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CITY OF GREATER GERALDTON

LOCAL GOVERNMENT ACT 1995

ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW 2011

CEMETERIES ACT 1986

CEMETERY LOCAL LAW 2011

BUSH FIRES ACT 1954

BUSH FIRE BRIGADES LOCAL LAW 2011

DOG ACT 1976

DOGS LOCAL LAW 2011

AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976

PEST PLANTS LOCAL LAW 2011

LOCAL GOVERNMENT ACT 1995

CITY OF GREATER GERALDTON

**ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND
TRADING LOCAL LAW 2011**

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LOCAL GOVERNMENT ACT 1995

CITY OF GREATER GERALDTON

ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND
TRADING LOCAL LAW 2011

Under the powers conferred by subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Greater Geraldton resolved on 12 October 2011 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Greater Geraldton Activities in Thoroughfares and Public Places and Trading Local Law 2011*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

(1) The following local laws are repealed—

- (a) the *City of Geraldton Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* published in the *Government Gazette* of 2 August 2000;
- (b) the *Shire of Greenough By-law Relating to Trading in Public Places* published in the *Government Gazette* of 29 December 1989;
- (c) the *Shire of Greenough Local Law Relating to Stallholders and the Stalls they Operate* published in the *Government Gazette* of 6 June 2002; and
- (d) the *Shire of Mullewa By-law Relating to Trading in Public Places* published in the *Government Gazette* of 8 May 1987.

1.5 Interpretation

In this local law unless the context otherwise requires—

Act means the *Local Government Act 1995*;

applicant means a person who applies for a permit;

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

built-up area has the meaning given to it in the *Road Traffic Code 2000*;

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

carriageway has the meaning given to it in the *Road Traffic Code 2000*;

CEO means the Chief Executive Officer of the local government;

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

Council means the council of the local government;

crossing means a crossing giving access from a public thoroughfare to—

- (a) private land; or
- (b) a private thoroughfare serving private land;

district means the district of the local government;

footpath has the meaning given to it in the *Road Traffic Code 2000*;

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

intersection has the meaning given to it in the *Road Traffic Code 2000*;

kerb includes the edge of a carriageway;

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

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

local government means the City of Greater Geraldton;

local government property means anything except a thoroughfare—

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

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

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

permissible verge treatment means any one of the 4 treatments described in clause 2.8(2), and includes any reticulation pipes and sprinklers;

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

person does not include the local government;

premises for the purpose of both this clause and clause 6.1, means a building or similar structure, but does not include a car park or a similar place;

public place includes any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include—

- (a) premises on private property from which trading is lawfully conducted under a written law; and
- (b) local government property;

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

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

thoroughfare has the meaning given to it in the Act, but does not include a private thoroughfare which is not under the management control of the local government;

town planning scheme means a town planning scheme of the local government made under the *Planning and Development Act 2005*;

townsite means all 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 Act;

vehicle includes—

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

but excludes—

- (a) a wheelchair or any device designed for use by a physically impaired person on a footpath;
- (b) a pram, a stroller or a similar device; or
- (c) a shopping trolley; and

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

PART 2—ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES

Division 1—General

2.1 General prohibitions

A person shall not—

- (a) plant any plant (except grasses or a similar plant) within 6 metres of an intersection;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless—
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;

- (c) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 2 metres of a carriageway;
- (d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (e) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare; or
- (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, rollerblades or similar device.

2.2 Activities allowed with a permit—general

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

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) subject to Division 3 of this Part, throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised in connection with that collection by the local government;
- (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
- (d) cause any obstruction to a water channel or a water course in a thoroughfare;
- (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
- (f) damage a thoroughfare;
- (g) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose or under a permit issued under clause 5.13;
- (h) fell any tree onto a thoroughfare;
- (i) unless installing, or in order to maintain, a permissible verge treatment—
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
- (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
- (k) on a public place use anything or do anything so as to create a nuisance;
- (l) place or cause to be placed on a thoroughfare a bulk rubbish container; or
- (m) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare.

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

2.3 No possession and consumption of liquor on thoroughfare

(1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless—

- (a) that permitted under the *Liquor Control Act 1988* or under another written law; or
- (b) the person is doing so in accordance with a permit.

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

Division 2—Vehicle crossing

Subdivision 1—Temporary crossings

2.4 Permit required

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

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

(2) The **person responsible for the works** in subclause (1) is to be taken to be—

- (a) if a building permit issued by a permit authority under the *Building Act 2011* is in effect for the work, means the person named as the builder on the permit;
- (b) if a demolition permit issued by a permit authority under the *Building Act 2011* is in effect for the work, means the person named as the demolition contractor on the permit; or
- (c) if neither a building permit nor a demolition permit is in effect for the work, means each owner of the land on which the work is done.

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

Subdivision 2—Redundant vehicle crossings

2.5 Removal of redundant crossing

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

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

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

within the period of time stated in the notice.

Division 3—Verge treatments

Subdivision 1—Preliminary

2.6 Interpretation

In this Division, unless the context otherwise requires—

acceptable material means any material which will create a hard surface, and which appears on a list of acceptable materials maintained by the local government.

2.7 Application

This Division only applies to a townsite.

Subdivision 2—Permissible verge treatments

2.8 Permissible verge treatments

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

(2) The permissible verge treatments are—

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

2.9 Only permissible verge treatments to be installed

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

(2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 2.10.

2.10 Obligations of owner or occupier

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

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

2.11 Notice to owner or occupier

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

Subdivision 3—Existing verge treatments

2.12 Transitional provision

(1) In this clause—

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

(2) A verge treatment which—

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

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

Subdivision 4—Public works

2.13 Power to carry out public works on verge

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

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

Division 4—Property numbers

Subdivision 1—Preliminary

2.14 Interpretation

In this Division, unless the context requires otherwise—

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

Subdivision 2—Assignment and marking of numbers

2.15 Assignment of numbers

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

*Division 5—Fencing***2.16 Public place specified**

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

- (a) a public place, as that term is defined in clause 1.5; and
- (b) local government property.

*Division 6—Signs erected by the local government***2.17 Signs**

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

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

(3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose of giving notice of the effect of a provision of this local law.

2.18 Transitional

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 2.17 if—

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

*Division 7—Driving on a closed thoroughfare***2.19 No driving on closed thoroughfare**

- (1) A person shall not drive or take a vehicle on a closed thoroughfare unless—
- (a) it is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or
 - (b) the person has first obtained a permit.
- (2) In this clause—
- closed thoroughfare** means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.

PART 3—ADVERTISING SIGNS ON THOROUGHFARES*Division 1—Preliminary***3.1 Interpretation**

In this Part, unless the context otherwise requires—

- advertising sign** means a sign used for the purpose of advertisement and includes an election sign;
- direction sign** means a sign which indicates the direction of another place, activity or event, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;
- election sign** means a sign or poster which advertises any aspect of a forthcoming Federal, State or Local Government election;
- portable direction sign** means a portable free standing direction sign; and
- portable sign** means a portable free standing advertising sign.

*Division 2—Permit***3.2 Advertising signs and portable direction signs**

- (1) A person shall not, without a permit—
- (a) erect or place an advertising sign on a thoroughfare; or
 - (b) post any bill or paint, place or affix any advertisement on a thoroughfare.
- (2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which neither exceeds 500 millimetres in height nor 0.5 square metres in area, provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.
- (3) Notwithstanding subclause (1), a person shall not erect or place an advertising sign—
- (a) on a footpath;
 - (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5 metres;
 - (c) on or within 3 metres of a carriageway;
 - (d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
 - (e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

3.3 Matters to be considered in determining application for permit

In determining an application for a permit for the purpose of clause 3.2(1), the local government is to have regard to—

- (a) any other written law regulating the erection or placement of signs within the district;
- (b) the dimensions of the sign;
- (c) other advertising signs already approved or erected in the vicinity of the proposed location of the sign;
- (d) whether or not the sign will create a hazard to persons using a thoroughfare; and
- (e) the amount of the public liability insurance cover, if any, to be obtained by the applicant.

