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## SHIRE OF YORK

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**LOCAL GOVERNMENT ACT 1995**  
EXTRACTIVE INDUSTRIES AMENDMENT  
LOCAL LAW 2011

LOCAL GOVERNMENT PROPERTY  
AMENDMENT LOCAL LAW 2012

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**CEMETERIES ACT 1986**  
CEMETERIES AMENDMENT LOCAL LAW 2012

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**DOG ACT 1976**  
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## LOCAL GOVERNMENT ACT 1995

## SHIRE OF YORK

## EXTRACTIVE INDUSTRIES AMENDMENT LOCAL LAW 2011

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of York resolved on 27 April 2011 to make the following local law.

**1. Citation**

This local law is cited as the *Shire of York Extractive Industries Amendment Local Law 2011*.

**2. Commencement**

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

**3. Principal Local Law**

In this local law, the *Shire of York Extractive Industries Local Law* published in the *Government Gazette* on 22 February 2000 is referred to as the principal local law. The principal local law is amended.

**4. New Clause 1.1**

Insert—

**“1.1 Citation**

This local law is cited as the *Shire of York Extractive Industries Local Law*.”.

**5. New Clause 1.2**

Insert—

**1.2 Purpose and effect**

(1) The purpose of this local law is to establish requirements and conditions with which extractive industry proposals, within the district, must comply with.

(2) The effect of this local law is to provide for the regulation, control and management of extractive industry proposals.

**6. Clause 1.1 amended**

(1) Delete the heading “**Definitions**” and insert “**Interpretation**”.

(2) Delete the definition “**carry on an extractive industry**” and insert—

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

(3) Amend the definition “**secured sum**” by inserting “and” after the semi colon.

(4) Insert, in the appropriate alphabetical order, the following—

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

(b) **occupier** has the meaning given to it in the Act;”;

(c) **owner** has the meaning given to it in the Act;”

(d) **person** does not include the local government;”.

**7. Clause 1.2 amended**

After subclause (1) insert—

(2) Notwithstanding any other provision, the local government may waive any requirement or provision of this local law (including a requirement to hold a valid licence), where the local government is satisfied on receiving a written application for an exemption under this clause that the extractive industry is to be carried out solely for the benefit of a local community or sporting organisation (whether incorporated or not), provided that where the local government is so satisfied—

(a) The extractive industry may only be carried out if the local government has authorised it in writing;

- (b) The local government may impose conditions on the authorisation pursuant to which the extractive industry must operate (including in a case where the CEO otherwise waives the requirement to hold a valid and current licence);
- (c) The person carrying out the extractive industry must comply with any conditions imposed by the local government on the authorisation;
- (d) Failure to comply with any condition imposed by the local government is deemed to be an offence pursuant to clause 2.1(b);
- (e) The local government may from time to time vary or delete and condition previously imposed, and may impose a new condition or conditions; and
- (f) The local government may at any time determine that the extractive industry authorised pursuant to this clause must cease, provided that the local government must give written notice to the person carrying out the extractive industry which allows a minimum 28 days for the cessation of operations.

#### 8. Clause 2.1 amended

Delete—

Penalty \$5,000 and a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which an offence has continued.

#### 9. Clause 2.2 amended

In subclause (1) delete “must” and insert “shall”.

#### 10. Clause 2.3 amended

(1) In subclause(1)(a), delete subparagraph (i) and insert—

(i) where the proposed excavation surface area is—

- (I) not to exceed 5 hectares, the existing and proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;
- (II) to be greater than 5 hectares, the existing and proposed land contours based on the Australian Height Datum and plotted at 5 metre contour intervals;

(2) In subclause (1)(b), delete subparagraph (xi) and insert—

(xi) a description of the measures to be taken to minimise sand drift, dust nuisance, erosion, watercourse siltation and dangers to the general public;

(3) In subparagraph (xii) of subclause (1)(b), italicise “Environmental Protection (Noise) Regulations 1997”.

(4) In subparagraph (v) of subclause (1)(c), delete “and” at the end of the paragraph.

(5) In subclause (1)(c) insert a new subparagraph (vii)—

(vii) how any face is to be made safe and batters sloped.

(6) In subclause (1)(i) delete “and”.

(7) After subclause (1)(j) insert—

- (k) copies of any environmental approval required under any environmental legislation; and
- (l) copies of any geotechnical information relation to the excavation site.

(8) In subclause (2) delete “must” and insert “shall”.

(9) After subclause (2) insert—

(3) Where in relation to a proposed excavation—

- (a) the surface area is not to exceed 5,000 square metres; and
- (b) The extracted material is not to exceed 5,000 cubic metres;

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

#### 11. Clause 3.1 amended

(1) In subclause (4), delete paragraph (a) and insert—

(a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 30 June, imposed and determined by the local government from time to time under and in accordance with sections 6.16 to 6.19 of the Act;

(2) In paragraph (b) of subclause (4) delete “and”.

(3) After the semi colon in paragraph (c) of subclause (4) insert “and”.

(4) After subclause (4)(c) insert—

(d) a copy of the public liability insurance policy required under clause 7.1(1),

(5) In subclause (5) insert a new paragraph (d)—

(d) the approval of the number and size of trucks entering and leaving the site each day and the route or routes to be utilised by those trucks;

(6) In paragraph (h) of subclause (5) delete “roads” and insert “thoroughfares”.

(7) In paragraph (q) of subclause (5) after the semi colon delete “and”.

- (8) In subclause (5) insert a new paragraph—
- (q) requiring the licensee to meet all conditions imposed under the development approval issued by the local government in relation to the extractive industry;
- (9) In paragraph (r) of subclause (5) after the semi colon insert “and”.
- (10) In subclause (5) insert a new paragraph (u)—
- (u) requiring the licensee to enter into an agreement with the local government by which it agrees to pay any extraordinary expenses incurred by the local government in repairing damage caused to thoroughfares in the district by heavy or extraordinary traffic conducted by or on behalf of the licensee under the licence.

**12. Clause 3.2 amended**

- (1) Delete “31 December” and insert “30 June”.
- (2) After the word “fee” insert “imposed and”.
- (3) After the words “time to time” insert “under and in accordance with sections 6.16 to 6.19 of the Act”.

