall not live or sleep in or on the premises in which a public sanitary convenience is located or use it for a purpose other than that for which it was intended.

2.10 Lighting

The owner and occupier of premises in which a sanitary convenience or a public sanitary convenience is located shall provide and maintain adequate electric lighting for persons using the convenience.

2.11 Installation

(1) Every sanitary convenience shall be installed in accordance with the requirements of the *Metropolitan Water Supply Sewerage and Drainage By-Laws 1981* and National Plumbing and Drainage Code AS 3500 and shall have an adequate supply of water.

(2) Every temporary sanitary convenience shall be installed in accordance with the requirements of the *Health (Temporary Sanitary Conveniences) Regulations 1997*.

Division 2—Bathroom, Laundries and Kitchens

2.12 Bathrooms

(1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a bathroom that—

- (a) is lined with an impervious material in accordance with the requirements of Part F 2.4.1 of the Building Code;
- (b) complies with the *Health Act (Laundries and Bathrooms) Regulations*;
- (c) is equipped with—
 - (i) a handbasin; and
 - (ii) either a shower in a shower recess or a bath; and
- (d) is provided with a minimum of 0.015 square metres of fixed permanent ventilation.

(2) All baths, showers, handbasins and similar fittings shall be provided with an adequate supply of hot and cold water.

2.13 Laundries

(1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a laundry that—

- (a) is properly enclosed and roofed;
- (b) is adequately lined with an impervious material;
- (c) is not a room in which food is stored, prepared, served or consumed; and
- (d) is provided with a minimum of 0.015 square metres of fixed permanent ventilation.

(2) In the case of a single occupancy dwelling, the laundry referred to in subsection (1) shall have—

- (a) either—
 - (i) two wash troughs and one copper; or
 - (ii) a washing machine and either a wash trough or a sink; and
- (b) a clothes drying facility comprising either an electric clothes dryer or not less than 20 metres of clothes line erected externally.

(3) All wash troughs, sinks, coppers and washing machines shall be—

- (a) in a laundry and connected to an adequate supply of hot and cold water; and
- (b) properly supported,

and all wash troughs and sinks shall have a capacity of at least 36 litres.

(4) Sole or multiple occupancy units, each being a separate dwelling, shall have—

- (a) laundry facilities, in accordance with the Building Code, for the exclusive use of the occupants of each unit; or
- (b) a separate laundry, with communal laundry facilities in accordance with the Building Code, for up to 4 sole occupancy units that do not have their own laundry facilities.

(5) Where, in any building, a laundry is situated adjacent to a kitchen or a room where food is stored or consumed, the laundry shall be separated from the kitchen by a wall extending from the floor to the roof or ceiling.

(6) Where there is an opening between a laundry and a kitchen or other room where food is stored or consumed, the opening shall—

- (a) not be more than 1220 millimetres wide; and
- (b) have a door which when closed shall completely fill the opening.

2.14 Washing or Keeping of Clothes in Kitchens

A person shall not in any kitchen or other place where food is kept—

- (a) wash or permit to be washed any clothing or bedding; or
- (b) keep or permit to be kept any soiled clothing or bedding.

2.15 Kitchens

(1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a kitchen equipped with—

- (a) an electric, gas, wood or other fuel burning stove;
- (b) an oven of sufficient capacity for the cooking requirements of the usual occupants of the house and not less than a minimum capacity of 0.03 cubic metres; and
- (c) a sink which shall—
 - (i) be at least 380 millimetres long, 300 millimetres wide and 150 millimetres deep; and
 - (ii) have an adequate supply of hot and cold water.

(2) The occupier of a dwelling house shall ensure that the stove, oven and sink are kept clean, in good order and repair and fit for use.

(3) A cooking facility shall—

- (a) be installed in accordance with the requirements of the Office of Energy; and
- (b) not be installed or used in any room other than a kitchen.

(4) (a) A kitchen shall be provided with mechanical exhaust ventilation directly above the cooking facility and the exhaust air shall be—

- (i) carried to the outside air as directly as practicable; and
- (ii) boxed throughout; or

(b) An alternative ventilation system, to the satisfaction of the Principal Environmental Health Officer, may be provided, where the Principal Environmental Health Officer is satisfied that the alternative method does not give rise to any health nuisance.

(5) In this section, a “cooking facility” includes a stove, oven, facility or appliance used for or in connection with the cooking of food.

2.16 Floor of Wet Areas

The floor of every bathroom, ensuite, laundry, toilet and any other ablution area within the building shall be properly surfaced, impervious to water and evenly graded to an approved floor waste outlet.

PART 3—HOUSING AND GENERAL*Division 1—Maintenance of Houses***3.1 Dwelling House Maintenance**

The owner or occupier of a dwelling house shall maintain the dwelling house and any appurtenant buildings in sound condition and fit for use and, in particular, shall—

- (a) maintain all roofs, guttering and downpipes in sound weatherproof condition;
- (b) maintain any footings, foundations and walls, either external or internal, in a sound condition;
- (c) replace any missing, broken, decayed or termite-eaten timber or other deteriorated material in any veranda, roof, walls, steps, handrails, floors or their supports with material of sound quality;
- (d) comply with the directions of an Environmental Health Officer to treat the premises for the purpose of destroying any termites;
- (e) maintain any brick, stone, mortar or cement work in a sound condition;
- (f) maintain, repair or replace any flashings or ant caps that are missing or defective;
- (g) maintain all ventilators in good order and repair;
- (h) maintain all floors even in surface and free from cracks;
- (i) maintain all ceilings, internal wall finishes, skirtings, architraves and other fixtures and fittings complete and with smooth unbroken surfaces;
- (j) maintain all doors and windows in good working order and weatherproof condition;
- (k) retain all natural lighting free from any obstruction which would reduce the natural lighting, below the ratio of 10% of the floor area;
- (l) maintain all pipes, fittings and fixtures connected with water supply, drainage or sewerage so that they comply in all respects with the provisions of the *Metropolitan Water Supply, Sewerage and Drainage By-Laws*, National Plumbing Code, *Treatment of Sewage and Disposal of Effluent and Liquid Waste Regulations* and any other legal requirements to which they are subject; and
- (m) maintain all electric wiring, gas services and fittings so as to comply in all respects with the requirements of the Office of Energy.

3.2 Maintenance of Guttering and Downpipes and Disposal of Rainwater

The owner or occupier of a house shall—

- (a) maintain all guttering, downpipes and drains on the premises in a good state of repair, clean and free from obstruction; and
- (b) not permit any rainwater from the premises to discharge onto or over a footpath, street or other property.

*Division 2—Ventilation of Houses***3.3 Exemption for Short Term Hostels and Recreational Campsites**

This Division shall not apply to short term hostels and recreational campsites referred to in Division 2 of Part 8.

3.4 Overcrowding

The owner or occupier of a house shall not permit—

- (a) a room in the house that is not a habitable room to be used for sleeping purposes; or
- (b) a habitable room in the house to be used for sleeping purposes unless—
 - (i) for every person over the age of 10 years using the room there is at least 14 cubic metres of air space per person; and
 - (ii) for every person between the ages of 1 and 10 years there is at least 8 cubic metres of air space per person; or
- (c) any garage or shed to be used for sleeping purposes.

3.5 Calculation of Sufficient Space

For the purpose of section 3.4, in calculating the space required for each person—

- (a) each room shall be considered separately and sufficient space shall be allowed in each room for the number of persons present in the room at any one time; and
- (b) a deduction shall be made for the space occupied by furniture, fittings and projections of the walls into a room.

3.6 Ventilation

(1) A person shall not use or occupy, or permit to be used or occupied, a house unless the house is properly ventilated.

(2) For the purpose of subsection (1) a house shall be deemed to be properly ventilated if it complies with the *Sewerage (Lighting, Ventilation and Construction) Regulations 1971* and the Building Code, including the provision of—

- (a) natural ventilation; or
- (b) a mechanical ventilation or air-conditioning system complying with AS1668.2.

(3) The owner of a house provided with a mechanical ventilation or air-conditioning system shall ensure that the system is—

- (a) maintained in good working condition and in accordance with AS3666-1989; and
- (b) in use at all times the building is occupied, if it is a building without approved natural ventilation.

(4) If, in the opinion of the Principal Environmental Health Officer, a house is not properly ventilated, the local government may by notice require the owner of the house to—

- (a) provide a different, or additional method of ventilation; or
- (b) cease using the house until it is properly ventilated.

(5) The owner shall comply with a notice under subsection (4).

3.7 Sub-Floor Ventilation

The owner or occupier of a house shall ensure that air bricks and other openings are kept clear of refuse, vegetation, building materials, dirt and the like.

*Division 3—Water Supply***3.8 Water Supply**

(1) The owner of a house shall ensure that it is connected with a separate and independent water supply from the mains of the licensed water service operator or a water supply to the satisfaction of the local government.

(2) The water supply shall at all times deliver an adequate supply of drinking water to each tap in the house or on the site on which the house is located.

3.9 Rain Water Tanks

The owner or occupier of a house for which part of the water supply is drawn from a rain water tank shall—

- (a) maintain in a clean condition—
 - (i) the roof forming the catchment for the tank; and
 - (ii) the guttering and downpipes appurtenant to the roof;

- (b) ensure that each rain water tank is fitted with a tight fitting mosquito proof cover which shall not be removed at any time except for the purpose of cleaning, repairing or maintaining the tank;
- (c) at least once in each year, thoroughly clean any tank from which water is used for human consumption;
- (d) when directed by an Environmental Health Officer, empty, clean and disinfect any tank upon the premises, from which water is used for human consumption.

3.10 Wells

The owner or occupier of any premises shall not use or permit for human consumption the use of the water of any bore or well unless the bore or well is—

- (a) at least 30 metres from any soak well or other possible source of pollution unless otherwise approved by the Executive Director of Public Health; and
- (b) covered with a tight-fitting cover without openings of any sort other than those essential for the insertion of a pump.

3.11 Pollution

A person shall not deposit on or under any land, any sewage, offensive matter or any other thing that may pollute or render unfit for human consumption, water from a well or other underground source.

Division 4—Second-hand Furniture, Bedding and Clothing

3.12 Prohibition on Sale

A person shall not offer for sale or sell any second-hand furniture, bedding or clothing that is filthy or infested with vectors of disease.

3.13 Prohibition of Possession

A dealer in second-hand furniture, bedding or clothing shall not have on any premises used for the operation of the business any second-hand furniture, bedding or clothing which is filthy or infested with vectors of disease.

Division 5—Morgues

3.14 Licensing of Morgues

- (1) All morgues, except those conducted by a public hospital, local government or the Police Service, are required to be licensed.
- (2) The annual fee for a licence for a place for the temporary reception and keeping of the bodies of the dead awaiting burial or cremation is as fixed from time to time by Council under Section 344C of the Act.
- (3) A licence shall—
 - (a) be applied for in the form set out in Schedule 8;
 - (b) be in the form set out in Schedule 9; and
 - (c) expire on 31 December next after the date of its issue.
- (4) A licence shall not be granted in respect of any premises unless—
 - (a) provision has been made for the keeping of the bodies of the dead at a temperature not exceeding zero degrees Celsius;
 - (b) the walls are constructed of stone or brickwork or other approved material;
 - (c) the interior surface of all walls is covered with glazed tiles or is rendered impervious so as to be non-absorbent and washable;
 - (d) all floors are constructed of some impervious material, having a fall to an outlet discharging over a trapped gully; and
 - (e) the premises are adequately ventilated by direct communication with the outside air.

PART 4—WASTE FOOD AND REFUSE

Division 1—Liquid Refuse

4.1 Interpretation

In this division, unless the context otherwise requires—

“liquid refuse” includes all washings from windows and vehicles; overflow, bleed off, condensate and drainage from air conditioning equipment including cooling towers and evaporative coolers and any other liquid used for cooling purposes; and swimming pool discharges;

4.2 Deposit of Liquid Refuse

A person shall not deposit or cause or permit to be deposited liquid refuse—

- (a) on a street;
- (b) in a stormwater disposal system; or
- (c) on any land or place other than a place or depot duly authorised for that purpose.

*Division 2—Disposal of Refuse***4.3 Interpretation**

In this division, unless the context otherwise requires—

“building line” has the meaning given to it in and for the purposes of the *Local Government (Miscellaneous Provisions) Act 1960*;

“collection day” means the day of the week on which rubbish and refuse is collected and removed by the local government or its contractor;

“collection time”, where used in connection with any premises, means the time when rubbish or refuse is collected and removed from the premises by the local government or its contractor;

“commercial waste” means refuse and other rubbish generated by or emanating from commercial premises and includes trade refuse;

“domestic waste” means refuse and other rubbish generated by or emanating from residential premises;

“public place” includes a street, way and place which the public are allowed to use, whether the street, way or place is or is not on private property;

“rubbish or refuse” includes any filth, dirt, ashes, vegetation, garden refuse, waste material, waste food, sludge, offensive matter, cinders, wood or metal shavings and sawdust but does not include liquid waste or liquid refuse;

“refuse disposal site” means land set apart by the Council under the Act as a site for the deposit of rubbish or refuse;

“receptacle”, where used in connection with any premises, means—

- (a) a polyethylene or other approved material cart fitted with wheels, a handle and a lid and having a capacity of at least 120 litres; or
- (b) a container provided by the local government or its contractor for the deposit, collection or recycling of specific materials; or
- (c) other type of receptacle specified or approved by the local government; and supplied to the premises by the local government or its contractor;

“street” includes—

- a highway; and
- a thoroughfare;

which the public are allowed to use;

and includes every part of the highway or thoroughfare, and other things including bridges and culverts, appurtenant to it;

“street alignment” means the boundary between the land comprising a street and the land that abuts thereon, but where a new street alignment is prescribed under the *Local Government (Miscellaneous Provisions) Act 1960*, means the new street alignment so prescribed; and

“waste” means commercial waste or domestic waste or both as the context requires.

4.4 Prescribed Area—Section 112A of the Health Act 1911

The whole of the district of the City of Bayswater as defined by the City of Bayswater Town Planning Scheme No.21 gazetted on 16 September 1988 and amended from time to time is the prescribed area for the purposes of Section 112A of the Act.

4.5 Receptacles

(1) An owner or occupier of premises shall—

- (a) at all times keep the lid of the receptacle closed except when depositing rubbish or refuse or cleaning the receptacle;
- (b) except for a reasonable period before and after collection time, keep the receptacle on the premises and located—
 - (i) behind the building line and so as not to be visible from a street or public place; or
 - (ii) in such other position as is approved by the Principal Environmental Health Officer;
- (c) within a reasonable period prior to collection time, place the receptacle as close as practicable to 0.5 metres from the street alignment of the premises and so that it does not obstruct any footpath, cycle way, right-of-way or carriage way;
- (d) if the receptacle is lost, stolen, damaged or defective, notify the local government within 7 days after the event; and
- (e) ensure that the premises is provided with an adequate number of receptacles;
- (f) ensure that no rubbish, refuse, litter or recyclable materials are deposited on public or private property for collection by the local government staff or the local government’s contractor unless authorised by the Principal Environmental Health Officer.

(2) Where receptacles or containers are to be serviced by the local government’s Contractor on properties consisting of three or more residential units, a hard-paved area of 1.5 metres by 1.5 metres for each unit is to be provided immediately adjoining the street alignment.

4.6 Exemption

(1) An owner or occupier of premises may apply in writing to the local government for an exemption from compliance with the requirements of subsections 4.5 (1) (b) or (c).

(2) The local government may grant or refuse, with or without conditions, an application for exemption from compliance under this section.

(3) An exemption granted under this section shall state—

- (a) the premises to which the exemption applies;
- (b) the period during which the exemption applies; and
- (c) any conditions imposed by the local government.

(4) An exemption granted under this section shall cease to apply if and when the person to whom it is granted fails to comply with a condition of the exemption.

