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**SHIRE OF MORAWA
LOCAL LAWS**

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LOCAL GOVERNMENT ACT 1995

SHIRE OF MORAWA

AMENITY LOCAL LAW 2018

Under the powers conferred the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Morawa resolved on 20 September 2018 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the *Shire of Morawa Amenity Local Law 2018*.

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 *Shire of Morawa Health Local Laws 2004* published in the *Government Gazette* on 14 September 2004 are amended as follows—

- (a) Part 4, Division 2, clauses 4.17 and 4.17A are deleted;
- (b) Part 5, Division 1, clauses 5.2 to 5.5 inclusive and clauses 5.7 to 5.9 inclusive are deleted;
- (c) Part 5, Division 3 is deleted;
- (d) Part 5, Division 4 is deleted;
- (e) Part 5, Division 5 is deleted;
- (f) Part 5, Division 6 is deleted; and
- (g) Part 6, Division 7 is deleted.

1.5 Transitional provisions

(1) An application for, or the renewal of, a licence, permit or other authorisation made under a local law that is in force 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(2) A licence, permit or other authorisation under a repealed local law that is in force before the commencement day is to be regarded on and after that day as a licence under this local law and may be dealt with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 unless the context otherwise requires—

Act means the *Local Government Act 1995*;

amusement activity means anything conducted for amusement at a fair, a carnival or a show, whether conducted at a fair, a carnival or a show or elsewhere;

animal includes cats, dogs, rabbits and ferrets or the like;

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

aviary bird means any bird, other than poultry or pigeons, kept or usually kept in an aviary or cage;

birds includes poultry;

builder means the holder of a building permit issued in respect of building works on a building site or a person in control of a building site;

Building Code means the latest edition of the *National Construction Code* published by, or on behalf of, the Australian Building Codes Board;

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

building site means any lot for which a building permit is current;

Class in relation to a building, means the Class of building as defined by the Building Code;

Code of Practice—Pigeon Keeping means the document entitled *A Code of Practice—for Pigeon Keeping and Racing in Western Australia* published by the Pigeon Racing Federation of WA (Incorporated) and the Independent Racing Pigeon Federation (Incorporated), as amended from time to time;

cow includes an ox, calf or bull;

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

development approval means a development approval under a local planning scheme;

development site includes any lot or lots for which there is currently a development or subdivision approval in place, and upon which construction work, earthworks, clearing of scrub, trees or overgrowth or any other site works are taking or have taken place pursuant to or in relation to that approval;

district means the district of the local government;

disused means, in relation to any thing whatsoever, that the thing—

- (a) is not in use for the purpose for which it was designed or appears to have been designed or intended; or
- (b) has been stored or left stationary on land in the district for more than 1 month;

dust means any visible granular or particulate material which has become airborne or has the potential to become airborne and includes organic and non-organic matter and sand, but does not include smoke;

food has the meaning given in section 9 of the *Food Act 2008*;

horse means a stallion, mare, gelding, Shetland pony, pony, colt or foal, and includes an ass, mule, donkey and any beast of whatever description used for burden or draught or for carrying persons;

land includes any building or structure on the land;

liquid waste means waste from any process or activity that is in liquid form and includes paint, fuel, grease, fat, oil, degreaser solvent, detergent, chemical, animal waste, food waste, effluent and all discharges of liquid to land, air or water that are not otherwise authorised by a written law but does not include uncontaminated stormwater;

livestock means any—

- (a) horse, cow, sheep, goat, pig, buffalo, deer or other ungulate; or
- (b) camel, llama, alpaca or other animal of the Camelidae family;

livestock vehicle means a vehicle that contains livestock or previously has been used for the carriage of livestock;

local government means the Shire of Morawa;

local planning scheme has the meaning given to it by the *Planning and Development Act 2005*;

