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LOCAL GOVERNMENT ACT 1995

CITY OF BUNBURY

**LOCAL GOVERNMENT AND
PUBLIC PROPERTY LOCAL LAW**

PRIVATE PROPERTY LOCAL LAW

LOCAL GOVERNMENT ACT 1995

CITY OF BUNBURY

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LOCAL GOVERNMENT ACT 1995

CITY OF BUNBURY

**LOCAL GOVERNMENT AND PUBLIC PROPERTY
LOCAL LAW**

Under the powers conferred by the *Local Government Act 1995* and all other powers enabling it, the Council of the City of Bunbury resolved on 21 October 2003 to make the following local law.

PART 1—PRELIMINARY**Title**

1.1 This local law may be referred to as the City of Bunbury Local Government and Public Property Local Law.

Purpose and effect

1.2 (1) The purpose of this local law is to provide for the regulation, control and management of activities and facilities on local government and public property.

(2) The effect of this local law is to establish the requirements with which any persons using or being on local government and public property within the district must comply.

Commencement

1.3 This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

Repeal

1.4(1) The following local laws adopted by the City of Bunbury—

- Local law—Relating to Street Trading and Trading in Other Places, published in the *Government Gazette* 16 July 1998;
- Local law—Relating to Outdoor Eating Areas, published in the *Government Gazette* 16 July 1998;
- Local law—Relating to Reserves, Foreshore, and Beaches published in the *Government Gazette* 23 January 1998;
- Local law—Relating to Use and Misuse of Streets, Kerbs, Verges and Footpaths, as published in the *Government Gazette* 9 March 1984 and amendments;
- Local law—Relating to Removal and Disposal of Obstructing Animals, Vehicles and Shopping Trolleys, published in the *Government Gazette* 31 October 1986 and amendments;
- By-law—Relating to Verandahs and Awnings Over Streets, published in the *Government Gazette* 10 December 1964 and amendments;
- By-law—Relating to Swimming Pools and Aquatic Centre, published in the *Government Gazette* 15 December 1992 and amendments;

are repealed on the day this local law comes into operation.

(2) Where a policy was adopted by the local government under or in relation to a repealed local law by this local law then the policy is to be taken to have continued to have effect on and from the commencement date.

Application

1.5 (1) This local law applies throughout the district of the City of Bunbury and in the sea adjoining the district for a distance of 200 metres seawards from the low water mark at the ordinary spring tides.

(2) Notwithstanding anything to the contrary in this local law, the local government may—

- (a) bail or hire local government property to any person with or without charge or upon terms; and
- (b) enter into an agreement with any person regarding the use by that person of any local government property.

Interpretation

1.6 In this local law unless the context otherwise requires—

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

“**adjacent owner**” means the owner of any property or lot adjoining a street verge which is subject to a verge treatment;

- “**applicant**” means a person who has lodged an application for an approval or certificate required for any activity under this local law;
- “**application**” means the completed form lodged by an applicant as required by this local law;
- “**appointed place**” means a place or piece of land appointed by Council or the CEO where anything confiscated or impounded under the provisions of this local law, may be held in custody;
- “**approval holder**” means the person issued with an approval;
- “**article**” in respect of lost property, includes money;
- “**attendant**” means an employee of the local government duly authorised to perform duties in connection with a pool premises or other recreational facilities;
- “**authorised person**” means a person authorised by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law and any member of the Western Australian Police Service;
- “**bulk rubbish container**” means a bin or container designed or used for holding a quantity of materials or rubbish and which is lifted with or without mechanical assistance, but not a bin or container used in connection with the local government's regular domestic rubbish collections;
- “**CEO**” means the Chief Executive Officer of the local government;
- “**clause**” means a clause of this local law;
- “**carriageway**” means any portion of a thoroughfare that is improved, designed or ordinarily used for vehicles and includes the shoulders and areas including embayments at the side or centre of the carriageway, used for the parking of vehicles and where a thoroughfare has two or more of those portions divided by a median strip, the expression means each of those portions, separately;
- “**district**” means the district of the local government;
- “**footpath**” means the paved or made portion of a thoroughfare used or intended for use by pedestrians and cyclists;
- “**garden**” means any part of a thoroughfare planted, developed or treated, otherwise than as a lawn, with one or more plants;
- “**intersection**” means—
- that part of a thoroughfare comprised within imaginary lines joining the points of transection of the street alignments of 2 or more thoroughfares that meet each other; but
 - where the street alignments are curved where the thoroughfares meet then the point of transection is the point on the curve nearest to the point at which those street alignments would meet if straight;
- “**junction**” means—
- that part of a thoroughfare comprised within imaginary straight lines at right angles to the thoroughfare commencing from the points of transection of the street alignments of the thoroughfare with the street alignments of the land which abuts on it; but
 - where the street alignments are curved at any corner then the point of transection is the point at which those street alignments would meet if straight;
- “**lawn**” means any part of a thoroughfare which is planted only with grass but will include any other plant provided that it has been planted by the local government;
- “**livestock**” includes cows, bulls, sheep, pigs, poultry or other animals or birds raised for domestic or commercial purposes;
- “**local government**” means the local government of the City of Bunbury;
- “**lot**” has the meaning given to it in the *Town Planning and Development Act 1928*;
- “**nuisance**” means—
- any activity, thing, condition, circumstance or state of affairs caused or contributed to by a person which is potentially injurious or dangerous to the health of another person of normal susceptibility, or which has a disturbing effect on the state of reasonable physical, mental or social well-being of another person;
 - anything a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place; or
 - anything a person does on public or private land which unreasonably detracts from or interferes with the enjoyment or value of land owned by another person, provided that any thing done in accordance with the law or a legal right or which is consistent with the standard of behaviour in the relevant locality shall not be unreasonable for the purpose of this local law;
- “**permit**” means a permit issued by the local government under this local law;
- “**permissible verge treatment**” means any one of the 4 treatments described in Part 5, clause 5.13(2) and includes any reticulation pipes and sprinklers;
- “**permit holder**” is a person to whom a permit has been issued under this local law;
- “**person**” includes a propriety limited company or association;

“**public place**” includes any thoroughfare or place which the public are allowed to use, or any land set apart for the use and enjoyment of the inhabitants of the district whether the thoroughfare or place is or is not on private property and includes parklands, squares, reserves, beaches, and other lands set apart for the use and enjoyment of the public, including all lands which belong to or which are vested in, or are under the control or management of, the local government and any public property;

“**public property**” means any real property, land, lot, or reserve which is open and available for use by the public for public purposes, whether through payment of a fee or not, and includes any building, structure, flora or fauna thereon;

“**Schedule**” means a Schedule to this local law;

“**street**” includes a highway and thoroughfare as defined in the *Local Government Act 1995* 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;

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

“**traffic**” means the movement of people by any means across land;

“**vehicle**” includes—

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
 - (b) an animal being ridden or driven;
- but excludes—
- (c) a wheel-chair or any device designed for use by physically impaired persons;
 - (d) a wheeled recreational device;
 - (e) a pram, a stroller or similar device; and
 - (f) a boat;

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

“**Veterinary Surgeon**” means a registered veterinary surgeon—

- (a) person who is registered as a veterinary surgeon or as an honorary veterinary surgeon under Section 17 of the *Veterinary Surgeons Act 1960*; and
- (b) a person who holds a certificate of provisional registration as a veterinary surgeon under section 20B of the *Veterinary Surgeons Act 1960*;

“**wheeled recreational device**” means a wheeled device, built to transport a person, propelled by human power or gravity and ordinarily used for recreation or play, including—

- (a) in-line skates, rollerblades, a skateboard or similar wheeled device;
- (b) a scooter being used by a person aged 12 years of age or older; and
- (c) a unicycle;

“**zoned**” means zoned under a town planning scheme of the local government.

PART 2—ADMINISTRATION

2.1 In this local law a reference to the local government having the power to do something in its discretion, and whether or not subject to any condition it thinks fit, shall be deemed to include a reference to the CEO and a committee to which the local government has delegated the power of doing the thing or exercising the discretion.

2.2 In this local law a reference to the local government having power to do something in its discretion, shall be deemed to include a reference to any employee of the local government to whom the CEO has delegated the exercise of any of the CEO's powers or the discharge of any of the CEO's duties in relation to this local law.

2.3 In this local law any fees and charges shall be determined from time to time by resolution of the local government in accordance with the provisions of the *Local Government Act 1995*.

PART 3—SIGNS

3.1 (1) Subject to any other written law, the local government may make a determination—

- (a) as to the activities which may or may not be pursued on any thoroughfare, local government property, public property or other public place; and
- (b) as to any other condition of use of any thoroughfare, local government property, public property or other public place which the local government considers appropriate.

(2) Subclause (1) does not apply to any private property which is a public place unless the owner of that property either requests or consents to the making of a determination under that subclause.

3.2 (1) The local government shall give effect to any determination made under clause 3.1 by publishing notices or erecting signs on the thoroughfare or other public place.

(2) A person shall use a thoroughfare or other public place in accordance with the notice or sign referred to in subclause (1) (if any).

PART 4—PERMITS**Application for permit**

4.1 (1) An application for any permit under this local law is to—

- (a) be in the form determined by the local government from time to time;
- (b) be signed by the proposed permit holder;
- (c) provide the information required by the form; and
- (d) be forwarded to the CEO or authorised person together with the fee determined by the local government from time to time.

(2) The local government may require a person making an application for a permit to give local public notice of the application under section 1.7 of the Act.

(3) The local government may reject any application for a permit which does not comply with this local law.

Discretions of the Local Government

4.2 (1) The local government may approve an application for a permit, may refuse to approve it or may approve it subject to such conditions as it thinks fit.

(2) Without limiting the generality of subclause (1), the conditions subject to which the local government may approve an application for a permit include the following—

- (a) the payment of a fee;
- (b) compliance with a standard or any policy of the local government adopted by resolution of the local government from time to time;
- (c) compliance with the Main Roads of WA Traffic Management Code of Practise;
- (d) the duration and commencement of the permit;
- (e) the commencement of the permit being contingent on the happening of an event;
- (f) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (g) where the applicant is not the owner of any property to which the permit relates, the written consent of the owner;
- (h) the granting of some other permit which may be required by the local government under any written law;
- (i) the area of the district to which the permit relates;
- (j) where a permit is issued for an activity which will or may cause damage to a thoroughfare, payment of a deposit or bond against such damage; and
- (k) a requirement that public risk or other insurance be obtained in respect of the activity or place to which the permit relates.

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

Issuing of permits

4.3 On approving an application for a permit, the local government is to issue to the applicant a permit in the form determined by the local government from time to time.

Duration of permits

4.4 Except where it is otherwise stated in this local law, or in a particular permit, all permits will expire one year after the date on which they were issued.

Renewal of permits

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

(2) If an application for the renewal of a permit is not received prior to the expiry of a permit, the local government may refuse to consider the application as an application for the renewal of a permit.

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

Transfer of permits

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

- (a) be made in writing;
- (b) be signed by the permit holder and the proposed transferee of the permit;
- (c) provide such information as the local government may require to enable the application to be determined; and
- (d) be forwarded to the CEO together with the fee determined by the local government from time to time.

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

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

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

Production of a permit

4.7 A permit holder is required to carry their permit at all times whilst so involved or engaged in the activity the subject of the permit and the permit holder shall produce her or his permit immediately upon being required to do so by an authorised person.

Public utilities

4.8 (1) A public utility or a person employed by or acting on behalf of a public utility, may be required to obtain a permit in respect of work which is for the purposes of the public utility.

(2) A person who would, but for subclause (1), be required to obtain a permit in respect of any activity must notify the local government of the time and location of the activity prior to its commencement.

Cancellation of permits

4.9 (1) Subject to clause 12.6, the local government may cancel a permit if the conditions under which the permit was issued have not been complied with, or if the permit holder has contravened any provision of this local law.

(2) Where—

- (a) the permit relates to a proposed activity upon any land;
- (b) the permit holder is not the owner of the land; and
- (c) the owner's consent was required to be given to the application for the permit; the owner must be notified by the local government of the decision to cancel the permit.

(3) Upon the cancellation of a permit—

- (a) the permit holder is to return the permit as soon as practicable to the CEO or an authorised person; and
- (b) the permit holder is deemed to have forfeited any fees paid in respect of the permit.

PART 5—WORKS ON THOROUGHFARES AND PUBLIC PLACES

Activities which are prohibited

5.1 A person must not—

- (a) grow or maintain any plant on any part of a thoroughfare which is thorny or which is or may be injurious to the health of any person or which may otherwise create a hazard for any person;
- (b) water a lawn or garden in a manner which causes or may cause an inconvenience or obstruction to any person using a thoroughfare;
- (c) plant any plant which exceeds or which may exceed 0.75 metres in height on any part of a thoroughfare so that the plant is within 6 metres of a junction or intersection;
- (d) unless he or she is the owner or occupier of the lot abutting the thoroughfare, or a person authorised by the owner or occupier, or authorised under any written law, damage a lawn or a garden or remove any plant or part of a plant from a garden;
- (e) plant any plant (except grass) on that part of a thoroughfare which is within 2 metres of a carriageway;
- (f) place any household rubbish or garden waste of any kind in a bin provided by the local government for the use of the public on a thoroughfare or public place;
- (g) deposit or place on any footpath any fruit, fruit skins or other substance or fluid whether vegetable or otherwise which may create a hazard for any person using the footpath;
- (h) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence, or any structure erected by the local government on any public place;
- (i) play or participate in any game or sport so as to cause danger to any person or impede the movement of traffic on a thoroughfare; or
- (j) within a mall, arcade or verandah of a shopping centre, ride any wheeled recreational device.

Activities requiring a permit

5.2 A person must not, without a permit—

- (a) dig or otherwise create a trench through or under a carriageway, street, kerb or footpath;
- (b) throw, place or deposit any thing on any public place except for removal by the local government under a bulk rubbish collection, and then only during the period of time advertised in connection with that collection by the local government;
- (c) cause any obstruction to vehicles or persons using a thoroughfare as a thoroughfare;
- (d) cause any obstruction to a water channel or a water course;
- (e) throw, place or drain offensive, noxious or dangerous fluid onto a public place;
- (f) damage any public place;
- (g) light any fire or burn any thing on any public place;
- (h) fell any tree on or across any public place;

- (i) on a verge, plant or maintain a lawn or a garden except in accordance with Division 2 of this Part; unless installing a permissible verge treatment;
- (j) lay pipes under or provide taps on any verge;
- (k) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, asphalt, plastic sheeting, kerbing, wood chips, bark or sawdust;
- (l) provide, erect, install or use in or on any building, structure or land abutting on any thoroughfare any hoist or other thing for use above the level of the thoroughfare;
- (m) in or upon any public place or public property use anything or do anything so as to create a nuisance; or
- (n) place or cause to be placed on a thoroughfare or any part of a thoroughfare a Bulk Rubbish Container.

Division 1—Vehicle Crossings

Interpretation

5.3 (1) In clauses 5.3 to 5.11, “**crossing**” means a crossing giving access from a public thoroughfare to private land or a private thoroughfare serving private land.

(2) Generally, crossings are dealt with in regulations 12 to 16 of the *Local Government (Uniform Local Provisions) Regulations 1996*.

Number of crossings

5.4 No more than 2 crossings are to be constructed to a lot unless the prior written permission of the local government has been first obtained by the owner of the lot.

A Permit is required

5.5 Whether temporarily or permanently, a person is not to excavate, remove, obstruct or alter a crossing without first obtaining a permit to do so from the local government.

Temporary crossings

5.6 Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works must obtain a permit for the construction of a temporary crossing which protects the existing carriageway, kerb, drains and footpath where—

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

5.7 Prior to the issue of a permit under clause 5.6, the local government—

- (a) is to inspect the lot, the adjacent thoroughfare, footpath and the crossing (if any) and is to record any existing damage to the thoroughfare, footpath and the crossing (if any); and
- (b) responsible for the works in an amount that maybe determined by the local government from time to time.

5.8 The holder of a permit issued under clause 5.6 is to notify the local government upon the completion of all works on a lot which involve vehicles leaving a thoroughfare and entering the lot, and the local government is to inspect the lot, the adjacent thoroughfare, footpath and any existing crossing for any damage which has occurred subsequent to the inspection under clause 5.7.

5.9 If the inspection under clause 5.8 reveals—

- (a) no damage, then the deposit or bond is to be returned as soon as practicable to the permit holder; or
- (b) damage, then the deposit or bond may be used to meet the cost of repairing the damage, and any difference shall be returned to the permit holder, or recovered from the permit holder as a debt, as the case may be.