4.7 Use of Receptacles

An owner or occupier of premises shall—

(1) Not deposit or permit to be deposited in a receptacle—

- (a) more than 70 kilograms of rubbish or refuse;
- (b) hot or burning ash;
- (c) oil, motor spirit or other flammable liquid;
- (d) liquid, liquid paint or other solvent;
- (e) bricks, concrete, building rubble, asbestos, earth or other like substances;
- (f) drugs, dressings, bandages, swabs or blood samples unless placed in a sealed impervious and leak-proof container;
- (g) hospital, medical, veterinary, laboratory or pathological substances containing blood unless placed in a sealed, impervious and leak-proof container;
- (h) syringes, needles, surgical hardware, broken glass, sharps or other sharp objects unless placed in a sealed, impervious, leak-proof and impenetrable container;
- (i) cytotoxics, radioactive substances and dangerous chemicals;
- (j) sewage, manure, faeces or urine;
- (k) any object which is greater in length, width, or breadth than the corresponding dimension of the receptacle or which will not allow the lid of the receptacle to be tightly closed; or
- (l) rubbish or refuse which is or is likely to become offensive or a nuisance, or give off an offensive or noxious odour, or to attract flies or cause fly breeding unless it is first wrapped in non-absorbent or impervious material or placed in a sealed impervious container.

(2) Unless authorised by the Principal Environmental Health Officer, not mark or disfigure the receptacle in any manner other than by the placement of a street number or other identifying mark.

(3) At all times keep the receptacle in a clean condition.

(4) Whenever directed to do so by an Environmental Health Officer, thoroughly clean, disinfect, deodorise and apply a residual insecticide to the receptacle.

(5) Take all reasonable steps to prevent—

- (a) fly breeding and keep the receptacle free of flies, maggots, cockroaches, rodents and other vectors of disease; and
- (b) the emission of offensive and noxious odours from the receptacle.

(6) Ensure that the receptacle does not cause a nuisance to the occupiers of adjoining premises.

4.8 Damage to Receptacles

A person, other than the local government or its contractor, shall not—

- (a) damage, destroy or interfere with a receptacle; or
- (b) except as permitted by these local laws or as authorised by an Environmental Health Officer, remove a receptacle from any premises to which it was delivered by the local government or its contractor.

4.9 Use of Other Containers

(1) In the case of premises consisting of more than 3 dwellings, any premises used for commercial or industrial purposes or as a food premises, the Principal Environmental Health Officer may authorise rubbish or refuse to be deposited in a container other than a receptacle.

(2) The owner or occupier of premises who is authorised under this section to deposit rubbish or refuse in a container shall—

- (a) unless approved by the Principal Environmental Health Officer, not deposit or permit to be deposited in the container anything specified in subsection 4.9 (1);
- (b) take all reasonable steps to prevent—
 - (i) fly breeding and keep the container free of flies, maggots, cockroaches, rodents and other vectors of disease; and
 - (ii) the emission of offensive and noxious odours from the container;
- (c) whenever directed by an Environmental Health officer to do so, thoroughly clean, disinfect, deodorise and apply a residual insecticide to the container;
- (d) cause the container to be located on the premises in an enclosure constructed and located as approved by the Principal Environmental Health Officer;
- (e) ensure that the container is not visible from the street but is readily accessible for the purposes of collection;

- (f) ensure that the container does not cause a nuisance to an occupier of adjoining or nearby premises; and
 - (g) ensure that rubbish or refuse which is or is likely to become offensive or a nuisance, or give off an offensive or noxious odour, or to attract flies or cause fly breeding is first wrapped in non-absorbent or impervious material or placed in a sealed impervious container;
- (3) An owner or occupier shall—
- (a) provide a sufficient number of containers to contain all rubbish and refuse which accumulates or may accumulate in or from the premises;
 - (b) ensure that each container on the premises—
 - (i) has a close fitting lid;
 - (ii) is constructed of non-absorbent and non-corrosive material; and
 - (iii) is clearly marked, for the use of, and is used only for, the temporary deposit of rubbish or refuse;
 - (c) keep or cause to be kept each container thoroughly clean and in good condition and repair;
 - (d) place any rubbish or refuse in, and only in, a container marked for that purpose;
 - (e) keep the cover of each container closed except when it is necessary to place something in, or remove something from, it; and
 - (f) ensure that the containers are emptied at least weekly or as directed by an Environmental Health Officer.

4.10 Suitable Enclosure

- (1) An owner or occupier of premises—
- (a) consisting of more than 3 dwellings that have not been provided with individual receptacles; or
 - (b) used for commercial or industrial purposes or as a food premises;
 - (c) if required by the Principal Environmental Health Officer shall—
 - (i) provide a suitable enclosure for the storage and cleaning of receptacles or other containers on the premises; and
 - (ii) install in the enclosure a tap connected to an adequate supply of water.
- (2) An owner or occupier of premises required to provide a suitable enclosure under this section shall keep the enclosure thoroughly clean and disinfected.
- (3) For the purposes of this section, a "suitable enclosure" means an enclosure—
- (a) of sufficient size to accommodate all receptacles or other containers used on the premises but in any event having a floor area not less than a size approved by the Principal Environmental Health Officer;
 - (b) having walls constructed of brick or concrete or other material of suitable thickness approved by the Principal Environmental Health Officer;
 - (c) having walls which will adequately screen the receptacles or containers and not less than 1.8 metres in height and having an access way of adequate width to allow the removal of receptacles or other containers for collection and not less than 1 metre in width and fitted with a self closing gate;
 - (d) containing a smooth and impervious concrete floor—
 - (i) of not less than 100 millimetres in thickness; and
 - (ii) which is evenly graded to a liquid refuse disposal system approved by the Principal Environmental Health Officer; and
 - (e) which is easily accessible to allow for the removal, emptying and cleaning of the receptacles or other containers.

4.11 Deposit of Refuse

- (1) A person shall not deposit or cause or permit to be deposited any rubbish or refuse in or on any street or on any land other than a refuse disposal site.
- (2) A person shall not deposit rubbish or refuse in or on a refuse disposal site except—
- (a) at such place on the site as may be directed by the person in charge of the site; or
 - (b) if the person in charge is not in attendance at the site, as may be directed by a notice erected on the site.

4.12 Removal of Rubbish or Refuse from Refuse Disposal Site

- (1) A person shall not remove any rubbish or refuse from a refuse disposal site without the written approval of the local government or the local government's contractor managing the site.
- (2) A person who obtains approval from the local government or the local government's contractor shall comply with any conditions imposed by the local government or its contractor and set out in the approval.

4.13 Removal of Rubbish from Premises or Receptacles

- (1) A person shall not remove any rubbish or refuse from premises unless that person is—
- (a) the owner or occupier of the premises;
 - (b) authorised to do so by the owner or occupier of the premises; or
 - (c) authorised in writing to do so by the local government.

(2) A person shall not, without the approval of the local government or the owner of a receptacle or other container, remove any rubbish or refuse from the receptacle or other container provided for the use of the general public in a public place.

4.14 Burning Rubbish or Refuse

(1) A person shall not—

- (a) without the written approval of the Principal Environmental Health Officer; and
- (b) except in accordance with the terms and conditions to which the approval is subject,

set fire to, or cause to be set on fire, any rubbish or refuse either in any incinerator, barbecue, wood fired stove or on the ground.

(2) Subject to subsection (3), an approval of the Principal Environmental Health Officer is issued subject to the following conditions—

- (a) the material to be burnt—
 - (i) does not include any plastic, rubber, food scraps, green garden cuttings or other material that is offensive when burnt; and
 - (ii) is of such quantity, or of such a nature, as not to be suitable for removal by the local government's refuse collection service;
- (b) there is no other appropriate means of disposal;
- (c) burning shall not take place—
 - (i) during any period for which an air dispersion alert has been issued by the Bureau of Meteorology; or
 - (ii) where there is no current dispersion alert, outside the hours of 10.00 am to 3.00 pm;
 - (iii) at times designated by the Bureau of Meteorology as Very High or Extreme Fire Danger; and
- (d) an incinerator used for fire must be located—
 - (i) at least 2 metres from a fence or building; and
 - (ii) in such a position so as not to create a nuisance or be offensive to other persons.

(3) Subject to the provisions of the *Bush Fires Act 1954*, it is prohibited to clear by burning any fire breaks, vacant lots or other land of grass, straw, hay, undergrowth, herbage and other vegetation whether alive or dead and standing or not standing, without written approval of the local government.

4.15 Removal of Rubbish from Building Sites

(1) During all periods of construction on any building site—

- (a) The builder shall provide and maintain on the site a rubbish disposal bin of sufficient capacity to enable all waste generated on site to be effectively disposed of;
- (b) The builder shall keep the site free of rubbish and offensive material, whether temporary or otherwise;
- (c) The builder shall maintain the street verge immediately adjacent to the site free of rubbish and offensive matter, whether temporary or otherwise;
- (d) The builder shall on completion of construction immediately clear the site and the street verge adjacent thereto of all rubbish and offensive matter and shall remove therefrom all or any rubbish disposal bins thereon by the builder.

(2) In this section the word "rubbish" shall include stones, bricks, lime, timber, iron, tiles, bags, plastics and any broken, disused or discarded matter whatsoever.

Division 3—Transport of Butchers' Waste

4.16 Interpretation

In this Division, unless the context otherwise requires—

"butchers' waste" includes animal skeletons, rib cages and the products of a slaughterhouse or boning room.

4.17 Restriction of Vehicles

A person shall not use, for the transport of butchers' waste—

- (a) a vehicle used for the transport of food or drugs; or
- (b) anything intended to be used for the packing or handling of food or drugs.

4.18 Transport of Butchers' Waste

(1) A person shall not transport butchers' waste otherwise than in—

- (a) a compartment complying with the following specifications—
 - (i) the floor and 4 walls to be made of impervious materials and the walls to be not less than 910 millimetres high;
 - (ii) all joints to be made watertight;
 - (iii) the loading doors, if any, to be water-tight and kept closed at all times except when loading; and
 - (iv) the top to be completely covered by a tarpaulin or other impervious sheet material

approved by the Principal Environmental Health Officer, carried over, and secured to the outside of the walls at least 300 millimetres from the top so as to keep the load out of sight of the public; or

- (b) a watertight durable container fitted with a lid that can be tightly closed.
- (2) A person shall not transport any butchers' waste in a vehicle unless the vehicle and its fittings, including the compartment or container referred to in this section, are—
 - (a) maintained in good order and condition; and
 - (b) thoroughly cleaned at the conclusion of each day's work.
- (3) A person shall not load, transport, or unload butchers' waste in a manner that is or may be offensive due to—
 - (a) the sight of animal skeletons, bones, offal or waste matter;
 - (b) the odour of putrefaction, offal or waste matter; or
 - (c) the presence of blood and particles of flesh or fat dropping onto the surface of the street pavement or ground.

PART 5—NUISANCES AND GENERAL

Division 1—Nuisances

5.1 Interpretation

In this Division, unless the context otherwise requires—

“fertiliser” includes manure.

5.2 Footpaths etc, to be Kept Clean

An owner or occupier of premises shall maintain any footpath, pavement, area or right of way immediately adjacent to the premises clean and clear from their refuse and belongings.

5.3 Escape of Smoke etc.

(1) Subject to subsection (2), an owner or occupier of premises shall not cause or permit the escape of smoke, dust, fumes, offensive or foul odours, liquid waste or liquid refuse from the premises in such quantity or of such a nature as to cause or to be a nuisance.

(2) Subsection (1) does not apply to smoke from the chimney of a private dwelling house.

5.4 Public Vehicles to be Kept Clean

The owner or person in control of a public vehicle shall—

- (a) maintain the vehicle at all times—
 - (i) in a clean condition; and
 - (ii) free from vectors of disease; and
- (b) whenever directed to do so by an Environmental Health Officer, thoroughly clean and disinfect the vehicle as directed.

5.5 Prohibition Against Spitting

A person shall not spit—

- (a) on a footpath, street or public place; or
- (b) in a train, bus or other public transport.

5.6 Transportation, Use and Storage of Offal or Blood

A person shall not transport or store offal or blood, for the purpose of being used as manure, unless it has been sterilised by steam and properly dried.

5.7 Use or Storage of Fertiliser

An owner or occupier of premises shall not use or keep for the purpose of use as fertiliser any—

- (a) pig manure;
- (b) human faeces; or
- (c) urine.

5.8 Storage and Despatch of Artificial Fertiliser

An owner or occupier of premises where artificial fertiliser is stored in bulk for sale shall—

- (a) keep all artificial fertiliser in a building—
 - (i) of which the walls, floors and ceilings or undersides of the roof are constructed of durable and non-absorbent materials finished internally with a smooth surface; and
 - (ii) free from damp and properly ventilated;
- (b) take proper precautions to prevent the emission of dust or offensive effluvia from the building; and
- (c) ensure that all artificial fertiliser despatched from the premises is packed in such a manner as to prevent any nuisance arising during transit.

5.9 Storage of Fertiliser

(1) The owner or occupier of premises where fertiliser or compost is stored or used shall—

- (a) prevent the escape of odours, dust or particles of fertiliser or compost;
- (b) treat the fertiliser or compost in such a manner as to effectively prevent it attracting or being

- a breeding place for flies or other vectors of disease; and
 - (c) store only such amounts of fertiliser or compost—
 - (i) as can be readily used within a reasonable period; or
 - (ii) as may be directed by the Principal Environmental Health Officer.
- (2) No person shall store fertiliser or compost inside a dwelling house.

Division 2—Keeping of Animals

5.10 Cleanliness

An owner or occupier of premises in or on which a dog, cat or other animal or bird is kept shall—

- (a) keep the premises free from excrement, filth, food waste and all other matter which is or is likely to become offensive or injurious to health or to attract rats or other vectors of disease;
- (b) when so directed by an Environmental Health Officer, clean and disinfect the premises; and
- (c) keep the premises, so far as possible, free from flies or other vectors of disease by spraying with a residual insecticide or other effective means.

5.11 Animal Enclosures

(1) A person shall not keep or cause or permit to be kept any animals or birds on premises which are not effectively drained or of which the drainage flows to the walls or foundations of any building.

(2) The owner or occupier of premises where animals or birds are kept shall, when directed by the Principal Environmental Health Officer, pave, grade and drain the floors of all structures and the surface of the ground of all enclosures used for the keeping of animals or birds.

5.12 Slaughter of Animals

(1) Subject to subsection (2), a person shall not slaughter any animal within the district.

(2) Subsection (1) does not apply to euthanasia of animals by veterinarians or other duly authorised persons, slaughter of meat for pet or game meat and slaughter of animals for human consumption in local government approved abattoirs.

5.13 Disposal of Dead Animals

(1) An owner or occupier of premises on which there is a dead animal shall immediately remove the carcass and arrange for its disposal at an approved disposal site.

(2) An owner, or a person having the care, of any animal that dies or is killed in a public or private place shall immediately remove the carcass and arrange for its disposal at an approved disposal site.

Division 3—Keeping of Large Animals

5.14 Interpretation

In this Division, unless the context otherwise requires—

“approved animal” means a horse, cow or large animal that is the subject of an approval by the local government under section 5.15;

“cow” includes an ox, calf or bull;

“horse” includes an ass, mule, donkey or pony; and

“large animal” includes a pig, sheep or goat.

5.15 Stables

(1) An owner or occupier of premises shall not keep a horse, cow or large animal on those premises without the written approval of the Council.

(2) An owner or occupier of premises who has approval to keep a horse, cow or large animal shall provide for its use a stable which shall—

- (a) not be situated within 15 metres of a house or other premises;
- (b) have a proper separate stall—
 - (i) for each horse or cow; and
 - (ii) the floor area of which shall be a minimum of 6 square metres;
- (c) have each wall and roof constructed of an impervious material;
- (d) have on all sides of the building between the wall and the roof a clear opening of at least 150 millimetres in height;
- (e) have a floor, the upper surface of which shall—
 - (i) be raised at least 75 millimetres above the surface of the ground;
 - (ii) be constructed of cement, concrete or other similar impervious materials; and
 - (iii) have a fall of 1 in 100 to a drain that shall empty into a trapped gully situated outside the stable and shall discharge in a manner approved by the Principal Environmental Health Officer.

