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LOCAL GOVERNMENT ACT 1995

CITY OF PERTH

**LOCAL GOVERNMENT PROPERTY
LOCAL LAW 2005**

FENCING LOCAL LAW 2005

LOCAL GOVERNMENT ACT 1995**CITY OF PERTH****LOCAL GOVERNMENT PROPERTY LOCAL LAW 2005**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Perth resolved on 21 June 2005 to make the *Local Government Property Local Law 2005*, as set out below.

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PART 1—PRELIMINARY**Title**

1 This local law may be cited as the *Local Government Property Local Law 2005*.

Commencement

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

Purpose and Intent

3 (1) The purpose of this local law is to provide for the regulation, control and management of activities and facilities on local government property within the district of the City of Perth.

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

Repeal

4 The following by-laws of the City of Perth—

- (1) By-law No. 9—Relating to Parks and Reserves as published in the *Government Gazette*—7 September 1966 and amendments; and
- (2) By-law No. 90—Rest Centres as published in the *Government Gazette*—6 August 1993 and amendments,

are repealed on the day that this local law comes into operation.

Application

5 This local law applies throughout the district.

Definitions

6 In this local law unless the context otherwise requires—

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

“applicant” means a person who applies for a permit under clause 19;

“application” means the completed form lodged by an applicant as required by this local law;

“appointed place” means a place appointed by the City or the CEO where anything confiscated or impounded under the provisions of this local law, may be held in custody;

“article” in respect of lost property, includes money;

“attendant” means an employee of the City duly authorised to perform duties in connection with a Rest Centre;

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

“bicycle” means a vehicle with two or more wheels that is built to be propelled by human power through a belt, chain or gears (whether or not it has an auxiliary motor)—

(a) including a pedicab, penny-farthing and tricycle; but

(b) not including a wheelchair, wheeled recreational device, wheeled toy, scooter or a power-assisted pedal cycle (if the motor is operating);

“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 that 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 City;

“City” means the local government of the City of Perth;

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

“Council” means the Council of the City;

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

“determination” means a determination made under clause 9;

“district” means the district of the City;

“facility” includes—

(a) a shower or bath facility;

(b) a locker;

(c) a stroller; or

any other item or service that is available for hire or use in or from a Rest Centre;

“firework” means a device like a Catherine wheel, roman candle, or rocket in which combustible materials are ignited and produce coloured flames, smoke and are sometimes accompanied by a bang;

“fireworks display” means a show of a number of fireworks set off over a prearranged time period, for the purpose of providing enjoyment to those persons able to view them;

“fishing” means to use any line, lure, rod, pot, net or other method for the purpose of catching marine life;

“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 property” means anything except a thoroughfare—

(a) which belongs to the City;

(b) of which the City 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; and

(d) includes a Rest Centre;

“obstruct” means to hinder in passing and “obstruction” has correlative meaning;

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

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

“person” does not include the City;

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

“Rest Centre” means a rest centre provided by the City, and includes the premises known as Citiplace Rest Centre located on part of the concourse level of Citiplace at Perth Lot 969 on Department of Land Administration Plan 17521;

“sign” includes a notice, flag, mark, structure or device approved by the City 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;

“Unclaimed Property Register” means the register kept by an attendant of any unclaimed belongings left in a Rest Centre;

“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;

(e) a bicycle or wheeled recreational device; and

(f) a boat;

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

(a) including—

(i) in-line skates, rollerskates, a skateboard or similar wheeled device;

(ii) a scooter being used by a person aged 12 years of age or older; and

(iii) a unicycle,

but not including a golf buggy, pram, stroller or trolley, or a bicycle, wheelchair or wheeled toy;

“wheeled toy” means a child’s pedal car, a tricycle, a scooter or a similar toy, but only if it is being used by a child under 12 years of age.

Interpretation

7 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.

City may enter into Agreement

8 Notwithstanding anything to the contrary in this local law, the City 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.

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

Determinations as to the use of local government property

9 (1) The City may make a determination in accordance with clause 10—

(a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 15;

(b) prohibiting a person from pursuing all or any of the activities referred to in clause 16 on specified local government property;

(c) as to the matters in clauses 15(2) and 16(2); and

(d) as to any matter ancillary or necessary to give effect to a determination.

(2) The determinations in the Second Schedule—

(a) are to be taken to have been made in accordance with clause 10;

(b) may be amended or revoked in accordance with clause 14; and

(c) have effect on the commencement day.

Procedure for making a determination

10 (1) The City is to give local public notice of its intention to make a determination.

(2) The local public notice referred to in subclause (1) is to state that—

(a) the City 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 City; and

(c) submissions in writing about the proposed determination may be lodged with the City within 21 days after the date of publication.

