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CITY OF MANDURAH

LOCAL GOVERNMENT ACT 1995

ANIMALS, ENVIRONMENT AND NUISANCE LOCAL LAW 2010

BUSH FIRES ACT 1954

BUSH FIRES BRIGADES LOCAL LAW 2010

DOG ACT 1976

DOGS LOCAL LAW 2010

LOCAL GOVERNMENT ACT 1995

CITY OF MANDURAH

ANIMALS, ENVIRONMENT AND NUISANCE LOCAL LAW 2010

ARRANGEMENT

PART 1—PRELIMINARY

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

PART 2—KEEPING OF ANIMALS*Division 1—Keeping of birds*

- 2.1 Keeping of poultry and pigeons in a residential zone
- 2.2 Application for approval to keep poultry and pigeons in a residential zone
- 2.3 Conditions for keeping of poultry
- 2.4 Roosters, geese, turkeys and peafowl
- 2.5 Conditions for keeping of pigeons
- 2.6 Termination of approval to keep poultry or pigeons
- 2.7 Conditions of keeping aviary birds
- 2.8 Nuisance caused by birds

Division 2—Keeping of farm animals

- 2.9 Permit required to keep farm animals
- 2.10 Application for a permit to keep farm animals
- 2.11 Determination of application to keep farm animals
- 2.12 Conditions of approval to keep farm animals
- 2.13 Variation or cancellation of permit to keep farm animals and conditions of permit
- 2.14 Conditions for keeping farm animals
- 2.15 Requirements for farm animal shelters

Division 3—Keeping of Bees

- 2.16 Permit required to keep bees
- 2.17 Application for a permit
- 2.18 Determination of application
- 2.19 Conditions of approval
- 2.20 Variation or cancellation of permit and conditions
- 2.21 Permit holder to notify cessation of registration or keeping of bees
- 2.22 Permit not transferable
- 2.23 Nuisance
- 2.24 Notice to remove bees

PART 3—BUILDING, DEVELOPMENT AND LAND CARE*Division 1—Litter and refuse on building sites*

- 3.1 Provision of refuse receptacles
- 3.2 Control of refuse
- 3.3 Unauthorised storage of materials

Division 2—Prevention of Dust and Liquid Waste

- 3.4 Prohibited Activities

Division 3—Smoke

- 3.5 Burning of cleared vegetation prohibited

Division 4—Unightly land and disused materials

- 3.6 Removal of refuse and disused materials
3.7 Removal of unsightly overgrowth of vegetation
3.8 Storage of vehicles, vessels and machinery
3.9 Disposing of disused refrigerators or similar containers

Division 5—Hazardous materials

- 3.10 Hazardous trees
3.11 Cyclonic activities

PART 4—NUISANCES AND DANGEROUS THINGS*Division 1—Light*

- 4.1 Use of exterior lights
4.2 Emission or reflection of light
4.3 Notice may require specified action to prevent emission or reflection of light

Division 2—Smoke, fumes, odours and other emissions

- 4.4 Burning rubbish, refuse or other material
4.5 Escape of smoke, fumes, odours and other emissions

Division 3—Trucks

- 4.6 Livestock vehicles
4.7 Truck noise from residential land

Division 4—Stormwater management

- 4.8 Containment of stormwater
4.9 Guttering and downpipes
4.10 Stormwater disposal systems
4.11 Containment and disposal of swimming pool and other wastewater

Division 5—Amusement Activities

- 4.12 Nuisance
4.13 Abatement by authorised person

Division 6—Advertising, bill posting and junk mail

- 4.14 Placement of advertisement, bill posting or junk mail
4.15 Exemptions

Division 7—Bird Nuisance

- 4.16 Restrictions on feeding of birds

Division 8—Pest Plants

- 4.17 Description of Pest Plants
4.18 Serving of Notices

PART 5—OBJECTIONS AND APPEALS

- 5.1 Objections and Appeals

PART 6—ENFORCEMENT*Division 1—Notice of breach*

- 6.1 Notice of breach
6.2 Form of notices
6.3 When local government may undertake work required by notice

Division 2—Offences and penalties

Subdivision 1—General

6.4 Offences and penalties

Subdivision 2—Infringement notices and modified penalties

6.5 Prescribed offences

6.6 Form of infringement notices

SCHEDULE 1—Application for a Permit**SCHEDULE 2—Permit to keep Farm Animal(s) in other than a Rural Zone****SCHEDULE 3—Application to Keep Bees****SCHEDULE 4—Permit to Keep Bees****SCHEDULE 5—Pest Plants****SCHEDULE 6—Pest Plant Notice****SCHEDULE 7—Prescribed Offences**

**LOCAL GOVERNMENT ACT 1995
BEEKEEPERS ACT 1963
HEALTH ACT 1911**

CITY OF MANDURAH

ANIMALS, ENVIRONMENT AND NUISANCE LOCAL LAW 2010

Under the powers conferred by the *Local Government Act 1995*, *Beekeepers Act 1963*, *Health Act 1911* and under all other powers enabling it, the Council of the City of Mandurah resolved on 22 February 2011 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Mandurah Animals, Environment and Nuisance Local Law 2010*.

1.2 Definitions

(1) In this local law, unless the context specifies otherwise—

Act means the *Local Government Act 1995*;

affiliated person means a person who is a member of a poultry or pigeon club incorporated under the *Associations Incorporation Act 1987*;

amusement means anything usually conducted for amusement at a fair, a carnival or a show, whether conducted at a fair, a carnival or a show or elsewhere;

approved animal means any farm animal which is the subject of a permit;

AS/NZS 3500 means the standard called “Plumbing and Drainage” published by the Standard Association of Australia;

authorised person means a person authorised by the Council, under section 9.10 of the Act to perform all or any of the functions conferred on an authorised person under this local law;

aviary bird means any bird, other than poultry or pigeons, kept or usually kept in an aviary or cage;

bee hive means a hive standing alone or any 2 or more hives standing in a group;

birds includes poultry;

builder means the holder of a building licence issued in respect of building works on a building site or a person in control of a building site;

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

building licence means a licence issued under section 374 of the *Local Government (Miscellaneous Provisions) Act 1960*;

building site means any lot for which a building licence is current;

Chief Executive Officer means the Chief Executive Officer of the local government;

City means the City of Mandurah;

Class 6 building means a Class 6 building as defined by the Building Code;

Class 9 building means a Class 9 building as defined by the Building Code;

Code of Practice—Pigeon keeping means the document entitled *A Code of Practice—May 1994—Pigeon Keeping and Pigeon Racing* published in May 1994 by the Pigeon Racing Federation of WA (Incorporated) and the Independent Racing Pigeon Federation (Incorporated), as amended from time to time;

cow includes an ox, calf or bull;

development has the meaning given to it in the *Planning and Development Act 2005*;

development approval means a development approval under a local planning scheme;

development site includes any lot or lots for which there is current a development or subdivision approval, and any lot or lots upon which, construction work, earthworks, clearing of scrub, trees or overgrowth or any other site works are taking or have taken place, whether or not such works are subject to a development or subdivision approval;

district means the district of the local government;

dust means any visible granular or particulate material which has or has the potential to become airborne and includes organic and non-organic matter and sand, but does not include smoke;

equipment means equipment, machinery or vehicles used for or in connection with the development of land;

farm animal includes a horse, cow, sheep, goat, pig or other ungulate;

food premises includes the meaning of “food” as given under section 9 of the *Food Act 2008* and the meaning of “food business” as given under section 10 of the same Act;

horse includes an ass, mule, donkey or pony;

land includes any building or structure on the land;

liquid waste means waste from any process or activity, whether useful or useless, that is in liquid form and includes paint, fuel, grease, fat, oil, degreaser solvent, detergent, chemical, animal waste, food waste, effluent and all discharges of liquid to land, air or water that are not otherwise authorised by a written law but does not include uncontaminated stormwater;

livestock includes cattle, sheep, pigs, goats and horses;

livestock vehicle means a vehicle that contains livestock or previously has been used for the carriage of livestock;

local government means the City of Mandurah;

local planning scheme has the meaning given to it by the *Planning and Development Act 2005*;

lot has the meaning given to it by the *Planning and Development Act 2005*;

manure receptacle means a receptacle, of sufficient capacity to receive all manure produced in one week on premises upon which a farm animal or farm animals are kept, constructed of smooth, durable, impervious materials, fitted with a fly proof, hinged cover and with no part of the floor lower than the adjoining ground;

miniature horse means a horse whose maximum adult height does not exceed 870 millimetres and is classified as a miniature by the Miniature Horse Association of Australia;

nuisance means—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

occupier means any person who is in control of any land or part of any land or authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to land to perform any work in relation to any land and without limiting the generality of the foregoing and for the avoidance of doubt includes a builder or contractor.

permit means a permit issued under these local laws;

permit holder means a person who holds a valid permit;

pest plant means a plant described as a pest plant by clause 4.17 of this local law;

pigeon includes homing pigeons and other domesticated breeds of the species *Columba livia*, but does not include native pigeons or doves whether or not the keeping of such birds is subject to the approval of the Department of Environment and Conservation;

poultry includes fowls, roosters, ducks, peafowls, turkeys, geese, guinea fowls, pheasants and other birds commonly kept for the production of eggs or meat for domestic consumption;

refuse means any waste material including bricks, lime, cement, concrete, rubble, stones, iron, timber, tiles, bags, plastics, ashes, vegetation, timber, wood or metal shavings, sawdust, and waste food, and includes any broken, used, derelict or discarded matter whatsoever;

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

residential building has the meaning given to it in the Residential Design Codes of Western Australia as amended;

residential zone includes any area zoned “Residential” and “Urban Development” under a local planning scheme;

rural zone means any area zoned “Rural” or “Rural Residential” under a local planning scheme;

sand means granules or particles of rock, earth, clay, loam, silt and any other granular, particulate or like material, and includes dust and gravel;

stormwater means any naturally occurring water that results from rainfall on or around a site, or water flowing onto the site;

street means any highway or thoroughfare which the public are entitled to use, and includes every part of the highway or thoroughfare, including the verge and other things including bridges and culverts appurtenant to it;

subdivision approval means a subdivision approval under the *Planning and Development Act 2005*;

townsite means the townsite of Mandurah which is—

- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
- (b) referred to in clause 37 of Schedule 9.3 of the Act.

truck means a motor vehicle having a tare weight in excess of 3,000 kilograms;

unreasonable noise has the meaning given to it by the *Environmental Protection Act 1986*;

vermin includes rats, mice, flies, fleas, mites, lice, cockroaches and any other animal, whether vertebrate or invertebrate, which is known to be a vector of disease or likely to cause damage to human food, habitation or possessions.

(2) Any other expression used in this local law and not defined herein shall have the meaning given to it in the Act.

(3) Where in this local law a duty, obligation or liability is imposed on an “owner or occupier” the duty shall be deemed to be imposed jointly and severally on each owner and occupier.

(4) Where under this local law the local government is authorised to carry out actions or cause to be undertaken works as a consequence of the failure of any person to comply with the terms of a notice or other conduct, the right to enter land is at all times subject to the provisions of Part 3, Division 3, Subdivision 3 of the Act.

1.3 Repeal

Clauses 20, 21, 47A, 50, 56, 62A, 68, 69, 70, 71, 72, 73, 74, 75, 76 and 77 of the *City of Mandurah Health Local Laws* as published in the *Government Gazette* of 23 August 1996 and Part XI and Division 2 of Part V of the *City of Mandurah Consolidated Local Laws* as published in the *Government Gazette* of 13 February 1998, are repealed.

1.4 Application

This local law shall apply throughout the district.

1.5 Commencement

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

PART 2—KEEPING OF ANIMALS

Division 1—Keeping of birds

2.1 Keeping of poultry and pigeons in a residential zone

(1) An owner or occupier of premises in a residential zone shall not keep or permit to be kept on the premises any poultry or pigeons—

- (a) unless approved by the local government in accordance with clause 2.2; and
- (b) otherwise than in accordance with subclause (2).

(2) An owner or occupier of premises in a residential zone shall not keep or permit to be kept on the premises—

- (a) more than 12 poultry; and
- (b) more than 12 pigeons unless the owner or occupier is an affiliated person in which case the maximum number of pigeons may be increased to 100.

2.2 Application for approval to keep poultry and pigeons in a residential zone

(1) Subject to compliance with clause 2.1(2), the local government may approve the keeping of poultry or pigeons in accordance with these local laws by an owner or occupier of premises within a residential zone subject to the following—

- (a) the owner or occupier submitting an application to the local government, which application shall—
 - (i) specify the number of poultry or pigeons proposed to be kept; and
 - (ii) include a site plan showing lot size, location of enclosure, distance from boundaries and buildings and proximity to houses on adjoining land.

(2) The local government may at its discretion conduct public consultation with all owners/occupiers whose property abuts the applicant’s property prior to the application being determined.

(3) The local government may approve, with or without conditions, or refuse to approve an application received under this clause.

(4) Where an approval for the keeping of poultry or pigeons is issued subject to conditions, the holder of the approval shall comply or cause compliance with those conditions.

2.3 Conditions for keeping of poultry

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

- (a) no poultry shall be kept less than 9 metres from any residential building;
- (b) no poultry is able to approach within 15 metres of a public street, public building, commercial premises or food premises;
- (c) all poultry is kept in a properly constructed and securely fastened structure;

- (d) the structure has an impervious floor laid with a fall to the front of at least 1 in 50;
- (e) all structures or enclosures within which poultry are kept are maintained at all times in a clean condition;
- (f) all poultry is kept continually confined.

2.4 Roosters, geese, turkeys and peafowl

Except on land in a rural or rural residential zone or with the prior written permission of the local government, an owner or occupier of premises shall not keep any of the following—

- (a) rooster;
- (b) a goose or gander;
- (c) a turkey; or
- (d) a peacock or peahen.

