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SHIRE OF MUNDARING

LOCAL GOVERNMENT ACT 1995

LOCAL GOVERNMENT PROPERTY LOCAL LAW

EXTRACTIVE INDUSTRIES LOCAL LAW

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

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LOCAL GOVERNMENT ACT 1995

SHIRE OF MUNDARING

LOCAL GOVERNMENT PROPERTY LOCAL LAW

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Mundaring resolved on the 24th day of February 2004 to make the following local law.

PART 1—PRELIMINARY

Citation

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

Definitions

1.2 In this local law unless the context otherwise requires—

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

“**applicant**” means a person who applies for a permit under section 3.2;

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

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

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

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

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

“**commencement day**” means the day on which this local law comes into operation;

“**Council**” means the council of the local government;

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

“**determination**” means a determination made under section 2.1;

“**district**” means the district of the local government;

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

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

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

“**local government**” means the Shire of Mundaring;

“**local government property**” means anything except a thoroughfare—

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

“**Manager**” means the person for the time being employed by the local government to control and manage a pool area or other facility which is local government property and includes the person’s assistant or deputy or any other person acting in one of these positions;

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

“**permit holder**” means a person who holds a valid permit;

“**person**” does not include the local government;

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

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

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

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

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

“**vehicle**” includes—

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

but excludes—

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

Interpretation

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

Application

1.4 (1) This local law applies throughout the district.

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

- (a) hire local government property to any person; or
- (b) enter into an agreement with any person regarding the use of any local government property.

Repeal

1.5 (1) The following local laws are repealed—

Local laws Relating to the Management and Control of the Bilgoman Olympic Pool, published in the *Government Gazette* on 31st October, 1968 as amended by publication in the *Government Gazettes* on 16 March 1999 and 23 March 1999;

Local laws Relating to Vehicles on Reserves, published in the *Government Gazette* on 15th April, 1976;

Local laws Relating to the Management and Use of the Mundaring Hall, published in the *Government Gazette* on 20th August, 1982;

Local laws Relating to the Control of Reserve No. 23165—Lake Leschenaultia, Chidlow, published in the *Government Gazette* on 21st May, 1982, as amended;

Local laws Relating to Illegal Removal of Timber Firewood and Stone From Council Property, published in the *Government Gazette* on 30th June, 1992.

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

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

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

Division 1—Determinations

Determinations as to use of local government property

2.1 (1) The local government may make a determination in accordance with section 2.2—

- (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in section 2.7;
- (b) prohibiting a person from pursuing all or any of the activities referred to in section 2.8 on specified local government property;
- (c) as to the matters in sections 2.7(2) and 2.8(2); and
- (d) as to any matter ancillary or necessary to give effect to a determination.

(2) The determinations in Schedule 2—

- (a) are to be taken to have been made in accordance with section 2.2;
- (b) may be amended or revoked in accordance with section 2.6; and
- (c) have effect on the commencement day.

Procedure for making a determination

- 2.2 (1) The local government must give local public notice of its intention to make a determination.
- (2) The local public notice referred to in subsection (1) must state that—
- (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
 - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
 - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subsection (2)(c), the Council may decide to—
- (a) give local public notice that the proposed determination has effect as a determination as of the date of publication;
 - (b) amend the proposed determination, in which case subsection (5) will apply; or
 - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subsection (2)(c) the Council must—
- (a) consider those submissions; and
 - (b) decide whether—
 - (i) to amend the proposed determination;
 - (ii) to continue with the proposed determination without amendment; or
 - (iii) not to continue with the proposed termination.
- (5) If the Council decides to amend the proposed determination, it must give local public notice—
- (a) of the effect of any amendment; and
 - (b) that the amended determination has effect as of the date of publication.
- (6) If the Council decides to continue with the proposed determination without amendment, it must give local public notice that the proposed determination has effect as a determination as of the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subsections (3), (5) and (6).
- (8) The Council cannot delegate a decision under subsections (3) or (4).

Discretion to erect sign

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

Acts prohibited by a determination

2.4 A person shall not do any act on local government property which is prohibited by a determination in regard to that property and which may be specified as prohibited on a sign erected on the property.

Register of determinations

2.5 (1) The local government is to keep a register of determinations made under section 2.1, and of any amendments to or revocations of determinations made under section 2.6.

(2) Sections 5.94 and 5.95 of the Act are to apply to the register referred to in subsection (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

Amendment or revocation of a determination

2.6 (1) The Council may amend or revoke a determination.

(2) The provisions of section 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.

(3) If the Council revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication of that notice.

*Division 2—Activities which may be pursued or prohibited under a determination***Activities which may be pursued on specified local government property**

2.7 (1) A determination may provide that specified local government property is set aside as an area in which a person may—

- (a) bring, ride or drive an animal;
- (b) take, ride, drive or park a vehicle, or a particular class of vehicle;
- (c) fly or use a motorised model aeroplane;
- (d) use a children's playground;
- (e) launch, beach or leave a boat;
- (f) take or use a boat, or a particular class of boat;
- (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;

- (h) play or practice—
 - (i) golf or archery;
 - (ii) pistol or rifle shooting, subject to compliance with any relevant legislation; or
 - (iii) a similar specified activity, involving the use of a projectile which may cause injury or damage to a person or property;
- (i) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
- (j) wear no clothing; and
- (k) water based or any other recreational activities.

(2) A determination may specify the extent to which and the manner in which an activity referred to in subsection (1) may be pursued and in particular—

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

Activities which may be prohibited on specified local government property

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

- (a) smoking on premises;
- (b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
- (c) taking, riding, driving or parking a vehicle that in the opinion of an authorised person is unduly noisy, in a dangerous condition or unlicensed or a particular class of vehicle;
- (d) riding, driving or parking a vehicle of a particular class or any vehicle above a specified speed;
- (e) taking or using a boat, or a particular class of boat;
- (f) the playing or practice of—
 - (i) golf, archery, pistol shooting or rifle shooting; or
 - (ii) a similar specified activity, involving the use of a projectile which may cause injury or damage to a person or property;
- (g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
- (h) the traversing, remaining, standing, parking or depositing on land designated as having environmental value and being in need of protection, either absolutely or only by paths provided for that purpose.

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

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

(3) In this section—

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

Division 3—Transitional

Signs taken to be determinations

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

(2) Section 2.5 does not apply to a sign referred to in subsection (1).

PART 3—PERMITS

Division 1—Preliminary

Application of Part

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

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

- 3.2 (1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subsection (2).
- (2) An application for a permit under this local law shall—
- be in the form determined by the local government;
 - be signed by the applicant;
 - provide the information required by the form; and
 - be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government may require an applicant to give local public notice of the application for a permit.
- (5) The local government may refuse to consider an application for a permit which is not in accordance with subsection (2).

Decision on application for permit

- 3.3 (1) The local government may—
- approve an application for a permit unconditionally or subject to any conditions; or
 - refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit, it is to issue to the applicant, a permit in the form determined by the local government.
- (3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

*Division 3—Conditions***Conditions which may be imposed on a permit**

- 3.4 (1) Without limiting the generality of section 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to—
- the payment of a fee;
 - compliance with a standard or a policy adopted by the local government;
 - the duration and commencement of the permit;
 - the commencement of the permit being contingent on the happening of an event;
 - the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
 - the approval of another application for a permit which may be required by the local government under any written law;
 - the area of the district to which the permit applies;
 - where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
 - the obtaining of public liability insurance in an amount and on terms reasonably required by the local government.
- (2) Without limiting section 3.3(1)(a) and subsection (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued—
- when fees and charges are to be paid;
 - payment of a bond against possible damage or cleaning expenses or both;
 - restrictions on the erection of material or external decorations;
 - rules about the use of furniture, plant and effects;
 - limitations on the number of persons who may attend any function in or on local government property;
 - the duration of the hire;
 - the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;
 - a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Licensing Act 1988*;
 - whether or not the hire is for the exclusive use of the local government property;
 - the obtaining of a policy of insurance in the name of the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
 - the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

Imposing conditions under a policy

3.5 (1) In this section—

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

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

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

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

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

Compliance with and variation of conditions

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

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

*Division 4—General***Agreement for building**

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

Duration of permit

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

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

Renewal of permit

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

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

Transfer of permit

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

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

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

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

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

Production of permit

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

Cancellation of permit

3.12 (1) Subject to section 7.1, a permit may be cancelled by the local government if the permit holder has not complied with a—

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

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

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

*Division 5—When a permit is required***Activities needing a permit**

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

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

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

(3) The local government may exempt specified local government property or a class of local government property from the application of subsection (1)(a).

Permit required to camp outside a facility

3.14 (1) In this section—

“**facility**” has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.

(2) This section does not apply to a facility operated by the local government.

(3) A person shall not without a permit—

- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or
- (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.

(4) Any application for a permit under subsection (3) will be considered in accordance with the *Caravan Parks and Camping Grounds Regulations 1997*.

Permit required for possession and consumption of liquor

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

- (a) consume any liquor on local government property; or
- (b) have any liquor in his or her possession or control on local government property unless the liquor is in a sealed container.

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

3.16A holder of a permit shall in respect of local government property to which the permit relates—

- (a) ensure that an authorized person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (b) leave the local government property in a clean and tidy condition after its use;
- (c) report any damage or defacement of the local government property to the local government; and
- (d) ensure that any liquor consumed on the local government property is consumed in accordance with the permit and any requirement of the *Liquor Licensing Act 1988*.

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

4.1 A person shall not in or on any local government property behave in a manner which in the opinion of an authorised person—

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

Behaviour detrimental to property

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

(2) In subsection (1)—

“detrimental to the property” includes—

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

Taking or injuring any fauna

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

(2) In this section—

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

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

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

*Division 2—Signs***Signs**

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

(2) A person on local government property shall comply with the conditions of use specified on a sign erected under subsection (1) on that property.

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

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

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

5.1 (1) Every person, coach and spectator at a swimming pool, shall at all times observe any reasonable direction given by the manager or attendant.

(2) The manager or attendant may at any time, refuse admission to or remove, or cause to be removed from the pool premises, any person who, in the opinion of the manager or attendant 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 5 years not being supervised in the water 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 or attendant to leave the pool premises, quietly and peaceably, do so immediately.

(4) The manager or attendant may temporarily suspend admission to, or remove from the pool 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 pool premises or any part thereof, may at any time be set aside for the use of certain persons to the exclusion of others.

Consumption of food or drink may be prohibited

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

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

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

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

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

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

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

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

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

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

PART 7—OBJECTIONS AND APPEALS**Application of Division 1, Part 9 of the Act**

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

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

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

PART 8—MISCELLANEOUS**Authorized person to be obeyed**

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

Persons may be directed to leave local government property

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

Disposal of lost property

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

PART 9—ENFORCEMENT*Division 2—Offences and penalties*

Subdivision 1—General

Offences and general penalty

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

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

Subdivision 2—Infringement notices and modified penalties

Prescribed offences

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

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

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

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

Form of notices

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

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

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

Schedule 1

PRESCRIBED OFFENCES

Section	Description	Modified Penalty \$
3.6	Failure to comply with conditions of permit	100
3.13(1)	Undertaking activity without a permit	100
3.15(1)	Possessing or consuming liquor without a permit	100
3.16	Failing to comply with the responsibilities of a permit holder	100
4.2(1)	Behaviour detrimental to property	100
4.4(2)	Failure to comply with sign on local government property	100
5.2	Consuming food or drink in prohibited area	100
5.3	Unauthorized entry to fenced or closed local government property	100
5.4	Entering toilet block or change room contrary to gender sign	100
6.1(1)	Unauthorized entry to function on local government property	100

Schedule 2

DETERMINATIONS

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

PART 1—PRELIMINARY

Definitions

1.1 In these determinations unless the context otherwise requires—

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

Interpretation

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

Adopted at an ordinary meeting of the Council of the Shire of Mundaring held on the 24th day of February 2004.

