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SHIRE OF NARROGIN

LOCAL LAWS

FENCING LOCAL LAW 2016

**PUBLIC PLACES AND LOCAL
GOVERNMENT PROPERTY
LOCAL LAW 2016**

LOCAL GOVERNMENT ACT 1995

SHIRE OF NARROGIN

FENCING LOCAL LAW 2016

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LOCAL GOVERNMENT ACT 1995

SHIRE OF NARROGIN

FENCING 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 22 November 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Narrogin Fencing 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 *Municipality of the Town of Narrogin By Laws Relating to Fencing* as published in the *Government Gazette* on 8 January 1988, are repealed.

1.5 Definitions

In this local law unless the context otherwise requires—

applicant means a person who makes an application for approval under this local law;

approval means a favourable decision in respect of an application which is in writing, may be subject to conditions and which allows a proposal to proceed;

AS or AS/NZS means an Australian or Australian/New Zealand Standard published by Standards Australia, and available for viewing free of charge at the Shire of Narrogin Administration Centre;

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

boundary fence means a fence constructed on the boundary of a lot which abuts a thoroughfare, and results in the application of section 16(1) of the *Dividing Fences Act 1961*;

Building Code has the meaning given in section 3 of the *Building Regulations 2012*;

central business lot means a lot zoned as central business under the local planning scheme;

CEO means the Chief Executive Officer of the local government;

dangerous in relation to any fence means—

- (a) an electrified fence which does not comply with clause 5.2 of this local law;
- (b) a fence containing barbed wire other than a fence constructed and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire, metal spikes or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

district means the district of the local government;

dividing fence has the meaning given in section 5 of the *Dividing Fences Act 1961*;

electrified fence means a fence carrying or designed to carry an electric charge;

estate entry statement means a fence, or wall constructed of masonry or other materials to identify the entrance of an estate and may include but not be limited to a sign indicating the estate name and locality, sculptures, flagpoles and flags;

estate boundary fence means the fence constructed around the external boundary of a subdivision of land to indicate the extent of that subdivision and includes any special works or construction that identifies the entrance to that land;

fence means any structure used or functioning as a barrier, irrespective of where it is located and includes any affixed gate or screening;

front boundary means the boundary line between a lot and the thoroughfare upon which that lot abuts, or in the case of a lot abutting on more than one thoroughfare the boundary line between the lot and the primary thoroughfare;

front setback area means the area between the building line of a lot and the front boundary of that lot;

general agriculture lot means a lot zoned as general agriculture under the local planning scheme;

height in relation to a fence means the vertical distance between the top of the fence at any point and—

- (a) the ground level; or
- (b) where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point; or
- (c) where the fence is constructed on a retaining wall approved by the local government, from the top of the retaining wall;

industry lot means a lot zoned as industry under the local planning scheme;

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*;

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

notice of breach means a notice referred to in clause 8.1;

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

owner has the meaning given to it in section 5 of the *Dividing Fences Act 1961*;

repair has the meaning given to it under section 5 of the *Dividing Fences Act 1961*;

residential lot means a lot zoned as residential under the local planning scheme;

retaining wall means any structure prevents the movement of soil in order to allow ground levels of different elevations to exist adjacent to one another;

rural residential lot means a lot zoned as rural residential under the local planning scheme;

rural smallholding lot means a lot zoned as rural smallholding under the local planning scheme;

rural townsite lot means a lot zoned as rural townsite under the local planning scheme;

Schedule means a Schedule to this local law;

screening means any perforated panels or trellises composed of solid or obscured translucent panels;

service commercial lot means a lot zoned as service commercial under the local planning scheme;

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*;

special use lot means a lot zoned as special use under the local planning scheme;

street setback area has the meaning given to it for the purposes of the *Residential Design Codes of Western Australia*;

sufficient fence means a fence described in clause 2.2 or 2.3 and includes a fence of the description and quality agreed upon by the owners of adjoining lots which does not fail to satisfy clause 2.2 or 2.3; and

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

1.6 Requirements of local planning scheme

In the event of any inconsistency between the provisions of a local planning scheme and the provisions of this local law, the provisions of the local planning scheme are to prevail.

1.7 Requirements of *Building Act 2011*

Nothing in this local law affects a provision in any written law in respect of a building permit for a fence.

PART 2—SUFFICIENT FENCES

2.1 Sufficient fences—requirement

A person shall not construct a dividing fence or a boundary fence that is not a sufficient fence.

2.2 Sufficient fences—generally

Subject to clause 2.3 a sufficient fence—

- (a) on a residential lot, rural townsite lot or special use lot is a dividing fence or a boundary fence constructed in accordance with Schedule 1;

- (b) on a central business lot, service commercial lot or industry lot is a dividing fence or a boundary fence constructed in accordance with Schedule 2; and
- (c) on a general agriculture lot, rural residential lot or rural smallholding lot is a dividing fence or a boundary fence constructed in accordance with Schedule 3.

2.3 Sufficient fences—between lots having different requirements

Where a fence is constructed on or near the boundary between—

- (a) a residential lot, rural townsite lot or special use lot and a lot zoned for any other purpose, a sufficient fence is a fence constructed in accordance with Schedule 1; and
- (b) a central business lot, service commercial lot or industry lot and a general agriculture lot, rural residential lot or rural smallholding lot, a sufficient fence is a fence constructed in accordance with Schedule 3.

2.4 General discretion of the local government

(1) Notwithstanding the provisions of clause 2.1, an authorised person may give written consent for the construction or repair of a fence which is not a sufficient fence where all of the owners of the lots adjoin the fence make an application for approval for that purpose.

(2) In determining whether to grant its approval under subclause (1), the local government may consider whether the construction or repair of the fence would have an adverse effect on—

- (a) the safe or convenient use of any land;
- (b) the safety or convenience of any person;
- (c) the visual amenity of the locality; and
- (d) any other matter considered relevant.

2.5 Transitional provision

A dividing fence or fence lawfully constructed prior to this local law coming into operation constitutes a sufficient fence.

PART 3—FENCING GENERALLY

3.1 Fences within front and secondary setback areas

(1) A person shall not, without the written consent of an authorised person, construct a free-standing fence greater than 1200mm in height, within the front setback area of a residential lot, rural townsite lot or special use lot.

(2) An authorised person may approve the construction of a fence of a height greater than 1200mm in the front setback area of a residential lot, rural townsite lot or special use lot only if the fence on each side of the driveway into the lot across the front boundary is to be angled into the lot for a distance of not less than 1500mm along the frontage to a distance of not less than 1500mm from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.

(3) The provision of subclause (2) shall not apply to a fence of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare.

(4) The provision of subclause (2) shall apply to a secondary setback area where a driveway in the secondary setback area is used as the primary driveway access.

3.2 Alteration of ground levels

(1) A person shall not alter the natural ground level of land on or within 1000mm of the boundary of a lot, whether by removing soil or bringing onto the land any fill of any kind, by more than 500mm without the approval of an authorised person.

(2) A fence constructed of corrugated fibre-reinforced pressed cement shall not have more than 150mm difference in the ground levels on each side of the fence.

(3) Where land has been filled or retained to a height of more than 500mm above natural ground level at or within 1000mm of a boundary of a lot, a person shall only construct a dividing fence that is a sufficient fence on the said filled land or retaining wall if the person produces to an authorised person the written agreement of the owners of the adjoining lot.

3.3 Obstruction of watercourse

No person shall construct a fence of impervious material in any place, position or location where it will, or is likely to, act as a barrier to or restrict the flow of a natural watercourse.

3.4 Gates or doors in fences

A person shall not construct a gate or door in a fence which encroaches into or over any other property.

3.5 Retaining walls

A person must not commence to construct a retaining wall which is on the boundary line unless—

- (a) an application has been lodged with the local government including—
 - (i) two copies of a plan and specifications of the proposed retaining wall; and
 - (ii) in the case of a retaining wall exceeding 500mm in height and when required by an authorised person, engineering calculations in respect of the proposed retaining wall; and
- (b) an authorised person has approved the application.

3.6 Estate fencing

- (1) A person shall not construct an estate entry statement or estate boundary fence without the approval of an authorised person.
- (2) Where an estate entry statement or estate boundary fence is constructed and contains an estate name, the entry statement or estate boundary fence shall also depict the locality name in at least equal prominence.
- (3) An owner or occupier of a lot adjacent to an estate boundary fence shall, where that fence is damaged, dilapidated or in need of repair, cause it to be repaired or replaced with the same or similar materials with which it was first constructed, so as far as practicable the repaired or replaced section shall be the same as the original fence.

3.7 Maintenance of fences

- (1) An owner or occupier of a lot on which a fence is constructed shall maintain the fence in good condition so as to prevent it from becoming damaged, dangerous, dilapidated or unsightly.
- (2) Where in the opinion of an authorised person, a fence is in a state of disrepair or is dangerous or is otherwise in breach of a provision of this local law, an authorised person may give a notice of breach under clause 8.1 to the owner or occupier of the lot on which the fence is constructed.

3.8 Fences across rights-of-way, public access ways or thoroughfares

A person must not construct or maintain a fence or obstruction of a temporary or permanent nature across any right-of-way, public access way or thoroughfare so as to impede or prevent use of those facilities in the manner for which they are intended and constructed without the approval of an authorised person.