**13. Clause 4.1 amended**

In subclause (1) delete “must” and insert “shall”.

**14. Clause 5.2 amended**

In subclause (1), delete paragraphs (b), (c) and (d) and insert—

- (b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions, then subject to the local government giving the licensee 14 days notice of its intention to do so—
- (i) the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work as remains undone; and
- (ii) the licensee shall pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause.

**15. Clause 6.1 amended**

- (1) In paragraph (d) delete “With”.
- (2) After paragraph (d), delete “Penalty \$2,000”.

**16. Clause 6.2 amended**

- (1) Delete the word “must” and insert “shall not”.
- (2) In paragraph (a) delete “not”.
- (3) Delete paragraphs (b), (c) and (d).
- (4) In paragraph (e), delete “not”.
- (5) In paragraph (e) delete “Minerals and Energy” and insert “Mines and Petroleum”.
- (6) In paragraph (f), delete “not”.
- (7) Delete paragraphs (g), (h) and (i).
- (8) After paragraph (i) delete—
- “Penalty \$5,000 for each offence, and if an offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day which the offence has continued.

**17. Clause 6.3 amended**

- (1) In subclause (1) delete “must” and insert “shall”.
- (2) In paragraph (b) of subclause (1) delete “am” and insert “a.m.”, and delete “pm” and insert “p.m.”.
- (3) In subparagraph (ii) of subclause (1)(d), insert after the semi colon “and”.
- (4) Delete subparagraphs (iii) and (iv) of subclause (1)(d).
- (5) After subclause (1)(d) delete—
- “Penalty: \$5,000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.
- (6) After subclause (2), delete “Penalty \$2,000”.

**18. New Clause 6.4**

Insert new clause 6.4—

**6.4 Obligations of the licensee**

A licensee shall—

- (a) where the local government so requires, securely fence the excavation to a standard determined by the local government and keep the gateways locked when not actually in use in order to prevent unauthorised entry;
- (b) erect and maintain warning signs along each of the boundaries of the area excavated under the licence so that each sign—
- (i) is not more than 200 metres apart;
- (ii) is not less than 1.8 metres high and not less than 1 metre wide; and
- (iii) bears the words “DANGER EXCAVATIONS KEEP OUT”;

- (c) except where the local government approves otherwise, drain and keep drained to the local government's satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;
- (d) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (e) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
- (f) otherwise comply with the conditions imposed by the local government in accordance with clause 3.1.

#### 19. Clause 7.2 amended

(1) In subclause (1), italicise "Mines Safety and Inspection Act 1994" and "Environmental Protection Act 1986".

(2) In subclause (2), italicise "Mines Safety and Inspection Act 1994" and "Environmental Protection Act 1986".

#### 20. Clause 7.4 amended

After paragraph (g) delete—

Penalty \$5,000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

#### 21. Part 8 heading amended

In the heading delete "APPEALS" and insert "REVIEW".

#### 22. Clause 8.1 amended

(1) In the heading delete "Appeals" and insert "review".

(2) Delete "regulations 33 and 34" and insert "regulation 33".

(3) Delete "*Local Government (Functions and General) Regulations 1996*" and insert "General Regulations".

#### 23. New Part 9

Insert—

#### PART 9—MODIFIED PENALTIES

##### 9.1 Offences

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

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

##### 9.2 Prescribed offences

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

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

##### 9.3 Forms

For the purposes of this local law—

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

#### 24. Forms deleted

Delete Form 1 through to Form 5.

#### 25. New Schedule

Insert—

#### Schedule—Prescribed offences MODIFIED PENALTIES

[cl. 9.2(1)]

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
1	2.1(a)	Excavate without a valid and current licence	500
2	2.1(b)	Carry on extractive industry without licence or in breach of terms and conditions	500
3	6.1	Excavate near boundary	250

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
4	6.2(a)	Removal of trees or shrubs near within 40 metres of the boundary without approval	300
5	6.2(b)	Store without required approval explosives or explosive devices	350
6	6.2(c)	Fill or excavate, contrary to the terms and conditions of the licence	350
7	6.3(1)(b)	Carry out or permit to be carried out blasting outside hours approved by the local government	350
8	6.3(1)(d)	Failure to comply with conditions imposed by the local government in relation to blasting activities	350
9	6.3(2)	Carry out or permit to be carried out any blasting on Saturday, Sunday or public holiday without approval	250
10	6.4(a)	Failure to securely fence and/ or keep gateways locked where required	350
11	6.4(b)	Failure to erect and maintain warning signs as required	350
12	6.4(c)	Failure to drain and keep drained any excavation to which the licence applies	350
13	6.4(f)	Failure to comply with conditions of licence imposed by the local government	500
14		All other offences not specified	200

#### 26. Redesignation of divisions and clauses

- (1) Designations "1.1" through to "1.3", are redesignated "1.3" to "1.5".
- (2) Designations "3.1(5)(d)" through to "(o)" are redesignated "3.1(5)(e)" to "(p)".
- (3) Designations "3.1(5)(p)" through to "(r)" are redesignated "3.1(5)(r)" to "(t)".
- (4) Designations "6.2(e)" to "(f)" are redesignated "6.2(b)" to "(c)".
- (5) Designation "6.3(1)(d)(v)" is redesignated "6.3(1)(d)(iii)".

Dated: 27 April 2011.

The Common Seal of the Shire of York was affixed by the authority of a resolution of the Council in the presence of—

J. P. HOOPER, Shire President.  
R. P. HOOPER, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF YORK

**LOCAL GOVERNMENT PROPERTY AMENDMENT  
LOCAL LAW 2012**

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of York resolved on 16 April 2012 to make the following local law.

**1. Citation**

This local law is cited as the *Shire of York Local Government Property Amendment Local Law 2012*.

**2. Commencement**

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

**3. Principal Local Law**

In this Local Law, the *Shire of York Local Government Property Local Law* published in the *Government Gazette* on 17 January 2001 is referred to as the principal Local Law. The principal local law is amended.

**4. Part 1 Clause 1.2 amended**

(1) Delete the definitions “**boat**” and “**Regulations**”.