(3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to—

(a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;

(b) amend the proposed determination, in which case subclause (5) will apply; or

(c) not continue with the proposed determination.

(4) If submissions are received in accordance with subclause (2)(c) the Council is to—

(a) consider those submissions; and

- (b) decide—
 - (i) whether or not to amend the proposed determination; or
 - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice—
 - (a) of the effect of the amendments; and
 - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

Discretion to erect sign

11 The City may erect a sign on local government property to give notice of the effect of a determination which applies to that property.

Determination to be complied with

12 A person shall comply with a determination.

Register of determinations

- 13 (1) The City is to keep a register of determinations made under clause 9, and of any amendments to or revocations of determinations made under clause 14.
- (2) Sections 5.94 and 5.95 of the Act are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

Amendment or revocation of a determination

- 14 (1) The Council may amend or revoke a determination.
- (2) The provisions of clause 10 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.

Activities which may be pursued on specified local government property

- 15 (1) A determination may provide that specified local government property is set aside as an area on which a person may—
- (a) bring, ride or drive an animal;
 - (b) take, ride or drive a vehicle, or a particular class of vehicle;
 - (c) fly or use a motorised model aeroplane;
 - (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
 - (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, but subject to the compliance of that person with the *Firearms Act 1973*; or
 - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the City may cause injury or damage to a person or property; and
 - (i) ride a bicycle or a wheeled recreational device.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular—
- (a) the days and times during which the activity may be pursued;
 - (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
 - (d) may limit the activity to a class of vehicles, 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

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

- (a) smoking on premises;
- (b) riding a bicycle or wheeled recreational device;
- (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
- (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
- (e) 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 activity, specified in the determination, involving the use of a projectile which, in the opinion of the City 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 or flora on the property; and
- (h) the traversing of land which in the opinion of the City has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.

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

- (a) the days and times during which the activity is prohibited;
- (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
- (c) that an activity is prohibited in respect of a class of vehicles, 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 clause—

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

Signs taken to be determinations

17 (1) Where a sign erected on local government property has been erected under a local law of the City repealed by this local law, then it is to be taken to be and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 9.

(2) Clause 13 does not apply to a sign referred to in subclause (1).

PART 3—PERMITS**Application of Part**

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

Application for permit

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

(2) An application for a permit under this local law shall—

- (a) be in the form determined by the City;
- (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 City under and in accordance with sections 6.16 to 6.19 of the Act.

(3) The City may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

(4) The City may require an applicant to give local public notice of the application for a permit.

(5) The City may refuse to consider an application for a permit which is not in accordance with subclause (2).

Decision on application for permit

20 (1) The City may—

- (a) approve an application for a permit unconditionally or subject to any conditions it sees fit; or
- (b) refuse to approve an application for a permit.

(2) If the City approves an application for a permit, it is to issue to the applicant, a permit in the form determined by the City.

(3) If the City refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

Conditions which may be imposed on a permit

21 (1) Without limiting the generality of clause 20(1)(a), the City may approve an application for a permit subject to conditions relating to—

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

(2) Without limiting clause 20(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued—

- (a) when fees and charges are to be paid;
- (b) payment of a bond against possible damage or cleaning expenses or both;
- (c) restrictions on the erection of material or external decorations;
- (d) rules about the use of furniture, plant and effects;
- (e) limitations on the number of persons who may attend any function in or on local government property;
- (f) the duration of the hire;
- (g) the right of the City to cancel a booking during the course of an annual or seasonal booking, if the City sees fit;
- (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Licensing Act 1988*;
- (i) whether or not the hire is for the exclusive use of the local government property;
- (j) the obtaining of a policy of insurance in the names of both the City and the hirer, indemnifying the City in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
- (k) the provision of an indemnity from the hirer, indemnifying the City 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.

Compliance with and variation of conditions

22 (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 City may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

Agreement for building

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

Duration of permit

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

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 28.

Renewal of permit

25 (1) A permit holder may apply to the City 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

26 (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 City 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 City may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.

(3) Where the City 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 City 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

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

Cancellation of permit

28 (1) Subject to clause 59, a permit may be cancelled by the City 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 City; and
- (b) is to be taken to have forfeited any fees paid in respect of the permit.

Activities needing a permit

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

- (a) subject to subclause (3), hire local government property;
- (b) advertise anything by any means on local government property;
- (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
- (d) teach, coach or train, for profit, any person in or on 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 City 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 stop 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 place or item provided for that purpose;
- (k) light or set off any fireworks or conduct a fireworks display;
- (l) parachute, hang glide, abseil or base jump from or on to local government property;
- (m) operate any broadcasting or public address system or apparatus used for the amplification of sound;
- (n) cut, break, injure, deface, pull up, pick, remove, or destroy any tree, shrub, flower, grass or plant of any kind;
- (o) cut, collect, or remove any timber, firewood, stone, sand or other materials;
- (p) erect a building on local government property;
- (q) make any excavation on or erect or remove any fence on local government property;
- (r) 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;
- (s) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property; or
- (t) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly.