*Division 3—Conditions on permit***3.4 Conditions on portable sign**

If the local government approves an application for a permit for a portable sign, the application is to be taken to be approved subject to the following conditions—

- (a) the portable sign shall—
 - (i) not exceed 1 metre in height;
 - (ii) not exceed an area of 1 square metre on any side;

- (iii) relate only to the business activity described on the permit;
 - (iv) contain letters not less than 200 millimetres in height;
 - (v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;
 - (vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
 - (vii) be secured in position in accordance with any requirements of the local government;
 - (viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
 - (ix) be maintained in good condition; and
- (b) no more than one portable sign shall be erected in relation to the one building or business.

3.5 Conditions on election sign

If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign—

- (a) being erected at least 30 metres from any intersection;
- (b) being free standing and not being affixed to any existing sign, post, power or light pole or similar structure;
- (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person;
- (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
- (e) being maintained in good condition;
- (f) not being erected until the election to which it relates has been officially announced;
- (g) being removed within 24 hours of the close of polls on voting day;
- (h) not being placed within 100 metres of any works on the thoroughfare;
- (i) being securely installed;
- (j) not being an illuminated sign;
- (k) not incorporating reflective or fluorescent materials; and
- (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

Division 1—Animals and vehicles

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

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

(2) A person will not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.

(3) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

4.2 Prohibitions relating to animals

(1) In subclause (2), *owner* in relation to an animal includes—

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

(2) An owner of an animal shall not—

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

(3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.

Division 2—Shopping trolleys

4.3 Interpretation

In this Division—

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

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

4.4 Shopping trolley to be marked

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

4.5 Person not to leave trolley in public place

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

4.6 Retailer to remove abandoned trolley

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

(2) A retailer shall remove a shopping trolley within 24 hours of being so advised under subclause (1), unless the retailer—

- (a) requests the local government to collect and deliver the shopping trolley to the retailer; and
- (b) pays any fee for that collection and delivery (imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act) within the period specified by the local government.

4.7 Retailer taken to own trolley

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

PART 5—ROADSIDE CONSERVATION

Division 1—Preliminary

5.1 Interpretation

In this Part—

MRWA means Main Roads Western Australia;

protected flora has the meaning given to it in section 6(1) of the *Wildlife Conservation Act 1950*;

rare flora has the meaning given to it in section 23F of the *Wildlife Conservation Act 1950*;

Roadside Conservation Committee means the Roadside Conservation Committee appointed by the Minister for the Environment; and

special environmental area means an area designated as such under clause 5.7.

5.2 Application

This Part does not apply to a townsite.

Division 2—Flora roads

5.3 Declaration of flora road

The local government may declare a thoroughfare which has, in the opinion of the local government, high quality roadside vegetation to be a flora road.

5.4 Construction works on flora roads

Construction and maintenance work carried out by the local government on a flora road is to be in accordance with the 'Handbook of Environmental Practice for Road Construction and Road Maintenance Works' (April 2005) prepared by the Roadside Conservation Committee.

5.5 Signposting of flora roads

The local government may signpost flora roads with the standard MRWA flora road sign.

5.6 Driving only on carriageway of flora roads

(1) A person driving or riding a vehicle on a flora road shall only drive or ride the vehicle on the carriageway.

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

- (a) conditions on the thoroughfare do not reasonably permit a vehicle to remain on the carriageway;
- (b) there is no carriageway; or
- (c) an exemption from the application of subclause (1) has been obtained from the local government.

Division 3—Special environmental areas

5.7 Designation of special environmental areas

The local government may designate a thoroughfare, or any part of a thoroughfare, as a special environmental area which—

- (a) has protected flora or rare flora; or
- (b) in the opinion of the local government, has environmental, aesthetic or cultural significance.

5.8 Marking of special environmental areas

The local government is to mark and keep a register of each thoroughfare, or part of a thoroughfare, designated as a special environmental area.

*Division 4—Planting in thoroughfares***5.9 Permit to plant**

A person shall not plant any plant or sow any seeds in a thoroughfare without first obtaining a permit.

5.10 Relevant considerations in determining application

In determining an application for a permit for the purpose of clause 5.9, the local government is to have regard to—

- (a) existing vegetation within that part of the thoroughfare in which the planting is to take place; and
- (b) the diversity of species and the prevalence of the species which are to be planted or sown.

*Division 5—Clearance of vegetation***5.11 Permit to clear**

A person shall not clear and maintain in a cleared state, the surface of a thoroughfare within 1 metre of that person's land without first obtaining a permit and any other approvals which may be required under any written law.

5.12 Application for permit

In addition to the requirements of clause 7.1(2), a person making an application for a permit for the purpose of clause 5.11 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.

*Division 6—Fire management***5.13 Permit to burn thoroughfare**

A person shall not burn part of a thoroughfare without first obtaining a permit or unless acting under the authority of any other written law.

5.14 Application for permit

In addition to the requirements of clause 7.1(2), an application for a permit for the purposes of clause 5.13 shall—

- (a) include a sketch plan showing the portions of a thoroughfare which are proposed to be burned; and
- (b) advice of the estimated fire intensity and the measures to be taken to protect upper storey vegetation from the burn.

5.15 When application for permit can be approved

The local government may approve an application for a permit for the purpose of clause 5.13 only if the burning of the particular part of the thoroughfare will—

- (a) reduce a fire hazard and alternative means of reducing that hazard, such as slashing or the use of herbicides, are considered by the local government to be not feasible or more detrimental to native flora and fauna than burning; or
- (b) in the opinion of the local government, be beneficial for the preservation and conservation of native flora and fauna.

5.16 Prohibitions on burning

Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 5.13 is not to be approved by the local government for burning between 31 August and 1 May of the following year where the intensity of the burn could damage native flora and fauna.

*Division 7—Firebreaks***5.17 Permit for firebreaks on thoroughfares**

A person shall not construct a firebreak on a thoroughfare without first obtaining a permit.

5.18 When application for permit cannot be approved

- (1) The local government is not to approve an application for a permit for the purpose of clause 5.17 where the thoroughfare is less than 20 metres wide.
- (2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

*Division 8—Commercial wildflower harvesting on thoroughfares***5.19 General prohibition on commercial wildflower harvesting**

Subject to clause 5.20, a person shall not commercially harvest native flora on a thoroughfare.

5.20 Permit for revegetation projects

- (1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.
- (2) The local government may approve an application for a permit under subclause (1) only where—
- (a) the seed is required for a revegetation project in any part of the district; and
 - (b) the thoroughfare, or the relevant part of it, is not a special environmental area.
- (3) If the local government approves an application for a permit for the purpose of subclause (1) it is to be taken, unless the local government specifically provides to the contrary on a permit, to be approved subject to the following conditions—
- (a) the collection of the seed is to be carried out so as not to endanger the long time survival of the native flora on the thoroughfare; and
 - (b) any licence or approval which may be required under any other written law is to be obtained by the applicant.

PART 6—TRADING IN THOROUGHFARES AND PUBLIC PLACES

Division 1—Stallholders and traders

Subdivision 1—Preliminary

6.1 Interpretation

In this Division, unless the context otherwise requires—

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

public place includes—

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

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

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

stallholder means a person in charge of a stall;

stallholder's permit means a permit issued to a stallholder;

trader means a person who carries on trading;

trader's permit means a permit issued to a trader; and

trading includes—

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

but does not include—

- (d) the delivery of pre-ordered goods or services to the purchaser of those goods or services or to the person nominated by the purchaser of those goods or services, whether or not payment for those goods or services is accepted on delivery;
- (e) the taking of further orders for goods or services from the purchaser of those pre-ordered goods or services or from the person nominated by the purchaser of those pre-ordered goods or services, when those orders are taken at the same time as a previous order is being delivered, whether or not payment is made for those goods or services at the time of taking the order;
- (f) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder's permit;
- (g) the selling or the offering for sale of goods and services to, or the soliciting of orders for, goods and services from a person who sells those goods or services;
- (h) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; and
- (i) the selling or hiring or the offering for sale or hire of—
 - (i) goods by a person who represents a manufacturer of the goods; or
 - (ii) services by a person who represents a provider of the services which are only sold directly to consumers and not through a shop.