2.5 Conditions for keeping of pigeons

(1) A person who keeps pigeons or permits pigeons to be kept shall ensure that—

- (a) all pigeons are kept in a properly constructed pigeon loft, except where registered homing pigeons are freed for exercise;
- (b) all structures or enclosures within which pigeons are kept are maintained at all times in a clean condition;
- (c) no opening to a pigeon loft, including openings for ventilation, is within 9 metres of any residential building;
- (d) no opening to a pigeon loft, including openings for ventilation, is within 15 metres of a public street, public building, commercial premises or food premises.

(2) An affiliated person who keeps pigeons, or permits pigeons to be kept, shall do so in accordance with the Code of Practice—Pigeon Keeping, subject to the provisions of this local law.

2.6 Termination of approval to keep poultry or pigeons

If an owner or occupier of premises to whom an approval to keep poultry or pigeons has been granted by the local government pursuant to clause 2.2(3)—

- (a) breaches a condition of the approval;
- (b) breaches clause 2.3 or 2.5 of this local law; or
- (c) fails to comply with a written notice served by the local government in relation to the keeping of poultry or pigeons,

then the local government may cancel its approval upon written notice of such cancellation being given to the owner or occupier within 60 days of the breach or failure to comply as the case may be.

2.7 Conditions of keeping aviary birds

A person who keeps, or permits to be kept, aviary birds shall ensure that—

- (a) the aviary or cage in which the birds are kept is located at least 1 metre from any lot boundary and at least 5 metres from a residential building on any other lot; there is a floor beneath the roofed area of the aviary or cage which is constructed of smooth, impervious material with a gradient of at least 1 in 50 to the front of the aviary or cage;
- (b) the aviary or cage is kept in clean condition and good repair at all times; all feed for the birds other than that intended for immediate consumption is stored in vermin proof containers; and
- (c) effective measures are taken to prevent the attraction or harbourage of vermin.

2.8 Nuisance caused by birds

An owner or occupier of land shall not keep any bird or birds which—

- (a) are or create a nuisance; or
- (b) emit an unreasonable noise.

Division 2—Keeping of farm animals

2.9 Permit required to keep farm animals

Subject to clause 2.14, an owner or occupier of land shall not keep, or allow to be kept, any farm animal unless—

- (a) in accordance with a valid permit authorising the keeping of such a farm animal issued in relation to the land pursuant to clause 2.12; or
- (b) in a rural zone and in accordance with the provisions of any local planning scheme applicable to that zone.

2.10 Application for a permit to keep farm animals

An application for a permit required by clause 2.9 shall be in the form prescribed by Schedule 1 and shall include the following information—

- (a) a plan of the property, at a scale not less than 1:200, with dimensions clearly marked, showing where it is proposed that the animal is to be kept and the distance of that location from any residential building on another lot, Class 6 or 9 building, business premises or food premises;

- (b) a sketch plan, at a scale of 1:100, indicating the nature of the shelter or housing to be provided for the animal; and
- (c) a detailed written plan for the management of manure which addresses—
 - (i) control of flies and other vermin;
 - (ii) disease prevention; and
 - (iii) prevention of nuisance odours; and
- (d) the appropriate application and permit fees as determined from time to time by the local government in accordance with sections 6.16 to 6.19 of the Act.

2.11 Determination of application to keep farm animals

- (1) Subject to clause 2.12, the local government may—
 - (a) refuse to determine an application for a permit which does not comply with clause 2.10;
 - (b) approve an application for a permit subject to such conditions as it considers appropriate; or
 - (c) refuse to approve an application for a permit.
- (2) Where an application for a permit is approved subject to conditions, the permit holder shall comply with those conditions or cause compliance with those conditions.
- (3) Where the local government approves an application under subclause (1)(b), it is to issue to the applicant a permit in the form prescribed by Schedule 2.
- (4) A permit is valid from the date of issue until 30 June the following year, unless it is cancelled prior to that date under this local law.

2.12 Conditions of approval to keep farm animals

- (1) A permit shall not be granted pursuant to clause 2.11—
 - (a) unless the land for which the approval is sought is of such dimensions and configuration as will permit the subject animal to be confined in a minimum cleared area of 150 square metres and prevented from approaching within 15 metres of any residential building, Class 6 or 9 building, business premises or food premises;
 - (b) in the case of a horse (other than a miniature horse) or cow, unless the land for which the approval is sought has a minimum area of one hectare;
 - (c) for the keeping of any pig.
- (2) The local government shall take into account the opinions of occupiers of adjoining properties in determining whether to grant approval for the keeping of a farm animal.
- (3) Approval to keep a farm animal may be issued subject to conditions, including—
 - (a) that a stable or shelter is provided for housing the approved animal;
 - (b) that a manure receptacle is provided in a position convenient to the shelter or place where the approved animal is kept, and that the receptacle is used for the receipt of all manure produced on the premises; or
 - (c) any other conditions that the local government considers necessary for the protection of the health and amenity of the neighbourhood, and such conditions may be imposed at any time subsequent to the initial approval.

2.13 Variation or cancellation of permit to keep farm animals and conditions of permit

- (1) The local government may vary the conditions of a permit after it has been issued, and shall give notice of such variation to the permit holder within 14 days of such variation.
- (2) The local government may cancel a permit in the event the permit holder—
 - (a) fails to comply with any condition of the permit;
 - (b) breaches clause 2.14 or 2.15 of this local law; or
 - (c) fails to comply with a notice of breach issued under clause 6.1.

2.14 Conditions for keeping farm animals

- (1) An owner or occupier of premises upon which a farm animal or farm animals are kept, whether or not a permit is required for the keeping of such farm animals pursuant to clause 2.9, shall—
 - (a) maintain the place or places where the animals are kept in clean condition;
 - (b) ensure that any farm animal or farm animals kept on the premises does not cause or constitute a nuisance;
 - (c) maintain the premises free from flies or other vermin by spraying with residual insecticide or other effective means;
 - (d) if a manure receptacle is required to be used—
 - (i) cause all manure produced on the premises to be collected daily and placed in the receptacle;
 - (ii) cause the receptacle to be emptied as often as is necessary to prevent it becoming offensive or a breeding place for flies or other vermin, but in any case at least once a week; and
 - (iii) keep the lid of the receptacle closed except when manure is being deposited or removed;
 - (e) not permit any farm animal to approach within 15 metres of any residential building, food premises, Class 6 or 9 building, or a business or commercial premises.

(2) An owner or occupier of premises in a rural zone shall not keep more than 1 pig other than on premises registered as a piggery pursuant to the provisions of the *Health Act 1911*, except with the express written approval of the local government.

2.15 Requirements for farm animal shelters

(1) Any stable, enclosure or shelter provided for the keeping of farm animals, whether or not a permit is required for the keeping of such farm animals pursuant to clause 2.10, shall—

- (a) not be situated within 15 metres of any residential building, Class 6 or 9 building, business premises or food premises;
- (b) not be situated within one metre of any lot boundary;
- (c) be constructed of materials approved by an authorised person;
- (d) have on each side of the building between the wall and roof a clear opening of at least 150 millimetres in height and of sufficient length to provide adequate ventilation to the stable, enclosure or shelter;
- (e) when required by the local government have a separate stall for each horse, cow or other approved animal, the shortest dimension of which shall be at least twice the length of the animal housed therein;
- (f) subject to subclause (2), have a floor, the upper surface of which shall—
 - (i) be raised at least 75 millimetres above the surface of the surrounding ground;
 - (ii) be constructed of cement, concrete or other similar impervious material; and
 - (iii) have a fall of 1 in 100 to a drain which shall empty into a trapped gully situated outside the stable or shelter.

(2) A stable or shelter constructed with a sand floor may be approved by an authorised person subject to—

- (a) the site being well drained, with the sand floor being at least 1.5 metres above the highest known ground water level;
- (b) a 300 millimetres thick bed of crushed limestone being laid under the sand of the stable;
- (c) sand, whether natural or imported, being clean, coarse and free from dust;
- (d) footings to the stable or shelter being a minimum of 450 millimetres below ground level;
- (e) the design of the stable allowing for the access of small earth moving machinery, such as a skid steer loader, into each stall to maintain the correct floor height.

(3) An owner or occupier of any land upon which a stable or shelter is located must ensure that the stable or shelter complies in all respects with the requirements of subclause (1), and, where the approval referred to in subclause (2) has been granted, with the requirements of subclause (2).

Division 3—Keeping of Bees

2.16 Permit required to keep bees

(1) Subject to the provisions of this clause, a person shall not keep bees or allow bees to be kept on land except in accordance with a valid permit issued in relation to the land.

(2) Subclause (1) does not apply where—

- (a) the land is outside the townsite; and
- (b) the bees are kept—
 - (i) at least 500 metres from a thoroughfare; or
 - (ii) less than 500 metres from a thoroughfare but the vegetation or a screen or other barrier on the land is such as to encourage the bees to fly at a height over the thoroughfare as will not create a nuisance to users of the thoroughfare.

(3) Subclause (1) does not apply where an occupier of land keeps bees on the land—

- (a) for a continuous period not exceeding 8 weeks; and
- (b) for the purpose of pollinating a crop on the land.

(4) An occupier referred to in subclause (3), in keeping bees under that subclause, shall provide a good and sufficient water supply on the land which is readily accessible by the bees.

(5) Subclause (1) does not apply where a person keeps bees on Crown land.

2.17 Application for a permit

An applicant for a permit shall—

- (a) be a person registered as a beekeeper under section 8 of the *Beekeepers Act 1963*;
- (b) provide such details as may be required by the local government;
- (c) apply in the form of that in Schedule 3; and
- (d) pay any application fee imposed and determined by the local government under sections 6.16 to 6.19 of the Act.

2.18 Determination of application

(1) The local government may—

- (a) refuse to determine an application for a permit which does not comply with clause 2.17;

- (b) approve an application for a permit subject to the conditions referred to in clause 2.16 and to such other conditions as it considers appropriate; or
 - (c) refuse to approve an application for a permit.
- (2) Where an application for a permit is approved subject to conditions, the permit holder is to comply with those conditions or is to cause those conditions to be complied with.
- (3) Where the local government approves an application under subclause (1)(b), it is to issue to the applicant a permit in the form of that in Schedule 4.
- (4) A permit is valid from the date of issue unless and until it is cancelled under this local law.

2.19 Conditions of approval

- (1) Without limiting the generality of clause 2.19(1)(b) an application for a permit may be approved by the local government subject to the following conditions—
- (a) the provision of a good and sufficient water supply on the land which is readily accessible by the bees on the land;
 - (b) each bee hive shall be—
 - (i) kept at a distance specified by the local government from any thoroughfare, public place or boundary of the land; or
 - (ii) located near a screen or other barrier so as to prevent the bees flying low over a thoroughfare, public place or adjoining land;
 - (c) no more than 2 bee hives are to be kept on land of less than 2,000 square metres in area; and
 - (d) no more than 15 bee hives are to be kept on land between 2,000 and 20,000 square metres in area.
- (2) In respect of a particular application for a permit, the local government may vary any of the conditions referred to in subclause (1).

2.20 Variation or cancellation of permit and conditions

- (1) The local government may vary the conditions of a permit after it has been issued.
- (2) The local government may cancel a permit on the request of a permit holder to do so.
- (3) Notwithstanding clause 2.24, a permit shall be cancelled on—
- (a) the permit holder ceasing to be registered as a beekeeper under section 8 of the *Beekeepers Act 1963*; or
 - (b) the expiration of a continuous period of 12 months during which the permit holder has not kept any bees on the land to which the permit relates, without any action required on the part of the local government.

2.21 Permit holder to notify cessation of registration or keeping of bees

- (1) In this clause a *permit holder* includes the holder of a permit cancelled by clause 2.20 (3).
- (2) A permit holder is to notify the local government in writing as soon as practicable after—
- (a) the permit holder ceases to be registered as a beekeeper under section 8 of the *Beekeepers Act 1963*; or
 - (b) a continuous period of 12 months has passed during which the permit holder has not kept any bees on the land described in her or his permit.
- (3) A permit holder shall, within 7 days of the local government giving the permit holder a written notice to do so, provide to the local government—
- (a) written proof of her or his registration as a beekeeper under section 8 of the *Beekeepers Act 1963*;
 - (b) in respect of land identified by the local government in its notice, a signed statement as to whether or not he or she has kept bees on the land within the 12 months preceding the date of the notice; or
 - (c) both.

2.22 Permit not transferable

A permit is personal to the permit holder and applies only to the land described in the permit.

2.23 Nuisance

A person shall not keep or allow to be kept bees or beehives, or both, on land so as to create a nuisance.

2.24 Notice to remove bees

- (1) Whenever in the opinion of the local government a person has contravened any provision of the *Beekeepers Act 1963* or of this local law which relates to the keeping of bees or bee hives, the local government may give the permit holder in relation to that land, or if there is no valid permit in relation to that land an owner or occupier of the land a written notice requiring her or him to remove any bees or bee hives, or both, from the land within the time specified in the notice.
- (2) Subject to Division 1 of Part 9 of the Act, on the giving of a notice referred to in subclause (1), any valid permit given by the local government relating to the keeping of bees or bee hives on that land is cancelled from the time specified in the notice, being not less than 7 days from the date it is given.

(3) Where a person fails to comply with a notice given under subclause (1), the local government may dispose of the bees or the bee hives or both in such manner as it sees fit and recover the costs of so doing from the permit holder or an owner or occupier, as the case may be, as a debt due to it.

PART 3—BUILDING, DEVELOPMENT AND LAND CARE

Division 1—Litter and refuse on building sites

3.1 Provision of refuse receptacles

(1) The owner or occupier of a building or development site shall at all times provide and maintain available for use on the site a refuse receptacle, to the satisfaction of an authorised person, of such design as will—

- (a) contain any refuse likely to be produced on the site; and
- (b) prevent refuse being blown from the receptacle by wind.