5.10 Until such time as the temporary crossing is removed, the permit holder is to keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

Redundant vehicle crossings

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

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

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

Division 2—Verge Treatments

Interpretations

5.12 In this Division, unless the context otherwise requires—

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

Permissible verge treatments

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

(2) The permissible verge treatments are—

- (a) the planting and maintenance of a lawn;
- (b) the planting and maintenance of a garden provided that—
 - (i) clear sight visibility is maintained at all times for persons using the abutting thoroughfare in the vicinity of intersections and bends in the thoroughfare;
 - (ii) no plant is planted which is thorny or which is or may be injurious to the health of any person or which may otherwise create a hazard for any person; and
 - (iii) where there is no footpath, pedestrians have 2 metres safe and clear access along that part of the verge immediately adjacent to the kerb;
- (c) the installation of an acceptable material; or
- (d) the installation over no more than one third of the area of the verge (excluding any vehicle crossing) of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraphs (a) or (b).

5.14 (1) A person must not install or maintain a verge treatment that is not a permissible verge treatment.

(2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) will each be deemed to have installed and maintained that verge treatment for the purposes of this clause and clause 5.15.

5.15 An owner or occupier who installs and maintains a permissible verge treatment must—

- (a) indemnify the local government against all or any damage or injury caused to any person or thing, including any thoroughfare and anything under or over the thoroughfare, arising from the installation and maintenance of the permissible verge treatment, and is to make good all such damage caused;
- (b) keep the verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that any footpath on the verge or the carriageway adjoining the verge is not obstructed by the verge treatment;
- (c) not place any obstruction on or around any verge treatment;
- (d) not water or maintain a verge treatment in such a manner as to cause a nuisance or inconvenience to any other person and, in particular, any person using a footpath or the carriageway abutting the verge; and
- (e) not disturb any footpath on the verge.

Powers of enforcement

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

Powers to carry out public works on verges

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

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

Division 3—When Fencing Can Be Required

5.18 (1) The local government may by notice require the owner of land that adjoins a public thoroughfare, or any other public place, to suitably enclose the land to prevent, to the extent practicable—

- (a) the entry of any person or livestock onto the land where, in the opinion of the local government, injury may be caused to any person or livestock from an offensive substance which is used on the land;
- (b) the escape of noise and dust from the land;
- (c) the escape of livestock from the land;
- (d) the escape of sand from the land;
- (e) the spread of dieback, other fungal diseases or pest plants from the land due to the movement of traffic across the land.

(2) Under subclause (1) the local government may require an owner to enclose land with a closed fence in respect of the escape of sand and dust from the land onto a public thoroughfare or public place.

PART 6—ANIMALS, VEHICLES AND SHOPPING TROLLEYS*Division 1—Animals and Livestock***Leaving livestock, dog or animal in public place or on local government property**

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

(2) A person contravenes subclause (1) where the livestock, dog or animal is secured or tethered for a period exceeding 1 hour.

Prohibitions relating to livestock

6.2 (1) In this Division, “owner” in relation to livestock includes—

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

(2) An owner of livestock shall not—

- (a) subject to subclause (2)(e), allow livestock to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
- (b) allow livestock which has a contagious or infectious disease to be led, ridden or driven in a public place;
- (c) train or race livestock on a thoroughfare;
- (d) ride, drive, lead or bring livestock onto any reserve, park or foreshore, unless that person does so under a permit issued by the local government or under the authority of a written law; or
- (e) ride, drive or lead any livestock onto, or over any lawn or garden planted or maintained in any thoroughfare, unless that person does so under a permit issued by the local government or under the authority of a written law.

Livestock not to stray

6.3 An owner of livestock shall not permit that livestock to stray or to be at large in a street, public place or upon private property without the consent of the property owner.

Property to be fenced

6.4 The owner or occupier of a property on which livestock is kept, shall cause the property or a portion of the property to be fenced in accordance with any other local law and in a manner capable of confining the livestock to that portion where the livestock is kept.

Livestock may be impounded

6.5 (1) An authorised person may impound livestock found at large or straying in contravention of clause 6.3.

(2) Impounded livestock shall be placed in—

- (a) a pound established and maintained by the local government; or
- (b) a secured portion of private property with the consent of the property owner.

(3) The owner of impounded livestock shall pay the transport, impounding and sustenance fees determined by the local government from time to time prior to the recovery of any impounded livestock.

(4) Where impounded livestock is not reclaimed within the periods of time specified in the Act, and the local government has made all reasonable endeavors to contact the owner of the livestock, the local government may sell or otherwise dispose of the impounded livestock in accordance with the Act.

(5) If a Veterinary Surgeon considers the impounded livestock is suffering from a contagious or infectious disease or otherwise from injury, neglect or maltreatment the local government may cause impounded livestock to be destroyed and its carcass disposed of and may recover the expense of doing so from the owner of the impounded livestock as a debt owed to the local government.

Fouling of streets and public places

6.6 An owner of livestock who suffer or permits that livestock to excrete on any public place or on any land within the local government district without the consent of the owner or occupier of that land commits an offence unless the excreta is removed forthwith and disposed of either on private land with the consent of the owner or occupier or in such other manner as the local government or an authorised person may approve.

Division 2—Control of vehicles

6.7 A person must not—

- (a) notwithstanding clause 6.8, park a vehicle, commercial vehicle or a caravan, omnibus, cart or trailer on a verge for more than 1 hour consecutively or for more than 2 hours in a day, unless in between each period that it is parked or allowed to remain stationary on the verge it has been removed from the verge for at least 4 hours;

- (b) on a verge repair, service or clean any vehicle;
 - (c) drive any vehicle along any footpath;
 - (d) park a vehicle upon a permissible verge treatment unless authorised to do so by the owner or occupier of the abutting lot or under any written law.
- 6.8 (1) A person must not without a permit issued by the local government, or unless authorised under any written law—
- (a) drive any vehicle over or across a kerb or footpath except at a crossing;
 - (b) leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place;
- (2) A person contravenes subclause 6.8(1)(b) when the vehicle is left for a period exceeding 24 hours.
- 6.9 A vehicle involved in a contravention of subclause 6.8(1)(b) may be impounded by an authorised person, respectively, in accordance with the *Local Government (Miscellaneous Provisions) Act 1960* or the Act.

Division 3—Shopping Trolleys

Interpretations

6.10 In this Division, unless the context otherwise requires –

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

“**shopping trolley**” means a container or receptacle on wheels provided by a retailer for the transport of goods therein or thereon;

Retailers name to be marked on shopping trolley

6.11 A retailer shall clearly mark its name, or the name of the owner, on any shopping trolley.

Retailer taken to own trolley

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

Person not to leave shopping trolley in public place

6.13 A person using a shopping trolley is not to leave a shopping trolley in a public place unless it is in an area set aside for the storage of shopping trolleys.

Shopping trolley to be removed by retailer

6.14 If any shopping trolley is found in any public place (other than in accordance with clause 6.13) the owner of the shopping trolley is to remove the shopping trolley from the public place within 30 minutes of being advised of its location by the local government.

Removal and impounding of shopping trolley

6.15 Subject to the provisions of the Act, the local government may remove and impound any shopping trolley which is not removed in accordance with clause 6.14.

PART 7—OUTDOOR EATING AREAS, TRADING OR ENTERTAINING ON STREETS OR OTHER PUBLIC PLACES

Division 1—Outdoor Eating Areas

Interpretation

7.1 In this Division unless the context otherwise requires—

“**authorised person**” includes any environmental health officer employed by the local government and the CEO or any other person appointed by the council as an authorised person for the purposes of this Division;

“**eating area**” means an area in which tables, chairs and other structures are provided for the purpose of supplying food or drink to the public or the consumption of food or drink by the public;

“**eating house**” means any land, premises or place, or any part thereof, on or in which meals are prepared for service or are served to the public for gain or reward. This term does not include any building, tent or other structure used temporarily for the preparation for service or service of meals to the public, at any fair, show, military encampment, races, or other public sports, games or amusements;

“**Health Act**” means the *Health Act 1911* (as amended) and includes regulations and local laws made thereunder or any subsequent legislation repealing and replacing this legislation;

“**licence**” means a licence issued by the local government under this Division to set up and conduct an outdoor eating area;

“**licensee**” means the person who is the holder of a licence;

“**licence plans**” means plans attached to and forming part of a licence depicting those areas of a street or public place within which an outdoor eating area may be set up and conducted;

“**outdoor eating area**” means an outdoor eating area in a street or public place;

“proprietor”—

- (1) has the same meaning assigned to it by Section 160 of the Health Act, or
- (2) means the holder of a licence granted under the *Liquor Licensing Act 1988* where the premises in question are the subject of a Hotel licence, a licence or a Restaurant licence or Extended Trading Permit granted under that Act;

“public facility” means any structure, item or fitting whether in a street or public place that is the property of or has been provided by a Government Department, instrumentality of the Crown or the local government.

Outdoor eating areas located on private property

7.2 This Division does not apply to any outdoor eating area set up or conducted in a place located on private property notwithstanding that the public are allowed to use that place.

Constraints to set up or conduct an outdoor eating area

7.3 No person shall set up or conduct an outdoor eating area in a street or public place—

- (a) other than in a portion of a street or public place adjacent to an eating house;
- (b) unless the person is the proprietor of the eating house referred to in sub-clause (a) of this clause;
- (c) unless the person is the holder of a valid and current licence issued pursuant to this Division; and
- (d) otherwise than in accordance with—
 - (i) licence plans;
 - (ii) statement or declarations within the proprietor’s licence application;
 - (iii) licence conditions; and
 - (iv) full observance of any requirements of the *Health Act 1911*.

Form of application

7.4 The form of application for any licence under this Division shall be in the form determined by the local government.

Application for licence

7.5 A proprietor shall complete an application form when applying for a licence. The form shall—

- (a) include that person’s full name and address;
- (b) be accompanied by specifications and a plan showing the proposed outdoor eating area. The plan shall be at a scale of not less than 1:50 and show—
 - (i) the location and dimensions of the proposed outdoor eating area; and
 - (ii) the position of all tables, chairs and other structures proposed to be provided in the eating area and how such items are to be confined within the outdoor eating area;
- (c) be accompanied by specifications and a plan on a scale of not less than 1:200 showing the outdoor eating area and all structures thereon including any public facility, parking area or parking restriction within 30 metres of the boundaries of the outdoor eating area;
- (d) be accompanied by a coloured photograph or a detailed drawing of the tables, chairs and other structures to be set up in the outdoor eating area;
- (e) provide the local government with written particulars of arrangements made with respect to public risk and any other relevant insurance; and
- (f) provide the local government with any other information that the local government considers necessary in the circumstances of the case.

Determination of application

7.6 The local government or an authorised person may approve an application on such terms and conditions, if any, as it sees fit.

Form of licence

7.7 The form of a licence under this Division shall be in the form determined by the local government.

Refusal of licence

7.8 The local government or an authorised person may refuse to issue a licence if—

- (a) the applicant has at any time failed to comply with any provision of this Division;
- (b) the applicant has failed to comply with any provision of the Health Act;
- (c) any element of the proposed outdoor eating area is contrary to any condition of approval made by resolution of the local government as an adjunct to this Division; or
- (d) the proposed outdoor eating area is in the opinion of the local government undesirable or unsuitable.

In the case of subclauses (c) and (d), the local government or an authorised person shall provide the applicant with the reasons in writing.

Conduct of outdoor eating area

7.9 The licensee shall—

- (a) ensure that the outdoor eating area is conducted at all times in accordance with the provisions of this Division and the terms and conditions of the licence;
- (b) maintain the chairs, tables and other structures set up in the outdoor eating area in a clean and serviceable condition at all times;
- (c) maintain the paving of the outdoor eating area in a clean condition, free from staining and ingrained food deposits;
- (d) be solely responsible for all or any costs associated with restoring the street, footpath, public facility, tree or plant within or adjacent to the outdoor eating area where damage has been caused as a result of the conduct of the outdoor eating area;
- (e) not allow for any reason whatsoever business activities associated with the outdoor eating area to obstruct the free passage of pedestrians on any footpath or the free passage of motor vehicles on any street or any part of a footpath used for vehicle crossings, notwithstanding the provisions of this local law;
- (f) not allow the outdoor eating area to be situated in such a way that access from the footpath to kerbside parking is unreasonably obstructed;
- (g) not allow the outdoor eating area equipment to hazardously obstruct the vision of vehicle drivers or pedestrians;
- (h) produce a licence whenever requested to do so by an authorised person; and
- (i) not transfer, assign or dispose of the licence.

Period of licence

7.10 A licence is valid for the period between the date of issue and the following 31 August, or until its revocation.

Licence fees and charges

7.11 The licence fees and charges shall be paid by the licensee to the local government prior to the issuing of the licence.

Revocation of licence

7.12 The local government or an authorised person may revoke a licence if—

- (a) the licensee breaches clause 7.3 or clause 7.9;
- (b) the licensee breaches any provision of the Health Act; or
- (c) the local government or a Crown agency, instrumentality or department requires access to the place to which a licence applies for the purpose of carrying out works on, over or under that place.

Refund of fees from revoked licence

7.13 Where a licence is revoked the local government or an authorised person shall if requested provide the licensee with written reasons for the revocation and shall refund the fee having first deducted the fee applicable to the period from the issuing of the licence to the revocation thereof.

Division 2—Street Trading and Trading in other Public Places

Interpretation

7.15 In this Division unless the context otherwise requires—

“**authorised person**” includes any Environmental Health Officer employed by the local government, the CEO or any other person appointed by the local government as an authorised person for the purposes of this Division;

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

“**licence**” means a licence issued by the local government under clause 7.20;

“**licensee**” means a person to whom a licence is granted under this Division;

“**public event**” includes a market, festival, fair, parade or other similar event conducted on a street or public reserve with specific approval of the local government;

“**public reserve**” includes park lands, squares, reserves, beaches, and other lands, included in or adjoining a district, and set apart for the use and enjoyment of the inhabitants of the district and includes parks and other lands acquired for the public purposes, and vested in or under the care, control, or management of the local government of the district;

“**trading**” means selling or hiring of goods, wares, merchandise or services or offering goods, wares, merchandise or services for sale in a street or other public place and includes displaying them for sale, inviting offers for sale, soliciting orders or carrying out any other transaction therein.

Application of Division

7.16 This Division shall not apply to the conducting of street entertainment, trading by a community association or trading at a public event.

Licence requirements

7.17 No person shall carry on trading in any street footpath or public reserve within the District unless that person is acting within the specifications of a current licence issued under this Division and for which all fees and charges have been paid.

Application for licence

7.18 An application for any licence under this Division shall be in the form determined by the local government from time to time and shall include the following—

- (a) include the full name and address of the applicant;
- (b) specify the proposed number and the names and addresses of assistants to be engaged by the applicant in trading pursuant to the licence;
- (c) specify the location for which the licence is sought;
- (d) be accompanied by an accurate plan and description of any proposed stand, table, structure or vehicle which may be used for trading;
- (e) specify the proposed days and hours of trading;
- (f) specify the proposed goods, wares, merchandise or services in respect of which trading will be carried on.

Refusal of licence

7.19 The local government or an authorised person may refuse to issue a licence if—

- (a) the applicant has committed a breach of clause 7.17, 7.22, 7.23 or 7.24 and the local government resolves that the licence should be refused;
- (b) the proposed activity or place of trading is in the opinion of the local government undesirable;
- (c) the proposed stand, table, structure or vehicle for which the licence is sought is in the opinion of the local government unsuitable in any respect to the location;
- (d) the applicant is in the opinion of the local government an unsuitable person.

Conditions of licence

7.20 The local government or an authorised person may issue a licence and may specify conditions which relate to that licence—

- (a) defining the expiry date of the licence;
- (b) defining the specific place to which the licence applies or limiting the trading area to not less than 400 metres from an established outlet selling similar goods;
- (c) defining the number, type, form and construction as the case may be of any stand, table, structure or vehicle which may be used for trading;
- (d) defining the particulars of the goods, wares, merchandise or services in respect of which trading may be carried on;
- (e) defining the days and hours when trading may be carried on;
- (f) requiring the licensee to maintain 3rd party liability or any other necessary insurance at all times to a value determined by the local government from time to time.