(2) Insert, in the appropriate alphabetical order the following—

“**Code**” means the Code of Practice for the Design, Operation, Management and Maintenance of Aquatic Facilities, as published by the Executive Director Public Health, from time to time, pursuant to the provisions of section 344A (2) of the Health Act;

“**closely related adult**” means a parent, grandparent, brother, sister, uncle or aunt;

“**costs**” of the local government include its administrative costs;

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

“**Health Act**” means the *Health Act 1911*, as amended;

“**Local public notice**” has the same meaning as in section 1.7 of the Act;

“**nuisance**” means—

- (a) any thing, condition, circumstance, or state of affairs which is injurious or dangerous to the health of a reasonable person, or which has a disturbing effect on the state of reasonable physical, mental or social well-being of a person.
- (b) any thing a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place; and
- (c) any thing a person does on public or private land which detracts from or interferes with the enjoyment or value of lands owned by another person;

(3) Amend the definition “**vehicle**”—

- (a) Delete paragraph (e);
- (b) In paragraph (c), insert “and” after the semicolon; and
- (c) In paragraph (d) delete “; and” and substitute “.”.

**5. Part 1 Clause 1.4 amended**

Delete subclause (2).

**6. Part 1 New Clause 1.6**

In the appropriate alphabetical order, insert—

**1.6 Overriding power to hire or agree**

Despite anything to the contrary in this local law, the local government may—

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



**7. Part 2 Clause 2.7(1) amended**

Delete paragraphs (e), (f) and (j).

**8. Part 2 Clause 2.8 amended**

(1) In subclause (1)—

- (a) delete paragraphs (e) and (h); and
- (b) insert new paragraph (g)—
  - (g) bring, ride or drive an animal.

(2) Delete subclause (3).

**9. Part 3 Clause 3.2(5) amended**

After “(2)”, insert—

or where the requirements of subclause (3) or (4) have not been satisfied.

**10. Part 3 Clause 3.3 amended**

After subclause (3) insert—

(4) The local government may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the permit holder.

**11. Part 3 Clause 3.6 amended**

(1) Delete “and variation of” from the clause heading.

(2) In subclause (1) delete the number “(1)”.

(3) Delete subclause (2).

**12. Part 3 Clause 3.9 amended**

In subclause (2), delete “mutatis mutandis” and substitute “as though it were an application for a permit”.

**13. Part 3 Clause 3.12(1) amended**

Delete “9” and substitute “7”.

**14. Part 3 Clause 3.13(1) amended**

Insert, in the appropriate alphabetical order, new paragraphs (p), (q) and (r)—

- (p) deposit or store any thing on local government property;
- (q) conduct or take part in any gambling game, context or bet, or offer to bet, publicly; or
- (r) erect, install, operate or use any broadcasting, public address system, loud speaker or other device for the amplification of sound on local government property.

**15. Part 4 Clause 4.1 amended**

(1) In paragraph (a) insert “interferes with or” before “is”.

(2) Delete paragraph “(b)” and insert—

- (b) causes or is likely to cause a disturbance to nearby residents; or
- (c) creates a nuisance.

**16. Clause 4.4 amended**

(1) Designate existing paragraph as “(1)”.

(2) Insert—

(2) a person found in contravention of subclause (1) may be removed from local government property by an authorised person or a member of the Police service.

**17. Part 4 New Clause 4.6**

(1) Insert, in the appropriate alphabetical order—

**4.6 Refusal of entry to local government property**

(1) An authorised person may refuse to allow entry, or suspend admission, to any local government property by any person who he or she believes has behaved in a manner contrary to the provisions of this Part

(2) This refusal or suspension can be for any period of up to 12 months as decided by that authorised person.

(3) A decision made under this clause is a decision to which clause 7.1 applies.

**18. Part 5 Clause 5.1 amended**

(1) In subclause (1) delete “, may direct to leave or shall remove or cause to be removed from”.

(2) In subclause (1)(a), delete subparagraph (i) and substitute the following—

- (i) under the minimum age of that specified in the Code and who is unaccompanied by a responsible person over the age of that specified in the Code; or
- (ii) under the minimum age of that specified in the Code and who is accompanied by a responsible person over the age of that specified in the Code where the responsible person is incapable of, or not providing, adequate supervision of, or care, for that person;

(3) Insert new subclause (2)—

- (2) If a person referred to in paragraph (a) or (b) of subclause (1) is in a pool area, a Manager or an authorised person must—
- (a) direct the person to leave; and
  - (b) if the person refuses to leave or fails to leave, remove the person or arrange for the person to be removed, from the pool area.

**19. Part 5 New Clause 5.2**

Insert in the appropriate numerical order new clause 5.2—

**5.2 Consumption of food or drink may be prohibited**

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

**20. Part 5 Clause 5.3 amended**

(1) In subclause (1), insert new paragraph (c)—

- (c) families—then where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry of the toilet block or change room.

(2) Insert new subclause (2)—

- (2) Paragraphs (a) and (b) of subclause (1) do not apply to a child under the age of 7 years that is accompanied by a closely related adult, or care giver, of the gender specified on the particular entry of the toilet block or change room as the gender that may use that entry of the toilet block or change room.

**21. Part 5 New Clause 5.5**

Insert in the appropriate numerical order new clause 5.5—

**5.5 Use of Shower Facilities**

A person may use a shower facility in change rooms on condition that—

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

**22. Part 5 Division 4 amended**

Delete Division 4 and substitute—

*Division 4—Aerodrome (Airports)*

**5.6 Access of animals restricted**

(1) Subject to section 8 of the *Dog Act 1976* and section 66J of the *Equal Opportunity Act 1984*, a person shall not bring an animal on to an aerodrome unless—

- (a) the animal is being air freighted from the aerodrome;
- (b) the animal has been air freighted to the aerodrome; or
- (c) the person is authorised to do so by the local government.

(2) A person in charge of an animal shall keep the animal under control and shall not allow it to wander at large on the aerodrome.

(3) If an animal is at any time on an aerodrome in contravention of subclause (2), in addition to the person specified in that subclause, the owner of the animal at that time commits an offence against subclause (2).

**23. Part 7 deleted**

Delete Part 7.

**24. Part 8 deleted**

Delete Part 8.

**25. Part 9 amended**

(1) In the heading, delete “APPEALS” and insert “REVIEW”.