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

machinery includes disused equipment;

manure receptacle means a receptacle of sufficient capacity to receive all manure produced in one week on land upon which a farm animal or farm animals are kept, constructed of smooth, durable, impervious materials, fitted with a fly proof, hinged cover and with no part of the floor lower than the adjoining ground;

miniature horse means a horse which meets the standard and height for a miniature horse as described by the Miniature Horse Association of Australia Inc;

miniature pig means a pig that does not exceed 650 millimetres in height as an adult and weighs less than 55 kilograms;

nuisance means—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment by a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

occupier has the meaning given to it in section 1.4 of the Act, and includes a person authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to land to perform any work in relation to any land and includes a builder or contractor;

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

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

pigeon includes homing pigeons and other domesticated breeds of the species *Columba livia*, but does not include native pigeons or doves whether or not the keeping of such birds is subject to the approval of the Department of Parks and Wildlife;

- poultry** includes fowls, roosters, ducks, peafowls, turkeys, geese, guinea fowls, pheasants and other birds commonly kept for the production of eggs or meat for domestic consumption;
- refuse** means any waste material including bricks, lime, cement, concrete, rubble, stones, iron, timber, tiles, bags, plastics, ashes, vegetation, timber, wood or metal shavings, sawdust, and waste food, and includes any broken, used, derelict or discarded matter;
- Regulations** means the *Local Government (Functions and General) Regulations 1996*;
- residential building** means any building of Classes 1, 2, 3 or 4 as defined by the Building Code;
- sand** means granules or particles of rock, earth, clay, loam, silt and any other granular, particulate or like material, including dust and gravel;
- Schedule** means a schedule to this local law;
- set fee** means a fee determined by the local government in accordance with sections 6.16 to 6.19 of the Act;
- stormwater** means any naturally occurring water that results from rainfall on or around a site, or water flowing onto the site;
- subdivision approval** means a subdivision approval under the *Planning and Development Act 2005*;
- 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;
- truck** means a motor vehicle having a tare weight in excess of 3000 kilograms;
- unreasonable noise** has the meaning given to it by the *Environmental Protection Act 1986*;
- vehicle** means any motor vehicle, or part of a motor vehicle in a state of disrepair or in the process of being wrecked whether licensed or not;
- vermin** includes rats, mice, flies, fleas, mites, lice, cockroaches and any other animal, whether vertebrate or invertebrate, which is known to be a vector of disease or likely to cause damage to human food, habitation or possessions;
- vessel** means any kind of vessel intended for navigation by water, or part of a vessel in a state of disrepair or in the process of being wrecked whether licenced or not;
- wreck** includes the dismantling, breaking up, storage and disposal of vehicles; and
- zoned** in relation to land means the zoning as determined by any local planning scheme.
- (2) Any other expression used in this local law and not defined herein shall have the meaning given to it in the Act.

PART 2—KEEPING OF LIVESTOCK AND BIRDS

2.1 Application of this Part

- (1) This Part does not apply to the keeping of livestock or birds in accordance with the provisions of any local planning scheme applicable to that zone, on land zoned as—
- (a) rural; or
 - (b) urban.
- (2) The keeping of pigs is prohibited, except—
- (a) for premises registered by the local government as an abattoir or a piggery under the provisions of section 191 of the *Health (Miscellaneous Provisions) Act 1911*; or
 - (b) a miniature pig in accordance with this Part.

2.2 Keeping of livestock or birds generally

- (1) An owner or occupier of land shall not keep, or allow to be kept, livestock or birds unless—
- (a) on land zoned residential or rural residential in accordance with—
 - (i) this local law; or
 - (ii) a permit authorising the keeping of such issued under clause 3.3(1)(b); or
 - (b) on land zoned commercial, industrial or special use unless—
 - (i) a veterinary surgery, clinic or hospital; or
 - (ii) a pet shop operating in compliance with the local planning scheme, from which animals or birds may be offered for sale; or
 - (c) an aviary bird.

2.3 Keeping of a miniature horse

- (1) An owner or occupier of land shall not keep, or allow to be kept, a miniature horse on land zoned—
- (a) commercial, industrial or special use; or
 - (b) residential or rural residential or special use unless—
 - (i) in accordance with a permit authorising the keeping of a miniature horse issued under clause 3.3(1)(b); and
 - (ii) not more than 1 miniature horse is to be kept per 1,000 square metres of accessible area.
- (2) An owner or occupier of land who keeps a miniature horse shall only keep a sterilised animal, and retain written proof of its sterilisation.