Form of licence

7.21 The form of a licence issued under this Division shall be in the form determined by the local government and shall include the following—

- (a) the full name and address of the licensee;
- (b) the dates of issue and expiration of the licence;
- (c) the number, type, form and construction as the case may be of any stand, table, structure or vehicle which may be used for trading;
- (d) the particulars of the goods, wares, merchandise or services in respect of which trading may be carried on;
- (e) the number and the full names and addresses of assistants (if any) who may be engaged at any one time in trading pursuant to the licence;
- (f) the days and hours when trading may be carried on;
- (g) the details of the 3rd party liability insurance conditions.

Constraints on licensee or assistant

7.22 A licensee or assistant specified in a licence shall not—

- (a) engage in or permit any trading in any goods, wares, merchandise or services other than those specified in the licence;
- (b) engage in or permit any trading in a place other than that specified in the licence;
- (c) deposit, place or store any goods, wares or merchandise on any street, footpath or other public reserve other than on the place to which the licence applies;
- (d) cause or permit or suffer any nuisance to exist, arise or continue on or from the permitted place specified in the licence;
- (e) create any noise or disturbance to the annoyance of nearby occupants or passers-by;
- (f) obstruct the free passage of pedestrians on any footpath or street.

Constraints on licensee

7.23 A licensee shall not—

- (a) in trading use or employ or permit to be used or employed at any one time more than the maximum number of assistants specified in the licence;
- (b) transfer, assign or otherwise dispose of the licence.

Obligations on a licensee or assistant

7.24 A licensee or assistant specified in a licence shall—

- (a) personally attend at the place specified in the licence at all times when trading is conducted on or from that place;
- (b) keep the place and any stand, table, structure or vehicle specified in the licence in a clean and safe condition and in good repair;
- (c) keep the place and any stand, table, structure or vehicle specified in the licence free from trade refuse and other refuse and rubbish;
- (d) on demand produce the licence to any authorised person of the local government or any Police Officer;
- (e) remove the stand, table, structure or vehicle and all of his goods, wares, merchandise and signs from the place to which the licence applies and leave that place clean and vacant in all respects—
 - (i) at the conclusion of the permitted hours of operation specified in the licence;
 - (ii) whenever not trading on the place to which the licence applies.

Period of licence

7.25 A licence is valid for the period between the date of issue and the following 31 August or until its revocation.

Revocation of licence

7.26 The local government or an authorised person may revoke a licence if—

- (a) the licensee or assistant specified in a licence commits an offence against clause 7.17, 7.22, 7.23 or 7.24; or
- (b) the local government or a Crown agency, instrumentality or department requires access to the place to which a licence applies for the purpose of carrying out works on, over or under that place.

Refund of fees from revoked licence

7.27 Where a licence is revoked the local government or an authorised person shall if requested provide the licensee with written reasons for the revocation and shall refund the fee having first deducted the fee applicable to the period from the issuing of the licence to the revocation thereof.

*Division 3—Street Entertainers***Interpretation**

7.28 In this Division unless the context otherwise requires—

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

“**permitted area**” means the area or areas specified in a permit in which the permit holder may perform;

“**permitted time**” means the time or times specified in a permit during which the permit holder may perform.

Requirement for a permit

7.29 A person must not perform in a public place unless he or she is the holder of a valid permit to do so.

Form of a permit

7.30 The form of a permit issued under this Division shall be in the form determined by the local government.

Variation to permit conditions

7.31 (1) The local government or an authorised person may from time to time by notice in writing to a permit holder vary—

- (a) the permitted area;
- (b) the permitted time; or
- (c) both the permitted area and the permitted time, shown on a permit.

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

Validity of a permit

7.32 A permit is valid for a period of time as specified on a permit unless it is sooner cancelled under this Division.

Cancellation of a permit

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

Transfer of permit

7.34 A permit issued under this Division is not transferable.

Obligations on a permit holder

7.35 A permit holder must not in a public place—

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

PART 8—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

Interpretations

8.1 In this Part unless the context otherwise requires—

- “**applicant**” means a person who has lodged an application for an approval, or certificate, required for any activity under this part;
- “**application**” means the completed form lodged by an applicant as required by this part;
- “**approval holder**” means the person issued with an approval;
- “**article**” in respect of lost property, includes money;
- “**bathing**” means the act of entering the sea, a swimming pool, or other water body, to swim or use a bathing appliance and includes the act of emerging therefrom;
- “**bathing appliance**” means a float of any material, including, kick boards, paddle boards, body boards, or any other device used or capable of being used for the purpose of bathing;
- “**boat**” means any structure or vessel, excluding personal water craft, whether motorised or not and made or used to travel or float on water or travel under water;
- “**decency**” means wearing of proper and adequate clothing for the occasion, so as to prevent indecent exposure;
- “**fishing**” means to use any line, lure, rod, pot or other method for the purpose of catching marine life;
- “**firework**” means a device like a catherine wheel, roman candle, flare or rocket in which combustible materials are ignited and produce coloured flames, smoke and may sometimes be accompanied by a noise or bang;
- “**fireworks display**” means a show of a number of fireworks set off over a pre-arranged time period, for the purpose of providing enjoyment to those persons able to view them;
- “**function**” means an event or activity characterised by any or all of the following—
 - (a) formal organisation and preparation;
 - (b) its occurrence is generally advertised or notified in writing to particular persons;
 - (c) it is organised by or on behalf of a community group, club, business or organisation;
 - (d) payment of a fee is required for attendance; and
 - (e) there is systematic recurrence in relation to the day, time and place;
- “**jetty**” means any jetty, pier, wharf or landing place which is—
 - (a) in or adjacent to the sea or any lake, river or estuary; and
 - (b) under the care, control or management of the Council;
- “**life saving club**” means a life saving club affiliated with Surf Lifesaving WA Inc. or any branch;
- “**life saving gear**” means any gear or appliance for use in the provision of life saving or for training of life saving club members in their duties;
- “**life saving patrol**” means a patrol comprising such members of a life saving club as are appointed by that club from time to time to provide life saving services in a defined area and the term includes an employee of the local government appointed by the local government as a beach patrol officer or inspector;
- “**local government building**” means a structure, hall, or room, and a corridor, stairway or annex, therein or thereto attached and includes all plumbing, electrical installations, fixtures, fittings, furniture and other contents, owned or under the care, control and management of the local government;

- “**local government property**” means anything which belongs to, is owned by or is under the care, control and management of a local government, other than a thoroughfare;
- “**manager**” means the person for the time being employed or appointed by the local government to manage recreation premises and includes any deputy or assistant appointed by the local government;
- “**mooring device**” means any gear set out in a permanent manner to which a vessel or other floating structure may be secured by a chain, cable, wire or rope;
- “**owner**” means the person who is the lawful owner or the person entitled to possession of any vessel, vehicle, cargo, property or chattel;
- “**patrol flag**” means a flag or notice erected at the limits of a bathing area to indicate the extremities of that area;
- “**person**” means any person, company, employer, incorporated or association and includes an owner, occupier, licensee and approval holder;
- “**personal watercraft**” means any vessel designed for the transport of 1, 2, or 3 persons that—
- (a) is propelled by means of an inboard motor powering a water jet pump; and
 - (b) is designed to be steered by means of handlebars by a person sitting, standing or kneeling on the vessel and not within it;
- “**recreational premises**” means and includes any swimming pool or other facility used for recreational purposes and for the time being under the control or management of the local government and all buildings, fences, gardens, car parks, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of the recreational premises or used in connection with it;
- “**sandboard**” means a board designed to be used for sliding down a slope of land and sandboarding has a correlative meaning;
- “**surf board**” means a flotation device designed and used for riding or surfing waves, including surf skis or any other device used or capable of being used for the purpose;
- “**vessel**” means any ship or watercraft whatsoever, and without limiting the generality of the foregoing, has the same meaning as is given to the terms “ship” and “vessel” in the *Western Australian Marine Act 1982*;
- “**watercraft**” means any bathing appliance, canoe, boat or jet-ski.

Division 2—Approvals and fees

Agreements for use of local government property

8.2 Notwithstanding anything to the contrary in this Division, the local government may enter into an agreement upon terms with any person with respect to the operation and use of any local government property.

Application for approval

8.3 In this Division, an application for a written approval shall be made on the form provided for the purpose and the signature of the applicant on the form shall be deemed to be proof that the applicant has—

- (a) read and understood the conditions, if any, printed on the application form; and
- (b) accepts and will abide by the approval conditions on the application form.

Determination of application

8.4 The local government may, in respect of an application for an approval—

- (a) refuse the application; or
- (b) approve the application on such terms and conditions, if any, as it sees fit.

Term and validity of approval

8.5 Subject to clause 8.6, an approval remains valid until—

- (a) the expiration date and time detailed in the approval is reached;
- (b) the activity or function for which the approval was issued is changed to the extent that it is no longer consistent with the original purpose or intent for which the approval was given;
- (c) the approval is cancelled by the local government; or
- (d) the public liability/indemnity insurance required as a condition of an approval lapses, is cancelled or is no longer current.

Cancellation of approval

8.6 The local government may cancel an approval if—

- (a) anything purporting to be done in accordance with the approval is not done in conformity with the conditions of the approval;
- (b) the approval holder is convicted of an offence against this local law; or
- (c) the approval holder fails to abide by a notice served in accordance with Part 9, requiring works to be undertaken or changes to the arrangements or operation of the activity, subject of the approval.

Fees and charges

8.7 (1) All fees and charges applicable under this Division shall be as determined by the local government from time to time in accordance with section 6.16 of the Act.

(2) In the event of cancellation of an approval, the approval holder shall not be entitled to a refund of the approval fees if any, for the remainder of the approval period.

Activities requiring approval

8.8 A person shall not on, in or from any local government property, without having first obtained a written approval from the local government to do so—

- (a) consume any liquor;
- (b) erect a structure for public amusement or for any performance for personal gain or otherwise;
- (c) conduct any function;
- (d) light or set off any fireworks or conduct a fireworks display;
- (e) light any fire except in a facility provided for the purpose;
- (f) erect any tent, camp, hut or other structure, other than a beach umbrella or other portable item used for protection from the elements between sunrise and sunset on any day;
- (g) hire or use a building, reserve or other local government facility;
- (h) plant any plant or sow any seeds on local government property;
- (i) coach, teach, instruct or train for a fee, any person on or in a golf course, pool, tennis centre, recreation facility or other local government property;
- (j) charge a person for entry to local government property;
- (k) make an excavation on, or erect or remove, any fence or other structure;
- (l) operate any broadcasting or public address system or apparatus, other than those used by a surf life saving club in the performance of its functions;
- (m) cut, break, injure, deface, pull up, pick, remove, or destroy any tree, shrub, flower, grass or plant of any kind;
- (n) cut, collect, or remove any timber, firewood, stone, sand or other materials, other than seaweed;
- (o) sell, raffle, display any goods or merchandise;
- (p) erect any sign.

Payment of applicable fees

8.9 Where a fee or charge applies to the entry to or participation in an activity on or in any local government property or building, a person shall not enter that property or building without first paying the applicable fee or charge, unless that person has been exempted by the local government from paying that fee or charge.

No refund of fees

8.10 A person will not be entitled to a refund of any fee paid for—

- (a) playing or practising golf notwithstanding that such play or practice may for any reason, not be completed on the day or within the hours permitted by any authorisation or ticket issued to that person;
- (b) bathing, swimming or using any facilities provided for public use in a pool premises;
- (c) where the hire or use of a local government building, property or facility is cancelled by a person, provided that in special circumstances the local government may authorise repayment of a part or all of the amount paid.

Application for hire

8.11 An application for the hire and use a local government property or building, shall be in the form provided for the purpose and shall be forwarded to the local government together with the application and any hire fees.

Conditions of hire and use

8.12 The conditions that may relate to an approval for hire and use of a local government property or building include—

- (a) when fees and charges are to be paid and the amount;
- (b) the purpose for which the building may be used;
- (c) the duration of the hire or use;
- (d) payment of a bond against possible damage, cleaning or other expenses;
- (e) restrictions on the erection of decorations inside the building and externally;
- (f) restrictions on use of furniture, plants and effects;
- (g) the number of persons that may attend any function in a building;
- (h) the right of the local government to cancel a booking at any time during the course of an annual or seasonal booking;
- (i) the prohibition of the consumption of liquor unless an approval has been issued by the local government;

- (j) the prohibition of the sale and supply of liquor unless a liquor licence has been obtained under the *Liquor Licensing Act 1988*, for that purpose;
- (k) securing the building at the end of each hire period;
- (l) the prohibition on the conduct of gaming unless a gaming approval has been obtained under the *Gaming Commission Act 1987*;
- (m) restrictions on the type of container (glass, metal, plastic or other) that drinks may be provided and served in or consumed from;
- (n) the amplification of, or any noise complies at all times with the *Environmental Protection (Noise) Regulations 1997*;
- (o) any other condition that the local government considers fit.

Responsibilities of hirer

8.13 The hirer of a local government property or building shall—

- (a) maintain law and order and decent behaviour by all in attendance at any function for which the local government property or building has been hired;
- (b) make good any damage to the building which occurs during the term of hire, or at the option of the local government, pay to the local government the costs of the repair and replacement of any such property;
- (c) ensure that an authorised person has unobstructed access to the property for the purpose of inspecting the property or enforcing any provision of this local law;
- (d) prevent overcrowding;
- (e) leave the local government property or building in a clean and tidy condition after its use;
- (f) prevent the sale and consumption of any liquor unless a licence has been obtained under the *Liquor Licensing Act 1988* for that purpose, and the local government has issued an approval for consumption;
- (g) report any damage or defacement to the local government; and
- (h) comply with all conditions that are imposed on the hire and use of the local government property or building including the requirement for obtaining any insurance as directed by the local government.

Division 2—General

Personal behaviour

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

- (a) is likely to or actually interrupts, disturbs or interferes with the enjoyment of any other person who may use the property or any person in the vicinity of the property; or
- (b) is likely to or actually interrupts, disturbs or interferes with the enjoyment of any other person using the property.

Decency and adequate clothing

8.15 (1) A person over the age of 6 years shall not on any reserve, beach or other public place—

- (a) appear in public unless properly dressed in a bathing costume or other clothing which covers the body to prevent indecent exposure;
- (b) loiter outside or act in an unacceptable manner, in any portion of a toilet or dressing room set aside for the opposite or same sex; or
- (c) without the consent of the occupier, enter or attempt to enter any dressing room or other compartment which is already occupied.

(2) Where an authorised person considers that the clothing of any person on local government property is not proper and adequate to secure decency, the authorised person may direct that person to put on adequate clothing and that person shall comply with the direction immediately.

Property loss, damage and exclusions

8.16 A person shall not remove from any local government property any fixtures, fittings, chattels or things provided for the safety, enjoyment or use by another person.

8.17 A person shall not damage, destroy, deface or interfere with in any way, any local government property provided for the safety, enjoyment or use by another person.

8.18 Clauses 8.16 and 8.17 do not apply to—

- (a) an authorised person or local government appointed contractor carrying out their normal duties; or
- (b) a person using any lifesaving or fire fighting equipment, and acting in an emergency or where permitted or directed to do so by an authorised person.

Direction of an authorised person

8.19 An authorised person may direct any person on local government property to—

- (a) stop doing anything which they are in the process of doing, which is contrary to this local law or any other local law applying in the district,
- (b) leave that property; and
- (c) assist the authorised person or another person in the case of an emergency.

8.20 (1) A person on or in local government property that is given a lawful direction by an authorised person shall comply with that direction.

(2) A person shall not obstruct or hinder an authorised person in the performance of that person's duties.

Disposal of lost and found property

8.21 (1) An article left on or in local government property and not claimed within a period of 3 calendar months may be disposed of by the local government in any lawful manner.

(2) Neither the local government nor a manager, nor any authorised person shall in any way be responsible for any articles or money lost, stolen, damaged or destroyed whilst on or in any local government property.

Treatment of animals

8.22 A person shall not, on or in any local government property—

- (a) kill, injure or interfere with any fauna;
- (b) take on to, set or use or attempt to take on to, set or use any animal trap, bird trap, fish trap, net or similar device; or
- (c) take on to or allow any animal, bird or fish to enter or remain, unless that class, type or species of animal, bird or fish is permitted on that property by any other written law applying in the district.