Subdivision 2—Permits

6.2 Stallholder's permit

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

6.3 Trader's permit

- (1) A person shall not carry on trading unless that person is—
 - (a) the holder of a valid trader's permit; or
 - (b) an assistant specified in a valid trader's permit.
- (2) Every application for a trader's permit shall—
 - (a) state the full name and address of the applicant;
 - (b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;
 - (c) specify the location or locations in which the applicant proposes to trade;
 - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;
 - (e) specify the proposed goods or services which will be traded; and
 - (f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.

6.4 No permit required to sell newspaper

Notwithstanding any other provision of this local law, a person who sells or offers for sale a newspaper only, is not required to obtain a permit.

6.5 Relevant considerations in determining application for permit

- (1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to—
 - (a) any relevant policies of the local government;
 - (b) the desirability of the proposed activity;
 - (c) the location of the proposed activity;
 - (d) the principles set out in the Competition Principles Agreement; and
 - (e) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds—
 - (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;
 - (b) that the applicant is not a desirable or suitable person to hold a permit;
 - (c) that—
 - (i) the applicant is an undischarged bankrupt or is in liquidation;
 - (ii) the applicant has entered into any composition or arrangement with creditors; or
 - (iii) a manager, an administrator, a trustee, a receiver or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property; or
 - (d) such other grounds as the local government may consider to be relevant in the circumstances of the case.

6.6 Conditions of permit

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

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

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

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

(1) In this clause—

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

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

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

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

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

Subdivision 3—Conduct of stallholders and traders

6.8 Conduct of stallholders and traders

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

- (a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure, or if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting a stall or trading;
- (b) not display a permit unless it is a valid permit; and
- (c) when selling goods by weight, carry and use for that purpose scales tested and certified in accordance with the provisions of the *Trade Measurement Act 2006*.

(2) A stallholder or trader shall not—

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

Division 2—Street entertainers

Subdivision 1—Preliminary

6.9 Interpretation

In this Division, unless the context otherwise requires—

perform includes to play a musical instrument, sing, mime, dance, give an acrobatic or aerobics display or entertain, but does not include public speaking;

permit means a permit issued for the purpose of clause 6.10;

permitted area means the area or areas specified in a permit in which the permit holder may perform; and

permitted time means the time or times specified in a permit during which the permit holder may perform.

Subdivision 2—Permits

6.10 Permit required to perform

A person shall not perform in a public place without a permit.

6.11 Variation of permitted area and permitted time

(1) The local government may by notice in writing to a permit holder vary—

- (a) the permitted area;
- (b) the permitted time; or
- (c) both the permitted area and the permitted time

shown on a permit.

(2) The local government may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

6.12 Duration of permit

A permit is valid for a period of 3 months after the date on which it is issued unless it is sooner cancelled under this local law.

6.13 Cancellation of permit

The CEO may cancel a permit if in her or his opinion the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place, or if in her or his opinion, or in the opinion of an authorised person, the performance otherwise constitutes a nuisance.

6.14 Obligations of permit holder

A permit holder shall not in a public place—

- (a) perform wearing dirty, torn or ragged clothing;
- (b) act in an offensive manner; or
- (c) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier—
 - (i) other than in the permitted area; and
 - (ii) unless the musical instrument or device is specified in the permit.

*Division 3—Outdoor eating facilities on public places***6.15 Interpretation**

In this Division—

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

food business has the same meaning as given in section 10 of the *Food Act 2008*;

permit holder means the person to whom a permit has been issued for the purpose of clause 6.16; and

public place has the meaning given to it in clause 6.1.

6.16 Permit required to conduct facility

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

6.17 Matters to be considered in determining application

In determining an application for a permit for the purpose of clause 6.16, the local government may consider in addition to any other matter it considers relevant, whether or not—

- (a) the facility is conducted in conjunction with and as an extension of a food business which abut on the facility, and whether the applicant is the person conducting such food business;
- (b) any abutting food businesses are registered in accordance with the *Food Act 2008*, and whether the use of the premises to conduct a food business is permitted under the town planning scheme;
- (c) users of the facility will have access to proper and sufficient sanitary and ablutionary conveniences;

- (d) the facility would—
 - (i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or
 - (ii) impede pedestrian access; and
- (e) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

6.18 Obligations of permit holder

- (1) The permit holder for a facility shall—
 - (a) ensure that the facility is conducted at all times in accordance with the provisions of this local law and the *Food Act 2008*;
 - (b) ensure that the eating area is kept in a clean and tidy condition at all times;
 - (c) maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times;
 - (d) be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the facility; and
 - (e) be solely responsible for all rates and taxes levied upon the land occupied by the facility.
- (2) Whenever, in the opinion of the local government, any work is required to be carried out to a facility, the local government may give a notice to the permit holder for the facility to carry out that work within the time limited by the notice.
- (3) In subclause (2), *work* includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a facility.

6.19 Removal of facility unlawfully conducted

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

6.20 Use of facility by public

- (1) A person shall not occupy a chair or otherwise use the equipment in a facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the facility.
- (2) A person shall leave a facility when requested to do so by the permit holder.

6.21 Temporary removal of facility may be requested

- (1) The permit holder for a facility is to temporarily remove the facility when requested to do so on reasonable grounds by an authorised person or a member of the Police Service or an emergency service.
- (2) The permit holder may replace the facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

PART 7—PERMITS

Division 1—Applying for a permit

7.1 Application for permit

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

7.2 Decision on application for permit

- (1) The local government may—
 - (a) approve an application for a permit unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.

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

(4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).

(5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

Division 2—Conditions

7.3 Conditions which may be imposed on a permit

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

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

7.4 Imposing conditions under a policy

(1) In this clause—

policy means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 7.2(1)(a).

(2) Under clause 7.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.

(3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 7.2(2).

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

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

7.5 Compliance with and variation of conditions

(1) Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder shall comply with each of those conditions.

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

Division 3—General

7.6 Duration of permit

A permit is valid for 1 year from the date on which it is issued, unless it is—

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 7.10.

7.7 Renewal of permit

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

(2) The provisions of—

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

shall apply to an application for the renewal of a permit with the necessary modifications.

7.8 Transfer of permit

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

- (a) be made in writing;
- (b) be signed by the permit holder and the proposed transferee of the permit;

- (c) provide such information as the local government may require to enable the application to be determined; and
 - (d) be forwarded to the CEO together with any fee imposed, and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by—
- (a) an endorsement on the permit signed by the CEO; or
 - (b) issuing to the transferee a permit in the form determined by the local government.
- (4) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

7.9 Production of permit

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

7.10 Cancellation of permit

- (1) Subject to clause 8.1, a permit may be cancelled by the local government if the permit holder has not complied with a—
- (a) condition of the permit; or
 - (b) provision of any written law which may relate to the activity regulated by the permit.
- (2) On the cancellation of a permit the permit holder—
- (a) shall return the permit as soon as practicable to the local government; and
 - (b) is to be taken to have forfeited any fees paid in respect of the permit.

PART 8—OBJECTIONS AND APPEALS

8.1 Application of Part 9 Division 1 of Act

When the local government makes a decision—

- (a) under clause 7.2(1); or
- (b) as to whether it will renew, vary or cancel a permit,

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

PART 9—MISCELLANEOUS NOTICES

9.1 Notice to redirect or repair sprinkler

Where a lawn or a garden is being watered with a sprinkler which is on the lawn or the garden, in a manner which causes or may cause an inconvenience or obstruction to any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the lawn or the garden, requiring the owner or the occupier or both to move or alter the direction of the sprinkler or other watering equipment.