2.4 Keeping of a miniature pig

- (1) An owner or occupier of land shall not keep, or allow to be kept, a miniature pig on land zoned—
- (a) commercial, industrial or special use; or
 - (b) residential or rural residential, unless—
 - (i) in accordance with a permit authorising the keeping of a miniature pig issued under clause 3.3(1)(b); and
 - (ii) not more than 1 miniature pig is to be kept per 1,000 square metres of accessible area.
- (2) An owner or occupier of land where a miniature pig is kept shall—
- (a) only keep a sterilised animal and retain written proof of its sterilisation; and
 - (b) maintain documentary evidence that the animal's veterinary treatment against roundworm and tapeworm is current.

2.5 Keeping of poultry

- (1) An owner or occupier of land shall not keep or allow to be kept any poultry on land zoned—
- (a) commercial or industrial; or
 - (b) residential, rural residential or special use—
 - (i) if more than 12 poultry; or
 - (ii) unless in accordance with a permit authorising the keeping of poultry, issued under clause 3.3(1)(b), on land with a minimum area of 1 hectare, any—
 - (I) roosters;
 - (II) geese;
 - (III) turkeys; or
 - (IV) peafowls.
- (2) A person who keeps, or permits to be poultry in accordance with subclause (1)(a)(i) shall ensure that the caged area in which the birds are kept is—
- (i) a maximum area of 20 square metres;
 - (ii) located at least 1 metre from any lot boundary; and
 - (iii) located at least 5 metres from a residential building on any other lot.

2.6 Keeping of pigeons

- (1) An owner or occupier of land shall not keep or permit to be kept any pigeons on land zoned—
- (a) commercial; or
 - (b) residential, rural residential, special use or industry, if more than 12 pigeons.
- (2) Notwithstanding subclause (1) an owner or occupier of land who is a member of a poultry or pigeon club incorporated under the *Associations Incorporation Act 1987* may be permitted to keep a maximum number of 100 pigeons.
- (3) An owner or occupier of land who keeps pigeons or permits pigeons to be kept shall ensure that all pigeons are kept in a properly constructed pigeon loft, except where registered homing pigeons are freed for exercise.
- (4) An person approved under subclause (2) who keeps pigeons, or permits pigeons to be kept, shall do so in accordance with the Code of Practice—Pigeon Keeping, subject to the provisions of this local law.

2.7 Keeping of aviary birds

A person who keeps, or permits to be kept, aviary birds shall ensure that—

- (a) the aviary or cage in which the birds are kept is—
 - (i) a maximum area of 20 square metres;
 - (ii) located at least 1 metre from any lot boundary; and
 - (iii) located at least 5 metres from a residential building on any other lot;
- (b) where there is a floor beneath the roofed area of the aviary or cage which is constructed of smooth, impervious material with a minimum 2% gradient to the front of the aviary or cage;
- (c) the aviary or cage is kept in clean condition and good repair at all times;
- (d) all feed for the birds other than that intended for immediate consumption is stored in vermin proof containers; and
- (e) effective measures are taken to prevent—
 - (i) the attraction or harbourage of vermin; or
 - (ii) the emission of odours.

2.8 Livestock not to stray

- (1) The owner or person in charge of livestock shall not allow livestock to stray or to be at large in a street, public place or upon private property without the consent of the property owner.
- (2) The provisions of Part XX of the *Local Government (Miscellaneous Provisions) Act 1960* apply.

2.9 Impounding and destruction of livestock

- (1) An authorised person or a member of the police force may impound livestock found straying in contravention of clause 2.8.

(2) Livestock being impounded shall be placed in the pound or secured on private property with the consent of the owner.

(3) The provisions of Part XX of the *Local Government (Miscellaneous Provisions) Act 1960* apply.

2.10 Nuisance caused by livestock or birds

(1) An owner or occupier of land shall not keep any livestock or birds which—

- (a) are or create a nuisance; or
- (b) emit an unreasonable or constant noise.