(2) The City may exempt a person from compliance with subclause (1) on the application of that person.

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

Permit required to camp outside a facility

30 (1) In this clause “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 clause does not apply to a person using a facility operated by the City.

(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) The maximum period for which the City may approve an application for a permit in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

Permit required for possession and consumption of liquor

31 (1) A person, on local government property, shall not consume any liquor or have in her or his possession or under her or his control any liquor, unless—

- (a) that is permitted under the *Liquor Licensing Act 1988*; and
- (b) a permit has been obtained for that purpose.

(2) Subclause (1) does not apply where the liquor is in a sealed container.

Responsibilities of permit holder

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

- (a) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (b) leave the local government property in a clean and tidy condition after its use;
- (c) report any damage or defacement of the local government property to the City; and
- (d) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Licensing Act 1988* for that purpose.

PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

Behaviour which interferes with others

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

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

Behaviour detrimental to property

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

(2) In subclause (1) “detrimental to the property” includes—

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

Taking or injuring any fauna

35 (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 authorised under a written law to do so.

(2) In this clause—

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

“fauna” means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth 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.

Taking or damaging any flora

36 (1) A person shall not take, damage, or attempt to take or damage any flora which is on or above any local government property, unless that person is authorised under a written law to do so.

(2) In this clause—

“flora” means all vascular plants.

Intoxicated persons not to enter local government property

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

No prohibited drugs

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

Signs

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

(2) A person shall comply with a sign erected under subclause (1).

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

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

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY**When entry must be refused**

40 An attendant or an authorised person shall refuse admission to, may direct to leave or shall remove or cause to be removed from a Rest Centre any person who—

- (a) in her or his opinion is—
 - (i) under the age of 6 years and who is unaccompanied by a responsible person over the age of 14 years; or
 - (ii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
 - (iii) under the influence of liquor or a prohibited drug; or
- (b) is to be refused admission under and in accordance with a decision of the City for breaching any clause of this local law.

Consumption of food or drink may be prohibited

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

No entry to fenced or closed local government property

42 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 authorised to do so by the City.

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

43 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.

Hire of lockers

44 A person may hire a locker from an attendant at a Rest Centre for the purpose of safekeeping articles upon the following terms and conditions—

- (1) it shall be the responsibility of the person hiring the locker to lock the locker once the articles to be stored are placed in the locker and to return the key to the attendant; and
- (2) upon receiving a receipt given in respect of the hire of a locker an attendant shall hand to that person the key for the locker described in the receipt in order to remove the articles from the locker.

45 A person shall not store in any locker, any firearm or offensive weapon or any article or substance that has been unlawfully acquired or which is in contravention of the *Explosive and Dangerous Goods Act 1961*, the *Dangerous Goods Regulations 1992* or the *Explosive Regulations 1963* as amended from time to time.

46 An attendant or authorised person may open and inspect the contents of a locker at any time, where the attendant or authorised person reasonably suspects that a breach of this local law has occurred.

Unclaimed Property in Locker

47 (1) If articles in a locker are not claimed or collected within forty-eight (48) hours after the date of hire, the articles in the locker may be removed by an attendant or authorised person.

(2) An attendant or authorised person shall record in the Unclaimed Property Register the following information with respect to the removal of any articles from a locker in a Rest Centre—

- (a) a description of the articles removed;
- (b) the time and date the articles are removed; and
- (c) the time and date recorded on the original receipt.

(3) An attendant or authorised person shall ensure that any articles removed from a locker are stored at the appointed place as determined by the City.

(4) An attendant or authorised person may deliver to a person any article recorded in the Unclaimed Property Register upon receiving—

- (a) satisfactory evidence of the person's right to obtain the article;
- (b) an accurate description of the article being claimed; and
- (c) payment of any outstanding fees and storage charges.

(5) Upon receiving delivery of an article from the Unclaimed Property Register the person receiving the article shall, by way of acknowledging receipt of the article, write their name and address and sign their name in the Unclaimed Property Register.

Use of Shower and Bath Facilities

48 A person may use any shower or bath facilities in a Rest Centre upon the following terms and conditions—

- (a) the facilities shall only be used by a person for the purpose of cleansing, bathing and washing themselves;
- (b) use of the facilities shall be restricted to a maximum period of 15 minutes or such lesser time as required by an attendant;
- (c) the facilities shall not be used for the purpose of laundering or washing any clothing or other articles whatsoever.