9.2 Hazardous plants

- (1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.
- (2) Subclause (1) does not apply where the plant was planted by the local government.

9.3 Notice to repair damage to thoroughfare

Where any portion of a thoroughfare has been damaged, the local government may by notice to the person who caused the damage, order the person to repair or replace that portion of the thoroughfare to the satisfaction of the local government.

9.4 Notice to remove thing unlawfully placed on thoroughfare

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

PART 10—ENFORCEMENT

Division 1—Notices given under this local law

10.1 Offence to fail to comply with notice

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

10.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 10.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

Division 2—Offences and penalties
Subdivision 1—General

10.3 Offences

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

Subdivision 2—Infringement notices and modified penalties

10.4 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 that specified adjacent to the clause in Schedule 1.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that—
- (a) commission of the prescribed offence is a relatively minor matter; and
 - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

10.5 Forms

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

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

Schedule 1
PRESCRIBED OFFENCES

[Clause 10.4]

Clause	Description	Modified Penalty
2.1(a)	Plant any plant (except grasses or a similar plant) within 6 metres of intersection	\$150
2.1(b)	Damaging lawn or garden	\$150
2.1(c)	Plant (except grass) on thoroughfare within 2 metres of carriageway	\$150
2.1(d)	Placing hazardous substance on footpath	\$150
2.1(e)	Damaging or interfering with signpost or structure on thoroughfare	\$450
2.1(f)	Playing games so as to impede vehicles or persons on thoroughfare	\$150
2.1(g)	Riding of skateboard or similar device within mall or verandah of shopping centre	\$150
2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	\$150
2.2(1)(b)	Throwing or placing anything on a verge without a permit	\$150
2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	\$150
2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	\$300
2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	\$300
2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	\$450

Clause	Description	Modified Penalty
2.2(1)(h)	Felling tree onto thoroughfare without a permit	\$150
2.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	\$150
2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	\$450
2.2(1)(k)	Creating a nuisance on a public place without a permit	\$150
2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	\$150
2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	\$150
2.3(1)	Consumption or possession of liquor on thoroughfare	\$150
2.4(1)	Failure to obtain permit for temporary crossing	\$300
2.5(2)	Failure to comply with notice to remove crossing and reinstate kerb	\$450
2.9(1)	Installation of verge treatment other than permissible verge treatment	\$300
2.10	Failure to maintain permissible verge treatment or placement of obstruction on verge	\$150
2.11	Failure to comply with notice to rectify default	\$150
2.17(2)	Failure to comply with sign on public place	\$150
2.19(1)	Driving or taking a vehicle on a closed thoroughfare	\$450
3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	\$150
3.2(3)	Erecting or placing of advertising sign in a prohibited area	\$150
4.1(1)	Animal or vehicle obstructing a public place or local government property	\$150
4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	\$150
4.2(2)(b)	Animal on public place with infectious disease	\$150
4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	\$150
4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	\$150
4.5	Person leaving shopping trolley in public place other than trolley bay	\$150
4.6(2)	Failure to remove shopping trolley upon being advised of location	\$150
5.6(1)	Driving a vehicle on other than the carriageway of a flora road	\$300
5.9	Planting in thoroughfare without a permit	\$300
5.11	Failure to obtain permit to clear a thoroughfare	\$500
5.13	Burning of thoroughfare without a permit	\$500
5.17	Construction of firebreak on thoroughfare without a permit	\$500
5.19	Commercial harvesting of native flora on thoroughfare	\$500
5.20(1)	Collecting seed from native flora on thoroughfare without a permit	\$450
6.2(1)	Conducting of stall in public place without a permit	\$450
6.3(1)	Trading without a permit	\$450
6.8(1)(a)	Failure of stallholder or trader to display or carry permit	\$150
6.8(1)(b)	Stallholder or trader not displaying valid permit	\$150
6.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	\$150
6.8(2)	Stallholder or trader engaged in prohibited conduct	\$150
6.10	Performing in a public place without a permit	\$150
6.11(2)	Failure of performer to move onto another area when directed	\$150
6.14	Failure of performer to comply with obligations	\$150
6.16	Establishment or conduct of outdoor eating facility without a permit	\$450
6.18	Failure of permit holder of outdoor eating facility to comply with obligations	\$150

Clause	Description	Modified Penalty
6.20(1)	Use of equipment of outdoor eating facility without purchase of food or drink from facility	\$100
6.20(2)	Failure to leave outdoor eating facility when requested to do so by permit holder	\$100
7.5	Failure to comply with a condition of a permit	\$150
7.9	Failure to produce permit on request of authorised person	\$150
10.1	Failure to comply with notice given under local law	\$150

Dated: 9 November 2011.

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

IAN CARPENTER, Mayor.
ANTHONY BRUN, Chief Executive Officer.

CEMETERIES ACT 1986

CITY OF GREATER GERALDTON

CEMETERY LOCAL LAW 2011

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CEMETERIES ACT 1986

CITY OF GREATER GERALDTON

CEMETERY LOCAL LAW 2011

Under the powers conferred by section 55 of the *Cemeteries Act 1986*, subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Greater Geraldton resolved on the 12 October 2011 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the *City of Greater Geraldton Cemetery Local Law 2011*.

1.2 Commencement

This local law comes into operation 14 days after the date on which it is published in the *Government Gazette*.

1.3 Application

This local law applies to the Mullewa Public Cemetery (Reserve No. 3334 and Reserve No. 25429) in the district.

1.4 Repeal

The *Mullewa Public Cemetery (Reserve No. 3334 and Reserve No. 25429) By-law* as published in the *Government Gazette* of 23 September 1938 and as amended and published in the *Government Gazette* 30 January 1981 and 26 June 1981 is repealed.

1.5 Interpretation

In this local law unless the context otherwise requires—

Act means the *Cemeteries Act 1986*;

administrator includes executor and any person who, by law or practice, has the right to apply for administration, and any person having the lawful custody of the body of a deceased person;

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

authorised officer means an employee appointed by the local government for the purposes of performing any function or exercising any power conferred upon an authorised officer by this local law;

burial has the same meaning as is given in the Act;

cemetery means the Mullewa Public Cemetery;

CEO means the Chief Executive Officer of the local government;

crypt has the same meaning as vault;

dead body has the same meaning as that expression in the Act;

district means the district of the City of Greater Geraldton;

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

funeral director means a person holding a current funeral director's licence;

grave means a grave situated in a cemetery in respect of which a grant has been made under and in accordance with the Act and this local law;

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

local government means the City of Greater Geraldton;

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

memorial has the same meaning as is given in the Act;

military grave means a grave eligible for commemoration by the Office of Australian War Graves;

monumental mason means a person holding a current monumental mason's licence;

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

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

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

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

PART 2—ADMINISTRATION

2.1 Powers and functions of Chief Executive Officer

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

PART 3—APPLICATION FOR FUNERALS

3.1 Application for burial

(1) A person may apply for approval to bury a dead body in the cemetery in the form determined by the local government from time to time.

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

3.2 Applications to be accompanied by certificates etc

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

3.3 Certificate of identification

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

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

(2) Where—

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

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

3.4 Minimum notice required

All bookings to hold a funeral shall be made with the local government at least 24 hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

PART 4—FUNERAL DIRECTORS

4.1 Funeral director's licence expiry

A funeral director's licence shall expire on 30 June in each year.

4.2 Single funeral permits

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

4.3 Application refusal

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

PART 5—FUNERALS

Division 1—General

5.1 Requirements for funerals and coffins

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

- (a) the local government has approved an application for the burial of that dead body in accordance with Part 3 of this local law;

- (b) it is enclosed in a coffin which in the opinion of the local government is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin's lid; and
- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 millimetres in height.