PART 4—FENCING MATERIALS, SCREENING AND MAINTENANCE

4.1 Prohibited materials

A person must not construct a fence which is comprised, in whole or in part of spikes, broken glass, jagged materials, barbed wire, razor wire, asbestos or any other dangerous material except to the extent provided for in Part 5.

4.2 Pre-used fencing materials

- (1) A person shall not construct a boundary fence, dividing fence or estate fence from pre-used materials without the approval of an authorised person.
- (2) Where an authorised person approves the use of pre-used materials, the materials shall be structurally fit for the purpose, and comply with any conditions imposed by an authorised person.
- (3) Conditions for use of pre-used fencing materials may include but are not limited to—
 - (a) painting;
 - (b) treated;
 - (c) specific use or placement; and
 - (d) upgrading.

4.3 Approved materials

Subject to clause 4.2, a person shall only construct a dividing fence or boundary fence from materials specified in the Schedules of this local law, unless otherwise approved or required by an authorised person.

4.4 Screening

- (1) Screening may be fixed to a sufficient fence that is compliant with Schedule 1 which is consistent with the colours, materials and specification of that sufficient fence.
- (2) Screening is not to be affixed to a fence so that the maximum height exceeds 2.1m.
- (3) Screening affixed to a fence shall be installed and maintained in accordance with the manufacturer's specifications and not compromise the structural integrity of a fence.

PART 5—RESTRICTED FENCING

5.1 Barbed wire fencing

- (1) An owner or occupier of a residential lot or special use lot shall not affix or allow to remain any barbed wire on any fence bounding that lot.
- (2) An owner or occupier of a rural townsite lot, rural residential lot, rural smallholding lot or general agriculture lot shall not place or affix barbed wire upon a fence on that lot where the fence is adjacent to a thoroughfare or other public place unless the barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.
- (3) An owner or occupier of a central business lot, service commercial lot or industry lot shall not construct or affix to any fence bounding that lot any barbed wire unless—
 - (a) the wire or material are attached on posts vertically or at an angle of 45 degrees; and
 - (b) the bottom row of wire or other materials is not less than 2000m above the ground level.
- (4) If the posts which carry the barbed wire or other materials referred to in subclause (3) are angled towards the outside of the lot bounded by the fence, the face of the fence must be set back from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach onto or over adjoining land.

5.2 Electrified fencing

- (1) An owner or occupier of a lot shall not construct or use an electrified fence on that lot without first obtaining approval of an authorised person.
- (2) Notwithstanding subclause (1), approval is not required for an electrified fence—
 - (a) constructed on a general agriculture lot, rural smallholding lot, rural residential lot;
 - (b) for the purpose of animal control;
 - (c) installed in accordance with the manufacturer's specifications; and
 - (d) which is not the dividing fence with a residential lot, rural townsite lot or special use lot.
- (3) An electrified fence for the purpose of security must not be present on a lot unless it complies with *AS/NZS 3016:2002 Electrical Installations—Electric Security Fences*, as amended from time to time, and which is available for viewing free of charge at the Shire of Narrogin Administration Centre.
- (4) Approval to have and use an electrified fence for the purpose of security shall not be issued—
 - (a) in respect of a lot which is or which abuts a residential lot, rural townsite lot or special use lot; and
 - (b) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is constructed.

5.3 Razor wire fencing

- (1) An owner or occupier of a lot shall not construct a fence wholly or partly of razor wire on that lot without first obtaining approval under subclause (2).
- (2) Approval to have a fence constructed wholly or partly of razor wire shall not be issued—
 - (a) in respect of a lot which is or which abuts a residential lot or special use lot;
 - (b) if the fence is within 3m of the boundary of the lot; or
 - (c) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above the ground level.

PART 6—APPROVALS

6.1 Application for approval

- (1) An owner of a lot may apply to the local government for approval of any discretionary matter contained within this local law.
- (2) An application for approval under this local law shall—
 - (a) provide all necessary documentation and information required for a decision;
 - (b) provide two copies of a plan and specifications of the proposed;
 - (c) engineering certification of structural or electrical engineering specifications, if required;
 - (d) be signed by the owner of the lot;
 - (e) be forwarded to the CEO together with any set fee; and
 - (f) be in the form determined by the local government from time to time.
- (3) An authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for approval.
- (4) An authorised person may refuse to consider an application for approval which is not in accordance with subclauses (2) and (3).

6.2 Decision on application for approval

- (1) An application submitted to the local government under this local law may be—
 - (a) approved by an authorised person;
 - (b) approved by an authorised person subject to conditions as the authorised person sees fit; or
 - (c) rejected by an authorised person.
- (2) In determining whether to grant its consent to the construction or installation, an authorised person may consider, in addition to any other matter that it is authorised to consider, whether the construction or retention of the fence would have an adverse impact on—
 - (a) the safe or convenient use of any land;
 - (b) the safety or convenience of any person; or
 - (c) the visual amenity of the streetscape or neighbouring properties.
- (3) An authorised person may by written notice amend a condition imposed under subclause (1)(b).
- (4) An amendment under subclause (3) is effective from the date specified in the notice.
- (5) If an authorised person approves an application for approval, it is to issue to give written notice of approval and any conditions applied, to the applicant.
- (6) If an authorised person refuses to approve an application for approval, it is to give written notice of that refusal and the reasons for the decision to the applicant.

6.3 Compliance with approval

Where an application for approval has been approved under clause 6.2, the applicant and the owner or occupier of the lot to which the approval relates, shall comply with the terms and any conditions of that approval.

6.4 Cancellation of an approval

An authorised person may cancel an approval if—

- (a) the owner or occupier requests an authorised person to do so;
- (b) the fence to which the approval applies has been demolished and is not rebuilt for a period of 6 months;
- (c) the circumstances have changed in such a way that an approval for the fence could no longer be granted under the local law;
- (d) the owner or occupier fails to comply with a condition of the permit or breaches a provision of this local law in respect of the fence; or
- (e) the owner or occupier fails to comply with a notice of breach issued under clause 8.1.

6.5 Duration of approval

- (1) Unless otherwise stated in the form of approval, an approval granted under this local law transfers with the lot to which it relates and is deemed to transfer to each successive owner or occupier of the lot to which the approval applies.
- (2) Where an approval is transferred under subclause (1), the successive owner or occupier may apply to an authorised person for written confirmation of this transfer.
- (3) For the avoidance of doubt, approval granted under this local law may be relied upon by any subsequent owner or occupier of the lot, and may be enforced against them by the local government.

PART 7—OBJECTIONS AND REVIEW

7.1 Objections and review

Where an authorised person exercises a discretion pursuant to this local law, an affected person has a right of objection and appeal under Division 1 of Part 9 of the *Local Government Act 1995*.

PART 8—ENFORCEMENT

8.1 Notices of breach

- (1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, an authorised person may give a notice of breach in writing to the owner or occupier of that lot.
- (2) A notice of breach shall—
 - (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state that the owner or occupier is required to remedy the breach within the time specified in the notice.
- (3) An owner or occupier given a notice of breach shall comply with the terms of the notice and remedy the breach within the time specified in the notice.
- (4) Should an owner or occupier fail to comply with a notice, an authorised person may enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of doing so from the owner or occupier of the lot, as the case may be, in a court of competent jurisdiction.
- (5) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3 of the *Local Government Act 1995*.

8.2 Offences and penalties

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

8.3 Modified penalties

The amount appearing in the final column of Schedule 4 directly opposite a prescribed offence in that Schedule is the modified penalty for that prescribed offence.

8.4 Form of notices

For the purposes of this local law—

- (1) the form of the infringement notice referred to in section 9.17 of the *Local Government Act 1995* is to be in the form of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (2) the form of the withdrawal of infringement notice referred to in section 9.20 of the *Local Government Act 1995* is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

**SCHEDULE 1—SUFFICIENT FENCE—RESIDENTIAL, RURAL TOWNSITE
AND SPECIAL USE LOTS**

[Clause 2.2(a)]

Each of the following is a sufficient fence on residential lots, rural townsite lots and special use lots—

- (a) except with respect to the front setback area for which there is no minimum height but which is subject to clause 3.1; and
 - (b) where constructed to an average height of 1800mm.
- (1) Any type of professionally manufactured timber fence, constructed in accordance with the manufacturer's specifications.
 - (2) Any corrugated fibre reinforced pressed cement sheet fence, constructed in accordance with the manufacturer's specifications.
 - (3) Any type of masonry or brick fence that is constructed in accordance with the Building Code, finished plumb, true and level and appropriately jointed, cleaned and of good general appearance.
 - (4) A steel sheet colorbond fence, constructed in accordance with the manufacturer's specifications.
 - (5) Dense brushwood constructed in accordance with the manufacturer's specifications.

**SCHEDULE 2—SUFFICIENT FENCE—CENTRAL BUSINESS, INDUSTRY
AND SERVICE COMMERCIAL LOTS**

[Clause 2.2(b)]

Each of the following is a sufficient fence on central business lots, industry lots and service commercial lots.