(2) Delete clause 9.1 and insert—

Division 1 of Part 9 of the Act applies to a decision of the local government, under this local law, as to whether it will—

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

**26. Clause 10.4 amended**

Delete subclause (2).

**27. Schedule 1 amended**

Delete Schedule 1 and substitute the following—

**Schedule 1—Prescribed offences  
MODIFIED PENALTIES**

[cl. 9.4]

Clause	Description	Modified Penalty \$
2.4	Failure to comply with determination	125
3.6	Failure to comply with conditions of permit	125
3.13(1)	Failure to obtain a permit	125
3.14(3)	Failure to obtain permit to camp outside a facility	125
3.15(1)	Failure to obtain permit for liquor	125
3.16	Failure of permit holder to comply with responsibilities	125
4.2(1)	Behaviour detrimental to property	350
4.4	Under influence of liquor or prohibited drug	125
4.7(2)	Failure to comply with sign on local government property	125
5.3	Unauthorised entry to fenced or closed local government property	125
5.4	Enter toilet block or change room facility of opposite gender	125
6.1(1)	Unauthorised entry to function on local government property	125
9.1	Failure to comply with notice	250
	All other offences not specified	125

**28. Schedule 2 New Part 2**

After Part 1, insert—

**PART 2—APPLICATION****2.1 Animals on local government property**

(1) Unless authorised by a written law, or by a permit, a person must not—

(a) tether any animal to—

(i) a tree, shrub, tree guard, or

(ii) a wall or fence, unless it is an approved tethering point so indicated by a sign; or

(b) permit any animal to enter into any local government property.

(2) Subclause (1) does not apply to a guide dog used for the assistance of visually impaired persons.

**2.2 Vehicles on local government property**

(1) Unless authorised by a permit, a person must not take or cause a vehicle to be taken onto or drive on local government property unless—

(a) subject to subclause (3), the local government property is clearly designated as a road, access way or car park;

(b) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government, who is engaged in—

(i) providing a service or making a delivery in connection with the local government property; or

(ii) maintaining the local government property;

(c) the person is driving an emergency vehicle in the course of his or her duties; or

(d) the vehicle is a motorised wheel chair, and the driver of that vehicle is a disabled person.

(2) A person must not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 10 kilometres per hour, or in such a manner as to cause danger, inconvenience or annoyance to any person.

(3) Other than in accordance with paragraphs (b), (c) or (d) of subclause (1), a person must not drive a vehicle on local government property or part of it that is being used for a function for which a permit has been obtained unless permitted to do so by the permit holder or an authorised person.

**2.3 Activities prohibited on local government property**

(1) A person must not play or practise archery, pistol or rifle shooting on local government property except on land which is reserved by the local government for that purpose, or as otherwise provided by a permit.

(2) A person must not, on any local government property, use or ride a bicycle or wheeled recreational device, or skateboard—

(a) inside or on the curtilage to, a building;

(b) in a pool area.

(3) Unless authorised by a permit or by an authorised person, a person must not take a glass container—

- (a) within 5 metres of the edge of a swimming pool on local government property;
- (b) on to a children's playground; or
- (c) within any area of local government property where a sign prohibits glass containers.

#### 2.4 Deposit of refuse, rubbish or liquid waste

A person must not, on local government property—

- (1) deposit or discard the waste or rubbish from any animal.
- (2) deposit or discard refuse, rubbish or liquid waste, except in a place or receptacle set aside by the local government for that purpose and subject to any conditions that may be specified on the receptacle or a sign in relation to the type of waste that may be deposited or other conditions.

#### 29. Schedule 3 deleted

Delete Schedule 3.

#### 30. Various references to Liquor Licensing Act amended

Amend the provisions listed in the Table as set out in the Table.

Part	Division	Clause	Delete	Insert
1		1.2	<i>Liquor Licensing Act 1988</i>	<i>"Liquor Control Act 1988"</i>
3		3.4(2)(h)	<i>Liquor Licensing Act 1988</i>	<i>"Liquor Control Act 1988"</i>
3		3.15(1)(a)	<i>Liquor Licensing Act 1988</i>	<i>"Liquor Control Act 1988"</i>
3		3.16(d)	<i>Liquor Licensing Act 1988</i>	<i>"Liquor Control Act 1988"</i>

#### 31. Redesignation of Parts, Divisions and clauses

- (1) In clause 2.7, paragraphs "(g)" to "(i)" are redesignated "(e)" to "(g)".
- (2) In clause 2.8(1), paragraphs "(f)" to "(g)" are redesignated "(e)" to "(f)".
- (3) Clause "4.6" is redesignated "4.7".
- (4) In clause 5.1(a) subparagraphs "(ii)" to "(iii)" are redesignated "(iii)" to "(iv)".
- (5) Clauses "5.2" to "5.3" are redesignated "5.3" to "5.4".
- (6) "Part 9" is redesignated "Part 7".
- (7) Clause "9.1" is redesignated "7.1".
- (8) "Part 10" is redesignated "Part 8".
- (9) Clauses "10.1" to "10.4" are redesignated "8.1" to "8.4".
- (10) In clause 10.4, subclause "(3)" is redesignated "(2)".
- (11) "Part 11" is redesignated "Part 9".
- (12) Clauses "11.1" to "11.6" are redesignated "9.1" to "9.6".

#### 32. Table of Contents amended

The Table of Contents is amended as follows—

- (1) After designation 1.5, insert "1.6 Overriding power to hire or agree".
- (2) Amend designation 3.6 by deleting "and variation of".
- (3) After designation 4.5, insert "4.6 Refusal of entry to local government property".
- (4) Designation "4.6" is redesignated "4.7".
- (5) After designation 5.1 insert "5.2 Consumption of food or drink may be prohibited".
- (6) Designations "5.2" to "5.3" are redesignated "5.3" to "5.4.;
- (7) In Part 5, delete all of Division 4 and substitute—  
**Division 4—Aerodrome (airport)**  
5.6 Access of animals restricted
- (8) Delete all of Part 7.
- (9) Delete all of Part 8.
- (10) Parts "9" to "11" are redesignated "7" to "9".
- (11) Designation "9.1" is redesignated "7.1".
- (12) Designations "10.1" to "10.4" are redesignated "8.1" to "8.4".
- (13) Designations "11.1" to "11.6" are redesignated "9.1" to "9.6".
- (14) Delete "SCHEDULE 3—GOLF COURSE RESERVE".

