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# **SHIRE OF NARROGIN**

LOCAL LAWS

**CEMETERY LOCAL LAW 2016**

**CATS LOCAL LAW 2016**

**DOGS LOCAL LAW 2016**

**PARKING LOCAL LAW 2016**

**MEETING PROCEDURES LOCAL LAW 2016**



**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF NARROGIN

**CEMETERY LOCAL LAW 2016**

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**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF NARROGIN

**CEMETERY LOCAL LAW 2016**

Under the powers conferred by the *Cemeteries Act 1986* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Narrogin resolved on 12 July 2016 to adopt the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Narrogin Cemetery Local Law 2016*.

**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 to Narrogin Cemetery (Reserve 1875) located in the district.

**1.4 Repeal**

The *Bylaws Relating to Narrogin General Cemetery (Reserve 745)* published in the *Government Gazette* on 24 February 1950, and amended from time to time are repealed.

**1.5 Definitions**

In this local law, unless the context otherwise requires—

**Act** means the *Cemeteries Act 1986*;

**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 of which the volume does not exceed 4,000 cubic centimetres, or such greater volume as approved by the CEO in writing;

**assistance animal** has the meaning set out in the *Disability Discrimination Act 1992* (Commonwealth);

**authorised person** means a person—

- (a) appointed by the Board under section 9.10 of the *Local Government Act 1995* for the purposes of performing any function or exercising any power, other than the giving of infringement notices, conferred upon an authorised person by this local law; or
- (b) authorised under section 64 of the Act to give infringement notices;

**Board** means the local government;

**business day** means any week day other than a public holiday in Western Australia;

**cemetery** means Narrogin Cemetery (Reserve 1875);

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

**coffin** means a coffin or other receptacle used for the transportation of a dead body to the grave site, or the receptacle used for the burial of a dead body in a grave;

**Commissioner of Police** means the Commissioner of Police for the time being appointed under the *Police Act 1892* and includes any person for the time being acting in that capacity;

**disability** has the meaning set out in the *Disability Discrimination Act 1992* (Commonwealth);

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

**funeral director** means a person—

- (a) holding current membership of—
  - (i) the Australian Funeral Directors Association, or
  - (ii) the National Funeral Directors Association; or
- (b) a person authorised by the personal representative of a deceased person, and approved by the CEO;

**grant of right of burial** means a right granted under clause 2.3 for immediate burial of a dead body, and for the purposes of this local law, includes placement of ashes in a grave, the niche wall or under a memorial plaque, or scattering of ashes within the cemetery;

**headstone** means a memorial designed for placement at the head of a grave, commemorating a grave or the placement of ashes;

**interment** includes, as the case may be—

- (a) burial of a dead body;
- (b) placement of ashes in a grave, niche wall or under a commemorative plaque; or
- (c) scattering of ashes;

**interment permit** means a single funeral permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct the interment of a person named in the permit, and includes placement of ashes in a niche wall or memorial local, or scattering of ashes;

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

**mausoleum** means a burial chamber 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 meaning set out in the Act;

**memorial plaque** means a panel, plate or tablet designed or used for purposes of bearing a commemorative inscription;

**memorial work** means to install, repair, renovate or remove a memorial;

**monument** means a sculpture, statue, cover of a grave or other form of memorial approved by the Board commemorating a grave or the placement of ashes, other than a headstone or memorial plaque;

**natural stone** means—

- (a) any variety of non-fabricated, naturally occurring stone or rock; or
- (b) any fabricated compound or fabricated aggregate which, in the opinion of the Board, has similar durability and aesthetic qualities as the materials specified in paragraph (a) above, suitable for decorative purposes and monumental sculpture and includes granite, but not glass, porcelain, ceramics or any pottery;

**personal representative** means—

- (a) the administrator or executor of an estate of a deceased person;
- (b) the person who, by law of practice, has the right to apply for administration of the estate of the deceased person; or
- (c) a person having the lawful custody of a dead body;

**pre-need certificate** means the purchase of a certificate made under clause 2.4 setting aside for use of the person who wishes to secure the use of the grave, niche or memorial position, prior to any grant of right of burial made under clause 2.3;

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

**standard grave** means a grave which does not exceed any of the following dimensions: 2m long, 1.2m wide and 2.1m deep;

**utility services** means municipal or public services and include the supply of water, electrical power, gas and refuse, building waste and sewerage disposal services;

**vault** means a below ground lined grave with 1 or more sealed compartments constructed to specifications approved from time to time by the Board; and

**vehicle** includes every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise, and includes a bicycle and a skateboard.

## PART 2—ADMINISTRATION

### 2.1 Powers and functions of CEO

Unless a matter is specified to be determined by the Board, the CEO shall exercise all the powers and functions of the Board in respect of the cemetery.

### 2.2 Plans

(1) The Board shall establish and maintain a plan of the cemetery showing—

- (a) the location of areas set aside for burials, niche wall compartments, and placement of ashes in a garden;
- (b) the location of an area to be used only for burials of persons of a particular religious denomination;
- (c) the location of different areas of the cemetery to which different requirements for memorials apply;
- (d) the location of areas set aside for the works and other uses as specified in sections 24(2)(a) and (b) of the Act; and
- (e) areas restricted in accordance with clause 2.6.

(2) The Board may from time to time establish and vary the boundaries of any area referred to in subclause (1).

(3) The plans referred to in subclause (1) shall be open for inspection by members of the public during normal office hours of the Board.

### **2.3 Grant of right of burial**

(1) Upon payment of the set fee, a grave, niche compartment or memorial location shall be granted right of burial for a period in accordance with section 25(1) of the Act.

(2) Upon payment of the set fee, a grant of right of burial shall be extended for a further period in accordance with section 25(2) or (4) of the Act.

(3) A grant of right of burial made and recorded at the commencement of this local law, shall remain valid for the periods specified by the Act.

(4) If the Board refuses to an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

### **2.4 Pre-need certificate**

(1) Prior to issue of a grant of right of burial, and upon payment of the set fee, purchase of a pre-need certificate for a specific position of gravesite, niche compartment or memorial location may be approved for a period not exceeding to 5 years.

(2) Upon payment of the set fee, a pre-need certificate may be renewed for a further period not exceeding 5 years.

(3) Cancellation of a pre-need certificate may be made by the person holding the pre-need certificate or authorised representative at any time.

(4) For avoidance of doubt, a pre-need certificate is not a grant of right of burial.

(5) If the Board refuses to grant an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

### **2.5 Board may enter into an agreement for maintenance**

The Board may enter into an agreement with the holder of a grant of right of burial under clause 2.3 or holder of a pre-need certificate under clause 2.4 for the maintenance of an area of the cemetery at the expense of the holder.

### **2.6 Historical Indigenous areas**

(1) No interments or memorials are permitted in the portions of the cemetery identified by the Board under clause 2.2, except with the specific approval of the Board, as records of burials in this area are unobtainable, or pre-date establishment of the district.

(2) Should evidence of previously unknown burials or use be discovered, the reporting requirements of section 15 or section 41 of the *Aboriginal Heritage Act 1972*, as the case may require, shall be complied with.

## **PART 3—APPLICATION FOR INTERMENT**

### **3.1 Application for interment permit**

(1) A funeral director may apply for approval for interment in the cemetery.

(2) An application for an interment permit is for a dead body and shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.

(3) An application under subclause (1) shall be accompanied by the set fee.

### **3.2 Applications to be accompanied by certificates etc.**

(1) An application under clause 3.1 shall be accompanied by a certificate issued under clause 3.3, in respect of the dead body.

(2) The Board may require that an application under clause 3.1 be accompanied by either a medical certificate of death or a Coroner's order of burial, in respect of the dead body.

### **3.3 Certificate of identification**

(1) After a dead body is placed in a coffin and prior to the dead body being removed to the cemetery, a person who personally knew the deceased shall identify the dead body and shall provide a certificate of identification, 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) A funeral director shall provide a certificate, 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.

### **3.4 Minimum notice required**

An application for interment shall be made to the Board at least 4 business days prior to the day proposed for interment, otherwise an extra charge may be made.

### 3.5 Refusal of application

- (1) The Board may refuse an application for an interment permit—
  - (a) if in the opinion of the Board, 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
  - (b) on any other grounds.
- (2) The Board may refuse an application for a pre-need certificate.
- (3) If the Board refuses to approve an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

## PART 4—FUNERALS AND MEMORIAL SERVICES

### 4.1 Fixing times for interments

- (1) On receipt of a properly completed application form and the satisfaction of all other requirements of the Act and this local law, the Board may—
  - (a) approve a time for the funeral; and
  - (b) dig or re-open any grave that is required.
- (2) The time approved for an interment is at the discretion of the Board but will be as near as possible to the time requested by the applicant.
- (3) Except with the permission of the Board and subject to such conditions as may be applied, a person shall not carry out an interment—
  - (a) on a Saturday, a Sunday or a public holiday;
  - (b) commencing at any time other than between the hours 9:00 am to 2.00 pm; or
  - (c) to conclude later than 3.00pm.

### 4.2 Memorial services or processions

Upon application, the Board may permit, with or without interment or broadcasting of ashes—

- (a) the conduct of a memorial service; or
- (b) a procession.

### 4.3 Processions

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

### 4.4 Conduct of interments by the Board

When conducting an interment, or for the purposes of deciding whether to conduct an interment, under section 22 of the Act the Board may—

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

## PART 5—INTERMENTS

### 5.1 Requirements for burials and coffins

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

- (a) the Board has approved an application for the burial of that dead body in accordance with clause 3.1;
- (b) it is enclosed in a coffin which in the opinion of the Board is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate properly affixed in a clearly visible position on the lid of the coffin; 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 mm in height.

### 5.2 Preparation of graves

- (1) A person shall not dig or prepare a grave or fill a grave, unless that person has the permission of the Board.



(2) Regardless of prior grant of right of burial under clause 2.3 or gravesite approved upon application made under clause 3.1, the Board may direct the digging or preparation of a grave in an alternate position, where—

- (a) evidence of a prior interment is found, or known to have occurred;
- (b) access to the position is constrained;
- (c) the digging or preparation of the grave is unreasonably difficult; or
- (d) utility services may be interfered with.

(3) Where an alternative position for the grave is directed under subclause (2), the Board is to advise the funeral director immediately.

### **5.3 Dimensions of graves**

(1) A person shall not bury a dead body in the cemetery other than in a standard grave, unless that person has the permission of the CEO.

(2) Every grave prepared by the Board shall be dug at least 1.8m deep and shall not exceed 2.3m in depth, unless otherwise determined by the Board.

(3) A person shall not bury a dead body within the cemetery so that the distance from the top of the coffin to the original surface of the ground is—

- (a) subject to paragraph (b), less than 1600mm, unless that person has the permission of the CEO; or
- (b) in any circumstances less than 750mm.

(4) The permission of the Board in subclause (3) shall not be granted unless in the opinion of the CEO exceptional circumstances require granting of that permission.

### **5.4 Ashes not to be held by the Board**

The Board shall not accept custody of ashes of a deceased person.

### **5.5 Disposal of ashes**

(1) Except in accordance with an approved application under clause 3.1, a person shall not bring or dispose of the ashes of a deceased person in the cemetery.

(2) A funeral director, the personal representative of a deceased person whose body has been cremated, or other person approved by the CEO, may apply to the Board for permission to dispose of the ashes of that deceased person in the cemetery by one of the following methods, if that method is available—

- (a) placed in a niche wall;
- (b) placed under a family tree or shrub;
- (c) placed under a bench seat;
- (d) placed in a grave, vault or mausoleum;
- (e) scattered in an area approved by the Board;
- (f) placed in a memorial garden; or
- (g) placed in or under other memorials approved by the Board.

(3) The Board may require a person making an application under subclause (2) to provide additional information reasonably related to the application before determining the application.

(4) The Board may—

- (a) approve an application under subclause (2) unconditionally or subject to any conditions; or
- (b) refuse to approve an application under subclause (2).

(5) Where an application under subclause (2) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.

(6) If the Board refuses to approve an application under subclause (2), written notice of the refusal is to be given to the applicant.

### **5.6 Vaults and mausoleums**

(1) A person shall not construct a vault or mausoleum within the cemetery, except with the specific approval of the Board.

(2) A vault or mausoleum within the cemetery shall at all times remain the property of the Board.

(3) An application under subclause (1) shall be in writing and shall be accompanied by payment of the set fee.

(4) The Board may require a person making an application under subclause (1) to provide additional information reasonably related to the application before determining the application.

(5) The Board may—

- (a) approve an application under subclause (1) unconditionally or subject to any conditions; or
- (b) refuse to approve an application under subclause (1).

(6) Where an application under subclause (1) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.

(7) If the Board refuses to approve an application under subclause (1), written notice of that refusal is to be provided to the applicant.

- (8) A person shall not place a dead body in a vault or mausoleum except—
- (a) in a closed coffin;
  - (b) in a soundly constructed and sealed chamber; and
  - (c) in accordance with subclause (9).
- (9) The number of burials in a chamber must not exceed the number for which the chamber was designed.

#### **5.7 Re-opening a grave**

- (1) A person shall not reopen a grave without the approval of the Board.
- (2) If for the purpose of re-opening a grave in the cemetery, the Board finds it necessary to remove plants, grass, shrubs or other like matter from the grave, then the person ordering the re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.

#### **5.8 Exhumation of a coffin**

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

#### **5.9 Opening of coffin**

A person shall not open a coffin in the cemetery unless—

- (a) the coffin is opened for the purposes of the exhumation of a dead body; or
- (b) that person has produced to the CEO an order signed by the Commissioner of Police and the CEO has approved the opening of that coffin.

### **PART 6—APPLICATIONS FOR MEMORIALS**

#### **6.1 Application to place memorial**

- (1) Upon payment of the set fee, the Board may approve an application to place a memorial with or without conditions, including restricting use of materials such as wood, dimensions of a memorial etc, so as not to detract from the amenity of the cemetery.
- (2) The Board may require the written consent of the holder of the right of burial of the grave, the personal representative of a deceased person, or other person to the satisfaction of the CEO to accompany an application for a memorial made under section 30 of the Act.
- (3) Where written consent is not able to be produced, the Board may approve with or without conditions or decline an application in its absolute discretion.
- (4) If the Board refuses to approve an application under subclause (2), written notice of that refusal is to be provided to the applicant.

#### **6.2 Australian War Graves**

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

- (a) may place a complying 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.

### **PART 7—MEMORIALS PERMITTED**

#### **7.1 Limitation on dimensions of memorials**

- (1) No part of a memorial, including any grave cover, kerbing, boundary marker or enclosure is to extend beyond the standard dimensions of a gravesite.
- (2) No part of a monument above its base shall extend horizontally beyond its base.
- (3) Notwithstanding subclause (1), on request of the personal representative, the Board may approve a memorial over adjoining multiple gravesites—
- (a) where the persons interred are of the same family; or
  - (b) for another acceptable reason.

#### **7.2 Specification for monument**

- (1) A monument in the cemetery—
- (a) shall be made of natural stone;
  - (b) shall be placed on a base of natural stone;
  - (c) the portion not being a grave cover, shall comply with the following specifications—
    - (i) unless a greater height is approved by the CEO, the overall height of a monument above the original surface of the grave shall not exceed 1.2m;
    - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150mm nor more than 450mm;
    - (iii) the width of the base of the monument shall not exceed 1.2m;

- (iv) the length of the base of the monument measured along the length of the grave shall not exceed 600m;
  - (d) the portion being a grave cover, shall comply with the following specifications
    - (i) unless a greater height is approved by the CEO, the overall height of a monument above the original surface of the grave shall not exceed 300mm;
    - (ii) the width of the grave cover shall not exceed 1.2m;
    - (iii) the length of the grave cover shall not exceed 2.4m; and
  - (e) shall have foundations extending to a depth of 1m unless concrete beam foundations are approved by the Board.
- (2) Subject to subclause (3) a memorial plaque may be attached to a monument that has been or is being erected.
- (3) The provisions of clause 7.4 and clause 7.5 apply to plaques that are attached to a headstone.

### 7.3 Specification for headstone

- (1) A headstone shall—
- (a) be made of natural stone;
  - (b) be placed on a base of natural stone;
  - (c) comply with the following specifications—
    - (i) be placed on proper and substantial foundations extending to a depth of 1m unless concrete beam foundations are provided
    - (ii) the height of the base of the headstone above the highest point of the original surface of the grave shall not be less than 150mm nor more than 200mm;
    - (iii) the overall height of the headstone, including the base, shall not exceed 1.2m;
    - (iv) the length of the base of the headstone measured across the width of the grave shall not exceed 1.2m;
    - (v) the width of the base of the headstone measured along the length of the grave shall not exceed 300mm; and
    - (vi) no part of a headstone above its base shall extend horizontally beyond that base.
  - (d) have foundations extending to the bottom of the grave unless concrete beam foundations are approved by the Board.
- (2) Subject to subclause (3) a memorial plaque may be attached to a headstone erected or being erected within the cemetery.
- (3) The provisions of clause 7.4 and clause 7.5 apply to plaques that are attached to a headstone.