(2) An authorised person may order an owner or occupier of land to take reasonable steps to prevent or abate any nuisance.

(3) An authorised person may order an owner or occupier of land on which pigeons are, or are in the habit of nesting or perching, to take reasonable steps to prevent them from continuing to do so.

PART 3—APPLICATIONS FOR KEEPING OF LIVESTOCK AND BIRDS

3.1 Application for permit to keep livestock or birds

An application for a permit required by Part 2 of this local law shall include—

- (a) a plan of the property, at a scale not less than 1:200, with dimensions clearly marked, showing where it is proposed that the livestock or birds are to be kept and the distance of that location from any—
 - (i) residential building;
 - (ii) Class 5 building;
 - (iii) Class 6 building; or
 - (iv) Class 9 building;
- (b) a sketch plan, at a scale of 1:100, indicating the nature of the shelter or housing to be provided for the livestock or birds;
- (c) a details for the management of manure which addresses—
 - (i) control of flies and other vermin;
 - (ii) disease prevention; and
 - (iii) prevention of nuisance odours; and
- (d) the set fee for the application.

3.2 Requirements to keep livestock or birds

(1) A permit shall not be granted pursuant to clause 3.3 unless—

- (a) the land or portion of land for which the permit is sought is of such dimensions and configuration as will permit the livestock or birds to be confined in a minimum accessible area of—
 - (i) 150 square metres for livestock;
 - (ii) 100 square metres for birds other than poultry, pigeons or aviary birds;
- (b) the land or portion of the land is fenced—
 - (i) in a manner capable of confining the livestock or birds, to that portion where they are to be kept; and
 - (ii) notwithstanding subclause (1)(b)(i), the minimum fencing requirements are as defined by the Shire of Morawa Fencing Local Law in force at the time of approval;
- (c) the land for which the approval is sought has a minimum area of 1 hectare in the case of a horse (other than a miniature horse) or cow; and
- (d) the livestock or birds are prevented from reaching within 15 metres of any—
 - (i) residential building;
 - (ii) Class 5 building;
 - (iii) Class 6 building; or
 - (iv) Class 9 building.

(2) An owner or occupier of land upon which livestock or birds are kept, may apply in writing to the local government to vary the requirements of subclause (1)(a) or (b).

3.3 Determination of application to keep livestock or birds

(1) Subject to clause 3.1, the local government may—

- (a) refuse to determine an application for a permit which does not comply with clause 3.2;
- (b) approve an application for a permit subject to such conditions as it considers appropriate; or
- (c) refuse to approve an application for a permit.

(2) The local government shall take into account the amenity of occupiers of adjoining properties in determining whether to grant approval for the keeping of livestock or birds.

(3) Where an application for a permit is approved subject to conditions, the permit holder shall comply with those conditions or cause compliance with those conditions.

(4) Where the local government approves an application under subclause (1)(b), it is to issue to the applicant a permit in the form approved by the local government from time to time.

(5) A permit is valid from the date of issue until 30 June following, unless cancelled prior to that date.

3.4 Conditions of approval to keep livestock or birds

(1) An application approved under clause 3.3(1)(b) to keep livestock or birds may be issued subject to conditions, including—

- (a) all livestock or birds are to be kept confined to the lot;
- (b) provision of adequate shelter or housing for the livestock or birds;
- (c) all fencing and gates of the enclosure in which livestock or birds are kept—
 - (i) are capable of confining the livestock or birds at all times;
 - (ii) gates are securely kept fastened; and
 - (iii) maintained in good condition and repair at all times;
- (d) all structures or enclosures in which livestock or birds are kept is at all times—
 - (i) maintained in clean condition and good repair;
 - (ii) kept free from all matter which is or is likely to become offensive or injurious to health or likely to attract vermin; and
 - (iii) effectively drained and the drainage flows away from the walls or foundations of any building;
- (e) require that a manure receptacle is provided—
 - (i) within the structure or enclosure where livestock or birds are kept;
 - (ii) all manure produced on the land to be collected daily and placed in the receptacle;
 - (iii) the receptacle to be emptied as often as is necessary to prevent it becoming offensive or a breeding place for vermin, but in any case at least once a week; and
 - (iv) keep the lid of the receptacle closed except when manure is being deposited or removed;
- (f) when so directed by an authorised person, the owner or occupier of the land shall—
 - (i) clean and disinfect any specified portion of the land; and
 - (ii) spray with a residual chemical or other effective means of controlling any vermin;
- (g) ensuring the livestock or birds do not cause a nuisance to any neighbour regarding noise, dust, or odour; and
- (h) any other conditions that the local government considers necessary for the protection of the health and amenity of the neighbourhood.