Setting aside of local government property

8.23 (1) A local government may set aside any local government property, local government building or reserve or portion of such for a specific use or uses and may designate by signs that use and conditions of use, including but not limited to any areas where—

- (a) the entry of persons or animals is restricted or prohibited;
- (b) bathing is permitted at all times or is restricted or prohibited;
- (c) boats, personal watercraft or surf boards, either generally or of a particular class are permitted, restricted or prohibited;
- (d) boats and/or personal watercraft may be launched or retrieved;
- (e) motorised vehicles of a particular class or classes are permitted, restricted, or prohibited;
- (f) the speed limit at which vehicles generally or of a particular class, must travel;
- (g) the age of persons permitted, restricted or prohibited, from playing on children's play equipment;
- (h) motorised model aeroplanes may be flown;
- (i) the practice or playing of games of any type is permitted, restricted, prohibited;
- (j) riding of a bicycle, wheeled recreational device or sandboard are permitted, restricted or prohibited;
- (k) fishing is permitted, prohibited or restricted to fishing in a particular manner;
- (l) horses maybe swam, trained, exercised, ridden or driven.

(2) In the process of setting aside a local government property, a local government may specify the extent to which and the manner in which a use or activity in subclause (1) may be pursued and in particular—

- (a) the days and times during which the use or activity may be pursued;
- (b) that a use or activity may be pursued on a class of local government property, specified local government property or all local government property;
- (c) that a use or activity is taken to be prohibited on all local government property other than that set aside for the specific use or activity;
- (d) may limit the use or activity to a class of vehicles, boats, equipment or things or may extend it to all vehicles, boats, equipment or things;
- (e) may specify that the use or activity can be pursued by a class of persons or all persons;
- (f) may distinguish between different classes of use or activity;
- (g) may authorise the activity upon part only of the property.

(3) Where local government property, a local government building or reserve has been set aside for a specific use in accordance with sub-clause (1) a person shall not use that property other than for its specific use and in accordance with any conditions imposed.

(4) The local government may permit a local government property, local government building or reserve to be temporarily used for a use or activity other than that for which it has been set aside, provided written approval is first obtained from the local government for that temporary use or activity.

(5) A person who uses a local government property, local government building or reserve for any use or activity other than that for which the local government property, local government building or reserve has been set aside, without first obtaining written approval, commits an offence.

(6) A condition of use specified on a sign erected under subclause (1) is not to be inconsistent with any provision of this local law.

Restrictions on or in local government property and buildings

8.24 While on or in any local government property or local government building, a person shall not—

- (a) sell, supply or consume liquor unless a liquor licence has been obtained under the *Liquor Licensing Act 1988*, for that purpose and the local government has issued an approval for the consumption of liquor;
- (b) act in a way that endangers themselves or any person;
- (c) be under the influence of liquor or a prohibited drug;
- (d) use any volatile, explosive or flammable matter;
- (e) smoke inside a building where smoking is prohibited;
- (f) take any prohibited drug onto, or consume or use any prohibited drug;
- (g) enter any place that has been fenced off or closed to the public; or
- (h) carry firearms unless specifically authorised to do so under the *Firearms Act 1973*.

Prohibited activities

8.25 Unless indicated by a sign that any of the following activities are permissible on any reserve or other local government property set-aside for the purpose, a person shall not—

- (a) play or practise golf, archery, pistol or rifle shooting;
- (b) ride a bicycle or any other wheeled recreational device;
- (c) ride a sandboard or similar device; or
- (d) launch a personal watercraft or boat;

Entry to local government property and buildings

8.26 A person, other than an authorised person or contractor appointed by the local government carrying out their normal duties, shall not—

- (a) enter or leave any local government property or local government building other than by the public entrance or exit ways, except in an emergency; or
- (b) enter or remain on any local government property or local government building except on those days and during those times when access is available to the public.

*Division 3—Recreational Premises***Directions of manager to be observed**

8.27 (1) Every person, coach and spectator at recreational premises shall at all times observe any reasonable direction given by the manager.

(2) The manager may at any time, refuse admission to or remove, or cause to be removed from the pool or recreational premises, any person who, in the opinion of the manager is—

- (a) under the age of 10 years and is unaccompanied by a responsible person over the age of 18 years;
- (b) under the age of 4 years not being supervised in a water area by a responsible person over the age of 18 years;
- (c) apparently suffering from a contagious, infectious or cutaneous disease or skin complaint; or
- (d) under or apparently under the influence of intoxicating liquor or drugs.

(3) A person shall on being requested by the manager to leave the recreational premises, quietly and peaceably do so immediately.

(4) The manager or attendant may temporarily suspend admission to, or remove from the recreational premises or any part thereof, all or any person or persons, if in their opinion, such action is necessary or desirable.

(5) At the discretion of the manager, the recreational premises or any part thereof, may at any time be set aside for the use of certain persons to the exclusion of others.

Swimming carnivals

8.28 (1) A person, club, organisation or association shall not conduct controlled swimming or diving events, carnivals or competitions without the prior approval of the manager.

(2) A person, club, organisation or association conducting a carnival or event at the pool premises shall be responsible for the conduct of the competitors and spectators during the carnival or event and shall take reasonable steps to prevent overcrowding and ensure that no damage is done to the buildings or fencing or any other portion of the pool premises and that these local laws are observed by all competitors, officials and spectators attending the carnival or event.

Responsibilities of recreational premises users

8.29 A person while in the recreational premises shall not—

- (a) smoke, consume foodstuffs or drinks in any specific area in which smoking, food consumption or drinking are prohibited;
- (b) climb up or upon any roof, fence, wall or partition on the pool or recreational premises; or
- (c) whilst suffering from a contagious, infectious or cutaneous disease or whilst in an unclean condition, enter or use or attempt to enter or use the swimming pool, spa, pool or recreational premises;
- (d) behave in a provocative, offensive or indecent manner toward any other person.

Division 4—Awnings, Verandahs and Balconies over Local Government Property

Interpretations

8.30 In this Division—

“**awning**” means a roof-like covering to shelter persons or protect parts of a building from the effects of sun or rain, which extends or can be made to extend over any part of a footpath, street or local government property;

“**balcony**” means an open or covered platform attached to an upper part of a building, projecting from or recessed into the face of a wall and protected by a railing or balustrade accessible from an adjacent room;

“**verandah**” means a roofed structure attached to a building with the outer edge supported on posts, and covered either by the main roof or a separate, lower roof, of which any part extends over any part of a footpath, street or local government property;

Approval to erect or maintain

8.31 A person shall not erect or maintain an awning, verandah or balcony over local government property without the approval of the local government, which approval may be given upon conditions.

Projection over local government property

8.32 All awnings, verandahs and balconies shall finish 600 millimetres closer to the building line than the face of the kerb or 2.75 metres from the building line, whichever is the lesser.

Height above local government property

8.33 The height of an awning, verandah or balcony ceiling shall be 2.75 metres above the pavement level.

Maintenance and public safety

8.34 (1) The owner and occupier for the time being of any building to which any awning, verandah or balcony is attached shall keep the awning, verandah or balcony clean, painted, watertight and in a sound and safe structural condition and in good and substantial repair.

(2) Where the local government has reason to suspect that any awning, verandah or balcony is not in a sound and safe structural condition or in good and substantial repair, the local government may by notice in writing require the owner or occupier of any building to which that awning, verandah or balcony is attached, to provide to the local government within the period specified in the notice, a report of a practising structural engineer or an architect which certifies that the awning, verandah or balcony is in a safe structural condition or specifies the work necessary to render the structure safe.

Division 5—Jetties and Bridges

Use of a jetty or bridge

8.35(1) A person shall not land at, use or enter a jetty or bridge except in accordance with this Division.

(2) A person shall not land at, use or enter a jetty which is—

- (a) under construction or repair; or
- (b) closed under section 6 of the *Jetties Act 1926* or any other written law;

unless that person is engaged in the construction or repair of that jetty in accordance with the written authorisation of the local government or otherwise authorised by any law.

Vehicles on jetties

8.36 A person shall not—

- (a) drive or allow a vehicle to remain on a jetty (other than a boat ramp) without the prior written consent of the the local government; or
- (b) ride a bicycle, or allow a bicycle to remain, on a jetty.

Fishing from jetties and bridges

8.37 A person shall not—

- (a) fish from a jetty or bridge so as to obstruct or interfere with the free movement of a vessel approaching or leaving the jetty or bridge or so as to cause a nuisance on or near the jetty or bridge; or
- (b) hang or spread a fishing net from, on or over any part of a jetty or bridge.

Nuisance on jetties or bridges

8.38 A person shall not—

- (a) without the prior written consent of the local government offer for sale or sell goods or services on a jetty or bridge;
- (b) by any means, on or near a jetty or bridge, tout or solicit anyone to proceed as a passenger on any vessel or vehicle;
- (c) without the prior written consent of the local government display any sign or advertisement or use any loud speaking device on a jetty or bridge;
- (d) interfere with free movement of others entering or leaving a jetty or bridge; or
- (e) dive from a jetty or bridge.

Material not to be removed

8.39 A person shall not remove or cause to be removed from a jetty or from its approaches any gravel, stone, timber, trees, shrubs, grasses or other material without the prior written consent of the local government.

Damage to jetties

8.40(1) A person shall not tip or deposit anything onto a jetty so as to cause damage to the jetty or to pollute the surrounding area.

(2) Where damage is caused to a jetty, whether by a vessel or a vehicle or otherwise, the local government may repair the damage and the costs of the repair shall be a debt due to the local government.

(3) The debt is payable—

- (a) where the damage is caused by a vessel or vehicle, by the person responsible for the control of the vessel or vehicle; or
- (b) where the damage is not caused by a vessel or vehicle, by the person or persons who caused the damage.

(4) The debt may be recovered by the local government in a court of competent jurisdiction.

Cargo on jetties

8.41(1) Property intended for shipment onto a vessel shall—

- (a) not to be stored or placed on a jetty unless and until the vessel is alongside the jetty; and
- (b) be removed from the jetty as soon as practicable;
- (c) not in any event exceed the permissible weight for which the jetty has been designed and constructed.

(2) A person unloading property from a vessel onto a jetty shall cause it to be removed from the jetty as soon as practicable or upon demand by an authorised person and in any event not later than 6.00 p.m. on the day on which it was placed on the jetty.

(3) An authorised person may direct a person apparently in charge of property which remains on a jetty contrary to this Division to remove the property from the jetty.

(4) A person who, without reasonable cause, fails to comply with a direction of an authorised person under subsection (3) commits an offence.

(5) An authorised person may remove and, if he or she considers it to be appropriate, store property which has been left on a jetty contrary to this Division.

(6) The cost of removal and of any subsequent storage of the property shall be a debt due to the local government by the owner of the property.

(7) The local government may recover the debt in a court of competent jurisdiction.

Bulk cargoes on jetties

8.42 Except with the prior written consent of the local government, a person shall not tip or deposit bulk cargo from a vehicle or vessel onto a jetty.

Loading or discharging of cargo

8.43 Except with the prior written consent of the local government, a person in control of a vessel shall not permit it to remain alongside a jetty for the purpose of loading or discharging cargo between 6.00 p.m. on any day and 6.00 a.m. the next day.

How a vessel is to be moored

8.44 A person shall not—

- (a) moor or make fast a vessel to a jetty, any part of the jetty or mooring device except to such mooring piles, ring bolts or other fastenings as are provided; or
- (b) permit a vessel to remain alongside a jetty unless the vessel is so moored or fastened.

Mooring time limits

8.45 (1) Subject to section 8.44 and subsection (2) a person shall not moor a vessel or permit it to be moored to a jetty or to a mooring device unless he or she has—

- (a) applied to, and obtained prior written consent of the local government in the form prescribed by the local government from time to time for that purpose; and
- (b) firstly paid to the local government any fee set by the local government from time to time for that purpose.

(2) The owner, or a person in control of a vessel which is moored to a jetty shall remove the vessel forthwith when so directed by an authorised person.

Mooring for maintenance and repairs

8.46 (1) A person shall not moor a vessel to a jetty for the purpose of effecting repairs to the vessel unless—

- (a) the vessel is in distress;
- (b) the vessel is moored for no longer than would reasonably be required to effect the minimum repairs necessary to enable the vessel to be moved elsewhere; and
- (c) if the vessel is, or is to be moored for more than 4 hours, the prior consent of an authorised person has been obtained.

(2) A person shall not moor a vessel to a jetty for the purpose of effecting maintenance to that or any other vessel.

Obstruction of jetties or officer

8.47 (1) A person shall not, without the written permission of the local government, cause, or place, or cause to be placed, on a jetty any obstruction.

(2) A person shall not obstruct or hinder—

- (a) any representative or employee of the local government or any other person whatsoever engaged in the construction or repair of any jetty; or
- (b) any authorised person acting in the course of his or her duties.

(3) A person shall not cause any obstruction on or to any public steps or landing place for passengers on or at a jetty, or impede the free passage of other persons on or along such steps or places.

General

8.48 A person shall not on or near any jetty—

- (a) except in a receptacle provided for that purpose, deposit any litter;
- (b) light, place or keep a fire that might endanger the jetty;
- (c) except for the purpose of fishing, throw or impel any stone or other missile;
- (d) permit an animal to remain;
- (e) be in a state of intoxication or in possession of any intoxicating substance unless such intoxicating substance is cargo or medical supply carried for lawful purpose;
- (f) do anything which may destroy, damage or deface the jetty or any part of it;
- (g) behave in a disorderly manner, or create or take part in any disturbance or use any foul or indecent language or commit an act of indecency;
- (h) throw, place or deposit any offensive, noxious or dangerous substances;
- (i) post, stick, paint or write or cause to be posted, stuck, painted or written any placard, bill, advertisement, sign or other matter.

Launching of vessels

8.49 A person shall not launch or permit the launching of a vessel from or over any jetty (other than a boat ramp) unless he or she has—

- (a) first applied to, and obtained the written consent of the local government in the form (if any) prescribed by the local government for any purpose; and
- (b) first paid to the local government any fee set by the local government from time to time for the purpose.

Reduction or waiver of fees

8.50 The local government may, if it considers it to be in the public interest, reduce or waive the fees that would otherwise be payable in relation to an application for consent to moor a vessel or to launch a vessel under this Division.

PART 9—RESERVES, BEACHES, FORESHORES AND BATHING

Sandboarding and sand dune protection

9.1 A person shall not—

- (a) use a sandboard or any other board or thing to slide down sand dunes;
- (b) take onto any sand dunes a sandboard or other thing used for sliding down sand dunes;
- (c) traverse sand dunes except along pathways designated by signs or fences for the purpose; or
- (d) unless authorised to do so in the course of their duties, or otherwise permitted by a sign, take a vehicle of any kind onto any reserve, foreshore, beach or sand dunes.

Boat launching

9.2 (1) A person shall not launch a boat into the sea other than at a boat launching ramp designed, constructed and approved for the purpose or from the beach where this activity is permitted and designated by signs.

(2) A person shall not launch a personal watercraft into the sea other than at a boat launching ramp designed, constructed and approved for the purpose.

(3) Subclauses (1) and (2) do not apply to any member of a surf life saving club or life saving patrol in the course of their duties, training or in competition.

Surf lifesaving activities

9.3 The local government may appoint beach inspectors and authorise members of surf life saving clubs to perform all or any of the following functions in the interests of maintaining safety at beaches in the district—

- (a) patrol any beach;
- (b) take onto any beach any life saving gear including vehicles or boats that are used for life saving activities;

- (c) indicate by signs or patrol flags, any areas of a beach and the adjacent water beyond the beach, where bathing is permitted;
- (d) indicate by signs any areas of a beach and the adjacent water beyond the beach where—
 - (i) riding of surfboards or any other bathing appliance is prohibited;
 - (ii) driving of boats is prohibited;
 - (iii) fishing is prohibited;
 - (iv) nude or topless bathing is permitted;
- (e) regulate, prohibit, restrict or set aside by signs, rope, wire, cloth or other flexible sheeting, any areas for the following activities
 - (i) entry by any persons;
 - (ii) playing of games;
 - (iii) conduct of training or surf club carnivals;
 - (iv) establishing a first aid or command post;
- (f) direct any person to—
 - (i) bathe within the designated permitted bathing area indicated by signs or patrol flags;
 - (ii) leave the water adjacent a beach during any period of potential dangerous conditions or sighting of a shark.

Identification of life saving patrol

9.4 (1) A member of a life saving patrol on duty at any beach shall wear a red and yellow quartered swimming cap for the time they are on patrol.

(2) A person who is not a member of and on duty life saving patrol shall not wear a red and yellow quartered swimming cap or give the impression they are a member of an on duty life saving patrol.