3.2 Control of refuse

(1) From the time of commencement of works on a building site or development site until the time of completion of such work, the owner or occupier of the site shall—

- (a) ensure all refuse on the site is placed and contained in the refuse receptacle and prevented from being blown from the site by wind;
- (b) keep the site as free as is reasonably practicable from any refuse;
- (c) maintain the street verge, and any other reserve, immediately adjacent to the site free of refuse from the site; and
- (d) ensure the refuse receptacle is emptied when full.

(2) The owner or occupier of a building site or development site shall ensure that, within 2 days of completion of works on the site, the site and the street verge immediately adjacent to it is cleared of all refuse and all refuse receptacles are removed from the site.

3.3 Unauthorised storage of materials

(1) All construction materials must be located on the lot under construction.

(2) Written approval must be obtained from the City prior to any proposal to store construction material on any other property (including a road reserve).

(3) Written request for approval must be accompanied by the written approval of the landowner of the land on which materials are proposed to be stored.

Division 2—Prevention of Dust and Liquid Waste

3.4 Prohibited Activities

(1) An owner and or occupier of land must take effective measures to—

- (a) stabilise dust on the land;
- (b) contain all liquid waste on the land;
- (c) ensure no dust or liquid waste is released or escapes from the land, whether by means of wind, water or any other cause.

(2) Where the local government forms the opinion that—

- (a) an owner or occupier has not complied with subclause (1)(a) or (1)(b); or
- (b) the dust or liquid waste has been released or escaped from the owner's or occupier's land, the local government may serve on the owner and or occupier of the land a notice requiring the owner and or occupier to do one or more of the following—
 - (i) comply with subclause (1)(a) or (1)(b);
 - (ii) clean up and properly dispose of any released or escaped dust or liquid waste;
 - (iii) clean up and make good any damage resulting from the released or escaped dust or liquid waste;
 - (iv) take effective measures to stop any further release or escape of dust or liquid waste.
- (c) The requirements set out in a notice issued under subclause (2)(a) must be complied with—
 - (i) within 48 hours of service of the notice where no other time is specified;
 - (ii) within such other period as is specified in the notice; or
 - (iii) immediately, if the notice so specifies.

(3) Where the local government forms the opinion that dust or liquid waste has escaped or has been released from an activity undertaken on land or as a consequence of the use of equipment on land, the local government may serve a notice on the owner and or occupier of the land and or the operator of the equipment, as the case may be, requiring that the activity or use of the equipment on the land be ceased immediately, for such period as is specified in such notice.

(4) Where the local government is of the opinion that dust or liquid waste may be released or escape as a result of an activity which is likely to be carried on from any land, the local government may give to the owner and or occupier a notice providing that the activity may only be carried on subject to conditions specified in the notice.

*Division 3—Smoke***3.5 Burning of cleared vegetation prohibited**

An owner or occupier of any building or development site shall ensure that no vegetation or other material cleared from the site is burnt on the site.

*Division 4—Unsightly land and disused materials***3.6 Removal of refuse and disused materials**

(1) The owner or occupier of a lot shall not keep, or permit to remain on the lot, any refuse, rubbish or disused material of whatsoever nature or kind which in the opinion of the local government or an authorised person is likely to give the lot an untidy appearance and does not conform with the general appearance of other land in that particular part of the district.

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

3.7 Removal of unsightly overgrowth of vegetation

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

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

3.8 Storage of vehicles, vessels and machinery

The owner or occupier of a lot shall not—

- (a) store, or allow to remain, in public view on any lot more than 1 vehicle, vessel or machinery (whether licensed or not) in a state of disrepair;
- (b) store, or allow to remain, in public view on any lot any vehicle, vessel or machinery in a state of disrepair for a period in excess of 1 month;
- (c) store, or allow to remain, in public view on any lot vehicle, vessel or machinery parts (including tyres); or
- (d) wreck, dismantle or break up any vehicle, part or body of a vehicle, vessel or machinery; unless—
 - (i) inside a building; or
 - (ii) within an area enclosed by a fence or wall of not less than 1.8 metres in height and of such a nature as to screen all vehicles, parts or bodies of vehicles, vessels or machinery from the street and from adjoining properties,
- (e) wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance.

3.9 Disposing of disused refrigerators or similar containers

A person shall not place, leave or dispose of a disused refrigerator, ice-chest, ice-box, trunk, chest or other similar article having a compartment which has a capacity of 0.04 cubic metres or more on any land without first—

- (a) removing every door and lid and every lock, catch and hinge attached to a door or lid; or
- (b) rendering every door and lid incapable of being fastened; and
- (c) removing any refrigerants as per requirements of the *Environment Protection (Ozone Protection) Policy 2000*.

*Division 5—Hazardous materials***3.10 Hazardous trees**

(1) Where a tree on a lot endangers any person or thing on adjoining land, the local government may give a notice to the owner or the occupier of the lot to remove, cut, move or otherwise deal with that tree so as to make the tree safe.

(2) Where a tree on a lot presents a serious and immediate danger to any person or thing, the local government may take any remedial action it considers appropriate in order to make the tree safe without having given the owner or occupier notice pursuant to subclause (1).

(3) The local government reserves its right to recover any costs incurred by the local government for remedial action taken in terms of subclause (2).

(4) Where the local government exercises its right of remedial action under subclause (2) the local government shall use its best endeavors to minimise any damage to the property but to the fullest extent possible at law, shall not be liable to the owner for its acts.

3.11 Cyclonic activities

(1) Where in any circumstance there is likely to be a danger to the public or damage to property which may result from cyclonic activity, the local government may give a notice to the owner or the occupier of a lot specifying measures to prevent or minimise the danger or damage.

(2) Where a circumstance represents serious and immediate danger to the public or property, the local government or an authorised person may take any remedial action it considers appropriate to prevent

or minimize the danger or hazard without having given the owner or occupier notice pursuant to subclause (1).

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

PART 4—NUISANCES AND DANGEROUS THINGS

Division 1—Light

4.1 Use of exterior lights

An owner or occupier of land on which floodlights or other exterior lights are erected or used shall not allow the floodlights or other exterior lights to shine directly onto any other premises.

4.2 Emission or reflection of light

An owner or occupier of land shall ensure that—

- (1) artificial light is not emitted or reflected from anything on the land so as to illuminate premises outside that land to more than 50 lux; and
- (2) natural light is not reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare.

4.3 Notice may require specified action to prevent emission or reflection of light

(1) Where—

- (a) floodlights or other exterior lights shine directly onto any other premises;
- (b) artificial light is emitted or reflected from anything on the land so as to illuminate premises outside the land to more than 50 lux; or
- (c) natural light is reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare,

the local government may by notice in writing direct the owner or occupier to take such actions as the authorised person considers necessary within the time specified in the notice.

(2) The notice referred to in subclause (1) may direct that—

- (a) floodlights or other exterior lights are used only during the hours specified in the notice;
- (b) the direction in which the lights shine be altered as specified in the notice; or
- (c) any reflective surfaces be painted or otherwise treated so as to abate the nuisance;

or any combination of these measures that the local government believes to be appropriate to the circumstances.

Division 2—Smoke, fumes, odours and other emissions

4.4 Burning rubbish, refuse or other material

(1) A person shall not set fire to rubbish, refuse or other materials.

(2) Subclause (1) does not apply to rural residential zoned lots.

(3) A person shall not set fire to rubbish, refuse or other materials on rural residential zoned property unless—

- (a) written approval has first been obtained from the local government;
- (b) the person demonstrates to the satisfaction of the local government that reasonable alternatives for the disposal of the rubbish, refuse or other material do not exist and the potential for pollution is low;
- (c) the material does not include any plastic, rubber, food scraps, green garden materials or other material likely to cause the generation of smoke or odour in such quantity as to cause a nuisance to other persons;
- (d) a haze alert has not been issued by the Bureau of Meteorology for the period during which burning is to take place; and
- (e) the burning complies with the *Bush Fires Act 1954*, any annual fire hazard reduction notice issued by the local government under that Act and any conditions of approval as determined by the local government.

(4) Subclauses (1) and (3) shall not apply to any barbeque, solid fuel water heater, space heater or ovens fired with dry paper, dry wood, synthetic char or charcoal type fuel.

(5) Subclause (4) is subject to any fire danger rating as determined by the Bureau of Meteorology.

4.5 Escape of smoke, fumes, odours and other emissions

An owner or occupier of land or premises shall not cause or permit the escape of smoke, fumes or odours from the land or premises in such quantity or of such a nature as to cause or to be a nuisance to any person.

Division 3—Trucks

4.6 Livestock vehicles

(1) A person shall not park a vehicle containing livestock in a townsite for a period in excess of 30 minutes.

(2) A person shall not park a vehicle which contains or has been used for the carriage of livestock so as to create or be a nuisance to any person, by reason of the odour emanating from the vehicle.

(3) If a person parks a vehicle containing livestock in a townsite under and in accordance with subclause (1), then the person does not contravene subclause (2).

4.7 Truck noise from residential land

(1) A person shall not start or drive a truck on land zoned, approved or used for residential purposes between the hours of 10:30 p.m. and 6:30 a.m. on the following day without first obtaining the written consent of the local government.

(2) In this clause, a truck means a vehicle having a tare in excess of 2,000 kg.

Division 4—Stormwater management

4.8 Containment of stormwater

(1) Subject to subclause (2), the owner or occupier of a lot shall ensure that all stormwater received by any building, house, other structure or any paved or sealed or other surfaced areas including any vehicle access ways on the lot is contained within the lot and is not permitted to discharge onto or run-off onto adjacent land so as to cause a nuisance, or cause damage to any structures situated on adjacent land.

(2) Subclause (1) shall not prevent the discharge of stormwater from a lot into a local government approved stormwater drain.

4.9 Guttering and downpipes

(1) The owner or occupier of a lot shall ensure that each building or house on the lot is provided with adequate guttering and downpipes sufficient to receive, without overflow, all stormwater from the roof of the building or house, in accordance with AS/NZS 3500.

(2) The owner or occupier of a lot shall ensure that all guttering and downpipes to each building or house on the lot are maintained in a good state of repair and free from obstruction.

4.10 Stormwater disposal systems

(1) The owner or occupier of a lot shall ensure that all stormwater from the roof of each building or house on the lot, or the overflow from rainwater storage tanks, is discharged into stormwater drainage system, or discharged by other methods approved by the local government, in accordance with AS/NZS 3500.

(2) The owner or occupier of a lot shall ensure that all stormwater from paved areas or other surfaced areas including any vehicle access ways of the lot is discharged into a stormwater drainage system of adequate capacity in accordance with AS/NZS 3500.

(3) The owner or occupier of a lot shall ensure that all stormwater drainage systems on the lot are maintained in a good state of repair and free from obstruction.

4.11 Containment and disposal of swimming pool and other wastewater

(1) Wastewater and backwash water from swimming pool filtration systems or other water storage systems associated with a swimming pool shall be contained within, and disposed onto or into the lot on which the swimming pool is located.

(2) The disposal of wastewater and backwash water from a swimming pool filtration system or other water storage system associated with a swimming pool into an approved disposal system or a soakwell system having a minimum capacity of 140 litres, and located a minimum of 1.8 metres away from any building or lot boundary, satisfies the requirement of subclause (1).

Division 5—Amusement Activities

4.12 Nuisance

A person shall not, without written authorisation from the City, provide or conduct any amusement on land so as to create or be a nuisance to any owner or occupier of land in the district.

4.13 Abatement by authorised person

Subject to subdivision 3, of division 3, of part 3 of the Act, an authorised person may enter on any land where an amusement is provided or conducted and may do any act or thing reasonably required to abate a nuisance referred to in clause 4.12.

Division 6—Advertising, bill posting and junk mail

4.14 Placement of advertisement, bill posting or junk mail

(1) A person shall not without written authorisation from the City, place or affix any letter, figure, device, poster, sign or advertisement on any buildings, fences or posts.

(2) A person shall not place in or on any letter box, gate, fence or generally leave or distribute to any property in the district, any handbill, poster, pamphlet, flyer or other form of advertising or promotional material, where there is clearly displayed a sign or notice which states “no junk mail” or words of similar effect.

4.15 Exemptions

Clause 4.14 does not apply to—

- (a) delivery of articles by Australia Post;
- (b) documents issued under or for the purposes of an Act of Parliament;
- (c) an authorised person or member of the police force acting in the course of their duties;
- (d) electoral materials; or
- (e) legal process.

*Division 7—Bird Nuisance***4.16 Restrictions on feeding of birds**

(1) A person shall not feed a bird—

- (a) so as to cause a nuisance, or
- (b) with a food or substance that is not a natural food of a bird.

(2) Where an authorised person forms the opinion that a person has not complied with subclause (1) the authorised person may serve the person a notice requiring the person to clean up and properly dispose of any feed or waste products specified in the notice.

*Division 8—Pest Plants***4.17 Description of Pest Plants**

(1) Every plant described in Schedule 5 to this local law is a pest plant.

4.18 Serving of Notices

(1) An authorised person may serve on the owner or occupier of private land within the district a duly completed notice in the form of Schedule 6 to this local law requiring the destruction, eradication or otherwise to control any pest plant on that land.

(2) Where a person served with a notice under subclause (1) of this local law fails to comply with that notice within the time and in the manner specified therein they commit an offence.

PART 5—OBJECTIONS AND APPEALS**5.1 Objections and Appeals**

(1) When the local government makes a decision under this local law as to whether it will—

- (a) grant a person a permit or authorisation;
- (b) vary or cancel a permit or authorisation; or
- (c) give a person a notice;

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

PART 6—ENFORCEMENT*Division 1—Notice of breach***6.1 Notice of breach**

(1) Where a breach of any provision of this local law has occurred, the local government may give a notice in writing to the person alleged to be responsible for such breach.