### 7.4 Specification for memorial plaque

- (1) A memorial plaque shall—
- (a) be made of—
    - (i) admiralty bronze;
    - (ii) polished or brushed stainless steel, or
    - (iii) other material approved by the Board;
  - (b) have the dimensions not being more than—
    - (i) single—380mm x 280mm; or
    - (ii) double—560mm x 280mm.
- (2) If not mounted on a monument, headstone or wall other than a niche wall, a memorial plaque is to—
- (a) be mounted on a base not more than—
    - (i) single—395mm x 295mm; or
    - (ii) double—575mm x 295mm.
  - (b) have foundations extending to a depth of 1m unless concrete beam foundations are approved by the Board.
  - (c) the highest part of the memorial plaque is to be not less than 150mm nor more than 450mm above the surrounding surface.
- (3) A memorial plaque—
- (a) made of admiralty bronze shall not exceed 20mm in thickness;
  - (b) made of polished or brushed stainless steel shall not exceed 8mm in thickness;
  - (c) made of stone—
    - (i) shall not exceed 50mm in thickness if placed upon a base;
    - (ii) shall not be less than 100mm in thickness if it is not to be placed upon a base mounting, and
  - (d) shall be placed upon a base mounting approved by the Board.
- (4) A memorial plaque shall not extend beyond the physical dimensions of the monument, headstone, base or other item on which it is mounted.

**7.5 Specification for niche wall and other commemorative plaques**

- (1) A niche wall or other commemorative plaque shall—
- (a) be made of—
    - (i) admiralty bronze;
    - (ii) polished or brushed stainless steel; or
    - (iii) other material approved by the Board;
  - (b) have the dimensions not being more than—
    - (i) single—minimum of 140mm x 115mm, to maximum of 145mm x 120mm;
    - (ii) double—minimum of 275mm x 120mm, to maximum of 285mm x 125mm;
- (2) If not mounted on a monument, headstone or wall, a niche wall or commemorative plaque is to—
- (a) be mounted on a base not more than—
    - (i) single—minimum of 155mm x 130mm, to maximum of 160mm x 135mm;
    - (ii) double—minimum of 290mm x 135mm, to maximum of 300mm x 140mm;
  - (b) have foundations extending to a depth of 1m unless concrete beam foundations are approved by the Board.
  - (c) the highest part of the commemorative plaque is to be not less than 150mm nor more than 450mm above the surrounding surface.
- (3) A niche wall or commemorative plaque shall be—
- (a) made of admiralty bronze shall not exceed 20mm in thickness;
  - (b) made of polished or brushed stainless steel shall not exceed 8mm in thickness;
  - (c) placed upon a base mounting approved by the Board.
- (4) A commemorative plaque shall not to extend beyond the physical dimensions of the monument, headstone, base or other item on which it is mounted.

**7.6 Specification for gravesite fencing**

Any fencing used as a memorial or part of a memorial shall—

- (a) be a picket fence made of white powder coated aluminium or other materials approved by the Board;
- (b) have concrete foundations not less than 250mm square and 750mm deep not more than 1200mm apart, or concrete beam foundations approved by the Board;
- (c) unless otherwise approved by the Board, comply with the following specification—
  - (i) in length, not be more than 2400mm in length, nor less than 900mm;
  - (ii) in width, not be more than 1200mm in width, nor less than 900mm; and
  - (iii) in height, not less than 450mm, nor more than 550mm from the original surface of the grave.

**7.7 Display of trade names on memorials not allowed**

A person shall not display any trade names or marks on a memorial.

**7.8 Use of wood**

No wooden fence, railing or construction other than a cross, shall be allowed on or around a grave, other than as a temporary marker or with the permission of the Board.

**PART 8—MEMORIALS AND OTHER WORK****8.1 Numbering of graves**

A person shall not install a memorial on a grave unless the number of that grave is, depending on the area where the grave is located, indelibly and legibly inscribed either on the base of the head of the monument or on the base of the headstone, or if this is not practicable, on the kerbing at the foot of the grave.

**8.2 Carrying out memorial work**

- (1) A person shall not carry out memorial work within the cemetery unless that person is authorised by the Board to do so under clause 6.1.
- (2) All material required in the erection and completion of any memorial work shall, be prepared before being taken to the cemetery.
- (3) The Board may place restrictions on the hours of work, access to the cemetery or other matters considered appropriate.
- (4) Memorial works shall be suspended during the conduct of any funeral within the cemetery.
- (5) Work is not permitted to be left unattended in an untidy or unsafe state.

**8.3 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 construction of any memorial or other work, or cause any material to be removed from the cemetery except with the written approval of the Board.

**8.4 Removal of rubbish**

All refuse, rubbish or surplus material remaining after approved memorial works are completed shall be immediately removed from the cemetery by the person carrying out the same.

**8.5 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 Board.

**8.6 Supervision**

All workers, whether employed by the Board or by any other person, shall at all times while within the boundaries of the cemetery be subject to the supervision of the Board and shall obey any directions of the Board.

**8.7 Placing of grave ornaments**

- (1) A person shall not place 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) outside of an area set aside by the Board as a memorial plaque section.
- (2) The use of glass, porcelain, ceramics or pottery is not permitted, other than that already in place at commencement of this local law.

**8.8 Hours of work**

Except in accordance with the permission of an authorised person, a person shall not carry out memorial or other work within the cemetery—

- (a) during a funeral; or
- (b) other than between the hours of 8:00 am and 5:00 pm on a business day.

**8.9 Unfinished work**

A person who does not complete any work before 5:00 pm on a business day shall leave the work in a neat and safe condition to the satisfaction of the Board.

**PART 9—GENERAL****9.1 Vehicle access and speed limitation**

- (1) A person shall drive a vehicle on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery, unless otherwise authorised by the Board.
- (2) A person driving a vehicle, within the cemetery, shall not exceed the speed limit of 20km per hour, and shall comply with the signs and directions in the cemetery.

**9.2 Assistance animals**

This local law is subject to any written law and law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992 (Commonwealth)* section 9(2).

**9.3 Utility services**

- (1) Other than with the approval of the Board, a person shall not—
  - (a) connect any device or equipment to any utility services supplied on or at the cemetery; or
  - (b) alter or interfere with utility services infrastructure located in the cemetery.
- (2) The Board may recover from a person the reasonable costs incurred by the Board for the supply to and use of any utility services by that person at the cemetery.

**9.4 Damaging and removing of objects**

Subject to clause 9.5, 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 Board without the permission of the Board.

**9.5 Withered flowers**

A person may remove withered flowers from a grave or memorial and these are to be disposed of in an appropriate manner.

**9.6 Littering and vandalism**

A person shall not—

- (a) damage, deface or interfere with any monument or gravesite in any manner whatsoever;
- (b) break or cause to be broken any glass, ceramic or other material in or upon the cemetery;
- (c) discard, deposit, leave or cause to be discarded, deposited or leave any refuse or litter in the cemetery other than in a receptacle provided for that purpose.

**9.7 Advertising**

- (1) A person shall not advertise or carry on any trade, business or profession in the cemetery without the approval of the Board.
- (2) Upon payment of the set fee, the Board may consider and give approval subject to such conditions as the Board thinks fit.

**9.8 Signs and directions of the Board**

- (1) The Board may display, mark, place or erect a sign within the cemetery specifying conditions relating to the use of the cemetery.
- (2) A person shall obey all signs displayed, marked, placed or erected by the Board within the cemetery and any other lawful direction by the Board.

**9.9 Removal from the cemetery**

- (1) Any person failing to comply with any provisions of this local law or behaving in a manner that in the opinion of the Board is inappropriate in the cemetery may in addition to any penalty provided by this local law be ordered to leave the cemetery.
- (2) A person to whom an order under subclause (1) is given must comply with that order.

**9.10 Board may close cemetery**

The Board may—

- (a) temporarily close the cemetery or any part of it;
- (b) exclude from the cemetery the public and all persons or so many of the public or so many persons as the Board consider to be necessary;
- (c) regulate, prohibit or restrict access to the cemetery or any part of it; or
- (d) direct persons to leave the cemetery or any part of it, for purposes of—
  - (i) a funeral or public convenience;
  - (ii) maintenance, redevelopment or extension of the cemetery;
  - (iii) public safety; or
  - (iv) other operational reasons.

**9.11 Fireworks or firearms**

Upon application, and subject to the approval of the Commissioner of Police, the CEO may permit an honour guard and discharge of firearms in a volley salute for a deceased military or police officer.

**9.12 Liability for damage or works required to comply**

- (1) Where a person—
  - (a) causes damage to any grave, memorial, structure, building, furniture, plant or any other item or thing in the cemetery;
  - (b) does a thing not authorised by this local law; or
  - (c) does not do a thing required by this local law;

the Board may by notice in writing to that person require that person within the time required in the notice to, at the option of the Board—

- (d) pay the costs of reinstating the property to the state it was in prior to the occurrence of the damage;
  - (e) pay the costs of replacing that property;
  - (f) pay the costs of works required to comply with this local law; or
  - (g) carry out works required to comply with this local law.
- (2) On a failure to comply with a notice issued under subclause (1), the Board may recover the costs referred to in the notice as a debt due to it.

**9.13 Offence to fail to comply with notice**

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

**9.14 Board may undertake requirements of notice**

Where a person fails to comply with a notice referred to in clause 9.13, the Board may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

**PART 10—OFFENCES AND MODIFIED PENALTIES****10.1 General penalties**

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.

**10.2 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 Schedule 1 is set out in the fourth column of Schedule 1.
- (3) The infringement notice referred to in section 63(1) of the Act shall be in the form set out in the Schedule 2.
- (4) The notice withdrawing an infringement notice referred to in section 63(3) of the Act shall be in the form set out in Schedule 3.

**Schedule 1—Modified Penalties**

[cl. 10.2]

<b>Item</b>	<b>Clause</b>	<b>Nature of offence</b>	<b>Modified Penalty \$</b>
1	4.2(a)	Holding a memorial service without permission	50
2	4.2(b)	Conducting a procession without permission	50
3	5.1	Failure to obtain approval to bring a dead body into the cemetery	50
4	5.2(1)	Unauthorised digging, preparation or filling of grave	50
5	5.3(1)	Unauthorised burial of dead body	50
6	5.5(1)	Unauthorised disposal of ashes	50
7	5.5(2)	Disposal of ashes in an unauthorised manner	50
8	5.6(1)	Unauthorised construction of vault or mausoleum	50
9	5.7(1)	Unauthorised reopening of a grave	50
10	5.8(1)	Unauthorised exhumation of a coffin	50
11	5.9	Unauthorised opening of a coffin	50
12	7.7	Use of trade name or mark on a memorial	50
13	8.1	Carrying out memorial work without grave number on memorial or surrounds	50
14	8.2	Unauthorised construction of a memorial	50
15	8.3	Unauthorised use of materials taken from within the cemetery	50
16	8.4	Failure to remove rubbish and surplus materials	50
17	8.5	Unauthorised planting of tree or shrub	50
18	8.6	Failure to comply with direction of authorised person	50
19	8.7	Unauthorised placing of grave ornaments	50
20	8.8	Works carried out during unauthorised times	50
21	8.9	Failure to leave uncompleted works in a tidy and safe condition	50
22	9.1(1)	Driving vehicle other than on vehicular access way or constructed roadways or within designated areas	50
23	9.1(2)	Exceeding speed limit	50
24	9.3	Interference with utility services	50
25	9.4	Damaging or removing object	50
26	9.5	Failure to dispose of withered flowers appropriately	50
27	9.6	Littering and/or vandalism	50
28	9.7	Unauthorised advertising and/or trading	50
29	9.8(2)	Failure to obey sign or lawful direction within cemetery	50
30	9.9(2)	Failure to comply with order to leave cemetery	50
31	9.10	Failure to comply with closure of all or part of cemetery	50
32	9.13	Failure to comply with notice within specified period	50

**Schedule 2—Infringement Notice**

[cl. 10.2(3)]

**Shire of Narrogin**

<b>INFRINGEMENT NUMBER—</b>		
To—		
Address—		
	It is alleged that—	
At—		
On—	Day	Date
Location—	Narrogin General Cemetery (Reserve 745)	
	You committed the following offence—	
Contrary to—	Shire of Narrogin Cemetery Local Law 2016	
Schedule 1 reference—	Item No.—	Clause—
Offence—		
Brief description—		

The modified penalty for the offence is—	\$
	If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid at the Shire of Narrogin within a period of 28 days after the giving of this notice.
Name of authorised person—	
Position—	
Signature—	
Date—	
	Payments may be made— (a) On-line at <a href="http://www.narrogin.wa.gov.au">www.narrogin.wa.gov.au</a> (b) EFT to _____ (c) In person at—Shire of Narrogin, 89 Earl St, Narrogin during business hours (d) By mail to—Shire of Narrogin PO Box 1145, Narrogin 6312 Please make cheques payable to Shire of Narrogin.

Schedule 3—Withdrawal of Infringement Notice

[cl. 10.2(4)]

Shire of Narrogin

To—	
Address—	
	It is advised that—
Infringement Notice No.—	
Dated—	
For the alleged offence of—	
	has been withdrawn.
The modified penalty of—	\$
Reason for withdrawal— (Delete whichever does not apply)	No further action will be taken. It is proposed to institute court proceedings for the alleged offence
Name of authorised person—	
Position—	
Signature—	
Date—	

Dated 12 July 2016.

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

R. S. YURYEVIICH, Chairman of Commissioners.  
A. J. COOK, Chief Executive Officer.



**CAT ACT 2011  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF NARROGIN

**CATS LOCAL LAW 2016**

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**CAT ACT 2011  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF NARROGIN

**CATS LOCAL LAW 2016**

Under the powers conferred by the *Cat Act 2011* and the *Local Government Act 1995* and by all other powers, the Council of the Shire of Narrogin resolved to make the following local law on 12 July 2016.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Narrogin Cats Local Law 2016*.

**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 Definitions**

In this local law unless the context otherwise requires—

**Act** means the *Cat Act 2011*;

**applicant** means the occupier of premises who makes application for a permit under this local law;

**approved cat breeder** has the meaning given to it by section 3(1) of the Act;

**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;

**cat** has the meaning given to it by section 3(1) of the Act; but does not include the young of a cat normally kept on the premises less than 6 months old;

**cat management facility** has the meaning given to it by section 3(1) of the Act, and includes a cattery;

**cattery** means any premises where more than 2 cats are boarded, housed or trained temporarily, usually for profit, and where the occupier of the premises is not the ordinary keeper of the cats;

**central business zone** mean a lot zoned as central business in a local planning scheme;

**commercial lot** means a lot zoned under a local planning scheme as—

- (a) central business; or
- (b) service commercial;

**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;

**effective control** in relation to a cat means any of the following methods—

- (a) held by a person who is capable of controlling the cat;
- (b) securely tethered;
- (c) secured in a cage; or
- (d) any other means of preventing escape;

**enclosed public space** means a public place which is enclosed by walls, whether solid materials or glass, and includes attached or adjoining areas not permitted to the public, unless airflow between the areas is prevented, but does not include a cat management facility or veterinary clinic or hospital;

**industrial lot** means a lot zoned under a local planning scheme as industry;

**keeper** in relation to a cat means any of the following persons—

- (a) the owner of the cat as defined in the Act;
- (b) a person by whom the cat is ordinarily kept;
- (c) a person who has or appears to have immediate custody or control of the cat;
- (d) a person who keeps the cat, or has the cat in her or his possession for the time being;
- (e) a permit holder of a permit which relates to the cat;
- (f) the holder of an exemption issued in relation to the cat;

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

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

**local public notice** has the meaning given to it by section 1.7 of the *Local Government Act 1995*;

**nuisance** means behaviour that includes where a cat—

- (a) excretes or urinates on premises being premises where the cat is not normally resident;
- (b) is, or is likely to be, injurious or dangerous to the health of any person or domestic or Australian indigenous animal;
- (c) creates a noise which persistently occurs or continues to a degree or extent which in the opinion of an authorised person, and has or could have a disturbing effect on the state of reasonable physical, mental, or social well-being of a person; or
- (d) is shown to be allowed to behave consistently in a manner contrary to the general interest of the community;

**permit** means a permit issued by the local government under clause 3.5 of this local law;

**permit holder** means a person who holds a valid permit granted under this local law;

**pet shop** means premises operating in compliance with the local planning scheme, from which a cat may be offered for sale;

**premises** includes the following—

- (a) land, whether or not vacant;
- (b) the whole or part of a building or structure whether of a permanent or temporary nature; and
- (c) a vehicle;

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

**RSPCA** means the Royal Society for the Prevention of Cruelty to Animals (Inc) of Western Australia;

**Schedule** means a schedule to this local law; and

**set fee** means a fee determined by the local government in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*.

## PART 2—IMPOUNDING OF CATS

### 2.1 Impounded cats

- (1) The local government may determine from time to time—
  - (a) the times when a cat management facility will be open for the reception and release of cats; and
  - (b) times for the sale of cats from the cat management facility.
- (2) The local government is to keep a proper record of impounded cats.
- (3) The record is to contain the following information about each impounded cat—
  - (a) if known the breed and sex of the cat;
  - (b) the colour, distinguishing markings and features of the cat;
  - (c) if known, the name and address of the owner;
  - (d) the date and time of seizure and impounding;
  - (e) the name and address of the authorised person who impounded the cat and, if applicable, the person who delivered a cat for impounding;
  - (f) the reason for the impounding;
  - (g) a note of any order made by an authorised person relating to the cat; and
  - (h) the date of the sale, release or destruction of the cat.
- (4) The record is to be available for inspection by the public.
- (5) A person shall not—
  - (a) unless the person is the owner of the cat management facility, or an authorised person, release or attempt to release a cat from a cat management facility;
  - (b) destroy, break into, damage or in any other way interfere with or render not cat proof a cat management facility; or
  - (c) destroy, break into, damage, or in any other way interfere with any container used for the purpose of catching, holding or conveying cats which have been seized.