(3) The owner or occupier of premises on which a stable is located shall—

- (a) maintain the stable in a clean condition and clean, wash and disinfect it when so directed by an Environmental Health Officer;
- (b) keep all parts of the stable so far as possible free from flies or other vectors of disease by

- spraying with a residual insecticide or other effective means; and
- (c) when so ordered by the Principal Environmental Health Officer, spray the stable, or such parts as may be directed, with a residual insecticide.

5.16 Proximity of Animals to a Dwelling House

The owner or occupier of premises shall not permit an approved animal to approach within 15 metres of a dwelling house.

5.17 Manure Receptacles

An owner or occupier of premises on which an approved animal is kept shall—

- (a) provide in a position convenient to the stable a receptacle for manure constructed with a smooth, impervious, durable and easily cleanable surface and provided with a tight-fitting hinged lid;
- (b) keep the lid of the receptacle closed except when manure is being deposited or removed;
- (c) cause the receptacle to be emptied at least once a week and as often as may be necessary to prevent it becoming offensive or a breeding place for flies and other vectors of disease;
- (d) keep the receptacle so far as possible free from flies and other vectors of disease by spraying with a residual insecticide or other effective means; and
- (e) cause all manure produced on the premises to be collected daily and placed in the receptacle.

Division 4—Keeping of Poultry, Pigeons and Cage-birds

5.18 Interpretation

In this Division, unless the context otherwise requires—

“Affiliated Person” means a person who is a member of a Pigeon Club, Cage-bird Club, Poultry Breeding Club or Poultry Breeding Society which is an incorporated body under the *Associations Incorporation Act 1987*;

“cage-birds” include parrots, budgerigars, canaries, finches, quail, doves and other birds kept in cages on residential premises but does not include poultry;

“Code of Practice” means the Code of Practice – Pigeon Keeping and Pigeon Racing, published May 1994, amended from time to time and approved by the Pigeon Racing Federation of WA (Incorporated) and the Independent Racing Pigeon Federation Inc;

“pigeons” includes all breeds of domestic pigeon of the genus *Columba livia domestica*;

“poultry” includes fowls, peafowl, turkeys, geese, ducks and other domestic fowls;

“young birds” includes—

- (a) pigeons under 24 days of age and recognised as birds without feathers on the flesh under their wings;
- (b) cage-birds under 24 days of age and recognised as confined to their nests.

5.19 Limitation on Numbers of Poultry, Pigeons and Cage-birds

(1) An owner or occupier of premises—

- (a) who is not an Affiliated Person, shall not keep more than 20 pigeons and 20 cage-birds, exclusive of young birds, and 12 fowls or 6 ducks;
- (b) who is an Affiliated Person, shall not keep a total of more than 150 pigeons and 150 cage-birds, exclusive of young birds;
- (c) shall not keep any of the following—
 - (i) a goose or gander;
 - (ii) a turkey;
 - (iii) a peacock or peahen.on any one lot of land.

(2) The Principal Environmental Health Officer, may either reduce the approved number of poultry, pigeons or cage-birds kept by an owner or occupier, or ban the keeping of poultry, pigeons or cage-birds by an owner or occupier, if the conditions of this Division are not complied with or if excessive noise is evident.

5.20 Conditions of Keeping Poultry

A person who keeps poultry or permits poultry to be kept shall ensure that—

- (a) no poultry is able to approach within 9 metres of a dwelling, public building or premises where people are employed or where food is stored, prepared, manufactured or sold;
- (b) all poultry are kept in an enclosure not closer than 1.2 metres to any property boundary within which is a properly constructed, weatherproof structure for roosting which shall—
 - (i) allow a minimum of 0.3 square metres of floor area per bird;
 - (ii) have an impervious concrete floor of 50 millimetre minimum thickness with 250 millimetre upstand around and graded to the front to facilitate easy cleaning;
 - (iii) be designed to allow easy access for cleaning; and
 - (iv) have the walls and roof constructed of galvanised iron or other approved material;
- (c) all enclosures and structures in which poultry are kept, including food and water containers, waste receptacles and surrounds are maintained in a clean condition;

- (d) the enclosure shall have an otherwise unobstructed area of at least 20 square metres;
- (e) all wastes including husks, seed, feathers, dead birds and faecal matter shall be placed in plastic or double-lined paper garbage bags and disposed of immediately after collection into an approved receptacle. Such receptacle shall have a tight fitting lid and be inaccessible to flies, rodents and other vectors of disease; and
- (f) the occupier shall clean and disinfect the enclosure, structure and surrounds, and trap or bait flies, rodents and other vectors of disease in accordance with any direction of an Environmental Health Officer.

5.21 Roosters

(1) An owner or occupier of premises shall be permitted to keep one (1) rooster on a property within the City of Bayswater provided it does not breach the *Environmental Protection (Noise) Regulations 1997*.

(2) All complaints regarding noise from roosters shall be in writing to the Principal Environmental Health Officer.

(3) Where the Principal Environmental Health Officer receives a written complaint relating to noise from a crowing rooster noise readings from the property of the complainant shall be taken.

(4) Where the noise from a crowing rooster, substantiated by noise readings taken from the complainant's property, exceeds the acceptable levels determined in the *Environmental Protection (Noise) Regulations 1997*, the owner or occupier of the premises shall remove the rooster within fourteen (14) days of written notification from the Principal Environmental Health Officer.

5.22 Conditions of Keeping Pigeons and Other Cage-birds

A person who keeps, or permits to be kept, pigeons or other cage-birds shall ensure that—

- (a) no pigeons or other cage-birds are able to approach within 9 metres of a dwelling, public building or premises where people are employed or where food is stored, prepared, manufactured or sold;
- (b) the approval of the Principal Environmental Health Officer is obtained before an aviary or loft is kept closer than 9 metres to their dwelling;
- (c) except where registered homing pigeons are freed for exercise, the pigeons and other cage-birds are confined in a properly constructed pigeon cage, aviary or loft;
- (d) no pigeon cage, aviary or loft shall be located nearer than 1.2 metres from the boundary of adjoining properties;
- (e) all structures used to house pigeons and other cage-birds shall be of sound, weatherproof construction, the framework and roost being of smooth sealed timber or metal, the walls and roof to be constructed of galvanised iron or other approved material, and the floor to be constructed in a manner and of a material which will facilitate the hygienic removal of waste matter, husks, seed, feathers, dead birds and faecal matter;
- (f) all cages, aviaries, lofts, surrounds, food and water containers and rubbish receptacles shall be kept clean and maintained in good order and condition at all times;
- (g) all waste, including husks, seed, feathers, dead birds and faecal matter shall be placed in plastic or double lined paper garbage bags and disposed of immediately after collection into an approved receptacle. Such receptacle shall have a tight fitting lid and be inaccessible to flies, rodents and other vectors of disease;
- (h) the occupier shall clean and disinfect cages, aviaries, lofts and surrounds, and trap or bait flies, rodents and other vectors of disease in accordance with any direction of an Environmental Health Officer;
- (i) pigeons registered as homing pigeons may be released for daily exercise and may also be released for organised races and training;
- (j) not more than sixty registered homing pigeons shall be released for exercise or training at any one time;
- (k) the local government may, at its discretion, prohibit an owner or occupier exercising homing pigeons between the hours of 9.00 am and 3.30 p.m. if health or nuisance related problems become evident;
- (l) where there is any discrepancy between this Section relating to the Keeping of Pigeons and other Cage-birds and the Code of Practice, the higher standard of construction and hygiene shall prevail; and
- (m) bird cages, aviaries, lofts and surrounds shall be kept in a clean condition to the satisfaction of an Environmental Health Officer.

5.23 Removal of Non-Conforming Structure or Enclosure

(1) If a structure or enclosure is used for the keeping of poultry, pigeons or cage-birds contrary to the provisions of sections 5.20 and 5.22, the Principal Environmental Health Officer may direct the owner or occupier to remove it.

(2) An owner or occupier shall comply with a direction from the Principal Environmental Health Officer under this Section.

5.24 Restrictions on Pigeon Nesting, Perching and Feeding

(1) The local government may order an owner or occupier of a house in or on which pigeons are, or are in the habit of, nesting or perching to take adequate steps to prevent them continuing to do so.

- (2) An owner or occupier shall comply with the local government's order under this section.
- (3) A person shall not feed a pigeon or other bird roaming at large, so as to cause, or contribute to, a nuisance or be injurious or dangerous to health.

Division 5—Car Parks

5.25 Interpretation

In this Division, unless the context otherwise requires—

- “attendant's booth” means a booth that is positioned inside a car park for the containment of a parking attendant;
- “car park” means premises, or any part of premises, set aside for parking of 3 or more motor vehicles; and
- “owner or occupier” means a person having the charge, management or control of a car park.

5.26 Ventilation

(1) A person shall not use or occupy, or permit to be used or occupied, a car park unless it is ventilated by either—

- (a) natural ventilation; or
- (b) mechanical means,

in accordance with AS1668.2 Part 2 1991.

(2) If, in the opinion of the Principal Environmental Health Officer, a car park is not properly ventilated, the local government may by notice require the owner or occupier within a specified time to—

- (a) provide a different or additional method of ventilation; and
- (b) cease using the car park until it is properly ventilated.

(3) An owner or occupier shall comply with a notice under subsection (2).

5.27 Exhaust Air Discharge Points and Exhaust Registers

An owner or occupier shall ensure that—

- (a) all exhaust air that is discharged from a car park shall be discharged—
 - (i) at discharge points—
 - (A) in accordance with AS1668.2 Part 2 1991; and
 - (B) located so that the hourly average exhaust flow rate is not reduced below the minimum requirement of AS1668.2 Part 2 1991;
 - (ii) at a velocity and in a direction so as not to be a danger to health or a nuisance;
- (b) exhaust registers are located—
 - (i) as far as possible from the source of supply air; and
 - (ii) so as to draw effluent away from staff working in the attendant's booth;
- (c) in the case of a car park having a floor level below that of the external ground level, at least 50% of the required exhaust air is drawn into exhaust registers having their bottom edge located within 100 millimetres of the floor level; and
- (d) any mechanical ventilation system is—
 - (i) maintained in good working condition; and
 - (ii) in operation at all times when the car park is in use.

5.28 Car Park Attendant Booths

(1) An owner or occupier shall ensure that an attendant's booth—

- (a) is provided with a fresh air supply ventilation system—
 - (i) with air flow rates that give a minimum of 40 air changes per hour; and
 - (ii) which is in operation whenever the booth is occupied;
- (b) has intakes for fresh air located and arranged so that under all conditions of normal operation adjacent sources of pollution do not reduce the quality of fresh air;
- (c) has a capacity of not less than 5 cubic metres;
- (d) has all windows and doors, except at the toll taking area opening, closed at all times when an attendant is in the booth; and
- (e) has a toll taking opening that is of a minimum size that is practicably required to carry out the operation of toll paying.

(2) If the Principal Environmental Health Officer believes an attendant's booth is not properly ventilated in accordance with subsection (1), the local government may by notice require the owner or occupier to cease using the booth until it is properly ventilated.

(3) An owner or occupier shall comply with a notice under subsection (2).

PART 6—PEST CONTROL*Division 1—Flies***6.1 Interpretation**

In this Division, unless the context otherwise requires—

“flies” means any of the two-winged insects constituting the order *Diptera* commonly known as flies.

6.2 Fly Breeding Matter not to be left on Premises Unless Covered or Treated

An owner or occupier of premises shall not place, throw or leave, or permit or cause to be placed, thrown or left, in, on, or about the premises any matter or thing which is liable to attract, or be a breeding place for, flies unless that matter or thing is covered, protected, treated or dealt with in such a manner as to effectively prevent it from attracting or being a breeding place for flies.

6.3 Measures to be Taken by an Occupier

An owner or occupier of premises shall ensure that—

- (a) rubbish receptacles are kept clean and tightly sealed at all times except when refuse is being deposited or emptied;
- (b) food scraps and uneaten animal and bird food are wrapped tightly and deposited in a rubbish receptacle without delay;
- (c) lawn clippings used on gardens as mulch are raked out thinly;
- (d) fertilisers are dug well into the soil;
- (e) compost heaps are kept well covered;
- (f) barbecues are kept clean and free from food scraps;
- (g) anything that is buried and may attract or be a breeding place for flies is covered with at least 300 millimetres of soil and compacted; and
- (h) excrement from pets is collected and properly disposed of without delay.

6.4 Officer may Give Notice Directing Measures to be Taken

Where in the opinion of an Environmental Health Officer flies are prevalent or are breeding on any premises, the Officer may give to the owner or occupier of the premises notice in writing directing him or her to take, within the time specified in the notice, such measures as in the opinion of the Officer are necessary to—

- (a) control the prevalence;
- (b) effect the eradication; or
- (c) effectively prevent the breeding

of flies.

6.5 Local Government may Execute Work and Recover Costs

(1) Where—

- (a) a person is required under this Division or directed by a notice given under section 6.4, to execute any work; and
- (b) that person fails or neglects to comply with the requirement,

the local government may execute the work and may recover from that person the cost of executing the work, in addition to any penalty for which that person may be liable under these Local Laws.

(2) The costs and expenses incurred by the local government in the execution of a power under subsection (1) may be recovered in a court of competent jurisdiction from the person referred to in subsection (1).

(3) The local government shall not be liable to pay compensation or damages of any kind to the person referred to in subsection (1) in relation to any action taken by the local government under this section.

*Division 2—Mosquitoes***6.6 Interpretation**

In this Division, unless the context otherwise requires—

“mosquitoes” means any of the two-winged insects constituting the family *Diptera Culicidae* commonly known as mosquitoes.

6.7 Premises to be Kept Free of Mosquito Breeding Matter

An owner or occupier of premises shall keep the premises free of—

- (a) refuse; and
- (b) water located so as to be,

liable to become the breeding place of mosquitoes.

6.8 Measures to be Taken by an Owner or Occupier

An owner or occupier of premises—

- (a) where there is a fountain, pool, pond or excavation of any kind which contains water suitable for the breeding of mosquitoes, shall keep the water—
 - (i) stocked with mosquito predatory fish; or
 - (ii) covered with a film of petroleum oil or other larvicide; and

- (b) where there is a water tank, well, cistern, vat or barrel, shall—
 - (i) keep it protected with a mosquito-proof cover; and
 - (ii) screen all openings, other than the delivery exit, with wire mesh having openings no larger than 1.2 millimetres.

6.9 Measures to be Taken by Occupier

An occupier of premises where water is kept in a horse trough, poultry drinking vessel or other receptacle shall—

- (a) frequently change the water; and
- (b) keep the water clean and free from vegetable matter and slime.

6.10 Removal of Undergrowth or Vegetation

(1) Where it appears to the Principal Environmental Health Officer that there is, on any premises, undergrowth or vegetation likely to harbour mosquitoes, he or she may direct, orally or in writing, the owner or occupier of the premises to cut down and remove within a specified time the undergrowth or vegetation.

(2) An owner or occupier of premises shall comply with a direction from, and within the time allowed by, the Principal Environmental Health Officer under this section.

6.11 Filling in Excavations etc.

Unless written permission to the contrary is obtained from the local government, a person who cuts turf or removes soil or other material from any land shall forthwith ensure that each excavation is filled in with clean sound material and made level with the surrounding surface.