- (1) A fence constructed of galvanized or PVC coated—
 - (a) rail-less link;
 - (b) chain; or
 - (c) steel mesh.
- (2) A fence constructed in accordance with clause (1) shall be—
 - (a) to a height of 1800mm on top of which are to be three strands of barbed wire carrying the fence to a height of 2400mm;
 - (b) supported by steel galvanised pipe posts each—
 - (i) 2700mm in length;
 - (ii) having a nominal bore of 40mm and an outside diameter of 48mm;
 - (iii) spaced at 4000mm centres;
 - (iv) sunk 600mm into the ground and encased in concrete having a minimum diameter of 150mm; and
 - (v) the centre and bottom steel cable wire is to be 3.15mm in diameter and double twisted; and
 - (c) with terminal posts braced in the line of the fence with diagonal pipe braces having a nominal bore of 50mm and an outside diameter of 60mm.
- (3) Fences constructed in accordance with Schedule 1.

**SCHEDULE 3—SUFFICIENT FENCE—GENERAL AGRICULTURE, RURAL
RESIDENTIAL AND RURAL SMALLHOLDING LOTS**

[Clause 2.2(c)]

Each of the following is a sufficient fence on general agriculture lots, rural residential lots and rural smallholding lots.

- (1) In the case of a non-electrified fence, a fence of posts and wire construction, the minimum specifications for which are—
 - (a) wire shall be—
 - (i) high tensile wire and not less than 2.5mm; and
 - (ii) a minimum of seven wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases;
 - (b) posts shall be of indigenous timber or other suitable material including—
 - (i) timber impregnated with a termite and fungicidal preservative, and not less than 1650mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn;
 - (ii) standard iron star pickets; or
 - (iii) concrete;
 - (c) posts to be set minimum 600mm in the ground and 1200mm above the ground; and

(d) strainer posts shall be—

- (i) not less than 2250mm long and 50mm diameter at the small end (tubular steel to be 50mm in diameter);
- (ii) cut from indigenous timber or other suitable material; and
- (iii) placed a minimum of 1000mm in the ground.

(2) An electrified fence having five wires only is a sufficient fence if constructed generally in accordance with clause (1).

SCHEDULE 4—PRESCRIBED OFFENCES

[Clause 8.3]

Item	Clause	Nature of offence	Modified penalty \$
1	2.1	Construction of a dividing fence or boundary fence on a lot that is not a sufficient fence without approval	200
2	3.1	Construction of a non-compliant fence within setback area without approval	200
3	3.2(1)	Alteration of ground levels without approval	500
4	3.3	Obstruction of a watercourse	200
5	3.4	Construction of a gate or fence encroaching over other property	200
6	3.5	Construction of retaining wall without approval	500
7	3.6(1)	Construction of estate fencing without approval	500
8	3.7(1)	Failure to maintain fence in good condition	200
9	3.8	Construction of a fence across right-of-way etc. without approval	500
10	4.1	Use of prohibited materials in a fence	500
11	4.2(1)	Use of pre-used fencing materials without approval	200
12	4.4	Construction of screen exceeding 2.1m in height	200
13	5.1(1)	Using or allowing to remain barbed wire on residential or special use lots	200
14	5.1(2)	Non-compliant use of barbed wire on a rural townsite, general agriculture, rural residential or rural smallholding lots	200
15	5.1(3)	Non-compliant use of barbed wire on a central business, industry or service commercial lots	500
16	5.2	Construction of an electric fence without approval	500
17	5.3	Construction of a razor wire fence without approval	500
18	6.3	Failure to comply with conditions of approval for fence	500
19	8.1(3)	Failure to comply with notice of breach in relation to Part 5—Restricted Fencing	500
20	8.1(3)	Failure to comply with notice of breach in relation to all matters other than Part 5—Restricted Fencing	200
21	8.2(1)	Other offences not specified	200

Dated this 23 November 2016.

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

L. N. BALLARD, President.
A. J. COOK, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995**SHIRE OF NARROGIN****PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY
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LOCAL GOVERNMENT ACT 1995

SHIRE OF NARROGIN

PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY
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 22 November 2016 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Narrogin Public Places and Local Government Property 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 applies throughout the district.

1.4 Repeal

The following local laws are repealed—

- (a) *The Municipality of the Town of Narrogin Adoption of Draft Model By-laws Relating to the Removal and Disposal of Obstructing Animals and Vehicles No. 7* published in the *Government Gazette* on 6 November 1964;
- (b) *The Municipality of the Town of Narrogin By-laws Relating to the Care, Control and Management of Roads and Ways* published in the *Government Gazette* on 2 June 1989; and
- (c) *The Municipality of the Town of Narrogin By-laws relating to Swimming Pools* published in the *Government Gazette* on 28 February 1975, and amended from time to time.

1.5 Transitional provisions

(1) An application for, or the renewal of a licence, permit or other authorisation made under a repealed local law that has not been finally determined before the commencement day is to be dealt with and determined as if it were an application under this local law.

(2) A licence, permit or other authorisation under a repealed local law that is in force before the commencement day is to be regarded on and after that day as a licence under this local law and may be dealt with accordingly.

1.6 Definitions

(1) In this local law—

Act means the *Local Government Act 1995*;

applicant means a person who applies for a licence;

application means an application for a licence;

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

building means any building which is local government property and includes any—

- (a) hall or room; and
- (b) corridor, stairway or annexe of any hall or room;

building permit means a permit granted under section 20 of the *Building Act 2011*;

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

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

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

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;

CEO means the Chief Executive Officer of the local government;

children's playground means an area set aside for use by children and noted by the presence of any of the following—

- (a) dedicated children's playground equipment,
- (b) the presence of either sand or other form of soft fall surface; or
- (c) a sign indicating the area is a children's playground;

closed thoroughfare means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act;

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

costs means all expenses directly associated with reinstatement or replacement, and includes administrative expenses, associated with reinstatement or replacement;

Council means the council of the local government;

crossover means an areas of the verge, constructed and used for the purpose of enabling a vehicle to access the adjacent property;

determination means a determination made under clause 2.1;

district means the district of the local government and includes any area placed under the jurisdiction of the local government under section 295 of the *Public Health Act 2016*;

drone includes a remotely piloted aircraft and means an unmanned aerial vehicle as defined in regulation 101.240 of the *Civil Aviation Safety Regulations 1998* (Commonwealth);

entertainment means conduct any form of theatrical, artistic, musical, audio or visual performance and includes busk;

firearm has the same meaning as in section 4 of the *Firearms Act 1973*;

food has the meaning given by the *Food Act 2008*;

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

function means an event or activity characterised by all or any of the following—

- (a) formal organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;
- (c) organisation by or on behalf of a club;
- (d) payment of a fee to attend it; and
- (e) systematic recurrence in relation to the day, time and place;

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

hire includes offer to hire and expose for hire;

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

kerb includes the edge of a carriageway;

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

licence means a licence, permit or approval issued by the local government under this local law;

licence document means a licence document issued under this local law;

licensed premises has the same meaning as is given to it in section 3 of the Liquor Control Act;

licensee means a person who holds a licence;

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

Liquor Control Act means the *Liquor Control Act 1988*;

local government means the Shire of Narrogin;

local government property means anything except a thoroughfare—

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

local public notice has the meaning given to it in section 1.7 of the Act;

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

manager means the person for the time being employed or engaged by the local government to control and manage a facility which is local government property, and includes the person's assistant or deputy;

market means a collection of stalls, stands or displays erected for the purpose of selling or hiring goods or services or carrying out any other transaction;

missile has the same meaning as in section 4 of the *Firearms Act 1973*;

model aircraft means an aircraft that is used for sport or recreation, and cannot carry a person, and includes a model rocket;

nuisance means any activity, thing, condition, circumstance or state of affairs caused or contributed to by a person which—

- (a) is injurious or dangerous to the health of another person of normal susceptibility; or
- (b) which has a disturbing effect on the state of reasonable physical, mental or social well being of another person;

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

permitted verge treatment means any one of the treatments described in clause 6.7(3), and includes any reticulation pipes and sprinklers;

person does not include the local government;

prohibited drug is given its meaning under section 3 of the *Misuse of Drugs Act 1981*;

public place means—

- (a) a thoroughfare;
- (b) any local government property; or
- (c) a place to which the public have access;

repealed local law means a local law repealed under clause 1.4;

retailer means the owner or occupier of a shop in respect of which shopping trolleys are provided for the use of customers of the shop;

Schedule means a schedule to this local law;

sell includes—

- (a) offer or attempt to sell;
- (b) display for sale;
- (c) send, forward or deliver for sale or on sale;
- (d) barter or exchange;
- (e) dispose, by lot or chance or by auction;
- (f) supply, or offer, agree or attempt to supply—
 - (i) in circumstances which the supplier derives or would be likely to derive a direct or indirect pecuniary benefit; or
 - (ii) gratuitously, but with a view to gaining or maintaining custom or other commercial advantage; or
- (g) authorise, direct, cause or permit to be done any act referred to in this definition;

set fee refers to fees and charges imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act;

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

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

stall means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold and includes a vehicle;

street tree any tree planted or self sown in a thoroughfare, of an appropriate species and in an appropriate location, for the purposes of contributing to the appearance of the thoroughfare;

thoroughfare means any highway, thoroughfare or land used for vehicular or pedestrian traffic, and includes all the land lying between property lines, including the verge and footpath;

trading means selling or hiring goods or services and includes the setting up of a stall and conducting business at a stall;

vehicle includes—

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
- (b) where the context permits, an animal being ridden or driven,
but excludes—
 - (c) a wheelchair or any device designed for use by a physically impaired person on a footpath;
 - (d) a shopping trolley; and
 - (e) a pram, stroller or similar device;

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

waste includes matter—

- (a) whether liquid, solid, gaseous or radioactive and whether useful or useless, which is discharged into the environment; or
- (b) prescribed by regulations under the *Waste Avoidance and Resource Recovery Act 2007* to be waste.