Compliance with signs and directions

9.5 A person attending any beach in the district shall—

- (a) comply with any sign erected on the beach;
 - (b) comply with any lawful direction given by a beach inspector or authorised member of a surf lifesaving club patrolling the beach;
- and
- (c) not enter any area set aside for any life saving activity, training, competition or carnival.

Fishing

9.6 (1) A person shall not fish in any area—

- (a) where fishing is prohibited and the prohibition is designated by signs; or
- (b) set aside by a beach inspector or member of a life saving patrol as a designated permitted bathing area.

(2) A person shall not at any place whether fishing is permitted or not—

- (a) clean fish or cut bait on any seat or hand rail;
- (b) leave or deposit fish offal on land or in the sea within 200m of any part of the beach; or
- (c) without written approval of the local government, fish for sharks by use of set or buoyed lines or use blood, offal or any other lure for the purpose of attracting sharks within 200m of any part of a beach.

Surfboards and boats

9.7 A person shall not ride a surfboard or drive a personal watercraft or boat in any area set aside by a beach inspector or member of a life saving patrol, as a designated permitted bathing area.

PART 10—SECURED SUM

Security for restoration and reinstatement

10.1 (1) The local government may require payment of a bond for a sum determined by the local government—

- (a) as a condition of a permit, licence or approval; or
- (b) before the issue of a permit, licence or approval for the purpose of ensuring that—
 - (i) a hired building or facility, including fixtures and fittings will be cleaned or repaired;
 - (ii) a footpath damaged during the construction of any building on an adjacent lot, will be repaired or reinstated;
 - (iii) conditions of the permit, licence or approval in so far as they relate to public property are complied with.

(2) A bond required under subclause (1) is to be paid into an account established by the local government for that purpose.

Use by the local government of secured sum

10.2 (1) If a person fails to carry out or complete the reinstatement works required by the permit, licence or approval conditions, or by a notice served by the local government, either—

- (a) within the time specified in those conditions; or
- (b) where no such time has been specified, a reasonable time from the expiration of the approval; or
- (c) within 14 days or such other time as specified in the notice given by the local government;

then, the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work as remains undone.

(2) A person shall pay to the local government on demand all administrative, legal, contractor and other costs including, but not limited to loss of income, estimated or incurred by the local government, to restore and reinstate the site or which the local government may be required to pay under this clause.

(3) The local government may apply the proceeds of any bond as a condition of an approval under clause 10.1 to meet costs under this clause.

(4) The liability of a person to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 10.1.

PART 11—REMEDY FOR BREACH**Notice requiring works to be done**

11.1 (1) Where the local government requires works to be done to rectify a breach of any condition of approval, permit, licence, consent or to maintain public safety, facilitate public works to the footpath, street, or protect the amenity of a public place, the local government may give notice in writing to a person—

- (a) advising details of the breach of the local law or works required;
- (b) requiring the person to remedy the breach or do the works required within the time specified in the notice; and
- (c) advising that where the person fails to comply with the requirements of the notice within the time specified, the local government may do the required work.

(2) Where the person fails to comply with the requirements of the notice, the local government may by its employees, agents or contractors carry out all works and do all things necessary to comply with the requirements of the notice.

(3) The local government may recover the expenses incurred in carrying out the works in accordance with subclause (2)—

- (a) as a charge against the secured sum lodged for the purpose in accordance with clause 10.1; and
- (b) from the person in a court of competent jurisdiction.

Giving of notices or documents

11.2 Notices or documents given to any person under this local law shall be given in accordance with Part 9, Division 3 of the Act.

Limit on liability

11.3 A person is not entitled to make any claim by way of damages or otherwise, against the local government, an authorised person, local government employee, local government appointed subcontractor or any other person authorised by the local government, to enter the land and carry out all or part of the works and do all things necessary that the person was required to do to comply with this local law.

PART 12—MISCELLANEOUS**Substance seizure**

12.1 (1) An authorised person or member of the WA Police Service, may seize for testing any substance thought to be liquor in an unsealed container or a prohibited drug, where the authorised person or member of the WA Police Service reasonably suspects that a breach of this local law has occurred.

(2) Where a person fails to surrender any substance requested by an authorised person in accordance with subclause (1), that person commits an offence.

Public liability insurance and indemnity

12.2 (1) Where a person, as a condition of an approval, permit, licence or consent is required to provide a public liability insurance policy, indemnifying the local government against all actions, suits, claims, damages, losses and expenses made against or incurred by the local government arising from any activity, action or thing performed or erected in accordance with the approval, permit, licence or consent and keep that insurance policy current for the duration of the approval, permit, licence or consent or at all times, the person shall—

- (a) enter into an agreement with the local government to provide and maintain the required public liability insurance protection;

- (b) take out a public liability insurance policy in the name of the person and the local government, for a minimum value of \$5m or such other amount, as the local government considers appropriate to the risk involved;
 - (c) include a clause in the policy which prevents the policy from being cancelled without the written consent of the local government;
 - (d) include a clause in the policy which requires both the person and the insurance company, to advise the local government if the policy lapses, is cancelled or is no longer in operation;
 - (e) on the request of an authorised person, provide for inspection, a certificate of currency for the required insurance policy.
- (2) A person who refuses or neglects to provide a current certificate of insurance within 2 working days as requested in accordance with subclause (1) commits an offence.

False or misleading statement

12.3 A person shall not make a false or misleading statement in connection with any application, requirement or demand under this local law.

No conflict with *Western Australian Marine Act 1982*

12.4 Nothing in this local law derogates from the effect of the *Western Australian Marine Act 1982* and regulations made under that Act and to the extent that there is any inconsistency between the provisions of this local law and the *Western Australian Marine Act 1982* and Regulations, the provisions of the latter shall prevail.

Records to be kept

12.5 The local government shall cause adequate records to be kept of all infringement notices served and modified penalties received.

Right of appeal or objection

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

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

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

Appointment of authorised persons, and certificate of appointment for authorised persons

12.7 Both the appointment of authorised persons and issue of a certificate of appointment detailing what duties and responsibilities the person is authorised to perform shall be in accordance with section 9.10 of the Act.

12.8 A person who is not an authorised person must not in any way assume the duties of an authorised person.

Impounding of goods and recovery of expenses

12.9 A local government may—

- (a) impound goods in accordance with regulation 29 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) withhold impounded or confiscated goods until costs are paid, dispose of impounded, confiscated or uncollected goods and recover impounding fees, in accordance with sections 3.46, 3.47 and 3.48 of the Act.

Name and address to be given on demand

12.10 An authorised person may in accordance with clause 9.11 of the *Local Government Act 1995*, demand the name and address of a person who is found committing or on reasonable grounds is suspected of having committed a breach of the provisions of this local law.

PART 13—OFFENCES AND PENALTIES**Notices**

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

13.2 Where a person fails to comply with a notice referred to in clause 13.1, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

Offences

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

(2) An offence against a clause specified in the First Schedule to this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.

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

Infringement and infringement withdrawal notices

13.4 (1) For the purposes of this local law—

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in the First Schedule of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the infringement notice referred to in section 9.17 of the Act is form 2 in the First Schedule of the *Local Government (Functions and General) Regulations 1996*; and
- (c) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is form 3 in the First Schedule of the *Local Government (Functions and General) Regulations 1996*.

Offence description and modified penalty

13.5 The amount appearing in the final column of the First Schedule to this local law directly opposite an offence described in that Schedule is the modified penalty for that offence.

Prosecution for offences

13.6 A penalty for an offence against this local law (not being a modified penalty) may be recovered by the local government by taking proceedings against the alleged offender in a Court of Petty Sessions.

Transitional provisions

13.7 The second schedule to this local law, which contains transitional provisions, has effect.

First Schedule
PART 4—PERMITS

Item No	Clause No	Nature of Offence	Modified Penalty \$
1	4.7	Failure to produce a permit.	\$100

PART 5—WORKS ON THOROUGHFARES AND PUBLIC PLACES

Item No	Clause No	Nature of Offence	Modified Penalty \$
Activities which are Prohibited			
2	5.1(a)	Fail to keep verge treatment in good or tidy condition and avoid obstruction of any sort.	\$100
3	5.1(b)	Water or maintain a verge treatment to cause nuisance or hazard to person using thoroughfare.	\$100
4	5.1(c)	Have any verge treatment which exceeds 0.75 metres in height, within 6 metres of a junction or intersection.	\$100
5	5.1(d)	Damage or remove any verge treatment that is on land not owned or occupied by the person.	\$100
6	5.1(e)	Plant any verge treatment (other than grass) which is within 2 metres of a carriageway.	\$100
7	5.1(f)	Place any household rubbish or garden waste in a bin provided for the public by local government.	\$200
8	5.1(g)	Deposit any substance fluid, vegetable or otherwise that may create an obstruction.	\$200
9	5.1(h)	Damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected by local government on any public place.	\$200
10	5.1(i)	Play or participate in any game or sport so as to cause danger to any person or impede the movement of traffic on any thoroughfare.	\$100
11	5.1(j)	Ride any wheeled recreational device within a mall, arcade or verandah.	\$100
Activities Needing a Permit			
12	5.2(a)	Without a permit dig or otherwise create a trench through or under a carriageway, street, kerb or footpath.	\$200
13	5.2(b)	Without a permit throw, place or deposit any thing on any public place except for removal by the local government under an advertised bulk rubbish collection.	\$200
14	5.2(c)	Cause any obstruction to vehicles or persons using a thoroughfare.	\$100

Item No	Clause No	Nature of Offence	Modified Penalty \$
15	5.2(d)	Cause any obstruction to a water channel or a water course.	\$100
16	5.2(e)	Throw, place or drain offensive, noxious or dangerous fluid onto a public place.	\$200
17	5.2(f)	Damage any public place.	\$200
18	5.2(g)	Light any fire or burn any thing on any public place.	\$100
19	5.2(h)	Fell any tree on or across any public place.	\$100
20	5.2(i)	Plant or maintain any thing that is not a permissible verge treatment.	\$100
21	5.2(j)	Lay pipes under or provide taps on any verge.	\$100
22	5.2(k)	Place or install any thing on any part of a thoroughfare.	\$200
23	5.2(l)	Provide, erect, install or use in or on any building, structure or land abutting on any thoroughfare any hoist or other thing for use above the level of the thoroughfare.	\$200
24	5.2(m)	Use any thing to create a nuisance in a public place.	\$100
25	5.2(n)	Place or cause to be placed a Bulk Rubbish Container on any thoroughfare.	\$200
26	5.4	Failure to obtain written approval from the local government for the construction of more than two crossings.	\$200
27	5.5	Failure to produce a permit to remove or alter a crossing whether temporarily or permanently.	\$200
28	5.10	Failure of a permit holder to keep temporary crossings in good repair so as not to create any danger or obstruction to persons using the thoroughfare.	\$200
29	5.14	Installing verge treatment not permitted.	\$200

PART 6—ANIMALS, VEHICLES AND SHOPPING TROLLEYS

Item No	Clause No	Nature of Offence	Modified Penalty \$
30	6.1(1)	Leave livestock, dog or animal in a public place or on local government property, so that it obstructs the use of any part of the said property.	\$100
31	6.2(2)(a)	Allow livestock to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare.	\$200
32	6.2(2)(b)	Allow livestock which has a contagious or infectious disease to be led, ridden or driven in a public place.	\$200
33	6.2(2)(c)	Train or race livestock on a thoroughfare.	\$100
34	6.2(2)(d)	Without a permit, ride, drive, lead or bring livestock onto any reserve, park or foreshore.	\$200
35	6.2(2)(e)	Without a permit ride, drive or lead any livestock onto or over any lawn or garden planted or maintained in any thoroughfare.	\$200
36	6.3	Permit livestock to stray.	\$250
37	6.4	Failure of the owner or occupier of land where livestock is kept to be fenced.	\$250
38	6.6	Failure of the owner of livestock to remove excrete on any public or local government land.	\$100
Control of Vehicles			
39	6.7(a)	Park a commercial vehicle or caravan, omnibus or trailer on a verge for more than 1 hour consecutively or for more than 2 hours in a day.	\$100
40	6.7(b)	On a verge repair, service or clean any vehicle.	\$100
41	6.7(c)	Drive any vehicle along any footpath.	\$100
42	6.7(d)	Park a vehicle upon a permissible verge treatment unless authorised to do so by the owner or occupier of the abutting lot, or under any written law.	\$100

Item No	Clause No	Nature of Offence	Modified Penalty \$
43	6.8(1)(a)	Drive a vehicle over or across a kerb or footpath except at a crossing.	\$100
44	6.8(1)(b)	Leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place.	\$100
Shopping Trolleys			
45	6.11	Retailers name not marked on trolley.	\$100
46	6.13	Leave a shopping trolley in a public place other than in an area set aside for the storage of shopping trolleys.	\$100
47	6.14	Failure of owner to remove shopping trolley within 30 minutes of being advised by local government.	\$100

PART 7—OUTDOOR EATING AREAS, TRADING OR ENTERTAINING ON THOROUGHFARES OR PUBLIC PLACES

Item No	Clause No	Nature of Offence	Modified Penalty \$
Outdoor Eating Areas on Thoroughfares			
48	7.3(a)	Set up or conduct an outdoor eating area in a street or public place other than in a portion of a street or public place adjacent to an eating house.	\$100
49	7.3(b)	Not being a proprietor of the eating house set up or conduct an outdoor eating area in a street or public place.	\$100
50	7.3(c)	Set up or conduct an outdoor eating area without a valid and current licence.	\$100
51	7.3(d)	Failure to operate in accordance of conditions.	\$100
Conduct of Outdoor Eating Area			
52	7.9(a)	Failure of licensee to ensure that the outdoor eating area is conducted at all times in accordance with the provisions of the terms and conditions of the licence.	\$100
53	7.9(b)	Failure of licensee to maintain the chairs, tables and other structures set up in the outdoor eating area in a clean and serviceable condition at all times.	\$100
54	7.9(c)	Failure of licensee to maintain the paving of the outdoor eating area in a clean condition, free from staining and ingrained food deposits.	\$100
55	7.9(d)	Failure of licensee to restore the street, footpath, public facility, tree or plant within or adjacent to the outdoor eating area where damage has been caused as a result of the conduct of the outdoor eating area.	\$100
56	7.9(e)	Allow business activities associated with the outdoor eating area to obstruct the free passage of pedestrians on any footpath or the free passage of motor vehicles on any street or any part of a footpath used for vehicle crossings.	\$100
57	7.9(f)	Allow the outdoor eating area to be situated in such a way that access from the footpath to kerbside parking is unreasonably obstructed.	\$100
58	7.9(g)	Allow the outdoor eating area equipment to hazardously obstruct the vision of vehicle drivers or pedestrians.	\$100
59	7.9(h)	Failure to produce a licence whenever requested to do so by an authorised person.	\$100
60	7.9(i)	Transfer, assign or dispose of the licence.	\$100
Street Trading and Trading in other Public Places			
61	7.17	Failure to comply with specifications of a current licence.	\$100
62	7.22(a)	Engaging in or permitting any trading in any goods, wares, merchandise or services other than those specified in the licence;	\$100
63	7.22(b)	Engaging in or permitting any trading in a place other than that specified in the licence;	\$100

Item No	Clause No	Nature of Offence	Modified Penalty \$
64	7.22(c)	Depositing, placing or storing any goods, wares or merchandise on any street, footpath or other public reserve other than on the place to which the licence applies;	\$100
65	7.22(d)	Causing or permitting or suffering any nuisance to exist, arise or continue on or from the permitted place specified in the licence;	\$100
66	7.22(e)	Creating any noise or disturbance to the annoyance of nearby occupants or passers-by;	\$100
67	7.22(f)	Obstructing the free passage of pedestrians on any footpath or street.	\$100
68	7.23(a)	Employing or permitting to be used or employed at any one time more than the maximum number of assistants specified in the licence	\$200
69	7.23(b)	transferring, assigning or otherwise disposing of the licence.	\$200
70	7.24(a)	Failure to personally attend at the place specified in the licence at all times when trading is conducted on or from that place.	\$100
71	7.24(b)	Failure to keep the place and any stand, table, structure or vehicle specified in the licence in a clean and safe condition and in good repair	\$100
72	7.24(c)	Failure to keep the place and any stand, table, structure or vehicle specified in the licence free from trade refuse and other refuse and rubbish	\$100
73	7.24(d)	Failure to produce the licence on demand of any Authorised Person of the local government or any Police Officer.	\$100
74	7.24(e)	Failure to remove the stand, table, structure or vehicle and all of his goods, wares, merchandise and signs from the place to which the licence applies and leave that place clean and vacant in all respects.	\$100
75	7.35(a)	Permit holder in a public place performing wearing dirty, torn or ragged clothing.	\$100
76	7.35(b)	Permit holder in a public place acting in an offensive manner.	\$100
77	7.35(c)(i)	Place, install, erect, play or use any musical instrument, device which emits music, loud speaker or amplifier other than in the permitted areas.	\$100
78	7.35(c)(ii)	Place, install, erect, play or use any musical instrument, device which emits music, loud speaker or amplifier which is not specified in the permit.	\$100
Street Entertainers			
79	7.29	Failure to obtain/produce permit to perform in a public place.	\$100