(6) A cat must not be released to a person until the person obtains the necessary permit or the cat is registered where—

- (a) a person wishes to reclaim a cat within the period stated in a notice of impounding; and
- (b) a permit is required for the keeping of the cat, but the person does not have the necessary permit and/or the cat is not registered.

### **PART 3—KEEPING OF CATS**

#### **3.1 Keeping of cats in non-residential zones**

The keeping of cats is not permitted on a commercial or industrial lot unless—

- (a) the lot is associated with an occupied attached residence or caretaker's residence; or
- (b) the lot is an approved cat management facility.

#### **3.2 Limitation on the number of cats**

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

- (a) licenced under Part 4 of this local law as an approved cat breeder or cat management facility; or
- (b) granted an exemption under regulation 7 of the *Cat (Uniform Local Provisions) Regulations 2013*.

(2) The standard number of cats which may be kept on any premises is, for the purpose of regulation 6 of the *Cat (Uniform Local Provisions) Regulations 2013*—

- (a) 2 cats over the age of 6 months and the young of those cats under that age if the premises are zoned other than for the purposes of general agriculture under a local planning scheme; or
- (b) 4 cats over the age of 6 months and the young of those cats under that age if the premises are zoned for the purposes of general agriculture under a local planning scheme.

#### **3.3 Cats for which a permit is required**

Subject to clause 3.4 an occupier is required to have a permit to—

- (a) keep more than 2 cats over the age of 6 months and the young of those cats under that age if the premises are zoned other than for the purposes of general agriculture under a local planning scheme;
- (b) keep more than 4 cats over the age of 6 months and the young of those cats under that age if the premises are zoned for the purposes of general agriculture under a local planning scheme;
- (c) use any premises as a cat management facility; or
- (d) be an approved cat breeder.

#### **3.4 Permits not required**

A permit is not required under clause 3.3 if the premises concerned are—

- (a) a cat management facility which has been approved by the local government;
- (b) a veterinary surgery;
- (c) a pet shop;
- (d) premises with 2 or less cats; or
- (e) the subject of an exemption granted by the local government.

#### **3.5 Application for permit**

An application for a permit under clause 3.3 shall be—

- (a) made by an occupier of the premises where the cats are to be kept;
- (b) if for a cat management facility, in the form of Schedule 1 and accompanied by the plans of the premises to which the application relates;
- (c) if for a cat breeder, in the form of Schedule 1;
- (d) accompanied by the consent in writing of the owner of the premises, where the occupier is not the premises to which the application relates; and
- (e) accompanied by the set fee.

#### **3.6 Decision on application**

(1) The local government may, upon payment of the set fee—

- (a) approve an application for a permit subject to the conditions outlined in clauses 4.1, 4.2, 4.3 or 4.4 (as applicable); or
- (b) refuse to approve an application for a permit.

(2) If the local government approves an application under subclause (1), then it shall issue to the applicant approval in writing.

(3) If the local government refuses to approve an application under subclause (1), then it is to advise the applicant accordingly in writing.

#### **3.7 Factors relevant to determination of application**

(1) In determining an application for a permit the local government may have regard to—

- (a) the physical suitability of the premises for the proposed use;

- (b) the suitability of the local planning scheme zoning of the premises for the proposed use;
  - (c) the environmental sensitivity and general nature of the location surrounding the premises for the proposed use;
  - (d) the structural suitability of any enclosure in which any cat is to be kept;
  - (e) the likelihood of a cat causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land;
  - (f) the likely effect on the amenity of the surrounding area of the proposed use;
  - (g) the likely effect on the local environment including any pollution or other environmental damage which may be caused by the proposed use;
  - (h) any submissions received under subclause (2) within the time specified; and
  - (i) such other factors which the local government may consider to be relevant in the circumstances of the particular case.
- (2) The local government may require an applicant to—
- (a) consult with adjoining landowners;
  - (b) advise the adjoining landowners that they may make submissions to the local government on the application for the permit within 14 days of receiving that advice, before determining the application for the permit; and
  - (c) give local public notice of the proposal.

### **3.8 Cats creating a nuisance**

- (1) The keeper of a cat shall not allow a cat to create a nuisance.
- (2) Where, in the opinion of an authorised person, a cat is creating a nuisance, the local government may give written notice to the keeper of the cat requiring that person to abate the nuisance.
- (3) When a nuisance has occurred and a notice to abate the nuisance is given, the notice remains in force for the period specified by the local government on the notice or until the notice is withdrawn by the local government.
- (4) A person given a notice to abate the nuisance shall comply with the notice within the period specified in the notice.

### **3.9 Cats in temporarily vacant premises**

The keeper of a cat shall not leave a cat on premises while the premises are temporarily vacant, without daily arrangements for the care and welfare of the cat.

## **PART 4—PERMITS FOR KEEPING OF CATS**

### **4.1 Conditions applicable to all permits**

- (1) Every permit is issued subject to the following conditions—
- (a) each cat kept on the premises to which the permit relates shall be registered under the Act;
  - (b) each cat shall be contained on the premises unless under the effective control of a person;
  - (c) the permit holder will provide adequate space for the exercise of the cats;
  - (d) the premises shall be maintained in good order and in a clean and sanitary condition; and
  - (e) such other conditions, as the local government considers appropriate.
- (2) In addition to the conditions subject to which a permit is to be issued under subclause (1), a permit may be issued subject to other conditions, as the local government considers appropriate.

### **4.2 Additional conditions for other than cat management facility**

Where an application to keep more than 2 cats is approved under clause 3.6 for other than a cat management facility, the following conditions apply—

- (a) compliance with clause 4.1;
- (b) in the case of a multiple dwelling, where there is no suitable dividing fence, the written consent to the application for a permit of the occupier of the adjoining multiple dwellings has been obtained; and
- (c) without the consent of the local government, the permit holder will not substitute or replace any cat once that cat—
  - (i) dies; or
  - (ii) is permanently removed from the premises.

### **4.3 Additional conditions for cat management facility**

- (1) Where the local government approves an application under clause 3.6 for a cat management facility, the following conditions apply—
- (a) compliance with clause 4.1; and
  - (b) compliance with Schedule 2.
- (2) In respect of a particular application for a permit, the local government may vary any of the conditions contained in Schedule 2.
- (3) A cat management facility may be inspected by an authorised person to ensure compliance with the conditions of the permit.

**4.4 Additional conditions for approved cat breeders**

(1) Where a permit is approved under clause 3.6 as an approved cat breeder, the following conditions apply—

- (a) compliance with clause 4.1;
- (b) compliance with clause 4.2;
- (c) compliance with Schedule 2 items (4)(c) to (g) inclusive;

(2) The fee for an approved cat breeder is as specified in Schedule 3 of the *Cat Regulations 2012*.

**4.5 Duration of permit**

Unless otherwise specified in a condition on a permit, a permit for a cat management facility or as an approved cat breeder granted under clause 3.3(c) or (d), commences on the date of issue and is valid for a period of 12 months from the date of issue unless and until—

- (a) it is revoked; or
- (b) the permit holder ceases to reside at the premises to which the permit relates.

**4.6 Permit not transferable**

A permit is not transferable either in relation to the permit holder or the premises.

**4.7 Renewal of permit**

(1) The local government may renew a permit for a cat management facility or as an approved cat breeder granted under clause 3.3(c) or (d) upon—

- (a) payment of the set fee; and
- (b) certification by the occupier that the circumstances of the original application are unchanged.

(2) Where circumstances of the original application have changed, the application for renewal is to be considered an initial application.

**4.8 Revocation of permits**

(1) A permit may be revoked by the local government if there is a breach of any condition of that permit or if the permit holder is convicted of a breach of any provision of this local law.

(2) On revocation of a permit the permit holder is to be taken to have forfeited any set fees paid in respect of the permit.

**PART 5—CATS IN PUBLIC PLACES****5.1 Cats in public places**

A cat shall not be in a public place unless the cat is, in the opinion of an authorised person, under effective control.

**5.2 Places where cats are prohibited absolutely**

A cat shall not be in the following places at any time, whether or not under effective control—

- (a) an enclosed public place; or
- (b) any nature reserve.

**PART 6—MISCELLANEOUS****6.1 Fees and charges**

Set fees and charges are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

**6.2 Giving of a notice**

A notice given under this local law may be given to a person—

- (a) personally;
- (b) by registered mail addressed to the person; or
- (c) by leaving it for the person at her or his address.

**6.3 Objection and appeal rights**

Any person who is aggrieved by the conditions imposed in relation to a permit, the revocation of a permit, or by the refusal of the local government to grant a permit may object to or appeal against the decision under Division 1 of Part 9 of the *Local Government Act 1995*.

**PART 7—ENFORCEMENT****7.1 Offences**

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.

**7.2 General penalty**

Any person who commits an offence shall be 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.

**7.3 Modified penalties**

(1) An offence against a clause specified in Schedule 3 is a prescribed offence for the purposes of section 84 of the Act.

(2) The amount of the modified penalty for a prescribed offence is set out in the fourth column adjacent to the clause in Schedule 3.

**7.4 Issue of infringement notice**

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 6 of the Schedule 1 of the *Cat Regulations 2012*.

**7.5 Withdrawal of infringement notice**

(a) 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 7 of the Schedule 1 of the *Cat Regulations 2012*.

(b) A person authorised to issue an infringement notice under clause 7.4 cannot sign a notice of withdrawal.

**Schedule 1—Application for a licence for cat management facility or cat breeder**

[cl. 3.3]

**Shire of Narrogin**

I / We (full name/s)—		
Postal address—		
Telephone number—		
Mobile number—		
Fax number—		
E-mail address—		
<b>APPLY FOR A LICENCE</b>	Under clause 3.3(c) for cat management facility	
	Under clause 3.3(d) as cat breeder	
Address of proposed premises—		
<b>CAT MANAGEMENT FACILITY—</b>		
For number of cats –		
Attached are—	a site plan of the premises showing the location of the cat management facility and all other buildings and structures and fences;	
	plans and specifications of the proposed cat management facility.	
<b>CAT BREEDER—</b>		
For number of cats—		
Breed of cats—		
<b>Attached are—</b>		
(a) copy of notice of proposed use to appear in newspaper; (if required)		
(b) copy of notice of proposed use to be given to adjoining premises; (if required)		
Signature of applicant/s—		
Date—		
<b>NOTE—a licence will have effect for a period of 12 months if issued</b>		
OFFICE USE ONLY	Application fee paid on—	
	Receipt No—	

**Schedule 2—Conditions of a permit for an approved cat management facility**

[cl. 4.3]

**Shire of Narrogin**

An application for a permit for an approved cat management facility may be approved subject to the following conditions—

(1) Compliance with the conditions of clause 4.1.



## (2) Buildings and structures—

- (a) all building enclosures must be structurally sound, have impervious flooring, be well lit and ventilated and otherwise comply with all legislative requirements;
- (b) there is to be a feed room, wash area, isolation cages and maternity section;
- (c) materials used in structures are to be approved by the local government;
- (d) the internal surfaces of walls are to be smooth, free from cracks, crevices and other defects, where possible;
- (e) all fixtures, fittings and appliances are to be capable of being easily cleaned, resistant to corrosion and constructed to prevent the harbourage of vermin;
- (f) washing basins and running hot and cold water are to be available;
- (g) the walls shall be rigid, impervious and structurally sound;
- (h) the roof shall be constructed of approved impervious materials;
- (i) all untreated external surfaces of cattery shall be well maintained and aesthetically suitable as not to detract from the local environment and amenity;
- (j) each module and every part thereof shall not be at any less distance than nine metres from the boundaries of the land in the occupation of the owner of the cat management facility;
- (k) each module and each yard and every part thereof shall be behind the house line; and
- (l) any other matter which in the opinion of the local government is deemed necessary for wellbeing of any person, or adjoining premises or the amenity of the area (or any part thereof);

## (3) Walk-in modules and enclosures—

- (a) cats shall be housed in walk-in modules that include a sleeping compartment and an exercise area or in colony pens;
- (b) walk-in modules must have a minimum floor area of 1.5 square metres and contain at least 2 levels including raised sleeping quarters.
  - (i) this size is for 1 cat only and an additional 1 square metre floor space is required for a second cat;
  - (ii) no more than 2 cats may be housed together in this type of accommodation;
- (c) cats may be multiple housed in colony pens provided that—
  - (i) each cat shall have a floor area of 2 square metres plus an individual sleeping area;
  - (ii) only desexed compatible cats should be housed in this type of accommodation;
- (d) the lowest internal height shall be at least 1.65 metres from the floor;
- (e) each yard shall be securely fenced and kept securely fenced with a fence not less than 1.65 metres in height constructed of galvanised iron, wood, galvanised link mesh or netting;
- (f) all doors shall be provided with proper catches or means of fastening;
- (g) the upper surface of the floor shall be set at least 75 millimetres above the surface of the surrounding ground and shall be constructed of granolithic cement finished to a smooth surface, it shall have a fall of not less than 1 in 100;
- (h) all modules and yards shall be surrounded by a drain which shall be properly laid, ventilated and trapped, and all floor washings shall be disposed of in accordance with the health requirements of the local government; and
- (i) the floor of any yard shall be established and maintained to ensure a safe and hygienic environment.

## (4) Management—

- (a) cats must be housed singly except in the case of compatible cats from the same household with the written agreement of the keeper;
- (b) enclosures are to be thoroughly cleaned each day and disinfected at least once a week to minimise disease;
- (c) no sick or ailing cat is to be kept on the premises;
- (d) the maximum number of cats to be kept on the premises stated on the permit is not to be exceeded;
- (e) an register is to be kept recording in respect of each cat or kitten, the—
  - (i) date of admission or birth if a kitten;
  - (ii) date of departure, sale or transfer;
  - (iii) breed, age, colour and sex;
  - (iv) the cat or kitten's microchip number; and
  - (v) the name and residential address of the keeper;
- (f) the register is to be made available for inspection on the request to an authorised person; and
- (g) any other matter which in the opinion of the local government is deemed necessary for the health and wellbeing of any cat, or person, or adjoining premises or the amenity of the area.

**Schedule 3—Modified penalties**

[cl. 7.3]

<b>Item</b>	<b>Clause No.</b>	<b>Nature of offence</b>	<b>Modified penalty \$</b>
1	2.1(5)(a)	Unauthorised release or attempted release of a cat	500
2	2.1(5)(b)	Interference with a cat management facility	500
3	2.1(5)(c)	Interference with cage or container for seized cats	500
4	3.1	Keeping a cat in a non-residential zone	200
5	3.3(a)	Keeping more than 2 cats without a permit	200
6	3.3(c)	Failure to hold permit as a cat management facility	500
7	3.3(d)	Failure to hold permit as approved cat breeder	500
8	3.8(1)	Cat creating a nuisance	200
9	3.8(2)	Failure to comply with notice to abate a nuisance	200
10	3.9	Failure to make adequate arrangement while temporarily absent	200
11	4.1	Failure to comply with conditions for all permits	200
12	4.2	Failure to comply with conditions of permit for other than a cat management facility	200
13	4.3	Failure to comply with conditions of permit for cat management facility	500
14	4.4	Failure to comply with conditions of permit for approved cat breeder	500
15	5.1	Cat in a public place not under effective control	200
16	5.2	Cat in a place where prohibited	200
17	7.1	All other offences not specified	200

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Dated 12 July 2016.

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

R. S. YURYEVICH, Chairman of Commissioners.  
A. J. COOK, Chief Executive Officer.

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**LOCAL GOVERNMENT ACT 1995  
DOG ACT 1976**

SHIRE OF NARROGIN

**DOGS LOCAL LAW 2016**

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**LOCAL GOVERNMENT ACT 1995  
DOG ACT 1976**

SHIRE OF NARROGIN

**DOGS LOCAL LAW 2016**

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Narrogin resolved on 12 July 2016 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Narrogin Dogs Local Law 2016*.

**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 *By-laws Relating to Dogs* made by the Town of Narrogin and published in the *Government Gazette* on 16 October 1987, are repealed.

(2) The *Shire of Narrogin Dogs Local Law 2005* published in the *Government Gazette* on 7 June 2005, is repealed.

**1.5 Definitions**

In this local law unless the context otherwise requires—

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

**adjoining** includes land or premises which have a portion of a common boundary with a lot or is separated from that lot by a public reserve, road, right-of-way, pedestrian access way, access leg of a battle-axe lot or the equivalent not more than 6m in width;

**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 by section 3(1) of the Act;

**district** means the district of the Shire of Narrogin;

**dog management facility** has the meaning given to it in section 3(1) of the Act, and includes a kennel establishment;

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

**kennel establishment** means any premises where more than the number of dogs under clause 3.3 over the age of 3 months are kept, boarded, trained or bred temporarily, usually for profit and where the occupier of the premises is not the ordinary keeper of the dogs;

**licence** means a licence to keep an approved kennel establishment on premises granted under clause 4.4;

**licensee** means the holder of a licence granted under clause 4.4;

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

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

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

**nuisance** means—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;

- (b) an unreasonable interference with the use and enjoyment of a person's ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

**owner**, in relation to a dog, has the same meaning as in section 3(1) and (2) of the Act;

**person liable for the control of the dog** has the same meaning as in section 3(1) of the Act;

**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 made under clause 4.1;

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

**Regulations** means the *Dog Regulations 2013*;

**Schedule** means a schedule to this local law;

**set fee** means a fee or charge made by the local government in accordance with clause 2.1 or clause 4.9;

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

**transferee** means a person who applies for the transfer of a licence to her or him under clause 4.13.

## PART 2—IMPOUNDING OF DOGS

### 2.1 Fees and charges

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 set 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) application for additional costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

### 2.2 Attendance of authorised person at dog management facility

An authorised person is to be in attendance at the dog management facility for the release of dogs at the times and on the days of the week as 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 an authorised person or if absent, to the CEO.
- (2) An authorised person is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of an authorised person, evidence—
  - (a) of her or his ownership of the dog or of her or his authority to take delivery of it; or
  - (b) that he or she is the person identified as the owner on a microchip implanted in the dog.