PART 6—FEES FOR ENTRY ONTO LOCAL GOVERNMENT PROPERTY

No unauthorised entry to function

49 (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 authorised, except—

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

(2) The City may exempt a person from compliance with subclause (1)(b).

PART 7—JETTIES AND BRIDGES

Interpretation

50 (1) This Part only applies to bridges and jetties which are local government property.

(2) In this Part “jetty” means any jetty, pier, wharf or landing place which is local government property.

Application for consent and application fee

51 (1) Where a person is required to obtain the consent of the City under this Part, the person is to apply for that consent in the manner required by the City.

(2) The City may require an application for consent made under subclause (1) to be accompanied by a fee.

(3) If an application for consent is not made in the manner required by the City or the fee which is to accompany that application is not paid, the City may refuse to consider the application for consent.

(4) The City shall give its decision on an application for consent, in writing to the person who applied for that consent.

(5) Where a fee is referred to in this Part, the fee must be imposed and determined by the City under and in accordance with sections 6.16 to 6.19 of the Act.

When use of jetty is prohibited

52 A person shall not land at, use or go on any part of a jetty which is—

- (a) under construction or repair; or
- (b) closed,

unless that person has first obtained the consent of the City.

Method of mooring boat

53 A person in control of a boat shall not moor or make fast the boat to a jetty, or to any part of the jetty, except to such mooring piles, ring bolts or other fastenings as are provided.

When boat may remain moored

54 A person in control of a boat shall not moor or make fast the boat to a jetty unless—

- (a) the boat is in distress and then only to effect the minimum repairs necessary to enable the boat to be moved elsewhere;
- (b) the embarking or disembarking of passengers is in progress, and then not for a consecutive period exceeding two (2) hours without the prior consent of the City; or
- (c) where the boat is used at that time for commercial purposes, the person has first paid the fee (if any) for such mooring or making fast to the City.

Authorised person may order removal of boat

55 Notwithstanding anything to the contrary in this Part, a person in control of a boat moored or fastened to or alongside a jetty shall remove it immediately upon being directed to do so by an authorised person.

Restrictions on launching

56 A person shall not launch a boat from or over any jetty (other than a boat ramp) unless she or he has first obtained the consent of the City.

Polluting surrounding area

57 A person shall not tip or deposit anything on to a jetty so as to pollute the surrounding area.

Limitations on fishing

58 A person shall not—

- (a) fish from a jetty or a bridge so as to obstruct or interfere with the free movement of a boat approaching or leaving the jetty or the bridge or so as to unreasonably interfere with the use of the jetty or the bridge by any other person; or
- (b) hang or spread a fishing net from, on or over any part of a jetty or a bridge.

PART 8—OBJECTIONS AND APPEALS**Application of Division 1, Part 9 of the Act**

59 When the City 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 9—MISCELLANEOUS**Authorised person to be obeyed**

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

Persons may be directed to leave local government property

61 An attendant or authorised 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

62 An article left on any local government property, and not claimed within a period of two (2) months, may be disposed of by the City in any manner it thinks fit.

Liability for damage to local government property

63 (1) Where a person unlawfully damages local government property, the City may by notice in writing to that person require that person within the time required in the notice to, at the option of the City, pay the costs of—

- (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
- (b) replacing that property.

(2) On a failure to comply with a notice issued under subclause (1), the City may recover the costs referred to in the notice as a debt due to it.

PART 10—ENFORCEMENT**Offence to fail to comply with notice**

64 Whenever the City gives a notice under this local law requiring a person to do any thing, if a person fails to comply with the notice, that person commits an offence.

City may undertake requirements of notice

65 Where a person fails to comply with a notice referred to in clause 64, the City may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

Offences and general penalty

66 (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.

Prescribed offences

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

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

(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.

Form of notices

68 (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 withdrawing an infringement notice is that of Form 3 in Schedule 1 of the Regulations.

(2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 12, the notice is to contain a description of the alleged offence.

Evidence of a determination

69 (1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 13 or a certified copy of an extract from the register.

(2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.

(3) Subclause (2) does not make valid a determination that has not been properly made.