1.7 Interpretation

In this local law, a reference to local government property includes a reference to any part of local government property.

1.8 Types of licences

For the purposes of this local law—

- (a) a licence which authorises trading on any thoroughfare or local government property is to be referred to as a trading licence;
- (b) a licence which authorises the conduct or setting up of a market on any thoroughfare or local government property is to be referred to as a market licence;
- (c) a licence which authorises entertainment on any thoroughfare or local government property is to be referred to as an entertainment licence; and
- (d) a licence which authorises the sale of food on any thoroughfare or local government property is to be referred to as a food sales licence.

1.9 Assistance animals

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

1.10 Overriding power to hire and agree

Despite anything to the contrary in this local law, an authorised person, on behalf of the local government, may—

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

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

2.1 Determinations as to use of local government property

The local government may make a determination in accordance with clause 2.2—

- (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
- (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
- (c) as to the matters in clauses 2.7(2) and 2.8(2); and
- (d) as to any matter ancillary or necessary to give effect to a determination.

2.2 Procedure for making a determination

(1) The local government is to give local public notice of the local government intention to make a determination.

(2) The local public notice referred to in subclause (1) is to state that—

- (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
- (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
- (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.

(3) If no submissions are received in accordance with subclause (2)(c), the local government is to decide to—

- (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
- (b) amend the proposed determination, in which case subclause (5) is to apply; or
- (c) not continue with the proposed determination.

(4) If submissions are received in accordance with subclause (2)(c), the local government is to—

- (a) consider those submissions; and
- (b) decide—
 - (i) whether or not to amend the proposed determination; or
 - (ii) whether or not to continue with the proposed determination.

(5) If the local government decides to amend the proposed determination, it is to give local public notice—

- (a) of the effect of the amendments; and

- (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the local government decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

2.3 Discretion to erect sign

The local government may erect a sign on local government property to give notice of the effect of a determination which applies to that property.

2.4 Determination to be complied with

A person must comply with a determination.

2.5 Register of determinations

- (1) The local government is to keep a register of determinations made under clause 2.2, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

2.6 Amendment or revocation of a determination

- (1) The local government may amend or revoke a determination.
- (2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the local government revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

2.7 Activities which may be pursued on specified local government property

- (1) A determination may provide that specified local government property is set aside as an area on which a person may—
- (a) take, ride or drive a vehicle, or a particular class of vehicle;
 - (b) fly or use a motorised model aircraft;
 - (c) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
 - (d) launch, beach or leave a boat;
 - (e) take or use a boat, or a particular class of boat;
 - (f) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
 - (g) play or practise—
 - (i) golf or archery;
 - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
 - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property; and
 - (h) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular—
- (a) the days and times during which the activity may be pursued;
 - (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
 - (d) may limit the activity to a class of vehicles, equipment or things, or may extend it to all vehicles, equipment or things;
 - (e) may specify that the activity can be pursued by a class of persons or all persons; and
 - (f) may distinguish between different classes of the activity.

2.8 Activities which may be prohibited on specified local government property

- (1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property—
- (a) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
 - (b) taking, riding or driving a vehicle on the property or a particular class of vehicle;
 - (c) riding or driving a vehicle of a particular class or any vehicle above a specified speed;

- (d) taking or using a boat, or a particular class of boat;
 - (e) the playing or practice of—
 - (i) golf, archery, pistol shooting or rifle shooting; or
 - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
 - (f) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
 - (g) the traversing of land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.
- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular—
- (a) the days and times during which the activity is prohibited;
 - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is prohibited in respect of a class of vehicles, equipment or things, or all vehicles, equipment or things;
 - (d) that an activity is prohibited in respect of a class of persons or all persons; and
 - (e) may distinguish between different classes of the activity.

2.9 Sign under repealed local law taken to be determination

- (1) Where a sign erected on local government property has been erected under a repealed local law, then it is to be taken to be and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 2.1.
- (2) Clause 2.5 does not apply to a sign referred to in subclause (1).

PART 3—ACTIVITIES ON LOCAL GOVERNMENT PROPERTY REQUIRING A LICENCE

3.1 Activities requiring a licence

- (1) A person must not without a licence—
- (a) subject to subclause (3) hire local government property;
 - (b) advertise anything by any means on local government property;
 - (c) erect, on local government property a structure for public amusement or for any performance, whether for gain or otherwise;
 - (d) teach, coach or train, for profit, any person in any facility which is local government property;
 - (e) plant any plant or sow any seeds on local government property;
 - (f) carry on any trading on local government property unless the trading is conducted—
 - (i) with the consent of a person who holds a licence to conduct a function, and where the trading is carried on under and in accordance with the licence; or
 - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
 - (g) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose—
 - (i) drive or ride or take any vehicle on to local government property; or
 - (ii) park or stop any vehicle on local government property;
 - (h) conduct a function or entertainment event on local government property;
 - (i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
 - (j) light a fire on local government property except in a facility provided for that purpose;
 - (k) light or set off any firework or conduct a fireworks display on local government property;
 - (l) parachute, hang glide, abseil or base jump from or on to local government property;
 - (m) erect a building or a refuelling site on local government property;
 - (n) make any excavation on or erect or remove any fence on local government property;
 - (o) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
 - (p) depasture any horse, sheep, cattle, goat, camel ass or mule on local government property;
 - (q) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly; or
 - (r) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

(3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

3.2 Licence to erect structures or camp

- (1) This clause does not apply to a caravan park or camping ground operated by the local government.
- (2) A person must not without a licence—
- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property;
 - (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day; or
 - (c) park a vehicle on local government property, thoroughfare or public place for the purpose of sleeping in the vehicle.
- (3) The maximum period for which the local government may approve an application for a licence in respect of paragraph (a) or (b) of subclause (2) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.
- (4) Any tent, camp, hut or similar structure erected in contravention of paragraph (b) of subclause (2) and associated goods may, subject to Regulation 29 of the *Local Government (Functions and General) Regulations 1996*, be impounded.
- (5) A vehicle parked in contravention of paragraph (c) of subclause (2) may, subject to the provisions of Regulation 29 of the *Local Government (Functions and General) Regulations 1996*, be impounded by immobilising the vehicle by the use of a wheel clamping device.
- (6) An authorised person who impounds a vehicle under subclause (5) shall attach a notice to a vehicle advising the owner of the vehicle that the vehicle will be released upon payment of the costs of impounding by use of a wheel clamping device and the place where and hours during which the costs can be paid.
- (7) The notice attached to the impounded vehicle under subclause (6) shall also advise the owner that if the impounding costs are not paid within 24 hours the vehicle may be removed to the local government pound.
- (8) Notices issued under this clause shall be in the form determined by the local government.

3.3 Licence required for possession and consumption of liquor

- (1) A person, on local government property, must not consume any liquor, have in her or his possession or under her or his control, or sell any liquor, unless—
- (a) permitted under the Liquor Control Act; and
 - (b) a licence has been obtained for that purpose from the local government.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

PART 4—BEHAVIOUR ON LOCAL GOVERNMENT PROPERTY AND THOROUGHFARES

4.1 Behaviour which interferes with others

In or on any local government property or thoroughfare, a person must not, behave in a manner which—

- (a) is likely to interfere with the enjoyment of a person who might use or who might be on the property or thoroughfare; or
- (b) interferes with the enjoyment of a person using the property or thoroughfare.

4.2 Behaviour detrimental to property

A person must not behave in or on local government property or thoroughfare in a way which is or might be detrimental to the property, including but not limited to—

- (a) removing any thing from the local government property or thoroughfare including a rock, a plant or a seat provided for the use of any person; and
- (b) destroying, defacing or damaging any thing on the local government property or thoroughfare, including a plant, a seat provided for the use of any person or a building.

4.3 No unauthorised entry to function

- (1) A person must not enter local government property on such days or during such times as the property is set aside for a function, except—
- (a) through the proper entrance for that purpose; and
 - (b) on payment of any fee chargeable for admission as determined by the hirer at the time.
- (2) An authorised person may exempt a person from compliance with subclause (1)(b).

4.4 Taking or injuring fauna

- (1) In this clause—

animal means any living thing that is not a human being or plant;

fauna means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes in relation to any such animal—

- (a) any class of animal or individual member;

- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur unless it has been shed or discarded by the fauna in a normal or natural manner.

(2) A person must not, take, injure or kill or attempt to take, injure or kill any fauna which is on or above any local government property or thoroughfare, unless that person is authorised under a written law to do so.