### 2.4 Unauthorised release

Unauthorised release of dogs is dealt with by section 43 of the Act.

## PART 3—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 (unless the gate is temporarily opened in a manner that ensures that the dog remains confined) 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.
- (3) Notwithstanding subclause (1) and (2), the confinement of dangerous dogs is dealt with in the Act and the Regulations.

### 3.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been—
  - (a) licensed under Part 4 of this local law 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 zoned other than for the purposes of general agriculture under a local planning scheme; or
  - (b) 4 dogs over the age of 3 months and the young of those dogs under that age if the premises are zoned for the purposes of general agriculture under a local planning scheme .

### **3.3 Application to keep additional dog or dogs**

Subject to clause 3.5, the local government may consider—

- (1) an application to keep 1 additional dog on premises that are zoned other than for the purposes of general agriculture under a local planning scheme which shall—
  - (a) provide sufficient detail regarding the reason for keeping more than 2 dogs;
  - (b) provide written consent from owners and occupiers of any premises adjoining the premises; and
  - (c) in the case of a tenanted property, provide written consent from either the landowner or their appointed real estate agent.
- (2) an application to keep more than 4 dogs on premises zoned for the purposes of general agriculture under a local planning scheme which shall—
  - (a) provide sufficient detail regarding the reason for keeping more than 4 dogs; and
  - (b) in the case of a tenanted property, provide written consent from either the landowner or their appointed real estate agent.
- (3) applications to keep an additional dog or dogs where—
  - (a) the property is deemed suitable by an authorised person—
    - (i) having sufficient space capable of confining all dogs;
    - (ii) noise, odours, fleas, flies and other vectors of disease will be effectively controlled; and
    - (iii) the care and welfare of the dogs is considered adequate.
  - (b) the details of every dog proposed to be kept on the premises are provided including name, age, colour/description, breed, registration number and microchip details; and
  - (c) sufficient reason has been provided, including—
    - (i) to replace an elderly or sick dog not expected to live;
    - (ii) a family emergency resulting in the dog being inherited;
    - (iii) merging of 2 households;
    - (iv) where the applicants have had approval to keep an additional dog or dogs in another local authority; or
    - (v) on premises zoned for the purposes of general agriculture under a local planning scheme, the dog or dogs are required for stock management or to be on the premises temporarily for the purposes of training for stock management.

### **3.4 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 3.5;
- (b) the effect which approval of the proposed may have on the environment or amenity of the neighbourhood; and
- (c) whether approval of the application will create a nuisance for the owners and occupiers of adjoining premises.

### **3.5 Where application cannot be approved**

The local government will not approve an application to keep an additional dog or dogs where—

- (a) more than 3 dogs are proposed to be kept on premises zoned other than for the purposes of general agriculture under a local planning scheme;
- (b) more than 6 dogs are proposed to be kept on premises zoned for the purposes of general agriculture under a local planning scheme; or
- (c) where any dog already kept on the premises is a dangerous dog.

### **3.6 Conditions of approval**

- (1) The local government may approve an application for a licence subject to any conditions as considered appropriate.
- (2) Approval of an application is not transferable to successive owners or occupiers of the premises.

### **3.7 Revocation of licence to keep additional dogs**

Where a person does not comply with the conditions of approval to keep an additional dog or dogs under clause 3.6 the local government may revoke the licence to keep an additional dog or dogs.

**PART 4—APPROVED KENNEL ESTABLISHMENTS****4.1 Application for licence for approved kennel establishment**

An application for a licence must be made in the form of 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 4.2;
- (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; and
- (e) the set fee for the application for a licence referred to in clause 4.9(1).

**4.2 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, plans and specifications may be inspected at the offices of the local government.

(3) The local government may refuse to determine the application for a licence until the notice or notices, as the case may be, is given in accordance with its directions where—

- (a) a notice given under subclause (1) does 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.

**4.3 Exemption from notice requirements**

The requirements of clauses 4.1(b), 4.2 and 4.4(a) do not apply in respect of the application for a licence where under a local planning scheme 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.

**4.4 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 4.2(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 4.2(2)(a) on the proposed use of the premises.

**4.5 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 4.6;
- (b) any written submissions received within the time specified in clause 4.2(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.

**4.6 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.



#### 4.7 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.

#### 4.8 Compliance with conditions of approval

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

#### 4.9 Fees

- (1) On lodging an application for a licence, the applicant is to pay a set fee to the local government.
- (2) On the issue or renewal of a licence, the licensee is to pay a set fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a set fee to the local government.
- (4) The set 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*.

#### 4.10 Form of licence

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

#### 4.11 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 set fee referred to in clause 4.9(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.

#### 4.12 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 set fee paid for that licence is not refundable for the term of the licence that has not yet expired.

#### 4.13 Transfer

- (1) An written application for the transfer of a valid licence from the licensee to another person must be—
  - (a) made by the transferee;
  - (b) made with the written consent of the licensee; and
  - (c) 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;
    - (ii) the set fee for the application for the transfer of a licence referred to in clause 4.9(3); and
    - (iii) any other relevant information required.
- (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 4.14(b), the transferee becomes the licensee of the licence for the purposes of this local law.

#### 4.14 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 4.12(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 4.12(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.12(2), which notice is to be given in accordance with section 27(6) of the Act.

#### **4.15 Objections and appeals**

(1) The provisions of Division 1 of Part 9 of the *Local Government Act 1995* and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to a decision where the local government makes a decision as to whether it will—

- (a) grant an application for a licence;
- (b) vary or cancel a licence; or
- (c) impose or amend a condition to which a licence is subject.

(2) Under these provisions, an affected person may have the right to object to, or to appeal against, a decision of the local government.

#### **4.16 Inspection of kennel**

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

### **PART 5—DOGS IN PUBLIC PLACES**

#### **5.1 Places where dogs are prohibited absolutely**

- (1) Designation of places where dogs are prohibited absolutely is dealt with in the Act.
- (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.
- (3) Subclause (2) does not apply to a dog who is being used as an assistance animal as defined in the *Disability Discrimination Act 1992* (Commonwealth).

#### **5.2 Places which are dog exercise areas**

Designation of places which are dog exercise areas is dealt with in the Act.

### **PART 6—MISCELLANEOUS**

#### **6.1 Fees and charges**

Set fees and charges are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

#### **6.2 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.
- (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 Offences**

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

#### **7.2 General penalty**

A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding \$100 for each day or part of the day during which the offence has continued.

#### **7.3 Modified penalties**

- (1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.
- (2) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is not a dangerous dog.
- (3) The amount appearing in the fifth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

#### **7.4 Issue of infringement notice**

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

**7.5 Failure to pay modified penalty**

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

**7.6 Payment of modified penalty**

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

**7.7 Withdrawal of infringement notice**

(1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 3 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

(2) A person authorised to issue an infringement notice under clause 7.4 cannot sign or send a notice of withdrawal.

**7.8 Service of notices**

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. 4.1]

**Shire of Narrogin**

I / We (full name/s)—	
Postal address—	
Telephone number—	
Mobile number—	
Fax number—	
E-mail address—	
	Apply for a licence for an approved kennel establishment.
Address of proposed premises—	
For number of dogs—	
Breed of dogs—	
<b>EITHER</b>	Person residing on the premises.
Name	
As from	
<b>OR</b>	Person sufficiently close to the premises so as to control the dogs and ensure their health and welfare.
Name—	
Address—	
As from—	
	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 proposed 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— <ul style="list-style-type: none"> <li>• at the premises; or</li> <li>• sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and</li> </ul>	
(f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.	
Signature of applicant/s—	
Date—	

**NOTE—a licence will have effect for a period of 12 months if issued—*Dog Act 1976*  
section 27(5)**

OFFICE USE ONLY	Application fee paid on— Receipt No—
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**Schedule 2—Conditions of a licence for an approved kennel establishment**

[cl. 4.7]

**Shire of Narrogin**

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) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
  - (ii) 10m from any dwelling; and
  - (iii) 25m 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 100mm 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 75mm 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 50mm 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) 2m; 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.

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**Schedule 3—Prescribed offences**

[cl. 7.3]

Item	Clause	Nature of offence	Modified penalty \$	Dangerous Dog Modified Penalty \$
1	3.1	Failing to provide means for effectively confining a dog	200	As per Regulations
2	3.6	Failure to comply with conditions of approval to keep additional dog or dogs	200	500
3	6.2	Dog excreting in prohibited place	100	100

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Dated 12 July 2016.

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

R. S. YURYEVICH, Chairman of Commissioners.  
A. J. COOK, Chief Executive Officer.

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**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF NARROGIN

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## LOCAL GOVERNMENT ACT 1995

## SHIRE OF NARROGIN

## PARKING LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Narrogin resolved on 12 July 2016 to make the following local law.

## PART 1—PRELIMINARY

**1.1 Citation**

This local law may be cited as the *Shire of Narrogin Parking Local Law 2016*.

**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 *Town of Narrogin Parking Facilities By-Laws No. 19* published in the *Government Gazette* on 11 May 1979, and amended from time to time is repealed.

**1.5 Definitions**

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

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

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

**authorised vehicle** means a vehicle authorised by the local government, CEO, authorised person or by any written law to stop or park on a thoroughfare or on a parking facility;

**bicycle** has the meaning given to it by the Code;

**bicycle path** has the meaning given to it by the Code;

**built-up area** has the meaning given to it by the Code;

**bus stop** has the meaning given to it by the Code;

**bus zone** has the meaning given to it by the Code;

**caravan** has the meaning given to it by section 5 of the *Caravan Parks and Camping Grounds Act 1995*;

**carriageway** has the meaning given to it by the Code;

**CBD** means the area of Narrogin townsite bounded by, and including both sides of the thoroughfares—

(a) Clayton Road;

(b) Earl Street;

(c) Park Street; and

(d) the western boundary of Great Southern railway;

**centre** in relation to a carriageway, has the meaning given to it by the Code;

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

**children's crossing** has the meaning given to it by the Code;

**Code** means the *Road Traffic Code 2000*;

**commercial vehicle**—

(a) means a vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a vehicle for the conveyance of passengers; and

- (b) includes any vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

**disability parking permit** has the meaning given to it by the *Local Government (Parking for People with Disabilities) Regulations 2014*;

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

**dividing line** has the meaning given to it in the Code;

**driver** means any person driving or in control of a vehicle;

**edge line** has the meaning given to it by the Code;

**emergency vehicle** has the meaning given to it by the Code;

**footpath** has the meaning given to it by the Code;

**GVM** or “gross vehicle mass” has the meaning given to it by the *Road Traffic (Vehicles) Act 2012*;

**heavy vehicle** has the meaning given to it by the Code;

**infringement notice** means the notice referred to in clause 7.5;

**keep clear marking** has the meaning given to it by the Code;

**kerb** means the constructed border or edge of the portion of a road paved for the use of vehicular traffic where any constructed border exists at the edge of the paved road and whether any footpath has been constructed or not;

**level crossing** has the meaning given to it by the Code;

**loading zone** has the meaning given to it by the Code;

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

**local planning scheme** means a local planning scheme and includes any structure plan adopted or approved by the local government made under the *Planning and Development Act 2005*;

**median strip** has the meaning given to it by the Code;

**motorcycle** has the meaning given to it by the Code;

**motorised scooter** has the meaning given to it by the Code, and includes a motorised wheelchair that is designed so as to be not capable of a speed exceeding 10 kilometres per hour;

**nature strip** has the meaning given to it in the Code;

**no parking area** has the meaning given to it in the Code;

**no parking sign** means—

- (a) a sign with the words “no parking” in red letters on a white background, or
- (b) the letter “P” within a red annulus and a red diagonal line across it on a white background;

**no stopping area** has the meaning given to it in the Code;

**no stopping sign** means a sign with—

- (a) the words “no stopping” or “no standing” in red letters on a white background;
- (b) the words “no stopping” or “no standing” in white letters on a red background; or
- (c) the letter “S” within a red annulus and a red diagonal line across it on a white background;

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

**occupier** has the meaning given to it in section 1.4 of the Act;

**owner** where used in relation to—

- (a) a vehicle licensed under the *Road Traffic (Vehicles) Act 2012*, means the person in whose name the vehicle has been registered under the *Road Traffic (Vehicles) Act 2012*;
- (b) any other vehicle, means the person who owns, or is entitled to possession of that vehicle; and
- (c) land, has the meaning given to it in section 1.4 of the Act;

**park** has the meaning given to it by the Code;

**parking area** has the meaning given to it by the Code;

**parking bay** and **parking lane** means a section or part of a thoroughfare or of a parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked;

**parking control sign** has the meaning given to it by the Code;

**parking facilities** includes—

- (a) land, buildings, shelters, places, parking bays, parking lanes and other facilities open to the public generally for the parking of vehicles with or without charge; and
- (b) signs, notices and facilities used in connection with the parking of vehicles;

**path** has the meaning given to it in the Code;

**pedestrian crossing** has the meaning given to it by the Code;

**permit parking area** has the meaning given to it by the *Local Government (Parking for People with Disabilities) Regulations 2014*;

**public bus** has the meaning given to it by the Code, and includes a school bus in the performance of its duties;

**public place** means any place to which the public has access whether or not that place is on private property;

**reserve** means any land—

- (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 *Land Administration Act 1997*;

**right of way** means a thoroughfare separating 2 portions of land by a public reserve, road, laneway, pedestrian access way, and includes the access leg of a battle-axe lot or the equivalent not more than 6m in width;

**Schedule** means a Schedule to this local law;

**school bus** means a vehicle that is used solely or principally for the carriage of children to and from school, and is equipped to seat 8 or more persons, including the driver;

**shared zone** has the meaning given to it by the Code;

**sign** includes a parking control sign or other sign, inscription, road marking, painted line, mark, structure or other device or method approved by the local government on which may be shown words, numbers, expressions or symbols, and which is placed on or near a thoroughfare or within a parking facilities or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the stopping and parking of vehicles;

**special purpose vehicle** has the meaning given to it by the Code;

**stop** in relation to a vehicle, has the meaning given to it by the Code;

**symbol** has the meaning given to it by the Code;

**taxi** has the meaning given to it by the Code;

**taxi zone** has the meaning given to it by the Code;

**thoroughfare** has the meaning given to it in section 1.4 of the Act;

**traffic island** has the meaning given to it by the Code;

**trailer** has the meaning given to it by the Code;

**vehicle** has the meaning given to it in the *Road Traffic (Administration) Act 2008*, but does not include a motorised scooter; and

**verge** has the same meaning as *nature strip*.

(2) Unless the context otherwise requires, where a term is used, but not defined, in this local law, and that term is defined in the *Road Traffic Act 1974*, the *Road Traffic (Administration) Act 2008*, the *Road Traffic (Vehicles) Act 2012* or in the Code, then the term shall have the meaning given to it in that Act or the Code.

## PART 2—ADMINISTRATION

### 2.1 Powers of the local government

- (1) The local government may, by resolution, prohibit or regulate, including but not limited to—
- (a) the stopping or parking of any vehicle or any class of vehicle;
  - (b) parking bays;
  - (c) parking facilities;
  - (d) permitted time and conditions of parking in parking bays and parking facilities which may vary with the locality;
  - (e) permitted classes of vehicle which may park in parking bays and parking facilities;
  - (f) permitted classes of persons who may park in specified parking bays or parking facilities; and
  - (g) the manner of parking in parking bays and parking facilities.
- (2) Where the local government makes a resolution under subclause (1), it must erect signs to give effect to the resolution.

### 2.2 Thoroughfares under control of Commissioner of Main Roads

- (1) Subject to subclause 2, this local law does not apply to—
- (a) the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;
  - (b) prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
  - (c) any road which comes under the control of the Commissioner of Main Roads.
- (2) Upon request of the local government, the control of parking and parking facilities on a thoroughfare under the control of the Commissioner of Main Roads may be delegated by the Commissioner of Main Roads to the local government.

### 2.3 Parking not under the control of the local government

(1) This local law does not apply to a parking bay, parking lane or parking facility that is not occupied, managed or controlled by the local government, unless the local government and the owner or occupier of that land or facility have agreed in writing that this local law will apply to that land or facility.

(2) The agreement referred to in subclause (1) may be made on such terms and conditions as the parties may agree.

### 2.4 Classes of vehicle

For the purpose of this local law, vehicles are divided into the following classes—

- (a) public buses and school buses;
- (b) commercial vehicles;
- (c) motorcycles and bicycles;
- (d) taxis; and
- (e) all other vehicles.

## PART 3—PARKING THROUGHOUT THE DISTRICT

### *Division 1—District generally*

#### 3.1 Application of Part 3

This Part applies to the whole of the district.

#### 3.2 Parking for people with disabilities

For avoidance of doubt, and notwithstanding clause 2.3(1), the provisions of the *Local Government (Parking for People with Disabilities) Regulations 2014*, apply throughout the district to all parking bays, parking lanes or parking facilities, whether under the control of the local government or not, which are a public place.