(2) A notice issued pursuant to subclause (1) shall—

- (a) specify the provision of this local law which has been breached;
- (b) specify the particulars of the breach; and
- (c) state the manner in which the recipient is required to remedy the breach to the satisfaction of the local government within a time period stipulated in the notice which shall be not less than 14 days from the giving of the notice.

(3) It is an offence to fail to comply with a notice issued by the local government pursuant to subclause (1).

6.2 Form of notices

Where this local law refers to the giving of a notice, other than the giving of an infringement notice, no particular form is prescribed and it will be sufficient that the notice be in writing giving sufficient details to enable the owner, occupier or other person to whom the notice is issued to know the offence committed and the measures required to be taken or conditions with which compliance is required, as the case may be.

6.3 When local government may undertake work required by notice

(1) This clause applies only in respect of a notice issued under clauses 3.6(2), 3.7(2), 3.10(1), 3.11(1) and 4.3(1) of this local law.

(2) Where a person fails to comply with a notice referred to in subclause (1) the local government may, subject to compliance with the requirements of subdivision 3, Division 3 Part 3 of the Act, do anything that it considers necessary to achieve, so far as is practicable, the purpose for which the notice was given.

(3) The local government may recover the cost of anything it does under subclause (2) as a debt due from the person who failed to comply with the notice.

Division 2—Offences and penalties

Subdivision 1—General

6.4 Offences and penalties

(1) A person who—

- (a) fails to do anything required or directed to be done under this local law;
- (b) fails to comply with the requirements of a notice issued under this local law by an authorised person; or
- (c) does anything which under this local law that person is prohibited from doing, commits an offence.

(2) Where, under this local law, an act is required to be done or forbidden to be done in relation to any land or premises, the owner or occupier of the land or premises has the duty of causing to be done the act so required to be done, or of preventing from being done the act forbidden to be done.

(3) A person who commits an offence under this local law is liable to a maximum penalty of \$5,000 and a maximum daily penalty of \$500 in respect of each day or part of a day during which the offence has continued.

Subdivision 2—Infringement notices and modified penalties

6.5 Prescribed offences

(1) An offence against a clause specified in Schedule 7 is a prescribed offence for the purposes of section 9.16(1) of the Act.

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 7

- (a) in the case of a first offence the modified penalty will be that prescribed in column 4 of Schedule 7;
- (b) in the case of a subsequent offence the modified penalty will be that prescribed in column 5 of Schedule 7.

(3) 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, before giving an infringement notice to a person in respect of the commission of a prescribed offence.

6.6 Form of infringement notices

For the purposes of this local law—

- (1) 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;
- (2) 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
- (3) the form of the notice given under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the Regulations.

—————

Schedule 1
 City of Mandurah
Animals, Environment and Nuisance Local Law 2010
APPLICATION FOR A PERMIT

[cl. 2.10]

FORM: APPLICATION FOR PERMIT TO KEEP FARM ANIMAL(S) IN
 OTHER THAN A RURAL ZONE

Given Names:		Family Name:	
Residential Address:			
			Post Code
Type of animal for which approval is sought:			
Number of animals for which approval is sought:			
Address at which it is proposed animal/s is/are to be kept:			
			Post Code

I hereby apply for approval to keep the animal(s) at the premises indicated and submit herewith—

- (a) a 1:200 scale diagram of the property clearly showing its dimensions, where it is proposed that the animal(s) be kept and the distance of that location from neighbouring houses;
- (b) a sketch plan at scale 1:100 indicating the nature of the shelter or housing to be provided for the animal(s); and
- (c) a plan for management of manure.

I understand that approval, if granted, is subject to such conditions as the local government sees fit to impose, and that they may be varied, or the approval withdrawn, in the event that a nuisance is caused or otherwise at the local government’s discretion.

Signature of Applicant Date

Schedule 2
 City of Mandurah
Animals, Environment and Nuisance Local Law 2010
PERMIT TO KEEP FARM ANIMAL(S) IN OTHER THAN A RURAL ZONE

[cl. 2.11(3)]

Given Names:		Family Name:	
Residential Address:			
			Post Code:
Number of animals approved:			
Type of animals for which approval is granted:			
1.	2.		
3.	4.		
5.	6.		
Address at which it is proposed animal/s is/are to be kept:			
			Post Code:

Conditions—

- 1.
- 2.
- 3.

This Permit is valid until 30 June 20.....

Signature of Authorised Person Date

Schedule 3
 City of Mandurah
Animals, Environment and Nuisance Local Law 2010
APPLICATION TO KEEP BEES

[cl. 2.17(c)]

Given Names:		Family Name:	
Residential Address:			
			Post Code:
Number of bees for which approval is sought:			
Address at which it is proposed bees are to be kept:			
			Post Code

I hereby apply for approval to keep the bee(s) at the premises indicated and submit herewith—

- (a) a plan of the property, at a scale not less than 1:200, with dimensions clearly marked, showing where it is proposed that the bee hives are to be kept and the distance of that location from neighbouring houses;
- (b) the proposed location of the water supply provided for the bees; and
- (c) the appropriate application and permit fees as determined from time to time by City of Mandurah pursuant to the provisions of sections 6.16 to 6.19 of the Act.

I confirm that I am registered as a beekeeper under section 8 of the *Beekeepers Act 1963* and I understand that approval, if granted, is subject to such conditions as the local government sees fit to impose, and that they may be varied, or the approval withdrawn, in the event that a nuisance is caused or otherwise at the local government's discretion.

Signature of Applicant Date

Schedule 4
 City of Mandurah
Animals, Environment and Nuisance Local Law 2010
PERMIT TO KEEP BEES

[cl. 2.18(3)]

Given Names:		Family Name:	
Residential Address:			
			Post Code:
Number of bees approved:			
Address at which it is proposed bees are to be kept:			
			Post Code:

Conditions—

- 1.
- 2.
- 3.

This Permit is valid until 30 June 20.....

Signature of Authorised Person Date

Schedule 5

City of Mandurah

Animals, Environment and Nuisance Local Law 2010

PEST PLANTS

[cl.4.17(1)]

Table with 2 columns: Common Name and Scientific Name. Lists pest plants like Black Flag, Brazilian/Japanese Pepper Tree, etc.

Schedule 6

Agriculture and Related Resources Protection Act 1976

City of Mandurah

Animals, Environment and Nuisance Local Law 2010

PEST PLANT NOTICE

[cl.4.18]

No.:
To
of
(Full name)
(Address)

You are hereby given notice under the City of Mandurah Animals, Environment and Nuisance Local Law 2010 that you are required to:

.....
.....
.....

(specify whether required to destroy, eradicate or otherwise control)

the pest plant:
.....
(Common Name) (Scientific Name)

on
(specify the land)

of which you are the Owner/Occupier (delete whichever is not applicable).

This notice may be complied with by:
.....
(specify manner of achieving destruction, eradication or control)

Such measures shall be commenced not later than (date)

and shall be completed by (date)

Upon failure to comply with this notice within the times specified, the local government may destroy, eradicate or control, as the case may be, any specified pest plant at your expense, and if necessary recover the same in a court of competent jurisdiction.

Date of service of notice

Signature of Authorised Person Date

Schedule 7
City of Mandurah
Animals, Environment and Nuisance Local Law 2010

PRESCRIBED OFFENCES

Item No.	Clause	Description	Modified Penalty— First Offence	Modified Penalty— Subsequent Offences
1	2.16	Failure to obtain permit to keep bees	\$125	\$250
2	2.16(3)	Failure to comply with obligation when temporarily keeping bees	\$125	\$250
3	2.19	Failure to comply with a condition of a permit to keep bees	\$125	\$250
4	2.23	Creation of nuisance from keeping of bees or beehives	\$125	\$250
5	2.24	Failure to comply with notice of local government	\$125	\$250
6	2.24	Failure to comply with notice to remove bees or bee hives for contravention of local law	\$125	\$250
7	3.1	Failure to provide or maintain a refuse receptacle on a building or development site	\$250	\$500
8	3.2	Failure to control refuse on a building or development site	\$250	\$500
9	3.3	Unauthorised storage of materials	\$250	\$500
10	3.4	Release or escape of dust or liquid waste from land	\$250	\$500
11	3.8 (1)	Store or allow to remain on land more than one vehicle, vessel or machinery in a state of disrepair	\$250	\$500
12	3.8 (2)	Store or allow to remain on land any vehicle, vessel or machinery in a state of disrepair for a period in excess of 1 month	\$250	\$500
13	3.8 (3)	Store or allow to remain on land any vehicle, vessel or machinery parts (including tyres)	\$250	\$500
14	3.8 (4)(a)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not inside a building	\$250	\$500
15	3.8 (4)(b)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not behind a sufficient fence or wall	\$250	\$500
16	3.8(5)	Wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance	\$250	\$500
17	3.9	Disposing of disused refrigerator or similar container with door/lid that can be fastened without removing the refrigerant, door, lid, lock, catch, hinge and rendering the door/lid incapable of being fastened.	\$250	\$500
18	4.1	Erection or use of lighting installations other than in accordance with requirements	\$250	\$500
19	4.2	Emitting light contravening AS4282	\$250	\$500
20	4.5	Cause of permit the escape of smoke, fumes, odours and other emissions so as to cause a nuisance	\$250	\$500
21	4.6	Parking a livestock vehicle in an urban area or rural townsite in excess of 30 minutes	\$250	\$500

Item No.	Clause	Description	Modified Penalty— First Offence	Modified Penalty— Subsequent Offences
22	4.7	Starting or driving a truck on residential land, or adjoining residential land, without consent	\$250	\$500
23	4.8	Failure to ensure that all rainwater or storm water received by a lot and any building, house or structure on the lot, is contained within the lot	\$250	\$500
24	4.9	Failure to maintain all guttering and down pipes in a good state of repair and free from obstruction	\$250	\$500
25	4.10	Failure to maintain all subsurface stormwater disposal systems in a good state of repair and free from obstruction	\$250	\$500
26	4.11	Failure to contain or dispose of swimming pool wastewater on the lot on which the swimming pool is located	\$250	\$500
27	4.12	Conducting an amusement so as to create a nuisance	\$250	\$500
28	4.14(1)	Unauthorised placement of advertisement, bill posting or junk mail	\$50	\$100
29	4.14(2)	Placement of advertisement, bill posting or junk mail where a “no junk mail”, or equivalent, sign is displayed	\$50	\$100
30	4.16(1)(a)	Feeding a bird causing a nuisance	\$250	\$500
31	4.16(1)(b)	Feeding a bird a food/substance that is not a natural food	\$250	\$500
32	4.18(2)	Failure to comply with Pest Plant Notice	\$50	\$100
33	6.4(1)(b)	Failure to comply with notice	\$250	\$500

Dated this 1st day of March 2011.

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

PATRICIA M. CREEVEY, OAM, Mayor.
MARK R. NEWMAN, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995
BUSH FIRES ACT 1954**

CITY OF MANDURAH

BUSH FIRES BRIGADES LOCAL LAW 2010

ARRANGEMENT

PART 1—PRELIMINARY

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

PART 2—ESTABLISHMENT OF BUSH FIRE BRIGADES

- 2.1 Establishment of a bush fire brigade
- 2.2 Name and officers of bush fire brigade
- 2.3 Ranks within the bush fire brigade
- 2.4 Rules
- 2.5 Existing Bush Fire Brigades
- 2.6 Dissolution of bush fire brigade
- 2.7 New arrangement after dissolution

PART 3—ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES

- 3.1 Local government responsible for structure
- 3.2 Officers to be supplied with Act
- 3.3 Delegation of Authority
- 3.4 Managerial role of Chief Bush Fire Control Officer
- 3.5 Chief Bush Fire Control Officer may attend meetings
- 3.6 Duties of Chief Bush Fire Control Officer
- 3.7 Delegation of duties
- 3.8 Holding of annual general meeting
- 3.9 Nomination of bush fire control officers to Bush Fire Advisory Committee
- 3.10 Minutes to be tabled before the Bush Fire Advisory Committee
- 3.11 Functions of Advisory Committee
- 3.12 Advisory Committee to nominate bush fire control officers
- 3.13 Local government to have regard to nominees
- 3.14 Advisory Committee to consider bush fire brigade motions

PART 4—TYPES OF BUSH FIRE BRIGADE MEMBERSHIP

- 4.1 Types of membership of bush fire brigade
- 4.2 Active fighting members
- 4.3 Auxiliary members
- 4.4 Cadet members
- 4.5 Honorary life member
- 4.6 Notification of membership

PART 5—APPOINTMENT, DISMISSAL AND MANAGEMENT OF MEMBERS

- 5.1 Rules to govern

PART 6—EQUIPMENT OF BUSH FIRE BRIGADES

- 6.1 Policies of local government
- 6.2 Equipment in brigade area
- 6.3 Funding from local government budget
- 6.4 Consideration in the local government budget

SCHEDULE 1—RULES GOVERNING THE OPERATION OF BUSH FIRE BRIGADES**PART 1—PRELIMINARY**

- 1.1 Interpretation

PART 2—OBJECTS AND MEMBERSHIP OF BUSH FIRE BRIGADE

- 2.1 Objects of bush fire brigade
2.2 Committee to determine applications
2.3 Conditions of membership
2.4 Applications for membership
2.5 Decision on application for membership
2.6 Authority to be notified of registrations
2.7 Termination of membership
2.8 Suspension of membership
2.9 Existing liabilities to continue
2.10 Member has right of defence
2.11 Objection Rights

PART 3—FUNCTIONS OF BRIGADE OFFICERS

- 3.1 Chain of command during fire fighting activities
3.2 Bush Fire Control Officer
3.3 Captain
3.4 Brigade Lieutenants
3.5 Secretary
3.6 Treasurer
3.7 Training Officer
3.8 Trainer
3.9 Equipment Officer
3.10 Storage of equipment
3.11 Equipment Officer to report

PART 4—COMMITTEE

- 4.1 Management of bush fire brigade
4.2 Constitution of Committee

PART 5—MEETINGS OF BUSH FIRE BRIGADE

- 5.1 Ordinary meetings
5.2 Special meetings
5.3 Annual general meeting
5.4 Quorum
5.5 Voting

PART 6—MEETINGS OF COMMITTEE

- 6.1 Meetings Of Committee
6.2 Quorum
6.3 Voting

PART 7—GENERAL ADMINISTRATIVE MATTERS

- 7.1 Fees
7.2 Funds
7.3 Financial year
7.4 Banking
7.5 Disclosure of interests
7.6 Disagreements

PART 8—NOTICES AND PROXIES

- 8.1 Notices
8.2 Proxies

APPENDIX I—PROXY VOTE**APPENDIX II—APPLICATION FOR MEMBERSHIP—ACTIVE FIGHTING MEMBER****APPENDIX III—APPLICATION FOR MEMBERSHIP—AUXILIARY MEMBER****APPENDIX IV—APPLICATION FOR MEMBERSHIP—CADET MEMBER**

**LOCAL GOVERNMENT ACT 1995
BUSH FIRES ACT 1954**

CITY OF MANDURAH

BUSH FIRES BRIGADES LOCAL LAW 2010

Under the powers conferred by the *Bush Fires Act 1954*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the *City of Mandurah* resolved on 22 February 2011 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Mandurah Bush Fire Brigades Local Law 2010*.