6.12 Drains, Channels and Septic Tanks

An owner or occupier of land shall—

- (a) cause all drains and channels in or on the land to be kept in good order and free from obstruction; and
- (b) where a septic tank is installed on the land—
 - (i) apply an approved larvicide according to the directions on the container, into the septic tank system, whenever directed to do so by an Environmental Health Officer;
 - (ii) provide, and keep in sound condition at all times, wire mesh having openings no larger than 1.2 millimetres covering any inlet vent to the tank.

6.13 Drainage of Land

An owner or occupier of land upon which there is water liable to become a breeding place for mosquitoes shall, when required by the local government, effectively drain the land and, for that purpose, shall—

- (a) make or provide drains on the land;
- (b) remove all irregularities in the surface of the land;
- (c) if necessary, adjust the surface of the land or raise the level of the surface in such a manner that—
 - (i) the water on the land may flow into the drains without obstruction; and
 - (ii) no water shall remain on any portion of the land other than the drains; and
- (d) keep all drains in good order and free from obstruction.

6.14 Swimming Pools

Where there is a swimming pool on any premises where the circulation system does not function, or has not been used such that the pool water is green or stagnant and suitable for the breeding of mosquitoes, the owner or occupier shall when required by a notice issued by an Environmental Health Officer—

- (a) re-activate the pool circulation system within a time specified and operate it so that the water is filtered for as many hours as may be specified; and/or
- (b) chlorinate and adjust pH of the pool to—
 - (i) 4 milligrams per litre free chlorine; and
 - (ii) pH within the range 7.2 to 7.6; or
- (c) empty or drain the pool; or
- (d) pour up to 1 litre of paraffin oil or kerosene onto the water surface of the pool; and
- (e) maintain the pool water free of mosquito breeding;

Division 3—Rodents

6.15 Interpretation

In this Division, unless the context otherwise requires—

“rodents” means those animals belonging to the order *Rodentia* and includes rats and mice but does not include animals (other than rats) kept as pets in an enclosure designed for the purpose of keeping as pets animals of that kind.

6.16 Measures to be Taken to Eradicate Rodents

(1) An owner or occupier of premises shall at all times take effective measures to eradicate any rodents in or on the premises.

(2) Without limiting the generality of subsection (1), an owner or occupier of premises, whenever there are indications of the presence of rodents in, on or about the premises, and while such indications continue, shall—

- (a) take effective measures to keep the premises free from rodents including—
 - (i) protecting food stuffs;
 - (ii) using a rodenticide bait or a properly baited trap; and
 - (iii) preventing rodents having access to water on the premises;
- (b) inspect daily each rodenticide bait or trap used and, whenever a rodent is found, shall—
 - (i) if it is not already dead, kill it immediately; and
 - (ii) dispose of the carcass in such a manner as will not create a nuisance; and
- (c) take whatever measures for the eradication of rodents as an Environmental Health Officer may from time to time direct.

6.17 Waste Food etc. to be Kept in Rodent Proof Receptacles

A person shall not place or caused to be placed in or on any premises, and an owner or occupier of premises shall not permit to remain in or on the premises—

- (a) any waste food, refuse, or other waste matter which might attract rodents to the premises or which might afford harbourage for rodents; or
- (b) any food intended for birds or other animals,

unless it is contained in a rodent proof receptacle or a compartment that is kept effectively protected against access by rodents.

6.18 Restrictions on Materials Affording Harbourage for Rodents

(1) An owner or occupier of premises shall cause—

- (a) any part of the premises; or
- (b) any material, sewer, pipe or other thing in or on the premises,

that might afford access or harbourage to rodents to be altered, repaired, protected, removed or otherwise dealt with so as to prevent it being used as access for, harbourage, of rodents.

(2) An Environmental Health Officer may direct, orally or in writing, an owner or occupier of premises to take whatever action that, in the opinion of the Officer, is necessary or desirable to prevent or deter the presence of rodents in or on the premises.

(3) An owner or occupier shall within the time specified comply with any direction given by an Environmental Health Officer under this section.

6.19 Food premises etc. to be Cleaned After Use

An owner or occupier of a food premises, theatre or place of entertainment, whether indoor or outdoor, shall cause the premises to be cleaned immediately after the last occasion on which the premises have been used on that day or, if the use extends after midnight, then immediately after that use.

6.20 Restrictions on the Sale or Keeping of Rats

(1) Subject to subsection (2) an owner or occupier of premises shall not, on or from those premises—

- (a) keep or permit to be kept a rat; or
- (b) sell or offer for sale or permit to be sold or offered for sale a rat.

(2) Subsection (1) shall not prevent the keeping of rats for the purpose of scientific or medical research on premises owned or occupied by—

- (a) a university or school;
- (b) a person approved by the local government; or
- (c) a public hospital or a private hospital within the meaning of those expressions in the *Hospitals and Health Services Act 1927*.

(3) A person or body specified in subsection (2) which keeps rats for the purpose of scientific or medical research shall—

- (a) at all times ensure that all live rats are kept in the effective control of a person or in locked cages; and
- (b) if a rat escapes, forthwith comply with the requirements of section 6.16 and ensure that all reasonable steps are taken to destroy the rat.

*Division 4—Cockroaches***6.21 Interpretation**

In this Division, unless the context otherwise requires—

“cockroach” means any of the various *orthopterous* insects commonly known as cockroaches.

6.22 Measures to be Taken to Eradicate Cockroaches

(1) An owner or occupier of premises shall take effective measures to eradicate any cockroaches in or on the premises.

(2) Without limiting the generality of subsection (1), an owner or occupier of premises, whenever there are any indications of the presence of cockroaches in, on or about the premises, and while such indications continue, shall take effective measures to keep the premises free from cockroaches including—

- (a) washing and storing, immediately after use, cooking and eating utensils;
- (b) wrapping and depositing in a rubbish receptacle without delay all food scraps, uneaten pet food and garbage;
- (c) properly treating the premises with an insecticide, taking care not to harm the safety of humans and pets or to contaminate food or cooking or eating utensils; and
- (d) whenever required by an Environmental Health Officer, treating any area with baits or other methods to eradicate cockroaches.

*Division 5—Argentine Ants***6.23 Interpretation**

In this Division, unless the context otherwise requires—

“Argentine Ant” means an ant belonging to the species *Irdomyrmex humilis*.

6.24 Measures to be Taken to Keep Premises Free from Argentine Ants

An owner or occupier of premises shall ensure that the premises are kept free from Argentine Ant colonies and shall—

- (a) immediately notify the local government of any ant nest located on the premises suspected to be an Argentine Ant nest;
- (b) take all steps to locate any nests if Argentine Ants are noticed in, on or about the premises;
- (c) properly treat all nests of Argentine Ants with an approved residual based insecticide; and
- (d) whenever required by an Environmental Health Officer—
 - (i) treat any area or infestation with an insecticide referred to in paragraph (c); and
 - (ii) remove any objects, including timber, firewood, compost or pot plants in accordance with a direction from an Environmental Health Officer.

*Division 6—European Wasps***6.25 Interpretation**

In this Division, unless the context otherwise requires—

“European Wasp” means a wasp *Vespula germanica*.

6.26 Measures to be Taken to Keep Premises Free from European Wasp Nests

An owner or occupier of premises shall ensure that the premises are kept free from European Wasp nests and shall—

- (a) immediately notify the local government of any wasp nest in, on or about the premises that is suspected to be a European Wasp nest;
- (b) follow any direction of an Environmental Health Officer for the purpose of destroying the wasps and their nest; and
- (c) assist an Environmental Health Officer, or his or her representative, to trace any nest that may be present in, on or about the premises.

*Division 7—Bee Keeping***6.27 Interpretation**

In this Division, unless the context otherwise requires—

“bees” means an insect belonging to any of the various *hymenopterous* insects of the super family Apoidea and commonly known as a bee;

“footpath” includes a path used by, or set aside or intended for use by, pedestrians, cyclists or both pedestrians and cyclists;

“hive” means a moveable or fixed structure, container or object in which a colony of bees is kept;

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

“private street” means a street, court, alley, lane, yard, passage, or thoroughfare—

- (a) which is not dedicated, whether under an Act or common law, to use as such by the public; and
- (b) which forms a common access to lands, or premises, separately occupied; or
- (c) which is accessible from a street, court, alley, lane, yard, passage, thoroughfare or public place, which is dedicated, whether under an Act or at common law, to use as such by the public.

6.28 Limitation on Numbers of Hives

(1) A person shall not keep bees on any land within the municipality of the City of Bayswater without first obtaining the written approval of the local government to do so.

(2) Subject to subsections (3) and (4), a person shall not keep or permit the keeping of bees in more than 2 hives on a lot.

(3) The local government may, upon written application, consent, with or without conditions, to a person keeping bees in more than 2 hives on a lot which is not zoned or classified for residential purposes.

(4) A person shall comply with any conditions imposed by the Council under subsection (3).

6.29 Restrictions on Keeping of Bees in Hives

A person shall not keep or permit the keeping of bees in a hive on a lot unless, at all times—

- (a) an adequate and permanent supply of water is provided on the lot within 2 metres of each hive;
- (b) the hive is kept—
 - (i) outside, and at least 10 metres from, any building other than a fence;
 - (ii) at least 10 metres from any footpath, street, private street or public place; and
 - (iii) at least 5 metres from the boundary of the lot; and
- (c) the hive is enclosed on all sides by a fence, wall or other enclosure.

6.30 Bees which cause a Nuisance not to be Kept

(1) A person shall not keep, or permit the keeping of, bees that cause a nuisance.

(2) The local government may direct any person to remove any bees or beehives that in the opinion of the Principal Environmental Health Officer are causing a nuisance.

(3) A person shall comply with a direction under subsection (2) within the time specified.

*Division 8—Arthropod Vectors of Disease***6.31 Interpretation**

In this Division, unless the context otherwise requires—

“arthropod vectors of disease” includes—

- (a) fleas (*Siphonaptera*);
- (b) bedbugs (*Cimex lectularius*);
- (c) crab lice (*Phthirus pubis*);
- (d) body lice (*Pediculus humanus var. corporis*); and
- (e) head lice (*Pediculus humanus var. capitis*).

6.32 Responsibility of the Owner or Occupier

The owner or occupier of premises shall—

- (a) take reasonable precautions to keep the premises and any person residing in or on the premises free from any arthropod vectors of disease; and
- (b) comply with the direction of an Environmental Health Officer to treat the premises, or anything on the premises, for the purpose of destroying any arthropod vectors of disease.

PART 7—INFECTIOUS DISEASES*Division 1—General Provisions***7.1 Environmental Health Officer may Visit, Inspect and Report**

An Environmental Health Officer—

- (a) may visit and inspect any house, its occupants, fixtures and fittings; and
- (b) who believes that there has been a breach of the Act, any Regulation made under the Act or these Local Laws relating to infectious diseases, shall, as soon as possible, submit a written report on the matter to the local government.

7.2 Requirements on Owner or Occupier to Clean, Disinfect and Disinfect

(1) The Council or the Principal Environmental Health Officer may, by notice in writing, direct an owner or occupier of premises, within the time and in the manner specified in the notice, to clean, disinfect and disinfect—

- (a) the premises; or
- (b) such things in or on the premises as are specified in the notice,

or both, to the satisfaction of an Environmental Health Officer.

(2) An owner or occupier shall comply with a notice given under subsection (1).

7.3 Environmental Health Officer may Disinfect or Disinfest Premises

(1) Where the Council or the Medical Officer is satisfied that any case of infectious disease has occurred on any premises, the Council or the Medical Officer may direct an Environmental Health Officer, other local government officer or other person to disinfect and disinfest the premises or any part of the premises and anything in or on the premises.

(2) An owner or occupier of premises shall permit, and provide access to enable, an Environmental Health Officer, other local government officer or other person to carry out the direction given under subsection (1).

(3) The local government may recover, in a court of competent jurisdiction, the cost of carrying out the work under this section from the owner or occupier of the premises in or on which the work was carried out.

(4) The local government shall not be liable to pay compensation or damages of any kind to the owner or occupier of premises in relation to any action taken by the local government or any of its staff or employees under this section.

7.4 Insanitary Houses, Premises and Things

(1) An owner or occupier of any house or premises shall maintain the house or premises free from any insanitary condition or thing.

(2) Where the Council considers that a house is insanitary, it may, by notice in writing, direct an owner of the house, within the time and in the manner specified in the notice, to destroy or amend the house.

(3) Where an Environmental Health Officer believes that—

- (a) a house or premises is not being maintained in a sanitary condition; or
- (b) any thing is insanitary,

the officer may, by notice in writing, direct, as the case may be—

- (i) the owner or occupier of the house or premises to amend any insanitary condition; or
- (ii) the owner or occupier of the thing to destroy or amend it,

within the time and in the manner specified in the notice.

(4) A person to whom a notice has been given under subsections (2) or (3) shall comply with the terms of the notice.

7.5 Medical Officer may Authorise Disinfecting

(1) Where the Medical Officer believes that a person is or may be infected by an infectious disease, the Officer may direct the person to have his or her body, clothing and effects disinfected at a place and in a manner directed by the Medical Officer.

(2) A person shall comply with any direction of the Medical Officer under this section.

7.6 Persons in Contact with an Infectious Disease Sufferer

If a person in any house is, or is suspected of, suffering from an infectious disease, any occupant of the house or any person who enters or leaves the house—

- (a) shall obey such instructions or directions as the Council or the Medical Officer may issue;
- (b) may be removed, at the direction of the Council or the Medical Officer to isolation in an appropriate place to prevent or minimise the risk of the infection spreading; and
- (c) if so removed, shall remain in that place until the Medical Officer otherwise directs.

7.7 Declaration of Infected House or Premises

(1) To prevent or check the spread of infectious disease, the Council or the Medical Officer may from time to time declare any house or premises to be infected.

(2) A person shall not enter or leave any house or premises declared to be infected without the written consent of the Medical Officer or the Principal Environmental Health Officer.

7.8 Destruction of Infected Animals

(1) If the Principal Environmental Health Officer believes that an animal is or may be infected or is liable to be infected or to convey infection, he or she may, by notice in writing, direct that the animal be examined by a registered veterinary officer and all steps taken to enable the condition to be controlled or eradicated or the animal destroyed and disposed of—

- (a) in the manner and within the time specified in the notice; and
- (b) by the person in whose possession, or upon whose premises, the animal is located.

(2) A person who has in his or her possession or upon premises occupied by him or her, an animal that is the subject of a notice under subsection (1) shall comply with the terms of the notice.

7.9 Disposal of a Body

(1) An occupier of premises in or on which is located the body of a person who has died of an infectious disease shall, subject to subsection (2), cause the body to be buried or disposed of in such manner, within such time and with such precautions as may be directed by the Medical Officer.

(2) A body shall not be removed from premises where death occurred except to a cemetery or morgue.

7.10 Local Government may Carry out Work and Recover Costs

(1) Where—

- (a) a person is required under this Division or by a notice given under this Division, to carry out any work; and
- (b) that person fails or neglects to comply with the requirement,

that person commits an offence and the local government may carry out the work or arrange for the work to be carried out by another.

(2) The costs and expenses incurred by the local government in the execution of a power under this section may be recovered in a court of competent jurisdiction from the person referred to in subsection (1)(a).

(3) The local government shall not be liable to pay compensation or damages of any kind to the person referred to in subsection (1)(a) in relation to any action taken by the local government under this section.

Division 2—Disposal of Used Condoms and Needles

7.11 Disposal of Used Condoms

(1) An owner or occupier of premises on or from which used condoms are produced shall ensure that the condoms are—

- (a) placed in a sealed impervious container and disposed of in a sanitary manner; or
- (b) disposed of in such a manner as may be directed by the Principal Environmental Health Officer.

(2) A person shall not dispose of a used condom in a public place except in accordance with subsection (1).

7.12 Disposal of Used Needles

A person shall not dispose of a used hypodermic syringe or needle in a public place unless it is placed in an impenetrable, leak-proof container and deposited in a refuse receptacle.