5.2 Funeral processions

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

5.3 Vehicle entry restricted

- (1) Subject to subclause (2), every funeral procession shall enter by the principal entrance, and no vehicle except the hearse and official mourning coaches shall be permitted to enter the cemetery.
- (2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs.

5.4 Vehicle access and speed limitations

- (1) A person shall—
 - (a) drive a vehicle on the access way, constructed roadway or vehicular pathway or other area designated for the use of vehicles within the cemetery; and
 - (b) not exceed the speed limit of 25 kilometres per hour as indicated by signs within the cemetery; and
 - (c) park the vehicle in a designated area indicated by a sign or structure or device that guides and directs the vehicle.
- (2) A person who contravenes subclause (1) shall be ordered to leave the cemetery in accordance with clause 8.8.

5.5 Conduct of funeral by local government

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

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

Division 2—Placement of ashes

5.6 Placement of ashes

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

- Niche Wall
- Memorial Wall
- Garden of Remembrance
- Ground Niche
- Memorial Rose, Tree or Shrub
- Family Shrub
- Memorial Desk
- Granite Seat
- Family Grave
- Book of Remembrance
- Scattering to the Winds
- Memorial Gardens
- Other memorials approved by the local government.

- (2) Subject to subclauses (3) and (4), a person shall not place the ashes of a deceased person in the cemetery.
- (3) An authorised officer may place the ashes of a deceased person in a cemetery in accordance with the local government approval provided that—
 - (a) the person requesting the placement of the ashes has the permission of the local government; and
 - (b) the ashes are placed within an area set aside for that purpose by the local government.

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

PART 6—BURIALS

6.1 Depth of graves

(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—

- (a) not less than 750 millimetres, unless that person has the permission of an authorised officer; or
- (b) in any circumstances less than 600 millimetres.

(2) The permission of the authorised officer in subclause (1)(a) will only be granted where in the opinion of the authorised officer exceptional circumstances require granting of that permission.

6.2 Mausoleum etc

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

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

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

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

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

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

PART 7—MEMORIALS AND OTHER WORK

Division 1—General

7.1 Application for monumental work

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

7.2 Placement of monumental work

Every memorial shall be placed on proper and substantial foundations.

7.3 Removal of rubbish

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

7.4 Operation of work

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

7.5 Removal of sand, soil or loam

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

7.6 Hours of work

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

7.7 Unfinished work

Should any work by masons or others be not completed before 6.00 pm on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised officer.

7.8 Use of wood

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

7.9 Plants and trees

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

7.10 Supervision

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

7.11 Australian War Graves

Notwithstanding anything in this local law to the contrary, the Office of Australian War Graves—

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

7.12 Placing of glass domes and vases

A person shall not place glass domes, vases or other grave ornaments—

- (a) outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40(2) of the Act; or
- (b) on the lawn in an area set aside by the local government as a lawn or a memorial plaque section.

*Division 2—Lawn section***7.13 Specification of monuments**

(1) All monuments in the lawn section of a cemetery shall—

- (a) be made of natural stone; and
- (b) be placed upon a base of natural stone; and
- (c) comply with the following specifications—
 - (i) the overall height of the monument above the original surface of the grave shall not exceed 1.05 metres;
 - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150 millimetres nor more than 450 millimetres;
 - (iii) the width of the base of the monument shall not exceed 1.2 metres;
 - (iv) the depth of the base of the monument shall not exceed 300 millimetres; and
- (d) have foundations extending to the bottom of the grave unless concrete beam foundations are provided by the local government.

(2) An admiralty bronze memorial plaque may be attached to a monument erected or being erected in the lawn section of the cemetery.

(3) A person shall not display any trade names or marks upon any monument erected within the lawn section of the cemetery.

7.14 Headstones

In the lawn section of the cemetery, that part of a headstone above its base shall not extend horizontally beyond that base.

*Division 3—Memorial plaque section***7.15 Requirements of a memorial plaque**

(1) All memorial plaques placed in a memorial plaque section of the cemetery shall—

- (a) be made of admiralty bronze or any other material approved by the local government; and
- (b) not be less than the dimensions 380 millimetres x 280 millimetres, nor more than 560 millimetres x 305 millimetres.

(2) All memorial plaques made of admiralty bronze shall—

- (a) not exceed 20 millimetres in thickness; and
- (b) be placed upon a base mounting approved by the local government.

(3) All memorial plaques made of stone shall—

- (a) not exceed 50 millimetres in thickness placed upon a base mounting approved by the local government; or
- (b) not be less than 100 millimetres in thickness if it is not to be placed upon a base mounting.

*Division 4—Licensing of monumental masons***7.16 Monumental mason's licence**

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

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

7.17 Expiry date, non-transferability

A monumental mason's licence—

- (a) shall, subject to clause 7.20, be valid from the date specified until the next following 30 June; and
- (b) is not transferable.

7.18 Carrying out monumental work

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

- (a) is the holder of a current monumental mason's licence issued pursuant to clause 7.16 or does so as the employee of a person who holds such a licence; or
- (b) is authorised by the local government to do so.

7.19 Responsibilities of the holder of a monumental mason's licence

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

7.20 Cancellation of a monumental mason's licence

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

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

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

PART 8—GENERAL**8.1 Animals**

Subject to clause 8.2, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than with the approval of the CEO or an authorised officer.

8.2 Guide dogs

Clause 8.1 shall not apply to a hearing impaired person or a person who is blind or partially blind and is accompanied by a hearing or guide dog.

8.3 Damaging and removing of objects

Subject to clause 8.4, a person shall not damage, remove or pick any tree, plant, shrub or flower in the cemetery, or any other object or thing on any grave or memorial or which is the property of the local government without the permission of the local government.

8.4 Withered flowers

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

8.5 Littering and vandalism

A person shall not—

- (a) break or cause to be broken any glass, ceramic or other material in or upon the cemetery;
- (b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in or upon the cemetery other than in a receptacle provided for that purpose.

8.6 Advertising and trading

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

8.7 Obeying signs and directions

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

8.8 Removal from the cemetery

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

PART 9—OFFENCES AND MODIFIED PENALTIES**9.1 General**

A person who commits a breach of any provisions of this local law commits an offence and shall on conviction be liable to a penalty not exceeding \$500 and if the offence is a continuing one to a further penalty not exceeding \$20 for every day or part of a day during which the offence has continued.

9.2 Modified penalties

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

(2) The modified penalty payable in respect of an offence specified in the Schedule 1 is set out in column 4 of Schedule 1.

9.3 Form of notices

(1) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in Schedule 2.

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

Schedule 1
MODIFIED PENALTIES

[cl. 9.2(1)]

Item No.	Clause	Nature of Offence	Modified Penalty
1	5.4(1)	Not driving on constructed vehicle areas	\$50
2	5.4(2)	Excessive speed	\$50
3	7.3	Non removal of rubbish and surplus materials	\$50
4	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50
5	8.1	Bringing animal into cemetery without approval	\$50
6	8.5	Dumping of rubbish	\$50
7	8.6	Unauthorised advertising or trading	\$50
8	8.7	Disobeying sign or lawful direction	\$50

Schedule 2
INFRINGEMENT NOTICE

[cl. 9.3(1)]

No. _____

To:
(Name)

.....
(Address)

It is alleged that at hours on day
of at

.....
you committed the offence indicated below by an [x] in breach of clause of the *City of Greater Geraldton Cemetery Local Law 2011*.

.....
(Authorised Person)

Offence—

- Not driving on constructed vehicle areas
- Excessive speed
- Non removal of rubbish and surplus materials
- Leaving uncompleted works in an untidy or unsafe condition
- Bringing animal into cemetery
- Dumping of rubbish
- Unauthorised advertising or trading
- Disobeying sign or lawful direction

\$

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 City of Greater Geraldton, Cathedral Avenue Geraldton between the hours of 9.00 am to 4.30 pm Monday to Friday.