4.5 Flora

(1) In this clause—

flora means all vascular plants, seeds and other flora, whether living or dead.

(2) On or above any local government property or thoroughfare, unless authorised to do so under a written law or with the written approval of an authorised person, a person must not—

- (a) remove, damage or interfere with any flora; or
- (b) plant or deposit any flora.

4.6 Animals

On any local government property or thoroughfare, a person must not—

- (a) tether any animal other than a dog, to an object or tree; or
- (b) permit any animal other than a dog, to enter unless authorised by a licence.

4.7 Waste

A person must not deposit or discard waste on local government property or thoroughfare except—

- (a) in a place or receptacle set aside by an authorised person for that purpose, and in accordance with any conditions that may be specified on the receptacle or a sign; or
- (b) at the Narrogin waste disposal facility, and subject to directions issued from time to time by an authorised person for the orderly and proper use of those waste facilities in relation to—
 - (i) hours of business;
 - (ii) separation of waste into designated receptacles;
 - (iii) prohibition of the deposit of certain types of refuse or waste; and
 - (iv) conduct of persons, including persons in charge of vehicles, while on the site.

4.8 Glass

Unless authorised by a licence or by the local government, a person must not take a glass—

- (a) on to a children's playground; or
- (b) within any area of local government property as indicated by a sign.

4.9 Intoxicated persons not to enter local government property

A person must not enter or remain on local government property while under the influence of liquor or a prohibited drug.

4.10 Prohibition on use of firearms

A person shall not discharge a firearm within or so as the missile crosses any part of local government property for any reason, except with the express permission of the local government.

4.11 Vehicles on local government property

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

- (a) subject to subclause (3), the local government property is clearly designated as a road, access way, or car park;
- (b) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government, who is engaged in—
 - (i) providing a service or making a delivery in connection with the local government property; or
 - (ii) maintaining the local government property;
- (c) the person is driving an emergency vehicle in the course of his or her duties;
- (d) the vehicle is—
 - (i) used in accordance with the conditions set down by the local government or an authorised person; and
 - (ii) of a type allowed to be taken onto the local government property by the local government or an authorised person; or
- (e) the vehicle is a motorised wheelchair, and the driver of that vehicle is a person with a disability.

(2) A person must not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 20 kilometres per hour or as otherwise indicated by a sign, or in such a manner as to cause danger to any person.

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

4.12 Motorised model aircraft, toys or ships

A person must not use, launch or fly a motorised model aircraft, drone, toy, ship or glider that is propelled by mechanical, hydraulic, combustion or pyrotechnic means on or from local government property except where a licence or determination specifies a particular local government property.

4.13 Archery, pistol or rifle shooting

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

4.14 Playing or practising golf

A person must not play or practise golf on local government property except where a licence or determination specifies a particular local government property.

4.15 Prohibition relating to bicycles, skateboards etc. on local government property

Unless the local government property is clearly identified for the purpose, a person must not, use or ride a bicycle or wheeled recreational device, skateboard or roller-blades, or sand board or similar devices on any local government property—

- (a) inside, or on the curtilage to, a building; or
- (b) in or on a lakebed or waterway.

4.16 Exemption

Notwithstanding the requirements of clauses 4.10 to 4.14 inclusive, the CEO may approve the activity on local government property in circumstances and under such conditions as is considered appropriate.

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY**5.1 No entry to fenced or closed local government property**

A person must not enter local government property which has been fenced off or closed to the public by a sign or otherwise, unless that person is authorised to do so by an authorised person.

5.2 Only specified gender to use entry of toilet block or change room

(1) Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by—

- (a) females—then a person of the male gender must not use that entry of the toilet block or change room;
- (b) males—then a person of the female gender must not use that entry of the toilet block or change room; or
- (c) families—then, where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry of the toilet block or change room.

(2) Paragraphs (a) and (b) of subclause (1) do not apply to a child, when accompanied by a parent, guardian or caregiver, where the child is—

- (a) under the age of 8 years; or
- (b) otherwise permitted by an authorised person to use the relevant entry.

5.3 Use of shower or bath facilities

A person may use a shower or bath facility in change rooms only on conditions that—

- (a) the facilities must be used by the person only for the purpose of cleansing, bathing and washing themselves; and
- (b) the facilities must not be used for the purpose of laundering of clothing or washing of other articles.

PART 6—ACTIVITIES IN THOROUGHFARES*Division 1—General***6.1 General prohibitions**

A person must not—

- (a) plant, or allow to remain, in a thoroughfare a plant that by virtue of its height, position or density obstructs a reasonable sight line for a driver of any vehicle negotiating or using the thoroughfare;
- (b) damage a lawn or a garden, or remove any plant or part of a plant from a lawn or a garden, in a thoroughfare unless—
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;

- (c) damage, or remove a street tree, or part of a street tree, irrespective of whether it was planted by the owner or occupier of the lot abutting the thoroughfare or by the local government, unless—
 - (i) the damage to, or removal of, the street tree is authorised by an authorised person in writing; or
 - (ii) the person is acting under authority of written law;
- (d) except as permitted by this local law place, or allow to be placed or remain, on a thoroughfare any thing (except water) that—
 - (i) obstructs the thoroughfare; or
 - (ii) results in a hazard for any person using the thoroughfare;
- (e) unless at the direction of an authorised person, damage, remove or interfere with any part of a thoroughfare, or any structure erected on a thoroughfare, by the local government or a person acting under the authority of a written law; or
- (f) play or participate in any game or sport so as to cause danger to any person or thing or unreasonably impede the movement of vehicles or persons on a thoroughfare.

6.2 Activities allowed with a licence

- (1) A person must not, without a licence—
 - (a) dig or otherwise create a trench through or under a kerb or footpath;
 - (b) throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised in connection with that collection by the local government;
 - (c) cause any obstruction to a vehicle or a person using a thoroughfare;
 - (d) cause any obstruction to a water channel or a water course in a thoroughfare;
 - (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
 - (f) damage a thoroughfare;
 - (g) fell or damage any street tree;
 - (h) fell any tree onto a thoroughfare;
 - (i) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose;
 - (j) unless installing, or in order to maintain, a permitted verge treatment—
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install, on any part of a thoroughfare, any thing such as gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
 - (k) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
 - (l) on a thoroughfare use anything or do anything so as to create a nuisance;
 - (m) place or cause to be placed on a thoroughfare a bulk rubbish container;
 - (n) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare;
 - (o) carry on any trading on a thoroughfare;
 - (p) conduct or set up a market on a thoroughfare; or
 - (q) conduct an entertainment event on a thoroughfare.
- (2) An authorised person may exempt a person from compliance with subclause (1) on the application of that person.

6.3 Assignment of numbers

- (1) In this clause—

number means a number with or without an alphabetical suffix indicating the street address of land as assigned by the local government from time to time, in accordance with this local law.
- (2) An authorised person may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

6.4 No driving on closed thoroughfare

A person must not drive or take a vehicle on a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act unless—

- (a) it is in accordance with any limit or exception specified in the order made under section 3.50 of the Act; or
- (b) the person has first obtained a licence.

6.5 Fencing of public place—Item 4(1) of Division 1, Schedule 3.1 of Act

A public place, as that term is defined in clause 1.6, is specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act.

*Division 2—Permitted verge treatments***6.6 Application**

This Division only applies to within a built-up area.

6.7 Permitted verge treatments

- (1) A person must not install or maintain a verge treatment which is not a permitted verge treatment.
- (2) An owner or occupier of land which abuts on a verge may install a permitted verge treatment, on that part of the verge directly in front of her or his land.
- (3) A permitted verge treatment is—
 - (a) the planting and maintenance of a lawn;
 - (b) the planting and maintenance of a garden provided that—
 - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
 - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
 - (iii) it does not include a wall or built structure; and
 - (iv) is not of a thorny, poisonous or hazardous nature; and
 - (c) subject to subclause (4), the installation of material which do not detract from the amenity of the area, including but not limited to—
 - (i) bituminous surface or in-situ concrete, subject to reduction of area shedding of storm water or flooding;
 - (ii) use of paving bricks or concrete slabs; and
 - (iii) all forms of loose aggregate materials such as pebbles, stones and gravel, not larger than 50mm and contained within the verge area at all times; and
 - (d) other treatment approved by the local government.
- (4) Where installation of material which would create a hard surface has been installed or is intended, an authorised person may by written notice, require—
 - (i) a reduction of area covered or to be covered, if shedding of storm water or flooding is likely to cause a nuisance to neighbours or users of a thoroughfare; and
 - (ii) an area of open space to a maximum of 1m from the edge of a street trees.
- (5) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 6.9.

6.8 Obligations of owner or occupier

An owner or occupier who installs or maintains a permitted verge treatment must—

- (a) keep the permitted verge treatment in a good and tidy condition and, where the verge treatment is a garden or lawn, ensure that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) ensure that clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in a carriageway, or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
- (c) not place any obstruction on or around the verge treatment;
- (d) not disturb a footpath on the verge;
- (e) ensure that the verge treatment does not damage or obstruct a drain, manhole, galley, inspection pit, channel, kerb or tree planted by the local government; and
- (f) ensure that any sprinklers or pipes installed to irrigate a verge treatment—
 - (i) do not protrude above the level of the lawn or verge treatment when not in use;
 - (ii) are not used at such times so as to cause unreasonable inconvenience to pedestrians or other persons; and
 - (iii) do not otherwise present a hazard to pedestrians or other persons.