PART 8—LODGING HOUSES

Division 1—Registration

8.1 Interpretation

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

“bed” means a single sleeping berth only. A double bed provided for the use of couples, shall have the same floor space requirements as two single beds;

“bunk” means a sleeping berth comprising one of two arranged vertically;

“dormitory” means a building or room utilised for sleeping purposes at a short term hostel or recreational campsite;

“keeper” means a person whose name appears on the register of keepers, in respect of a lodging house, as the keeper of that lodging house;

“lodger” means a person who obtains, for hire or reward, board or lodging in a lodging house;

“lodging house” includes a recreational campsite, a serviced apartment and a short term hostel but does not include a premises licensed under the *Liquor Act 1988*, a premises approved as a boarding school under the *School Education Act 1999*, and any building comprising of residential flats;

“manager” means a person duly appointed by the keeper in accordance with this Division to reside in, and have the care and management of, a lodging house;

“recreational campsite” means a lodging-house—

- (a) situated on a campsite principally used for—
 - (i) recreational, sporting, religious, ethnic or educational pursuits; or
 - (ii) conferences or conventions; and
- (b) where the period of occupancy of any lodger is not more than 14 consecutive days, and includes youth camps, youth education camps, church camps and riding schools;

“register of lodgers” means the register kept in accordance with Section 157 of the Act and this Part;

“resident” means a person, other than a lodger, who resides in a lodging house;

“serviced apartment” means a lodging house in which each sleeping apartment, or group of sleeping apartments in common occupancy, is provided with its own sanitary conveniences and may have its own cooking facilities;

“short term hostel” means a lodging house where the period of occupancy of any lodger is not more than 14 consecutive days and shall include youth hostels and backpacker hostels; and

“vector of disease” means an arthropod or rodent that transmits, by biological or mechanical means, an infectious agent from a source or reservoir to a person, and includes fleas, bedbugs, crab lice and head lice.

(2) Where in this Part an act is required to be done or forbidden to be done in relation to any lodging house, the keeper of the lodging house has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.

8.2 Lodging House not to be Kept Unless Registered

A person shall not keep or cause, suffer or permit to be kept a lodging house unless—

- (a) the lodging house is constructed in accordance with the requirements of this Part;
- (b) the lodging house is registered by the local government under section 8.4;
- (c) the name of the person keeping or proposing to keep the lodging house is entered in the register of keepers; and
- (d) either—
 - (i) the keeper; or
 - (ii) a manager who, with the written approval of the Principal Environmental Health Officer, has been appointed by the keeper to have the care and management of the lodging house,

resides or intends to reside continuously in the lodging house whenever there is one or more lodgers in the lodging house.

8.3 Application for Registration

An application for registration of a lodging house shall be—

- (a) in the form prescribed in Schedule 1;
- (b) duly completed and signed by the proposed keeper; and
- (c) accompanied by—
 - (i) the fee as fixed from time to time by Council under Section 344C of the Act; and
 - (ii) detailed plans and specifications of the lodging house.

8.4 Approval of Application

The Council may approve, with or without conditions, an application under section 8.3 by issuing to the applicant a certificate in the form of Schedule 2.

8.5 Renewal of Registration

A person who keeps a lodging house that is registered under this Part shall—

- (a) during the month of December in each year apply to the local government for the renewal of the registration of the lodging house; and
- (b) pay the fee as fixed from time to time by Council under Section 344C of the Act at the time of making each application for renewal.

8.6 Notification upon Sale or Transfer

If the owner of a lodging house sells or transfers or agrees to sell or transfer the lodging house to another person, he or she shall, within 14 days of the date of sale, transfer or agreement, give to the Chief Executive Officer, in the form of Schedule 3 written notice of the full name, address and occupation of the person to whom the lodging house has been, or is to be, sold or transferred.

8.7 Revocation of Registration

(1) Subject to subsection (3), the Council may, at any time, revoke the registration of a lodging house for any reason which, in the opinion of the Council, justifies the revocation.

(2) Without limiting the generality of subsection (1), the Council may revoke a registration upon any one or more of the following grounds—

- (a) that the lodging house has not, to the satisfaction of the local government, been kept free from vectors of disease or in a clean, wholesome and sanitary condition;
- (b) that the keeper has—
 - (i) been convicted of an offence against these Local Laws in respect of the lodging house;
 - (ii) not complied with a requirement of this Part; or
 - (iii) not complied with a condition of registration;
- (c) that the local government, having regard to a report from the Police Service, is satisfied that the keeper or manager is not a fit and proper person; and
- (d) that, by reason of alterations or additions or neglect to repair and renovate, the condition of the lodging house is such as to render it, in the opinion of the Principal Environmental Health Officer, unfit to remain registered.

(3) Before revoking the registration of a lodging house under this section, the local government shall give notice to the keeper requiring him or her, within a time specified in the notice, to show cause why the registration should not be revoked.

(4) Whenever the Council revokes the registration of a lodging house, it shall give the keeper notice of the revocation and the registration shall be revoked as from the date on which the notice is served on the keeper.

Division 2—Construction and Use Requirements

8.8 General Construction Requirements

The general construction requirements of a lodging house shall comply with the Building Code.

8.9 Sanitary Conveniences

(1) A keeper shall maintain in good working order and condition and in convenient positions on the premises—

- (a) toilets; and
- (b) bathrooms, each fitted with a shower and a hand basin or alternatively, a bath and a hand basin,

in accordance with the requirements of the Building Code.

(2) A bathroom or toilet which is used as a private bathroom or toilet to the exclusion of other lodgers or residents shall not be counted for the purposes of subsection (1).

(3) Each bath, shower and hand basin shall be provided with an adequate supply of hot and cold water.

(4) The walls of each shower and bath shall be of an impervious material to a minimum height of 1.8 metres above the floor level.

(5) Each toilet and bathroom shall—

- (a) be so situated, separated and screened as to ensure privacy;
- (b) have a distinct sign displayed in a prominent position denoting the sex for which the toilet or bathroom is provided; and
- (c) be provided with adequate electric lighting.

(6) Paragraphs (b) of subsection (5) does not apply to a serviced apartment.

8.10 Laundry

(1) A keeper shall—

- (a) subject to subsection (2)—
 - (i) in the case of a recreational campsite, provide on the premises a laundry consisting of at least one 45 litre stainless steel trough; and
 - (ii) in any other case, provide on the premises a laundry unit for each 15 lodgers;
- (b) at all times maintain each laundry in a proper sanitary condition and in good repair;
- (c) provide an adequate supply of hot and cold water to each wash trough, sink, copper and washing machine; and
- (d) ensure that the floor area of each laundry is properly surfaced with an even fall to a floor waste.

(2) The Principal Environmental Health Officer may approve the provision of a reduced number of laundry units if suitable equipment of a commercial type is installed.

(3) In this section—

“laundry unit” means a group of facilities consisting of—

- (a) a washing machine with a capacity of not less than 4 kilograms of dry clothing;
- (b) one wash trough of not less than 36 litres capacity, connected to both hot and cold water; and
- (c) either an electric drying cabinet or not less than 30 metres of clothes line, and
- (d) a hot water system that—
 - (i) is capable of delivering 136 litres of water per hour at a temperature of at least 75° C for each washing machine provided with the communal facilities; and
 - (ii) has a delivery rate of not less than 18 litres per minute to each washing machine.

8.11 Kitchen

The keeper of a lodging house shall provide in that lodging house a kitchen which—

- (a) has a minimum floor area of—
 - (i) where lodgers prepare their own meals—0.65 square metres per person;
 - (ii) where meals are provided by the keeper or manager—0.35 square metres per person; or
 - (iii) where a kitchen and dining room are combined—1 square metre per person,but in any case not less than 16 square metres;
- (b) has adequate—
 - (i) food storage facilities and cupboards to prevent contamination of food, or cooking or eating utensils, by dirt, dust, flies or other vectors of disease of any kind; and
 - (ii) refrigerator space for storage of perishable goods;
- (c) complies with the requirements of the *Health (Food Hygiene) Regulations 1993*;
- (d) has a handbasin and a double bowl sink, each provided with an adequate supply of hot and cold water.

8.12 Cooking Facilities

(1) The keeper of a lodging house where lodgers prepare their own meals shall provide a kitchen with electrical, gas or other stoves and ovens approved by the Principal Environmental Health Officer in accordance with the following table—

| NO. OF LODGERS | OVENS | 4 BURNER STOVES |
|----------------|-------|---|
| 1 - 15 | 1 | 1 |
| 16 - 30 | 1 | 2 |
| 31 - 45 | 2 | 3 |
| 46 - 60 | 2 | 4 |
| Over 60 | 2 | 4 + 1 for each additional 15 lodgers(or part thereof) over 60 |

(2) The keeper of a lodging house where meals are provided by the keeper or manager shall provide a kitchen with cooking appliances of a number and type approved by the Principal Environmental Health Officer.

8.13 Dining Room

The keeper of a lodging house shall provide in that lodging house a dining room—

- (a) located in close proximity to, or combined with, the kitchen;
- (b) the floor area of which shall be not less than the greater of—
 - (i) 0.5 square metres per person; or
 - (ii) 10 square metres; and
- (c) which shall be—
 - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
 - (ii) provided with a suitable floor covering.

8.14 Lounge Room

The keeper of a lodging house shall provide in that lodging house a lounge room—

- (a) with a floor area of—
 - (i) where the lounge is not combined with the dining room—not less than 0.6 square metres per person or;
 - (ii) where the lounge room is combined with a dining room—not less than 1.2 square metres per person,
 but in either case having a minimum of 13 square metres; and
- (b) which shall be—
 - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
 - (ii) provided with a suitable floor covering.

8.15 Fire Prevention and Control

(1) A keeper shall—

- (a) in each passage in the lodging house provide an emergency light—
 - (i) in such a position and of such a pattern, as approved by the Principal Environmental Health Officer; and
 - (ii) which shall be kept separate from the general lighting system and kept illuminated during the hours of darkness;
- (b) provide an approved fire blanket positioned within 2 metres of the cooking area in each kitchen; and
- (c) ensure that each exit sign and fire fighting appliance is clearly visible, accessible and maintained in good working order at all times.

(2) A keeper shall ensure that all buildings comprising the lodging house are fitted with fire protection equipment in accordance with the Building Code and approved by the local government.

8.16 Obstruction of Passages and Stairways

A keeper shall not cause, suffer or permit furniture, fittings or other things to be placed either temporarily or permanently in or on—

- (a) a stairway, stair landing, fire-escape, window or common passageway; or
- (b) part of the lodging house in common use or intended or adapted for common use,

in such a manner as to form an obstruction to the free passage of lodgers, residents or persons in or occupying the lodging house.

8.17 Fitting of Locks

A person shall not fit, or cause or permit to be fitted, to an exit door a lock or other device which prevents the door being opened from within a lodging house.

8.18 Restriction on Use of Rooms for Sleeping

(1) Subject to subsection (3) and section 8.32, a keeper shall not use or permit to be used as a sleeping apartment a room in a lodging house—

- (a) which contains food;
- (b) which contains or is fitted with a cooking appliance or kitchen sink;
- (c) which is used as a kitchen, scullery, store room, dining room, general sitting room or lounge room or for the preparation or storage of food;
- (d) which is not reasonably accessible without passing through a sleeping or other room in the private occupation of another person;
- (e) which, except in the case of a short term hostel or a recreational campsite, contains less than 5.5 square metres of clear space for each lodger occupying the room;
- (f) which is naturally illuminated by windows having a ratio of less than 0.1 square metre of unobstructed glass to every 1.0 square metre of floor area;
- (g) which is ventilated at a ratio of less than 0.5 square metre of unobstructed ventilating area to every 10 square metres of floor area;
- (h) in which the lighting or ventilation referred to in paragraphs (f) and (g) is obstructed or is not in good and efficient order;
- (i) which is not free from internal dampness;
- (j) of which any part of the floor is below the level of the adjoining ground; or
- (k) the floor of which is not fitted with an approved carpet or vinyl floor covering or other floor treatment approved by the Principal Environmental Health Officer.

(2) For the purposes of this section, two children under the age of 10 years shall be counted as one lodger.

(3) Paragraphs (a), (b) and (c) of subsection (1) shall not apply to a serviced apartment.

8.19 Sleeping Accommodation—Short Term Hostels and Recreational Campsites

(1) A keeper of a short term hostel or recreational campsite shall provide clear floor space of not less than—

- (a) 4 square metres per person in each dormitory utilising beds;
- (b) 2.5 square metres per person in dormitories utilising bunks.

(2) The calculation of floor space in subsection (1), shall exclude the area occupied by any large items of furniture, such as wardrobes, but may include the area occupied by beds.

(3) The minimum height of any ceiling in a short term hostel or recreational campsite shall be 2.4 metres in any dormitory utilising beds and 2.7 metres in any dormitory utilising bunks.

(4) The minimum floor area requirements in subsection(1) will only apply if there is ventilation, separation distances, fire egress and other safety requirements in accordance with the Building Code.

(5) The keeper of any short term hostel or recreational campsite shall provide—

- (a) fixed outlet ventilation at a ratio of 0.15 square metres to each 10 square metres of floor area of the dormitories. Dormitories shall be provided with direct ventilation to the open air from a point within 230 millimetres of the ceiling level through a fixed open window or vents, carried as direct to the open air as is practicable;
- (b) mechanical ventilation in lieu of fixed ventilation, subject to the local government's approval.

(6) The keeper of any short term hostel or recreational campsite shall provide—

- (a) beds with a minimum size of—
 - (i) in short term hostels—800 millimetres x 1.9 metres;
 - (ii) in recreational campsites—750 millimetres x 1.85 metres;
- (b) storage space for personal effects, including backpacks, so that cleaning operations are not hindered and access spaces are not obstructed.

(7) The keeper of any short term hostel or recreational campsite shall—

- (a) arrange at all times a distance of 750 millimetres between beds and a distance of 900 millimetres between bunks;
- (b) ensure that where bed or bunk heads are placed against the wall on either side of a dormitory, there is a passageway of at least 1.35 metres between each row of beds and a passageway of at least 2 metres between each row of bunks. The passageway shall be kept clear of obstruction at all times;
- (c) ensure all doors, windows and ventilators are kept free of obstruction.

(8) The keeper of a short term hostel or recreational campsite shall ensure that—

- (a) materials used in dormitory areas comply with AS 1530.2 and AS 1530.3 as follows—
 - drapes, curtains, blinds and bed covers
 - a maximum Flammability Index of 6;
 - upholstery & bedding
 - a maximum Spread of Flame Index of 6;
 - a maximum Smoke Developed Index of 5;

floor coverings

- a maximum Spread of Flame Index of 7;
- a maximum Smoke Developed Index of 5;

Fire retardant coatings used to make a material comply with these indices must be—

- (i) certified by the manufacturer as approved for use with the fabric to achieve the required indices;
 - (ii) certified by the manufacturer to retain its fire retardancy effect after a minimum of 5 commercial dry cleaning or laundering operations carried out in accordance with AS 2001.5.4-1987, Procedure 7A, using ECE reference detergent; and
 - (iii) certified by the applicator as having been carried out in accordance with the manufacturer's specification;
- (b) emergency lighting is provided in accordance with the Building Code;
 - (c) a lodger or other person does not smoke in any dormitory, kitchen, dining room or other enclosed public place, within a short term hostel or recreational campsite;
 - (d) all mattresses are fitted with a mattress protector.

8.20 Furnishing etc. of Sleeping Apartments

(1) A keeper shall—

- (a) furnish each sleeping apartment with a sufficient number of beds and sufficient bedding of good quality;
- (b) ensure that each bed—
 - (i) has a bed head, mattress and pillow; and
 - (ii) is provided with, or can be rented, a pillow case, two sheets, a blanket or rug and, from the 1st day of May to the 30th day of September, not less than one additional blanket or rug;
- (c) furnish each bedroom so that there are adequate storage facilities for belongings within the room or ensure that adequate storage facilities such as lockers are available for use by lodgers in a separate room.