Payments by mail should be addressed to—

Chief Executive Officer
City of Greater Geraldton
PO Box 101
GERALDTON WA 6531

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.

Schedule 3
Withdrawal of infringement notice

[cl. 9.3(2)]

No.

Date/...../.....

To ⁽¹⁾

Infringement Notice No. dated/...../..... for the alleged offence

of ⁽²⁾

Penalty ⁽³⁾ \$..... is withdrawn.

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

⁽¹⁾ Insert name and address of alleged offender.

⁽²⁾ Insert short particulars of offence alleged.

⁽³⁾ Insert amount of penalty prescribed.

* (Delete whichever does not apply)

(Authorised Person)

Dated: 9 November 2011.

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

IAN CARPENTER, Mayor.
ANTHONY BRUN, Chief Executive Officer.

BUSH FIRES ACT 1954

CITY OF GREATER GERALDTON

BUSH FIRE BRIGADES LOCAL LAW 2011

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SCHEDULE 1—RULES GOVERNING THE OPERATION OF BUSH FIRE BRIGADES

BUSH FIRES ACT 1954

CITY OF GREATER GERALDTON

BUSH FIRE BRIGADES LOCAL LAW 2011

Under the powers conferred by section 62 of the *Bush Fires Act 1954*, subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Greater Geraldton resolved on the 12 October 2011 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the *City of Greater Geraldton Bush Fire Brigades Local Law 2011*.

1.2 Commencement

This local law comes into operation 14 days after the date on which it is published in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The Municipality of the *Shire of Mullewa By-Laws Relating to the Establishment and Maintenance of Bush Fire Brigades* published in the *Government Gazette* of the 19 October 1984 is repealed.

1.5 Interpretation

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

Act means the *Bush Fires Act 1954*;

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 fire fighting member, associate 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 local government as amended from time to time;

CEO means the Chief Executive Officer of the local government;

Council means the Council of the local government;

district means the district of the local government;

fire fighting member is defined in clause 4.2;

local government means the City of Greater Geraldton;

Regulations means Regulations made under the Act; and

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

(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; and
- (g) a Treasurer; or
- (h) a Secretary/Treasurer combined,

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

PART 2—ESTABLISHMENT OF BUSH FIRE BRIGADE

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; and
- (c) appoint—
 - (i) a Captain;
 - (ii) a First Lieutenant;
 - (iii) a Second Lieutenant;
 - (iv) additional Lieutenants if the local government considers it necessary;
 - (v) an Equipment Officer;
 - (vi) a Secretary; and
 - (vii) a Treasurer; or
 - (viii) a Secretary/Treasurer combined.

(2) When considering the appointment of persons to the positions in subclause (1)(c), the local government is 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 conclusion 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 conclusion of the first annual general meeting, then the local government is to appoint a person to fill the vacancy in accordance with subclause (2).

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 firefighters.

(2) 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.

(3) 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 other persons fighting the fire and is to issue instructions as to the methods to be adopted by the firefighters.

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 Council 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 from time to time.

Division 2—Chief Bush Fire Control Officer

3.3 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.

3.4 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.

3.5 Duties of Chief Bush Fire Control Officer

The duties of the Chief Bush Fire Control Officer include—

- (a) provide leadership to volunteer bush fire brigades;
- (b) monitor bush fire brigades' resourcing, equipment (including protective clothing) and training levels and report, with recommendations, to the local government at least once a year;
- (c) 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; and
- (d) ensure that bush fire brigades are registered with the local government and that lists of brigade members are maintained.

Division 3—Annual general meetings of bush fire brigades

3.6 Holding of annual general meeting

A bush fire brigade is to hold its annual general meeting during the months of June and July each year.

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

At the annual general meeting of a bush fire brigade, 1 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.

3.8 Nomination of bush fire control officer to the local government

If the local government has not established a Bush Fire Advisory Committee, then at the annual general meeting of a bush fire brigade, the bush fire brigade is to nominate 1 brigade member to the local government to serve as the bush fire control officer for the brigade area until the next annual general meeting.

3.9 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 1 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

following their receipt under subclause (1).

*Division 4—Bush Fire Advisory Committee***3.10 Functions of Bush Fire 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.

3.11 Bush Fire 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.

3.12 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.

3.13 Bush Fire 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) fire fighting members;

(b) associate members;

(c) cadet members; and

(d) honorary life members.

4.2 Fire fighting members

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

4.3 Associate members

Associate members are those persons who are willing to supply free vehicular transport for fire 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 fire 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; and

(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

Not later than 31 July in each year, the bush fire brigade is to report to the Chief 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 FIRES 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 28 February in 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 28 February in order to be considered in the next following local government budget, and is to be accompanied by the last audited financial statement and a current statement of assets and liabilities of the bush fire brigade.

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***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% 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 Greater Geraldton Bush Fire Brigades Local Law 2011*; 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.

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) fees payable, if any;
- (c) a requirement to serve a probationary period; and
- (d) 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 fire fighting membership is to be accompanied by a completed form in the form of that in Appendix I;
- (b) an application for associate membership is to be accompanied by a completed form in the form of that in Appendix II; and
- (c) an application for cadet membership is to be accompanied by a completed form in the form of that in Appendix III.

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 FESA 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

(1) 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;
- (d) is dismissed by the Committee; or
- (e) ceases to be a member or is taken to have resigned under subclause (2).

(2) A brigade member whose membership fees are more than 1 year in arrears is to be taken to have resigned from the bush fire brigade.

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(1)(d) without being given the opportunity to meet with the Committee and answer any charges 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(1)(c), clause 2.7(1)(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—

- (a) dismissing the objection;
- (b) varying the decision objected to; or
- (c) revoking the decision objected to, with or without—
 - (i) substituting for it another decision; or
 - (ii) 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 Duties of Captain

- (1) Subject to subclause (2), the Captain is to preside at all meetings.
- (2) In the absence of the Captain, the meeting may elect another person to preside at the meeting.

3.3 Duties of Secretary

- (1) The Secretary is to—
 - (a) be in attendance at all meetings and keep a correct minute and account of the proceedings of the bush fire brigade in a book which shall be open for inspection by brigade members at any reasonable time;
 - (b) answer and keep a record of all correspondence or direct it appropriately;
 - (c) prepare and send out all necessary notices of meetings;
 - (d) receive membership fees, donations and other monies on behalf of the bush fire brigade, and remit them to the Treasurer upon receipt;
 - (e) 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 an incident;
 - (f) maintain a register of all current brigade members which includes each brigade member's contact details and type of membership; and
 - (g) provide not 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.
- (2) Where a bush fire brigade attends an incident on more than 1 day, the incident report form is to be completed and forwarded under subclause (1)(e) within 14 days after the last day of attendance.

3.4 Duties of Treasurer

The Treasurer is to—

- (a) receive donations and deposits from the Secretary, and deposit all monies to the credit of the bush fire brigade's bank account;
- (b) pay accounts as authorised by the Committee;
- (c) keep a record of all monies received and payments made, maintain the accounts and prepare the balance sheet for each financial year;
- (d) be the custodian of all monies of the bush fire brigade;
- (e) regularly inform the Secretary of the names of those brigade members who have paid their membership fees; and
- (f) report on the financial position at meetings of the bush fire brigade or Committee.

3.5 Duties of Equipment Officer

The Equipment Officer is responsible for the custody and maintenance in good order and condition of all protective clothing, equipment and appliances provided by the local government to the bush fire brigade (or of the bush fire brigade).

3.6 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 (the *station*).
- (2) If there is to be more than 1 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.