(2) Conditions under subclause (1) may be imposed at the time of approval or any time subsequent to the initial approval.

3.5 Variation of permit to keep livestock or birds

The local government may vary the conditions of a permit after it has been issued, and shall give written notice of such variation to the permit holder, where—

- (a) the variation is at the discretion of the local government, no fee is required to be paid; or
- (b) the variation is made by the owner of the livestock or birds, the application is accompanied by the set fee.

3.6 Transfer of permit

The local government may transfer a permit where—

- (a) the application is accompanied by the set fee;
- (b) in relation to land, subject to the current permit holder complying with clauses 3.1, 3.2 and 3.4; or
- (c) in relation to the permit holder, where all conditions imposed under clause 3.4 are confirmed in writing by the proposed permit holder.

3.7 Cancellation of approval to keep livestock or birds

The local government may cancel a permit in the event the permit holder—

- (a) fails to comply with any condition of the approval set under clause 3.4;
- (b) after being notified of a variation under clause 3.5 fails to comply with the varied condition by the date specified in the notice; or
- (c) fails to comply with a notice of breach issued under clause 7.1.

PART 4—ENVIRONMENT

4.1 Burning of refuse or vegetation on building or development sites

An owner or occupier of any building or development site shall ensure that no vegetation or other material cleared from the site is burnt on the site unless consent in writing is given by an authorised person.

4.2 Unsightly land—removal of unsightly or disused materials

The owner or occupier of a lot shall not keep, or permit to remain on the lot, any unsightly or disused material of whatever nature or kind, which in the opinion of an authorised person, is likely to give the lot an untidy appearance and does not conform with the general appearance of other adjoining land.

4.3 Unsightly land—removal of overgrown vegetation

The owner or occupier of a lot shall not permit to remain on a lot, any unsightly overgrowth of vegetation that gives the lot an untidy appearance and does not conform with the general appearance of other adjoining land.

4.4 Prevention of dust and liquid waste nuisance

(1) An owner and or occupier of land must take effective measures to—

- (a) stabilise dust on the land;
- (b) contain all liquid waste on the land; and
- (c) ensure no dust or liquid waste is released or escapes from the land, by means of wind, water or any other cause.

(2) A notice issued under clause 7.1 may require the owner and or occupier to do one or more of the following—

- (a) comply with subclause (1);
- (b) clean up and properly dispose of any released or escaped dust or liquid waste;
- (c) clean up and make good any damage resulting from the released or escaped dust or liquid waste; and
- (d) take effective measures to stop any further release or escape of dust or liquid waste.

(3) Where an authorised person is of the opinion that dust or liquid waste may be released or escape as a result of an activity which is likely to be carried on from any land, the authorised person may give to the owner and or occupier a notice providing that the activity may only be carried on subject to conditions specified in the notice.

4.5 Dust management

(1) This clause does not apply to land zoned as rural or urban.

(2) The local government may require an owner or occupier of land who intends to undertake any activity, from which any soil, sand or dust is likely to be released whether by means of wind, water or any other cause, to—

- (a) submit to an authorised person a Dust Management Plan in accordance with the Department of Environmental Regulation document “*A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities*” (March 2011), or any updated version of this document; and
- (b) obtain written approval of the Dust Management Plan from an authorised person before commencement of any work.