(2) A keeper shall not cause, suffer or permit any tiered beds or bunks to be used in a sleeping apartment other than in a lodging house used exclusively as a short term hostel or recreational campsite.

8.21 Ventilation

(1) If, in the opinion of an Environmental Health Officer, a kitchen, bathroom, toilet, laundry or habitable room is not adequately or properly ventilated, he or she may direct the keeper to provide a different or additional method of ventilation.

(2) The keeper shall comply with any direction given under subsection (1) within such time as directed.

8.22 Numbers to be Placed on Doors

(1) A keeper shall place or cause to be placed on the outside of the doors of all rooms available to lodgers in the lodging house, serial numbers so that—

- (a) the number "1" is placed on the outside of the door of the room nearest to the front or main entry door of the lodging house; and
- (b) the numbers continue in sequence throughout each floor (if there is more than one) of the lodging house.

(2) The numbers to be placed on the doors under subsection (1) shall be—

- (a) not less than 40 millimetres in height;
- (b) 1.5 metres from the floor; and
- (c) permanently fixed either by being painted on the doors or shown by other legible means.

Division 3—Management and Care

8.23 Keeper or Manager to Reside in the Lodging House

No keeper of a lodging house shall absent himself from such house, unless he leaves some reputable person in charge thereof.

8.24 Register of Lodgers

(1) A keeper shall keep a register of lodgers in the form of Schedule 4.

(2) The register of lodgers shall be—

- (a) kept in the lodging house; and
- (b) open to inspection at any time on demand by any member of the Police Service or by an Environmental Health Officer.

8.25 Keeper Report

A keeper shall, whenever required by the local government, report to the local government, in the form of Schedule 5, the name of each lodger who lodged in the lodging house during the preceding day or night.

8.26 Certificate in Respect of Sleeping Accommodation

- (1) An Environmental Health Officer may issue to a keeper a certificate, in respect of each room, which shall be in the form of Schedule 6 or 7.
- (2) The certificate issued under subsection (1) shall specify the maximum number of persons who shall be permitted to occupy each room as a sleeping apartment at any one time.
- (3) When required by the Principal Environmental Health Officer, a keeper shall exhibit the certificate issued under this section in a conspicuous place in the room to which the certificate refers.
- (4) A person shall not cause, suffer or permit a greater number of persons than is specified on a certificate issued under this section to occupy the room to which it refers.

8.27 Duplicate Keys and Inspection

Each keeper and manager of a lodging house shall—

- (a) retain possession of a duplicate key to the door of each room; and
- (b) when required by an Environmental Health Officer, open the door of any room for the purposes of inspection by the Officer.

8.28 Room Occupancy

- (1) A keeper shall not—
 - (a) cause, suffer or permit more than the maximum number of persons permitted by the Certificate of Registration of the lodging house to be lodged at any one time in the lodging house;
 - (b) cause, suffer or permit to be placed or kept in any sleeping apartments—
 - (i) a larger number of beds; or
 - (ii) a larger quantity of bedding,than is required to accommodate and provide for the maximum number of persons permitted to occupy the sleeping apartment at any one time; and
 - (c) use or cause, suffer or permit to be used for sleeping purposes a room that—
 - (i) has not been certified for that purpose; and
 - (ii) the local government or the Medical Officer has forbidden to be used as a sleeping apartment.
- (2) For the purpose of this section, two children under 10 years of age shall be counted as one lodger.

8.29 Infectious Disease

- (1) A keeper may permit, or contract with, a lodger or resident to service, clean or maintain the room or rooms occupied by the lodger or resident.
- (2) Where permission is given or a contract entered into under subsection (1), the keeper shall—
 - (a) inspect each room the subject of the permission or agreement at least once a week; and
 - (b) ensure that each room is being maintained in a clean condition.
- (3) A lodger or resident who contracts with a keeper to service, clean or maintain a room occupied by him or her, shall maintain the room in a clean condition.

8.30 Cleaning and Maintenance Requirements

- (1) A keeper of a lodging house shall—
 - (a) maintain in a clean, sound and undamaged condition—
 - (i) the floor, walls, ceilings, woodwork and painted surfaces;
 - (ii) the floor coverings and window treatments; and
 - (iii) the toilet seats;
 - (b) maintain in a clean condition and in good working order—
 - (i) all fixtures and fittings; and
 - (ii) windows, doors and door furniture;
 - (c) ensure that the internal walls of each bathroom and toilet are painted so as to maintain a smooth impervious washable surface;
 - (d) whenever there is one or more lodgers in a lodging house ensure that the laundry floor is cleaned daily;
 - (e) ensure that—
 - (i) all bed linen, towels and house linen in use are washed at least once a week;
 - (ii) within a reasonable time of a bed having been vacated by a lodger or resident, the bed linen is removed and washed;
 - (iii) a person does not occupy a bed that has been used by another person unless the bed has been provided with clean bed linen;
 - (iv) all beds, bedsteads, blankets, rugs, covers, bed linen, towels and house linen are kept clean, in good repair and free from vectors of disease;
 - (v) when any vectors of disease are found in a bed, furniture, room or sleeping apartment, immediate effective action is taken to eradicate the vectors of disease; and
 - (vi) a room that is not free from vectors of disease is not used as a sleeping apartment;

- (f) when so directed by the Principal Environmental Health Officer, ensure that—
 - (i) a room, together with its contents, and any other part of the lodging house, is cleaned and disinfected; and
 - (ii) a bed or other article of furniture is removed from the lodging house and properly disposed of;
 - (g) ensure that the yard is kept clean at all times;
 - (h) provide all bedrooms, passages, common areas, toilets, bathrooms and laundries with adequate lighting; and
 - (i) comply with any direction, whether orally or in writing, given by the Principal Environmental Health Officer or an Environmental Health Officer.
- (2) In this section—
“bed linen” includes sheets and pillow cases and in the case of a short term hostel or recreational campsite, mattress protectors.

8.31 Responsibilities of Lodgers and Residents

A lodger or resident shall not—

- (a) use any room available to lodgers—
 - (i) as a shop, store or factory; or
 - (ii) for manufacturing or trading services;
- (b) keep or store in or on the lodging house any goods or materials which are inflammable, obnoxious or offensive;
- (c) use a bath or handbasin other than for ablutionary purposes;
- (d) use a bathroom facility or fitting for laundry purposes;
- (e) use a sink installed in a kitchen or scullery for any purpose other than the washing and cleaning of cooking and eating utensils, other kitchenware and culinary purposes;
- (f) deposit rubbish or waste food other than into a proper rubbish receptacle;
- (g) in a kitchen or other place where food is kept—
 - (i) wash or permit the washing of clothing or bedding; or
 - (ii) keep or permit to be kept any soiled clothing or bedding;
- (h) subject to section 8.32—
 - (i) keep, store, prepare or cook food in any sleeping apartment; or
 - (ii) unless sick or invalid and unable to leave a sleeping apartment for that reason, use a sleeping apartment for dining purposes;
- (i) place or keep, in any part of a lodging house, any luggage, clothing, bedding or furniture, which is infested with vectors of disease;
- (j) store or keep such a quantity of furniture, material or goods within the lodging house—
 - (i) in any kitchen, living or sleeping apartment so as to prevent the cleaning of the floors, walls, fittings or fixtures; or
 - (ii) in a sleeping apartment so as to decrease the air space to less than the minimum required by this Part;
- (k) obstruct or prevent the keeper or manager from inspecting or examining the room or rooms occupied by the lodger or resident; and
- (l) fix any fastener or change any lock to a door or room without the written approval of the keeper.

8.32 Approval for Storage of Food

- (1) The Principal Environmental Health Officer may—
- (a) upon written application from a keeper, approve the storage of food within a refrigerator or sealed container in a sleeping apartment; and
 - (b) withdraw the approval if a nuisance or vector of disease infestation is found to exist in the lodging house.
- (2) The keeper of a serviced apartment may permit the storage and consumption of food within that apartment if suitable storage and dining facilities are provided.

PART 9—OFFENSIVE TRADES

Division 1—General

9.1 Interpretation

In this Part, unless the context otherwise requires—

- “occupier” in relation to premises includes the person registered as the occupier of the premises in the Schedule 12 certificate of registration; and
- “offensive trade” has the meaning ascribed to it by Section 186 of the Act, and includes all of those trades specified within Schedule 2 of the Act, and any other trade proclaimed to be offensive by the Governor from time to time; and
- “premises” means those premises in or upon which an offensive trade is carried on and includes any house.

9.2 Consent to Establish an Offensive Trade

(1) A person seeking the consent of the Council under Section 187 of the Act to establish an offensive trade shall—

- (a) advertise notice of his intention to apply for consent in accordance with section 9.3; and
- (b) lodge with the Chief Executive Officer an application in the form of Schedule 10.

(2) A person who makes a false statement in an application under this section shall be guilty of an offence.

9.3 Notice of Application

A notice required under subsection 9.2(1)(a) shall—

- (a) contain the name and address of the person who intends to make the application;
- (b) contain a description of the nature of the offensive trade;
- (c) contain details of the premises in or upon which it is proposed to carry on the proposed trade; and
- (d) appear in a locally or state-wide distributed newspaper, or be advertised in some other manner which is acceptable to the local government, at least two weeks but not more than one month before the application under subsection 9.2(1)(b) is lodged with the Chief Executive Officer.

9.4 Registration of Premises

An application for the registration of premises pursuant to Section 191 of the Act shall be—

- (a) in the form of Schedule 11;
- (b) accompanied by the fee prescribed in the *Offensive Trade (Fees) Regulations 1976*; and
- (c) lodged with the Chief Executive Officer.

9.5 Certificate of Registration

Upon the registration of premises for the carrying on of an offensive trade, the local government shall issue to the applicant a certificate in the form of Schedule 12.

9.6 Conditions of Consent for an Offensive Trade

In granting consent under Section 187 of the Act, the City of Bayswater may impose reasonable conditions of consent including, without limitation, conditions relating to—

- (a) site requirements;
- (b) building fitout specifications;
- (c) ventilation;
- (d) effluvia, vapours and gases;
- (e) control of vectors of disease;
- (f) sanitary convenience;
- (g) effluent and rubbish disposal.

9.7 Directions

- (a) The Principal Environmental Health Officer may give to the occupier directions to prevent or diminish the offensiveness of a trade or to safeguard the public health;
- (b) The occupier shall comply with any directions given under this section.

9.8 Other Duties of Occupier

In addition to the requirements of this Division, the occupier shall comply with all other requirements of this Part that apply to the particular offensive trade or trades carried on.

9.9 Change of Occupier

Where there is a change of occupier of the premises registered pursuant to this Division, the new occupier shall forthwith notify the Chief Executive Officer in writing of such change.

9.10 Alterations to Premises

While any premises remain registered under this Division, a person shall not, without the written permission of the Council, make or permit any change or alteration whatever to the premises.

9.11 Occupier Includes Employee

Where in any section contained in this Part a duty is imposed upon the occupier of premises in or upon which an offensive trade is carried on, the reference to the occupier shall be interpreted to include the employees of the occupier and any employee committing a breach of any provision of this Part shall be liable to the same penalties as if he or she were the occupier.

Division 2—General Duties of an Occupier

9.12 Interpretation

In this Division, unless the context otherwise requires—

- “occupier” means the occupier, or where there is more than one occupier, each of the occupiers of the premises in or upon which an offensive trade is carried on; and
- “the premises” means those premises in or upon which an offensive trade is carried on.

9.13 Cleanliness

The occupier shall—

- (a) keep or cause to be kept in a clean and sanitary condition and in a state of good repair the floors, walls and ceilings and all other portions of the premises;
- (b) keep or cause to be kept in a clean and sanitary condition and in a state of good repair all fittings, fixtures, furniture, appliances, machinery, implements, shelves, counters, tables, benches, bins, cabinets, sinks, drain boards, drains, grease traps, tubs, vessels and other things used on or in connection with the premises;
- (c) keep the premises free from any unwholesome or offensive odour arising from the premises;
- (d) maintain in a clean and tidy condition all yards, footpaths, passage ways, paved areas, stores or outbuildings used in connection with the premises; and
- (e) clean daily and at all times keep and maintain all sanitary conveniences and all sanitary fittings and grease traps on the premises in a clean and sanitary condition.

9.14 Rats and other Vectors of Disease

The occupier shall—

- (a) ensure that the premises are kept free from rodents, cockroaches, flies and other vectors of disease; and
- (b) provide in and on the premises effective means and methods for the eradication and prevention of rodents, cockroaches, flies and other vectors of disease.

9.15 Sanitary Conveniences and Wash Basins

The occupier shall provide on the premises in an approved position sufficient sanitary conveniences and handbasins, each with an adequate supply of hot and cold water for use by employees and by all other persons lawfully upon the premises.

9.16 Painting of Walls etc.

The occupier shall cause the internal surface of every wall, the underside of every ceiling or roof and all fittings as may be directed in and on the premises to be cleaned and painted when instructed by an Environmental Health Officer.

9.17 Effluvia, Vapours or Gases

The occupier shall provide, use and maintain in a state of good repair and working order, appliances capable of effectively destroying or of rendering harmless all offensive effluvia, vapours or gases arising in any process of his business or from any material, residue or other substance which may be kept or stored upon the premises.

9.18 Offensive Material

The occupier shall—

- (a) provide on the premises approved impervious receptacles of sufficient capacity to receive all offensive material and trade refuse produced upon the premises in any one day;
- (b) keep airtight covers on the receptacles, except when it is necessary to place something in or remove something from them;
- (c) cause all offensive material and trade refuse to be placed immediately in the receptacles;
- (d) cause the contents of the receptacles to be removed from the premises at least once in every working day or at such intervals as may be directed by the Principal Environmental Health Officer or an Environmental Health Officer or at such intervals negotiated with the local government; and
- (e) cause all receptacles after being emptied to be immediately cleansed and sanitised.

9.19 Storage of Materials

The occupier shall cause all material on the premises to be stored so as not to be offensive or injurious to health whether by odour or otherwise and so as to prevent the creation of a nuisance.

9.20 Specified Offensive Trades

(1) For the purposes of this section, "specified offensive trade" means one or more of the offensive trades carried on, in or connected with, the following works or premises—

- (a) fish processing establishments(not including retail fish shops);
- (b) fat rendering premises;
- (c) flock factories;
- (d) laundries, dry cleaning premises and dye works;
- (e) manure works.

(2) Where premises are used for or in relation to a specified offensive trade, the occupier shall—

- (a) cause the floor of the premises to—
 - (i) be properly paved and drained with impervious materials;
 - (ii) have a smooth surface; and
 - (iii) have a fall to a bucket trap or spoon drain in such a way that all liquids falling on the floor shall be conducted by the trap or drain to a drain inlet situated inside the building where the floor is situated; and

- (b) cause the angles formed by the walls with any other wall, and by the wall with the floor, to be coved to a radius of not less than 25 millimetres.
- (c) cause all liquid refuse to be—
 - (i) cooled to a temperature not exceeding 26 degrees Celsius and in accordance with the *Metropolitan Water Supply, Sewerage and Drainage By-laws 1981* before being discharged into any drain outlet from any part of the premises; and
 - (ii) directed through such screening or purifying treatment as the Principal Environmental Health Officer may from time to time direct.

9.21 Directions

- (1) The Principal Environmental Health Officer may give to the occupier directions to prevent or diminish the offensiveness of a trade or to safeguard the public health.
- (2) The occupier shall comply with any directions given under this section.

9.22 Other Duties of Occupier

In addition to the requirements of this Division, the occupier shall comply with all other requirements of this Part that apply to the particular offensive trade or trades carried on.