3.7 Equipment Officer to report

The Equipment Officer is to provide, not later than 28 February of each year, a report to the local government and bush fire brigade 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 affairs of the bush fire brigade shall be managed by 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 budget for the bush fire brigade 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;
 - (e) to invest or place on deposit any of the funds of the bush fire brigade not immediately required to perform the normal brigade activities;
 - (f) 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;
 - (g) 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
 - (h) 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 Lieutenants 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 conclusion of 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 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 firebreaks;
 - (d) establishing new procedures in respect of any of the normal brigade activities; and
 - (e) dealing with any general 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 one 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) appoint an Auditor for the ensuing financial year in accordance with clause 5.6 of this Schedule; and
 - (e) deal with any general business.

(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 is at least 50% of the number of offices (whether vacant or not) 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

(1) Each brigade member has only one vote at meetings of the bush fire brigade.

(2) In the case of an equality of votes, a question shall be decided in the negative.

5.6 Auditor

(1) At the annual general meeting a person, not being a brigade member, is to be appointed as the Auditor of the bush fire brigade for the ensuing financial year.

(2) The Auditor is to audit the accounts of the bush fire brigade not less than 7 days before the annual general meeting and is to certify to their correctness or otherwise, and present a report at the annual general meeting.

PART 6—MEETINGS OF COMMITTEE

6.1 Meetings of Committee

(1) The Committee is to meet for the despatch of business, 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 3 brigade officers is present in person.

6.3 Voting

(1) Each brigade officer has only 1 vote at meetings of the Committee.

(2) In the case of an equality of votes, a question shall be decided in the negative.

PART 7—GENERAL ADMINISTRATION 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 and Treasurer or such other person designated by the bush fire brigade.

(2) If the Secretary/Treasurer is a combined position, the Captain and Secretary/Treasurer or such other person designated by the bush fire brigade, 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, and the brigade member votes on the matter, then her or his vote is to be taken to have no effect and is not to be counted.

(4) Every disclosure made under subclause (1) shall be recorded in the minutes of the meeting of the bush fire brigade or Committee at which the disclosure was made.

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 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) Where any notice, including a notice of meeting, is to be given under these Rules, the notice is to be—

- (a) in writing;
- (b) given by—
 - (i) personal delivery to the nominated address of the addressee;
 - (ii) post to the nominated postal address of the addressee;
 - (iii) facsimile transmission to the nominated facsimile number of the addressee; or
 - (iv) e-mail to the nominated electronic address of the addressee;
- (c) taken to have been received, as the case may be—
 - (i) at the time of personal delivery;
 - (ii) two business days after posting; or
 - (iii) subject to paragraph (d), at the time of transmission by facsimile or e-mail if before 5.00 pm on a business day or otherwise at 9.00 am on the next business day; and
- (d) A facsimile transmission or e-mail is not given or received if—
 - (i) at the conclusion of a facsimile transmission the sender's facsimile machine issues an error transmission report which indicates that the relevant number of pages comprised in the notice has not been sent; or
 - (ii) at the conclusion of an e-mail the sender receives an automated message stating that the e-mail was undeliverable.

(2) Any accidental omission to give notice of a meeting to, or non-receipt by, a person entitled to receive such notice does not invalidate the meeting, the subject of the notice or any resolutions passed at the meeting.

8.2 Proxies

(1) Where under these Rules a brigade member may vote by proxy, in order for the proxy to so vote, the brigade member or the proxy shall give a notice in the form of that appearing in this clause, 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 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.

(7) The form appointing a proxy shall be in writing and signed by the brigade member appointing the proxy and shall be in or substantially in the form set out below—

APPOINTMENT OF PROXY

[INSERT NAME] BUSH FIRE BRIGADE

**[Annual] [Extraordinary] General Meeting
to be held on [Date]**

I,,
[insert member's name]

being a brigade member appoint

.....
[insert proxy's name]

to be my proxy and vote on my behalf at the meeting of the bush fire brigade to be held on
..... and at any adjournment of it.

[insert date]

The proxy shall vote as follows—

MOTION

FOR / AGAINST / ABSTAIN

.....
.....

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.

Appendix I

APPLICATION FOR MEMBERSHIP—FIRE FIGHTING MEMBER

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

Applicant's Name

Home Address

Work Address

Usual Occupation

Telephone Nos. Home Work Mobile

Fax Nos. Home Work

E-mail Address

UHF Radio..... Channel Call Sign

If needed, I can provide my own transport to the scene of any outbreak. [delete 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 Greater Geraldton 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 authorised 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—

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

<p>Bush Fire Brigade Use Only</p> <p>Approved/Declined</p> <p>Brigade Captain</p>
--

Appendix II**APPLICATION FOR MEMBERSHIP—ASSOCIATE MEMBER**

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

- (a) I am prepared to offer to transport fire 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.
.....

I hold a current driver's licence 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

Home Address

Work Address

Telephone Nos. Home Work Mobile

Fax Nos. Home Work

E-mail Address

UHF 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 the Regulations made under that Act, and the local law and policies of the City of Greater Geraldton 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;
- (4) to comply with the Rules of the bush fire brigade.

Date

.....
Applicant's signature

Bush Fire Brigade Use Only
Approved/Declined
Brigade Captain

Appendix III**APPLICATION FOR MEMBERSHIP—CADET MEMBER**

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

Applicant's Name

Home Address

Telephone Nos. Home Mobile

Fax Nos. Home

E-mail Address

UHF Radio Channel Call Sign

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

Date of Birth Home

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 Greater Geraldton relevant to the activities of cadet members;
- (3) to obey all orders and instructions issued by duly authorised 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 Approved/Declined Brigade Captain</p>
--

Dated: 9 November 2011.

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

IAN CARPENTER, Mayor.
ANTHONY BRUN, Chief Executive Officer.

DOG ACT 1976

CITY OF GREATER GERALDTON

DOGS LOCAL LAW 2011

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DOG ACT 1976

CITY OF GREATER GERALDTON

DOGS LOCAL LAW 2011

Under the powers conferred by section 49 of the *Dog Act 1976*, Subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Greater Geraldton resolved on 12 October 2011 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the *City of Greater Geraldton Dogs Local Law 2011*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The following local laws are repealed—

- (a) the *Municipality of Geraldton By-laws Relating to Dogs* published in the *Government Gazette* on 30 May 1952 and as amended and published in the *Government Gazette* on 11 June 1963;
- (b) the *City of Geraldton Dogs Local Law 2000* published in the *Government Gazette* on 14 April 2000 and corrected and published in the *Government Gazette* on 30 May 2000 and amended and published in the *Government Gazette* on 13 December 2002, 15 October 2004 and 10 November 2006;
- (c) the *Shire of Greenough's Local Law Relating to Dogs* published in the *Government Gazette* on 8 August 2001; and
- (d) the *Municipality of the Shire of Mullewa By-laws Relating to Dogs* published in the *Government Gazette* on 21 December 1979 and as amended and published in the *Government Gazette* on 5 February 1988 and 8 July 1988.

1.5 Interpretation

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 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 has the meaning given to it in section 3(1) of the Act;

district means the district of the local government;

kennel means any structure or land used for the boarding or breeding of dogs;

local government means the City of Greater Geraldton;

local planning scheme means a local 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;

owner has the meaning given to it in section 3(1) of the Act;

person liable for the control of the dog has the meaning given to it in section 3(1) of the Act;

pound means a pound established under section 11 of the Act;

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

premises has the meaning given to it in section 3(1) of the Act;

public place has the meaning given to it in section 3(1) of the Act;

Regulations means the *Dog Regulations 1976*; and
thoroughfare has the meaning given to it in section 1.4 of the *Local Government Act 1995*.

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 CEO.

2.3 Release of impounded dog

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

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

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

2.4 No breaking into or destruction of pound

A person who—

- (a) unless he or she is the pound keeper or a person 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 not dog-proof—
 - (i) any pound; or
 - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog

commits an offence.

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

PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

3.1 Dogs to be confined

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

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

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

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—

- (a) 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; or
- (b) 4 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a townsite.