Dated the 24th day of February 2004.

The Common Seal of the Shire of Mundaring was hereunto affixed by authority of Council.

M. N. WILLIAMS, Chief Executive Officer.
(or his delegate)

T. S. PASHLEY, Authorised Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF MUNDARING

EXTRACTIVE INDUSTRIES LOCAL LAW

Under the powers conferred by the *Local Government Act 1995* and by all other powers, the local government of the Shire of Mundaring resolved to make the following local laws on the 24th day of February 2004.

PART 1—PRELIMINARY**Definitions**

1.1 In this local law, unless the context otherwise requires—

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

“**carry on an extractive industry**” means quarrying and excavating for stone, gravel, sand and other material;

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

“**district**” means the district of the local government;

“**excavation**” includes quarry;

“**licence**” means a licence issued under this local law;

“**licensee**” means the person named in the licence as the licensee;

“**local government**” means the Shire of Mundaring;

“**person**” does not include the local government;

“**secured sum**” means the sum required to be paid or the amount of a bond, guarantee or other security under clause 5.1;

“**site**” means the land specified by the local government in a licence.

Application

1.2 (1) The provisions of this local law—

(a) subject to paragraphs (b), (c), (d) and (e);

(i) apply and have force and effect throughout the whole of the district; and

(ii) apply to every excavation whether commenced prior to or following the coming into operation of this local law;

(b) do not apply to the extraction of minerals under the *Mining Act 1978*;

(c) do not apply to the carrying on of an extractive industry on Crown land;

(d) do not apply to the carrying on of an extractive industry on land by the owner or occupier of that land for use on that land; and

(e) do not affect the validity of any licence issued under the local law repealed by clause 1.3 of this local law if that licence is currently in force at the date of gazettal of this local law.

(2) In subclause (1)(d) land includes adjoining lots or locations in the same occupation or ownership of the owner or occupier referred to in subclause (1)(d).

Repeal

1.3 The Shire of Mundaring Local Laws Relating to Extractive Industries, published in the *Government Gazette* of 26 June 1981, are repealed.

PART 2—LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY**Extractive Industries Prohibited Without Licence**

2.1 A person must not carry on an extractive industry—

(a) unless the person is the holder of a valid and current licence; and

(b) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

Penalty \$5000 and a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which an offence has continued.

Applicant To Advertise Proposal

2.2 (1) Unless the local government first approves otherwise, a person seeking the issue of a licence shall, before applying to the local government for a licence—

- (a) forward by registered mail a notice in the form determined by the local government from time to time to—
 - (i) the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the granting of a licence, advising of the application and specifying that they may, within twenty-one days from the date of service of the letter, object to or make representations in writing in respect of the issue of a licence by the local government.
 - (ii) every authority or person having control or jurisdiction over any of the things referred to in clause 2.3(1)(a)(vii) and (viii) within 500 metres from the boundaries of the land, or within an area determined by the local government as likely to be affected by the granting of a licence; and
- (b) as soon as practicable after complying with the requirements of paragraph (a)—
 - (i) forward a copy of the notice to the CEO; and
 - (ii) publish the notice in a newspaper circulating generally throughout the district in which the proposed excavation is located.

(2) The local government may, within 14 days after receiving a copy of a notice referred to in subclause (1), cause to be displayed, or require the proposed applicant to display, in a prominent position on the land one or more notices—

- (a) in the form determined by the local government from time to time;
- (b) the content, size and construction of which have been approved by the CEO;
- (c) specifying particulars of the proposed excavation; and
- (d) inviting objections or comments within 21 days from the placement of the notice.

Application For Licence

2.3 (1) Subject to subclause (3), a person seeking the issue of a licence in respect of any land shall apply in the form determined by the local government from time to time and shall forward the application duly completed and signed by both the applicant and the owner of the land to the CEO together with—

- (a) 3 copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing—
 - (i) the existing and proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;
 - (ii) the land on which the site is to be located;
 - (iii) the external surface dimensions of the land;
 - (iv) the location and depth of the existing and proposed excavation of the land;
 - (v) the location of existing and proposed thoroughfares or other means of vehicle access to and egress from the land and to public thoroughfares in the vicinity of the land;
 - (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
 - (vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;
 - (viii) the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;
 - (ix) the location and description of existing and proposed fences, gates and warning signs around the land; and
 - (x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;
- (b) 3 copies of a works and excavation programme containing—
 - (i) the nature and estimated duration of the proposed excavation for which the licence is applied;
 - (ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;
 - (iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;
 - (iv) details of the depth and extent of the existing and proposed excavation of the site;
 - (v) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
 - (vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
 - (vii) a description of the means of access to the excavation site and the types of thoroughfares to be constructed;

- (viii) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
 - (ix) a description of any proposed buildings, water supply, treatment plant, tanks and other improvements;
 - (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
 - (xi) a description of the measures to be taken to minimise sand drift, dust nuisance, erosion, watercourse siltation and dangers to the general public;
 - (xii) a description of the measures to be taken to comply with the *Environmental Protection (Noise) Regulations 1997*;
 - (xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;
 - (xiv) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation; and
 - (xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby thoroughfares or other areas;
- (c) 3 copies of a rehabilitation and decommissioning programme indicating—
- (i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
 - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
 - (iii) how any face is to be made safe and batters sloped;
 - (iv) the method by which topsoil is to be replaced and revegetated;
 - (v) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
 - (vi) how rehabilitated areas are to be maintained; and
 - (vii) the programme for the removal of buildings, plant, waste and final site clean up;
- (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public thoroughfare or such other land in the vicinity;
- (e) a certificate from a licensed surveyor certifying the correctness of—
- (i) the plan referred to in paragraph (a); and
 - (ii) the datum peg and related point referred to in paragraph (d);
- (f) evidence that the requirements of clause 2.2(1) and (2) have been carried out;
- (g) copies of all land use planning approvals required under any planning legislation;
- (h) copies of any environmental approval required under any environmental legislation;
- (i) copies of any geotechnical information relating to the excavation site;
- (j) the consent in writing to the application from the owner of the site and an acknowledgment from the owner that he has received a copy of the Local Law;
- (k) evidence that a notice of clearing has been given to the Commissioner of Soil and Land Conservation if that is required under regulation 4 of the *Soil and Land Conservation Regulations 1992*;
- (l) any other information that the local government may reasonably require; and
- (m) the licence application fee specified by the local government from time to time.
- (2) All survey data supplied by an applicant for the purpose of sub clause (1) shall comply with Australian Height Datum and Australian Map Grid standards.
- (3) Where in relation to a proposed excavation—
- (a) the surface area is not to exceed 2000m²; and
 - (b) the extracted material is not to exceed 2000m³;

the local government may exempt a person making application for a licence under subclause (1) from supplying any of the data specified in paragraphs (b), (d), (e) and (i) of subclause (1).

PART 3—DETERMINATION OF APPLICATION

Determination Of Application

3.1 (1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 2.3, and in any event shall refuse an application for a licence where planning approval for an extractive industry use of the land has not first been obtained.

(2) The local government may, in respect of an application for a licence—

- (a) refuse the application; or
- (b) approve the application—
 - (i) over the whole or part of the land in respect of which the application is made; and
 - (ii) on such terms and conditions, if any, as it sees fit.

- (3) Where the local government approves an application for a licence, it shall—
- (a) determine the licence period, not exceeding 21 years from the date of issue; and
 - (b) approve the issue of a licence in the form determined by the local government from time to time.
- (4) Where the local government approves the issue of a licence, the CEO upon receipt by the local government of—
- (a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 31st December next, determined by the local government from time to time;
 - (b) payment of the secured sum if any, imposed under clause 5.1;
 - (c) the documents, if any, executed to the satisfaction of the CEO, under clause 5.1; and
 - (d) a copy of the public liability insurance policy required under clause 7.1(1) shall issue the licence to the applicant.
- (5) Without limiting subclause (2), the local government may impose conditions in respect of the following matters—
- (a) the orientation of the excavation to reduce visibility from other land;
 - (b) the appropriate siting of access thoroughfares, buildings and plant;
 - (c) the stockpiling of material;
 - (d) the hours during which any excavation work may be carried out;
 - (e) the hours during which any processing plant associated with, or located on, the site may be operated;
 - (f) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the local government;
 - (g) the depths below which a person shall not excavate;
 - (h) distances from adjoining land or roads within which a person must not excavate;
 - (i) the control of dust and wind-blown material;
 - (j) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
 - (k) the prevention of the spread of dieback or other disease;
 - (l) the drainage of the excavation site and the disposal of water;
 - (m) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
 - (n) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
 - (o) requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation programme;
 - (p) requiring the licensee to enter into an agreement with the local government by which it agrees to pay any expenses incurred by the local government in repairing damage caused to thoroughfares in the district by heavy or extraordinary traffic conducted by or on behalf of the licensee under the licence;
 - (q) requiring the licensee to enter into an agreement with the local government in respect of any condition or conditions imposed under this local law; and
 - (r) any other matter for properly regulating the carrying on of an extractive industry.

Payment Of Annual Licence Fee

3.2 On or before 31 December in each year, a licensee shall pay to the local government the annual licence fee determined by the local government from time to time.

PART 4—TRANSFER, CANCELLATION AND RENEWAL OF LICENCE

Transfer Of Licence

- 4.1 (1) An application for the transfer of a licence shall—
- (a) be made in writing;
 - (b) be signed by the licensee and the proposed transferee of the licence;
 - (c) be accompanied by the current licence;
 - (d) be accompanied by the consent in writing to the transfer from the owner of the excavation site;
 - (e) include any information that the local government may reasonably require; and
 - (f) be forwarded to the CEO together with the fee determined by the local government from time to time.
- (2) Upon receipt of any application for the transfer of a licence, the local government may—
- (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.

(3) Where the local government approves an application for the transfer of a licence, the local government shall transfer the licence by an endorsement on the licence in the form determined by the local government from time to time, signed by the CEO.