Division 3—Fish Processing Establishments

9.23 Interpretation

In this Division, unless the context otherwise requires—

“appliance” includes a utensil, instrument, cover, container or apparatus;

“fish” means fresh fish, frozen fish, chilled fish and cooked fish, whether cleaned, uncleaned or part cleaned and includes crustaceans and molluscs, but does not include—

- (a) fish which has been cured, preserved, hermetically canned or treated to prevent putrefaction; or
- (b) cleaned fish supplied in cartons or packets by a packer and sold in such cartons or packets if they are at all times kept in a deep freeze refrigeration unit at a temperature not exceeding minus 15 degrees Celsius;

“fish processing establishment” does not include a retail fish shop;

“fish processing” means a process whereby fish are cleaned, part cleaned, scaled or cut up;

“fish transport vehicle” includes—

- (a) an appliance attached to, carried in or used in connection with a vehicle; and
- (b) a trailer and a portable box,
used or designed to be used for the transport or storage of fish; and

“portable box” means a box for the transport or storage of fish and includes a fish transport vehicle.

9.24 Fish Preparation Room

(1) The occupier of a fish processing establishment shall provide a fish preparation room that shall comply with the following requirements—

- (a) the room shall be provided with a stainless steel bench for the handling of fish, handwash basin with hot and cold water and soap and disposable towel dispensers and a cleaner’s sink with hot and cold water;
- (b) the walls shall be constructed of brick or concrete with the internal surface rendered with a cement steel float finish or other approved material and shall be devoid of holes, cracks and crevices;
- (c) the floor shall be of concrete with a smooth, durable surface and shall be treated with an approved surface hardening process;
- (d) the minimum floor area shall be 16 square metres;
- (e) the room shall be provided with a double bowl stainless steel wash trough of adequate size to accommodate the equipment and utensils used on the premises and connected to a piped supply of hot and cold water;
- (f) tiling shall be provided above troughs, handwash basins and benches to a height of 450 millimetres;
- (g) the room shall be fly-proofed and have a self-closing door; and
- (h) the room shall be provided with ample light and ventilation.

(2) The occupier shall ensure that all fish are prepared in the fish preparation room and that the room is used solely for that purpose.

9.25 Disposal of Waste

The occupier of a fish processing establishment shall cause all offal and wastes, all rejected and unsaleable fish and any rubbish or refuse which is likely to be offensive or a nuisance to be—

- (a) placed in the receptacles referred to in section 9.18 and disposed of in accordance with that section; or
- (b) kept in a frozen state in an approved enclosure before its removal from the premises.

9.26 Fish Containers

The occupier of a fish processing establishment shall not allow any box, basket or other container used for the transport of fish to—

- (a) remain on the premises longer than is necessary for it to be emptied; or
- (b) be kept so as to cause a nuisance or to attract flies.

9.27 Cooking of Fish

Where cooking of fish is carried out in a fish processing establishment, the occupier shall provide and maintain—

- (a) a hood as set out in the *Health (Food Hygiene) Regulations 1993*, which shall be of an approved design and construction and so situated as to capture and remove all effluvia, odours and smoke from the process of cooking; and
- (b) an exhaust ventilation system—
 - (i) the point of discharge of which shall be at least 1 metre above the ridge of a pitched roof or 3 metres above a flat roof and shall not be located within 6 metres of an adjoining property or any fresh air intakes; and
 - (ii) which shall discharge in such manner and in such a position that no nuisance is created.

9.28 Fly Screening

The occupier of a fish processing establishment shall ensure that each window, door way and other external opening in the premises is protected in such a manner as would exclude, as far as practicable, flies and other flying insects.

9.29 Use of an Approved Portable Box

The Principal Environmental Health Officer may permit an approved portable box to be used for the transport or storage of fish.

9.30 Fish Transport Vehicle

A person shall not use a fish transport vehicle for the transport or storage of fish unless it is so constructed, equipped and maintained that—

- (a) the frame is made of wood or metal;
- (b) all internal surfaces—
 - (i) are made of metal or approved impervious plastic substance, which may include stainless steel, aluminium, galvanised iron, zinc anneal, fibre glass, or other material of similar strength and impermeable qualities;
 - (ii) are smoothly finished;
 - (iii) are rigidly secured with a solid backing; and
 - (iv) have floor and vertical angles coved with not less than a 25 millimetre radius,but, if all necessary floor joints are effectively sealed, the surface of the floor, or part of it, may be of an approved tread type track material;
- (c) internal horizontal joints made between metal sheeting are lapped from top to bottom and either—
 - (i) continuously welded; or
 - (ii) lapped with a minimum of 40 millimetres cover secured with blind rivets and sealed with a durable, non-absorbent sealing material;
- (d) the vehicle is effectively insulated with a stable insulating material;
- (e) the vehicle has, at the rear or side, doors that are made in the manner provided by paragraphs (a), (b), (c) and (d) of this clause, are close fitting, and have a suitable locking device fitted;
- (f) the vehicle is fitted with shelves and grids, made of impervious material, in such a manner that the shelves and grids may be easily removed;
- (g) any containers used in the vehicle for fish are made of stainless steel, fibre glass or approved impervious plastic; and
- (h) the vehicle is in good repair and condition and is thoroughly clean.

*Division 4—Fat Rendering Premises***9.31 Interpretation**

In this Division, unless the context otherwise requires—

“fat rendering premises” means a premises where edible fats including suet, dripping or premier jus are rendered down by any heat processing method; and

“the occupier” means the occupier of any premises on which the trade of fat rendering is carried on.

9.32 Exhaust Ventilation

The occupier shall provide and maintain—

- (a) a hood which shall—
 - (i) be of an approved design and construction;
 - (ii) be situated so as to arrest all effluvia, odours and smoke from the process of fat rendering; and
 - (iii) extend a minimum of 150 millimetres beyond the length of each appliance; and
- (b) an exhaust ventilation system—
 - (i) the point of discharge of which shall be at least 1 metre above the ridge of a pitched roof or 3 metres above a flat roof and shall not be located within 6 metres of an adjoining property or any fresh air intake; and
 - (ii) which shall discharge in such manner and in such a position that no nuisance is created.

9.33 Covering of Apparatus

External parts of the fat rendering apparatus shall be constructed or covered with a smooth, non-corrosive and impervious material, devoid of holes, cracks and crevices.

9.34 Rendering of Walls

The occupier shall cause each wall within a radius of 3 metres of the rendering apparatus or machinery to be rendered with a cement plaster with a steel float finish or other approved finish to a height of 2 metres, devoid of holes, cracks and crevices.

Division 5—Flock Factories

9.35 Interpretation

In this Division, unless the context otherwise requires—

“flock factory” means any premises or place where flock is produced wholly or partly by tearing up or teasing, wadding, kapok, rags, cotton, linters, fibre, or other material used or likely to be used for the filling of mattresses, pillows, bedding, upholstery, cushions or substances used in packaging material or the manufacture of underfelt; and

“the occupier” means the occupier of a flock factory.

9.36 New and Used Material

(1) Subject to subsection (2), the occupier shall not use for the manufacture of flock any material other than new material.

(2) Material other than new material may be used for the manufacture of flock if, before being used, every part of that material is subjected to moist heat maintained at a temperature of 100 degrees Celsius for at least 30 minutes.

9.37 Collection and Removal of Dust

The occupier shall provide effective means to prevent the escape into the open air of all dust or other material from the premises.

9.38 Building Requirements

The occupier shall cause each building on the premises to comply with the following requirements—

- (a) the floor shall be of concrete;
- (b) the walls shall be of concrete or brick and shall be finished internally with cement plaster with a steel float finish or other approved finish to a height of 2 metres; and
- (c) the ceiling or underside of the roof shall be of durable and non-absorbent material finished internally with a smooth surface.

9.39 Unclean Rags

A person shall not—

- (a) collect, deliver, offer for sale or sell for the manufacture of flock;
- (b) receive, store or deliver for the manufacture of flock; or
- (c) make flock from,

rags which are unclean or which have been taken from any refuse or rubbish or from any receptacle or other container used for the storage or collection of refuse or rubbish.

9.40 Bedding and Upholstery

A person shall not, for the purpose of sale or in the course of any business, remake, renovate, tease, re-tease, fill, refill or repair any—

- (a) used bedding; or
- (b) upholstery,

which is unclean, offensive, or infested with vectors of disease, unless the—

- (c) material of which the bedding is made; or
- (d) filling material of which the upholstery is made,

has been boiled for 30 minutes or otherwise effectively disinfected and cleaned.

*Division 6—Laundries, Dry Cleaning Establishments
and Dye Works*

9.41 Interpretation

In this Division, unless the context otherwise requires—

“dry cleaning establishment”—

- (i) means premises where clothes or other articles are cleaned by use of solvents without using water; but
- (ii) does not include premises in which perchlorethylene or arklone is used as dry cleaning fluid in a machine operating on a full cycle and fully enclosed basis;

“dye works” means a place where articles are commercially dyed but does not include dye works in which provision is made for the discharge of all liquid waste therefrom, into a public sewer;

“exempt laundromat” means a premises in which—

- (a) laundering is carried out by members of the public using, on payment of a fee, machines or equipment provided by the owners or occupiers of those establishments;
- (b) laundering is not carried out by those owners or occupiers for or on behalf of other persons; and
- (c) provision is made for the discharge of all liquid waste therefrom into a public sewer;

“laundromat” means a public place with coin operated washing machines, spin dryers or dry cleaning machines; and

“laundry” means any place where articles are laundered by commercial grade machinery but does not include an exempt laundromat.

9.42 Receiving Depot

An owner or occupier of premises shall not use or permit the premises to be used as a receiving depot for a laundry, dry cleaning establishment or dye works except with the written permission of the Principal Environmental Health Officer who may at any time by written notice withdraw such permission.

9.43 Reception Room

(1) The occupier of a laundry, dry cleaning establishment or dye works shall—

- (a) provide a reception room in which all articles brought to the premises for treatment shall be received and shall not receive or permit to be received any such articles except in that room; and
- (b) cause such articles as may be directed by an Environmental Health Officer to be thoroughly disinfected to the satisfaction of the officer.

(2) A person shall not bring or permit food to be brought into the reception room referred to in this section.

9.44 Walls and Floors

The occupier of a laundry, dry cleaning establishment or dye works shall cause—

- (a) the internal surfaces of all walls to be rendered with a cement plaster with a steel float finish or other approved material to a height of 2 metres and to be devoid of holes, cracks and crevices;
- (b) the floor to be impervious, constructed of concrete and finished to a smooth surface; and
- (c) every floor and wall of any building on the premises to be kept at all times in good order and repair, so as to prevent the absorption of any liquid which may be splashed or spilled or may fall or be deposited on it.

9.45 Laundry Floor

The occupier of a laundry shall provide in front of each washing machine a non-corrosive grating, with a width of at least 910 millimetres, so constructed as to prevent any person from standing in water on the floor.

9.46 Escape of Dust

The occupier of a dry cleaning establishment shall provide effective means to prevent the escape into the open air of all dust or other material from the premises.

9.47 Precautions Against Combustion

The occupier of a dry cleaning establishment where volatile liquids are used shall take all proper precautions against combustion and shall comply with all directions given by an Environmental Health Officer for that purpose.

9.48 Trolleys

The occupier of a dry cleaning establishment shall—

- (a) provide trolleys for the use of transporting dirty and clean linen; and
- (b) ensure that each trolley is—
 - (i) clearly designated to indicate the use for which it is intended;
 - (ii) lined internally with a smooth impervious non-absorbent material that is easily cleaned; and
 - (iii) thoroughly cleaned and disinfected on a regular basis.

9.49 Sleeping on Premises

A person shall not use or permit any room in a laundry, dry cleaning establishment or dye works to be used for sleeping purposes.

*Division 7—Manure Works***9.50 Interpretation**

“Fertiliser” in this Division means any fertiliser prepared by artificial processes;

“Manure” in this Division means any manure prepared by natural processes;

“Manure Works” means any premises upon which animal manure or fertiliser is received, stored, or prepared for sale.

9.51 Storage of Manure

The occupier of any manure works shall—

- (a) cause all floors, walls and ceilings in areas where manure or fertiliser is kept or stored, to be constructed of durable, non-absorbent materials, finished internally with a smooth surface;
- (b) cause all manure received or manufactured on the premises to be stored in such a manner as will prevent—
 - (i) emission of noxious or offensive odours;
 - (ii) breeding of flies and any other vectors of disease; or
 - (iii) any other nuisance.

9.52 Emission of Dust, Offensive Odours and Noxious Effluvia

The occupier shall cause every precaution to be taken to prevent at all times emission of dust, offensive odours or noxious effluvia, from the premises.

9.53 Prevention of Nuisances During Transit

The occupier shall cause all manure despatched from the premises to be packed in such a manner as to prevent any nuisance arising therefrom during transit.

PART 10 –OFFENCES, PENALTIES, FEES AND EXPENSES**10.1 Offences**

A person who contravenes a provision of these Local Laws, commits an offence.

10.2 Penalties

A person who commits an offence under Section 10.1 is liable to—

- (a) a penalty which is not more than \$1,000 and not less than—
 - (i) in the case of a first such offence, \$100;
 - (ii) in the case of a second such offence, \$200; and
 - (iii) in the case of a third or subsequent such offence, \$500; and
- (b) if the offence is a continuing offence, a daily penalty which is not more than \$100 and not less than \$50.

10.3 Fees

Wherever a fee is prescribed by these Local Laws, that fee shall—

- (a) be fixed from time to time by Council pursuant to the provisions of Section 344C of the Act, unless otherwise prescribed; and
- (b) all fees, except for a transfer fee, shall be pro-rata, calculated on a monthly basis for any period to 31 December, each year.

10.4 Expenses

Any expense incurred by the local government in consequence of a breach or non-observance of these Local Laws, or in the execution of work directed to be executed by a person and not executed by that person, shall be paid by the person committing the breach or non-observance or failing to execute the work.

Schedule 1

CITY OF BAYSWATER

*Health Act 1911***APPLICATION FOR REGISTRATION OF A LODGING HOUSE**

To: Chief Executive Officer
City of Bayswater

I/We,
(Full name of Applicant/s)

of
(Residential Address of Applicant/s)

apply for the registration of premises situated (or to be situated) at

.....
as a lodging house to be classified as—

- a lodging house;
- a short term hostel;
- a recreational campsite; or
- serviced apartments

(Specify which is to apply)

and for my name to be entered in the Register as the keeper of the lodging house.

DESCRIPTION OF LODGING HOUSE

Number of storeys.....

Rooms for private use

| Area | Number |
|-----------------------------|--------|
| Laundries/toilets/bathrooms | |
| Bedrooms | |
| Dining Rooms | |
| Kitchens | |
| Sitting Rooms | |
| Other (Specify) | |

Rooms for lodgers

| Area | Number |
|-----------------|--------|
| Bedrooms | |
| Dining Rooms | |
| Kitchens | |
| Sitting Rooms | |
| Other (Specify) | |

Sanitary Conveniences for male lodgers

| Area | Number |
|-------------|--------|
| Toilets | |
| Urinals | |
| Baths | |
| Showers | |
| Hand basins | |

Sanitary Conveniences for female lodgers

| Area | Number |
|-------------|--------|
| Toilets | |
| Baths | |
| Showers | |
| Hand basins | |

Laundry Facilities

| Area | Number |
|----------------------------------|--------|
| Coppers | |
| Wash troughs | |
| Washing Machines | |
| Drying cabinets or clothes lines | |

Additional Details

- (a) Lodgers' meals will be provided by the manager/keeper/lodgers.
- (b) The keeper will/will not reside continuously on the premises
- (c) Name and occupation of proposed manager if keeper resides elsewhere
- (d) There will befamily members residing on the premises with the keeper/manager.

Application fee of \$..... is attached.

.....
(Signature of Applicant/s)

.....
(Date)

Schedule 2

CITY OF BAYSWATER

Health Act 1911

CERTIFICATE OF REGISTRATION OF A LODGING HOUSE

THIS is to certify that the premises situated at.....