6.9 Transitional provision

(1) In this clause—

former provisions means the provisions of the repealed local laws which permitted certain types of verge treatments, whether with or without the consent of the local government.

- (2) A verge treatment is to be taken to be a permitted verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions which—
 - (a) was installed prior to the commencement day; and
 - (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions.

6.10 Power to carry out public works on verge

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

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

Division 3—Vehicle crossovers

6.11 Temporary crossovers

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

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

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

- (a) the builder named on the building permit issued under the *Building Act 2011*, if one has been issued in relation to the works; or
- (b) the owner of the lot, if no building permit has been issued under the *Building Act 2011* in relation to the works.

(3) If an authorised person approves an application for a licence for the purpose of subclause (1), the licence is taken to be issued on the condition that until such time as the temporary crossover is removed, the licensee must keep the temporary crossover in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

6.12 Removal of redundant crossover

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

(2) An authorised person may give written notice to the owner or occupier of a lot requiring her or him to—

- (a) remove any part of or all of a crossover which does not give access to the lot; and
- (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal, within the period of time stated in the notice, and the owner or occupier of the lot must comply with that notice.

6.13 Crossovers in unsafe locations

(1) Where a crossover is in an unsafe location, Council may give notice to the owner or occupier to—

- (a) remove the crossover; or
- (b) make the crossover safe.

(2) In determining whether the crossover is in an unsafe location, Council shall have regard to—

- (a) any guidelines or advice Main Roads Western Australia sought or published from time to time;
- (b) the usage of the thoroughfare; and
- (c) alternative treatments available to make the crossover safe.

(3) Any notice issued under subclause (1) is to give a minimum period of 28 days to remove or make the crossover safe, provided immediate measures are taken to advise users of the thoroughfare of the circumstances deemed unsafe.

PART 7—ACTIVITIES IN PUBLIC PLACES

7.1 Leaving animal or vehicle in public place

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

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

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

7.2 Prohibitions relating to animals

(1) In this clause, *owner* in relation to an animal includes—

- (a) an owner of it;

- (b) a person in possession of it;
 - (c) a person who has control of it; and
 - (d) a person who ordinarily occupies the premises where the animal is permitted to stay.
- (2) An owner of an animal must not—
- (a) allow the animal to enter or remain for any time on any public place except for the use of the public place as a thoroughfare and unless it is led, ridden or driven;
 - (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
 - (c) train or race the animal in a public place.
- (3) An owner of a horse must not lead, ride or drive a horse on a thoroughfare, unless that person does so under a licence or under the authority of a written law.

7.3 Shopping trolley to be marked

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

7.4 Person not to leave trolley in public place

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

7.5 Retailer to remove abandoned trolley

- (1) If a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, an authorised person may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.
- (2) A retailer must remove a shopping trolley within 24 hours of being so advised under subclause (1), unless the retailer—
- (a) requests the local government to collect and deliver the shopping trolley to the retailer; and
 - (b) pays any fee for that collection and delivery (imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act) within the period specified by the local government.

7.6 Retailer taken to own trolley

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

7.7 Prohibition relating to bicycles, skateboards etc. in some public places

A person shall not ride any bicycle or wheeled recreational device, skateboard, roller-blades or similar device within a mall, arcade or veranda of a shopping centre.

PART 8—TEMPORARY SIGNS AND TRADE DISPLAYS

8.1 Definitions

In this Part, unless the context otherwise requires—

advertising sign means a temporary sign or poster which advertises a business, products or services for commercial gain;

election sign means a temporary sign or poster which advertises any aspect of a forthcoming Federal, State or local government election;

event sign means a temporary sign or poster which advertises an event, function or activity;

temporary sign means a sign used for the purpose of advertisement or notification, whether free standing or requiring to be affixed to a structure of any type, and includes—

- (a) a bill, poster and the like;
- (b) an advertising sign;
- (c) an event sign; and
- (d) an election sign; and

trade display means the display for sale or as samples, the goods and services available in, or with the permission of the adjoining premises.

8.2 Application

- (1) This Part applies—
- (a) within the built-up area;
 - (b) to temporary signs complying with clause 8.5; and
 - (c) to temporary trade displays complying with clause 8.10.
- (2) Any advertising sign or trade display that is to be a permanent structure or fixture is to comply with—
- (a) the Building Code as defined in section 3 of the *Building Regulations 2012*;
 - (b) any Local Planning Scheme; and
 - (c) any other written law regulating of signs within the district.

8.3 Temporary signs and trade displays

- (1) A person shall not on local government property or in a thoroughfare, without a licence—
- (a) place an temporary sign;
 - (b) place a trade display; or
 - (c) post any bill or paint, place or affix any advertisement.
- (2) Notwithstanding subclause (1), a licence is not required for—
- (a) the first and second advertising signs where each—
 - (i) does not exceed an area of 1 square metre;
 - (ii) does not exceed 750mm horizontally;
 - (iii) has a minimum height of 600mm within the CBD or 300mm elsewhere;
 - (iv) is placed against the property boundary; and
 - (v) complies in all other respects with clauses 8.5, 8.6 and 8.7;
 - (b) not more than 5 free standing event signs where each—
 - (i) does not exceed an area of 1 square metre;
 - (ii) does not exceed 750mm horizontally;
 - (iii) has a minimum height of 600mm within the CBD or 300mm elsewhere; and
 - (iv) complies in all other respects with clauses 8.5, 8.6 and 8.8;
 - (c) not more than 5 event signs requiring support where each—
 - (i) does not exceed an area of 5 square metres individually or an aggregate of 15 square metres;
 - (ii) has a maximum height of 1.2m above ground level;
 - (iii) is placed flat against a wall or constructed fence for the full length and height of the sign;
 - (iv) is for the purposes of a sporting, charitable or not for profit organisation; and
 - (v) complies in all other respects with clauses 8.5, 8.6 and 8.8;
 - (d) an election sign which—
 - (i) complies with the requirements of subclause (2)(b)(i) to (iii) or (2)(c)(i) to (iii); and
 - (ii) complies in all other respects with clauses 8.5, 8.6 and 8.9; and
 - (e) a trade display which—
 - (i) does not exceed 1m in width from the property boundary;
 - (ii) is placed against the property boundary, or if no adjoining business, does not exceed 5m in length;
 - (iii) does not extend beyond the frontage of the business; and
 - (iv) complies in all other respects with clause 8.10.

8.4 Matters to be considered in determining application for licence

In determining an application for a licence for the purpose of clause 8.3(1), matters the local government is to have regard to include—

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

8.5 Conditions for temporary signs

Temporary signs shall—

- (a) be portable and free-standing or temporarily affixed so as there is no resulting damage to any thing;
- (b) be secured in position in accordance with any requirements of the local government;
- (c) be placed so as not to impede or obstruct either vehicle or pedestrian traffic, or access to a place by any person;
- (d) be placed so as not to obstruct lines of sight for vehicle traffic;
- (e) not be unduly distracting, in the opinion of an authorised person, if illuminated or incorporating reflective or fluorescent materials;
- (f) not display only part of a message which is to be read with other separate signs in order to obtain the whole message;
- (g) be maintained in good condition; and
- (h) be in compliance with any limitation of the number of signs notified in writing by the local government.

8.6 Prohibition on placement of temporary signs

An temporary sign shall not be placed—

- (a) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5 metres;
- (b) on any natural feature, including a rock or tree, on a thoroughfare; or
- (c) on any bridge or the structural approaches to a bridge.

8.7 Additional conditions for advertising signs

An advertising sign shall—

- (a) relate only to the business activity, or placed with the consent of the owner or occupier of the adjoining premises; and
- (b) be in place only during the hours of the business activity or the event being advertised.

8.8 Additional conditions for event signs

An event sign shall—

- (a) relate only to the event, function or activity advertised;
- (b) not be placed more than 28 days prior to the event, function or activity being advertised; and
- (c) be removed within 48 hours of the conclusion of the event, function or activity advertised.

8.9 Additional conditions for election signs

An election sign shall—

- (a) not being erected until the election to which it relates has been officially announced; and
- (b) being removed within 24 hours of the close of polls.

8.10 Conditions for trade displays

A trade display shall—

- (a) relate to the adjoining business activity;
- (b) is in place only during the hours of the business activity;
- (c) be constructed only to a such a height that it remains stable, in the opinion of an authorised person;
- (d) be secured in position in accordance with any requirements of the local government;
- (e) be placed so as not to impede or obstruct either vehicle or pedestrian traffic, or access to a place by any person;
- (f) be placed so as not to obstruct lines of sight for vehicle traffic; and
- (g) be maintained in a neat and tidy manner.

PART 9—LICENCING*Division 1—Applying for a licence***9.1 Application for licence**

(1) Where a person is required to obtain a licence under this local law, that person must apply for the licence in accordance with subclause (2).