(4) Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

Cancellation of Licence

4.2 (1) The local government may cancel a licence where the licensee has—

- (a) been convicted of an offence against—
 - (i) this local law; or
 - (ii) any other law relating to carrying on an extractive industry; or
 - (b) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government;
 - (c) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law;
 - (d) failed to pay the annual licence fee under clause 3.2; or
 - (e) failed to have a current public liability insurance policy under clause 7.1(1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 7.1(2).
- (2) Where the local government cancels a licence under this clause—
- (a) the local government shall advise the licensee in writing of the cancellation;
 - (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice; and
 - (c) the local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

Renewal Of Licence

4.3 (1) A licensee who wishes to renew a licence must apply in writing to the local government at least 45 days before the date of expiry of the licence and shall submit with the application for renewal—

- (a) the fee determined by the local government from time to time;
 - (b) a copy of the current licence;
 - (c) a plan showing the contours of the excavation carried out to the date of that application;
 - (d) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 2.3(1) (b) and (c); and
 - (e) any other things referred to in clauses 2.3 and 3.1.
- (2) The local government may waive any of the requirements specified in clause 4.3 (1) (d) or (e).
- (3) If—
- (a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and
 - (b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application,

then the applicant shall not be obliged; unless otherwise required by the local government to submit details of any of the things referred to in clauses 2.3 and 3.1.

(4) Upon receipt of an application for the renewal of a licence, the local government may—

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

PART 5—SECURED SUM AND APPLICATION THEREOF

Security For Restoration And Reinstatement

5.1 (1) For the purpose of ensuring that an excavation site is properly restored or reinstated, the local government may require that—

- (a) as a condition of a licence; or
- (b) before the issue of a licence,

the licensee shall give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government from time to time.

(2) A bond required under subclause (1) is to be paid into a fund established by the local government for the purposes of this clause.

Use By The Local Government Of Secured Sum

5.2 (1) If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions either—

- (a) within the time specified in those conditions; or

- (b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions, then; subject to the local government giving the licensee 14 days notice of its intention to do so—
 - (i) 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; and
 - (ii) the licensee shall pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause.
- (2) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 5.1 towards its costs under this clause.
- (3) The liability of a licensee to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 5.1.

PART 6—LIMITATIONS, OBLIGATIONS OF THE LICENSEE AND PROHIBITIONS

Limits On Excavation Near Boundary

6.1 Subject to any licence conditions imposed by the local government, a person shall not, without the written approval of the local government, excavate within—

- (a) 40 metres of the boundary of any land on which the excavation site is located;
- (b) 40 metres of any land affected by a registered grant of easement;
- (c) 40 metres of any thoroughfare; or
- (d) 100 metres of any watercourse.

Penalty \$2,000

Obligations Of The Licensee

6.2 A licensee shall—

- (a) where the local government so requires, securely fence the excavation to a standard determined by the local government and keep the gateways locked when not actually in use in order to prevent unauthorised entry;
- (b) erect and maintain pylon warning signs along each of the boundaries of the area excavated under the licence so that each sign complies with the local governments Signs Local Law and that each sign—
 - (i) is not more than 200 metres apart;
 - (ii) is not less than 1.8 metres or more than 3 metres high and not less than 1 metre or more than 2 metres wide; and
 - (iii) bears the words “DANGER EXCAVATIONS KEEP OUT” prominently within the dimensions of the sign;
- (c) except where the local government approves otherwise, drain and keep drained to the local government's satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;
- (d) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (e) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
- (f) otherwise comply with the conditions imposed by the local government in accordance with clause 3.1.

Penalty \$5,000 for each offence, and if an offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

Prohibitions

6.3 A licensee shall not—

- (a) remove any trees or shrubs within 40 metres (or such lesser distance as may be allowed, in writing, by the local government) of the boundary of any thoroughfare on land in respect of which a licence has been granted, except for the purpose of constructing access thoroughfares, erecting buildings or installing plant for use in connection with the excavation and then only with the express approval of the local government and subject to any conditions which the local government may impose in accordance with clause 3.1 or otherwise in compliance with any other written legislation;
- (b) store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than with the approval of the local government and the Department of Mineral and Petroleum Resources; or
- (c) fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government.

Penalty \$5,000 for each offence, and if an offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

Blasting

6.4 (1) A person shall not carry out or permit to be carried out any blasting in the course of excavating unless—

- (a) the local government has otherwise given approval in respect of blasting generally or in the case of each blast;
- (b) subject to sub-clause (2), the blasting takes place only between the hours of 8.00am and 5.00pm, or as determined by the local government, on Mondays to Fridays inclusive;
- (c) the blasting is carried out in strict accordance with the AS2187 SAA Explosives Code, the *Mines Safety and Inspection Act 1994*, the *Environmental Protection Act 1986*, and all relevant local laws of the local government; and
- (d) in compliance with any other conditions imposed by the local government concerning—
 - (i) the time and duration of blasting;
 - (ii) the purposes for which the blasting may be used; and
 - (iii) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.

Penalty \$5,000.00 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

(2) A person shall not carry out or permit to be carried out any blasting on a Saturday, Sunday or Public Holiday except with the prior approval of the local government.

Penalty \$5,000.00 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

PART 7—MISCELLANEOUS PROVISIONS**Public Liability**

7.1 (1) A licensee shall have at all times a current public liability insurance policy taken out, with a copy being provided to the local government, indemnifying the licensee and the local government for a sum as determined by the local government from time to time in respect of any one claim relating to any of the excavation operations.

(2) The licensee shall provide to the local government a copy of the policy taken out under sub-clause (1), within 14 days after the issue of that policy and shall provide to the local government evidence of renewal within 14 days of each renewal date.

Mines Safety and Inspection Act and Environmental Protection Act

7.2 (1) In any case where the *Mines Safety and Inspection Act 1994* or the *Environmental Protection Act 1986* applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site shall—

- (a) comply with all applicable provisions of that Act or those Acts; and
- (b) provide to the local government within 14 days full particulars of any inspection or report made under that Act or those Acts.

(2) In this clause, the *Mines Safety and Inspection Act 1994* and the *Environmental Protection Act 1986* include all subsidiary legislation made under those Acts.

Notice Of Cessation Of Operations

7.3 (1) Where a licensee intends to cease carrying on an extractive industry—

- (a) temporarily for a period in excess of 12 months; or
- (b) permanently,

the licensee shall, as well as complying with clause 7.4, give the local government written notice of the cessation not later than 1 week after those operations have ceased.

(2) Where a licensee has given written notice to the local government of the intention to permanently cease carrying on an extractive industry on the site to which the licence applies the licence is deemed to have expired on the date such cessation is so notified.

(3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

Works To Be Carried Out On Cessation Of Operations

7.4 Where the carrying on of an extractive industry on the site permanently ceases or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee shall, as well as complying with the provisions of clause 7.3—

- (a) restore and reinstate the excavated site in accordance with the proposals approved by the local government or in such other manner as the local government may subsequently agree in writing with the licensee;
- (b) ensure that any face permitted to remain upon the excavation site is left safe with all loose materials removed and where the excavation site is—
 - (i) sand, the sides are sloped to a batter of not more than 1:3 (vertical:horizontal); and

- (ii) limestone or material other than sand, the sides are sloped to a batter which, in the opinion of the local government, would enable the site to be left in a stable condition;
- (c) ensure that the agreed floor level of the excavation is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning programme approved by the local government;
- (d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;
- (e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;
- (f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and
- (g) break up, scarify, cover with topsoil and plant with grass, trees and shrubs all parts of the site where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this local law.

Penalty \$5,000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

PART 8—OBJECTIONS AND APPEALS

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

- (a) grant a person a licence under this local law; or
- (b) renew, vary, or cancel a licence 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.

PART 9—MODIFIED PENALTIES

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

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

Forms

9.3 For the purposes of this local law—

- (a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the notice sent under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

Schedule

PRESCRIBED OFFENCES

Clause	Description	Modified Penalty \$
2.1	Carry on extractive Industry without licence or in breach of terms and conditions	500
6.1	Excavate near boundary	200
6.2(a)	Gateways not kept locked where required	500
6.2(b)	Warning signs not erected or maintained as required	500
6.2(c)	Excavation not drained as required	500
6.3(a)	Remove trees or shrubs near boundary without approval	500
6.3(b)	Store without required approval explosives or explosive devices	500
6.3(c)	Fill or excavate in breach of licence	500
6.4(1)(a)	Blasting without approval of the local government	500
6.4(1)(b)	Blasting outside times authorised	500
6.4(1)(d)	Blasting in breach of conditions imposed by the local government	500
6.4(2)	Blasting without approval on Saturday, Sunday or public holiday	500

Adopted at an ordinary meeting of the Council of the Shire of Mundaring held on the 24th day of February 2004.

Dated the 24th day of February 2004.

The Common Seal of the Shire of Mundaring was hereunto affixed by authority of Council.

M. N. WILLIAMS, Chief Executive Officer.
(or his delegate)

T. S. PASHLEY, Authorised Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF MUNDARING

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

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Mundaring, resolved on the 24th day of February 2004 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

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

1.2 Definitions

In this local law unless the context otherwise requires—

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

“**applicant**” means a person who applies for a permit;

“**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;

“**built-up area**” has the meaning given to it in the *Road Traffic Code 1975*;

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

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

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

“**commencement day**” means the day on which this local law comes into operation;

“**Council**” means the council of the local government;

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

(a) private land; or

(b) a private thoroughfare serving private land;

“**district**” means the district of the local government;

“**footpath**” means the paved or made portion of a thoroughfare used or intended for use by pedestrians and cyclists, a wheel-chair or any device designed for use by a physically impaired person on a footpath, and a pram, a stroller or a similar device;

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

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

“**kerb**” includes the edge of a carriageway;

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

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

“**local government**” means the Shire of Mundaring;

“**local government property**” means anything except a thoroughfare—

(a) which belongs to the local government;

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

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

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

“**owner**” or “**occupier**” in relation to land does not include the local government;

“**permissible verge treatment**” means any of the treatments described in section 2.7(2);

“**permit**” means a permit or written approval issued under this local law;

“**permit holder**” means a person who holds a valid permit;

“**person**” does not include the local government;

“**premises**” for the purpose of the definition of “public place” in both this section and section 4.1, means a building or similar structure, but does not include a carpark or a similar place;

“**public place**” includes—

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

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

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

“**sign**” includes a notice, flag, mark, structure or device on which may be shown words, numbers, expressions or symbols;

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

“**vehicle**” includes—

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

but excludes—

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

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

(1) The following local laws are repealed—

Local Laws Relating to—

Street Lawns and Gardens, published in the *Government Gazette* of 7 August 1963, as amended in the *Government Gazettes* of 21 January 1977 and 12 August 1977;

Removal and Disposal of Obstructing Animals or Vehicles, published in the *Government Gazette* of 1 December 1970, as amended in the *Government Gazettes* of 29 July 1977, 18 December 1981 and 7 December 1990;

New Street Alignments, published in the *Government Gazette* of 6 July 1971;

Stalls, published in the *Government Gazette* of 14 September 1979, as amended in the *Government Gazette* of 15 September 1989;

The Control of Hawkers, published in the *Government Gazette* of 14 September 1979;

Streets, published in the *Government Gazette* of 7 November 1980;

The Parking of Vehicles on Street Verges, published in the *Government Gazette* of 3 May 1985.