First Schedule**CITY OF PERTH***Local Government Property Local Law 2005***OFFENCES AND MODIFIED PENALTIES**

Item No	Clause No	Nature of Offence	Modified Penalty \$
1	12	Failure to comply with a determination	100
2	22	Failure to comply with conditions of permit	100
3	29	Failure to obtain permit	100
4	30(3)	Failure to obtain permit to camp outside a facility	100
5	31(1)	Failure to obtain permit for liquor	100
6	32	Failure of permit holder to comply with responsibilities	100
7	33(a)	Behaviour which is likely to interfere with the enjoyment of a person who might use local government property	100
8	33(b)	Behaviour which interferes with the enjoyment of a person using the local government property	100
9	34(1)	Behaviour detrimental to property	100
10	35(1)	Take, injure or kill or attempt to take, injure or kill any fauna which is on or above any local government property	100
11	36(1)	Take, damage, or attempt to take or damage any flora which is on or above any local government property	100
12	37	Under the influence of liquor or a prohibited drug	100
13	39(2)	Failure to comply with a sign on local government property	100
14	41	Consuming food and drink in prohibited area	100
15	42	Unauthorised entry to fenced off or closed local government property	100
16	43	Gender not specified using entry of toilet block or change room	100
17	45	Store in any locker any firearm or offensive weapon or any article or substance	100
18	49(1)	Unauthorised entry to function on local government property	100
19	52	Unauthorised use of any part of a jetty which is closed or under repair or construction	100
20	53	Mooring of boat in unauthorised manner	100
21	54	Unauthorised mooring of a boat to jetty	100
22	55	Failure to remove moored boat on direction of authorised person	100
23	56	Launching a boat from jetty without consent	100
24	57	Tip or deposit anything on to a jetty so as to pollute surrounding area	100

Item No	Clause No	Nature of Offence	Modified Penalty \$
25	58	Fishing from jetty or bridge so as to obstruct a boat or another person	100
26	60	Failure to comply with direction of an attendant or authorised person or obstruction or hindering an authorised person or attendant in the execution of duties	100
27	64	Failure to comply with notice	200
28		Other offences not specified	100

Second Schedule

CITY OF PERTH

Local Government Property Local Law 2005

DETERMINATIONS

The following determinations are to be taken to have been made by the City under clause 9.

PART 1—PRELIMINARY

Definitions

1 In these determinations unless the context otherwise requires—

“local law” means the Local Government Property Local Law 2005 made by the City.

Interpretation

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.

PART 2—APPLICATION

Smoking

3 A person shall not smoke on premises owned by the City or under the care and control of the City.

Taking or riding a bicycle or wheeled recreational device

4 A person shall not take or ride a bicycle or wheeled recreational device on any local government property except upon an area specified by a sign erected on the local government property.

Taking or driving a vehicle

5 A person shall not take or drive a vehicle on any local government property except upon an area specified by a sign erected on the local government property.

Speed of vehicles

6 A person shall not drive a vehicle on local government property at a speed exceeding 10 kilometres an hour except—

- (a) on any land marked by a sign as a parking area, a person shall not drive a vehicle at a speed exceeding 8 kilometres an hour; and
- (b) on accessways within any reserve vested in the City, a person shall not drive a vehicle at a speed exceeding 10 kilometres an hour.

Taking or using a boat

7 A person shall not take or use a boat on any particular class of boat on any local government property containing a water body owned or vested in the City.

Golf, archery, pistol shooting or rifle shooting and use of projectiles

8 A person shall not—

- (a) play or practice golf on any local government property;
- (b) aim, shoot or throw an arrow or similar projectile on any local government property; or
- (c) have in their possession any gun or rifle or means of discharging any projectile that may cause injury or damage to a person or property on local government property,

except where a determination specifies a particular local government property.

Ball games

9 A person shall not play or practice any ball game which may cause detriment to the property or any flora or fauna on any reserve owned or vested in the City.

Model aircraft

10 A person shall not use, launch or fly a motorised model aeroplane, glider or rocket that is propelled by mechanical, hydraulic, combustion or pyrotechnic means on or from local government property except where a permit or a determination specifies a particular local government property.

Deposit of refuse, rubbish or liquid waste

11 A person shall not deposit refuse, rubbish or liquid waste on local government property except—

- (a) in an appointed place;
- (b) in a place or receptacle set aside for that purpose; or
- (c) where specified in a determination.

Bring, drive or ride an animal

12 (1) A person shall not tether any animal to a tree, shrub, tree guard, wall or fence or permit any animal to enter upon or into any local government property except where a permit or a determination specifies a particular local government property.

(2) This clause does not apply to a guide dog used for the assistance of visually impaired persons.

Use of Children's Playgrounds

13 (1) A person shall not use a children's playground unless the person is under the age of thirteen (13) years.

(2) This clause does not apply to a person in charge of a person detailed in subclause (1).

Dated this 1st day of July 2005.

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

Dr. PETER NATTRASS, The Rt Hon the Lord Mayor.

FRANK EDWARDS, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995**CITY OF PERTH****FENCING LOCAL LAW 2005**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Perth resolved on 21 June 2005 to make the *Fencing Local Law 2005*, as set out below.