(3) A notice issued under clause 7.1 may require an owner or occupier of land undertaking work involving the clearing of land, from which soil, sand and dust is being released by means of wind, water or any other cause, to—

- (a) submit to an authorised person a Dust Management Plan in accordance with the Department of Environmental Regulation document “*A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities*” (March 2011), or any updated version of this document; and
- (b) obtain written approval of the Dust Management Plan from an authorised person before continuing any work.

4.6 Storage of vehicles, vessels and machinery

The owner or occupier of a lot shall not—

- (a) store, or allow to remain, in public view on any lot more than one vehicle, vessel or machinery (whether licensed or not) in a state of disrepair;
- (b) store, or allow to remain, in public view on any lot any vehicle, vessel or machinery in a state of disrepair for a period in excess of one month;
- (c) store, or allow to remain, in public view on any lot any vehicle, vessel or machinery parts (including tyres);
- (d) wreck, dismantle or break up any vehicle, part or body of a vehicle, vessel or machinery except where performed—
 - (i) inside a building; or
 - (ii) within an area enclosed by a fence or wall of not less than 1.8 metres in height and of such a nature as to screen all vehicles, parts or bodies of vehicles, vessels or machinery from the street and from adjoining properties; or
- (e) wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance.

4.7 Sea containers

(1) This clause does not apply where approval to place or deposit a sea container has been given under the local planning scheme.

- (2) An owner or occupier of land or premises shall not deposit or place a sea container on land—
 - (a) unless the land is zoned as rural, commercial, industrial or urban; or
 - (b) on any other land, without the prior approval of the local government.
- (3) Subclause (2) does not apply where the sea container is used for the temporary storage of materials or equipment during the construction or other works on site.
- (4) A sea container used in accordance with subclause (3) shall not—
 - (a) be on the land for more than 6 consecutive months nor for more than 6 months within any 12 month period, without the approval of the local government; and
 - (b) shall be removed within five working days of—
 - (i) completion of works;
 - (ii) expiry of 6 consecutive months; or
 - (iii) such other time as approved by the local government.
- (5) An application made for approval under subclause (2)(b) shall be accompanied by the set fee.

PART 5—NUISANCES AND DANGEROUS THINGS

5.1 Emission or reflection of light

- (1) An owner or occupier of land shall ensure that—
 - (a) floodlights or other exterior lights are erected or used shall not allow the floodlights or other exterior lights to shine directly onto any other land;
 - (b) artificial light is not emitted or reflected from anything on the land so as to illuminate land outside that land to more than 50 lux; and
 - (c) natural light is not reflected from anything on the land so as to create or cause a nuisance to the occupier of any other land or to an owner or occupier of land lawfully using a thoroughfare.
- (2) A notice issued under clause 7.1 may require the owner and or occupier to do one or more of the following—
 - (a) floodlights or other exterior lights are used only during the hours specified in the notice;
 - (b) the direction in which the lights shine be altered as specified in the notice;
 - (c) any reflective surfaces be painted or otherwise treated so as to abate the nuisance; or
 - (d) any combination of these measures that an authorised person believes to be appropriate to the circumstances.

5.2 Escape of smoke, fumes or odours

An owner or occupier of land or premises shall take all practicable steps to prevent the escape of smoke, fumes or odours from the land so as to cause a nuisance to any person.

5.3 Burning rubbish, refuse or other material

- (1) This clause does not apply to land zoned—
 - (a) rural; or
 - (b) urban.
- (2) An owner or occupier of land shall not set fire to rubbish, refuse or other material either in an incinerator or on the ground, except in accordance with the conditions of the local government.
- (3) The burning of rubbish, refuse or other material is subject to the following conditions—
 - (a) the person has demonstrated to the satisfaction of an authorised person that reasonable alternatives for the disposal of the rubbish, refuse or other material do not exist and the potential for pollution is low;
 - (b) at least 3 metres from a fence, building or inflammable matter;
 - (c) in such a position so as not to create a nuisance or be offensive to other persons;
 - (d) written approval has first been obtained from the local government;
 - (e) the material does not include any plastic, rubber, food scraps, green garden materials or other material likely to cause the generation of smoke or odour in such quantity as to cause a nuisance to other persons; and
 - (f) the burning complies with the *Bush Fires Act 1954*, any annual fire break and fuel hazard reduction notice issued by the local government under that Act and any conditions of approval as determined by the local government.
- (4) Subclause (2) shall not apply to any barbeque, solid fuel water heater, space heater or ovens fired with dry paper, dry wood, synthetic char or charcoal type fuel.
- (5) Subclause (2) is subject to declaration of a total fire ban under section 22A of the *Bush Fires Act 1954*.