1.2 Definitions

(1) In this local law unless the context otherwise requires—

Act means the *Bush Fires Act 1954*;

active fighting member is defined in clause 4.2;

Authority means the Fire and Emergency Services Authority of Western Australia established by section 4 of the *Fire and Emergency Services Authority of Western Australia Act 1998*;

brigade area is defined in clause 2.2(1)(b);

brigade member means a active fighting member, auxiliary member or a cadet member of a bush fire brigade;

brigade officer means a person holding a position referred to in clause 2.2 (1)(c), whether or not he or she was appointed by the local government or elected at an annual general meeting of a bush fire brigade or otherwise appointed to the position;

Bush Fire Advisory Committee means the persons appointed to a bush fire advisory committee under and in accordance with section 67 of the Act;

bush fire brigade is defined in section 7 of the Act;

Bush Fire Operating Procedures means the Bush Fire Operating Procedures adopted by the Authority as amended from time to time;

CEO means the Chief Executive Officer of the City of Mandurah;

Council means the Council of the local government;

district means the district of the local government;

local government means the City of Mandurah;

Regulations means Regulations made under the Act; and

Rules means the Rules Governing the Operation of Bush Fire Brigades set out in Schedule 1 as varied from time to time under clause 2.5; and

station means a place to store the plant and equipment of the bush fire brigade.

(2) In this local law, unless the context otherwise requires, a reference to—

- (a) a Captain;
- (b) a First Lieutenant;
- (c) a Second Lieutenant;
- (d) any additional Lieutenants;
- (e) an Equipment Officer;
- (f) a Secretary.
- (g) a Treasurer; or
- (h) a Secretary / Treasurer combined,

means a person holding that position in a bush fire brigade.

1.3 Repeal

Part XVII of the City of Mandurah Consolidated Local Laws relating to Fire Prevention as published in the *Government Gazette* of 13 February 1998 is repealed.

1.4 Application

This local law applies throughout the district.

1.5 Commencement

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

PART 2—ESTABLISHMENT OF BUSH FIRE BRIGADES

Division 1—Establishment of a bush fire brigade

2.1 Establishment of a bush fire brigade

- (1) The local government may establish a bush fire brigade for the purpose of carrying out normal brigade activities.
- (2) A bush fire brigade is established on the date of the local government's decision under subclause (1).

2.2 Name and officers of bush fire brigade

- (1) On establishing a bush fire brigade under clause 2.1(1) the local government is to—
 - (a) give a name to the bush fire brigade;
 - (b) specify the area in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities (the "brigade area"); and
 - (c) appoint—
 - (i) a Captain;
 - (ii) a First Lieutenant;
 - (iii) a Second Lieutenant;
 - (v) additional Lieutenants if the local government considers it necessary;
 - (vi) an Equipment Officer;
 - (vii) a Secretary; and
 - (viii) a Treasurer; or
 - (ix) a Secretary/Treasurer combined.
- (2) When considering the appointment of persons to the positions in subclause (1)(c), the brigade members are to have regard to the qualifications and experience which may be required to fill each position.
- (3) A person appointed to a position in subclause (1)(c) is to be taken to be a brigade member.
- (4) The appointments referred to in subclause (1)(c) expire at the completion of the first annual general meeting of the bush fire brigade.
- (5) If a position referred to in subclause (1)(c) becomes vacant prior to the completion of the first annual general meeting, then the brigade members are to appoint a person to fill the vacancy in accordance with subclause (2) for the remainder of the term.

Division 2—Command at a fire

2.3 Ranks within the bush fire brigade

- (1) Where under the Act and Bush Fire Operating Procedures members of the bush fire brigade have command of a fire, unless a bushfire control officer is in attendance at the fire, the Captain has full control over other persons fighting the fire, and is to issue instructions as to the methods to be adopted by the fire fighters. In the absence of the Captain, the first Lieutenant, and in the absence of the first, the second Lieutenant and so on, in the order of seniority determined, is to exercise all the powers and duties of the Captain.
- (2) Where a bushfire control officer is in attendance at a fire which the members of the bush fire brigade have command of under the Act and the Bush Fire Operating Procedures, the most senior bushfire control officer has full control over all other persons fighting the fire and is to issue instructions as to the methods and tactics to be adopted by the fire fighters including any safety considerations.

Division 3—Application of Rules to a bush fire brigade

2.4 Rules

- (1) The Rules govern the operation of a bush fire brigade.
- (2) A bush fire brigade and each brigade member is to comply with the Rules.

*Division 4—Transitional***2.5 Existing Bush Fire Brigades**

(1) Where a local government has established a bush fire brigade prior to the commencement date, then on and from the commencement day—

- (a) the bush fire brigade is to be taken to be a bush fire brigade established under and in accordance with this local law;
- (b) the provisions of this local law apply to the bush fire brigade save for clause 2.2; and
- (c) any rules governing the operation of the bush fire brigade are to be taken to have been repealed and substituted with the Rules.

(2) In this clause—

commencement day means the day on which this local law comes into operation.

*Division 5—Dissolution of bush fire brigade***2.6 Dissolution of bush fire brigade**

In accordance with section 41(3) of the Act, the local government may cancel the registration of a bush fire brigade if it is of the opinion that the bush fire brigade is not complying with the Act, this local law, the Bush Fire Operating Procedures or the Rules, or is not achieving the objectives for which it was established.

2.7 New arrangement after dissolution

If the local government cancels the registration of a bush fire brigade, alternative fire control arrangements are to be made in respect of the brigade area.

PART 3—ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES*Division 1—Local government responsibility***3.1 Local government responsible for structure**

The local government is to ensure that there is an appropriate structure through which the organisation of bush fire brigades is maintained.

3.2 Officers to be supplied with Act

The local government is to supply each brigade officer with a copy of the Act, the Regulations, the Bush Fire Operating Procedures, this local law and any other written laws which may be relevant to the performance of the brigade officers' functions, and any amendments which are made thereto from time to time.

3.3 Delegation of Authority

The Council may delegate authority to the CEO to ensure that this local law is administered.

*Division 2—Chief Bush Fire Control Officer***3.4 Managerial role of Chief Bush Fire Control Officer**

Subject to any directions by the local government the Chief Bush Fire Control Officer has primary managerial responsibility for the organisation and maintenance of bush fire brigades.

3.5 Chief Bush Fire Control Officer may attend meetings

The Chief Bush Fire Control Officer or her or his nominee (who is to be a bush fire control officer) may attend as a non-voting representative of the local government at any meeting of a bush fire brigade.

3.6 Duties of Chief Bush Fire Control Officer

The duties of the Chief Bush Fire Control Officer include—

- (a) to provide leadership to volunteer bush fire brigades;
- (b) to monitor bush fire brigades' resourcing, equipment (including protective clothing) and training levels and report thereon with recommendations at least once a year to the local government;
- (c) to liaise with the local government concerning fire prevention / suppression matters generally and directions to be issued by the local government to bush fire control officers (including those who issue permits to burn) bush fire brigades or brigade officers;
- (d) to ensure that bush fire brigades are registered with the local government and that lists of brigade members are maintained.

3.7 Delegation of duties

The Chief Bush Fire Control Officer may delegate to the Deputy Chief Bush Fire Control Officer if the Chief Bush Fire Control Officer is unable or unwilling to perform his or her duties as a Chief Bush Fire Control Officer and may delegate all or some of the duties to the Deputy.

*Division 3—Annual general meetings of bush fire brigades***3.8 Holding of annual general meeting**

A bush fire brigade is to hold its annual general meeting on a date during the months of March to May each year.

3.9 Nomination of bush fire control officers to Bush Fire Advisory Committee

At the annual general meeting of a bush fire brigade, one brigade member is to be nominated to the Bush Fire Advisory Committee to serve as the bush fire control officer for the brigade area until the next general meeting.

3.10 Minutes to be tabled before the Bush Fire Advisory Committee

(1) The Secretary is to forward a copy of the minutes of the annual general meeting of a bush fire brigade to the Chief Bush Fire Control Officer within one month after the meeting.

(2) The Chief Bush Fire Control Officer is to table the minutes of a bush fire brigade's annual general meeting at the next meeting of the—

- (a) Bush Fire Advisory Committee; or
- (b) Council, if there is no Bush Fire Advisory Committee,
- (c) following their receipt under subclause (1).

*Division 4—Bush Fire Advisory Committee***3.11 Functions of Advisory Committee**

The Bush Fire Advisory Committee is to have the functions set out in section 67 of the Act and is to include such number of nominees of the bush fire brigades as is determined by the local government.

3.12 Advisory Committee to nominate bush fire control officers

As soon as practicable after the annual general meeting of each bush fire brigade in the district, the Bush Fire Advisory Committee is to nominate to the local government from the persons nominated by each bush fire brigade a person for the position of a bush fire control officer for the brigade area.

3.13 Local government to have regard to nominees

When considering persons for the position of a bush fire control officer, the local government is to have regard to those persons nominated by the Bush Fire Advisory Committee, but is not bound to appoint the persons nominated.

3.14 Advisory Committee to consider bush fire brigade motions

The Bush Fire Advisory Committee is to make recommendations to the local government on all motions received by the Bush Fire Advisory Committee from bush fire brigades.

PART 4—TYPES OF BUSH FIRE BRIGADE MEMBERSHIP**4.1 Types of membership of bush fire brigade**

The membership of a bush fire brigade consists of the following—

- (a) active fighting members;
- (b) auxiliary members;
- (c) cadet members; and
- (d) honorary life members.

4.2 Active fighting members

Active fighting members are those persons being at least 16 years of age who undertake all normal bush fire brigade activities.

4.3 Auxiliary members

Auxiliary members are those persons who are willing to supply free vehicular transport for active fighting members or fire fighting equipment, or who are prepared to render other assistance required by the bush fire brigade.

4.4 Cadet members

Cadet members are—

- (a) to be aged 11 to 15 years;
- (b) to be admitted to membership only with the consent of their parent or guardian;
- (c) admitted for the purpose of training and are not to attend or be in attendance at an uncontrolled fire or other emergency incident;
- (d) to be supervised by a active fighting member when undertaking normal brigade activities as defined by paragraphs (c), (d), (e), (f) and (g) of section 35A of the Act;
- (e) ineligible to vote at bush fire brigade meetings;
- (f) not to be assigned ranks under the Authority's rank structure.

4.5 Honorary life member

- (1) The bush fire brigade may by a simple majority resolution appoint a person as an honorary life member in recognition of services by that person to the bush fire brigade.
- (2) No membership fees are to be payable by an honorary life member.

4.6 Notification of membership

No later than 31 May in each year, the bush fire brigade is to report to the Chief Bush Fire Control Officer the name, contact details and type of membership of each brigade member.

PART 5—APPOINTMENT, DISMISSAL AND MANAGEMENT OF MEMBERS**5.1 Rules to govern**

The appointment, dismissal and management of brigade members by the bush fire brigade are governed by the Rules.

PART 6—EQUIPMENT OF BUSH FIRE BRIGADES**6.1 Policies of local government**

The local government may make policies under which it—

- (a) provides funding to bush fire brigades for the purchase of protective clothing, equipment and appliances; and
- (b) keeps bush fire brigades informed of opportunities for funding from other bodies.

6.2 Equipment in brigade area

Not later than the first week in December each year, the bush fire brigade is to report to the local government the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the brigade area (or at a station of the bush fire brigade).

6.3 Funding from local government budget

A request to the local government from the bush fire brigade for funding of protective clothing, equipment or appliance needs is to be received by the local government by first week in December annually in order to be considered in the next following local government budget, and for inclusion in the local government Emergency Service Levy Capital and operating budget submission to the Authority.

6.4 Consideration in the local government budget

The local government may approve or refuse an application for funding depending upon the assessment of budget priorities for the year in question.

Schedule 1

City of Mandurah

RULES GOVERNING THE OPERATION OF BUSH FIRE BRIGADES**PART 1—PRELIMINARY****1.1 Interpretation**

(1) In these Rules, unless the context otherwise requires, where a term is used in these Rules and is defined in the local law, the Act or the Regulations, then the term is to be taken to have the meaning assigned to it in the local law, the Act or the Regulations, as the case may be.

(2) In these Rules, unless the context otherwise requires—

absolute majority means a majority of more than 50 percent of the number of—

- (a) brigade members of the bush fire brigade, whether in attendance at the meeting or not, if the majority is required at a meeting of the bush fire brigade;

or

- (b) brigade officers of the bush fire brigade, whether in attendance at the meeting or not, if the majority is required at a meeting of the Committee;

Committee means the Committee of the bush fire brigade;

local law means the *City of Mandurah Bush Fire Brigades Local Law 2010*; and

normal brigade activities is defined by section 35A of the Act.