#### 3.3 Parking vehicles on a carriageway

A person parking a vehicle on a carriageway other than in a parking bay shall park it—

- (a) in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (b) in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (c) so that at least 3 metres of the width of the carriageway lies between—
  - (i) the vehicle and the farther boundary of the carriageway, any dividing line or median strip, or
  - (ii) the vehicle and a vehicle parked on the farther side of the carriageway;
- (d) so that the front and the rear of the vehicle respectively is not less than 1 metre from any other vehicle, except a motorcycle without a trailer, or a bicycle parked in accordance with this local law; and
- (e) so that it does not obstruct any vehicle on the carriageway.

#### 3.4 Parking near a railway level crossing

A person shall not park a vehicle so that any portion of the vehicle is within 20 metres of either the approach side or the departure side of the nearest rail of a railway level crossing.

#### 3.5 Parking on reserves

No person other than an employee of the local government in the course of his or her duties or a person authorised by the local government shall drive or park a vehicle upon or over any portion of a reserve other than upon an area specifically set aside for that purpose.

#### 3.6 General prohibitions on parking

- (1) This clause does not apply to a vehicle parked in a parking bay nor to a bicycle in a bicycle rack.
- (2) Subclauses (3)(c), (e) and (g) do not apply to a public bus or school bus which parks in a bus zone.
- (3) Subject to any applicable law, unless a sign or markings on the carriageway indicate otherwise, a person shall not park a vehicle so that any portion of the vehicle is—
  - (a) between any other stationary vehicles and the centre of the carriageway, except where—
    - (i) a driver stopped in traffic; or
    - (ii) a driver angle parking on the side of the carriageway or in a median strip parking area, in accordance with this local law;
  - (b) on or adjacent to a median strip;
  - (c) obstructing a right of way, private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway;
  - (d) alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic;

- (e) on or within 10 metres of any portion of a carriageway bounded by a traffic island;
  - (f) on any footpath, children's crossing or pedestrian crossing;
  - (g) between the boundaries of a carriageway and any double longitudinal line consisting of 2 dividing lines or between a double longitudinal line consisting of a dividing line and a broken or dotted line and the boundary of a carriageway nearer to the dividing line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;
  - (h) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;
  - (i) within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug; or
  - (j) within 10 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked.
- (4) A person shall not park a vehicle so that any portion of the vehicle is within 20 metres of the approach side or within 10 metres of the departure side of—
- (a) a sign inscribed with the words "Bus Stop" or "Hail Bus Here" (or with equivalent symbols depicting these purposes) unless the vehicle is a public bus or school bus stopped to take up or set down passengers; or
  - (b) a children's crossing or pedestrian crossing.

### **3.7 Restrictions on parking in particular areas**

- (1) Subject to subclause (2), a person shall not park a vehicle in a thoroughfare, part of a thoroughfare, or part of a parking facility—
- (a) if by a sign it is set apart for the parking of vehicles of a different class;
  - (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
  - (c) during any period when the parking of vehicles is prohibited by a sign.
- (2) The driver may park a vehicle in a thoroughfare or a part of a thoroughfare or part of a parking facility, except in a thoroughfare or a part of a thoroughfare or part of a parking facility to which a disabled parking sign relates for twice the period indicated on the sign, if—
- (a) the driver's vehicle displays a valid disability parking permit sticker; and
  - (b) a person with a disability to which the valid disability parking permit relates is either the driver of the vehicle or a passenger in the vehicle.
- (3) A person shall not park a vehicle in a parking bay marked "M/C" unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.
- (4) A person shall not, without the prior permission of the local government, the CEO, or an authorised person, park a vehicle in an area designated by a sign stating "Authorised Vehicles Only".

### **3.8 Vehicles not to obstruct a thoroughfare or public place**

A person shall not leave a vehicle, or any part of a vehicle, in a thoroughfare or public place including a right of way, so that it obstructs the use of any part of that thoroughfare or public place without the permission of the local government or unless authorised under any written law.

### **3.9 Authorised person may order vehicle on thoroughfare to be moved**

The driver of a vehicle shall not park that vehicle on any part of a thoroughfare in contravention of this local law after an authorised person has directed the driver to move it.

### **3.10 Suspension of parking limitations for urgent, essential or official duties**

- (1) Where by a sign the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the local government, the CEO or an authorised person may, subject to the Code, permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time in order that the person may carry out urgent, essential or official duties.
- (2) Where permission is granted under subclause (1), the local government, the CEO or an authorised person may prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates, for the duration of that permission.

## *Division 2—No Parking and No Stopping*

### **3.11 No parking**

A driver shall not park on a length of carriageway or in an area to which a "no parking" sign applies, unless the driver is—

- (a) is dropping off, or picking up, passengers or goods;
- (b) remains within 3 metres of the vehicle at all times; and
- (c) completes the dropping off, or picking up, of the passengers or goods within 2 minutes of stopping and drives on.

### **3.12 No stopping**

- (1) A driver shall not stop on a length of carriageway, or in an area, to which a "no stopping" sign applies or in an area with keep clear markings.
- (2) A driver must not stop at the side of a carriageway marked with a continuous yellow edge line.

### 3.13 Application of particular definitions

For the purposes of the application of clause 3.11 and clause 3.12 an arrow inscribed on a sign erected at an angle to the carriageway is deemed to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the carriageway.

#### *Division 3—Stopping in particular circumstances*

### 3.14 Stopping near an obstruction

A driver shall not stop on a carriageway near an obstruction on the carriageway in a position that further obstructs traffic on the carriageway.

### 3.15 Stopping on a bridge, etc.

A driver shall not stop a vehicle on a bridge, causeway, ramp or similar structure unless—

- (a) the carriageway is at least as wide on the structure as it is on each of the approaches and a parking control sign does not prohibit stopping or parking; or
- (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

### 3.16 Stopping on crests, curves, etc.

(1) A driver shall not stop a vehicle on, or partly on, a carriageway, in any position where it is not visible to the driver of an overtaking vehicle, from a distance of 50 metres within a built-up area, and from a distance of 150 metres outside a built-up area.

(2) A driver may stop on a crest or curve on a carriageway if the driver stops at a place on the carriageway to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

### 3.17 Stopping near a fire hydrant, etc.

A driver shall not stop a vehicle so that any portion of the vehicle is within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug, unless—

- (a) the driver is driving a public bus, and the driver stops in a bus zone or at a bus stop and remains within 3 metres of the vehicle at all times; or
- (b) the driver is driving a taxi, and the driver stops in a taxi zone and remains within 3 metres of the vehicle at all times.

### 3.18 Obstructing access to and from a path, driveway, etc.

A driver shall not stop a vehicle so that any portion of the vehicle is in front—

- (a) of a path, in a position that obstructs access by vehicles or pedestrians to or from that path;
- (b) on or across a driveway or other way of access for vehicles travelling to or from adjacent land;

unless—

- (c) the driver is dropping off, or picking up, passengers; or
- (d) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under this local law.

#### *Division 4—Signs*

### 3.19 Part of thoroughfare to which sign applies

Where under this local law the parking of vehicles in a thoroughfare is controlled by a sign, the sign shall be read as applying to that part of the thoroughfare which—

- (a) lies beyond the sign;
- (b) lies between the sign and the next sign beyond that sign; and
- (c) is on that side of the thoroughfare nearest to the sign.

### 3.20 Pre-existing signs

(1) A sign is deemed for the purposes of this local law to have been erected by the local government under the authority of this local law where that sign—

- (a) was erected by the local government or the Commissioner of Main Roads prior to the commencement of this local law; and
- (b) relates to the parking of vehicles within the district.

(2) An inscription, word, number, expression or symbol on a sign referred to in subclause (1) operates and has effect according to its tenor, and where the inscription, word, number, expression or symbol relates to the stopping of vehicles, it is to be deemed for the purposes of this local law to operate and have effect as if it related to the parking of vehicles.

### 3.21 Signs must be complied with

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this local law.

### 3.22 Unauthorised signs and defacing of signs

A person shall not without the authority of the local government—

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government under this local law;

- (b) remove, deface or misuse a sign or property, set up or exhibited by the local government under this local law or attempt to do any such act; or
- (c) affix a board, sign, placard, notice or other thing to or paint or write upon any part of a sign set up or exhibited by the local government under this local law.

### **3.23 General provisions about signs**

- (1) A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary presumed to be a sign marked, erected, set up, established or displayed under the authority of this local law.
- (2) The first 3 letters of any day of the week when used on a sign indicate that day of the week.

#### *Division 5—Zones for particular vehicles*

### **3.24 Stopping in a loading zone**

A person shall not stop a vehicle in a loading zone unless it is—

- (a) a vehicle used for commercial or trade purposes engaged in the picking up or setting down of goods; or
- (b) a vehicle that completes the dropping off or picking up of passengers within 2 minutes of stopping and then drives on,

but, in any event, shall not remain in that loading zone—

- (c) for longer than a time indicated on the “loading zone” sign; or
- (d) longer than 30 minutes, if no time is indicated on the sign.

### **3.25 Stopping in a taxi zone or a bus zone**

- (1) A driver shall not stop in a taxi zone, unless the driver is driving a taxi.
- (2) A driver shall not stop in a bus zone unless the driver is driving a public bus or a school bus.

### **3.26 Stopping in a shared zone**

A driver shall not stop in a shared zone unless—

- (1) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law;
- (2) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under this local law;
- (3) the driver is dropping off, or picking up, passengers or goods; or
- (4) the driver is engaged in door-to-door delivery or collection of goods, or in the collection of waste or garbage.

### **3.27 Other limitations in zones**

A person shall not stop a vehicle in a zone to which a sign applies if stopping the vehicle would be contrary to any limitation in respect to classes of persons or vehicles, or specific activities allowed, as indicated by additional words on a parking control sign that applies to the zone.

## **PART 4—PARKING IN BUILT-UP AREAS**

### *Division 1—Built-up areas generally*

#### **4.1 Application of Part 4**

This Part applies to built up areas of the district.

#### **4.2 No parking of vehicles exposed for sale and other circumstances**

A person shall not park a vehicle on any portion of a thoroughfare—

- (a) for the purpose of exposing it for sale;
- (b) if that vehicle is not licensed under the *Road Traffic (Vehicles) Act 2012*;
- (c) if that vehicle is a trailer or a caravan unattached to a vehicle; or
- (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

#### **4.3 Parking on a carriageway with heavy and long vehicles**

- (1) Unless engaged in the picking up or setting down of goods, a person shall not park on any part of a carriageway for any period exceeding 1 hour, a vehicle or any combination of vehicles, that together with any projection on, or load carried by, the vehicle or combination of vehicles, is 7.5 metres or more in length or exceeds a GVM of 4.5 tonnes.
- (2) Nothing in this clause affects the operation of any other clause in this local law or any other written law relating to the parking or stopping of vehicles.

#### **4.4 Event parking**

- (1) The local government may determine that all or part of a parking facility, thoroughfare or public place is set aside, during the period indicated in a sign, for the parking of vehicles by persons attending a particular event.

(2) The local government may issue to a person a permit in respect of all or part of a parking facility, thoroughfare or public place for an event referred to in subclause (1).

(3) A person must not park or stop a vehicle, or permit a vehicle to remain parked, in any area that is set aside under subclause (1) unless the permit issued under subclause (2) for the relevant event is displayed inside the vehicle so that it is clearly visible to an authorised person examining the ticket from outside the vehicle.

*Division 2—Parking bays, parking lanes, and parking facilities*

**4.5 Vehicles to be within parking bays or parking lanes on thoroughfare**

(1) Subject to subclause (2) and (3), a person shall not park a vehicle in a parking bay in a thoroughfare otherwise than—

- (a) parallel to and as close to the kerb as is practicable;
- (b) wholly within the parking bay or parking lane; and
- (c) headed in the direction of the movement of traffic on the side of the thoroughfare in which the parking bay is situated.

(2) If a vehicle is too long or too wide to fit completely within a single parking bay then the person parking the vehicle shall do so within the minimum number of parking bays needed to park that vehicle.

(3) A person shall not park a vehicle partly within and partly outside a parking area.

**4.6 Parking prohibitions and restrictions**

(1) A person shall not—

- (a) park a vehicle so as to obstruct an entrance to, or an exit from parking facilities, or an access way within parking facilities;
- (b) except with the permission of the local government or an authorised person, park a vehicle on any part of a parking facility contrary to a sign referring to that part;
- (c) permit a vehicle to park in any part of parking facilities, if an authorised person directs the driver of such vehicle to move the vehicle; or
- (d) park or attempt to park a vehicle in a parking bay in which another vehicle is parked, unless—
  - (i) parking of a motorcycle and a bicycle together in a parking bay marked “M/C”, and
  - (ii) the bicycle is parked in accordance with subclause (2).

(2) A person must not park a bicycle—

- (a) in a parking bay other than in a parking bay marked for motorcycles only; and
- (b) other than against the kerb.

(3) Notwithstanding the provisions of subclause (1)(b) a driver may park a vehicle in a parking bay or facility (except in a parking area for people with disabilities) for twice the length of time allowed, provided that—

- (a) the driver’s vehicle displays a valid disability parking permit; and
- (b) a person with a disability to which a valid disability parking permit relates is either the driver of or a passenger in the vehicle.

**4.7 Angle parking**

(1) This clause does not apply to—

- (a) a vehicle with a mass including any load, of over 4.5 tonnes; or
- (b) a person parking either a motorcycle without a trailer or a bicycle.

(2) Where a sign associated with a parking area is inscribed with the words “angle parking”, or with an equivalent symbol depicting this purpose, a person stopping or parking a vehicle shall stop or park the vehicle at an angle and in the position indicated by the inscription on the parking sign or by marks on the carriageway.

*Division 3—Stopping in particular circumstances*

**4.8 Stopping at or near a bus stop**

A driver shall not stop a vehicle so that any portion of the vehicle is within 20 metres of the approach side of a bus stop, or within 10m of the departure side of a bus stop, measured in the direction of traffic movement on that portion of the thoroughfare, unless—

- (a) the vehicle is a public bus or school bus stopped to take up or set down passengers; or
- (b) the driver stops at a place on a length of carriageway, or in an area permitted by a parking control sign.

**4.9 Stopping on a path, median strip, or traffic island**

The driver of a vehicle (other than a bicycle or an animal) shall not stop so that any portion of the vehicle is on a path, traffic island or median strip, unless permitted by a parking control sign.



**4.10 Stopping on verge**

- (1) A person shall not stop so that any portion of the following is on or projects over a verge—
- (a) a vehicle (other than a bicycle);
  - (b) a commercial vehicle or any combination of vehicles that exceeds 4.5 tonnes GVM, a public bus, a trailer or caravan unattached to a vehicle; or
  - (c) any vehicle (other than a bicycle) during any period when the stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge.
- (2) Subclause (1)(a) does not apply to the person if he or she is the owner or occupier of the land adjacent to that verge, or is a person authorised by the occupier of that land to stop the vehicle so that any portion of it is on the verge.
- (3) Subclause (1)(b) does not apply to a commercial vehicle or any vehicle with a GVM that exceeds 4.5 tonnes when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials collected from or delivered to the land adjacent to the portion of the verge on which the vehicle is parked, provided no obstruction is caused to the passage of any vehicle or person using a carriageway or a path.

**4.11 Stopping on a carriageway with motorcycle parking sign**

The driver of a vehicle shall not stop on a length of carriageway, or in an area, to which a “motorcycle parking” sign applies, or an area marked “M/C” unless—

- (a) the vehicle is a motorcycle; or
- (b) the driver is dropping off, or picking up, passengers.

**4.12 Stopping on a carriageway with a bicycle sign**

Unless dropping off or picking up passengers, the driver of a vehicle (other than a bicycle) must not stop on a length of carriageway to which any of the following apply—

- (a) a “bicycle path” sign;
- (b) a “bicycle parking” sign; or
- (c) a “dual use path” or other sign indicating bicycles are permitted to use the path.

**PART 5—PARKING IN THE CBD****5.1 Application of Part 5**

This Part applies to the thoroughfares and parking facilities within the CBD.

**5.2 Timed parking**

- (1) Where indicated by a sign, timed parking applies to CBD thoroughfares from 8.00 am to 6.00 pm Monday to Friday and 8.00 am to 12.30 pm Saturday, except public holidays.
- (2) The period for which parking is permitted is that indicated on the sign.

**5.3 Authorised person may mark tyres**

- (1) An authorised person may mark the tyres of a vehicle parked in a parking facility with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties or powers.
- (2) A person shall not remove a mark made by an authorised person so that the purpose of the making the mark is defeated or likely to be defeated.

**5.4 No movement of vehicles to avoid time limitation**

- (1) Where the parking of vehicles in a thoroughfare or parking facility is permitted for a limited time, a person shall not move a vehicle within the thoroughfare or parking facility so that the total time of parking exceeds the maximum time allowed for parking in the thoroughfare or parking facility.
- (2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person shall not move a vehicle to another parking bay within 50 metres so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from the vicinity for at least 30 minutes.

**PART 6—MISCELLANEOUS****6.1 Removal of notices on vehicle**

A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle, shall not remove from the vehicle any notice put on the vehicle by an authorised person.

**6.2 Emergency and special purpose vehicles**

Notwithstanding anything to the contrary in this local law, the driver of—

- (a) an emergency vehicle may, in the course of their duties and when it is expedient and safe to do so or where they believe that it is expedient and safe to do so, stop, or park the vehicle at any place, at any time; and
- (b) a special purpose vehicle may, only in the course of his or her duties and when it is necessary and safe to do so, stop, or park the vehicle in any place, at any time.