PART 8—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

Item No	Clause No	Nature of Offence	Modified Penalty \$
Approvals and Fees—			
80	8.8	Failure to obtain a written approval with respect to the operation and use of any local government property.	\$100
81	8.11	Failure to obtain an application for hire and use of any local government property or building.	\$100
General Personal Behaviour			
82	8.14(a)	Behaviour likely to interrupt, disturb or interfere with enjoyment of other persons.	\$100
83	8.14(b)	Behaviour which interrupts, disturbs or interferes with enjoyment of other persons.	\$100

Item No	Clause No	Nature of Offence	Modified Penalty \$
Decency and adequate clothing—			
84	8.15(1)(a)	Indecency	\$100
85	8.15(1)(b)	loiter outside or act in an unacceptable manner, in any portion of a toilet or dressing room set aside for the opposite or same sex.	\$100
86	8.15(1)(c)	without the consent of the occupier, enter or attempt to enter any dressing room or other compartment which is already occupied.	\$100
87	8.15(2)	Failure to comply with the direction of an authorised person in regard to adequate clothing.	\$200
Property Loss, Damage and Exclusions			
88	8.16	Remove any local government property, fixtures, fittings, chattels.	\$100
89	8.17	Damage, destroy, deface or interfere with in any way, any local government property provided for the safety, enjoyment or use by another person.	\$100
90	8.20(1)	Failure to comply with the direction of an authorised person.	\$200
91	8.20(2)	To obstruct or hinder an authorised officer in the performance of his/her duties.	\$200
Treatment of Animals			
A person shall not, on or in any local government property—			
92	8.22(a)	Kill, injure or interfere with any fauna.	\$100
93	8.22(b)	Take on to, set or use or attempt to take on to, set or use any animal trap, bird trap, fish trap, net or similar device.	\$100
94	8.22(c)	Take on to or allow any animal to enter or remain, unless that class, type or species of animal is permitted on that property by any other written law applying in the district.	\$100
Setting Aside of Local Government Property			
95	8.23(3)	To cause local government property, building or reserve set aside for a specific use to be used other than the specified purpose.	\$100
96	8.23(5)	Failure to obtain written approval to use local government property, buildings or reserves temporarily for uses other than which they are set aside for.	\$100
Restrictions on or in Local Government Property and Buildings			
While on or in any local government property or local government building, a person shall not—			
97	8.24(a)	sell, supply or consume liquor without the approval local government.	\$200
98	8.24(b)	act in a way that endangers themselves or any person;	\$100
99	8.24(c)	be under the influence of liquor or a prohibited drug;	\$100
100	8.24(d)	use any volatile, explosive or flammable matter;	\$100
101	8.24(e)	smoke inside a building where smoking is prohibited;	\$100
102	8.24(f)	take any prohibited drug onto, or consume or use any prohibited drug;	\$100
103	8.24(g)	enter any place that has been fenced off or closed to the public; or	\$100
104	8.24(h)	carry firearms unless specifically authorised to do so under the <i>Firearms Act 1973</i> .	\$100
Prohibited Activities			
105	8.25(a)	Play/practice golf, archery, pistol or rifle shooting.	\$100
106	8.25(b)	Ride a bicycle or any other wheeled recreational device.	\$100
107	8.25(c)	Ride a sandboard or similar device.	\$100
108	8.25(d)	Launch a personal watercraft or boat in an area not set aside for that purpose.	\$100

Item No	Clause No	Nature of Offence	Modified Penalty \$
Entry to Local Government Property and Buildings			
109	8.26(a)	Enter or leave any local government property or building other than by the public entrance or exit ways.	\$100
110	8.26(b)	Enter or remain on any local government property or building except during times access is available to the public.	\$100
Recreational Premises			
111	8.27(3)	Failure to leave recreational premises quietly and peaceably when requested to do so.	\$100
112	8.29	Fail to meet responsibilities of recreational premises users.	\$100
Awnings, Veranda's and Balconies over Local Government Property			
113	8.31	Failure to obtain approval to erect/maintain an awning, verandah or balcony over local government property.	\$200
Jetties and Bridges			
114	8.35(2)(a)	Land at, use or enter a jetty which is under construction or repair.	\$100
115	8.35 (2)(b)	Land at, use or enter a jetty which is closed.	\$100
116	8.36(a)	Drive or allow a vehicle to remain on a jetty without written consent of the local government.	\$100
117	8.36(b)	Ride a bicycle, or allow a bicycle to remain on a jetty.	\$100
118	8.37(a)	Fish from a jetty or bridge so as to interfere with the free movement of a vessel.	\$100
119	8.37(b)	Hang or spread a fishing net from, on or over a jetty or bridge.	\$100
120	8.38(a)	Without the written consent of the local government offer for sale or sell goods or services on a jetty or bridge.	\$100
121	8.38(b)	On any jetty or bridge tout or solicit anyone to proceed as a passenger on any vessel or vehicle.	\$100
122	8.38(c)	Without the written consent of the local government display a sign or advertisement or use any loud speaking device on a jetty or bridge.	\$100
123	8.38(d)	Interfere with the free movement of others entering or leaving a jetty or bridge.	\$100
124	8.38(e)	Dive from a jetty or bridge.	\$100
125	8.39	Without the written consent of the local government remove or cause to be removed any material from a jetty or bridge.	\$100
126	8.40(1)	Tip or deposit anything onto a jetty so as to cause damage to the jetty or to pollute the surrounding area.	\$250
127	8.41(4)	Failure to comply with a direction of an authorised person.	\$250
128	8.42	Without written consent of the local government tip or deposit bulk cargo from a vehicle or vessel onto a jetty.	\$250
129	8.43	Without the prior written consent of the local government allow a vessel to remain alongside a jetty for the purpose of loading or discharging cargo.	\$100
130	8.44(b)	Failure of a person to moor or make fast a vessel to a jetty.	\$100
131	8.45(1)	Allow a vessel to be moored or permit it to be moored to a jetty for more than 4 hours.	\$100
132	8.46(1)	Allow a vessel to be moored to a jetty for the purpose of effecting repairs to the vessel.	\$100
133	8.46(2)	Allow a vessel to be moored to a jetty for the purpose of effecting maintenance to the vessel.	\$100
134	8.47(1)	Without the written permission of the local government cause, place or caused to be placed any obstruction on a jetty.	\$100

Item No	Clause No	Nature of Offence	Modified Penalty \$
135	8.47(2)	Obstruct or hinder	\$200
136	8.47(3)	Cause an obstruction on or to any public steps or landing place for passengers.	\$100
A person shall not on or near any jetty			
137	8.48(a)	Deposit litter on a jetty other than in a receptacle	\$100
138	8.48(b)	Light, place or keep a fire that might endanger or cause damage to the jetty.	\$100
139	8.48(c)	Throw or impel any stone or other missile from a jetty.	\$100
140	8.48(d)	Permit an animal to remain on a jetty.	\$100
141	8.48(e)	Be in a state of intoxication or in possession of any intoxicating substance.	\$100
142	8.48(f)	Do anything which may destroy, damage or deface the jetty or any part of a jetty.	\$100
143	8.48(g)	Behave in a disorderly manner or create or take part in any disturbance or use foul or indecent language or commit an act of indecency.	\$200
144	8.48(h)	Throw, place or deposit any offensive, noxious or dangerous substances.	\$200
145	8.48(i)	Post, stick, paint or write or cause to be posted, stuck, painted or written any placard, bill, advertisement, sign or other matter.	\$200
146	8.49(a)	Without the written consent of the local government launch or permit the launching of a vessel from a jetty.	\$100
147	8.49(b)	Failure to pay any fee to the local government for mooring or launching of a vessel from a jetty.	\$100

PART 9—RESERVES, BEACHES, FORESHORES AND BATHING

Item No	Clause No	Nature of Offence	Modified Penalty \$
148	9.1(a)	Use a sandboard or any other board or thing to slide down sand dunes.	\$100
149	9.1(b)	Take onto any sand dunes a sandboard or other thing used for sliding down sand dunes.	\$100
150	9.1(c)	Traverse sand dunes except along pathways designated by signs or fences for the purpose.	\$100
151	9.1(d)	Take a vehicle of any kind onto any reserve, beach or sand dunes.	\$250
Boat Launching			
152	9.2(1)	Launch a boat into sea from area not approved or not permitted by signs.	\$250
153	9.2(2)	Launch personal water craft into sea other than from a boat launching ramp.	\$250
Compliance with signs and directions			
154	9.5	Fail to comply with a sign erected on a beach.	\$100
Fishing			
155	9.6(1)(a)	Fish in an area where fishing is prohibited and designated by signs.	\$100
156	9.6(1)(b)	Fish in an area set aside as designated permitted bathing area.	\$100
157	9.6(2)(a)	Clean fish or cut bait on any seat or hand rail.	\$100
158	9.6(2)(b)	Leave or deposit fish offal on land or in sea within 200m of any beach.	\$100
159	9.6(2)(c)	Fish for sharks within 200m of a beach without written approval.	\$100
Surfboards and Boats			
160	9.7	Ride a surfboard, drive a personal watercraft or boat in a designated permitted bathing area.	\$100

PART 12—MISCELLANEOUS

Item No	Clause No	Nature of Offence	Modified Penalty \$
Substance Seizure			
161	12.1(2)	Failure to surrender any substance requested by an authorised person.	\$250
Public Liability Insurance and Indemnity			
162	12.2(2)	Failure to produce a current certificate of insurance within 2 working days.	\$250
False or Misleading Statement			
163	12.3	Give a false or misleading statement.	\$250
Name and Address to be Given on Demand			
164	12.10	Failure to give name and address.	\$250

PART 13—OFFENCES AND PENALTIES

Item No	Clause No	Nature of Offence	Modified Penalty \$
Notices			
165	13.1	Failure to comply with a notice.	\$250
Other Offences			
166	13.2	Other offences not specified.	\$100

Second Schedule

TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule, unless the context otherwise requires—
 - “**local laws**” refers to the local laws relating to City of Bunbury Local Government and Public Property Local Law to which this second schedule is attached;
 - “**permit**” includes a permit granted by the City of Bunbury under the repealed local law;
 - “**infringement**” includes an infringement issued by the City of Bunbury under the repealed local law;
 - “**approval**” means any Approval, Licence, Consent Order or other permission issued by the City of Bunbury permitting any activity, conduct or recreation upon any land or area within the District of the City of Bunbury;
 - “**prohibition**” includes any ban, barring order, prohibition or regulation of any activity, conduct or recreation upon any land or part thereof located within the District of the City of Bunbury;
 - “**the repealed local laws**” means the repealed City of Bunbury local laws stated in clause 1.4 of this local law.
2. This Schedule does not limit the operation of the Interpretations Act, 1984.
3. Any reference, whether express or implied or having effect as such a reference, in any written Law or document to any provision of the repealed local laws shall be construed as a reference to this local law or, as the case may be, to the specific corresponding provisions of this local law.
4. Any Notice given or thing done, or having effect as being made, given or done under a provision of the repealed local laws which corresponds to a provision of this local law shall have effect as if it had been made, given or done under the corresponding provision of this local law.
5. Any Licence, permit approval or consent given by the City under the repealed local laws corresponding to a type of consent approval or permission under this local law, shall if in force immediately before the date of gazettal of this local law be deemed converted into an approval consent or permission under this local law by operation of this Schedule.
6. Any infringement issued under the repealed local laws shall be dealt with in the same manner as if it were an infringement issued under the corresponding provisions of this local law.
7. A conviction imposed by any competent Court under the repealed local laws shall for the purposes of this local law—
 - (a) be treated as though it had been imposed, made or ordered under this local law where a provision of this local law corresponds with a provision of the repealed local laws concerned; and
 - (b) be taken into account for the purposes of assessing appropriate penalty.

Dated this 21st day of October 2003.

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

G. M. CASTRILLI, Mayor.
G. K. TREVASKIS, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

CITY OF BUNBURY

PRIVATE PROPERTY LOCAL LAW

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LOCAL GOVERNMENT ACT 1995

CITY OF BUNBURY

PRIVATE PROPERTY LOCAL LAW

Under the powers conferred by the *Local Government Act 1995* and all other powers enabling it, the Council of the City of Bunbury resolved on 21 October 2003 to make the following local law.

PART 1—PRELIMINARY**Title**

1.1 This Local Law may be referred to as the City of Bunbury Private Property Local Law.

Purpose and Effect

1.2 (1) The purpose of this local law is to provide for the regulation, control and management of dividing fences between private properties, fencing and lighting of tennis courts, outdoor lighting, street numbering, unsightly land, hazardous plants, sand drift and stormwater and swimming pool wastewater containment and disposal on private land within the district and for the enforcement of this local law.

(2) The effect of this local law is to establish—

- (a) the standard of a sufficient fence according to land use;
- (b) requirements to reduce the intrusive effects of tennis court and outdoor lighting;
- (c) requirements for the orderly assignment of street numbers to each lot;
- (d) requirements for the prevention of unsightly land and the accumulation of disused materials within the district;
- (e) requirements to prevent plants and trees becoming a hazard to a person or thing;
- (f) requirements for the keeping of bees;
- (g) requirements to control and prevent sand drift;
- (h) requirements for the containment and disposal of stormwater and swimming pool waste water; and
- (i) notification, enforcement and penal provisions for the any breaches of this local law.

Commencement

1.3 This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

Repeal

1.4 The following by-laws and local laws adopted by the City of Bunbury are repealed on the day this local law comes into operation—

- By-law—Relating to Fencing, published in the *Government Gazette* of 19 January 1966 and amendments;
- By-law—Relating to Fences at Intersections, published in the *Government Gazette* 11 November 1988;
- Local law—Relating to Depositing and Removal of Refuse, Rubbish and Disused Materials, published in the *Government Gazette* of 23 January 1998;
- By-law—Relating to Vehicle Wrecking, published in the *Government Gazette* 3 August 1966 and amendments;
- By-law—Relating to Old Refrigerators, published in the *Government Gazette* 23 August 1962;
- By-law—Relating to Bees, published in the *Government Gazette* 8 May 1987.