(3) Subject to these Rules, where a decision is to be made by the bush fire brigade, then the decision may be made by a resolution passed by a simple majority of the brigade members who are present in person or by proxy at the meeting.

(4) Subject to these Rules, where a decision is to be made by the Committee, then the decision may be made by a resolution passed by a simple majority of the brigade officers who are present in person or by proxy at the meeting.

PART 2—OBJECTS AND MEMBERSHIP OF BUSH FIRE BRIGADE**2.1 Objects of bush fire brigade**

The objects of the bush fire brigade are to carry out—

- (a) the normal brigade activities; and
- (b) the functions of the bush fire brigade which are specified in the Act, the Regulations and the local law.

2.2 Committee to determine applications

Applications for membership are to be determined by the Committee and are to be consistent with equal employment opportunity principles and in accordance with the local government policies current at the time of determination.

2.3 Conditions of membership

In relation to any type of membership, as described in Part 4 of the local law, the bush fire brigade may establish policies pertaining to—

- (a) the qualifications required;
- (b) a requirement to serve a probationary period;
- (c) procedures to be employed by the Committee prior to approval of an application for membership;

and the Committee is to act within the parameters of any such policy in determining applications for membership.

2.4 Applications for membership

An application for membership is to be in writing and is to be submitted to the Secretary and in the case of—

- (a) an application for active firefighting membership is to be accompanied by a completed form in the form of that in Appendix II.
- (b) an application for auxiliary membership is to be accompanied by a completed form in the form of that in Appendix III.
- (c) an application for cadet membership is to be accompanied by a completed form in the form of that in Appendix IV.

2.5 Decision on application for membership

(1) The Committee may—

- (a) approve an application for membership unconditionally or subject to any conditions; or
- (b) refuse to approve an application for membership.

(2) If the Committee refuses to approve an application for membership, it is to give written reasons for the refusal, as soon as practicable after the decision is made, to the applicant and the advice that the applicant has the right to object to the local government.

2.6 Authority to be notified of registrations

If any application for membership is approved, the Secretary of the bush fire brigade is to supply registration details to the Authority within 14 days of a person being admitted to membership in the form required by the Authority from time to time.

2.7 Termination of membership

Membership of the bush fire brigade terminates if the member—

- (a) dies;
- (b) gives written notice of resignation to the Secretary;
- (c) is, in the opinion of the Committee, permanently incapacitated by mental or physical ill-health; or
- (d) is dismissed by the Committee.

2.8 Suspension of membership

(1) Membership of the bush fire brigade may be suspended at any time if, in the opinion of the Committee, circumstances warrant suspending the member.

(2) The period of suspension shall be at the discretion of the Committee.

(3) Upon the expiry of the period of suspension the Committee may—

- (a) extend the period of suspension;
- (b) terminate the membership; or
- (c) reinstate the membership.

2.9 Existing liabilities to continue

The resignation, or dismissal of a member under clause 2.7 does not affect any liability of the brigade member arising prior to the date of resignation or dismissal.

2.10 Member has right of defence

A brigade member is not to be dismissed under clause 2.7(d) without being given the opportunity to meet with the Committee and answer any allegations which might give grounds for dismissal.

2.11 Objection Rights

A person whose—

- (a) application for membership is refused under clause 2.5(1)(b);
- (b) membership is terminated under clause 2.7(c), clause 2.7(d) or clause 2.8(3)(b); or
- (c) membership is suspended under clause 2.8(1) or clause 2.8(3)(a), has the right of objection to the local government which may dispose of the objection by—
 - (i) dismissing the objection;
 - (ii) varying the decision objected to; or
 - (iii) revoking the decision objected to, with or without—
 - (A) substituting for it another decision; or
 - (B) referring the matter, with or without directions, for another decision by the Committee.

PART 3—FUNCTIONS OF BRIGADE OFFICERS**3.1 Chain of command during fire fighting activities**

Subject to the Act and the local law, the command procedures to apply during fire fighting activities are as detailed in the local government's Bush Fire Operating Procedures.

3.2 Bush Fire Control Officer

A Bush Fire Control Officer (BFCO) is appointed by local government, upon recommendation by the Chief Bush Fire Control Officer, under the Act, and has the following specific functions—

- (a) to issue permits to burn as authorised under the Act within the district;
- (b) inspection of and reporting on fire hazards within the district;
- (c) carry out any duties prescribed under the Act and so authorised by the local government; and
- (d) may take overall charge of fire suppression activities, and/or ensure the principles of the Incident Management System are being adhered to.

3.3 Captain

The Captain is elected by the Brigade and has the following roles—

- (a) subject to paragraph (b) below, the Captain is to preside at all meetings unless the Captain is unable or chooses not to;
- (b) in the circumstances where the Captain is unable or chooses not to be the presiding officer or in the absence of the Captain, the meeting may elect another person to preside at the meeting;
- (c) ensure that the meeting procedures are being followed at all times;
- (d) promote the objectives of the Brigade when, and wherever, the possibility occurs;
- (e) acts as a spokesperson for the Brigade on public relations and other matters, in conjunction with the local government;
- (f) advise the brigade on administrative matters;
- (g) may direct the Brigade activities during wildfire suppression or during hazard reduction burning programs;
- (h) in the absence of the BFCO may take overall charge of fire suppression activities, and/or ensure the principles of the Incident Management System are being adhered to;
- (i) assists the BFCO to prepare reports;
- (j) ensures Brigade members are adequately trained to carry out their functions, in accordance with Standard Operating Procedures and Brigade standards;
- (k) undertakes responsibility for the proper management and maintenance of Brigade property and equipment;
- (l) complete and forward an incident report form in the form required by the Authority to the Chief Bush Fire Control Officer and the Authority within 14 days after attendance by the bush fire brigade at the incident;
- (m) where the bush fire brigade attends an incident on more than 1 day, the incident report form is to be completed and forwarded under clause 3 within 14 days after the last day of attendance; and
- (n) the roles of Captain and BFCO may be combined should the Chief Bush Fire Control Officer wish to have one person carry out both roles.

3.4 Brigade Lieutenants

Lieutenants are elected by the Brigade and have the following roles—

- (a) in the absence of the Captain the most senior Lieutenant present assumes the responsibilities and duties of that office and takes ultimate responsibility for the successful performance of all Brigade activities;

- (b) the Brigade may increase or decrease the number of Lieutenants to meet their specific operational requirements, up a maximum of 4 Lieutenants; and
- (c) all Lieutenants must be ranked in seniority. The Captain and Lieutenants of the Brigade, in consultation with the Chief Bush Fire Control Officer, determine this seniority. In the event that a resolution cannot be found, the Chief Bush Fire Control officer shall have the final determination.

3.5 Secretary

The Secretary is elected by the Brigade and has the following specific functions—

- (a) to organise meetings of the Brigade;
- (b) to answer all correspondence or direct it appropriately, and keep a record of the same;
- (c) to prepare and send out all necessary notices of meetings;
- (d) prepare an agenda for any meeting of the Brigade;
- (e) to disseminate information to Brigade members;
- (f) to receive membership fees, donations and other monies on behalf of the bush fire brigade, and remit them to the Treasurer upon receipt;
- (g) to maintain a register of all current brigade members which includes each brigade member's contact details and type of membership;
- (h) to provide no later than 31 May in each year, a report to the Chief Bush Fire Control Officer detailing the name, contact details and type of membership of each brigade member; and
- (i) to undertake any other functions assigned by the Captain, BFCO or Chief Bush Fire Control Officer.

3.6 Treasurer

The Treasurer is elected by the Brigade and has the following specific functions—

- (a) to receive donations and deposits from the Secretary, and deposit all monies to the credit of the bush fire brigade's bank account;
- (b) to pay accounts as authorised by the Committee;
- (c) to keep a record of all monies received and payments made, maintain the accounts and prepare the balance sheet for each financial year;
- (d) to be the custodian of all monies of the bush fire brigade;
- (e) to prepare financial reports and report on the financial position at meetings of the bush fire brigade or Committee; and
- (f) to undertake any other functions assigned by the Captain, BFCO, or Chief Bush Fire Control Officer.

3.7 Training Officer

The Brigade Training Officer is elected by the Brigade and has the following specific functions—

- (a) to organise regular training sessions within the Brigade; and
- (b) to provide any training related records to the local government.

3.8 Trainer

A Trainer is any suitably qualified Brigade member who has accepted and been appointed by the Brigade to the role. They are responsible to the Brigade Training Officer and have the following specific functions—

- (a) to deliver training to new and existing members; and
- (b) to assist the Brigade Training Officer to conduct regular Brigade training sessions and drills.

3.9 Equipment Officer

The Equipment Officer is elected by the Brigade and is responsible to the Captain for the proper management and maintenance of all Brigade property and equipment. The Equipment Officer has the following specific functions—

- (a) arrange and carry out monthly checks and maintenance on all Council's fire fighting equipment vested in their respective Brigade;
- (b) report any missing or faulty equipment as required by Brigade policy;
- (c) maintain and keep the equipment storage area neat and tidy; and
- (d) undertake any other function assigned by the Captain or Chief Bush Fire Control Officer.

3.10 Storage of equipment

(1) The Equipment Officer may store all of the equipment of the bush fire brigade at a place approved by the Captain at the Station.

(2) If there is to be more than one station in the brigade area, the Equipment Officer is to appoint in respect of each station a person who is responsible for the custody and maintenance in good order and condition of all equipment and appliances at the station, subject to any direction of the Equipment Officer.

3.11 Equipment Officer to report

The Equipment Officer is to provide, no later than the first week in December of each year, a report to the local government and bush fire captain describing the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the bush fire brigade area or at a station of the bush fire brigade.

PART 4—COMMITTEE

4.1 Management of bush fire brigade

(1) Subject to the provisions of these Rules, the administration and management of the affairs of the bush fire brigade are vested in the Committee.

(2) Without limiting the generality of subclause (1), the Committee is to have the following functions—

- (a) to recommend to the local government amendments to these Rules;
- (b) to draft the annual financial requirements for the bush fire brigade for the local governments consideration and present it at the annual general meeting of the bush fire brigade;
- (c) to propose a motion for consideration at any meeting of the bush fire brigade;
- (d) to recommend to the local government equipment which needs to be supplied by the local government to the bush fire brigade by the first week in December annually;
- (e) to delegate to a person, as from time to time thought fit, any functions (being less than the total functions of the Committee) on any conditions it thinks fit;
- (f) to do all things necessary or convenient in order to perform any of its functions and to secure the performance of the normal brigade activities by the bush fire brigade; and
- (g) deal with membership applications, grievances, disputes and disciplinary matters.

4.2 Constitution of Committee

(1) The Committee of the bush fire brigade is to consist of the brigade officers being the Captain, Secretary, Treasurer, Equipment Officer and the first Lieutenant of the bush fire brigade.

(2) The brigade officers are to—

- (a) be elected at the annual general meeting of the bush fire brigade;
- (b) hold office until the next annual general meeting; and
- (c) be eligible for re-election at the next annual general meeting.

(3) Any brigade officer may be removed from office by an absolute majority decision of the brigade members present in person or by proxy at a special meeting called for such a purpose.

(4) The Committee may appoint a brigade member to fill a vacancy in any office arising from a resolution under subclause (3) or which has arisen for any other reason.

PART 5—MEETINGS OF BUSH FIRE BRIGADE

5.1 Ordinary meetings

(1) Ordinary meetings may be called at any time by the Secretary by giving at least 7 days notice to all brigade members and to the Chief Bush Fire Control Officer, for the purpose of—

- (a) organising and checking equipment;
- (b) requisitioning new or replacement equipment;
- (c) organising field excursions, training sessions, hazard reduction programs, and the preparation of fire-breaks;
- (d) establishing new procedures in respect of any of the normal brigade activities; and
- (e) dealing with any general or urgent business.

(2) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.

(3) Business may be conducted at an ordinary meeting of the bush fire brigade notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.

5.2 Special meetings

(1) The Secretary is to call a special meeting when 5 or more brigade members request a meeting in writing.

(2) At least 2 days notice of a special meeting is to be given by the Secretary, to all brigade members and to the Chief Bush Fire Control Officer.

(3) In a notice given under subclause (2) the Secretary is to specify the business which is to be conducted at the meeting.

(4) No business is to be conducted at a special meeting beyond that specified in a notice given under subclause (2) in relation to that meeting.

5.3 Annual general meeting

(1) At least 7 days notice of the annual general meeting is to be given by the Secretary to all brigade members and to the Chief Bush Fire Control Officer.

- (2) At the annual general meeting the bush fire brigade is to—
- (a) elect the brigade officers from among the brigade members;
 - (b) consider the Captain's report on the year's activities;
 - (c) adopt the annual financial statements;
 - (d) deal with any general business; and
 - (e) make recommendations to the Bush Fire Advisory Committee on the appointment of a Bush Fire Control Officer for their brigade for the following year.
- (3) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.
- (4) Business may be conducted at an annual general meeting notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.

5.4 Quorum

- (1) The quorum for a meeting of the bush fire brigade will be at least 50 percent of the number of members of the bush fire brigade.
- (2) No business is to be transacted at a meeting of the bush fire brigade unless a quorum of brigade members is present in person or by proxy.

5.5 Voting

Each brigade member is to have 1 vote, however in the event of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

PART 6—MEETINGS OF COMMITTEE

6.1 Meetings Of Committee

- (1) The Committee is to meet for the purpose of dealing with business arising, adjourn and otherwise regulate its meeting as it thinks fit.
- (2) The Captain or Secretary may convene a meeting of the Committee at any time.

6.2 Quorum

No business is to be transacted at a meeting of the Committee unless a quorum of 50 percent of Committee members are present in person.