(2) An application for a licence under this local law must—

- (a) be in the form determined by the CEO;
- (b) be signed by the applicant;
- (c) provide the information required by the form; and
- (d) be forwarded to the CEO together with any set fee.

(3) An authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for a licence.

(4) An authorised person may require an applicant to give local public notice of the application for a licence.

(5) An authorised person may refuse to consider an application for a licence which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

9.2 Decision on application for licence

(1) An authorised person may—

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

(2) If an authorised person approves an application for a licence, the licence is to issued to the applicant a licence in the form determined by the CEO.

(3) If an authorised person refuses to approve an application for a licence, written notice of that refusal is to be given to the applicant.

(4) An authorised person may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the licensee.

9.3 General restrictions on grant of licence

- (1) An authorised person must not grant a licence if there are reasonable grounds for believing that the provision of the activity to which the application relates would constitute an unacceptable risk to the safety of the public.
- (2) An authorised person must not grant a licence unless an authorised person is satisfied that—
 - (a) the applicant is capable of carrying on the activity in accordance with this local law and the terms and conditions of the licence;
 - (b) the public place at which the activity is to be provided is suitable for that purpose;
 - (c) a licence or similar authority granted or issued to the applicant has not been cancelled in the period of 5 years before the application is made; and
 - (d) the applicant is a fit and proper person to carry on the activity.

9.4 Examples of conditions

- (1) Examples of the conditions that an authorised person may impose on a licence under clause 9.2(1)(a) or 9.7(1)(a) are conditions relating to—
 - (a) the payment of a set fee;
 - (b) compliance with a standard or a policy adopted by the local government;
 - (c) the duration and commencement of the licence;
 - (d) the commencement of the licence being contingent on the happening of an event;
 - (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
 - (f) the approval of another application for a licence which may be required by the local government under any written law;
 - (g) the area of the district to which the licence applies;
 - (h) where a licence is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
 - (i) the obtaining of public risk insurance in an amount and on terms reasonably required by an authorised person.
- (2) Examples of the type and content of the conditions on which a licence to hire local government property may be issued include—
 - (a) when set fees and charges are to be paid;
 - (b) payment of a bond against possible damage or cleaning expenses or both;
 - (c) restrictions on the erection of material or external decorations;
 - (d) rules about the use of furniture, plant and effects;
 - (e) limitations on the number of persons who may attend any function in or on local government property;
 - (f) the duration of the hire;
 - (g) the right of an authorised person to cancel a booking during the course of an annual or seasonal booking, if an authorised person sees fit;
 - (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the Liquor Control Act;
 - (i) whether or not the hire is for the exclusive use of the local government property;
 - (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
 - (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

9.5 Imposing conditions under a policy

- (1) In this clause—

policy means a local government policy adopted by the Council under section 2.7(2)(b) of the Act containing conditions subject to which an application for a licence may be approved under clause 9.2(1)(a).
- (2) Under clause 9.2(1)(a) an authorised person may approve an application subject to conditions by reference to a policy.
- (3) An authorised person must give to the licensee a copy of the policy or, at the discretion of the CEO or the authorised person, the part of the policy which is relevant to the application for a licence, with the form of licence referred to in clause 9.2(2).
- (4) An application for a licence is not to be taken to have been approved subject to the conditions contained in a policy until an authorised person gives the licensee a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act apply to a policy and, for that purpose, a policy is deemed to be information within section 5.94(u)(i) of the Act.

9.6 Compliance with conditions

Where an application for a licence has been approved subject to conditions, the licensee must comply with each of those conditions, as amended.

9.7 Variation of licence

- (1) The CEO may, by written notice given to the licensee, vary a licence—
 - (a) imposing any new condition; or
 - (b) change or remove any existing condition.
- (2) An amendment may be made on application made by the licensee or on the CEO's initiative.
- (3) An amendment will come into effect on the day that written notice is given to the licensee, or some other date as specified in the notice.

*Division 2—Duration of licences***9.8 Duration of licence**

A licence is valid for one year from the date on which it is issued, unless it is—

- (a) otherwise stated in this local law or in the licence; or
- (b) suspended or cancelled under this Division.

9.9 Renewal of licence

- (1) A licensee may apply to the CEO for the renewal of a licence.
- (2) An application for renewal must—
 - (a) be in the form determined by the CEO;
 - (b) be signed by the licensee;
 - (c) provide the information required by the form;
 - (d) be forwarded to the CEO no later than 28 days before the expiry of the licence, or within a shorter period that the CEO in a particular case permits; and
 - (e) be accompanied by any set fee.
- (3) The provisions of this Part that apply to an application for a licence also apply to an application for the renewal of a licence as though it were an application for a licence.

9.10 Transfer of licence

- (1) An application for the transfer of a valid licence is—
 - (a) to be made in writing;
 - (b) to be signed by the licensee and the proposed transferee of the licence;
 - (c) to include such information as an authorised person may require to enable the application to be determined; and
 - (d) to be forwarded to the CEO together with any set fee.
- (2) An authorised person may approve an application for the transfer of a licence, refuse to approve it or approve it subject to any conditions.
- (3) Where an authorised person approves an application for the transfer of a licence, the transfer may be effected by an endorsement on the licence signed by the CEO or the authorised person.
- (4) Where an authorised person approves the transfer of a licence, the local government is not required to refund any part of any set fee paid by the former licensee.

9.11 Suspension of licence

- (1) The CEO may, subject to clause 9.12, by written notice given to the licensee, suspend a licence if there are reasonable grounds for believing that—
 - (a) the licensee has contravened a term or condition of a licence;
 - (b) the licensee has contravened a provision of this local law; or
 - (c) the continued provision of the activity authorised by the licence constitutes or will constitute an unacceptable risk to the safety, health or welfare of the public.
- (2) The suspension notice must—
 - (a) state the day, or the day and time, on or at which the suspension takes effect;
 - (b) state the reasons for the CEO's decision to suspend the licence; and
 - (c) where appropriate, indicate what steps need to be taken to ensure that there is compliance with the relevant provision, term or condition or that there is no longer a risk as described in subclause (1)(c); and
 - (d) inform the licensee that the licensee has a right to apply under the Act for a review of the CEO's decision to suspend the licence.

9.12 Proposed suspension

- (1) If the CEO proposes to suspend a licence under clause 9.11(1)(a), the CEO must give written notice to the licensee of the proposed suspension.
- (2) The notice must—
 - (a) state that the CEO proposes to suspend the licence;

- (b) state the reasons for the proposed suspension; and
- (c) inform the licensee that the licensee is entitled to make representation to the CEO in respect of the proposed suspension within 7 days after the day on which the licensee is given the notice.

(3) In considering whether to suspend the licence, the CEO must have regard to any representations made by the licensee within the period referred to in subclause (2)(c).

9.13 Revocation of suspension

(1) The CEO must, by written notice given to the licensee revoke the suspension of a licence if the CEO is satisfied that the steps specified in the suspension notice have been taken.

(2) The CEO may, by written notice given to the licensee, revoke the suspension of the licence if it is appropriate to do so in the circumstances of a particular case.

9.14 Period of suspension

The suspension of a licence has effect on the day, or the day and time, specified in the suspension notice until one of the following happens—

- (a) the suspension is revoked under clause 9.13;
- (b) the licence is cancelled under clause 9.15 or expires; or
- (c) the licence is surrendered in accordance with the provisions of this local law.

9.15 Cancellation of licence

A licence may be cancelled by the CEO if—

- (a) the licence was obtained improperly;
- (b) the licensee has persistently or frequently contravened a term or condition of the licence, or a provision of this local law, whether or not the licence is or has been suspended on the grounds of a contravention; or
- (c) there are reasonable grounds for believing that the continued provision of the activity constitutes or would constitute an unacceptable risk to the safety of the public, whether or not the licence has been suspended on the grounds of that risk.

9.16 Surrender of licence

A licensee may, at any time by notice in writing to the CEO, surrender the licence.

Division 3—Responsibilities of licensees and others

9.17 Production of licence

A licensee must produce to an authorised person her or his licence immediately after being required to do so by that authorised person.

9.18 Production of licence document for amendment

If the CEO amends or renews a licence, the licensee must, if required by the CEO, produce the licence document to the CEO for amendment within the period specified by the CEO.

9.19 Advertising

A person must not advertise, or otherwise hold out in any way, that the person conducts a commercial activity in any public place unless that person holds a licence authorising that commercial activity.

9.20 False or misleading statement

A person must not make a false or misleading statement in connection with an application in respect of a licence under this local law.

9.21 Other responsibilities of licensee

A licensee must, in respect of local government property to which the licence relates—

- (a) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (b) comply with an instruction from an authorised person to take the action specified in the instruction for the purpose of maintaining public safety;
- (c) leave the local government property in a clean and tidy condition after its use;
- (d) report any damage or defacement of the local government property to an authorised person; and
- (e) take all reasonable action to prevent the consumption of any liquor on the local government property unless the licence allows it and a licence has been obtained under the Liquor Control Act for that purpose.

PART 10—SIGNS AND POWERS TO GIVE DIRECTIONS

10.1 Signs installed by the local government

(1) The local government may install a sign in public places, on local government property or in thoroughfares specifying any conditions of use which apply to that property or thoroughfare.