Dated: 16 April 2012.

The Common Seal of the Shire of York was affixed by the authority of a resolution of the Council in the presence of—

A. BOYLE, Shire President.  
R. P. HOOPER, Chief Executive Officer.

**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF YORK

**CEMETERIES AMENDMENT LOCAL LAW 2012**

Under the powers conferred by the *Cemeteries Act 1986* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of York resolved on 16 April 2012, to make the following local law.

**1. Citation**

This local law is cited as the *Shire of York Cemeteries Amendment Local Law 2012*.

**2. Commencement**

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

**3. Principal Local Law**

In this local law, the *Shire of York Cemeteries Local Law 1999* published in the *Government Gazette* on 22 February 2000 is referred to as the principal local law. The principal local law is amended.

**4. Part 1 Clause 1.2 amended**

- (1) Delete the definitions “**mausoleum**”, “**set fee**” and “**vault**” and insert—

*Act* means the *Cemeteries Act 1986*;

*animal* means any animal;

*burial* has the same meaning as is given to it in the Act;

*cemetery* means any one of or any part of the public cemeteries in the district of the local government, which the Governor, by order, has placed under the care control and management of the Board;

*dead body* has the same meaning given to it in the Act;

*funeral* includes the burial of a dead body and all associated processions and ceremonials but does not include so much of the ceremonial that is solely a religious rite;

*grant* means a grant issued by the Board, of an exclusive right of burial in a grave;

*grave* means a specified area of the cemetery for burial;

*guide dog* has the same meaning as is given to that expression in the *Dog Act 1976*;

*holder* in relation to a grant includes—

(a) a person issued with a grant by the Board;

(b) a person for the time being appearing to the Board to be the holder of a grant;

*local government* means the Shire of York;

*memorial* means a memorial plaque or memorial as described in this local law or as otherwise approved by the Board;

*Minister* means the Minister for Local Government;

*remains* means ashes or what remains of a dead body after burial;

*set fee* refers to fees and charges set by a resolution of the Board in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995* and published in the *Government Gazette*, under section 53 of the Act; and

- (2) Delete the definition “**CEO**” and insert—

*CEO* means the Chief Executive Officer or an acting Chief Executive Officer for the time being, of the Board;

- (3) In the definition “**single funeral permit**”, delete “;” and insert “.”.

- (4) After subclause (1) insert—

(2) Unless otherwise defined herein the terms and expressions used in this local law shall have the same meaning given to them in the Act.

(3) Where a term is not defined in this local law, the Act or Regulations, the term is to be taken from the Oxford Dictionary.

**5. New clauses 1.2 and 1.3**

After clause 1.1 insert—

**1.2 Purpose and effect**

(1) The purpose of this local law is to provide for the orderly management of those cemeteries in accordance with established plans and to create offences for inappropriate behaviour within cemetery grounds.

(2) The effect of this local law is that all persons in the administration of the cemeteries, burying deceased in the cemeteries, or otherwise providing services to or making use of the cemeteries, are to comply with the provisions of this local law.

**1.3 Application**

This local law applies to the York Public Cemetery (Reserve No. 20628) located in the district of the Shire of York.

**6. Part 3 New Clause 3.1**

After the Title “PART 3 APPLICATION FOR FUNERALS”, insert—

**3.1 Grant of right of burial**

The Board may issue to a person a grant of right of burial, for the term specified in the Act from time to time, upon—

- (a) written application by that person; and
- (b) payment of the set fee.

**7. Clause 3.2 deleted**

Delete Clause 3.2.

**8. Clause 3.3 amended**

- (1) Delete “clauses 3.1 and”.
- (2) Delete “3.3” and insert “3.4”.

**9. New Clause 3.6 inserted**

After clause 3.5 insert—

**3.6 Time for burials**

(1) Subject to subclause (2), a person shall only carry out a burial between the hours of 6:00 a.m. and 6:00 p.m. Monday to Sunday.

- (2) A person shall not carry out a burial—
- (a) on Christmas Day; or
  - (b) on Good Friday.

**10. Clause 4.1 amended**

Delete the words “the 30th day of” and insert “30”.

**11. Clause 4.2 amended**

Delete the heading and insert—

**Application for a single funeral permit****11. Clause 5.2 amended**

Delete “3.1” and insert “3.2”.

**12. Clause 5.3 amended**

- (1) In the clause title delete “Entry Restricted” and insert “access and speed limitations”.
- (2) After subclause (2), insert—
  - (3) Vehicles shall proceed within the cemetery by the constructed roadway or other areas designated for the use of vehicles and shall not exceed the speed indicated by signs.

**13. Clause 5.4 deleted**

Delete clause 5.4.

**14. Clause 5.5 deleted**

Delete clause 5.5.

**15. Clause 5.6 amended**

Delete paragraph (d) and insert—

- (d) bury a dead body within the cemetery under delegation of the Shire of York and in conjunction with the Act;

**16. Division 3 amended**

Re-number “Division 3” to “Division 2”.

**17. Clause 6.1 amended**

Delete clause 6.1 and insert—

**6.1 Depth of graves**

- (1) A person shall not bury a coffin within the cemetery so that the distance from the top of the coffin to the original surface of the ground is not less than 750 mm.
- (2) A person, with the permission of the CEO or authorised officer may bury a coffin so that the distance from the top of the coffin to the original surface of the ground is not less than 600 mm.
- (3) The permission of the authorised officer in subclause (2) will only be granted where in the opinion of the authorised officer exceptional circumstances require granting of that permission.

**18. Clause 6.2 amended**

Delete clause 6.2 and insert—

**6.2 Re-opening a grave**

- (1) Subject to subclause (2), if for the purpose of re-opening a grave in the cemetery, the Board finds it necessary to remove plants, grass, shrubs or other like matter from the grave, then the person ordering the re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.
- (2) If the Minister orders the exhumation of a body in accordance with section 58 of the Act, then the Minister may further order how and by whom the cost referred to in subclause (1) should be met.