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

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

PART 2—ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES

Division 1—General

2.1 General prohibitions

A person shall not—

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

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

2.2 Activities allowed with a permit—general

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

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) subject to Division 3 of this Part, throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised in connection with that collection by the local government;
- (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
- (d) cause any obstruction to a water channel or a water course in a thoroughfare;
- (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
- (f) damage a thoroughfare;
- (g) light any fire or burn any thing except leaves or garden material/refuge that is collected on a thoroughfare;
- (h) fell any tree onto a thoroughfare;
- (i) unless installing or in order to maintain a permissible verge treatment—
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
- (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
- (k) on a public place use anything or do anything so as to create a nuisance;
- (l) place or cause to be placed on a thoroughfare a bulk rubbish container; or
- (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.

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

2.3 No possession and consumption of liquor on thoroughfare

A person shall not—

- (a) consume any liquor on a thoroughfare; or
- (b) have in her or his possession or control any liquor on a thoroughfare not in a sealed container; unless the person has a permit and complies with any requirement of the *Liquor Licensing Act 1988*.

Division 2—Vehicle crossing

Subdivision 1—Temporary crossings

2.4 Permit required

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

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

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

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

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

Subdivision 2—Redundant vehicle crossings

2.5 Removal of redundant crossing

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

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

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

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

Division 3—Verge treatments

Subdivision 1—Preliminary

2.6 Interpretation

In this Division, unless the context otherwise requires—

“**acceptable material**” means any material which will create a hard surface as approved by an authorised person.

Subdivision 2—Permissible verge treatments

2.7 Permissible verge treatments

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

(2) The permissible verge treatments are—

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

2.8 Only permissible verge treatments to be installed

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

2.9 Obligations of owner or occupier

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

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

2.10 Notice to owner or occupier

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

Subdivision 3—Existing verge treatments

2.11 Transitional provision

(1) In this section—

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

(2) A verge treatment which—

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

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

Subdivision 4—Public works

2.12 Power to carry out public works on verge

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

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

Division 4—Property numbers

Subdivision 1—Preliminary

2.13 Interpretation

In this Division, unless the context requires otherwise—

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

Subdivision 2—Assignment and marking of numbers

2.14 Assignment of numbers

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

Division 5—Fencing

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

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

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

Division 6—Signs erected by the local government

2.16 Signs

- (1) A local government may erect a sign on a public place specifying any conditions of use which apply to that place.
- (2) A person shall comply with a sign erected under subsection (1).
- (3) A condition of use specified on a sign erected under subsection (1) is to be for the purpose of giving notice of the effect of a provision of this local law.

2.17 Transitional

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

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

Division 7—Driving on a closed thoroughfare

2.18 No driving on closed thoroughfare

- (1) A person shall not drive or take a vehicle on a closed thoroughfare unless—
 - (a) the person does so in accordance with any limits or exceptions specified in an order closing the thoroughfare; or
 - (b) the person has first obtained a permit.
- (2) In this section—

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

PART 3—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

Division 1—Animals and vehicles

3.1 Interpretation

In this Division—

“**commercial vehicle**” means—

- (a) a vehicle designed or used for transportation or haulage of goods or any other commercial purpose and having a load capacity exceeding 1.5 tonnes, or a vehicle

designed or used for the carriage of more than ten passengers, or a vehicle designed or used for industrial purposes, or an earthmoving vehicle or equipment, or a tow truck or a prime mover;

- (b) a semi-trailer or road train as defined by the *Road Traffic Act 1974* (as amended); and
- (c) an agricultural vehicle or implement, a caravan or a trailer with a load capacity exceeding 1.5 tonnes;

“**motor vehicle**” has the meaning given to it in the *Road Traffic Act 1974* (as amended), other than a commercial vehicle as defined herein;

“**park**” means to permit a vehicle, whether attended or not to remain stationary and “parking” has a correlative meaning.

3.2 Leaving animal or vehicle in public place or on local government property

(1) A person shall not leave an animal or a vehicle, or any part of a vehicle, in a public place unless that person has first obtained a permit or is authorised to do so under a written law.

(2) A person will not contravene subsection (1) by—

- (a) leaving an animal if the animal is secured or tethered for a period not exceeding 1 hour; or
- (b) leaving a vehicle if the vehicle is left for a period not exceeding 24 hours;

provided the vehicle or animal is not, in the opinion of an authorised person, obstructing the use of the place or property.

3.3 Limitation on parking of vehicles with Gross Vehicle Mass in excess of 4.5 tonnes on carriageway.

A person shall not park a vehicle having a gross vehicle mass in excess of 4.5 tonnes on a carriageway for more than two hours consecutively.

3.4 Limitation on parking of over length vehicles on carriageway

A person shall not park a vehicle or any combination of vehicles that together with anything in or on that vehicle is more than 7.5 metres in length, on a carriageway for more than two hours consecutively.

3.5 Parking commercial vehicles on verges

(1) A person shall not park a commercial vehicle on a verge—

- (a) for more than two hours consecutively;
- (b) within ten metres of an intersection for any period of time; and
- (c) for the purpose of effecting repairs or otherwise servicing or cleaning the vehicle, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

(2) It is not an offence under subsection (1) where—

- (a) the commercial vehicle is parked while the driver of the vehicle is carrying out any building, renovation, repair or similar work on a lot adjoining the verge provided that the driver does not reside on that lot; or
- (b) the commercial vehicle is parked within ten metres of an intersection if it is parked for less than two hours upon the verge opposite a T junction.

3.6 Parking motor vehicle on verges

A person shall not park a motor vehicle on a verge—

- (a) if that vehicle is not licensed under the *Road Traffic Act*; or
- (b) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

3.7 Prohibitions relating to animals

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

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

(2) An owner of an animal shall not—

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

(3) An owner of a horse shall not lead, ride or drive a horse—

- (a) on a thoroughfare in a built-up area unless that person does so under a permit or under the authority of a written law; or
- (b) on a footpath so as to cause danger to pedestrians or damage to the footpath.

*Division 2—Shopping trolleys***3.8 Interpretation**

In this Division—

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

“**shopping trolley**” means a wheeled container or receptacle supplied by a retailer to enable a person to transport goods.

3.9 Shopping trolley to be marked

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

3.10 Person not to leave trolley in public place

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

3.11 Retailer to remove abandoned trolley

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

(2) A retailer shall remove a shopping trolley within 24 hours of being so advised under subsection (1).

3.12 Retailer taken to own trolley

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

PART 4—TRADING IN THOROUGHFARES AND PUBLIC PLACES*Division 1—Stallholders and traders**Subdivision 1—Preliminary***4.1 Interpretation**

In this Division, unless the context otherwise requires—

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

“**public place**” includes—

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

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

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

“**stallholder**” means a person in charge of a stall;

“**stallholder’s permit**” means a permit issued to a stallholder;

“**trader**” means a person who carries on trading;

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

“**trading**” includes—

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

but does not include—

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

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

Subdivision 2—Permits

4.2 Stallholder's permit

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

4.3 Trader's permit

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

4.4 Relevant considerations in determining application for permit

- (1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to—
 - (a) any relevant policies of the local government;
 - (b) the desirability of the proposed activity;
 - (c) the location of the proposed activity;
 - (d) the principles set out in the Competition Principles Agreement; and
 - (e) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds—
 - (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;
 - (b) that the applicant is not a desirable or suitable person to hold a permit; or
 - (c) such other grounds as the local government may consider to be relevant in the circumstances of the case.

4.5 Conditions of permit

- (1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include—
 - (a) the place, the part of the district, or the thoroughfare to which the permit applies;
 - (b) the days and hours during which a permit holder may conduct a stall or trade;
 - (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;

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

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

4.6 Exemptions from requirement to pay fee or to obtain a permit

(1) In this section—

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

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

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

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

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

Subdivision 3—Conduct of stallholders and traders

4.7 Conduct of stallholders and traders

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

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

(2) A stallholder or trader shall not—

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

*Division 2—Outdoor eating facilities on public places***4.8 Interpretation**

In this Division—

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

“**permit holder**” means the person to whom a permit has been issued for the purpose of section 4.9; and

“**public place**” has the meaning given to it in section 4.1.

4.9 Permit required to conduct Facility

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

4.10 Matters to be considered in determining application

In determining an application for a permit for the purpose of section 4.9, the local government may consider in addition to any other matter it considers relevant, whether or not—

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

4.11 Obligations of permit holder

(1) The permit holder for a Facility shall—

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

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

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

4.12 Removal of Facility unlawfully conducted

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

4.13 Use of Facility by public

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

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

4.14 Temporary removal of Facility may be requested

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

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

PART 5—PERMITS*Division 1—Applying for a permit***5.1 Application for permit**

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

- (2) An application for a permit under this local law shall—
- (a) be in the form determined by the local government;
 - (b) be signed by the applicant;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government may require an applicant to give local public notice of the application for a permit.
- (5) The local government may refuse to consider an application for a permit which is not in accordance with subsection (2).

5.2 Decision on application for permit

- (1) The local government may—
- (a) approve an application for a permit unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.
- (3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.
- (4) Where a section of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the section does not limit the power of the local government to impose other conditions on the permit under subsection (1)(a).
- (5) Where a section of this local law refers to the grounds on which an application for a permit may be or is to be refused, the section does not limit the power of the local government to refuse the application for a permit on other grounds under subsection (1)(b).

Division 2—Conditions

5.3 Conditions which may be imposed on a permit

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

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

5.4 Imposing conditions under a policy

- (1) In this section—

“**policy**” means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under section 5.2(1)(a).

- (2) Under section 5.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.
- (3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in section 5.2(2).
- (4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy is to be taken to be information within section 5.94(u)(i) of the Act.

5.5 Compliance with and variation of conditions

- (1) Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder shall comply with each of those conditions.
- (2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

*Division 3—General***5.6 Duration of permit**

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

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under section 5.10.

5.7 Renewal of permit

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

(2) The provisions of—

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

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

5.8 Transfer of permit

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

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

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

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

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

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

5.9 Production of permit

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

5.10 Cancellation of permit

(1) Subject to section 6.1, a permit may be cancelled by the local government on any one or more of the following grounds—

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

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

- (a) shall return the permit within ten (10) working days to the local government; and
- (b) is to be taken to have forfeited any fees paid in respect of the permit.

PART 6—OBJECTIONS AND APPEALS**6.1 Application of Part 9 Division 1 of the Act**

When the local government makes a decision—

- (a) under section 5.2(1); or
- (b) as to whether it will renew, vary, or cancel a permit,

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

PART 7—MISCELLANEOUS NOTICES**7.1 Notice to redirect or repair sprinkler**

Where a verge, lawn or a garden is being watered with a sprinkler which is on the verge, lawn or garden, in a manner which causes or may cause an inconvenience or obstruction to any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting

the verge, lawn or garden, requiring the owner or the occupier or both to move or alter the direction of the sprinkler or other watering equipment.

7.2 Hazardous plants

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

(2) Subsection (1) does not apply where the plant was planted by the local government.