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

- (3) A condition of use specified on a sign erected under subclause (1) is—
- (a) not to be inconsistent with any provision of this local law or any determination; and
 - (b) to be for the purpose of giving notice of the effect of a provision of this local law.

10.2 Pre-existing signs

Where a sign in a public place, property or thoroughfare or has been erected under a repealed local law then, on and from the commencement day, it is to be taken to be a sign erected under clause 10.1 if—

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

10.3 Authorised person to be obeyed

(1) A person on or in local government property that is given a lawful direction by an authorised person shall comply with that direction.

(2) A person shall not obstruct or hinder an authorised person in the performance of that person's duties.

10.4 Refusal of entry and removal

(1) An authorised person may refuse to allow entry, or suspend admission, to a specific venue of local government property except for the venue where local government council meetings are held, by any person who he or she believes has behaved in a manner contrary to the provisions of this Part.

(2) If an authorised person considers that a person has behaved in a manner contrary to the provisions of this Part or reasonably suspects that a person has contravened a provision of a written law, the authorised person may direct the person to leave the local government property.

(3) A person who has been refused entry or who has been directed to leave under subclause (1) or (2) must immediately leave the local government property quickly and peaceably.

(4) If a person fails to comply with subclause (1) or (2), an authorised person may remove the person, or arrange for the person to be removed, from the local government property.

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

10.5 Disposal of lost property

An article left on any local government property, and not claimed within a period of 2 months, may be disposed of by the local government in any manner it thinks fit.

PART 11—OBJECTIONS AND REVIEW

11.1 Objection and review rights

Division 1 of Part 9 of the Act applies to a decision under this local law in respect of the grant, renewal, transfer, amendment, suspension or cancellation of a licence or consent.

PART 12—NOTICES

12.1 Notice to remedy non-compliance

Where any thing is required to be done or not permitted to be done by this local law, an authorised person may give a notice in writing—

- (a) to the owner or the occupier of the property which abuts that portion of the thoroughfare where the thing has been done or not done; or
- (b) to any other person who may be responsible for the thing done or not done, requiring the person to comply with the requirements of this local law.

12.2 Notice regarding damage to local government property

If a person unlawfully removes, damages or interferes with local government property or portion of a thoroughfare, an authorised person may give the person a notice requiring that person to do any one or more of the following (at the local government's option)—

- (a) reinstate the property to the state it was in before the removal, damage or interference;
- (b) replace that property; or
- (c) pay for the costs of reinstatement or replacement.

12.3 Notice requirements

A notice given must—

- (a) be in writing;
- (b) specify the reason for giving the notice, the work or action that is required to be undertaken; and
- (c) the time within which the work or action is to be undertaken.

12.4 Local government may undertake requirements of notice

If a person fails to comply with a notice referred to in clauses 12.1 or 12.2, the local government may—

- (a) do the thing specified in the notice, including replace the property, or reinstate the property to the state it was in before the removal, damage or interference;
- (b) take whatever remedial action it considers appropriate to put the local government in the position it would have been in if the breach or failure had not occurred; and
- (c) recover all costs from the person, as a debt.

12.5 Offence to fail to comply with notice

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

PART 13—OFFENCES AND PENALTIES**13.1 Offences and general penalty**

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

(2) 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 a day during which the offence has continued.

13.2 Prescribed offences

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

(2) The amount of a modified penalty for a prescribed offence is the number specified adjacent to the clause in Schedule 1.

13.3 Form of notices

(1) For the purposes of this local law—

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

(2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

13.4 Evidence of a determination

(1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.

(2) If evidence of a determination is provided under subclause (1), it is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.

(3) Subclause (2) does not make valid a determination that has not been properly made.

SCHEDULE 1—PRESCRIBED OFFENCES

[cl.13.2]

Offences in respect of which a modified penalty applies

Item	Clause	Nature of offence	Modified penalty \$
Part 2—Determination in respect of local government property			
1	2.4	Failure to comply with a determination	100
Part 3—Activities on local government property			
2	3.1	Undertaking activity on local government property without a licence	100
3	3.2(2)	Camping on local government property or erecting an unauthorised structure	100
4	3.3(1)	Failure to obtain licence to possess, consume or sell liquor	100

Item	Clause	Nature of offence	Modified penalty \$
Part 4—Behaviour on all local government property and thoroughfares			
5	4.1	Behaviour interfering with others	100
6	4.2	Behaviour detrimental to property	200
7	4.3	Unauthorised entry to function	100
8	4.4(2)	Taking or injuring fauna without authorisation	200
9	4.5(2)	Removing, damaging or depositing flora without authorisation	200
10	4.6	Animal on local government property or thoroughfare without a licence	100
11	4.7(a)	Improper disposal of waste on local government property	100
12	4.7(b)	Improper disposal of waste at the Narrogin waste facility	100
13	4.8	Taking glass into prohibited area	100
14	4.9	Under influence of liquor or prohibited drug on local government property	100
15	4.10	Discharge of firearm within or so as missile crosses part of local government property	500
16	4.11(1)	Unauthorised vehicle on local government property	100
17	4.11(2)	Unauthorised driving of a vehicle at more than 20km/hr on local government property	100
18	4.11(3)	Unauthorised driving of a vehicle on local government property during a function	100
19	4.12	Unauthorised use of motorised model aircraft, drone, toy or ship	50
20	4.13	Unauthorised archery, pistol or rifle shooting on local government property	100
21	4.14	Unauthorised playing or practising golf on local government property	100
22	4.15	Unauthorised use of bicycle, skateboard etc. on local government property	50
Part 5—Matters relating to particular local government property			
23	5.1	Unauthorised entry to closed or fenced local government property	100
24	5.2	Unauthorised entry to gender specific toilet block or change room	200
25	5.3	Unauthorised use of showers or bath facilities in change room	50
Part 6—Activities in thoroughfares			
26	6.1(a)	Planting or allowing plant or verge treatment in thoroughfare to become a sightline hazard	100
27	6.1(b)	Damaging a lawn or garden in a thoroughfare	100
28	6.1(c)	Damaging or removing whole or part of a street tree without authorisation	200
29	6.1(d)	Obstruction of or permitting a hazard in a thoroughfare	100
30	6.1(e)	Damaging, removing or interfering with thoroughfare, part of thoroughfare, sign or structure in a thoroughfare without authorisation	100
31	6.1(f)	Playing games in thoroughfare so as to impede vehicles or persons	100
32	6.2(1) (a), (d), (e), (f), (g), (j)	Unauthorised activity in a thoroughfare causing damage	200
33	6.2(1) (b), (c), (h), (i), (k), (l), (m), (n), (o), (p), (q)	Unauthorised activity in a thoroughfare causing inconvenience	100
34	6.4	Driving on a closed thoroughfare	100
35	6.7(1)	Unauthorised verge treatment	100

Item	Clause	Nature of offence	Modified penalty \$
36	6.8(a), 6.8(d), 6.8(e)	Failure to keep permitted verge treatment in good and tidy condition, obstruct a thoroughfare, footpath, drain, or driveway	100
37	6.8(c)	Placing an obstruction on or around a verge treatment	50
38	6.8(f)	Failure to ensure sprinklers or reticulation pipes do not protrude, do not cause inconvenience to pedestrians, or present a hazard	100
39	6.11(1)	Failure to obtain licence for a temporary crossover	200
40	6.12	Failure to remove redundant crossover or reinstate kerb, drain, footpath, verge or thoroughfare	200
41	6.13	Failure to remove crossover in unsafe location	500
Part 7—Activities in public places			
42	7.1(1)	Animal or vehicle obstructing public place without authorisation	100
43	7.2(2)	Animal in public place when not led, ridden or driven	100
44	7.2(3)	Horse being led, ridden or driven in a thoroughfare without authorisation	100
45	7.3	Failure to clearly mark name or trading name on shopping trolley	100
46	7.4	Person leaving a shopping trolley in a public place other than trolley bay	50
47	7.5	Failure to remove shopping trolley after being advised of location	100
48	7.7	Prohibited use of bicycle, skateboard etc in a public place	50
Part 8—Temporary signs and trade displays			
49	8.3(1)	Placement of non-compliant temporary sign or trade display, or posting a bill or painting, or placing an advertisement without authorisation	100
Part 9—Licencing			
50	9.1	Failure to obtain a licence when required	100
51	9.6	Failure to comply with licence condition	100
52	9.17, 9.18	Failure to produce licence for inspection or amendment when required	100
53	9.19	Advertising of commercial activity in a public space without holding a licence	200
54	9.20	False or misleading statement in application for a licence	200
Part 10—Signs and powers to give directions			
55	10.1(2)	Failure to comply with condition of use indicated by a sign	100
56	10.3(1)	Failure to comply with direction of authorised person	100
57	10.3(2)	Obstruction or hindrance of an authorised person	100
58	10.4(3)	Failure to leave a venue when instructed by an authorised person	200
59	10.4(5)	Failure to comply with period of refusal or suspension	200
Part 12—Notices			
60	12.5	Failure to comply with notice	100
Part 13—Offences and penalties			
61	13.1	Offence not elsewhere specified	100

Dated 23 November 2016.

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

L. N. BALLARD, President.
A. J. COOK, Chief Executive Officer.