**19. New Clauses 6.3 and 6.4 inserted**

After clause 6.2 insert—

**6.3 Exhumation of a coffin**

- (1) Subject to subclause (2), a person shall not exhume a coffin in the cemetery for the purposes of re-burial within 12 months after the date of its interment.
- (2) Subclause (1) shall not apply where the exhumation is ordered or authorised pursuant to the Act.
- (3) Subject to subclause (1) and (2) prior to any other exhumation, the holder of a grant must have applied in writing to the Board requesting the exhumation and the Board has authorised the exhumation.

**6.4 Opening of coffin**

- (1) A person shall not open a coffin in the cemetery unless—
  - (a) the coffin is opened for the purposes of the exhumation of a dead body; or
  - (b) that person has produced to the Board an order signed by the Commissioner of Police and the Board has approved the opening of that coffin.

**20. Clause 7.6 amended**

- (1) Delete “8:00am” where it appears and insert “8:00 a.m.”.
- (2) Delete “6:00pm” and insert “6:00 p.m.”.

**21. Clause 7.7 amended**

Delete “6pm” and insert “6:00 p.m.”.

**22. Clause 7.8 amended**

Delete “, other than as a temporary marker and with” and insert “without”.

**23. New Clause 7.11 inserted**

After clause 7.10, insert—

**7.11 Minor maintenance and repair works**

Persons shall be permitted to carry minor maintenance and repair works, not of a structural nature, such as cleaning, touch up painting, etc on graves, without seeking the approval of the Board.

**24. Clause 7.12 amended**

Delete “40 (2)” and insert “40(2)”.

**25. Division 2 deleted**

Delete all of Division 2.

**26. Division 3 title amended**

Delete “3” and insert “2”.

**27. Clause 7.15 amended**

- (1) In subclause (1)(b), delete “380mm x 280mm, nor more than 560mm x 305mm” and insert “380 mm x 280 mm, nor more than 560 mm x 305 mm”.

- (2) In subclause (2), delete “20mm” and insert “20 mm”.
- (3) In subclause (3)(a), delete “50mm” and insert “50 mm”.
- (4) In subclause (3)(b), delete “100mm “ and insert “100 mm”.

**28. Division 4 title amended**

Delete “4” and insert “3”.

**29. Clause 7.16 amended**

In subclause (2) delete—

- (1) “sub-clause” and insert “subclause”;
- (2) “Local Law” and insert “local law”.

**30. Clause 7.17 amended**

- (1) Delete the number “20” and substitute the number “19”.
- (2) Delete “the 30th day of” and insert “30”.

**31. Clause 7.18 amended**

Delete “16” and insert “15”.

**32. Clause 7.19 amended**

Delete “Local Law, the Act” and insert “local law”.

**33. Clause 7.20 amended**

- (1) In subclause (1)(a), delete “Local Law, the Act” and insert “local law”.
- (2) Delete subclause (3).

**34. Clause 8.1 amended**

- (1) In the clause title insert “and guide dogs” after the word “Animals”.
- (2) Delete “clause 8.2” and insert “section 8 of the *Dog Act 1976* and section 66J of the *Equal Opportunity Act 1986*”.

**35. Clause 8.2 deleted**

Delete clause 8.2.

**36. Clause 8.3 amended**

Delete “8.4” and insert “8.3(3)”.

**37. Clause 8.4 amended**

Delete clause 8.4 and insert—

**8.3 Flowers**

- (1) All flowers must be placed in vases or receptacles.
- (2) No person shall plant trees, shrubs or plants in the cemetery without the prior approval of the Board.
- (3) A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Board for that purpose.

**38. New Clause 8.8 inserted**

Insert—

**8.8 Fireworks or firearms**

- (1) A person shall not bring or discharge any fireworks within the cemetery.
- (2) A person shall not bring or discharge any firearms within the cemetery except in the case of a military funeral when firearms may be brought into the cemetery and discharged by members of the Defence Force.

**39. Clause 9.1 amended**

Delete “Local Law” and insert “local law”.

**40. Clause 9.2 amended**

- (1) In subclauses (1) and (2), delete the words “First Schedule” where they appear and insert “Schedule 1”.
- (2) In subclause (3) delete “Second Schedule” and insert “Schedule 2”.
- (3) In subclause (4) delete “Third Schedule” and insert “Schedule 3”.



**41. First Schedule amended**

Delete the First Schedule and insert—

**Schedule 1—Prescribed offences  
MODIFIED PENALTIES**

[cl. 9.2(1)&amp;(2)]

Item No.	Clause	Nature of Offence	Modified Penalty
1	5.3	Exceeding speed limit	\$100.00
2	5.3	Not driving on constructed vehicle areas	\$100.00
3	7.3	Not removing rubbish and surplus materials	\$100.00
4	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$100.00
5	8.1(1)	Animal within cemetery	\$100.00
6	8.4	Littering and vandalism	\$100.00
7	8.5	Unauthorised advertising or trading	\$100.00
8	8.6	Disobeying sign or lawful direction	\$100.00
9		All other offences not specified	\$100.00

**42. Second Schedule amended**

Delete the second schedule and insert—

**Schedule 2—Form 1  
INFRINGEMENT NOTICE**

[cl. 9.2(3)]

TO: \_\_\_\_\_  
(Name)\_\_\_\_\_  
(Address)It is alleged that at \_\_\_\_\_:\_\_\_\_\_ hours on \_\_\_\_\_ day  
of \_\_\_\_\_ 20\_\_\_\_\_ at \_\_\_\_\_you committed the offence indicated below by an (x) in breach of clause \_\_\_\_\_ of the *Shire of York Cemeteries Local Law 2012*.\_\_\_\_\_  
(Authorised Officer)**Offence**

- Animal within cemetery
- Not removing rubbish and surplus materials
- Exceeding speed limit
- Leaving uncompleted works in an untidy or unsafe condition
- Littering and vandalism
- Unauthorised advertising or trading
- Not driving on constructed vehicle areas
- Disobeying sign or lawful direction
- Other Offence \_\_\_\_\_

\$ \_\_\_\_\_

You may dispose of this matter—

By payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the Shire of York at 1 Joaquina Street, York between the hours of 9:00 a.m. to 4.30 p.m. Monday to Friday.