7.3 Notice to remove thing unlawfully placed on thoroughfare

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

PART 8—ENFORCEMENT

Division 1—Notices given under this local law

8.1 Offence to fail to comply with notice

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

8.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in section 8.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

Division 2—Offences and penalties

Subdivision 1—General

8.3 Offences

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

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

Subdivision 2—Infringement notices and modified penalties

8.4 Prescribed offences

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

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

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

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

8.5 Forms

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

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

Schedule 1

PRESCRIBED OFFENCES

Section	Description	Modified Penalty \$
2.1(a)(i)	Planting hazardous plant	100
2.1(a)(ii)	Planting overheight plant near intersection	100
2.1(a)(iii)	Planting too close to carriageway	100

Section	Description	Modified Penalty \$
2.1(b)	Damaging lawn or garden	100
2.1(c)	Placing hazardous substance on footpath	100
2.1(d)	Damaging or interfering with signpost or structure on thoroughfare	300
2.1(e)	Playing games so as to impede vehicles or persons on thoroughfare	100
2.1(f)	Riding of bicycle, skateboard or similar device on mall or verandah of shopping centre	100
2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	100
2.2(1)(b)	Throwing or placing anything on a verge without a permit	100
2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	100
2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	200
2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	200
2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	300
2.2(1)(h)	Felling tree onto thoroughfare without a permit	100
2.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	100
2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	300
2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	100
2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	100
2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	100
2.3	Consumption or possession of liquor on thoroughfare	100
2.4(1)	Failure to obtain permit for temporary crossing	200
2.5(2)	Failure to comply with notice to remove crossing and reinstate kerb	300
2.8(1)	Installation of verge treatment other than permissible verge treatment	200
2.9	Failure to maintain permissible verge treatment or placement of obstruction on verge	100
2.10	Failure to comply with notice to rectify default	100
2.16(2)	Failure to comply with sign on public place	100
2.18(1)	Driving or taking a vehicle on a closed thoroughfare	300
3.2(1)	Animal or vehicle obstructing a public place or local government property	100
3.3	Parking vehicles with GMV in excess of 4.5 tonnes for over two hours.	100
3.4	Parking over length vehicles in excess of two hours	100
3.5	Unlawfully parking commercial vehicle on verge	100
3.6	Unlawfully parking motor vehicle on verge	50
3.7(2)(a)	Animal on thoroughfare when not led, ridden or driven	100
3.7(2)(b)	Animal on public place with infectious disease	100
3.7(2)(c)	Training or racing animal on thoroughfare in built-up area	100
3.7(3)(a)	Horse led, ridden or driven on thoroughfare in built-up area	100
3.7(3)(b)	Horse led, ridden or driven on footpath so as to cause damage	100
3.8	Person leaving shopping trolley in public place other than trolley bay	100
3.9	Failure to mark a shopping trolley	100
3.11(2)	Failure to remove a shopping trolley	100
4.2(1)	Conducting of stall in public place without a permit	300
4.3(1)	Trading without a permit	300
4.7(1)(a)	Failure of stallholder or trader to display or carry permit	100
4.7(1)(b)	Stallholder or trader not displaying valid permit	100

Section	Description	Modified Penalty \$
4.7(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	100
4.7(2)	Stallholder or trader engaged in prohibited conduct	100
4.9	Establishment or conduct of outdoor eating facility without a permit	300
4.11	Failure of permit holder of outdoor eating facility to comply with obligations	100
4.13(1)	Use of equipment or outdoor eating facility without purchase of food or drink from Facility	50
4.13(2)	Failure to leave outdoor eating facility when requested to do so by permit holder	50
5.5	Failure to comply with a condition of a permit	100
5.9	Failure to produce permit on request of authorised person	100
5.10(2)	Failure to return permit	100
8.1	Failure to comply with notice given under local law	100

Adopted at an ordinary meeting of the Council of the Shire of Mundaring held on the 24th day of February 2004.

Dated the 24th day of February 2004.

The Common Seal of the Shire of Mundaring was hereunto affixed by authority of Council.

M. N. WILLIAMS, Chief Executive Officer.
(or his delegate)

T. S. PASHLEY, Authorised Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF MUNDARING

LOCAL LAW RELATING TO FENCING

Under the powers conferred by the *Local Government Act 1995* and by all other powers the Council of the Shire of Mundaring resolved to make the following local law on the 24th day of February 2004.

PART 1—PRELIMINARY

1. Citation

These Local Law may be cited as the *Shire of Mundaring Local Law Relating to Fencing*.

2. Repeal

The Shire of Mundaring Local Laws Relating to Fencing published in the *Government Gazette* on 7 August 1981 as amended by publication in the *Government Gazette* on 25 February 1983, are repealed.

3. Application of Local Law

This Local Law applies throughout the district.

4. Interpretation

In this Local Law, unless the context requires otherwise—

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

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

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

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

“**CEO**” means the Chief Executive Officer of the local government or a person authorised by him or her;

“**Commercial Lot**” means land where a commercial use—

(a) is or may be permitted under a Town Planning Scheme; and

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

“**dangerous**” in relation to any fence means—

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

(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, razor wire or any other potentially harmful projection or material; or

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

“**district**” means the district of the local government;

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

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

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

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

“**General Rural Lot**” means land that is within a General Rural Zone in a Town Planning Scheme;

“**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 land where an industrial use—

(a) is or may be permitted under a Town Planning Scheme; and

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

“**local government**” means the Shire of Mundaring;

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

“**notice of breach**” means a notice referred to in section 16(1);

“**Residential Lot**” means land where a residential use—

- (a) is or may be permitted under a Town Planning Scheme; and
- (b) is or may be the predominant use of the lot;

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

“**Rural Landscape Living Lot**” means land that is within a Rural Landscape Living Zone in a Town Planning Scheme.

“**Schedule**” means a Schedule to this Local Law;

“**setback**” has the meaning given to it for the purposes of a Town Planning Scheme;

“**setback area**” means the area of land located between the front boundary of the property and the required building setback as defined by a town planning Scheme.

“**sufficient fence**” means a fence described in s6; and

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

5. Licence Fees and Charges

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

PART 2—SUFFICIENT FENCES

6. Sufficient Fences

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

(2) Subject to sub-sections (3) and (4), and the provisions of a Town Planning Scheme, a sufficient fence—

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

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

- (a) a Residential Lot and an Industrial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;
- (b) a Residential Lot and a Commercial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;
- (c) a Residential Lot and a General Rural Lot or a Rural Landscape Living Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule.

(4) Unless the CEO specifies otherwise, a sufficient fence on a boundary between lots other than those specified in sub-section (3) is a dividing fence constructed in accordance with the specifications and requirements of the Third Schedule.

(5) Notwithstanding any other provisions in this Local Law, a fence constructed of stone, masonry or concrete shall be a sufficient fence only if it complies with a design certified by a practising structural engineer where—

- (a) it is greater than 1000mm in height; or
- (b) the CEO so requires.

PART 3—GENERAL

7. Fences Within Front Setback Areas

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

(2) Subject to the provisions of the Town Planning Scheme, the CEO may approve the erection of a fence of a height greater than 1200mm in the front setback area of a Residential Lot.

8. Fences on a Rural Lot

A person shall not without the written consent of the CEO, erect a fence on a General Rural Lot, or a Rural Landscape Living Lot within 7500mm of a thoroughfare of a height exceeding 1500mm.

9. Maintenance of Fences

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

10. General Discretion of the Local Government

(1) Notwithstanding section 6, the local government may consent to the erection or repair of a fence that does not comply with the requirements of this Local Law.

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

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

PART 4—FENCING MATERIALS

11. Fencing Materials

(1) A person shall construct a fence on a Residential Lot, a Commercial Lot or an Industrial Lot from only new brick, stone, concrete, wrought iron, tubular steel framed, link mesh, timber, plastic coated or galvanised link mesh, fibre reinforced cement sheeting, prepainted steel sheeting or other material which may have been pre-used as approved by the CEO.

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

12. Barbed Wire and Broken Glass Fences

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

(2) An owner or occupier of a Residential Lot or a Rural Landscape Living Lot shall not without prior written approval of the CEO erect or affix to any fence on such lot any barbed wire or other material with spiked or jagged projections.

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

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

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

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

PART 5—ELECTRIFIED FENCES

13. Requirements for a Licence

(1) An owner or occupier of a lot, other than a General Rural Lot, shall not erect or use or permit to remain, an electrified fence on that lot without first obtaining a licence under sub-section (2).

(2) A licence for an electrified fence shall not be issued—

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

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

(4) An application for a licence referred to in sub-sections (2) or (3) may be—

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

14. Transfer of a Licence

A transfer of any land or the lawful grant of a right to occupy any land which is subject of a licence, shall be deemed to be a transfer of a licence under this Part.

15. Cancellation of a Licence

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

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

PART 6—NOTICES OF BREACH**16. Notices of Breach**

- (1) Where a breach of any provision of this Local Law has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner or occupier of that lot (“notice of breach”).
- (2) A notice of breach shall—
- (a) specify the provision of 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 28 days from the giving of the notice.

PART 7—OFFENCES**17. Offences and Penalties**

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

18. Modified Penalties

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

19. Form of Notices

For the purposes of this Local Law—

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

Section 6(2)(a)

First Schedule

**SPECIFICATIONS FOR A SUFFICIENT FENCE
ON A RESIDENTIAL LOT WITHIN A RESIDENTIAL ZONE**

Each of the following is a “sufficient fence” within a Residential Zone except that in the case of a fence described in Item E the approval of the local government is required—

- A. A 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) all posts to be sunk at least 600mm into the ground;
 - (d) rails to be 75mm x 50mm with each rail spanning two bays of fencing double railed or bolted to each post with joints staggered;
 - (e) the fence to be clad with 75mm x 20mm sawn timber, 1800mm in height placed 75mm apart and affixed securely to each rail; 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 section 7.
- B. A fence constructed of fibre reinforced pressed cement or steel sheeting erected to manufacturer’s specifications or 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 or steel sheet;
 - (c) the sheets to be lapped and capped in accordance with the manufacturer’s specifications; 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 section 7.

- C. A fence constructed of brick, stone or concrete, which satisfies the following specifications—
- (a) footings of a kind appropriate to the soil type;
 - (b) structural support piers to be offset a minimum of 200mm at maximum 3000mm centres or 230mm x 110mm engaged piers to be provided at maximum 3000mm centres;
 - (c) expansion joints in accordance with the manufacturer's written instructions and approved by a practicing structural engineer; 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 section 7.
- D. A composite fence having a minimum overall height of 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to section 7, which satisfies the following specifications for the brick construction—
- (1) (a) brick piers of minimum 350mm x 350mm 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) control joints in brickwork shall be provided with double piers at a maximum of 6000mm centres; or
 - (2) (a) brick piers of a minimum 350mm x 350mm x 2700mm centres bonded to the base wall; and
 - (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified;
- E. Open Aspect Fencing—Intended for use in the wooded urban areas of the Shire (Requires prior local government approval)
- (a) posts to be 125mm diameter treated timber spaced at not more than 2400mm centres;
 - (b) posts to be buried a minimum of 600mm into stable soil;
 - (c) horizontal top rail to be 100mm diameter treated timber located at not more than 1100mm above the adjacent natural ground level;
 - (d) ringlock or similar wire rural fencing material fixed to each post and to the horizontal top rail to control the movement of animals between lots.