### 6.3 Removal and impounding of vehicles

(1) The impounding of vehicles and other goods shall be carried out in accordance with Part 3 Division 3 Subdivision 4 of the Act and regulation 29 of the *Local Government (Functions and General) Regulations 1996*.

(2) An employee authorised specifically for the purposes of section 3.39 of the Act and this clause may remove and impound any vehicle that is involved in a contravention that can lead to impounding.

(3) A person authorised to impound a vehicle in accordance with subclause (2) may use reasonable force to exercise the power given by that clause.

(4) The form of the notice referred to in section 3.42 of the Act is set out in Schedule 1.

### 6.4 Notice to owner of vehicle involved in offence

The owner of a vehicle may be required to identify the driver or person in charge of a vehicle at the time when an offence is alleged to have been committed by sending a notice in the form of Form 1 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

## PART 7—ENFORCEMENT

### 7.1 Legal proceedings

Evidentiary provisions relating to offences involving vehicles are contained in Division 3 of Part 9 of the Act.

### 7.2 Offences

A person who breaches a provision of this local law commits an offence.

### 7.3 General penalty

A person who commits an offence under this local law is liable, on 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 the day during which the offence has continued.

### 7.4 Modified penalties

(1) The offences contained in the Schedule 3 are offences in relation to which a modified penalty may be imposed.

(2) The amount appearing in the final column of Schedule 3 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

### 7.5 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 either—

- (a) Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; or
- (b) Schedule 2 of this local law, in accordance with section 9.18 of the Act.

### 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 3 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

(2) A person authorised to issue an infringement notice under clause 7.5 cannot sign or send a notice of withdrawal.

## Schedule 1—Notification of impoundment of vehicle

[cl. 6.3]

### Shire of Narrogin

To (full name/s)—	
Of (address)—	
	Department of Transport records indicate that you are the registered owner of the vehicle detailed below and notice is hereby given that the vehicle has been impounded in accordance with the provisions of the <i>Local Government Act 1995</i> .
Make—	
Model—	
Registration—	
Impounded from—	
Positioned at/near—	
Date impounded—	
Time impounded—	
	The vehicle has been taken to a secure facility.

Facility address—	
	<b>IT IS A REQUIREMENT THAT ALL PAYMENTS ARE RECEIVED PRIOR TO THE RELEASE OF THE VEHICLE.</b>
Documentation required—	The following must be produced before payment can be accepted and release of the vehicle is permitted— <ul style="list-style-type: none"> <li>• Current vehicle registration document.</li> <li>• Drivers licence or other legal form of identification.</li> <li>• Payment receipt (required for vehicle release at secure facility).</li> </ul>
Payment in person only—	Chief Executive Officer Shire of Narrogin, 89 Earl Street, (PO Box 188), NARROGIN 6312 Between—8.30am and 4.30pm Monday to Friday (except public holidays) Payments by cash, cheque or EFTPOS.
	The vehicle will then be available for release, by contacting the Shire to make the necessary arrangements.
Vehicle impound fee—	
Additional days storage fee or part thereof—	

(1) Subject to clause 2 below, if your vehicle is not collected within 2 months after the date of this notice the Shire may either—

- (a) under section 3.46 of the *Local Government Act 1995* refuse to allow the vehicle to be collected until the Shire's costs of removing and keeping the vehicle have been paid to the Shire; or
- (b) under section 3.47 of the *Local Government Act 1995* sell or otherwise dispose of the vehicle and credit the money received from that sale or disposal to the Shire's Trust Fund except to the extent required to meet the cost and expenses incurred by the Shire in removing, impounding and selling of the vehicle.

(2) If the Local Government has made a declaration that in accordance with 3.40A(4) of the *Local Government Act 1995* the vehicle is an abandoned wreck then the vehicle may be disposed of within 7 days of that declaration being made.

If you are convicted of an offence against this Local Law, section 3.48 of the *Local Government Act 1995* allows the Shire to recover from you its outstanding expenses incurred in the removing, impounding and selling of the vehicle.

Take note—	Unless all fees are paid for and the vehicle collected within 2 months from the date of impounding, the Shire may sell the subject vehicle.
Authorised person—	
Name	
Signature	
Title	
Date issued—	

**Schedule 2—Infringement notice and notice requiring owner of vehicle to identify vehicle**  
[cl. 7.5(b)]

**Shire of Narrogin**

<b>INFRINGEMENT NUMBER—</b>	
To (full name/s)—	
Of (address)—	
	It is alleged that—
On (day)—	
At (time)—	
	Your vehicle—
Make—	
Model—	
Registration—	
As from—	
	Was involved in the commission of the following offence—
Details of offence—	
	Contrary to—

<i>Local Government (Parking for People with Disabilities) Regulations 2014—</i>	
<i>Shire of Narrogin Parking Local Law 2016, clause—</i>	
The modified penalty item number is—	
The modified penalty for the offence is—	\$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid within a period of 28 days after the giving of this notice.

Unless within 28 days after being served with this notice—

- (a) you pay the modified penalty; or
- (b) you—
  - (i) inform the Chief Executive Officer or another authorised person at the Shire of Narrogin as to the identity and address of the person who was the driver or person in charge of the above vehicle at the time the offence is alleged to have been committed; or
  - (ii) satisfy the Chief Executive Officer that the above vehicle had been stolen or was being unlawfully used at the time the offence is alleged to have been committed, you will, in the absence of proof to the contrary, be deemed to have committed the above offence and court proceedings may be instituted against you.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver's licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

In person or by mail to—	Chief Executive Officer Shire of Narrogin, 89 Earl Street, (PO Box 188), NARROGIN 6312 Between—8.30am and 4.30pm Monday to Friday (except public holidays) Payments by cash, cheque or EFTPOS.
Electronic payment or correspondence—	Refer website at <a href="http://www.narrogin.wa.gov.au">www.narrogin.wa.gov.au</a> Quoting infringement number <a href="mailto:enquiries@narrogin.wa.gov.au">enquiries@narrogin.wa.gov.au</a>
Authorised person—	
Name	
Signature	
Title	
Date issued—	

### Schedule 3—Prescribed offences

[cl. 7.4]

Item	Clause	Nature of offence	Modified penalty \$
1	3.3(a)	Failure to park on the left of a two-way carriage way	50
2	3.3(b)	Failure to park on the left of a one-way carriageway	50
3	3.3(c)	Parking when the distance from farther boundary is less than 3 metres	50
4	3.3(d)	Parking closer than 1 metre from any other vehicle	50
5	3.3(e)	Causing obstruction	50
6	3.4	Parking within 20 metres of a railway level crossing	100
7	3.5	Driving or parking on a reserve	50
8	3.6(3)(a)	Double parking	50
9	3.6(3)(b)	Parking on or adjacent to a median strip	50
10	3.6(3)(c)	Obstructing a private driveway or right of way	50
11	3.6(3)(d)	Parking beside excavation or obstruction so as to obstruct traffic	50
12	3.6(3)(e)	Parking within 10 metres of traffic island	50

Item	Clause	Nature of offence	Modified penalty \$
13	3.6(3)(f)	Parking on footpath, children's crossing or pedestrian crossing	50
14	3.6(3)(g)	Parking contrary to continuous line markings	50
15	3.6(3)(h),	Parking on an intersection	50
16	3.6(3)(i)	Parking within 1 metre of a fire hydrant	50
17	3.6(3)(j),	Parking within 10 metres of an intersection	50
18	3.6(4)(a) or (b)	Parking vehicle within 10 metres of departure side of bus stop, children's crossing or pedestrian crossing	50
19	3.6(4)(a) or (b)	Parking vehicle within 20 metres of approach side of bus stop, children's crossing or pedestrian crossing	50
20	3.7(1)	Parking contrary to signs on thoroughfare or parking facility	50
21	3.7(2)	Parking contrary to limitations on thoroughfare or parking facility	50
22	3.7(3)	Parking vehicle in a parking bay marked "M/C" that is not a motorcycle or bicycle	50
23	3.7(4)	Parking without permission in an area designated for "Authorised Vehicles Only"	50
24	3.8	Vehicle obstructing a thoroughfare or public place	100
25	3.9	Failure to comply with instruction of authorised person	100
26	3.10(1)	Failure to obtain permission to park a vehicle other than as provided by this local law	50
27	3.10(2)	Failure to comply with conditions of suspension of parking requirements	100
28	3.11	Failure to comply with "no parking" sign	50
29	3.12	Failure to comply with "no stopping" sign	50
30	3.14	Stopping near an obstruction	50
31	3.15	Stopping on a bridge, etc.	100
32	3.16	Stopping on crests, curves, etc.	100
33	3.17	Stopping near fire hydrant	50
34	3.18	Obstructing path, a driveway etc	50
35	3.21	Failure to comply with sign	50
36	3.22	Unauthorised placement, misuse or obstruction of a sign	100
37	3.24	Stopping unlawfully in a loading zone	50
38	3.25	Stopping unlawfully in a taxi or bus zone	50
39	3.26	Stopping in a shared zone	50
40	3.27	Stopping in a zone contrary to a sign	50
41	4.2(a)	Parking in thoroughfare for purpose of sale	50
42	4.2(b)	Parking unlicensed vehicle in thoroughfare	50
43	4.2(c)	Parking a trailer or caravan on thoroughfare	50
44	4.2(d)	Parking in thoroughfare for purpose of repairs	50
45	4.3	Failure to comply with limitations on heavy and long vehicles	100
46	4.4(1)	Failure to comply with event parking sign	50
47	4.54(3)	Failure to display required event permit information	50
48	4.5	Failure to wholly within parking bay or lane	50
49	4.6(1)(a)	Causing obstruction at parking facilities	50
50	4.6(1)(b)	Parking contrary to a sign at a parking facility	50
51	4.6(1)(c)	Failure to comply with directions of an authorised person in a parking facility	50
52	4.6(1)(d)	Parking or attempting to park a vehicle in a bay occupied by another vehicle	50
53	4.6(2)	Incorrect parking of a bicycle in a parking facility	50
54	4.6(3)	Unauthorised extended parking in a facility	50
55	4.7	Failure to comply with angle parking	50
56	4.8	Stopping at or near bus stop	50
57	4.9	Stopping on path, median strip or traffic island	50
58	4.10	Stopping on verge	50

<b>Item</b>	<b>Clause</b>	<b>Nature of offence</b>	<b>Modified penalty \$</b>
59	4.11	Stopping in a motorcycle parking area	50
60	4.12	Stopping in a bicycle area	50
61	5.2	Parking vehicle in excess of maximum time	50
62	5.3(2)	Removing mark of authorised person	100
63	5.4	Moving vehicle to avoid time limitations	50
64	6.1	Removing notice from vehicle	100
65	6.2(b)	Unauthorised parking of special purpose vehicle	50
66	7.2	All other offences not specified	50

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Dated 12 July 2016.

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

R. S. YURYEVICH, Chairman of Commissioners.  
A. J. COOK, Chief Executive Officer.

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**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF NARROGIN

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## LOCAL GOVERNMENT ACT 1995

## SHIRE OF NARROGIN

## MEETING PROCEDURES LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other relevant powers, the Council of the Shire of Narrogin resolved on 12 July 2016 to adopt the following local law.

## PART 1—PRELIMINARY

**1.1 Citation**

This local law may be cited as the *Shire of Narrogin Meeting Procedures Local Law 2016*.

**1.2 Commencement**

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

**1.3 Application**

This local law provides rules and guidelines which apply to the conduct of meetings of the Council, its committees and to meetings of electors.

**1.4 Repeal**

The *Town of Narrogin Standing Orders Local Law* published in the *Government Gazette* on 14 August 1998 is repealed.

**1.5 Definitions**

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

***absolute majority*** has the meaning given to it in section 1.4 of the Act;

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

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

***committee*** means a committee of the Council established under section 5.8 of the Act;

***committee meeting*** means a meeting of a committee;

***Council*** means the Council of the local government;

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

***meeting*** means a meeting of the Council or a committee, as the context requires;

***member*** has the meaning given to it in section 1.4 of the Act;

***Minister*** means the Minister for Local Government;

***officer*** means an officer of the local government;

***President*** means the President of the local government or other presiding member at a Council meeting under section 5.6 of the Act;

***presiding member*** means—

(a) in respect of the Council, the person presiding under section 5.6 of the Act; and

(b) in respect of a committee, the person presiding under sections 5.12, 5.13, and 5.14 of the Act;

***Regulations*** means the *Local Government (Administration) Regulations 1996*;

***simple majority*** means more than 50% of the members present and voting; and

***substantive motion*** means an original motion or an original motion as amended, but does not include an amendment or a procedural motion.

(2) Unless otherwise defined in this local law, the terms and expressions used in this local law are to have the meaning given to them in the Act and Regulations.

## PART 2—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES

**2.1 Establishment of committees**

(1) The establishment of committees is dealt with in section 5.8 of the Act.

- (2) A Council resolution to establish a committee under section 5.8 of the Act is to include—
- (a) the terms of reference of the committee;
  - (b) the number of Council members, officers and other persons to be appointed to the committee;
  - (c) the names or titles of the Council members and officers to be appointed to the committee;
  - (d) the names of other persons to be appointed to the committee or an explanation of the procedure to be followed to determine the appointments; and
  - (e) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.
- (3) This local law is to apply to the conduct of committee meetings.

## **2.2 Types of committees**

The types of committees are dealt with in section 5.9 of the Act.

## **2.3 Delegation of some powers and duties to certain committees**

The delegation of some powers and duties to certain committees is dealt with in section 5.16 of the Act.

## **2.4 Limits on delegation of powers and duties to certain committees**

The limits on the delegation of powers and duties to certain committees are dealt with in section 5.17 of the Act.

## **2.5 Appointment of committee members**

The appointment of committee members is dealt with in sections 5.10 and 5.11A of the Act.

## **2.6 Tenure of committee membership**

Tenure of committee membership is dealt with in section 5.11 of the Act.

## **2.7 Resignation of committee members**

The resignation of committee members is dealt with in regulation 4 of the Regulations.

## **2.8 Register of delegations to committees**

The register of delegations to committees is dealt with in section 5.18 of the Act.

## **2.9 Committees to report**

A committee—

- (a) is answerable to the Council; and
- (b) is to report on its activities when, and to the extent, required by the Council.

# **PART 3—CALLING AND CONVENING MEETINGS**

## **3.1 Ordinary and special Council meetings**

- (1) Ordinary and special Council meetings are dealt with in the Act.
- (2) An ordinary meeting of the Council, held on a twice monthly basis or otherwise as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.
- (3) A special meeting of the Council is held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

## **3.2 Calling Council meetings**

The calling of Council meetings is dealt with in section 5.4 of the Act.

## **3.3 Convening Council meetings**

- (1) The convening of a Council meeting is dealt with in section 5.5 of the Act.
- (2) The CEO is to give at least 72 hours notice, for the purposes of section 5.5 of the Act, in convening a special meeting of the Council, subject to subclause (3).
- (3) Where, in the opinion of the President or at least one-third of the members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special Council meeting.

## **3.4 Calling committee meetings**

The CEO is to call a meeting of any committee when requested by the President, the presiding member of a committee or any two members of that committee.

## **3.5 Public notice of meetings**

Public notice of meetings is dealt with in regulation 12 of the Regulations.

# **PART 4—PRESIDING MEMBER AND QUORUM**

## **4.1 Who presides**

Who presides at a Council meeting is dealt with in section 5.6 of the Act.

## **4.2 When the Deputy President can act**

When the Deputy President can act is dealt with in section 5.34 of the Act.

**4.3 Who acts if no President**

Who acts if there is no President is dealt with in section 5.35 of the Act.

**4.4 Election of presiding members of committees**

The election of presiding members of committees is dealt with in section 5.12(1) of the Act.

**4.5 Election of deputy presiding members of committees**

The election of deputy presiding members of committees is dealt with in section 5.12(2) the Act.

**4.6 Functions of deputy presiding members**

The functions of deputy presiding members are dealt with in section 5.13 of the Act.

**4.7 Who acts if no presiding member**

Who acts if no presiding member is dealt with in section 5.14 of the Act.

**4.8 Quorum for meetings**

The quorum for meetings is dealt with in section 5.19 of the Act.

**4.9 Reduction of quorum for Council meetings**

The power of the Minister to reduce the number for a quorum and certain majorities is dealt with in section 5.7 of the Act.

**4.10 Reduction of quorum for committee meetings**

The reduction of a quorum for committee meetings is dealt with in section 5.15 the Act.

**4.11 Procedure where no quorum to begin a meeting**

The procedure where there is no quorum to begin a meeting is dealt with in regulation 8 of the Regulations.

**4.12 Procedure where quorum not present during a meeting**

If at any time during a meeting a quorum is not present, the presiding member is—

- (a) immediately to suspend the proceedings of the meeting for a period of up to 30 minutes; and
- (b) if a quorum is not present at the expiry of that period, the presiding member is to adjourn the meeting to some future time or date.

**4.13 Names to be recorded**

The names of the members then present are to be recorded in the minutes at any meeting—

- (a) at which there is not a quorum present; or
- (b) which is adjourned for want of a quorum.

**PART 5—BUSINESS OF A MEETING****5.1 Business to be specified**

(1) No business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda, without the approval of the presiding member or the Council.

(2) No business is to be transacted at a special meeting of the Council other than that given in the notice as the purpose of the meeting.