.....
are registered as a Lodging House and classified as—

- a lodging house
- a short term hostel
- serviced apartments
- a recreational campsite

until 31 December, on the following conditions—

1. That, whose name is entered on the register of keepers of the City of Bayswater, continues to be the keeper of the lodging house;
2. that, appointed by the keeper to be the manager of the lodging house, continues to be the manager of the lodging house;
3. that the Certificate of Registration is not sooner cancelled or revoked;
4. that the maximum number of rooms to be used as sleeping apartments for lodgers is; and
5. that the maximum number of lodgers accommodated on the premises shall not exceed

This Certificate of registration is issued subject to the Health Act and Health Local Laws of the City of Bayswater and is not transferable.

Dated

.....
Principal Environmental Health Officer, City of Bayswater

Fee received: \$.....

Schedule 3

CITY OF BAYSWATER

Health Act 1911

NOTICE OF CHANGE OF OWNER OF A LODGING HOUSE

To: Chief Executive Officer
City of Bayswater

I/We,.....
(Full name of Applicant/s)

of
(Residential Address of Applicant/s)

am/are the new owner/s of premises situated at

.....

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.....
Environmental Health Officer
Date

Schedule 8
CITY OF BAYSWATER
Health Act 1911
APPLICATION FOR LICENSE OF A MORGUE

To: Chief Executive Officer
City of Bayswater

I
(Full name in Block Letters)

of
(Full Residential Address)

apply to license the premises listed below as a Morgue

Address of premises:

Name of premises:

Dated this.....day of..... year.....

.....
(Signature of Applicant)

Schedule 9
CITY OF BAYSWATER
Health Act 1911
CERTIFICATE OF LICENCE OF A MORGUE

This is to certify the following premises is licensed as a Morgue from the 1st January
until 31st December.....

Address of premises:

Name of premises:

Dated this.....day of..... year.....

.....
Principal Environmental Health Officer
City of Bayswater

Schedule 10

CITY OF BAYSWATER

Health Act 1911

APPLICATION FOR CONSENT TO ESTABLISH AN OFFENSIVE TRADE

To: Chief Executive Officer
City of Bayswater

I/We,
(Full Name of Applicant/s)

of
(Residential Address of Applicant/s)

apply for consent to establish an offensive trade being
.....
(Description of Offensive Trade)

in or upon
(Location of the House or Premises)

Notice of my/our intention to make this application was advertised in
.....
.....

on
(Date of Advertisement)

Plans and specifications of the buildings proposed to be used or erected in connection with the proposed offensive trade are attached.

.....
(Signature of Applicant/s)

.....
(Date)

Schedule 11

CITY OF BAYSWATER

Health Act 1911

APPLICATION FOR REGISTRATION OF PREMISES FOR OFFENSIVE TRADE

To: Chief Executive Officer
City of Bayswater

To: Chief Executive Officer
City of Bayswater

I/We,
(Full Name of Applicant/s)

of
(Residential Address of Applicant/s)

apply for registration, for the year ended.....
of
(Location of Premises)

being premises in or upon which there is (or is to be) carried on an offensive trade, namely
.....
(Description of Offensive Trade)

under the business name of.....

The prescribed registration fee of \$ is attached.

.....
(Signature of Applicant/s)

.....
(Date)

Schedule 12
CITY OF BAYSWATER
Health Act 1911

CERTIFICATE OF REGISTRATION OF PREMISES FOR OFFENSIVE TRADE

This is to certify that the premises situated at

.....

of which

is the occupier, is registered for the carrying on of the trade of

.....

Trade Name

This registration expires on 31st December

Dated this.....day of..... year.....

.....
Principal Environmental Health Officer
City of Bayswater

Passed by resolution at an Ordinary Meeting Of The Council of the City of Bayswater held on 24th day of July 2001.

The Common Seal of the City of Bayswater was hereunto affixed in the presence of—

LOUIE J. MAGRO, Mayor.

MARIO J. CAROSELLA, Chief Executive Officer.

On this 7th day of August 2001.

Consented to—

Dr VIRGINIA A. McLAUGHLIN, MBChB, MApp Epid, FAFPHM,
delegate of Executive Director Public Health.

Dated this 30th day of October 2001.

HEALTH ACT 1911

CITY OF BAYSWATER

HEALTH (EATING-HOUSES) LOCAL LAWS 2001

Made by the Council of the City of Bayswater under section 342 of the *Health Act 1911* in accordance with subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995*.

Citation

1. These local laws may be cited as the "*City of Bayswater Health (Eating-Houses) Local Laws 2001*".

Repeal

2. The Health Local Laws—Eating Houses of the City of Bayswater made by the City of Bayswater on 28 April 1987 and published in the *Government Gazette* on 18 March 1988 and amended from time to time, are repealed.

Interpretation

3. In these local laws, unless the context otherwise requires—

"Act" means the *Health Act 1911* (as amended) and includes any subsidiary legislation made under the *Health Act 1911*.

"certificate of registration" means a registration certificate issued pursuant to the provisions of these local laws by the local government.

"Chief Executive Officer" means the Chief Executive Officer of the City of Bayswater and includes an Acting Chief Executive Officer.

"Council" means the Council of the City of Bayswater.

"eating-house" means an eating-house as defined in Division 3, Section 160, of the *Health Act 1911* (as amended).

"Environmental Health Officer" means an Environmental Health Officer appointed under the Act.

"local government" means the City of Bayswater.

"licence" means a licence to conduct the business of an eating-house granted pursuant to the provisions of these local laws by the local government.

"proprietor" means the person having the management or control of premises.

"registered premises" means any premises that are registered as an eating-house under these local laws.

Requirement for Registration and Licensing

4. No person shall occupy or use any premises as an eating-house unless—

- (a) the premises are registered under these local laws as an eating-house;
- (b) the proprietor of the said premises is the holder of a licence issued by the local government authorising him to conduct on the premises the business of an eating-house; and
- (c) the premises and the operations conducted within the premises comply with the requirements of the *Health (Food Hygiene) Regulations 1993*.

Registration of an Eating-House

5. (1) An application for registration of an eating-house shall be forwarded to the Chief Executive Officer together with—

- (i) the fee as fixed from time to time by Council under Section 344C of the Act;
- (ii) in relation to an eating-house which is not currently registered, detailed plans and specifications of the eating-house which shall include the following details—
 - (a) the use of each room;
 - (b) the structural finish of each wall, floor and ceiling;
 - (c) the position and type of each fitting and fixture;
 - (d) all sanitary conveniences, change rooms, ventilating systems, drains, grease traps and provisions for waste disposal; and
 - (e) the proposed number of persons, including the proprietor or proprietors expected to be engaged in the preparation, manufacture, processing, cooking or serving of meals.

(2) Before any premises are registered as an eating-house, the site intended to be used for such purpose shall be subject to the approval of the local government;

(3) The local government may attach such conditions as it deems necessary to ensure compliance with the requirements of the Act, to the registration of an eating-house, and these conditions shall be set out in the certificate of registration.

(4) If the application is approved, the local government shall issue to the applicant a certificate of registration.

Prescribed Date

6. (1) For the purposes of section 162 of the Act, the prescribed date after which no person shall establish or carry on the business of an eating-house unless the eating-house is registered and the proprietor thereof is licensed is the 18 March 1988.

(2) For the purpose of section 163 of the Act, the 31st day of December in each year is prescribed as the date on or before which the annual application for registration of an eating-house and licence for the proprietor of an eating-house shall be made.

Licence to Conduct an Eating-House

7. Before any licence to conduct an eating-house is issued to any proprietor by the local government under these local laws, the proprietor shall make an application in writing and shall—

- (i) include the full name and address of the applicant;
- (ii) specify the location for which the licence is sought;
- (iii) specify the proposed goods, wares, merchandise or services in respect of which the trading will be carried on;
- (iv) include details of any previous experience in the operations of eating-houses; and

the applicant shall forward the application, together with the fee as fixed from time to time by Council under Section 344C of the Act, to the local government and if the application is approved, the local government shall issue to the proprietor a licence.

Register of Registrations and Licences

8. Every certificate of registration of premises registered as an eating-house and every licence issued to a proprietor shall be entered in a register maintained by the local government for that purpose.

Licence conditions

9. A licence shall be issued upon and subject to the condition that the holder of the licence shall—

- (a) display the licence and certification of registration of the eating-house in a conspicuous place in the eating-house;
- (b) notify the local government in writing of any alteration, addition or other work relating to the construction, drainage or ventilation of the eating-house prior to the commencement of such alteration, addition or other work;
- (c) notify the local government in writing of any proposed increase in staff numbers;
- (d) prevent public access to the food preparation and storage areas at all times.

Certificate of Registration and Licences

10. Every proprietor of registered premises shall keep the certificate of registration and the licence on the registered premises in a position visible to the general public and shall, when requested to do so by an Environmental Health Officer, produce the certificate of registration and the licence issued to the proprietor in respect of such premises

Period of Registration and Licence

11. Every certificate of registration and every licence shall be in force from the day of issue to the next 31st day of December, inclusive, unless the same is cancelled in the meantime in accordance with the provisions of the Act.

Renewal Applications

12. Applications for renewal of certificates of registration and licences shall be made annually during the month of November.

Fees

13. The fees payable to the local government on the registration of premises, the issue of a licence and on the renewal of any registration or licence shall be the fee as fixed from time to time by Council under Section 344C of the Act.

Change of Address

14. Whenever any person identified as the proprietor on a certificate of registration and/or a licence issued pursuant to these local laws, changes his or her place of abode he or she shall, within seven days of such a change, give notice in writing to the local government specifying his or her new place of abode and he or she shall, at the same time, produce such certificate of registration and/or licence to the local government, and the amendment shall be endorsed thereon.

Licence Personal to Holder

15. Any licence issued under the provisions of these local laws to any proprietor to conduct an eating-house, shall not be transferable to any other person except as specified in section 168 subsection 2 of the Act.

New Proprietors to apply for Licence

16. If the licenced proprietor of any premises registered as an eating-house ceases to be the proprietor, as defined under these local laws then any person wishing to become the proprietor of such premises must make application to the local government for a licence to conduct an eating-house as required by Section 6 of these local laws.

Power to Grant or Refuse an Application or Cancel a Registration or Licence

17. Where application is made to the local government either for—

- (a) an eating-house to be registered; or
- (b) a licence to be issued to conduct the business of an eating-house, then—
 - (i) such application may be issued or refused subject to sections 165 and 166 of the Act;
 - (ii) any such registration or licence, if allowed and issued, may be cancelled at any time for any one of the reasons described in subsections 165(3) and 166(3) of the Act.

Offences and Penalties

18. Any person who commits a breach of any of the provisions of these local laws shall be guilty of an offence and upon conviction shall be liable to—

a fine that is not more than \$2,500 and not less than—

- (i) in the case of a first offence \$250;
- (ii) in the case of a second offence \$500; and
- (iii) in the case of a third or subsequent offence, \$1,250; and

if that offence is a continuing offence, a daily penalty which is not more than \$250 and not less than \$125.

Passed at a meeting of the Council of the City of Bayswater held on the 24th day of July, 2001.

The Common Seal of the City of Bayswater was hereunto affixed in the presence of—

LOUIE J. MAGRO, Mayor.

MARIO J. CAROSELLA, Chief Executive Officer.

On this 7th day of August, 2001.

Consented to—

Dr VIRGINIA A. McLAUGHLIN, MBChB, MApp Epid, FAFPHM,
delegate of Executive Director Public Health.

On this 30th day of October, 2001.

HEALTH ACT 1911

CITY OF BAYSWATER

HEALTH (ITINERANT FOOD VENDORS) LOCAL LAWS 2001

Made by the Council of the City of Bayswater under section 342 of the *Health Act 1911* in accordance with subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995*.

Citation

1. These local laws may be cited as the "*City of Bayswater Health (Itinerant Food Vendors) Local Laws 2001*".

Interpretation

2. In these local laws, unless the context otherwise requires—

"Act" means the *Health Act 1911* (as amended) and includes any subsidiary legislation made under the *Health Act 1911*.

"Chief Executive Officer" means the Chief Executive Officer of the City of Bayswater and includes an Acting Chief Executive Officer.

"Council" means the Council of the City of Bayswater.

"itinerant food vendor" means a person who travels along the road looking for customers and who sells food from a vehicle temporarily parked on, or beside, the street to customers who stop him while he is so parked.

"licence" means a licence to operate as an Itinerant Food Vendor granted pursuant to the provisions of these local laws by the Council.

"Principal Environmental Health Officer" means the Principal Environmental Health Officer appointed under the Act

Licence

3. (1) An itinerant food vendor shall not offer for sale or sell food unless the person—

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

(2) An application for an itinerant food vendor's licence shall be—

- (a) made by the proprietor or where there is more than one proprietor, by each proprietor;
- (b) made in the form prescribed in Schedule 1; and
- (c) forwarded to the Chief Executive Officer together with the fee as fixed from time to time by Council under Section 344C of the *Health Act 1911*.

(3) An application for a licence under this clause shall be determined by Council which, may approve the application, with or without conditions, or reject the application.

(4) Where Council approves, with or without conditions, an application under this clause, an itinerant food vendor's licence—

- (a) signed by the Principal Environmental Health Officer; and
- (b) in the form of Schedule 2,

shall be issued by Council.

(5) A licence issued under this clause shall be valid until 31st December next following the date of issue of the licence by Council.

(6) A person who makes a false statement in an application under this clause, commits an offence.

(7) A person issued with an itinerant food vendors licence shall, whilst plying his/her trade, carry the licence and produce the same to an Environmental Health Officer on demand.

(8) A food vehicle used for the purpose of conducting a business as an itinerant food vendor shall be presented for inspection by an Environmental Health Officer prior to annual licensing.

(9) A person issued with a licence to operate as an itinerant food vendor must comply with relevant requirements of the *Food Hygiene Regulations 1993*.

Offences and Penalties

4. (1) A person who contravenes a provision of these local laws commits an offence.

(2) A person who commits an offence under sub clause (1) is liable to—

- (a) a penalty which is not more than \$2,500 and not less than—
 - (i) In the case of a first such offence, \$250;

- (ii) In the case of a second such offence, \$500; and
- (iii) in the case of a third and subsequent such offence \$1250; and
- (b) if the offence is a continuing offence, a daily penalty which is not more than \$250 and not less than \$125.

Schedule 1

CITY OF BAYSWATER

Health Act 1911

APPLICATION FOR LICENCE AS AN ITINERANT FOOD VENDOR

To Chief Executive Officer
City of Bayswater

Name (in full) of Applicant

Place of Residence

.....
.....

Postal Address

.....
.....

Type of Food for sale

Place where vehicle, food and trade utensils are stored—

Details of vehicle or means of carriage—

Dated this.....day of.....year.....

.....
Signature of Applicant
Telephone.....

Schedule 2

CITY OF BAYSWATER

Health Act 1911

LICENCE AS AN ITINERANT FOOD VENDOR

This is to certify that

.....
(Name)

of

.....
(Address)

is hereby licensed as an Itinerant Food Vendor within the Health District of the City of Bayswater.

This licence expires on the 31 st day of December following the date of issue, unless this licence is previously cancelled.

Date of issue:day ofyear.....

.....
Principal Environmental Health Officer

Passed at a meeting of the Council of the City of Bayswater held on the 24th day of July, 2001.

The Common Seal of the City of Bayswater was hereunto affixed in the presence of—

LOUIE J. MAGRO, Mayor.

MARIO J. CAROSELLA, Chief Executive Officer.

On this 7th day of August, 2001.

Consented to—

Dr VIRGINIA A. McLAUGHLIN, MBChB, MApp Epid, FAFPHM,
delegate of Executive Director Public Health.

On this 30th day of October, 2001.