PART 4—APPROVED KENNEL ESTABLISHMENTS**4.1 Interpretation**

In this Part and in Schedule 2—

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); and
- (f) 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 of any premises adjoining the premises.

(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 local 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 local 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, 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

- (1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.
- (2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.

4.9 Compliance with conditions of approval

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

Penalty: Where a dog involved in the contravention is a dangerous dog, \$2,000 and a daily penalty of \$200; otherwise \$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 imposed and determined 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 or this local law; 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 Interpretation

In this Part—

food business has the meaning given to it by section 10 of the *Food Act 2008*;

food transport vehicle has the meaning given to it by section 8 of the *Food Act 2008*; and

premises has the meaning given to it by section 8 of the *Food Act 2008*.

5.2 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) where so indicated by a sign;
- (b) a public building, unless permitted by a sign;
- (c) a theatre or picture gardens;
- (d) all premises from which a food business is conducted;
- (e) all food transport vehicles;
- (f) a public swimming pool;
- (g) any vegetation or sand dune adjacent to a public beach;
- (h) a house of worship; or
- (i) the areas listed 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.

5.3 Places which are dog exercise areas

(1) Subject to clause 5.2 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, the areas described in Schedule 4 are dog exercise areas.

(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 Offence to excrete

(1) A dog must not excrete on—

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

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

Penalty: \$500.

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

PART 7—ENFORCEMENT**7.1 Interpretation**

In this Part—

infringement notice means the notice referred to in clause 7.3; and

notice of withdrawal means the notice referred to in clause 7.6(1).

7.2 Modified penalties

(1) The offences contained in Schedule 5 are offences in relation to which a modified penalty may be imposed.

(2) The amount appearing in the third column of Schedule 5 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 5 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

7.3 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.

7.4 Failure to pay modified penalty

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

7.5 Payment of modified penalty

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

7.6 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 7.3 cannot sign or send a notice of withdrawal.

7.7 Service

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

Schedule 1**APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT**

[cl. 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 not applicable*

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

<p>OFFICE USE ONLY</p> <p>Application fee paid (<i>insert date</i>)</p>

Schedule 2

CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

[cl. 4.8(1)]

An application for a licence for an approved kennel establishment may be approved subject to the following conditions—

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than—
 - (i) 25 metres from the front boundary of the premises and 5 metres from any other boundary of the premises;
 - (ii) 10 metres from any dwelling; and
 - (iii) 25 metres from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel, and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be—
 - (i) at least 100 millimetres above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;

- (h) the kennel floor must have a durable upstand rising 75 millimetres above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50 millimetres from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of—
 - (i) 2 metres; or
 - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume, or new pre-finished colour coated steel sheeting, or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition, and must be cleaned and disinfected when so ordered by an authorised person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (r) the licensee or the person nominated in the application for a licence must, in accordance with the application for the licence, continue to reside—
 - (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

Schedule 3

PLACES IN WHICH DOGS ARE PROHIBITED

[cl. 5.2(1)(i)]

- (a) The area surrounding Batten Hall (Drummond Cove) as indicated by signage;
- (b) Batavia Coast Marina (Forrest Street end) to Pages Beach Groyne (this includes the Geraldton Port Authority wharf area and Geraldton Yacht Club);
- (c) Between the flags of any Surf Lifesaving Club;
- (d) HMAS Sydney II Memorial, Brede Street, Geraldton—Reserve 43181; and
- (e) Mullewa Public Cemetery.

Schedule 4

PLACES WHICH ARE DOG EXERCISE AREAS

[cl. 5.3(1)]

- (1) Beach north from Triton Place car park to Seacrest Way car park (Drummond Cove).
- (2) Beach adjacent to the Point Moore Lighthouse to the positioned flags of the Geraldton Surf Lifesaving Club off Willcock Drive Back Beach.
- (3) Eadon Clarke Reserve, Green Street, Spalding.
- (4) Alexander Park, Utaarra—Reserve No. 37023.
- (5) Walkaway Recreation Ground, Evans Road, Walkaway—Walkaway lot 23.
- (6) Moonyoonooka Recreation Ground, Geraldton-Mt Magnet Road, Moonyoonooka—Reserve No. 9021.
- (7) Woorree Park, Davana Drive, Woorree—Reserve No. 35816.
- (8) Greenough Oval, Davies Road, Utaarra—Lot 47 Victoria Location 1734.
- (9) Norm Brand Park, Brisbane Street, Waggrakine—Reserve No. 33326.
- (10) Karloo Park, Solomon Circle, Karloo—Reserve No. 35251.
- (11) Webber Park, Hackett Road, Waggrakine—Reserve No. 22183.
- (12) Yarraman Park, Yarraman Road, Waggrakine—Reserve No. 36082.
- (13) Beach area from southern end of Glendinning Road south to and including the Greenough River Mouth beach area.

Schedule 5
OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES

[cl. 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
4.9	Failing to comply with the conditions of a licence	\$100	\$200
5.2(2)	Dog in place from which prohibited absolutely	\$200	\$400
6.1(2)	Dog excreting in prohibited place	\$100	

Dated: 9 November 2011.

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

IAN CARPENTER, Mayor.
 ANTHONY BRUN, Chief Executive Officer.

AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976

CITY OF GREATER GERALDTON

PESTS PLANTS LOCAL LAW 2011

Under the powers conferred by section 110 of the *Agriculture and Related Resources Protection Act 1976*, subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Greater Geraldton resolved on the 12 October 2011 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the *City of Greater Geraldton Pest Plants Local Law 2011*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The following local laws are repealed—

- (a) the *Town of Geraldton Pest Plant By-laws 1982* published in the *Government Gazette* of 3 September 1982;
- (b) the *Greenough Road Board By-law for Star Thistle* published in the *Government Gazette* of 25 May 1928;
- (c) the *Shire of Greenough Pest Plant By-laws 1980* published in the *Government Gazette* of 16 January 1981 and as amended and published in the *Government Gazette* of 30 June 1992; and
- (d) the *Shire of Mullewa Pest Plant By-laws 1979* published in the *Government Gazette* of 24 April 1980.

1.5 Interpretation

In this local law, unless the contrary intention appears—

district means the district of the local government;

local government means the City of Greater Geraldton;

pest plant means a plant described as a pest plant by clause 2.1.

PART 2—PEST PLANTS**2.1 Pest plants**

Every plant described in Schedule 1 is a pest plant.

PART 3—NOTICES**3.1 Serving of a notice**

(1) The local government may serve on the owner or occupier of private land within the district a duly completed notice in the form of Schedule 2 requiring him to destroy, eradicate or otherwise control any pest plant on that land.

(2) A person served with a notice under subclause (1) shall comply with that notice within the time and in the manner specified.

3.2 Failure to comply with a notice

Where a person fails to comply with a notice under clause 3.1 served upon him, the local government may—

- (a) without payment of any compensation destroy, eradicate or control, as the case may be, any pest plant the destruction, eradication or control of which was required by the notice; and
- (b) recover in a court of competent jurisdiction from the person to whom the notice is directed, the amount of the expense of such destruction, eradication or control.

Schedule 1
PEST PLANTS

[cl. 2.1]

<u>Common Name</u>	<u>Scientific Name</u>
Box thorn	<i>Lycium ferocissimum</i>
Caltrop	<i>Tribulus terrestris</i>
Fountain Grass	<i>Pennisetum setaceum</i>
Golden Crown Beard	<i>Verbesina encelioides</i>

Schedule 2
PEST PLANT NOTICE

[cl. 3.1]

No.

To
(Full Name)

of
(Address)

You are hereby given notice under the *City of Greater Geraldton Pest Plants Local Law 2011* 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 or occupier.

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 person authorised
by the City of Greater Geraldton.

Dated: 9 November 2011.

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

IAN CARPENTER, Mayor.
ANTHONY BRUN, Chief Executive Officer.