Section 6(2)(b)

Second Schedule

**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A
COMMERCIAL LOT AND AN INDUSTRIAL LOT WITHIN A COMMERCIAL ZONE
AND AN INDUSTRIAL ZONE**

Each of the following is a "sufficient fence" within a Commercial Zone and within an Industrial Zone—

- A. A fence constructed of galvanised rail-less link mesh, chain mesh or steel mesh which satisfies the following specifications—
- (a) all posts and piping shall be galvanised;
 - (b) corner posts to be minimum 50mm normal bore x 3.5mm and with footings of a 225mm diameter x 900mm in depth;
 - (c) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3500mm centres and with footings of a 225mm diameter x 750mm in depth;
 - (d) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and two at each corner post and with footings 225mm diameter x 600mm in depth;
 - (e) 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;
 - (f) rail-less link, chain or steel mesh is to be to a height of 2000mm on top of which are to be three strands of barbed wire carrying the fence to a height of 2400mm in accordance with section 12(3) of this Local Law; and
 - (g) galvanised link mesh wire to be 2000mm in height and constructed of a minimum of 50mm mesh x 25mm 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 3600mm and shall be constructed of a minimum of 25mm tubular framework with one horizontal and one vertical stay constructed of a minimum of 20mm piping and shall be covered with a minimum of 50mm x 2.5mm galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.
- B. A fence of fibre reinforced cement sheet or steel sheeting constructed to the minimum specifications referred to in Item B of the First Schedule.
- C. Fences of timber, brick, stone or concrete constructed to the minimum specifications referred to in the First Schedule.

Third Schedule
**SPECIFICATIONS FOR A SUFFICIENT FENCE
ON A GENERAL RURAL LOT WITHIN A GENERAL RURAL ZONE**

Each of the following is a "sufficient fence" within a General Rural Zone.

A. Post and Wire Construction

In the case of a non-electrified fence, a sufficient fence on a General Rural Lot or a Rural Landscape Living Lot is a fence of posts and wire construction, the minimum specifications for which are—

- (a) a ringlock or similar wire rural fencing material, tensioned and fixed to all posts.
- (b) posts shall be of timber or other suitable material including—
 - ▶ timber impregnated with a termite and fungicidal preservative;
 - ▶ standard iron star pickets; or
 - ▶ concrete;

cut not less than 1800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn. Posts to be set minimum 600mm in the ground and 1200mm above the ground; and

- (c) strainer posts shall be not less than 2250mm long and 50mm diameter at the small end (tubular steel to be 50mm in diameter with a nominal bore x 3.5mm) and shall be cut from timber or other suitable material. These shall be placed a minimum of 1000mm in the ground.

B. Post and Rail Construction

- (a) All posts to be of durable grade timber or other suitable material including timber impregnated with termite and fungicidal preservative cut not less than 2400mm long x 125 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 of the same material specified in (a) cut not more than 2100mm long x 100mm diameter at the small end to be properly affixed to the rails. No more than three rails to be used between posts.

Adopted at an ordinary meeting of the Council of the Shire of Mundaring held on the 24th day of February 2004.

Dated the 24th day of February 2004.

The Common Seal of the Shire of Mundaring was hereunto affixed by authority of Council.

M. N. WILLIAMS, Chief Executive Officer.
(or his delegate)

T. S. PASHLEY, Authorised Officer.

LOCAL GOVERNMENT ACT 1995**SHIRE OF MUNDARING****STANDING ORDERS AMENDMENT LOCAL LAW 2003**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Mundaring, resolved on the 24th day of February 2004 to make the following local law.

Citation

1. This local law may be cited as the *Shire of Mundaring Standing Orders Amendment Local Law 2003*.

Principle Local Law

2. In this local law, the Shire of Mundaring Standing Orders Local Law 2003 made under *the Local Government Act 1995* and as adopted by the Council of the Shire of Mundaring by notice published in the *Government Gazette* on the 10 April 2003, is referred to as the principle local law.

Principle Local Law amended

3. The principle local law is amended by deleting section 2.4.13 and insert after section 2.4.12;

Continued Breach of Order

- 2.4.13 (1) Where a member creates a disturbance or persists in any other conduct which disrupts a meeting, the member is out of order for that reason and the person presiding may so declare.
- (2) Where the person presiding declares that a member is out of order under subclause (1), the person presiding may direct that member to refrain from taking any further part in the meeting other than by recording the member's vote and the member shall comply with such direction during the remainder of the meeting or until it is withdrawn, whichever occurs earlier.

Adopted at an ordinary meeting of the Council of the Shire of Mundaring held on the 24th day of February 2004.

Dated the 24th day of February 2004.

The Common Seal of the Shire of Mundaring was hereunto affixed by authority of Council.

M. N. WILLIAMS, Chief Executive Officer.
(or his delegate)

T. S. PASHLEY, Authorised Officer.

LOCAL GOVERNMENT ACT 1995**SHIRE OF MUNDARING****REPEAL 2004 LOCAL LAW**

Under the powers conferred by the *Local Government Act 1995* and by all the powers, the local government of the Shire of Mundaring resolved to make the following local laws on the 24th day of February 2004.

1. Citation

This Local Law may be cited as the *Shire of Mundaring Repeal 2004 Local Law*

2. Repeal

The following Shire of Mundaring Local Laws are repealed—

- Relating to Caravan Parks and Camping Grounds published in the *Government Gazette* on 18 August, 1971;
- Relating to Depositing and Removal of Refuse, Rubbish, Litter and Disused Materials, published in the *Government Gazette* on 21 May, 1968, and amended by publications in the *Government Gazette* on 6 February 1976 and 30 March, 1990;
- Relating to Petrol Pumps, published in the *Government Gazette* on 1 December 1970 and amended by publications in the *Government Gazette* on 12 August, 1977 and 6 November 1981;
- Relating to Private Swimming Pools, published in the *Government Gazette* on 6 February 1970, and amended by publication in the *Government Gazette* on 17 March 1972, 21 September 1973, 24 May 1974, 12 July 1974 and 19 December 1975;
- Relating to the Construction of Television Masts and Antennae, published in the *Government Gazette* on 20 December 1974.
- Relating to the Keeping of Goats, published in the *Government Gazette* on 22 July 1971, and amended by publication in the *Government Gazette* on 6 May 1977.
- Relating to General Sanitary Provisions published in the *Government Gazette* on 1 November 1974.

Adopted at an ordinary meeting of the Council of the Shire of Mundaring held on the 24th day of February 2004.

Dated the 24th day of February 2004.

The Common Seal of the Shire of Mundaring was hereunto affixed by authority of Council.

M. N. WILLIAMS, Chief Executive Officer.
(or his delegate)

T. S. PASHLEY, Authorised Officer.

CEMETERIES ACT 1986

SHIRE OF MUNDARING

CEMETERIES LOCAL LAW 2003

Under the powers conferred by the *Cemeteries Act 1986* and under all other powers enabling it, the Council of the Shire of Mundaring resolved on the 24th day of February 2004 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This Local Law may be cited as the *Shire of Mundaring Cemeteries Local Law 2003*.

1.2 Application

This Local Law applies to the Wooroloo and Mundaring Public Cemeteries.

1.3 Interpretation

In this Local Law unless the context otherwise requires—

“ashes” means so much of the remains of a dead body after the due processes of cremation as may be contained in a standard sized cremation urn;

“authorised officer” means an employee of the local government authorised by the local government for the purposes of performing any function or exercising any power conferred upon an authorised officer by this Local Law;

“Board” for the purpose of the Act means the local government;

“CEO” means the chief executive officer for the time being, of the local government;

“Funeral Director” means a person holding a current funeral director’s licence;

“Grant of Right of Burial” means permission given by the local government for the right to use a specified area of a cemetery for burial;

“local government” means the Shire of Mundaring;

“mausoleum” means a building or construction wholly above or partially above and below ground level, so constructed as to allow the deposition of dead bodies into a compartment in the wall or floor and being sealed from view;

“monumental mason” means a person holding a current monumental mason’s licence;

“personal representative” means the administrator or executor of an estate of a deceased person;

“set fee” refers to fees and charges set by a resolution of the local government and published in the *Government Gazette*, under section 53 of the *Cemeteries Act 1986*;

“single funeral permit” means a permit issued by the local government under section 20 or 21 of the Act which entitles the holder to conduct at the cemetery a funeral of a person named in the permit;

“vault” means a below ground lined grave with one or more sealed compartments constructed to specifications approved from time to time by the local government.

1.4 Repeal

The following Local Laws are repealed:—

- (a) Local Laws Relating to the Management of the Wooroloo Public Cemetery, published in the *Government Gazette* on 2 January 1920, as amended; and
- (b) Local Laws Relating to the Management of the Mundaring Public Cemetery, published in the *Government Gazette* on 3 January 1941, as amended.

PART 2—ADMINISTRATION**2.1 Powers and Functions of CEO**

Subject to any directions given by the local government, the CEO shall exercise all the powers and functions of the local government in respect of the cemetery.

PART 3—APPLICATION FOR FUNERALS**3.1 Application for Burial**

(1) A person may apply for a Grant of Right of Burial in the cemetery in the form determined by the local government from time to time.

(2) An application under subsection (1) is to be accompanied by the set fee.

3.2 Applications to be Accompanied by Certificates etc

All applications referred to in section 3.1 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under section 3.3, in respect of the body.

3.3 Certificate of Identification

(1) After a dead body is placed in a coffin and prior to a dead body being removed to the cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification in the form determined by the local government from time to time, unless—

- (a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed; or
- (b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body.

(2) Where—

- (a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed; or
- (b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body,

then the Funeral Director shall complete a certificate in the form determined by the local government from time to time.

3.4 Minimum Notice Required

All bookings to hold a funeral shall be made with the local government at least twenty four hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

PART 4—FUNERAL DIRECTORS

4.1 Funeral Director's Licence Expiry

A funeral director's licence shall expire on the 30th day of June in each year.

4.2 Single Funeral Permits

Every application for a single funeral permit made under section 20 or 21 of the Act shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.

4.3 Application Refusal

The local government may refuse an application for a single funeral permit if, in the opinion of the local government, either the coffin specifications or the details of the vehicle transporting the dead body to the gravesite, are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

PART 5—FUNERALS

Division 1—General

5.1 Requirements for Funerals and Coffins

A person shall not bring a dead body into the cemetery unless—

- (a) the local government has approved an application for a Grant of Right of Burial for that body in accordance with Part 3 of this Local Law;
- (b) it is enclosed in a coffin which in the opinion of the local government is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin's lid;

and

- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 mm in height.

5.2 Funeral Processions

The time fixed by the local government for any burial shall be the time at which the funeral procession is to arrive at the cemetery gates, and, if not punctually observed, then the applicant who applied to hold the funeral under section 3.1 shall pay the set fee for being late.

5.3 Vehicle Entry Restricted

(1) Subject to section 5.3(2), every funeral procession shall enter by the principal entrance, and no vehicle except the hearse, and official mourning coaches, shall be permitted to enter the cemetery.

(2) This section shall not apply to persons using wheelchairs or motorised wheelchairs.

5.4 Vehicle Access and Speed Limitations

Vehicles shall proceed within the cemetery by the constructed roadway or other areas designated for the use of vehicles and shall not exceed the speed of 10km per hour.