Application

1.5 This local law applies throughout the district of the City of Bunbury.

Interpretation

1.6 In this Local Law, unless the context requires otherwise—

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

“**AS**” means Australian Standard published by Standards Australia;

“**authorised person**” means a person authorised by the local government under section 9.10 of the *Local Government Act 1995* to perform any of the functions of an authorised person under this local law;

- “**building**” means any roofed structure enclosing space and intended for use as shelter (for people, animals or property) or for recreational, commercial or industrial purposes;
- “**Building Surveyor**” means a Building Surveyor of the local government;
- “**building license**” means a building license issued pursuant to Section 374 of the *Local Government (Miscellaneous Provisions) Act 1960*;
- “**CEO**” means the Chief Executive Officer of the local government;
- “**commercial lot**” means a lot where a commercial or light industrial use is or may be permitted under the Town Planning Scheme and is or will be the predominant use of the lot;
- “**dangerous**” in relation to any fence means—
- (a) an electrified fence;
 - (b) a fence containing barbed wire, other than a fence erected and maintained in accordance with this local law;
 - (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material;
 - (d) a fence which in the opinion of the local government is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause; or
 - (e) a fence that has become dangerous through lack of maintenance or repair;
- “**development**” has the same meaning given to it in the *Town Planning and Development Act 1928*;
- “**district**” means the district of the City of Bunbury;
- “**disused**” means in relation to any thing, that the thing—
- (a) is not in use for the purpose for which it was designed or appears to have been designed or intended for; or
 - (b) has been stored or left stationary on land in the district for more than 3 months.
- “**dividing fence**” means a fence that separates the land of different owners whether the fence is on the common boundary of adjoining lands or on a line other than the common boundary;
- “**electrified fence**” means a fence carrying or designed to carry an electric charge;
- “**fence**” means any structure used or functioning as a barrier, irrespective of where it is located and includes any gate;
- “**floodlight**” means a specific form of luminaire that emits light within a limited range of direction, such as a beam;
- “**height**” in relation to a fence means the vertical distance between—
- (a) the top of the fence at any point; and
 - (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;
- “**industrial lot**” means a lot where an industrial use is or may be permitted under the Town Planning Scheme and is or will be the predominant use of the lot;
- “**land**” means land in the district and includes houses, buildings, works, and structures, in or upon the land;
- “**local government**” means the City of Bunbury;
- “**lot**” has the meaning given to it in and for the purposes of the *Town Planning and Development Act 1928*;
- “**luminaire**” means apparatus which distributes, filters or transforms the light transmitted from one or more lamps and which includes, except for the lamps themselves, all parts necessary for fixing and protecting the lamps and, where necessary, circuit auxiliaries with the means for connecting them to the electricity supply;
- “**notice of breach**” means a notice referred to in Part 11 of this local law;
- “**nuisance**” means—
- (a) any activity, thing, condition, circumstance or state of affairs caused or contributed to by a person which is injurious or dangerous to the health of another person of normal susceptibility, or which has a disturbing effect on the state of reasonable physical, mental or social well-being of another person;
 - (b) anything a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place; or
 - (c) anything a person does on public or private land which unreasonably detracts from or interferes with the enjoyment or value of land owned by another person, provided that any thing done in accordance with the law or a legal right or is consistent with the standard of behaviour in the relevant locality shall not be unreasonable for the purpose of this local law;
- “**obtrusive lighting**” means spill light which, because of quantitative, directional or spectral attributes in a given context, gives rise to a nuisance, distraction, discomfort, or reduces the ability of a person to see essential information such as signal lights;
- “**outdoor lighting**” means any form of permanently installed exterior lighting (including advertising signs) and interior lighting systems which emit light that impacts on the outdoor environment;

- “**person**” includes a propriety limited company or association;
- “**public lighting**” means lighting provided for the purpose of all night safety and security on thoroughfares, pedestrian movement areas and public property;
- “**public place**” includes any thoroughfare or place which the public are allowed to use, or any land set apart for the use and enjoyment of the inhabitants of the district whether the thoroughfare or place is or is not on private property and includes parklands, squares, reserves, beaches, and other lands set apart for the use and enjoyment of the public, including all lands which belong to or which are vested in, or are under the control or management of, the local government;
- “**residential lot**” means a lot where a residential use is or may be permitted under the Town Planning Scheme and is or will be the predominant use of the lot;
- “**retaining wall**” means any structure which prevents the movement of soil in order to allow ground levels of different elevations to exist adjacent to one another;
- “**rural lot**” means a lot located in any type of rural zone under the Town Planning Scheme, where a rural use or bush-land conservation is or may be permitted under the Town Planning Scheme and is or may be the predominant use of the lot;
- “**sand**” means any granular, siliceous and non-cohesive material;
- “**schedule**” means a Schedule to this local law;
- “**street**” includes a highway and thoroughfare as defined in the *Local Government Act 1995* 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 setback area**” means the area between the prescribed building line of a lot and the property boundaries of that lot adjacent to any streets;
- “**spill lighting**” means the light emitted by a lighting installation which falls outside the boundaries of the lot on which the installation is located;
- “**street number**” means a number with or without an alphabetical suffix indicating the address of land as assigned by the local government from time to time, in accordance with this local law;
- “**sufficient fence**” means a fence described in Part 2 of this local law;
- “**Town Planning Scheme**” means the currently operative Town Planning Scheme of the local government made under the *Town Planning and Development Act 1928*;
- “**unsightly**” has the meaning given to it in and for the purposes of the *Local Government Act 1995*;
- “**zoned**” means zoned under a Town Planning Scheme of the local government,
- Any other expression used in this local law and not defined herein shall have the meaning given to it in—

- (a) the *Local Government Act 1995*,
- (b) the *Local Government (Miscellaneous Provisions) Act 1960*,
- (c) the Glossary of Building Terms published by Standards Australia and the National Committee on Rationalised Building, and
- (d) Australian Standard 4282—Control of the obtrusive effects of outdoor lighting; unless the context requires otherwise.

PART 2—FENCES

Division 1—Sufficient Fences

Sufficient fence

- 2.1 (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Subject to subclauses (3) and (4), a sufficient fence—
- (a) on a residential lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Second Schedule;
 - (b) on a commercial lot and on an industrial lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule;
 - (c) on a rural lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Fourth Schedule.
- (3) Where a fence is erected on or near the boundary between—
- (a) a residential lot and an industrial lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Second Schedule;
 - (b) a residential lot and a commercial lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule;
 - (c) a residential lot and a rural lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Fourth Schedule;
- (4) Unless the Local Government specifies otherwise, a sufficient fence on a boundary between lots other than those specified in subclause (3) is a dividing fence constructed in accordance with the specifications and requirements of the Second Schedule.

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

- (a) it is greater than 1.8 metres in height; or
- (b) the Building Surveyor or Authorised Person so certifies.

(6) Notwithstanding any other provisions in this local law, a sufficient fence shall not exceed 2 metres in height unless the local government has approved such fence by way of a building license.

Division 2—General

Fences within front setback areas

2.2 (1) A person shall not, without the written consent of the Building Surveyor or an Authorised Person, erect a front fence greater than 1200mm in height, within the front setback area of a residential lot within the district.

(2) A front fence shall not exceed 1800mm in height, with the first 1200mm being of solid construction and the remainder being of an open style construction, unless otherwise approved in accordance with subclause 2.2 (1).

Fences at intersections

2.3 (1) The local government may require the owner or occupier of a lot—

- (a) which is bounded in part by a section of a street that is at or nearby the intersection of that street with another street; and
- (b) on which there is standing a fence, wall hedge, tree or like structure or thing is so situated,
- (c) which in the opinion of the local government, constitutes an obstruction of or interference with the vision of persons driving vehicles approaching, entering or passing through that intersection;

to take down or remove the fence, wall, hedge, tree or like structure or thing.

(2) The local government or an authorised person shall give notice in writing to the owner or occupier of a lot to remove any fence, wall, hedge, tree or like structure or thing which constitutes an obstruction of or interference with the vision of persons driving vehicles approaching, entering or passing through that intersection of other such vehicles within the time specified in the notice, which period shall be not less than 48 hours.

(3) If the owner or occupier of a lot does not comply with the requirements specified in a notice issued under subclause 2, the local government may cause the removal of the obstruction or interference at the owner or occupier's expense.

(4) The local government may recover from the owner or occupier of a lot any expense incurred resulting in the removal of the obstruction or interference in a court of competent jurisdiction.

Maintenance of fences

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

General discretion of the local government

2.5 (1) Notwithstanding the provisions of clause 2.1, the local government may in its sole discretion consent with or without conditions to the erection or repair of a fence which does not comply with the requirements of this local law where there is written agreement between the owners of the adjoining properties.

(2) In determining whether to grant its consent to the erection or repair of any fence which does not comply with the requirements of this local law, the local government may consider, in addition to any other matter that it is authorised to consider, whether the erection or retention of the fence would have an adverse effect on—

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

Division 3—Fencing Materials

Pre-used fencing materials

2.6 (1) A person shall not construct a dividing fence on a Residential lot or a Commercial lot from pre-used materials without the prior written consent of the local government or an authorised person.

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

Barbed wire fences

2.7 (1) An owner or occupier of a residential lot shall not erect, affix to or allow to remain on any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of an authorised person has been obtained.

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

(3) Where written approval has been obtained in accordance with subclause (2), an owner or occupier shall not erect, affix or allow to remain on any fence bounding that lot any barbed wire or other materials with spiked or jagged projections unless such wire or materials is carried on posts set at an angle of 45 degrees into the lot, and unless the bottom row of wire or other materials is set back 150 millimetres from the face of the fence and is at least 1.8 metres above ground level.

Broken glass, electrified and razor wire fences not permitted

2.8 (1) An owner or occupier of a lot shall not use any electrified fence, or construct a fence wholly or partly of razor wire, on the lot.

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

Division 4—Tennis Court Fencing

Tennis court fencing

2.9 (1) A person shall not erect or repair a fence around or partly around a tennis court on a lot unless—

- (a) the fence is not more than 3.6 metres in height;
- (b) the whole of the fence is at least 900 millimetres from the boundary between the lot on which the tennis court is located and the adjoining lot or if it is less than 900 millimetres, the owner of the adjoining lot has first been given the opportunity to indicate their consent in writing to the local government on the location of the fence;
- (c) the fence is fabricated from 2.5 millimetre poly-vinyl chloride coated or galvanised wire 50 millimetre link mesh not more than 3.6 metres in height, and is erected in accordance with the manufacturer's specifications.

(2) A person shall not erect a fence around or partly around any tennis court without the written approval of the local government.

PART 3—OUTDOOR LIGHTING

Tennis court lighting

3.1 (1) A person shall not erect floodlights or other outdoor lighting for the illumination of a tennis court on a lot without the prior written approval of the local government.

(2) In determining an application in respect of the proposed installation or use of floodlights or other outdoor lighting for the illumination of a tennis court on a lot, the local government shall not approve the application unless—

- (a) the owners of adjacent lots are first given the opportunity to make submissions in respect of the application;
- (b) proposed outdoor light fittings are to be mounted not more than 3.6 metres above natural ground level;
- (c) the proposed outdoor light fittings are of a type mounted horizontally or of a type approved by the local government; and
- (d) the level of illumination from the proposed floodlights or external lights on any land more than 1 metre from the lot boundary shall not exceed 10 lux.

(3) A person shall not permit floodlights or other outdoor lights for the illumination of a tennis court to cause a nuisance or to be operated between 2200 hours and 0700 hours.

(4) Obtrusive or spill lighting on adjacent residential lots from floodlights or other outdoor lights used for the illumination of a tennis court on a lot shall not exceed 10 lux when measured in a vertical plane parallel to the relevant adjacent lot, to a height commensurate with the height of the potentially affected dwellings.

Outdoor and security lighting

3.2 (1) Obtrusive or spill lighting on adjacent residential lots from outdoor or security lights on a lot shall not exceed 10 lux when measured in a vertical plane parallel to the relevant adjacent lot, to a height commensurate with the height of the potentially affected dwellings.

(2) Obtrusive or spill lighting from outdoor or security lights located on commercial lots on adjacent residential lots shall not exceed 25 lux when measured in a vertical plane parallel to the relevant adjacent residential lot, to a height commensurate with the height of the potentially affected dwellings.

Public lighting

3.3 The provisions of this local law do not apply to public lighting.

PART 4—STREET NUMBERING

Assignment of street number

4.1 (1) The local government or an authorised person shall assign a street number to each lot in a street, thoroughfare or way in the district in accordance with its policy on Street Numbering so as to ensure unambiguous and easy identification of every individual lot.

(2) The local government or an authorised person may from time to time assign another street number to a lot instead of that which was previously assigned.

Street number to be displayed

4.2 (1) The owner or occupier of each lot shall paint or affix and maintain the current street number assigned by the local government, in a conspicuous place on the front of the building, fence or gate adjacent to the street fronting the lot.

(2) A sign painted on the kerb adjacent to a lot depicting the street number is satisfactory for the purposes of subclause (1).

Location of number not to be misleading

4.3 (1) A person shall not place or display the street number of the lot in such a location as to cause confusion or be misleading.

(2) A person shall not adopt, use or display a street number other than that street number assigned by the local government.

(3) Where the location of a street number causes confusion or is misleading, or an unauthorised street number is being used or displayed on a lot, the local government or an authorised person may serve notice in writing on the owner or occupier of the land specifying remedial action to be taken and the time within action will be taken.

PART 5—UNSIGHTLY LAND AND DISUSED MATERIALS**Removal of refuse and disused materials**

5.1 (1) The owner or occupier of a lot shall not keep, or permit to remain on the lot, any refuse, rubbish or disused material of whatsoever nature or kind which in the opinion of the local government or an authorised person is likely to—

- (a) give the lot an untidy appearance and which does not conform with the general appearance of other land in that particular part of the district;
- (b) adversely affect the value of adjoining property;
- (c) adversely affect the amenity of the locality or adjoining property;
- (d) adversely affect the health, comfort and wellbeing of the inhabitants of the locality or adjoining property; or
- (e) create a nuisance.

(2) The local government or an authorised person may give notice in writing to the owner or occupier of a lot requiring that person to attend to the removal of refuse, rubbish or disused material from the lot within the time specified in the notice.

Removal of unsightly overgrowth of vegetation

5.2 (1) The owner or occupier of a lot shall not permit to remain on a lot any unsightly overgrowth of vegetation that gives the lot an untidy appearance and which does not conform with the general appearance of surrounding land in that particular part of the district.

(2) The local government or an authorised person may give notice in writing to the owner or occupier of a lot requiring the removal of the overgrowth of vegetation within the time specified in the notice.

Storage of vehicles and machinery

5.3 (1) The owner or occupier of a residential lot shall not without prior written approval of the local government—

- (a) store or allow to remain on any residential lot, a vehicle, part or body of a vehicle or machinery, in a disused state;
- (b) wreck, dismantle or break up any vehicle, part or body of a vehicle or machinery.

(2) The owner or occupier of a commercial lot or industrial lot shall not—

- (a) wreck, dismantle or break up any vehicle, part or body of a vehicle or machinery; unless such activity is carried out—
 - (i) inside a building; or
 - (ii) within an area enclosed by a fence or wall of not less than 2 metres in height; and
 - (iii) in an area zoned for that purpose.
- (b) wreck, dismantle or break up a vehicle so as to cause excess noise or any nuisance.

Disposing of disused refrigerators or similar containers

5.4 A person shall not place, leave or discard any disused refrigerator, ice-chest, ice-box, trunk, chest or other similar article having a compartment which has a capacity of 0.04 cubic metres or more on any land without first removing every door and lid and every lock, catch and hinge attached to a door or lid; or rendering every door and lid incapable of being fastened.

PART 6—HAZARDOUS PLANTS AND TREES**Removal of hazardous plants and trees**

6.1 (1) Where a plant or tree in a lot presents a hazard, or endangers or may endanger any person or thing on an adjoining lot, thoroughfare, public place or reserve, the local government or an authorised person may give a notice to the owner or the occupier of the lot to remove, cut, prune, move or otherwise deal with that plant or tree so as to remove the danger or hazard.

(2) Where a plant or tree in a lot presents a serious and immediate danger to any person or thing in a thoroughfare, public place or reserve, the local government or an authorised person may take any remedial action it considers appropriate in order to make a plant or tree safe without having given the owner or occupier notice as required by Part 11 of this local law.

(3) Any costs incurred by the local government for remedial action taken in terms of subclause (2) cannot be recovered by the local government.

PART 7—KEEPING OF BEES

Interpretation

7.1 In this part unless the context otherwise requires—

“**beehive**” means a moveable or fixed structure, container or object in which a colony of bees is kept and used for apiary activities and excludes any wild or swarming bee colony;

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

Limitation on numbers of hives

7.2 (1) A person shall not keep or permit the keeping of bees except on a lot in accordance with this Part.

(2) The local government may, upon written application, consent, with or without conditions, to a person keeping bees hives on a lot other than a Rural lot.

(3) A person shall comply with any conditions imposed by the local government under subclause (2).

Restrictions on keeping bees in hives

7.3 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 10 metres of the beehives;

(b) the beehive is kept—

(i) outside, and at least 15 metres from any building other than a fence;

(ii) at least 15 metres from any public place; and

(iii) at least 5 metres from the boundary of the lot; and

(c) the beehive is adequately enclosed on all sides by a fence, wall or other enclosure.

Bees which cause a nuisance not to be kept

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

(2) Whenever in the opinion of the local government or an authorised person, the keeping of bees is causing a nuisance, the local government or an authorised person may give written notice to an owner or occupier requiring him or her to remove any bees or beehives from the land within the time specified in the notice.

PART 8—SAND DRIFT

Prevention of sand drift

8.1 (1) An owner or occupier of a lot on which any sand exists shall not suffer or permit the release or escape of such sand or other material from the lot, whether by means of wind, water or any other cause, so as to cause a nuisance, trespass or interfere with any adjacent lot, thoroughfare, public place or reserve.

