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LOCAL GOVERNMENT ACT 1995

CITY OF BUSSELTON

**BUSSELTON REGIONAL
AIRPORT LOCAL LAW 2012**

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SCHEDULE 1—PRESCRIBED OFFENCES

LOCAL GOVERNMENT ACT 1995

CITY OF BUSSELTON

BUSSELTON REGIONAL AIRPORT LOCAL LAW 2012

Under the powers conferred by the *Local Government Act 1995* and under all other enabling powers, the Council of the City of Busselton resolved on 25 January 2012 to make this local law.

PART 1—PRELIMINARY

1.1 Citation

This is the *Busselton Regional Airport Local Law 2012*.

1.2 Commencement

This local law commences on the 14th day after the day on which it is published in the *Government Gazette*.

1.3 Application

This local law applies to and in respect of the Airport Land.

1.4 Definitions

In this local law—

Act means the *Local Government Act 1995*;

Air Navigation Laws means the *Air Navigation Act 1920* (Commonwealth), the *Air Navigation Regulations* (Commonwealth), the *Air Navigation Act 1937* (WA) and other laws relating to air navigation;

aircraft means any machine or craft that can derive support in the atmosphere from the reactions of the air;

Airport means the Busselton Regional Airport;

Airport Land means the land, within the district, on which the Airport is located;

Airport Manager means the person employed or engaged by the City to control and manage the Airport;

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

CEO means the Chief Executive Officer of the City;

City means the City of Busselton;

Council means the council of the City;

district means the district of the City;

Local Government Property Local Law means the City's *Local Government Property Local Law 2010*, published in the *Government Gazette* on 9 March 2010;

movement, in relation to an aircraft, includes any action involving, or in relation to, the take-off or landing of an aircraft;

owner, in relation to an aircraft, includes a lessee, charterer and person for the time being in the possession or control of the aircraft;

permit means a permit under the Local Government Property Local Law;

permit holder means the holder of a permit;

prohibited chemical means any one or more of the following chemicals—

- (a) Dieldrin;
- (b) Aldrin;
- (c) Chlordane;
- (d) MCPA;
- (e) 2,4-D;
- (f) 2,4-DB;
- (g) 2,4,5-T;

- (h) Dicamba;
- (i) Fenoprop (2, 4,5-TP);
- (j) 4 CPA;
- (k) Picoram;
- (l) D.D.T. (dichlorodiphenyltrichloroethane); and
- (m) any other chemical specified in a determination made under the Local Government Property Local Law;

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

taxi means a taxi operating under the *Taxi Act 1994*.

1.5 Application of Local Government Property Local Law

The *Local Government Property Local Law* applies to the Airport as if the Airport Land were "local government property" for the purposes of that local law.

PART 2—AIRCRAFT

2.1 Rights of aircraft owners

Subject to clause 2.3, the owner of an aircraft may use the Airport, in accordance with the Air Navigation Laws, for—

- (a) the landing, servicing and departure of the aircraft; and
- (b) the embarkment and disembarkment of passengers and freight on and from the aircraft.

2.2 Requirement for a permit by flight training operators

(1) A flight training operator—

- (a) must not, without a permit, use the Airport; and
- (b) may use the Airport only in accordance with the terms and conditions of a permit.

(2) Subclause (1) does not apply to—

- (a) the Royal Flying Doctor Service, or an employee or agent of the Royal Flying Doctor Service;
- (b) a person who needs to land an aircraft at the Airport in an emergency;
- (c) a person who uses the Airport under and in accordance with a written agreement with the City; and
- (d) a person who has been exempted from subclause (1) by the Airport Manager.

(3) In this clause—

- (a) **flight training operator** means an owner of an aircraft who uses the aircraft, or allows the aircraft to be used, for training purposes; and

Note: Under clause 1.4, an "owner", in relation to an aircraft, includes a lessee, charterer and person for the time being in possession or control of the aircraft.

- (b) the **use of the Airport** by a flight training operator includes the use of the Airport for landing or taking off purposes.

(4) For the avoidance of doubt, the conditions that may be imposed on a permit include, in addition to the examples listed in Part 3 of the *Local Government Property Local Law*, conditions in respect of the use of the Airport such as—

- (a) when the use may occur; and
- (b) type of aircraft.

2.3 Closure of Airport

The Airport Manager or an authorised person may close all or part of the Airport if he or she considers that it is necessary to do so for safety or other operational reasons.

PART 3—CONDUCT OF BUSINESS

The Local Government Property Local Law prohibits or restricts the carrying out of various activities, including business activities, on local government property (which includes the Airport). Among the activities that cannot be carried out without a permit are—

- (a) advertising;
- (b) trading; and
- (c) the conduct of functions (see clause 3.13(1)).

3.1 Hire vehicles

Subject to, and without limiting the generality of, the *Local Government Property Local Law*, a person must not without a permit—

- (a) hire out self-drive vehicles; or
- (b) solicit, or conduct the business of, the hiring out of self-drive vehicles.

3.2 Taxis

A person may operate a taxi without the need for a permit under the *Local Government Property Local Law*.

PART 4—ENTRY RESTRICTIONS**4.1 General restrictions**

Other than with the written approval of the Airport Manager or an authorised person, a person must not enter or remain on the Airport Land unless that person—

- (a) is authorised to do so under this local law;
- (b) is carrying out activities under and in accordance with a permit or a written agreement with the City;
- (c) is a passenger, or intending passenger, in an aircraft lawfully using the Airport; or
- (d) is a person greeting or seeing off a passenger, or intending passenger, in an aircraft lawfully using the Airport.