ARRANGEMENT

PART 1—PRELIMINARY	Clauses 1— 6
PART 2—LICENCES AND APPROVALS	Clauses 7—13
PART 3—FENCING—GENERAL	Clauses 14—24
PART 4—ELECTRIFIED, BARBED AND RAZOR WIRE FENCES	Clause 25
PART 5—REMEDY FOR BREACH	Clauses 26—27
PART 6—OFFENCES AND PENALTIES	Clauses 28—32
SCHEDULES 1—3	

PART 1—PRELIMINARY**Title**

1 This local law may be cited as the *Fencing Local Law 2005*.

Commencement

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

Purpose and Intent

3 (1) The purpose of this local law is to provide for the regulation, management and control of the installation of fences throughout the district of the City of Perth.

(2) The effect of this local law is to ensure that fences are constructed and maintained to a satisfactory structural and aesthetic standard throughout the district of the City of Perth.

Repeal

4 The following by-laws of the City of Perth—

- (1) By-law No. 19—Fencing as published in the *Government Gazette*—25 October 1967 and amendments;
- (2) By-law No. 19—Fencing as published in the *Government Gazette*—9 November 1928 and amendments,

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

Application

5 This local law applies throughout the district of the City of Perth.

Definitions

6 In this local law unless the context requires otherwise—

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

“AS/NZS” means an Australian/New Zealand Standard published by the Standards Association of Australia;

“authorised person” means the CEO and any other person authorised by the City under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

“boundary fence” means a fence erected on the common boundary of a lot and land under the care, control or management of the City or on a line other than the common boundary but does not include a dividing fence or a front fence;

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

“building licence” means a building licence issued under this local law and pursuant to the *Local Government (Miscellaneous Provisions) Act 1960*;

“building licence fee” means the fee prescribed for the purposes of clause 13 of this local law by the Council from time to time in its Schedule of Fees and Charges in the City’s annual budget;

“CEO” means the Chief Executive Officer of the City;

“City” means the local government of the City of Perth;

“city planning scheme” means any town planning scheme for the time being applying zoning or classification to land within the district that has been made by the City under the *Town Planning and Development Act 1928*;

“dangerous” in relation to any fence means—

- (a) an electrified fence other than a fence in respect of which a building licence under Part 4 of this local law has been issued;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which during or after its construction, 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 City of Perth;

“dividing fence” has the meaning given to it in and for the purposes of the *Dividing Fences Act 1961* but does not include a boundary fence or front fence.

Note—

Section 5 of the *Dividing Fences Act 1961* defines “dividing fence” to mean “a fence that separates the land of different owners whether the fence is on the common boundary of adjoining lands or on a line other than the common boundary”.

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

“existing fence” means a fence erected prior to the gazettal of the Fencing Local Law 2005;

“fence” means any structure, including a retaining wall less than 450mm in height and used or functioning as a barrier, irrespective of where it is located and includes any gate;

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

“front fence” means a fence erected on the front boundary of a lot or on a line other than the front boundary;

“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;

“lot” means a defined portion of land for which a separate certificate of title has been issued and includes a strata lot;

“non-residential lot” means any lot situated in the district that is not defined as a residential lot under this local law;

“occupier” has the same meaning as in the Act;

“owner” has the same meaning as in the Act;

“person” means any person, company, employer and includes an owner, occupier and licensee;

“planning approval” means an approval given under a relevant town planning scheme operating in the district from time to time;

“primary thoroughfare” means the sole or principal thoroughfare that provides the main pedestrian access into the lot;

“residential lot” means any lot situated within a residential scheme use area as classified by the city planning scheme and includes land predominantly used for residential purposes;

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

“sufficient fence” means a fence described in clause 15 but does not include a retaining wall;

“thoroughfare” means any road, street, way or place that is designed and used for the passage of vehicles and includes structures or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end.

PART 2—LICENCING AND APPROVALS

Building Licence Requirements

7 Where in accordance with this local law or any other written law, a building licence is required to enable the lawful building or erecting of a fence, a valid building licence must first be obtained before any work is commenced.

8 The requirement for a building licence required under clause 7 of this local law does not apply to—

- (a) the building or erecting of a dividing fence or boundary fence that is a sufficient fence as detailed under clause 15.

Planning and Other Approvals

9 Where under any written law operating within the district, the erection and maintenance of a fence requires planning approval or other approval, the requirement of such approval shall be additional to the requirement for a building licence under this local law.

Application for Building Licence

10 A person seeking the issue of a building licence must make application on the form provided and used for the purpose and must forward the application to the City together with—

- (a) where required, a copy of planning approval issued by the City under the city planning scheme;
- (b) two copies of plans drawn to scale of not less than 1:50 showing the size, position, design, and the method of construction of the proposed fence;
- (c) the relevant building licence fee; and
- (d) such other information as may be required by the City to assist in determining the application.