(2) Where the local government or an authorised person is of the opinion that, as a result of any activity occurring on, or likely to occur on a lot, sand or other material may be released or escape, the local government or an authorised person may give a notice to the owner or occupier specifying that the activity may only occur subject to conditions, including time restrictions specified in that notice.

(3) Where the local government or an authorised person is of the opinion that as a result of wind, water or any other cause, sand or other material may be released or escape from a lot, the local government or an authorised person may give a notice to the owner or occupier requiring that the sand or other material be stabilised as specified in that notice within the time specified in that notice.

(4) Where sand or other material has been released or escaped from a lot, the local government or an authorised person may give a notice to the owner or occupier of the lot requiring the owner or occupier to—

(a) remove the sand or other material;

(b) ensure that sand or other material is not released or escape from the lot by means specified in the notice;

(c) repair or make good any damage resulting from that release or escape, within the time specified in the notice.

PART 9—STORMWATER AND WASTEWATER DISPOSAL

Containment of stormwater

9.1 Unless discharged or drained off by means of a stormwater connection approved by the local government, the owner or occupier of a lot shall ensure that all rainwater or stormwater received by

the lot and any building or house on the lot, is contained within the lot and is not permitted to discharge onto, or run-off into, or cause damage to any structures on an adjacent lot, thoroughfare, right of way, public place or reserve.

Containment and disposal of swimming pool wastewater

9.2 The owner or occupier of a lot shall ensure that all wastewater and backwash water from any swimming pool and associated filtration systems is contained within the lot and is not permitted to discharge onto, or run-off into, or cause damage to any structures on an adjacent lot, thoroughfare, right of way, public place or reserve.

PART 10—MISCELLANEOUS

Appointment of authorised persons, and certificate of appointment for authorised persons

10.1 Both the appointment of authorised persons and issue of a certificate of appointment detailing what duties and responsibilities the person is authorised to perform shall be in accordance with section 9.10 of the Act.

False or misleading statement

10.2 A person shall not make a false or misleading statement in connection with any application, requirement or demand under this local law.

Fees and charges

10.3 Fees and charges applicable under this local law shall be as determined by the local government from time to time in accordance with section 6.16 of the Act.

Limit on liability

10.4 A person, owner, occupier or licensee is not entitled to make any claim by way of damages or otherwise, against an authorised person, local government employee, local government appointed sub-contractor or other person authorised by the local government, to enter the land and carry out all or part of the works and do all things necessary that the owner, occupier or licensee was required to do to comply with this local law.

Name and residential address to be given on demand

10.5 (1) An authorised person or member of the WA Police Service who finds a person committing, or who on reasonable grounds suspects a person of having committed a breach of the provisions of this local law, may demand from the person their name and residential address.

(2) A person who refuses to give his or her name and/or residential address, or who states a false name and/or residential address on a demand being made, commits an offence.

PART 11—NOTICES OF BREACH

Notices of breach

11.1 (1) Where a breach of any provision of this local law has occurred in relation to private property, the local government may give a notice in writing to the owner or occupier of that lot ("notice of breach").

(2) The notice of breach shall—

- (a) specify the provision of this local law which has been breached;
- (b) specify the particulars of the breach; and
- (c) state that the owner or occupier of the lot is required to remedy the breach within the time specified in the notice.

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

(4) A person who fails to comply with a notice issued pursuant to this local law commits an offence.

PART 12—OFFENCES AND MODIFIED PENALTIES

Offences and penalties

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

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

Modified penalties

12.2 (1) An offence against any provision of this local law is a prescribed offence for the purposes of Section 9.16 (1) of the Act.

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the corresponding clause in First Schedule to this local law.

Form of notices

12.3 For the purposes of this local law—

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

Transitional Provisions

12.4 The Fifth Schedule to this local law, which contains transitional provisions, has effect.

First Schedule**OFFENCES AND MODIFIED PENALTIES**

Clause No.	Nature of Offence	Modified Penalty \$
Part 2—Fences		
2.1(1)	Erect a fence which is not a sufficient or permissible fence	200
2.2.1	Erect a fence without written consent	100
2.3	Failure to maintain a fence	100
2.6(1)	Construct a dividing fence on a residential or commercial lot from pre-used materials without written consent	100
2.7(1)	Erect a fence using barbed wire or material with spiked or jagged projections in fence construction without approval	200
2.8(1)	Use razor wire in a fence or electrify a fence	200
2.8(2)	Affix, or allow to remain, any broken glass in a fence or wall	200
2.9(1)(a)	Erect or repair a tennis court fence higher than 3.6 metres	100
2.9(1)(b)	Erect tennis court fence less than 900 millimetres from boundary of adjoining lot without submission from adjoining owner	100
2.9(1)(c)	Erect or repair chain link mesh fence higher than 3.6 metres not in accordance with manufacturer's specification	100
2.9(2)	Erect tennis court fence without written approval of the local government	200
Part 3—Outdoor Lighting		
3.1(1)	Erect floodlights or other outdoor lighting for illumination of a tennis court without written approval	100
3.1(2)(b)	Mount or maintain tennis court lighting higher than 3.6 metres	100
3.1(3)	Permit floodlights or other outdoor lights to illuminate a tennis court to remain lit between 2200 hours and 0700 hours	100
3.1(4)	Erect or maintain on private land tennis court lighting which spills 10 lux or more illumination into adjacent land/building	100
3.2(1)	Outdoor or security lighting on private land which spills 10 lux or more illumination into adjacent land/building	100
3.2(2)	Outdoor or security lighting on commercial lot which spills 25 lux or more illumination into adjacent residential land/building	100
Part 4—Street Numbering		
4.2(1)	Failure to paint, affix or maintain current street number in a conspicuous place on the building, fence or gate to street	100

Clause No.	Nature of Offence	Modified Penalty \$
4.3(1)	Place or display a street number so as to cause confusion or be misleading	100
4.3(2)	Adopt, use or display a street number other than that street number assigned by the local government	100
4.3(3)	Failure to comply with a notice to remedy a confusing, misleading street number, or use/display an unauthorised street number	500
Part 5—Unsightly Land		
5.1(2)	Failure to comply with a notice to remove refuse, rubbish or disused material from land	200
5.2(2)	Failure to comply with a notice to remove overgrowth of vegetation	200
5.3(1)(a)	Store or allow to remain on land any vehicle, part or body of vehicle or machinery in a disused state	200
5.3(1)(b)	Wreck, dismantle or break up any vehicle part or body or machinery	200
5.3(2)(a)(i)	Wreck, dismantle or break up any vehicle part or body or machinery not in a building	200
5.3(2)(a)(ii)	Wreck, dismantle or break up any vehicle, part or body or machinery not behind fence or wall	200
5.3(2)(a)(iii)	Wreck, dismantle or break up any vehicle, part or body or machinery on land not zoned for that purpose	200
5.3(2)(b)	Wreck, dismantle or break up a vehicle so as to cause noise or a nuisance	200
5.5	Disposing of disused refrigerator or similar container with door or lid that can be fastened, or with door or lid still fitted	200
Part 6—Hazardous Plants and Trees		
6.1(1)	Failure to comply with a notice to remove, cut, move or otherwise deal with a plant or tree so as to remove the danger or hazard	200
Part 7—Keeping of Bees		
7.2(1)	Keep hives on a lot without approval from the local government	100
7.3(a)	Failure to provide an adequate water supply and permanent water supply within 10 metres of a hive	100
7.3(b)(i)	Failure to keep a hive outside and at least 15 metres from any building	100
7.3(b)(ii)	Failure to keep a hive at least 15 metres from any public place	100
7.3(b)(iii)	Failure to keep a hive at least 5 metres from the boundary of any lot	100
7.3(c)	Failure to keep a hive adequately enclosed by a fence, wall or other enclosure	100
7.4(1)	Keep or permit the keeping of bees so as to cause a nuisance	100
Part 8—Sand Drift		
8.1(1)	Permit the release or escape of sand or other material from a lot so as to cause a nuisance	100
8.1(2)	Failure to comply with a notice specifying that the activity may only be carried on subject to conditions specified in that notice	200
8.1(3)	Failure to comply with a notice to stabilise sand or other material on a lot as specified in that notice	200

Clause No.	Nature of Offence	Modified Penalty \$
Part 9—Stormwater and Wastewater Disposal		
9.1	Failure to ensure that all rainwater or storm water received by a lot and any building or house on the lot, is contained within the lot	100
9.2	Failure to contain or dispose of swimming pool wastewater on the lot on which the swimming pool is located	100
Part 10—Miscellaneous		
10.2	Giving false or misleading information in connection with an application, requirement or demand	200
10.5(2)	Refusing to give name or address or stating a false name or address on a demand being made	200
Part 11—Notice of Breach		
11.1(4)	Failure to comply with requirements of a notice	200

Second Schedule Clause 2.1 (2) (a)

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

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

A Open Aspect Fencing—Intended for use in the urban areas of the City (requires prior Local Government approval)—

- (a) posts to be 125mm diameter treated pine poles spaced at not more than 2.4 metre centres;
- (b) posts to be buried a minimum of 600mm into stable soil;
- (c) horizontal top rail to be 100mm diameter treated pine pole located at not more than 1100mm above the adjacent natural ground level;
- (d) ringlike or similar wire rural fencing material fixed to each post and to the horizontal top rail to control the movement of animals between lots.

B Picket timber fence which satisfies the following specifications—

- (a) corner posts to be 125mm x 125mm x 2400mm and intermediate posts to be 125mm x 75mm x 2400mm spaced at 2400mm centres;
- (b) corner posts to be strutted two ways with 100mm x 50mm x 450mm sole plates and 75mm x 50mm struts;
- (c) intermediate posts to be doubled yankee strutted with 150mm x 25mm x 450mm struts;
- (d) all posts to have tops with a 60mm weather cut and to be sunk at least 600mm into the ground;
- (e) rails to be 75mm x 50mm with each rail spanning two bays of fencing double railed or bolted to each post with joints staggered;
- (f) the fence to be covered with 75mm x 20mm sawn pickets, 1800mm in height placed 75mm apart and affixed securely to each rail; and
- (g) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.

C A fence constructed of corrugated fibre reinforced pressed cement sheeting which satisfies the following specifications—

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600mm;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement sheet;
- (c) the sheets to be lapped and capped with extruded “snap-fit” type capping in accordance with the manufacturers written instructions; and
- (d) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.

D A fence constructed of brick, stone or concrete, which satisfies the following specifications—

- (a) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar;
- (b) fences to be offset a minimum of 200mm at maximum 2400mm centres or 230mm x 110mm engaged piers to be provided at maximum 2400mm centres;
- (c) expansion joints in accordance with AS 3700, Masonry Structures; and
- (d) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.

- E A composite fence having a minimum overall height of 1800mm except with respect to the front setback area for which there is no minimum height but which is subject to clause 2.2, which satisfies the following specifications for the brick construction—**
1. (a) brick piers of minimum 230mm x 230mm at 1800mm centres bonded to a minimum height base wall of 514mm;
 - (b) each pier shall be reinforced with one R10 galvanised starting rod 1500mm high with a 250mm horizontal leg bedded into a 500mm x 200mm concrete footing and set 65mm above the base of the footing. The top of the footing shall be 1 course (85mm) below ground level;
 - (c) the minimum ultimate strength of brickwork shall be 20MPa. Mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
 - (d) the ground under the footings is to be compacted to 6 blows per 300mm and checked with a standard falling weight penetrometer;
 - (e) control joints in brickwork shall be provided with double piers at a maximum of 6 meter centres; and
 - (f) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.
 2. (a) brick piers of a minimum 230mm x 350mm x 2400mm centres bonded to the base wall; and
 - (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified;
 - (c) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.
 3. Specifications in Items D & E of this Schedule are to be certified by a Structural Engineer as being appropriate for the particular site and wind terrain category.
- F Colorbond metal fencing systems erected in accordance with the manufacture's specifications and instructions. The height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.**

Third Schedule Clause 2.1 (2) (b)

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT AND AN INDUSTRIAL LOT

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

- A A fence constructed of galvanised or PVC coated rail-less link mesh, chain mesh or steel mesh which satisfies the following specifications—**
- (a) corner posts to be minimum 50mm normal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
 - (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5m centres and with footings of a 225mm diameter x 600mm;
 - (c) struts to be minimum 30mm nominal bore x 3.15m fitted at each gate and two at each corner post;
 - (d) cables to be affixed to the top, centre and bottom of all posts and to consist of two or more 3.15mm wires twisted together or single 4mm wire;
 - (e) rail-less link, chain or steel mesh is to be to a height of 1800mm on top of which are to be three strands of barbed wire carrying the fence to a height of 2400mm; and
 - (f) galvanised link mesh wire to be 1800mm in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than 3.6m and shall be constructed of 25mm tubular framework with one horizontal and one vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.
- B A fence of fibre reinforced cement sheet constructed to the minimum specifications referred to Item C of the Second Schedule.**
- C A fence constructed of painted or galvanised steel or aluminium sheeting when supported on posts and rails provided that this is used behind the building line and is not higher than 2400mm.**
- D Fences of timber, brick, stone or concrete constructed to the minimum specifications referred to in the Second Schedule.**
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*Fourth Schedule Clause 2.1 (2)(c)***SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT**

Each of the following is a "sufficient fence" on a Rural Lot—

A Post and Wire Construction—

1. In the case of a non-electrified fence of post and wire construction—

- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of five wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases;
- (b) post shall be of indigenous timber or other suitable material including—
 - (i) timber impregnated with a termite and fungicidal preservative;
 - (ii) standard iron star pickets; or
 - (iii) concrete; and
cut not less than 1800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn. Posts to be set minimum 600mm in the ground and 1200mm above the ground; and
- (c) strainer posts shall be not less than 2250mm long and 50mm diameter at the small end (tubular steel to be 50mm in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1000mm in the ground.

2. An electrified fence having four wires only is a sufficient fence if constructed generally in accordance with item 1 of this Schedule.

B Post and Rail Construction

- (a) All posts to be round of durable grade timber as defined by Australian Standards or other suitable material including timber impregnated with termite and fungicidal preservative cut not less than 2400mm long x 125mm diameter at the small end. Posts to be set minimum 900mm in the ground and 1500mm above the ground; and
- (b) All rails to be round of the same material specified in (a) cut not more than 2100mm long x 100mm diameter at the small end to be properly connected using R6 rod or double wire. No more than three rails to be used between posts.

*Fifth Schedule***TRANSITIONAL PROVISIONS****Interpretation**

1. In this Schedule, unless the context otherwise requires—

“**local law**” refers to the local law relating to City of Bunbury Private Property Local Law to which this Fifth Schedule is attached;

“**permit**” includes a permit granted by the City of Bunbury under the repealed local law;

“**infringement**” includes an infringement issued by the City of Bunbury under the repealed local law;

“**approval**” means any approval, license, consent order or other permission issued by the City of Bunbury permitting any activity, conduct or recreation upon any land or area within the District of the City of Bunbury;

“**prohibition**” includes any ban, barring order, prohibition or regulation of any activity, conduct or recreation upon any land or part thereof located within the District of the City of Bunbury;

“**the repealed local laws**” means the repealed City of Bunbury local laws stated in clause 1.4 of this local law.

2. This Schedule does not limit the operation of the *Interpretation Act, 1984*.

3. Any reference, whether express or implied or having effect as such a reference, in any written Law or document to any provision of the repealed local laws shall be construed as a reference to this local law or, as the case may be, to the specific corresponding provisions of this local law.

4. Any notice given or thing done, or having effect as being made, given or done under a provision of the repealed local laws which corresponds to a provision of this local law shall have effect as if it had been made, given or done under the corresponding provision of this local law.

5. Any licence, permit, approval or consent given by the City under the repealed local laws corresponding to a type of consent approval or permission under this local law, shall if in force immediately before the date of gazettal of this local law be deemed converted into an approval consent or permission under this local law by operation of this Schedule.

6. Any infringement issued under the repealed local laws shall be dealt with in the same manner as if it were an infringement issued under the corresponding provisions of this local law.

7. A conviction imposed by any competent Court under the repealed local laws shall for the purposes of this local law—

- a. be treated as though it had been imposed, made or ordered under this local law where a provision of this local law corresponds with a provision of the repealed local laws concerned; and
- b. be taken into account for the purposes of assessing appropriate penalty.

Dated 21st day of October 2003

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

G. M. CASTRILLI, Mayor.
G. K. TREVASKIS, Chief Executive Officer.