4.2 Temporary prohibitions or restrictions on access

(1) For safety or other operational reasons, the Airport Manager or the CEO may, on a temporary basis, by written notice set aside any part or parts of the Airport in which access is to be prohibited either absolutely or subject to exceptions as specified in the notice, by reference, for example, to—

- (a) a person, or class of persons;
- (b) a vehicle, or class of vehicles;
- (c) an aircraft, or class of aircraft; or
- (d) goods, or class of goods.

(2) A prohibition or exception under subclause (1) may be subject to terms and conditions and, in that case, the terms and conditions are also to be specified in the notice.

(3) A copy of the notice under this clause is to be placed on a noticeboard exhibited to the public at the City's offices.

(4) A person must comply with a notice.

4.3 Signs

The Airport Manager is to ensure that appropriate signs are erected to give notice of the effect of a determination (under the *Local Government Property Local Law*) or a written notice (under clause 4.2).

4.4 Animals

(1) This clause does not apply where—

- (a) a blind person brings a guide dog accompanying that person to the Airport; or
- (b) a person brings to the Airport an animal, or has the possession and control at the Airport of an animal, that is, is to be, or has been, air freighted to or from the Airport—provided that person exercises effective control over the animal at all times.

(2) A person must not, without the prior written approval of the Airport Manager or an authorised person—

- (a) bring an animal to the Airport;
- (b) permit an animal to stray into the Airport; or
- (c) have an animal in his or her possession or control at the Airport.

(3) Where there is a breach of subclause (2), or where an animal is otherwise found at the Airport, the Airport Manager or an authorised person—

- (a) may, using all reasonable means, capture and remove the animal from the Airport; and
- (b) may, where the Airport Manager or authorised person considers that the animal is or may be a danger to persons or property, destroy the animal.

4.5 Chemicals

(1) A person must not, without the written approval of the Airport Manager or an authorised person, bring or permit to be brought onto the Airport a prohibited chemical.

(2) For the purpose of determining whether there has been a breach of subclause (1), the Airport Manager or an authorised person may direct any person to provide a sample, or allow a sample to be taken, of any container or other thing within the possession or control of that person.

(3) A person must comply with a direction under subclause (2).

4.6 Inappropriate behaviour

In addition to the requirements under Part 4 of the *Local Government Property Local Law*, a person—

- (a) must comply with a request or direction from the Airport Manager or an authorised person; and
- (b) must not use any building, structure or facility for any purpose other than that for which it was provided or intended.

Notes—

1. Under Part 4 of the *Local Government Property Local Law*, the CEO or an authorised person has power to direct a person who fails to comply with the requirements of that Act to leave and, if that person fails to leave, the CEO or authorised person may remove the person or arrange for the person to be removed.

2. *The behaviour regulated by Part 4 includes—*
- (a) *behaviour that interferes or is likely to interfere with others (clause 4.1);*
 - (b) *behaviour that is detrimental to property (clause 4.2);*
 - (c) *damage to fauna or flora (clauses 4.3 and 4.4); and*
 - (d) *being under the influence of liquor or taking a prohibited drug (clauses 4.5 and 4.6).*

PART 5—OBJECTIONS AND REVIEW

5.1 Objection and review rights

Division 1 of Part 9 of the Act applies to a decision under this local law to grant, renew, amend or cancel a permit or other authorisation.

PART 6—ENFORCEMENT

Division 1—Notices

6.1 Definition

In this Division—

“costs” of the City include its administrative costs.

6.2 Damage to Airport property

If a person unlawfully removes, damages or interferes with property within the Airport that is owned by, or within the care, control or management of the City, the Airport Manager or an authorised person may, at his or her option—

- (a) replace the property, or reinstate the property to the state it was in before the removal, damage or interference, and recover, from that person, as a debt, the costs of doing so; or
- (b) give the person a notice under this Division.

6.3 Breach of a permit

If a permit holder breaches a condition of the permit, or fails to comply with a direction under clause 3.16(b) of the *Local Government Property Local Law*, the Airport Manager or an authorised person may, at his or her option, either—

- (a) take whatever remedial action he or she considers to be appropriate to put the City in the position it would have been in if the breach or failure had not occurred, and to recover from the permit holder, as a debt, the costs of doing so; or
- (b) give the permit holder a notice under this Division.

6.4 Notice requirements

A notice under this Division must—

- (a) be in writing;
- (b) specify the reason for giving the notice, the work or action that is required to be undertaken and the time within which it is to be undertaken; and
- (c) be given to the person referred to in clause 6.2 or 6.3, as the case may be.

6.5 Offence to fail to comply with notice

A person who fails to comply with a notice given to him or her under this local law commits an offence.

6.6 City may undertake requirements of notice

If a person fails to comply with a notice given to him or her under this local law, the Airport Manager or an authorised person may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs of doing so.

Division 2—Offences and penalties

6.7 Offences and general penalty

- (1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

6.8 Prescribed offences

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is the amount specified adjacent to the clause in Schedule 1.
- (3) Before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person must be satisfied that—
 - (a) the 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.

6.9 Form of notices

For the purposes of this local law—

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

Schedule 1
PRESCRIBED OFFENCES

[clause 6.8]

Clause	Description	Modified Penalty \$
2.2(1)(a)	Using Airport without a permit	\$400
2.2(1)(b)	Non-compliance with terms or conditions of a permit	\$300
3.1	Hire/operate/solicit self drive vehicles	\$200
4.1	Entering or remaining on Airport Land	\$300
4.2	Failure to comply with a notice	\$300
4.4(2)	Bringing an animal onto Airport Land	\$200
4.6	Inappropriate behaviour	\$300
6.5	Failure to comply with a notice	\$300

Dated: 14 February 2012.

The common seal of the City of Busselton was affixed by authority of a Council resolution in the presence of—

IAN W. STUBBS, Mayor.
MICHAEL S. L. ARCHER, Chief Executive Officer.