6.3 Voting

Each brigade officer is to have 1 vote, however in the case of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

PART 7—GENERAL ADMINISTRATIVE MATTERS

7.1 Fees

- (1) The membership fees, if any, for each type of member for the ensuing 12 months are to be determined by the bush fire brigade at the annual general meeting.
- (2) Subject to subclause (3), a member is to pay the membership fees for her or his type of membership on or before 1 May.
- (3) The bush fire brigade may exempt a brigade member, or a class of membership, from the payment of membership fees, for such period and on such conditions as the bush fire brigade may determine.

7.2 Funds

The funds of the bush fire brigade are to be used solely for the purpose of promoting the objects of the bush fire brigade.

7.3 Financial year

The financial year of the bush fire brigade is to commence on 1 July and is to end on 30 June of the following year.

7.4 Banking

- (1) The funds of the bush fire brigade are to be placed in a bank account and are to be drawn on only by cheques signed jointly by any 2 of the Captain, Secretary or Treasurer.
- (2) If the Secretary/Treasurer is a combined position, the Captain and Secretary/Treasurer are to sign the cheques referred to in subclause (1).

7.5 Disclosure of interests

- (1) A brigade member shall disclose to the bush fire brigade or Committee any financial interest (whether direct or indirect) he or she may have in any matter being considered by the bush fire brigade or Committee, as appropriate.
- (2) If a financial interest has been disclosed under subclause (1), then the bush fire brigade or Committee, as appropriate, is to decide, in the absence of the brigade member who disclosed that interest, whether or not the brigade member is to be permitted to vote on that matter.
- (3) Where the bush fire brigade or Committee, as appropriate, decides under subclause (2), that a brigade member is not to be permitted to vote on a matter, that brigade member must leave the meeting room prior to that matter being discussed.

7.6 Disagreements

- (1) Any disagreement between brigade members may be referred to either the Captain or to the Committee.
- (2) Where a disagreement in subclause (1) is considered by the Captain or the Committee to be of importance to the interests of the bush fire brigade, then the Captain or the Committee, as the case may be, is to refer the disagreement to the annual general meeting, an ordinary meeting or a special meeting of the bush fire brigade.
- (3) The local government is the final authority on matters affecting the bush fire brigade, and may resolve any disagreement which is not resolved under subclause (1) or (2).

PART 8—NOTICES AND PROXIES

8.1 Notices

- (1) Notices of meetings of the bush fire brigade are to be in writing and sent by ordinary post to the registered address of each brigade member.
- (2) Notices of meetings of the Committee may be given in writing in accordance with subclause (1) or by such other means as the Committee may decide (by an absolute majority) at a meeting of the Committee.
- (3) Any accidental omission to give notice of a meeting to, or non-receipt by a person entitled to receive such notice, is not to invalidate the meeting the subject of the notice or any resolutions passed at that meeting.
- (4) Where any notice other than a notice of meeting is to be given under these Rules, the notice is to be—
 - (a) in writing;
 - (b) unless otherwise specified, given to or by the Secretary;
 - (c) by—
 - (i) personal delivery;
 - (ii) post; or
 - (iii) facsimile transmission;
 - (d) taken to have been received, as the case may be—
 - (i) at the time of personal delivery;
 - (ii) 2 business days after posting; or
 - (iii) on the printing of the sender’s transmission report.

8.2 Proxies

- (1) Where under these Rules a brigade member may vote by proxy, in order for the proxy to vote, the brigade member or the proxy shall give a notice in the form of that appearing at Appendix I, to the Secretary or the person presiding at the meeting before the start of the meeting at which the proxy is to be used.
- (2) A proxy is to be valid for the meeting for which it is given and for any adjournments of that meeting.
- (3) A proxy shall be valid for the number of votes to which the brigade member is entitled.
- (4) If the donor of the proxy does not give any indication of the manner in which the proxy is to vote, the proxy shall be entitled to vote or not vote as he or she thinks fit.
- (5) A proxy shall be entitled to speak on behalf of the donor of the proxy.
- (6) All forms appointing proxies deposited under subclause (1) are to be retained by the Secretary for not less than 28 days after the conclusion of the meeting to which they relate but if there is any objection to the validity of any vote at the meeting, they are to be retained until the determination of that objection.

**Appendix I
PROXY VOTE**

**Southern Districts Volunteer Bush Fire Brigade
[ANNUAL] [EXTRAORDINARY] GENERAL MEETING
TO BE HELD ON [DATE]**

I,, being a brigade member appoint to be my proxy and vote on my behalf at the meeting of the bush fire brigade to be held on [insert date] and at any adjournment of it. The proxy shall vote as follows—

MOTION	FOR	AGAINST	ABSTAIN
1.			
2.			

If there is no instruction to the proxy as to the way to vote, the proxy shall exercise her or his discretion as to how to vote or whether to vote at all. In respect of any vote taken at the meeting on a matter which does not appear on the agenda, the proxy shall exercise her or his discretion as to the way he or she casts the vote or whether it is cast at all.

Date:

Signed:

NOTE: To be valid, this proxy must be completed and returned to the Secretary of the bush fire brigade (or the presiding member) prior to the commencement of the meeting for which the proxy is valid.

Dated 20.....

Appendix II

APPLICATION FOR MEMBERSHIP—ACTIVE FIGHTING MEMBER

I make application to be an active fighting member of the Bush Fire Brigade.

Applicant's Name:

My private address is:

My business address is:

Usual Occupation

I can be contacted on:

Telephone No: (Home) (Work) Mobile

Fax No: (Home) (Work)

CB Radio Channel Call Sign

If needed, I can provide my own transport to the scene of any outbreak. (This line to be struck out if not applicable)

I hold a current driver's licence No. Classes

I declare that I am at least 16 years of age and in good health with no known medical conditions which might limit my capacity to fight fires.

I give these undertakings—

- (1) to promote the objects of the bush fire brigade as far as is in my power;
- (2) to be governed by the provisions of the *Bush Fires Act 1954* and the Regulations made under that Act, and the local law and policies of the *City of Mandurah* relevant to fire control and bush fire brigades;
- (3) to use my best endeavours to give assistance in fire fighting measures when called upon and on such occasions to obey all orders and instructions issued by duly authorized officers of the bush fire brigade or the local government;
- (4) to comply with the Rules of the bush fire brigade.

Date Applicant's signature

Please list here any fire fighting equipment owned by you—

- 1.
- 2.
- 3.

BUSH FIRE BRIGADE USE ONLY:

APPROVED / DECLINED

Signed: Brigade Captain

Appendix III

APPLICATION FOR MEMBERSHIP—AUXILIARY MEMBER

I make application to be an auxiliary member of the Bush Fire Brigade.

(a) I am prepared to offer to transport active fighting members and/or equipment to the scene of any outbreak when called upon. I have a motor vehicle of the following type available for such purpose.

MDL No: Classes:

(b) I am prepared to offer my services in the following capacity—

.....
.....

(paragraph (a) or (b) above may be struck out if not applicable)

Applicant's Name:

My private address is:

.....

My business address is:

.....

I can be contacted on:

Telephone No: (Home) (Work) Mobile

Fax No: (Home) (Work)

CB Radio Channel Call Sign

I give these undertakings—

- (1) to promote the objects of the bush fire brigade as far as is in my power;
- (2) to be governed by the provisions of the *Bush Fires Act 1954* and any Regulations made under the Act and the local law and policies of the *City of Mandurah* relevant to fire control and bush fire brigades;
- (3) to use my best endeavours to assist in normal bush fire brigade activities as an associate member when called upon; and
- (4) to comply with the Rules of the bush fire brigade.

Date Applicant's signature

<p>BUSH FIRE BRIGADE USE ONLY:</p> <p style="text-align: center;">APPROVED / DECLINED</p> <p>Signed: Brigade Captain</p>
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Appendix IV

APPLICATION FOR MEMBERSHIP—CADET MEMBER

I make application to be a cadet member of the Bush Fire Brigade.

Applicant's Name:

My private address is:

.....

I can be contacted on:

Telephone No: (Home) (Work) Mobile

Fax No: (Home) (Work)

CB Radio Channel Call Sign

I declare that I am years of age and in good health.

Date of Birth:

I give these undertakings—

- (1) to promote the objects of the bush fire brigade as far as is in my power;
- (2) to be governed by the provisions of the *Bush Fires Act 1954* and the Regulations made under that Act, and the local law and policies of the *City of Mandurah* relevant to the activities of cadet members;
- (3) to obey all orders and instructions issued by duly authorized officers of the bush fire brigade or the local government;
- (4) to comply with the Rules of the bush fire brigade.

Date Applicant's signature

PARENT / GUARDIAN CONSENT—

I being the parent/guardian of the above applicant, consent to him/her being a cadet member of the Bush Fire Brigade, in accordance with the rules applicable to cadet membership.

Signed:

<p>BUSH FIRE BRIGADE USE ONLY:</p> <p style="text-align: center;">APPROVED / DECLINED</p> <p>Signed: Brigade Captain</p>
--

Dated this 1st day of March 2011.

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

PATRICIA M. CREEVEY, OAM, Mayor.
MARK R. NEWMAN, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

CITY OF MANDURAH

DOGS LOCAL LAW 2010

ARRANGEMENT

PART 1—PRELIMINARY

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

PART 2—IMPOUNDING OF DOGS

- 2.1 Charges and costs
- 2.2 Attendance of pound keeper at pound
- 2.3 Release of impounded dog
- 2.4 Unauthorised entry into or destruction of pound

PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

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

PART 4—APPROVED KENNEL ESTABLISHMENTS

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

PART 5—DOGS IN PUBLIC PLACES

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

PART 6—MISCELLANEOUS

- 6.1 Fouling thoroughfares and Public Places

PART 7—ENFORCEMENT

- 7.1 Definitions
- 7.2 Modified penalties
- 7.3 Prosecution for Offences
- 7.4 Issue of infringement notice
- 7.5 Failure to pay modified penalty
- 7.6 Payment of modified penalty
- 7.7 Withdrawal of infringement notice
- 7.8 Service

SCHEDULE 1—Application for a Licence for an Approved Kennel Establishment

SCHEDULE 2—Beach Areas where Dogs are Prohibited

SCHEDULE 3—Reserves where Dogs are Prohibited

SCHEDULE 4—Beach Areas where Dogs may be Exercised

SCHEDULE 5—Reserves where Dogs may be Exercised

SCHEDULE 6—Offences in Respect of which Modified Penalty Applies

**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

CITY OF MANDURAH

DOGS LOCAL LAW 2010

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the *City of Mandurah* resolved on 22 February 2011 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Mandurah Dogs Local Law 2010*.

1.2 Definitions

In this local law unless the context otherwise requires—

Act means the *Dog Act 1976*;

authorised person means a person appointed by the local government, under section 9.10 of the *Local Government Act 1995* to perform all or any of the functions conferred on an authorised person under this local law;

CEO means the Chief Executive Officer of the local government;

dangerous dog means a dog which is the subject of a declaration under section 33E of the Act declaring it to be a dangerous dog;

district means the district of the local government;

local government means the City of Mandurah;

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

Regulations means the *Dog Regulations 1976*;

thoroughfare has the meaning given to it in section 1.4 of the *Local Government Act 1995*; and

town planning scheme means a town planning scheme made by the local government under the *Planning and Development Act 2005* which applies throughout the whole or a part of the district.

1.3 Repeal

Part VI of *City of Mandurah Consolidated Local Laws* relating to dogs as published in the *Government Gazette* of 13 February 1998 is repealed.

1.4 Application

This local law applies throughout the district.

1.5 Commencement

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

PART 2—IMPOUNDING OF DOGS

2.1 Charges and costs

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

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

2.2 Attendance of pound keeper at pound

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

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 Chief Executive Officer.

(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, 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 Unauthorised entry into or destruction of pound

A person who—

- (a) unless he or she is the pound keeper or a person authorised 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 ineffective—
 - (i) any pound; or
 - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog,commits an offence.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1000.

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) 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;
- (b) 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;
- (c) maintain the fence and all gates and doors in the fence in good order and condition; and
- (d) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.

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

(3) (a) The local government may serve a written direction to the owner of any dog to provide suitable enclosure on the property where the dog is normally kept if in the opinion of the local government the dog is not adequately prevented from escaping from the property.

- (b) Any person receiving a lawful direction pursuant to subclause (a) shall comply with the direction within 14 days of its service.

Penalty: Where the dog kept is a dangerous dog, \$2,000; otherwise \$1,000

3.2 Limitation on the number of dogs

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

- (a) licensed under Part 4 as an approved kennel establishment; or
- (b) granted an exemption under section 26(3) of the Act.

(2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act, 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite.

(3) Where a person fails to comply with subclause (2), he or she commits an offence.

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

PART 4—APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part—

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

licensee means the holder of a licence;

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

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

4.2 Application for licence for approved kennel establishment

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

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;
- (c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government;
- (e) the fee for the application for a licence referred to in clause 4.10(1);
- (f) a report of a suitably qualified acoustic consultant verifying that the various plant, equipment and operational noise levels will comply with the requirements of the *Environmental protections (Noise) Regulations 1997*; and
- (g) such other information as the local government requires.

4.3 Notice of proposed use

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

- (a) once in a newspaper circulating in the district; and
 - (b) to the owners and occupiers within a 200-metre boundary of all land upon which it is proposed to establish the kennel.
- (2) The notices in subclause (1) must specify that—
- (a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
 - (b) the application and plans and specifications may be inspected at the offices of the local government.
- (3) Where—
- (a) the notices given under subclause (1) do not clearly identify the premises; or
 - (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises,

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

4.4 Exemption from notice requirements

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

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

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

4.5 When application can be determined

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

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

4.6 Determination of application

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

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

4.7 Where application cannot be approved

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

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

4.8 Conditions of approval

The local government may approve an application for a licence subject to such conditions as the local government considers appropriate.

4.9 Compliance with conditions of approval

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

Penalty: \$1,000 and a daily penalty of \$100.