Please make cheques payable to the Shire of York. Payments by mail should be addressed to—

The Chief Executive Officer  
Shire of York  
PO Box 22  
YORK WA 6302

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

**43. Third Schedule amended**

(1) Delete the title and insert—

**Schedule 3—Form 2  
WITHDRAWAL OF INFRINGEMENT NOTICE**

[cl. 9.2(4)]

(2) Delete “Person” and insert “officer”.

**44. Various references to “funeral director” amended**

Amend the provisions listed in the Table as set out in the Table.

Part	Division	Clause	Delete	Insert
1		1.4	Funeral Director	“funeral director”
3		3.4(1)(a)	Funeral Director	“funeral director”
3		3.4(1)(b)	Funeral Director	“funeral director”
3		3.4(2)(a)	Funeral Director	“funeral director”
3		3.4(2)(b)	Funeral Director	“funeral director”
3		3.4(2)	Funeral Director	“funeral director”

**45. Various clause titles amended**

Amend the provisions listed in the Table as set out in the Table.

Part	Division	Clause	Delete	Insert
2		2.1	Powers and Functions of CEO	“Powers and functions of CEO”
3		3.1	Application for Burial	“Application for burial”
3		3.3	Application to be Accompanied by Certificates etc	“Application to be accompanied by certificates etc”
3		3.4	Certificate of Identification	“Certificate of identification”
3		3.5	Minimum Notice Required	“Minimum notice required”
4		4.1	Funeral Director’s Licence Expiry	“Funeral director’s licence expiry”
4		4.3	Application Refusal	“Application may be refused”
5	1	5.1	Requirements for Funerals and Coffins	“Requirements for funerals and coffins”
5	1	5.2	Funeral Processions	“Funeral processions”
5	1	5.6	Conduct of Funeral by Board	“Conduct of funeral by Board”
5	2	5.12	Disposal of Ashes	“Disposal of ashes”
7	1	7.1	Application for Monumental Work	“Application for monumental work”
7	1	7.2	Placement of Monumental Work	“Placement of monumental work”
7	1	7.3	Removal of Rubbish	“Removal of rubbish”
7	1	7.4	Operation of Work	“Operation of work”
7	1	7.5	Removal of Sand, Soil or Loam	“Removal of sand, soil or loam”
7	1	7.6	Hours of Work	“Hours of work”
7	1	7.7	Unfinished Work	“Unfinished work”
7	1	7.8	Use of Wood	“Use of wood”
7	1	7.9	Plants and Trees	“Plants and trees”
7	1	7.12	Placing of Glass Domes and Vases	“Placing of glass domes and vases”
7	3	7.15	Requirements of a Memorial Plaque	“Requirements of a memorial plaque”
7	3	7.16	Monumental Mason’s Licence	“Monumental mason’s licence”
7	3	7.17	Expiry Date, Non-Transferability	“Expiry date, non-transferability”
7	3	7.18	Carrying out Monumental Work	“Carrying out monumental work”
7	3	7.19	Responsibilities of the Holder of a Monumental Mason’s Licence	“Responsibilities of the holder of a monumental mason’s licence”
7	3	7.20	Cancellation of a Monumental Mason’s Licence	“Cancellation of a monumental mason’s licence”

Part	Division	Clause	Delete	Insert
8		8.3	Damaging and Removing Objects	“Damaging and removing objects”
8		8.5	Littering and Vandalism	“Littering and vandalism”
8		8.7	Obeying Signs and Directions	“Obeying signs and directions”
8		8.8	Removal from the Cemetery	“Removal from the cemetery”
9		9.2	Modified Penalties	“Modified penalties”

#### 46. Redesignation of divisions and clauses

- (1) Designations “1.2” through to “1.3” are re-designated “1.4” through to “1.5”.
- (2) Designation “3.1” is re-designated “3.2”.
- (3) Designation “5.6” is re-designated “5.4”.
- (4) Designation “5.12” is redesignated “5.5”.
- (5) Designations “7.11” through to “7.12” are redesignated “7.12” through to “7.13” respectively.
- (6) In Part 7 “*Division 2*” is redesignated “*Division 3*”.
- (7) Designations “7.15” through to “7.20” are redesignated “7.14” through to “7.19” respectively.
- (8) Designations “8.3” through to “8.8” are redesignated “8.2” through to “8.7” respectively.

#### 47. Arrangement amended

The arrangement is amended as follows—

- (1) After designation “1.1”, insert—
  - a. “1.2 Purpose and effect”; and
  - b. “1.3 Application”.
- (2) Designations “1.2” through to “1.3” are re-designated “1.4” through to “1.5”.
- (3) Before designation “3.1”, insert “3.1 Grant right of burial” and redesignate “3.1” to “3.2”.
- (4) Delete designation “3.2”.
- (5) After designation “3.5” insert “3.6 Time for Burials”.
- (6) Delete the title in designation 4.2 and insert “Application for a single funeral permit”.
- (7) Amend the title in designation 4.3 by deleting “Refusal” and insert “may be refused”.
- (8) Delete the title designation 5.3 and insert “Vehicle access and speed limitations”.
- (9) Delete designations “5.4” and “5.5”.
- (10) Designation “5.6” is redesignated “5.4”.
- (11) “*Division 3*” is redesignated “*Division 2*”.
- (12) Designation “5.12” is redesignated “5.5”.
- (13) Delete designation “6.2” and insert “6.2 Re-opening a Grave”.
- (14) After designation 6.2 insert—
  - (a) “6.3 Exhumation of a Coffin”; and
  - (b) “6.4 Opening of a Coffin”.
- (15) After designation 7.10, insert “7.11 Minor Maintenance and Repair Works”.
- (16) Designations “7.11” through to “7.12” are redesignated “7.12” to “7.13” respectively.
- (17) Delete “*Division 2—Lawn Section*”.
- (18) Delete designation “7.14”.
- (19) “*Division 3*” is redesignated “*Division 2*”.
- (20) Designations “7.15” through to “7.20” are redesignated “7.14” to “7.19” respectively.
- (21) “*Division 4*” is redesignated “*Division 3*”.
- (22) Delete designation 8.1 and insert “Animals and guide dogs”.
- (23) Delete designation “8.2”.
- (24) In designation “8.4” delete “Withered”.
- (25) Designations “8.3” through to “8.8” are redesignated “8.2” to “8.7” respectively.
- (26) After redesignation 8.7, insert “8.8 Fireworks or firearms”.
- (27) Delete “**First Schedule**” and insert “**Schedule 1—Modified penalties**”.
- (28) Delete “**Second Schedule**” and insert “**Schedule 2—Form 1—Infringement notice**”.
- (29) Delete “**Third Schedule**” and insert “**Schedule 3—Form 2—Withdrawal of infringement notice**”.