Determination of Application

11 (1) The City may refuse to accept an application for a building licence that does not comply with the requirements of clause 10, and in any event, shall refuse to accept an application for a building licence where planning approval is required and has not first been obtained under the city planning scheme.

(2) The City may, in respect of an application for a building licence—

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

Building Licence Issue

12 (1) A building licence shall be issued to the person whose name appears on the application for the building licence and is the owner or acting on behalf of the owner.

(2) A building licence shall be issued in the form prescribed or provided by the City for that purpose.

Licence Fees and Charges

13 All building licence fees and charges applicable under this local law shall be as determined by the City from time to time in accordance with section 6.16 of the Act.

PART 3—FENCING—GENERAL**Dividing and Boundary Fences**

14 (1) A person must not erect a dividing fence or boundary fence on a lot that does not meet the minimum requirements for a sufficient fence as detailed under clause 15.

(2) If by the agreement between the owners of adjoining lots and subject to a building licence being issued under this local law, a person may erect a dividing fence on a lot that exceeds the requirements of a sufficient fence as detailed under clause 15.

Sufficient Fence

15 (1) Pursuant to the *Dividing Fences Act 1961* and subject to subclauses 15(2) and 15(3), the minimum requirement for 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 non-residential lot, is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Second Schedule.

(2) Where a fence is erected on or near the boundary between a residential lot and a non-residential lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule.

(3) Unless an authorised person specifies otherwise, a sufficient fence on a boundary between lots other than those specified in subclause 15(2) is a dividing fence constructed in accordance with the specifications and requirements of the Second Schedule.

Front Fences

16 A person must not erect a front fence without first obtaining a valid building licence.

Fences and Sightlines

17 (1) Where a front fence or a boundary fence is adjacent to a vehicle access point or a thoroughfare, the boundary fence or front fence will require a sight line truncation or be reduced in height, as determined by the City.

(2) Where a dividing fence is closer than 2000mm from a vehicle access point and connects to a thoroughfare, the dividing fence shall be reduced to 750mm in height for the first 2000mm from the thoroughfare back into the lot.

(3) Subclause (1) does not apply to a fence of open construction that does not obscure the lines of vision of a motorist using a vehicle access point or thoroughfare.

General discretion of the City

18 (1) The City may approve the erection of a fence that does not comply with the requirements of this local law.

(2) In determining whether to approve the erection of a fence, the City may consider, in addition to any other matter that it is authorised to consider, whether the erection or retention of the fence would have an adverse effect on—

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

Maintenance of Fences

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

Prohibited Fencing Materials

20 (1) A person must not use broken glass in the construction of any fence.

(2) A person must not use material with spiked or jagged projections in the construction of any fence that is not the subject of a building licence or otherwise in accordance with this local law.

Secondhand Materials

21 Secondhand materials shall not be used in the construction of fences without the City's prior approval and if approved, such material shall be painted or treated as directed by the City or an authorised person.

Gates in Fences

22 A person must not erect or maintain a gate in a boundary fence or a front fence, which does not—

- (a) open into the lot; or
- (b) open by sliding parallel and on the inside of the fence, of which it forms part of, when closed.

Fences Across Right-of-Ways, Public Access Ways or Road Reserves

23 A person must not, without the written consent of the City, erect or maintain a fence or obstruction of a temporary or permanent nature across any right-of-way, public access way or road reserve so as to impede or prevent use of those facilities in the manner for which they are intended and constructed.

Building Code

24 (1) Subject to subclauses (2) and (3), a fence shall be constructed in accordance with the relevant provisions of the Building Code.

(2) Where there is inconsistency between the standards or requirements of this local law and those specified in the Building Code, the standards and requirements of the Building Code shall prevail.

(3) Subclause (1) shall not apply to an existing fence, except where the existing fence is demolished, pulled down or removed and re-erected, or in some substantial way structurally altered or amended, in which case subclause (1) shall apply to the re-erection, alteration or amendment.

PART 4—ELECTRIFIED, BARBED AND RAZOR WIRE FENCES**Requirement for a Licence**

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

- (a) construct and use an electrified fence on that lot without first obtaining a building licence under subclause 25(2); or
- (b) construct a fence wholly or partly of barbed wire or razor wire on that lot without first obtaining a building licence under subclause 25(4).

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

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

(3) A building licence to have a fence constructed wholly or partly of barbed wire or razor wire shall not be issued where any barbed wire or razor wire used in the construction of the fence is less than 2000mm above the ground level or projects on or above any thoroughfare.

(4) An application for a building licence referred to in sub-clauses (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.