4.10 Fees

- (1) On lodging an application for a licence, the applicant is to pay a fee to the local government.
- (2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.
- (4) The fees referred to in subclauses (1) to (3) are to be determined and imposed by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

4.11 Form of licence

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

4.12 Period of licence

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the fee referred to in clause 4.10(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

4.13 Variation or cancellation of licence

- (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence—
 - (a) on the request of the licensee;
 - (b) following a breach of the Act, the Regulations, this local law or any conditions of the licence; or
 - (c) if the licensee is not a fit and proper person.
- (3) The date a licence is cancelled is to be, in the case of—
 - (a) paragraph (a) of subclause (2), the date requested by the licensee; or;
 - (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.
- (4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.14 Transfer

- (1) An application for the transfer of a valid licence from the licensee to another person must be—
 - (a) made in the form determined by the local government;
 - (b) made by the transferee;
 - (c) made with the written consent of the licensee; and
 - (d) lodged with the local government together with—
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.10(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.15 Notification

The local government is to give written notice to—

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

4.16 Inspection of kennel

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

PART 5—DOGS IN PUBLIC PLACES**5.1 Places where dogs are prohibited absolutely**

(1) Subject to section 8 of the Act and section 66J of the *Equal Opportunity Act 1984* dogs are prohibited absolutely from entering or being in any of the following places—

- (a) a construction, building or demolition site, unless tethered or otherwise constrained within the site;
- (b) all premises or vehicles classified as food premises or food vehicles under the *Health (Food Hygiene) Regulations 1993*;
- (c) an area set aside by a wall, fence, sandpit or other soft fall surface as a children's playground;
- (d) an area within the high-water mark, bed or water body of a lake, pond, river, creek, stream or water channel on local government property;
- (e) a public building, unless permitted by a sign;
- (f) a public swimming pool;
- (g) a public toilet block or changing room;
- (h) a theatre or picture garden; and
- (i) the following beaches and reserves—
 - (i) the beaches described in schedule 2; and
 - (ii) the reserves described in schedule 3.

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

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

5.2 Places which are dog exercise areas

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

- (a) The beaches described in schedule 4; and
- (b) The reserves described in schedule 5.

(2) Subclause (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; or
- (c) a car park.

PART 6—MISCELLANEOUS**6.1 Fouling thoroughfares and Public Places**

Any person liable for the control of a dog which excretes on any thoroughfare or public place or on private property within the district without the consent of the occupiers, commits an offence unless the excreta is removed immediately and disposed of—

- (a) on private land with the consent of the occupier; or
- (b) in a receptacle provided by the local government for that purpose.

Penalty: \$200.

PART 7—ENFORCEMENT

7.1 Definitions

In this Part—

infringement notice means the notice referred to in clause 7.4; and

notice of withdrawal means the notice referred to in clause 7.7(1).

7.2 Modified penalties

(1) The offences contained in Schedule 6 are offences in relation to which a modified penalty may be imposed.

(2) The amount appearing in the third column of Schedule 6 directly opposite an offence is the modified penalty payable in respect of that offence if—

(a) the dog is not a dangerous dog; or

(b) the dog is a dangerous dog, but an amount does not appear in the fourth column directly opposite that offence.

(3) The amount appearing in the fourth column of Schedule 6 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

7.3 Prosecution for Offences

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

7.4 Issue of infringement notice

Where an authorised 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.

7.5 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.

7.6 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.

7.7 Withdrawal of infringement notice

(1) Whether or not the modified penalty has been paid, an authorised 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 authorised to issue an infringement notice under clause 7.4 cannot sign or send a notice of withdrawal.

7.8 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

Dog Act 1976

City of Mandurah

Dogs Local Law 2010

APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

[clause 4.2]

I/we (full name)

of (postal address)

(telephone number)

(facsimile number)

(e-mail address)

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

.....

.....

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

Attached are—

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

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

Signature of applicant

Date

* delete where inapplicable.

Note: a licence if issued will have effect for a period of 12 months—section 27.5 of the *Dog Act 1976*.

OFFICE USE ONLY

Application fee paid on [insert date].

Schedule 2

Dog Act 1976

City of Mandurah

Dogs Local Law 2010

BEACH AREAS WHERE DOGS ARE PROHIBITED

[clause 5.1 (1)(e)(i)]

The beach area between—

- (a) the western prolongation of Avoca Place south to western prolongation of Madora Beach Road, Madora Bay;
- (b) the western prolongation of Ajax Place south to the western prolongation of Acheron Road, San Remo;
- (c) the western prolongation of Petina Court south to the north western prolongation of Wade Street, San Remo;
- (d) the north western prolongation of Adonis Street south to the north western prolongation of Henson Street, Silver Sands;
- (e) the northern prolongation of the eastern end of Town Beach car park west to the sea wall;
- (f) the north eastern prolongation of Janis Street south to the north eastern prolongation of Sharland Street, Halls Head;
- (g) the north western prolongation of Valley Road to beach access adjacent south to the western prolongation of Lot 565 Halls Head Parade, Halls Head;
- (h) the northern prolongation of Mercedes Avenue west to the western prolongation of Panamuna Drive, Falcon;
- (i) Avalon Beach, the western prolongation of Yeedong Road boat ramp south to the western prolongation of Burna Street, Falcon;
- (j) the north western prolongation of the pedestrian access track off Reserve 46606 (Westview Parade car park) north east 250 metres to the pedestrian access track leading from Avalon Place, Wannanup;
- (k) the western prolongation of northern end of Hunter St car park south to the western prolongation of Lot 66 Florida Parade; and

- (l) western prolongation of the northern boundary of the Melros Beach car park south to the western prolongation of the pedestrian beach access path adjacent to Lot 328 Oceanic Drive, Melros.

Schedule 3

Dog Act 1976

City of Mandurah

Dogs Local Law 2010

RESERVES WHERE DOGS ARE PROHIBITED

[clause 5.1 (1)(e)(ii)]

- (1) Northern end of Peelwood Oval (main stadium) portion of Reserve no. 38615 bounded by Peelwood Parade, Old Coast Road and Mahogany Drive, Halls Head.
- (2) Rushton Park (main oval/stadium) portion of Reserve no. 19312.
- (3) Area commonly known as Bird Sanctuary Reserve no. 32836, south east end of John St, Coodanup.
- (4) The island on Yindana Lake Reserve no. 48495, bounded by Yindana Boulevard and Nullewa Parkway Lakelands.
- (5) Caterpillar Park playground enclosure, portion of Milgar Reserve No. 34267, bounded by Milgar Street, Park Rd and Reserve Drive, Mandurah.

Schedule 4

Dog Act 1976

City of Mandurah

Dogs Local Law 2010

BEACH AREAS WHERE DOGS MAY BE EXERCISED

[clause 5.2 (1)(a)]

The beach area between—

- (a) The western prolongation of the northern boundary of the district to south to the western prolongation of Avoca Place, Madora;
- (b) The western prolongation of the southern boundary of Parmelia Way, Madora south to the western prolongation of Ajax Place, San Remo;
- (c) The western prolongation of Acheron Street south to the western prolongation of the beach access path located adjacent to Lot 72 Ronsard Drive, San Remo;
- (d) The western prolongation from the southern beach access pathway of the car park located at the intersection of Ronsard Drive/Watersun Parade south to the western prolongation to Petina Court, San Remo;
- (e) The north western prolongation of Wade Street south west to the north western prolongation of Priam Road, Silversands;
- (f) The north western prolongation of Henson Street south west to the north western prolongation of Stewart Street, Mandurah;
- (g) The western extremities of the rock groyne at the Peel Inlet entrance which forms part of Reserve 31499 west to the north eastern prolongation of Janis St, Halls Head;
- (h) The north eastern prolongation of Sharland Street south west to the western prolongation of Valley Road, Halls Head;
- (i) The western prolongation of the pedestrian beach access pathway adjacent to Lot 565 Halls Head Parade southerly to the western prolongation of the pedestrian beach access pathway adjacent to lots 1670 and 1671 Caravel Way, Halls Head;
- (j) The north western prolongation of the pedestrian beach access pathway adjacent to the public toilet located on part of reserve 27051, commonly known as the Calypso beach toilet block southerly to the north western prolongation of the southern end of Gretel Drive, Falcon;
- (k) The north western prolongation of Rowena Street south to the northern prolongation of Mercedes Avenue, Falcon;
- (l) The northern prolongation of the western end of Falcon Bay car park south to the western prolongation of Yeedong Rd boat ramp, Falcon;
- (m) The north western prolongation of the pedestrian access track off Reserve 46606 (Westview Parade car park) southerly to the Dawesville Cut, Wannanup;
- (n) The south western prolongation of the southern end of Pyramids Beach car park south to the north western prolongation of the northern end of Hunter St car park, Florida;
- (o) The western prolongation of the beach access at Lot 66 Florida Parade south to the western prolongation of Edwards Street, Melros; and

- (p) The western prolongation of the beach access path adjacent to Lot 328 Oceanic Drive, Melros south to the southern boundary of the district.

Schedule 5

Dog Act 1976

City of Mandurah

Dogs Local Law 2010

RESERVES WHERE DOGS MAY BE EXERCISED

[clause 5.2 (1)(b)]

- (1) Reserve No. 48023 excluding recreational area, bounded by Lord Hobart Drive, George Hibbert Drive, Challenger Road and Hope Gardens, Madora Bay.
 - (2) Reserve No. 47852 “Karinga Reserve” bounded by Karinga Road and Guillardon Terrace, San Remo.
 - (3) Reserve No. 27810 bounded by Mandurah Terrace, Silver Sands, excluding the area fenced and set aside as a children’s Playground.
 - (4) Reserve No. 49411 Vivaldi Drive, Mandurah.
 - (5) Rigel Reserve No. 24709 bounded by Rigel Rd, Cygni Street and Adana St, Dudley Park.
 - (6) Roy Tuckey Reserve No. 37885 bounded by Balranald, Manildra Drive and Mandurah Road, Dudley Park.
 - (7) Koolyanga Reserve No. 43839 bounded by Koolyanga Rd, Greenfields.
 - (8) Reserve No. 28458 and 28243 bounded by Dampier Avenue, Novara.
 - (9) Reserve No. 32836 “Coodanup Foreshore” bounded by Peel Parade, between the southern prolongation of Beacham Street east to the southern prolongation of William Road, Nairns.
 - (10) Reserve No. 40075 Leslie Street Reserve bounded by Leslie Street, Waterside Drive and Mandurah Road, Dudley Park.
 - (11) Reserve No. 39886 and 39890 Waterside Drive, beginning 50m north of BBQ area to northern point of reserve, Dudley Park.
 - (12) Reserves No. 27810 and 37290 and 37279 and 35461—western side of Mandurah Terrace from Adonis Street to Watersun Drive, Silver Sands.
 - (13) Reserve No. 37529—Amazon Drive Reserve (abutting the Bypass Road) excluding the playground equipment area which is a prohibited dog area.
 - (14) Joseph Cooper Reserve No. 41925 bounded by Mary Street, Dalrymple Tce, McLarty Road and Leighton Road, Halls Head.
 - (15) Janis Street Reserve No. 32109 bounded by Janis Street, Clipper Way, McLarty Road and Wilkins Street, Halls Head.
 - (16) Lot No. 1878 of Reserve No. 27051 bounded by Calypso Street and McLarty Road, Halls Head, excluding the car park, toilet and picnic area of the reserve, which is to be a dog on lead area.
 - (17) Reserve No. 44657—Wilderness Drive, Dawesville.
 - (18) Portion of Reserve No. 36027—Estuary Road Foreshore Reserve—from the western side of the existing dual use path on Estuary Road, Dawesville to the estuary foreshore as of the northern commencement of Estuary Road, south to the southern prolongation of Iluka Street, Dawesville. Then to recommence again within the Reserve from the southern prolongation of Loton Road Dawesville south, to the commencement of Warragup Springs picnic area off Estuary Road, Dawesville.
 - (19) The southern and centre ovals of Peelwood Ovals, portion of Reserve No. 38615 bounded by Old Coast Road, Peelwood Parade, Mahogany Drive and Fuschis Place, Halls Head.
 - (20) Lot 500 Dower Street commonly known as Rushton Park North.
 - (21) Hall Park Reserve No. 2758 (excludes War Memorial site Reserve No. 42921), bounded by Leighton Place and Mary Street, Halls Head.
 - (22) Bortolo Oval Reserve No. 77593 and 41978 bounded by Bortolo Drive, Lowden Street, Murdoch Drive and Waldron Boulevard, Greenfields.
 - (23) Merlin Oval Reserve No. 27874 bounded by Merlin Street and Old Coast Road, Falcon and Karon Vista, Halls Head.
 - (24) Falcon Oval Reserve No. 32501 bounded by Lynda Street, Melita Street, Flame Street and Cobblers Street, Falcon.
 - (25) Reserve No. 47709 bounded by Baloo Crescent and Beachview Court, Wannanup.
 - (26) Reserve No. 48366 bounded by Oakmont Avenue, Meadow Springs.
-

Schedule 6

Dog Act 1976

*City of Mandurah***Dogs Local Law 2010****OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES**

[clause 7.2]

Offence	Nature of offence	Modified penalty	Dangerous Dog Modified Penalty
2.4(a)	Attempting to or causing the unauthorised release of a dog from a pound	\$200	\$400
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	\$200
3.2(2)	Keeping more than 2 dogs without approval	\$100	\$200
4.9	Failing to comply with the conditions of a licence	\$200	
5.1(1)(a)	Dog not tethered on building site	\$100	
5.1(2)	Dog in place from which prohibited absolutely	\$200	\$400
6.1	Dog excreting in prohibited place	\$100	

Dated this 1st day of March 2011.

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

PATRICIA M. CREEVEY, OAM, Mayor.
MARK R. NEWMAN, Chief Executive Officer.