Dated: 16 April 2012.

The Common Seal of the Shire of York was affixed by authority of a resolution of the Council in the presence of—

A. BOYLE, Shire President.  
R. P. HOOPER, Chief Executive Officer.

**DOG ACT 1976**  
**LOCAL GOVERNMENT ACT 1995**

SHIRE OF YORK

**DOGS AMENDMENT LOCAL LAW 2012**

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 Shire of York resolved on 16 April 2012 to make the following local law.

**1. Citation**

This local law is cited as the *Shire of York Dogs Amendment Local Law 2012*.

**2. Commencement**

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

**3. Principal local law**

In this local law, the *Shire of York Dogs Local Law* published in the *Government Gazette* on 17 January 2001 is referred to as the principal local law. The principal local law is amended.

**4. Part 1 Clause 1.3 amended**

(1) Delete Clause 1.3 and insert—

**1.3 Interpretation**

**Act** means the *Dog Act 1976*;

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

**CEO** means the Chief Executive Officer or an acting Chief Executive Officer of the local government;

**dangerous dog** has the meaning given to it in the Act;

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

**local government** means the Shire of York;

**local planning scheme** means a local planning scheme made by the local government under the *Planning and Development Act 2005*, or a town planning scheme which was made under the *Town Planning and Development Act 1928*, which applies throughout the whole or a part of the district;

**pound keeper** means a person authorized 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*;

**restricted breed dog** has the meaning given to it in regulation 3 of the *Dog (Restricted Breeds) Regulations (No. 2) 2002*;

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

**townsite** means the townsites within the district which are—

- (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 *Local Government Act 1995*.

**5. Part 2 Clause 2.3 amended**

In subclause (2)—

- (a) Delete the “—” and insert—  
of her or his ownership of the dog or of her or his authority to take delivery of it.
- (b) Delete paragraphs (a) and (b).

**6. Part 3 Clause 3.1 amended**

In subclause (1)—

- (a) Insert “within a townsite” after “premises”
- (b) insert new paragraph (d)—
- (d) ensure that every gate or door in the fence or wall is fitted with—
  - (i) A proper latch attached to the gate or door on the side of the fence or wall where the dog is normally kept;
  - (ii) an efficient self closing mechanism; and
  - (iii) a latch or other means which allows the gate to be locked;

**7. Part 3 Clause 3.2 amended**

In subclause (2) delete paragraphs (a) and (b) and substitute with—

- (a) on land, within a townsite, or zoned “rural residential” under a local planning scheme, 2 dogs over the age of 3 months and the young of those dogs under that age; and
- (b) On land zoned “rural” under the local planning scheme, 4 dogs over the age of 3 months and the young of those dogs under that age.

**8. Part 4 Clause 4.7 amended**

In paragraph (a) delete “town” and substitute—

local

**9. Part 5 Clause 5.1 amended**

In subclause (1)—

- (a) Delete “Dogs” and substitute—  
Subject to section 8 of the Act and section 66J of the *Equal Opportunity Act 1984*, dogs
- (b) Delete paragraph (a) and substitute—
  - (a) a public building, unless permitted by a sign;
- (c) In paragraph (c) delete “*Health (Food Hygiene) Regulations 1993*” and substitute—  
*Food Act 2008*
- (d) In paragraph (d) delete “.” and substitute “;”.
- (e) Insert, in the appropriate alphabetical order, new paragraphs (e) and (f)—
  - (e) a public toilet block or changing room; and
  - (f) a cemetery, unless otherwise provided for in the local governments local law relating to cemeteries.”

**10. Part 5 New Clause 5.2**

Insert, in the appropriate numerical order, new clause 5.2—

**5.2 Places which are dog exercise areas**

(1) Subject to clause 5.1 and subclause (1)(b) and (2), for the purposes of sections 31 and 32 of the Act, Part Lots 52, 53, 54 and 55 Henrietta Street, York (corner of Barker and Forrest Streets and Henrietta Street) are dog exercise areas.

(2) Subclause (1) does not apply to—

- (a) an area set aside by a wall or fence as a children’s playground, or where there is no wall or fence, an area within 10m of the edge of playing equipment or apparatus;
- (b) an area within 10m of the edge of a playing field being used for sporting or other activities, as permitted by the local government, during the times of such use; or
- (c) a car park, thoroughfare, access way or right of way.

**11. Schedule 1 amended**

Delete—

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.

**12. Schedule 2 amended**

In paragraph (c) insert “to a height of no less than 2m” after “government”.

**13. Schedule 3 amended**

- (1) In the first column of the second row delete “& (c)”.
- (2) In the third column of the third row, delete “50” and substitute “100”.
- (3) After the third row, insert a new row as follows—

3.2	Exceeding the number of dogs permitted to be kept at a premises	100	200
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- (4) In the third column of the fifth row, after “100”, insert “and a daily penalty of 10”.
- (5) In the fourth column of the fifth row, after “200”, insert “and a daily penalty of 20”.
- (6) In the third column of the seventh row, delete “40” and substitute “200”.

**14. Various clauses amended**

Amend the provisions listed in the Table as set out in the Table.

Part	Division	Clause	Delete	Insert
4		4.4	town	"local"
4		4.7	town	"local"

**15. Redesignation of clauses**

In clause 3.1 subclause (1) paragraphs "(d)" and "(e)" are redesignated "(e)" and "(f)" respectively.

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Dated: 16 April 2012.

The Common Seal of the Shire of York was affixed by the authority of a resolution of the Council in the presence of—

A. BOYLE, Shire President.  
R. P. HOOPER, Chief Executive Officer.

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