5.5 Offenders may be Expelled

A person committing an offence under section 5.4 may be expelled from the cemetery by the CEO or an authorised officer.

5.6 Conduct of Funeral by Local Government

When conducting a funeral under section 22 of the Act the local government may—

- (a) require a written request for it to conduct a funeral to be lodged with it;
- (b) in its absolute discretion, charge any person requesting it to conduct a funeral the set fee for the conduct of that funeral by it;
- (c) where no fee or a reduced fee has been charged by it for the conduct of the funeral, determine the manner in which the funeral shall be conducted;
- (d) specify an area in the cemetery where the dead body is to be buried or the ashes placed;
- (e) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this Local Law;
- (f) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

Division 2—Placement of Ashes

5.7 Disposal of Ashes

(1) The personal representative of a deceased person whose body has been cremated may apply, in an application under section 3.1 or otherwise, for permission to dispose of the ashes in the cemetery and upon payment of the set fee the local government may grant permission for the ashes to be disposed of by one of the following methods—

- Niche Wall
- Family Grave
- Scattering to the Winds
- Other memorials approved by the local government

(2) Subject to sub-sections (3) and (4), a person shall not place the ashes of a deceased person in the cemetery.

(3) An authorised officer may place the ashes of a deceased person in a cemetery in accordance with the local government approval provided—

- (a) the person requesting the placement of the ashes has the permission of the local government; and
- (b) the ashes are placed within an area set aside for that purpose by the local government.

(4) An authorised officer may place the ashes of a deceased person within a grave in accordance with the local government approval, provided the person requesting the placement of the ashes has the written permission of the local government and the approval of the holder of the right of burial of the grave.

PART 6—BURIALS

6.1 Depth of Graves

A person shall not bury a coffin within the cemetery so that the distance from the top of the coffin to the original surface of the ground is less than 750mm.

6.2 Mausoleum, etc

(1) A person other than the local government shall not construct a brick grave, crypt, vault or mausoleum within the cemetery.

(2) A person may request the local government to construct a vault or mausoleum within the cemetery which vault or mausoleum shall at all times remain the property of the local government.

(3) An application under subsection (2) shall be in writing and shall be accompanied by payment of the set fee.

(4) A person shall not place a dead body in a mausoleum except:—

- (a) in a closed coffin; and
- (b) in a soundly constructed chamber; and
- (c) in accordance with sub-section (5).

(5) The number of burials in a chamber must not exceed the number for which the chamber was designed.

PART 7—MEMORIALS AND OTHER WORK

Division 1—General

7.1 Application for Monumental Work

A local government may require the written consent of the holder of the right of burial of the grave to accompany an application under section 30 of the Act.

7.2 Placement of Monumental Work

Every memorial shall be placed on proper and substantial foundations.

7.3 Removal of Rubbish

All refuse, rubbish or surplus material remaining after memorial works are completed under a permit issued under section 30 of the Act shall be immediately removed from the cemetery by the person carrying out the same.

7.4 Operation of Work

All material required in the erection and completion of any work shall, as far as possible, be prepared before being taken to the cemetery, and all materials required by tradesmen shall be admitted at such entrance as the CEO or an authorised officer shall direct.

7.5 Removal of Sand, Soil or Loam

No sand, earth or other material shall be taken from any part of the cemetery for use in the erection of any memorial or work except with the written approval of the local government.

7.6 Hours of Work

Persons shall not be permitted to carry out memorial or other work on graves within the cemetery other than during the hours of 8.00am and 6.00pm on weekdays, and 8.00am and noon on Saturdays, without the written permission of the local government.

7.7 Unfinished Work

Should any work by masons or others be not completed before 6pm on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised officer.

7.8 Use of Wood

No wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave, other than as a temporary marker and with the prior approval of the local government.

7.9 Plants and Trees

No trees or shrubs shall be planted on any grave or within the cemetery except such as shall be approved by the CEO.

7.10 Supervision

All workers, whether employed by the local government or by any other person, shall at all times whilst within the boundaries of the cemetery be subject to the supervision of the CEO or an authorised officer and shall obey such directions as the CEO or an authorised officer may give.

7.11 Australian War Graves

Notwithstanding anything in this Local Law to the contrary, the Office of Australian War Graves—

- (a) may place a memorial on a military grave; and
- (b) is not required to pay the set fee for any memorial that is placed upon a military grave.

7.12 Placing of Glass Domes and Vases

A person shall not place glass domes, vases or other grave ornaments, outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40 (2) of the Act.

Division 2—Licensing of Monumental Masons

7.13 Monumental Mason's Licence

(1) The local government may upon receipt of an application in writing by any person and upon payment of the set fee issue to the applicant a monumental mason's licence.

(2) A licence issued under sub-section (1) authorises the holder to carry out monumental works within the cemetery subject to the provisions of this Local Law and such conditions as the local government shall specify upon the issue of that licence.

7.14 Expiry Date, Non-Transferability

A monumental mason's licence—

- (a) shall, subject to section 7.17, be valid from the date specified therein until the 30th day of June next following; and
- (b) is not transferable.

7.15 Carrying out Monumental Work

A person shall not carry out monumental work within the cemetery unless that person—

- (a) is the holder of a current monumental mason's licence issued pursuant to section 7.13 or does so as the employee of a person who holds such a licence; or
- (b) is authorised by the local government to do so.

7.16 Responsibilities of the Holder of a Monumental Mason's Licence

The holder of a monumental mason's licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within the cemetery pursuant to that licence with all the requirements and conditions of the licence, this Local Law, the Act and any other written law which may affect the carrying out of monumental works.

7.17 Cancellation of a Monumental Mason's Licence

(1) The local government may by notice in writing to the holder of a monumental mason's licence terminate the licence on any of the following grounds—

- (a) that the holder of the licence has committed a breach of the requirements and conditions of the licence, this Local Law, the Act or any other written law which may affect the carrying out of monumental works;
- (b) that, in the opinion of the local government, the conduct of the holder of the licence or any person in the employ of that holder in carrying out or attempting to carry out any works within the cemetery, is inappropriate or unbecoming; or
- (c) that the holder of the licence has purported to transfer the licence issued to that holder.

(2) Upon the termination of a monumental mason's licence under this section no part of any fee paid for the issue of that licence is refundable by the local government.

(3) An aggrieved person whose licence has been terminated under subsection (1) may appeal to a Local Court against a decision of the local government under this section in the manner stated in section 19 (3) of the Act.

PART 8—GENERAL

8.1 Vandalism, Damaging and Removing of Objects

Subject to section 8.2, a person shall not—

- (a) break or cause to be broken any glass, ceramic or other material in or upon the cemetery;
- (b) damage, remove or pick any tree, plant, shrub or flower in the cemetery or any other object or thing on any grave or memorial or which is the property of the local government without the permission of the local government.

8.2 Withered Flowers

A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the local government for that purpose.

8.3 Advertising

A person shall not carry on or advertise any trade, business or profession within the cemetery without the prior written approval of the local government which consent may be granted subject to such conditions as the local government thinks fit.

8.4 Obeying Signs and Directions

A person shall obey all signs displayed, marked, placed or erected by the local government within the cemetery and any other lawful direction by the CEO or an authorised officer.

8.5 Removal from the Cemetery

Any person failing to comply with any provisions of this Local Law or behaving in a manner that in the opinion of the Local government, the CEO or an authorised officer is inappropriate in the cemetery may in addition to any penalty provided by this Local Law be ordered to leave the cemetery by the local government, the CEO or an authorised officer.

PART 9—OFFENCES AND MODIFIED PENALTIES

9.1 General

A person who commits a breach of any provisions of this Local Law commits an offence and shall on conviction be liable to a penalty not exceeding \$5000.00 and if the offence is a continuing one to a further penalty not exceeding \$500.00 for every day or part of a day during which the offence has continued.

9.2 Modified Penalties

(1) The offences specified in the First Schedule are offences which may be dealt with under section 63 of the Act.

(2) The modified penalty payable in respect of an offence specified in the First Schedule is set out in the fourth column of the First Schedule.

(3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in the Second Schedule.

(4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in the Third Schedule.

First Schedule
CEMETERIES ACT 1986
Shire of Mundaring
Cemeteries Local Law 2003
MODIFIED PENALTIES

Item No	Section	Nature of Offence	Modified Penalty
1	5.4	Excessive speed	\$100.00
2	5.4	Unauthorised use—driving of vehicles	\$100.00
3	7.3	Placing and removal of rubbish and surplus materials	\$100.00
4	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$100.00
5	8.1	Vandalism, Damaging and Removing of Objects	\$250.00
6	8.3	Unauthorised advertising, and/or trading	\$100.00
7	8.4	Disobeying sign or lawful direction	\$100.00

Second Schedule
CEMETERIES ACT 1986
Shire of Mundaring
Cemeteries Local Law 2003
INFRINGEMENT NOTICE

TO: _____

 (Name)

 (Address)

It is alleged that at _____ hours on _____ day
 of _____ 20_____ at _____

you committed the offence indicated below by an (x) in breach of section of the Cemeteries Local Law 2003.

 (Authorised Person)

Offence

- Excessive speed in vehicle
- Leaving uncompleted works in an untidy or unsafe condition
- Vandalism, Damaging and Removing of Objects
- Unauthorised advertising or trading
- Unauthorised vehicle use
- Disobeying sign or lawful direction

Other offence: _____ \$ _____

You may dispose of this matter—

By payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the Shire of Mundaring at 7000 Great Eastern Highway, Mundaring, between the hours of 9am to 4:30pm Monday to Friday.

Please make cheques payable to Shire of Mundaring. Payments by mail should be addressed to:

The Chief Executive Officer
 Shire of Mundaring
 7000 Great Eastern Highway
 MUNDARING

If the penalty is not paid within the time specified, then a complaint of the alleged offence may be made and heard and determined by a court.

Third Schedule
CEMETERIES ACT 1986
Shire of Mundaring
Cemeteries Local Law 2003
WITHDRAWAL OF INFRINGEMENT NOTICE

No. _____

Date: ____ / ____ / ____

To (1) _____
 Infringement Notice No. _____ dated ____ / ____ / ____ for the alleged offence of (2)

Penalty (3) \$ _____ is withdrawn.

(Delete whichever does not apply)

- * No further action will be taken
- * It is proposed to institute court proceedings for the alleged offence.

- _____
- (1) Insert name and address of alleged offender
 - (2) Insert short particulars of offence alleged
 - (3) Insert amount of penalty prescribed

 (Authorised Person)

Adopted at an ordinary meeting of the Council of the Shire of Mundaring held on the 24th day of February 2004.

Dated the 24th day of February 2004.

The Common Seal of the Shire of Mundaring was hereunto affixed by authority of Council.

M. N. WILLIAMS, Chief Executive Officer.
 (or his delegate)

T. S. PASHLEY, Authorised Officer.

DOG ACT 1976

SHIRE OF MUNDARING

DOGS LOCAL LAW

Under the powers conferred by the *Dog Act 1976* and under all other powers enabling it, the Council of the Shire of Mundaring resolved on the 24th day of February 2004 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

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

1.2 Repeal

The Shire of Mundaring Local Law Relating to Dogs published in the *Government Gazette* of 24 November 1997, is repealed.