(3) Where a meeting is adjourned to the next ordinary meeting of the Council then, unless the Council resolves otherwise, the business unresolved at the adjourned meeting is to be dealt with before considering Reports under Item 8 of clause 5.2(1) at that ordinary meeting.

(4) Subject to subclause (3), no business is to be transacted at an adjourned meeting of the Council other than that—

- (a) specified in the notice of the meeting which had been adjourned; and
- (b) which remains unresolved.

**5.2 Order of business**

(1) The order of business of an ordinary meeting of the Council shall be determined by the local government from time to time, and shall include—

1. Declaration of Opening
  - 1.1 Opening
  - 1.2 Announcements by presiding member
  - 1.3 Announcement of visitors and presentations
2. Record of attendance—
  - 2.1 Members present
  - 2.2 Staff attending
  - 2.3 Apologies
  - 2.4 Approved leave of absence
3. Applications for leave of absence

4. Declaration of interest—
  - 4.1 Financial
  - 4.2 Proximity
  - 4.3 Impartiality
5. Public Question Time—
  - 5.1 Response to previous public questions taken on notice
  - 5.2 Public questions without notice
6. Confirmation of minutes—
  - 6.1 Council meetings—ordinary and special meetings
  - 6.2 Committees—all Committees established by Council
7. Submissions—
  - 7.1 Petitions
  - 7.2 Presentations
  - 7.3 Deputations
8. Reports—
  - 8.1 Member reports requiring decision
  - 8.2 Reports of committees requiring decision
  - 8.3 Reports of officers
9. Member motions of which previous notice has been given
10. New business of an urgent nature introduced by decision of the meeting
11. Meeting closed to public—
  - 11.1 Matters for which the meeting may be closed
  - 11.2 Public reading of resolutions made during a closed meeting
12. Closure of meeting

(2) Unless otherwise decided by the Council, the order of business at any ordinary or special meeting of the Council is to be the order in which that business stands in the agenda of the meeting.

(3) In determining the order of business for any meeting of the Council, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.

### **5.3 Motions of which previous notice has been given**

(1) Unless the Act, Regulations or this local law otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included on the agenda.

(2) A notice of motion under subclause (1) is to be given at least 7 working days before the meeting at which the motion is moved.

(3) A notice of motion is to relate to the good governance of the district.

(4) The CEO—

- (a) with the concurrence of the President, may exclude from the notice paper any notice of motion deemed to be, or likely to involve, a breach of any of this local law or any other written law;
- (b) will inform members on each occasion that a notice has been excluded and the reasons for that exclusion;
- (c) after consultation with the member where this is practicable, may make such amendments to the form but not the substance as will bring the notice of motion into due form; and
- (d) may provide to the Council relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.

(5) A motion of which notice has been given is to lapse unless—

- (a) the member who gave notice of it, or some other member authorised by the originating member in writing, moves the motion when called on; or
- (b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.

(6) If a notice of motion is given and lapses under subclause (5), notice of a motion in the same terms or to the same effect is not to be given again for at least 3 months from the date of such lapse.

### **5.4 New business of an urgent nature**

(1) In cases of urgency or other special circumstances, matters may, on a motion by the presiding member that is carried by the meeting, be raised without notice and decided by the meeting.

(2) In subclause (1), “cases of urgency or other special circumstances” means matters that have arisen after the preparation of the agenda that are considered by the presiding member to be of such importance and urgency that they are unable to be dealt with administratively by the local government and must be considered and dealt with by the Council before the next meeting.

### **5.5 Adoption by exception resolution**

(1) In this clause “adoption by exception resolution” means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the officer recommendation as the Council resolution.

- (2) Subject to subclause (3), the local government may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter—
  - (a) in which an interest has been disclosed;
  - (b) that has been the subject of a petition or deputation;
  - (c) that is a matter on which a member wishes to make a statement; or
  - (d) that is a matter on which a member wishes to move a motion that is different to the recommendation.

## PART 6—PUBLIC PARTICIPATION

### 6.1 Meetings generally open to the public

Meetings being generally open to the public is dealt with in section 5.23(1) of the Act.

### 6.2 Meetings not open to the public

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a committee, in one or more of the circumstances dealt with in section 5.23(2) of the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried—
  - (a) the presiding member is to direct everyone to leave the meeting except—
    - (i) the members; unless a relevant interest is declared; and
    - (ii) any officer specified by the presiding member; and
  - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the presiding member, be removed from the meeting.
- (5) A resolution under this clause may be made without notice.
- (6) Unless the Council resolves otherwise, once the meeting is reopened to members of the public, the presiding member is to ensure that any resolution of the Council made while the meeting was closed is to be read out including a vote of a member to be included in the minutes.

### 6.3 Question time for the public

Question time for the public is dealt with in section 5.24 of the Act.

### 6.4 Question time for the public at certain meetings

Question time for the public at certain meetings is dealt with in regulation 5 of the Regulations.

### 6.5 Minimum question time for the public

Minimum question time for the public is dealt with in regulation 6 of the Regulations.

### 6.6 Procedures for question time for the public

Procedures for question time for the public are dealt with in regulation 7 of the Regulations.

### 6.7 Other procedures for question time for the public

- (1) A member of the public who raises a question during question time, is to state his or her name and address.
- (2) A question may be taken on notice by the Council for later response.
- (3) When a question is taken on notice the CEO is to ensure that—
  - (a) a response is given to the member of the public in writing; and
  - (b) a summary of the response is included in the agenda of the next meeting of the Council.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to—
  - (a) declare that he or she has an interest in the matter; and
  - (b) allow another person to respond to the question.
- (5) A member of the public shall have two minutes to submit a question or questions, unless the presiding member agrees to extend the time permitted.
- (6) Each member of the public with a question is entitled to ask up to two questions before other members of the public will be invited to ask their questions.
- (7) Where a member of the public provides written questions then the presiding member may elect for the questions to be responded to as normal business correspondence.
- (8) The presiding member may decide that a public question shall not be responded to where—
  - (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;
  - (b) the member of the public uses public question time to make a statement, provided that the presiding member has taken all reasonable steps to assist the member of the public to phrase the statement as a question; or

- (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the presiding member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.
- (9) The presiding member may agree to extend public question time beyond the prescribed 15 minutes, but not more than an additional 15 minutes.
- (10) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.

### **6.8 Distinguished visitors**

If a distinguished visitor is present at a meeting of the Council, the presiding member may acknowledge the presence of the distinguished visitor at an appropriate time during the meeting, and the presence of that visitor shall be recorded in the minutes.

### **6.9 Deputations**

- (1) Any person or group wishing to be received as a deputation by the Council is to either—
  - (a) apply, before the meeting, to the CEO for approval; or
  - (b) with the approval of the presiding member, at the meeting, address the Council.
- (2) The CEO may either—
  - (a) approve the request and invite the deputation to attend a meeting of the Council; or
  - (b) refer the request to the Council to decide by simple majority whether or not to receive the deputation.
- (3) Unless the council resolves otherwise, a deputation invited to attend a Council meeting—
  - (a) is not to exceed 5 persons, only 2 of whom may address the Council, although others may respond to specific questions from members;
  - (b) is not to address the Council for a period exceeding 10 minutes without the prior agreement of the presiding member under subclause (1) or resolution of Council; and
  - (c) additional members of the deputation may be allowed to speak with the permission of the presiding member if providing additional information.
- (4) A person addressing the Council is to cease that address immediately after being directed to do so by the presiding member in order to preserve order, the time permitted has expired or the presentation has diverged from the purpose of the deputation.
- (5) A person who fails to comply with a direction of the presiding member under subclause (4) may, by order of the presiding member, be removed from the meeting.
- (6) Any matter which is the subject of a deputation to the Council is not to be decided by the Council until the deputation has completed its presentation.

### **6.10 Petitions**

- (1) A petition to the local government is to—
  - (a) be addressed to the President;
  - (b) be made by electors of the district;
  - (c) state the request on each page of the petition;
  - (d) contain the name, address and signature of each elector making the request, and the date each elector signed;
  - (e) contain a summary of the reasons for the request; and
  - (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given.
- (2) Upon receiving a petition, the local government is to submit the petition to the relevant officer to be included in his or her deliberations and report on the matter that is the subject of the petition, subject to subclause (3).
- (3) At any meeting, the Council is not to vote on any matter that is the subject of a petition presented to that meeting, unless—
  - (a) the matter is the subject of a report included in the agenda; and
  - (b) the Council has considered the issues raised in the petition.

### **6.11 Presentations**

- (1) In this clause, a “presentation” means the acceptance of a gift or an award by the Council on behalf of the local government or the community.
- (2) A presentation may be made to the Council at a meeting only with the prior approval of the President or CEO.

### **6.12 Participation at committee meetings**

- (1) In this clause a reference to a person is to a person who—
  - (a) is entitled to attend a committee meeting;
  - (b) attends a committee meeting; and
  - (c) is not a member of that committee.
- (2) Without the consent of the presiding member, no person is to address a committee meeting.



(3) A person is not to address the committee for a period exceeding 3 minutes without the agreement of the presiding member.

(4) A person addressing the committee with the consent of the presiding member is to cease that address immediately after being directed to do so by the presiding member.

(5) A person who fails to comply with a direction of the presiding member under subclause (4) may, by order of the presiding member, be removed from the meeting.

(6) The Council may make a policy dealing with the circumstances in which a person may be given consent to address a committee meeting.

#### **6.13 Council may meet to hear public submissions**

(1) Where an item on the agenda at a Council meeting is contentious and is likely to be the subject of a number of deputations, the Council may resolve to meet at another time to provide a greater opportunity to be heard.

(2) The CEO and the President shall set the time and date of the meeting to provide the opportunity to be heard.

(3) Where the Council resolves to meet to provide the opportunity to be heard under subclause (1), the presiding member shall—

(a) instruct the CEO to provide local public notice of the time and date when the Council will meet to provide an opportunity to be heard;

(b) provide a written invitation to attend the meeting to provide the opportunity to be heard to all members of the public who have applied under clause 6.9 to make a deputation on the issue; and

(c) cause minutes to be kept of the meeting to provide the opportunity to be heard.

(4) A meeting held under subclause (1) shall be conducted only to hear submissions. The Council shall not make resolutions at a meeting to provide the opportunity to be heard.

(5) At a meeting held under subclause (1), each person making a submission shall be provided with the opportunity to fully state his or her case.

(6) A member of the public shall with prior approval of the presiding member be limited to 10 minutes in making an oral submission at the time of discussion of the item, but this period may be extended at the discretion of the presiding member.

(7) Once every member of the public has had the opportunity to make a submission the presiding member is to close the meeting.

(8) The CEO is to ensure that a report is included on the agenda of the next Council meeting summarising each submission made at the meeting.

(9) The Council must not resolve on the matter that is the subject of a meeting to provide the opportunity to be heard until it has received the CEO's report under subclause (8).

#### **6.14 Public inspection of agenda materials**

The right of the public to inspect the documents referred to, and in accordance with, regulation 14 of the Regulations may be exercised at the office of the local government.

#### **6.15 Confidentiality of information withheld**

(1) Information withheld by the CEO from the public under regulation 14(2) of the Regulations is to be—

(a) identified in the agenda of a Council meeting under the item "Matters for which meeting may be closed";

(b) marked "*Confidential*" in the agenda; and

(c) kept confidential by officers and members until the Council resolves or the CEO determines otherwise.

(2) A member or an officer in receipt of confidential information under subclause (1) or information that is provided or disclosed during a meeting or part of a meeting that is closed to the public is not to disclose any of that information to any person other than another member or an officer to the extent necessary for the purpose of carrying out his or her duties.

(3) Subclause (2) does not apply where a member or officer discloses the information to his or her lawyer or government officer for the purpose of seeking advice in order to lawfully fulfil his or her role and responsibilities.

#### **6.16 Recording of proceedings**

(1) A person is not to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council without the permission of the presiding member.

(2) If the presiding member gives permission under subclause (1), the presiding member is to advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.

#### **6.17 Prevention of disturbance**

(1) A reference in this clause to a person is to a person other than a member.

(2) A person addressing the Council shall extend due courtesy and respect to the Council and the processes under which it operates and shall comply with any direction by the presiding member.

- (3) A person observing a meeting shall not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.
- (4) A person shall ensure that his or her mobile telephone or audible pager is not audible or used during any meeting of the Council.
- (5) The presiding member may expel a person from the meeting by ordering the person to leave the meeting room, if—
- (a) after being warned, the person again acts contrary to this clause, or to this local law; or
  - (b) a person refuses or fails to comply with a direction of the presiding member.
- (6) A person who is ordered to leave the meeting room and fails to do so may by order of the presiding member, be removed from the meeting room, and if the presiding member orders, from the premises.
- (7) A person in breach of this clause is subject to the penalties specified in clause 19.1.

## **PART 7—QUESTIONS BY MEMBERS**

### **7.1 Questions by members**

- (1) Members may ask questions relating to an item on the notice paper or on matters related to the good government of persons in the district.
- (2) A member requesting general information from an officer at a Council meeting may ask a question without notice and with the consent of the presiding member, may ask one or more further questions of that officer or another officer present at the meeting.
- (3) Where possible the officer shall endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the officer may ask that—
- (a) the question be placed on notice for the next meeting of Council; and
  - (b) the answer to the question be given to the member who asked it within 14 days.
- (4) Every question and answer—
- (a) is to be brief and concise; and
  - (b) is not to be accompanied by argument, expression of opinion or statement of facts, except to the extent necessary to explain the question or answer.
- (5) In answering any question, an officer may qualify his or her answer and may at a later time in the meeting or at a subsequent meeting alter, correct, add to or otherwise amend the original answer.

## **PART 8—CONDUCT OF MEMBERS**

### **8.1 Members to be in their proper places**

- (1) At the first meeting held after each election day, Council will, by consensus, determine a position at the Council table for each member.
- (2) Each member is to occupy his or her allotted position at each Council meeting.

### **8.2 Official titles to be used**

A speaker, when referring to the President, Deputy President or presiding member, or a member or officer, is to use the title of that person's office.

### **8.3 Entering or leaving a meeting**

- (1) During the course of a meeting of the Council, a member is not to enter or leave the meeting without first advising the presiding member, in order to facilitate the recording in the minutes of the time of entry or departure, and ensuring a quorum is present in the meeting.
- (2) Where a member is leaving a meeting and does not intend to return, the member is to advise the presiding member of such prior to departing.

### **8.4 Members to indicate their intention to speak**

A member of the Council who wishes to speak is to indicate his or her intention to speak by raising his or her hand or by another method agreed by the Council.

### **8.5 Priority of speaking**

- (1) Where two or more members indicate, at the same time, their intention to speak, the presiding member is to decide which member is entitled to be heard first.
- (2) A decision of the presiding member under subclause (1) is not open to discussion or dissent.
- (3) A member is to cease speaking immediately after being asked to do so by the presiding member.

### **8.6 Presiding member may take part in debates**

The presiding member may take part in a discussion of any matter before the Council, subject to compliance with this local law.

### **8.7 Relevance**

- (1) A member is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.

- (2) The presiding member may at any time—
- (a) call the attention of the meeting to—
    - (i) any irrelevant, repetitious, offensive or insulting language by a member; or
    - (ii) any breach of order by a member; and
  - (b) direct that member, if speaking, to discontinue his or her speech.
- (3) A member is to comply with the direction of the presiding member under subclause (2) by immediately ceasing to speak.

### **8.8 Speaking twice**

Without the consent of the presiding member, a member is not to address the Council more than once on any motion or amendment except—

- (a) as the mover of a substantive motion, to exercise a right of reply;
- (b) to raise a point of order; or
- (c) to make a personal explanation.

### **8.9 Duration of speeches**

A member is not to speak on any matter for more than 5 minutes without the consent of the Council which, if given, is to be given without debate.

### **8.10 No speaking after conclusion of debate**

A member is not to speak on any motion or amendment—

- (a) after the mover has replied; or
- (b) after the question has been put.

### **8.11 No interruption**

A member is not to interrupt another member who is speaking unless—

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 8.12; or
- (d) to move a procedural motion that the member be no longer heard under clause 11.1.

### **8.12 Personal explanations**

(1) A member who wishes to make a personal explanation relating to a matter referred to by another member who is then speaking is to indicate to the presiding member his or her intention to make a personal explanation.

(2) The presiding member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other member.

(3) A member making a personal explanation is to confine his or her observations to a succinct statement relating to a specific part of the speech at which he or she may have been misunderstood.

### **8.13 No reopening of discussion**

A member is not to reopen discussion on any Council decision, except to move that the decision be revoked or changed.

### **8.14 Adverse reflection**

(1) A member is not to reflect adversely on a decision of the Council except on a motion that the decision be revoked or changed.

(2) Unless the meeting resolves, without debate, that the motion then before the meeting cannot otherwise be adequately considered, a member is not—

- (a) to reflect adversely on the character or actions of another member or officer; or
- (b) to impute any motive to a member or officer.

(3) A member is not to use offensive or objectionable expressions in reference to any member, officer or other person.

(4) If a member specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes—

- (a) the presiding member is to cause the words used to be taken down and read to the meeting for verification; and
- (b) the Council may, by resolution, decide to record those words in the minutes.

### **8.15 Withdrawal of offensive language**

(1) A member must withdraw the expression and make a satisfactory apology when directed by the presiding member, if the presiding member is of the opinion that an expression used by the member—

- (a) in the absence of a resolution under subclause 8.14(2)—
  - (i) reflects adversely on the character or actions of another member or officer; or
  - (ii) imputes any motive to a member or officer; or
- (b) is offensive or insulting.