PART 5—REMEDY OF BREACH**Works on Private Property**

26 (1) Where an owner fails to maintain a boundary fence or a front fence in accordance with clause 19, the City may give notice in writing to the owner of that property—

- (a) advising details of the breach of the local law;
- (b) advising the owner that the breach is to be remedied within the time specified in the notice; and

- (c) advising that where the owner fails to comply with the requirements of the notice within the time specified, the City may enter the property and do the required work.
- (2) Where the owner of the property fails to comply with the requirements of the notice, the City may by its employees, agents or contractors in accordance with the provisions of Part 3, Division 3, Subdivision 3 of the Act, enter upon the property and carry out all works and do all things necessary to comply with the requirements of the notice.
- (3) The City may recover the expenses incurred in carrying out the works in accordance with subclause 27(2) from the owner of the property in a court of competent jurisdiction.

Limit on Liability

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

PART 6—OFFENCES AND PENALTIES

Offences

- 28 (1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day which the offence has continued.

Infringement Notices and Infringement Withdrawal Notices

29 For the purposes of this local law—

- (a) an infringement notice served under section 9.16 of the Act in respect of a prescribed offence under this local law shall be in accordance with Form 2 in the First Schedule of the *Local Government (Functions and General) Regulations 1996*; and
- (b) a notice sent under section 9.20(1) of the Act withdrawing an infringement notice served in respect of an offence alleged to have been committed against this local law shall be in accordance with Form 3 of First Schedule of the *Local Government (Functions and General) Regulations 1996*.

Offence Description and Modified Penalty

30 The amount appearing in the final column of the table in the Third Schedule of this local law is the modified penalty prescribed for the purposes of section 9.17 of the Act for the offence directly opposite that penalty in the table.

Prosecution for Offences

- 31 (1) A penalty for an offence against this local law (not being a modified penalty) may be recovered by the City by taking proceedings against the alleged offender in a court of petty sessions.
- (2) Without limiting the generality of subclause 31(1), where proceedings are commenced by the City in a court of petty sessions against a person for erecting a fence without paying the building licence fee required under subclause 10(c), the Court may, on conviction, in addition to any other orders that may be made, also order that person pay to the City the prescribed fee.

Objections and Appeals

32 When the City makes a decision as to whether it will—

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

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

First Schedule

CITY OF PERTH

Fencing Local Law 2005

SPECIFICATION FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

1 The following is a “sufficient fence” on a residential lot—

- (1) A fence constructed of corrugated fibre reinforced pressed cement sheeting which satisfies the following specifications—
- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600mm;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet;

- (c) the sheets to be lapped and capped with extruded “snap-fit” type capping in accordance with the manufacturers written instructions; and
- (d) the height of the fence to be 1800mm except with respect to a fence adjoining a vehicle access point or thoroughfare, is subject to clause 17.

Second Schedule

CITY OF PERTH

Fencing Local Law 2005

SPECIFICATION FOR A SUFFICIENT FENCE ON A NON-RESIDENTIAL LOT

A “sufficient fence” on a non-residential lot shall be a Type 1—Rail-less security fence, consisting of Class 2 (medium/light quality) piping, 3.15mm (heavy duty) chain link fabric wire that is galvanized/zinc/aluminium alloy coated or PVC or PE coated, which does not exceed 2400mm in height, constructed in accordance with Australian Standard AS1725 as amended from time to time.

Third Schedule

CITY OF PERTH

Fencing Local Law 2005

OFFENCES AND MODIFIED PENALTIES

Item No	Clause No	Nature of Offence	Modified Penalty \$
1	14(1)	Erect a dividing fence or boundary fence on a lot that does not meet the minimum requirements for a sufficient fence	100
2	16	Erect a front boundary fence without obtaining a valid building licence	100
4	19	Failure to maintain a fence in good condition/prevent fence from becoming dangerous, dilapidated	100
5	20(1)	Erect a fence using broken glass	100
6	20(2)	Use a material with spiked or jagged projections in fence construction without approval or building licence	100
7	21	Use secondhand materials in the construction of a fence without approval	100
8	22(a)	Erect or maintain a gate in a fence not opening into the lot	100
9	22(b)	Erect or maintain a gate in a fence not sliding parallel and in inside of fence	100
10	23	Erect or maintain a fence/obstruction temporary or permanent across a right-of-way, public accessway or road reserve without consent	100
11	25(1)(a)	Construct or use an electrified fence without a building licence	100
12	25(1)(b)	Construct a barbed wire or razor wire fence without a building licence	100
13	28(1)	Failure to comply with requirements of notice	100
14		Other offences not specified	100

Dated this 1st day of July 2005.

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

DR. PETER NATTRASS, The Rt Hon the Lord Mayor.

FRANK EDWARDS, Chief Executive Officer.