1.3 Definitions

In this local law unless the context otherwise requires—

“**Act**” means the *Dog Act 1976*;

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

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

“**local government**” means the Shire of Mundaring;

“**pound keeper**” means a person authorized by the local government in accordance with Part XX of the *Local Government (Miscellaneous Provisions) Act 1960*, to perform all or any of the functions conferred on a “pound keeper” under this local law;

“**Regulations**” means the *Dog Regulations 1976*;

“**thoroughfare**” has the meaning given to it in s1.4 of the *Local Government Act 1995*; and

“**town planning scheme**” means a town planning scheme made by the local government under the *Town Planning and Development Act 1928* which applies throughout the whole or a part of the district.

Where terms or expressions are not defined in this part they have the meaning given to them in the *Dog Act 1976* or the *Local Government (Miscellaneous Provisions) Act 1960* as the context requires.

1.4 Application

This local law applies throughout the district.

PART 2—IMPOUNDING OF DOGS**2.1 Charges and costs**

The following may be imposed and determined by the local government under sections 6.16—6.19 of the *Local Government Act 1995*—

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under section 2.2; and
- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of pound keeper at pound

The pound keeper is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are determined by the CEO.

2.3 Release of impounded dog

(1) A claim for the release of a dog seized and impounded is to be made to the pound keeper or in the absence of the pound keeper, to the CEO.

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

- (a) of her or his ownership of the dog or of her or his authority to take delivery of it; or
- (b) that he or she is the person identified as the owner on a microchip implanted in the dog.

2.4 No breaking into or destruction of pound

A person who—

- (a) unless he or she is the pound keeper or a person authorized to do so, releases or attempts to release a dog from a pound; or
 - (b) destroys, breaks into, damages or in any way interferes with or renders not dog-proof—
 - (i) any pound; or
 - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog,
- commits an offence.

Penalty: \$2,000

PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS**3.1 Dogs to be confined**

(1) An occupier of premises on which a dog is kept must—

- (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
- (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
- (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises and is fitted with a proper latch or other means of fastening it;
- (d) maintain the fence and all gates and doors in the fence in good order and condition; and
- (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.

(2) Where an occupier fails to comply with subsection (1), he or she commits an offence.

Penalty: \$2,000

3.2 Limitation on the number of dogs

(1) This section does not apply to premises which have been—

- (a) licensed as an approved kennel establishment under the local law repealed by section 1.2 or any earlier local law relating to dogs and allowed to continue as a non-conforming use under the Town Planning Scheme;
- (b) licensed; or
- (c) granted an exemption under section 26(3) of the Act.

(2) The limit on the number of dogs and the young of those dogs not over the age of 3 months which may be kept on any premises is, for the purpose of section 26(4) of the Act, shown in the Table.

Table

Premises having a Land Area of	Limit on Number of Dogs over 3 months
Less than 10,000 square metres	2
10,000 square metres but less than 20,000 square metres	3
20,000 square metres or greater	4

(3) An entitlement to keep more than 2 dogs over the age of 3 months and the young of those dogs under that age on premises in accordance with subsection (2), is cancelled if the person who keeps the dogs is convicted on two or more occasions during any 18 month period, of an offence against the Act.

PART 4—DOGS IN PUBLIC PLACES**4.1 Places where dogs are prohibited absolutely**

(1) Dogs are prohibited absolutely from entering or being in any of the following places—

- (a) a public building, unless permitted by a sign;
- (b) a theatre or picture gardens;
- (c) all premises or vehicles classified as food premises or food vehicles under section 246G of the *Health Act 1911*;
- (d) within an area enclosed by the perimeter fencing of a public swimming pool;
- (e) Lake Leschenaultia (Reserve No 23165);
- (f) Mundaring Public Cemetery (Reserve No 10083);
- (g) Wooroloo Public Cemetery (Reserve No 9954); and
- (h) any other place prohibited to dogs under any other written law.

(2) If a dog enters or is in a place specified in subsection (1), every person liable for the control of the dog at that time commits an offence.

Penalty: \$1,000

4.2 Places which are dog exercise areas

(1) Subject to section 4.1 and subsection (2) of this section, for the purposes of sections 31 and 32 of the Act, the following are dog exercise areas—

- (a) all freehold land owned by the local government; and
- (b) all reserves owned by the local government or under the care, control and management of the local government.

(2) Subsection (1) does not apply to—

- (a) land which has been set apart as a children's playground;
- (b) an area being used for sporting or other activities, as permitted by the local government, during the times of such use;
- (c) a car park; or
- (d) any thoroughfare.

PART 5—MISCELLANEOUS

5.1 Offence to excrete

(1) A dog must not excrete on—

- (a) any thoroughfare or other public place; or
- (b) any land which is not a public place without the consent of the occupier.

(2) Subject to subsection (3), if a dog excretes contrary to subsection (1), every person liable for the control of the dog at that time commits an offence.

Penalty: \$500.

(3) The person liable for the control of the dog does not commit an offence against subsection (2) if any excreta is removed immediately by that person.

PART 6—ENFORCEMENT

6.1 Interpretation

In this Part—

“**infringement notice**” means the notice referred to in section 6.3; and

“**notice of withdrawal**” means the notice referred to in section 6.6(1).

6.2 Modified penalties

The offences contained in Schedule 1 are offences in relation to which a modified penalty may be imposed.

6.3 Issue of infringement notice

Where an authorized person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 7 of the First Schedule of the Regulations.

6.4 Failure to pay modified penalty

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

6.5 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

6.6 Withdrawal of infringement notice

(1) Whether or not the modified penalty has been paid, an authorized person may withdraw an infringement notice by sending a notice in the form of Form 8 of the First Schedule of the Regulations.

(2) A person authorized to issue an infringement notice under section 6.3 cannot sign or send a notice of withdrawal.

6.7 Service

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.

Schedule 1

(section 6.2)

OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES

Offence	Nature of offence	Modified penalty \$
2.4(a)	Attempting to or causing the unauthorized release of a dog from a pound	200
2.4(b)	Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs	200
3.1	Failing to provide means for effectively confining a dog	100
4.1(2)	Dog in place from which prohibited absolutely	100
5.1(2)	Dog excreting in prohibited place	50

Adopted at an ordinary meeting of the Council of the Shire of Mundaring held on the 24th day of February 2004.

Dated the 24th day of February 2004.

The Common Seal of the Shire of Mundaring was hereunto affixed by authority of Council.

M. N. WILLIAMS, Chief Executive Officer.
(or his delegate)

T. S. PASHLEY, Authorised Officer.

HEALTH ACT 1911

SHIRE OF MUNDARING

HEALTH AMENDMENT LOCAL LAWS 2004

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

Citation

1. These local laws may be cited as the *Shire of Mundaring Health Amendment Local Laws 2004*.

Principal local laws

2. In these local laws, the Shire of Mundaring Health Local-Laws 2003 made under the *Health Act 1911* and as adopted by the Council of the Shire of Mundaring by notice published in the *Government Gazette* on the 30 May 2003, are referred to as the principal local laws.

Principal local laws amended

3. The principal local laws are amended as described in the following schedule—

Item	Sections Affected	Description
1	1.1	Delete the numerals "2002" and substitute with "2003".
2	1.3 (1)	Delete "AS 1668.2-1991" and the definition of same and substitute with— "AS 1668.2-2002" means the standard published by the Standards Association of Australia as AS 1668.2-2002 and called "The use of ventilation and air-conditioning in buildings—Ventilation design for indoor air contaminant control".
3	1.3 (1)	Delete "AS/NZS 3666.2:1995" and substitute with "AS/NZS 3666.2:2002".
4	2.1.5 (1)(b)(ii)	Delete the word "staff" and substitute with "stall"
5	2.1.8	Delete the word "Sewage" and substitute with "Sewerage"
6	2.2.1 (1) (b)	Delete the numerals "1971"
7	3.2.4 (2) (b)	Delete "AS 1668.2-1991" and substitute with "AS 1668.2-2002".
8	3.2.4 (3)(a)	Delete "AS/NZS 3666.2: 1995" and substitute with "AS/NZS 3666.2:2002".
9	4.2.5 (g)	Delete the word "collection" and substitute with "collected".
10	5.4.3 (d)	Delete the word "is" and substitute with "are".
11	5.5.2 (1)	Delete "AS 1668.2-1991" and substitute with "AS 1668.2- 2002".
12	5.5.3 (a) (i) (A)	Delete "AS 1668.2-1991" and substitute with "AS 1668.2- 2002".
13	5.5.3 (a) (i) (B)	Delete "AS 1668.2-1991" and substitute with "AS 1668.2- 2002".
14	6.1.5 (3)	Delete sub-section 6.1.5 (3) and substitute with— "(3) The Local Government shall not be liable to pay compensation or damages of any kind to the person referred to in sub-section (1) in relation to any action taken by the Local Government under this section, except to the extent the person has suffered loss or damage because the action taken by the Local Government was negligent or in breach of its duty."
15	6.2.3 (3)	Delete sub-section 6.2.3 (3) and substitute with— "(3) The Local Government shall not be liable to pay compensation or damages of any kind to the person referred to in sub-section (1) in relation to any action taken by the Local Government under this section, except to the extent the person has suffered loss or damage because the action taken by the Local Government was negligent or in breach of its duty."

Item	Sections Affected	Description
16	6.3.3	Delete section 6.3.3 and substitute with— “6.3.3 No person shall store, or allow to be stored, on any premises, any food, refuse or other waste matter unless it is contained in a rodent proof receptacle or a compartment which is kept effectively protected against access by rodents.”
17	6.3.6 (3)	Delete sub-section 6.3.6 (3) and substitute with— “(3) The Local Government shall not be liable to pay compensation or damages of any kind to the person referred to in sub-section (1) in relation to any action taken by the Local Government under this section, except to the extent the person has suffered loss or damage because the action taken by the Local Government was negligent or in breach of its duty.”
18	6.4.3 (3)	Delete sub-section 6.4.3 (3) and substitute with— “(3) The Local Government shall not be liable to pay compensation or damages of any kind to the person referred to in sub-section (1) in relation to any action taken by the Local Government under this section, except to the extent the person has suffered loss or damage because the action taken by the Local Government was negligent or in breach of its duty.”
19	7.1.3 (3)	Delete sub-section 7.1.3 (3) and substitute with— “(3) The Local Government shall not be liable to pay compensation or damages of any kind to the person referred to in sub-section (1) in relation to any action taken by the Local Government under this section, except to the extent the person has suffered loss or damage because the action taken by the Local Government was negligent or in breach of its duty.”
20	9.1.4 (b)	Delete the word “Trade” and substitute with “Trades”

Passed at an ordinary meeting of the Council of the Shire of Mundaring held on the 24th day of February 2004.

The Common Seal of The Shire of Mundaring was hereunto affixed by authority of Council—

M. N. WILLIAMS, Chief Executive Officer.
S. CONWAY-MORTIMER, Authorised Officer.

On this 8th day of March 2004.

Consented to—

Dr MARGARET STEVENS, Executive Director,
Public Health.

Dated this 26th day of March 2004.



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