(2) If a member fails to comply with a direction of the presiding member under subclause (1), the presiding member may refuse to hear the member further on the matter then under discussion and call on the next speaker.

## **PART 9—PRESERVING ORDER**

### **9.1 Presiding member to preserve order**

- (1) The presiding member is to preserve order, and, whenever considered necessary, may call any member to order.
- (2) When the presiding member speaks during a debate, any member then speaking, or indicating that he or she wishes to speak, and every member present is to preserve strict silence so that the presiding member may be heard without interruption.
- (3) Subclause (2) is not to be used by the presiding member to exercise the right provided in clause 8.6, but to preserve order.

### **9.2 Point of order**

- (1) A member may object, by way of a point of order, only to a breach of—
  - (a) this local law; or
  - (b) any other written law.
- (2) Despite anything in this local law to the contrary, a point of order—
  - (a) takes precedence over any discussion; and
  - (b) until determined, suspends the consideration or discussion of any other matter.

### **9.3 Procedures on a point of order**

- (1) A member who is addressing the presiding member is not to be interrupted except on a point of order.
- (2) A member interrupted on a point of order shall not continue until permitted, but is to remain silent until—
  - (a) the member raising the point of order has been heard; and
  - (b) the presiding member has ruled on the point of order.

### **9.4 Calling attention to breach**

A member may, at any time, draw the attention of the presiding member to any breach of this local law.

### **9.5 Ruling by the presiding member**

- (1) The presiding member is to rule on any point of order which is raised by either upholding or rejecting the point of order.
- (2) A ruling by the presiding member on a point of order is to be final unless the majority of members then present and voting, on a motion moved immediately after the ruling, dissent from the ruling.
- (3) Subject to a motion of dissent being carried under subclause (2), if the presiding member rules that—
  - (a) any motion, amendment or other matter before the meeting is out of order, it is not to be considered further; and
  - (b) a statement made or act done by a member is out of order, the presiding member may require the member to make an explanation, retraction or apology.

### **9.6 Continued breach of order**

The presiding member may direct the member to refrain from taking any further part in the debate of that item, other than by voting, and the member is to comply with that direction, if a member—

- (a) persists in any conduct that the presiding member had ruled is out of order; or
- (b) refuses to make an explanation, retraction or apology required by the presiding member under clause 9.5(3).

### **9.7 Right of presiding member to adjourn**

- (1) For the purpose of preserving or regaining order, the presiding member may adjourn the meeting for a period up to 15 minutes.
- (2) On resumption, the debate is to continue at the point at which the meeting was adjourned.
- (3) If, at any one meeting, the presiding member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a later time on the same day or to another day.

## **PART 10—DEBATE OF SUBSTANTIVE MOTIONS**

### **10.1 Motions to be stated and in writing**

Any member who wishes to move a substantive motion or an amendment to a substantive motion—

- (a) is to state the substance of the motion before speaking to it; and
- (b) if required by the presiding member, is to put the motion or amendment in writing.

**10.2 Motions to be supported**

- (1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.
- (2) A motion to revoke or change a decision made at a Council meeting is not open to debate unless the motion has the support required under regulation 10 of the Regulations.

**10.3 Unopposed business**

- (1) Immediately after a substantive motion has been moved and seconded, the presiding member may ask the meeting if any member opposes it.
- (2) If no member opposes the motion, the presiding member may declare it carried without debate and without taking a vote.
- (3) A motion declared carried under this clause is to be recorded in the minutes as a unanimous decision of the Council.
- (4) This clause does not apply—
  - (a) if a member opposes a motion; or
  - (b) to a motion to revoke or change a decision which has been made at a Council meeting.

**10.4 Only one substantive motion at a time**

- (1) When a substantive motion is under debate at a meeting of the Council, no further substantive motion is to be accepted.
- (2) The Council is not to consider more than one substantive motion at any time.

**10.5 Complex motions**

The presiding member may require that a complex substantive motion, or a complex amendment to a substantive motion, is to be broken down and put in the form of more than one motion, each of which is to be put in sequence.

**10.6 Order of call in debate**

The presiding member—

- (a) is to manage debate in any manner considered appropriate to fully consider and determine the business before Council, and
- (b) may call speakers to a substantive motion or amendment in the following order—
  - (i) the mover to state the motion;
  - (ii) a seconder to the motion;
  - (iii) the mover to speak to the motion;
  - (iv) the seconder to speak to the motion;
  - (v) a speaker against the motion;
  - (vi) a speaker for the motion;
  - (vii) other speakers against and for the motion, alternating where possible; and
  - (viii) mover takes right of reply which closes debate.

**10.7 Limit of debate**

The presiding member may offer the right of reply and put a substantive motion to the vote if he or she believes that sufficient discussion has taken place even though all members may not have spoken.

**10.8 Member may require motion to be read**

A member may require the motion under discussion to be read at any time during a debate, but not so as to interrupt any other member who is speaking.

**10.9 Consent of seconder required for alteration**

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

**10.10 Order of amendments**

Any number of amendments may be proposed to a substantive motion, but when an amendment is moved to a substantive motion, no second or subsequent amendment is to be moved or considered until the first amendment has been withdrawn, carried or lost.

**10.11 Form of an amendment**

An amendment must add, delete, or substitute words to the substantive motion.

**10.12 Amendment must not negate original motion**

An amendment to a substantive motion cannot negate the original motion or the intent of the original motion.

**10.13 Relevance of amendments**

Each amendment is to be relevant to the motion in respect of which it is moved.

**10.14 Mover of motion may speak on amendment**

Any member may speak during debate on an amendment consistent with subclause 10.6(b).

**10.15 Effect of an amendment**

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any member may speak and any further amendment may be moved.

**10.16 Withdrawal of motion or amendment**

(1) Subject to subclause (2), the Council may, without debate, grant leave to withdraw a motion or amendment on the request of the mover of the motion or amendment and with the approval of the seconder.

(2) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

**10.17 Right of reply**

(1) The mover of a substantive motion has the right of reply.

(2) The mover of any amendment to a substantive motion has a right of reply.

(3) The right of the reply may only be exercised—

(a) where no amendment is moved to the substantive motion, at the conclusion of the discussion on the motion; or

(b) where one or more amendments have been moved to the substantive motion, at the conclusion of the discussion on the substantive motion and any amendments.

(4) After the mover of the substantive motion has commenced the reply—

(a) no other member is to speak on the motion;

(b) there is to be no further discussion on, or any further amendment to, the motion.

(5) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

(6) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

**PART 11—PROCEDURAL MOTIONS****11.1 Permissible procedural motions**

In addition to the right to move an amendment to a substantive motion a member may move the following procedural motions—

(a) that the meeting proceed to the next item of business;

(b) that the debate be adjourned;

(c) that the meeting now adjourn;

(d) that the question be now put;

(e) that the member be no longer heard;

(f) that the ruling of the presiding member be disagreed with; or

(g) that the meeting be closed to the public.

**11.2 No debate**

(1) The mover of a motion specified in clause 11.1(a), (b), (c), (f) or (g) may speak to the motion for not more than two minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

(2) The mover of a motion specified in clause 11.1 (d) or (e) may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

**11.3 Procedural motion—right of reply on substantive motion**

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

**11.4 Meeting to proceed to the next business**

(1) The motion that the meeting proceed to the next item of business, if carried, has the effect that—

(a) the debate on the substantive motion or amendment ceases immediately;

(b) no decision is made on the substantive motion;

(c) the Council moves to the next item of business; and

(d) there is no requirement for the matter to be raised again for consideration.

(2) No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move a motion to proceed to the next business.

**11.5 Debate to be adjourned**

A motion that the debate be adjourned—

(a) is to state the time and date or circumstances to which the debate is to be adjourned; and

(b) if carried, has the effect that all debate on the substantive motion or amendment ceases immediately, but continues at the time stated in the motion.

**11.6 Meeting now adjourn**

- (1) A member is not to move or second more than one motion of adjournment during the same sitting of the Council.
- (2) Before putting the motion for the adjournment of the Council, the presiding member may seek leave of the Council to deal first with matters that may be the subject of an adoption by exception resolution under clause 5.5.
- (3) A motion that the meeting now adjourn—
  - (a) is to state the time and date or circumstances to which the meeting is to be adjourned; and
  - (b) if carried, has the effect that the meeting is adjourned to the time and date or circumstances specified in the motion.
- (4) A meeting adjourned under subclause (3) is to continue from the point at which it was adjourned, unless the presiding member or the Council determines otherwise.

**11.7 Question to be put**

- (1) If the motion “that the question be now put” is carried during debate on a substantive motion without amendment, the presiding member is to offer the right of reply and then put the motion to the vote without further debate.
- (2) If the motion “that the motion be now put” is carried during discussion of an amendment, the presiding member is to put the amendment to the vote without further debate.
- (3) The motion “that the question be now put”, if lost, causes debate to continue.
- (4) No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move a motion “that the question be now put”.

**11.8 Member to be no longer heard**

If the motion “that the member be no longer heard” is carried, the speaker against whom the motion has been moved cannot speak further on the current substantive motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the substantive motion.

**11.9 Ruling of the presiding member to be disagreed with**

If the motion “that the ruling of the presiding member be disagreed with”, is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

**PART 12—DISCLOSURE OF INTERESTS****12.1 Disclosure of interests**

Disclosure of interests is dealt with in Division 6 of Part 5 of the Act.

**PART 13—VOTING****13.1 Motion—when put**

- (1) Immediately after the debate on any motion is concluded and the right of reply has been exercised, the presiding member—
  - (a) is to put the motion to the Council; and
  - (b) if requested by any member, is to again state the terms of the motion.
- (2) A member is not to leave the meeting when the presiding member is putting any motion.

**13.2 Voting**

Voting is dealt with in the Act and the Regulations.

**13.3 Majorities required for decisions**

The majorities required for decisions of the Council and committees are dealt with in the Act.

**13.4 Method of taking vote**

- (1) In taking the vote on any motion or amendment the presiding member—
  - (a) is to put the motion, first in the affirmative, and then in the negative;
  - (b) may put the motion in this way as often as may be necessary to enable determination whether the affirmative or the negative has the majority of votes;
  - (c) may accept a vote on the voices or may require a show of hands; and,
  - (d) subject to this clause, is to declare the result.
- (2) If a member calls for a show of hands, the result of the vote is to be determined on the count of raised hands.
- (3) If a member of council or a committee specifically requests that the details of the vote on a matter voted on at a meeting of the council or committee be recorded, the person presiding is to cause the vote or votes as the case may be, be recorded in the minutes of—
  - (a) his or her vote; or,
  - (b) the vote of all members present.

**13.5 Recording of votes**

Recording of votes is dealt with in section 5.21(4) of the Act.

**PART 14—MINUTES OF MEETINGS****14.1 Keeping of minutes**

The keeping and confirmation of minutes are dealt with in section 5.22 of the Act.

**14.2 Content of minutes**

- (1) The content of minutes is dealt with in regulation 11 of the Regulations.
- (2) In addition to the matters required by regulation 11 of the Regulations, the minutes of a Council meeting is to include, where an application for approval is refused or the authorisation of a licence, permit or certificate is withheld or cancelled, the reasons for the decision.

**14.3 Public inspection of unconfirmed minutes**

The public inspection of unconfirmed minutes is dealt with in regulation 13 of the Regulations.

**14.4 Confirmation of minutes**

- (1) When minutes of an ordinary meeting of the Council are distributed for consideration prior to their confirmation at the next meeting, if a member is dissatisfied with the accuracy of the minutes, the member may provide the local government with a written copy of the alternative wording to amend the minutes no later than 7 clear working days before the next ordinary meeting of the Council.
- (2) At the next ordinary meeting of the Council, the member who provided the alternative wording shall, at the time for confirmation of minutes—
  - (a) state the item or items with which he or she is dissatisfied; and
  - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (3) Members must not discuss items of business contained in the minutes, other than discussion as to their accuracy as a record of the proceedings.

**PART 15—ADJOURNMENT OF MEETING****15.1 Meeting may be adjourned**

The Council may adjourn any meeting—

- (a) to a later time on the same day; or
- (b) to any other time on any other day, including a time which coincides with the conclusion of another meeting or event.

**15.2 Effect of adjournment**

Where any matter, motion, debate or meeting is adjourned under this local law, debate is to be resumed at the next meeting at the point where it was interrupted.

**PART 16—REVOKING OR CHANGING DECISIONS****16.1 Requirements to revoke or change decisions**

The requirements to revoke or change a decision made at a meeting are dealt with in regulation 10 of the Regulations.

**16.2 Limitations on powers to revoke or change decisions**

- (1) Subject to subclause (2), the Council or a committee is not to consider a motion to revoke or change a decision—
  - (a) where, at the time the motion is moved or notice is given, any action has been taken under clause 16.3 to implement the decision; or
  - (b) where the decision is procedural in its form or effect.
- (2) The Council or a committee may consider a motion to revoke or change a decision of the kind described in subclause (1)(a) if the motion is accompanied by a written statement of the legal and financial consequences of carrying the motion.

**16.3 Implementing a decision**

- (1) In this clause—

**authorisation** means a licence, permit, approval or other means of authorising a person to do anything;

**implement**, in relation to a decision, includes—

- (i) communicate notice of the decision to a person affected by, or with an interest in, the decision; and
- (ii) take any other action to give effect to the decision; and

**valid notice of revocation motion** means a notice of motion to revoke or change a decision that complies with the requirements of the Act, Regulations and the Local Laws and may be considered, but has not yet been considered, by the Council or a committee as the case may be.

- (2) Subject to subclause (4), and unless a resolution is made under subclause (3), a decision made at a meeting is not to be implemented by the CEO or any other person until the afternoon of the first business day after the commencement of the meeting at which the decision was made.



- (3) The Council or a committee may, by resolution carried at the same meeting at which a decision was made, direct the CEO or another person to take immediate action to implement the decision.
- (4) A decision made at a meeting is not to be implemented by the CEO or any other person—
- (a) if, before commencing any implementation action, the CEO or that person is given a valid notice of revocation motion; and
  - (b) unless and until the valid notice of revocation motion has been determined by the Council or the committee as the case may be.
- (5) The CEO is to ensure that members of the public attending the meeting are informed by an appropriate notice at the commencement of both agenda and minutes of the meeting, that a decision to grant an authorisation—
- (a) is to take effect only in accordance with this clause; and
  - (b) cannot be acted upon by the person who has been granted the authorisation unless and until the decision has been implemented in accordance with this clause.

## **PART 17—SUSPENSION OF LOCAL LAW**

### **17.1 Suspension of local law**

- (1) A member may at any time move that the operation of one or more of the provisions of this local law be suspended.
- (2) A member moving a motion under subclause (1) is to state the reasons for the motion but no other discussion is to take place.
- (3) Unless the meeting resolves otherwise, a resolution to suspend the operation of the clause or clauses to which the motion relates is for the duration of the meeting.

### **17.2 Where local law does not apply**

- (1) The presiding member is to decide any question relating to the conduct of the meeting in situations where—
- (a) one or more provisions of this local law have been suspended; or
  - (b) a matter is not regulated by the Act, the Regulations or this local law.
- (2) The decision of the presiding member under subclause (1) is final, except where a motion is moved and carried under clause 11.9.
- (3) Notwithstanding the provisions of subclause (1), the presiding member may call for a vote on a ruling open to him or her under subclause (1).
- (4) The vote is to be taken without a motion and without debate and the presiding member shall be bound by the outcome of the vote.

## **PART 18—MEETINGS OF ELECTORS**

### **18.1 Electors' general meetings**

Electors' general meetings are dealt with in section 5.27 of the Act.

### **18.2 Matters for discussion at electors' general meetings**

The matters to be discussed at electors' general meetings are dealt with in regulation 15 of the Regulations.

### **18.3 Electors' special meetings**

Electors' special meetings are dealt with in section 5.28 of the Act.

### **18.4 Requests for electors' special meetings**

Requests for electors' special meetings are dealt with in regulation 16 of the Regulations.

### **18.5 Convening electors' meetings**

Convening electors' meetings is dealt with in section 5.29 of the Act.

### **18.6 Who presides at electors' meetings**

Who presides at electors' meetings is dealt with in section 5.30 of the Act.

### **18.7 Procedure for electors' meetings**

- (1) The procedure for electors' meetings is dealt with in section 5.31 of the Act and regulation 18 of the Regulations.
- (2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the presiding member is to have regard to this local law.

### **18.8 Participation of non-electors**

A person who is not an elector of the local government shall not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits the person do so.

### **18.9 Voting at electors' meetings**

Voting at electors' meetings is dealt with in regulation 17 of the Regulations.

**18.10 Minutes of electors' meetings**

Minutes of electors' meetings are dealt with in section 5.32 of the Act.

**18.11 Decisions made at electors' meetings**

Decisions made at electors' meetings are dealt with in section 5.33 of the Act.

**PART 19—ENFORCEMENT****19.1 Penalty for breach**

A person who breaches a provision of this local law commits an offence, and is liable for a penalty up to \$1,000, and if the breach is of a continuing nature, a further penalty of up to \$500 in respect of each day during which the offence has continued.

**19.2 Who can prosecute**

Who can prosecute is dealt with in the Act.

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Dated 12 July 2016.

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

R. S. YURYEVICH, Chairman of Commissioners.  
A. J. COOK, Chief Executive officer.

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