5.4 Disposal of swimming pool backwash

- (1) The owner or occupier of land on which a swimming pool is constructed shall ensure that all backwash water is contained within the lot or discharged into the sewerage mains and is not permitted to discharge onto or run-off onto adjacent land.

(2) Subclause (1) shall not prevent the discharge of swimming pool backwash water from a lot into a local government approved stormwater drain or road by a method approved by an authorised person.

5.5 Containment of stormwater

(1) The owner or occupier of a lot shall ensure that all stormwater received by any building, house, or other structure or any paved or sealed or other surfaced areas including any vehicle access ways on the lot is contained within the lot or discharged into the sewerage mains and is not permitted to discharge onto or run-off onto adjacent land.

(2) Subclause (1) shall not prevent the discharge of stormwater from a lot into a local government approved stormwater drain or road by a method approved by an authorised person.

5.6 Livestock vehicles

(1) A person shall not park a vehicle containing livestock for a period in excess of 30 minutes on land or adjacent to land zoned as—

- (a) commercial;
- (b) residential; or
- (c) special use.

(2) A person shall not park a vehicle which contains or has been used for the carriage of livestock so as to create or be a nuisance to any person, by reason of the odour emanating from the vehicle.

(3) If a person parks a vehicle containing livestock in accordance with subclause (1), then the person does not contravene subclause (2).

(4) A person shall not wash down a livestock vehicle on land or adjacent to land zoned as—

- (a) commercial;
- (b) residential; or
- (c) special use.

5.7 Truck noise on or adjacent to residential land

(1) This clause does not apply to land zoned as rural, industrial or urban.

(2) A person shall not start or drive a truck on land or adjacent to land which is zoned, approved or used for residential purposes between the hours of 10:30 pm and 6:30 am on the following day without first obtaining the written consent of the local government.

5.8 Disposing of disused refrigerators or similar containers

A person shall not place, leave or dispose of a disused refrigerator, ice chest, ice box, trunk, chest or other similar article having a compartment with a capacity of 0.04 cubic metres or more, on any land unless—

- (a) every door and lid and every lock, catch and hinge attached to a door or lid has been removed; or
- (b) rendering every door and lid incapable of being fastened.

PART 6—OBJECTIONS AND APPEALS

6.1 Objections and appeals

The provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations shall apply to a decision made by the local government under this local law as to whether it will—

- (a) grant a person a permit or authorisation;
- (b) vary or cancel a permit or authorisation; or
- (c) give a person a notice.

PART 7—ENFORCEMENT

7.1 Notice of breach

(1) Where a breach of any provision of this local law has occurred, an authorised person may give a notice in writing to the person alleged to be responsible for such breach.

(2) A notice issued pursuant to subclause (1) shall—

- (a) specify the provision of this local law which has been breached;
- (b) specify the particulars of the breach; and
- (c) state the manner in which the recipient is required to remedy the breach to the satisfaction of the local government within a time period stipulated in the notice.

(3) It is an offence to fail to comply with a notice issued by the local government pursuant to subclause (1).

7.2 When local government may undertake work required by notice

(1) Where an owner or occupier of land fails to comply with a notice referred to in clause 7.1 the local government may, subject to compliance with the requirements of subdivision 3 of Division 3 of Part 3 of the Act, do anything that it considers necessary to achieve, so far as is practicable, the purpose for which the notice was given.

(2) The local government may recover the cost of anything it does under subclause (1) as a debt due from the person who failed to comply with the notice.

7.3 Offences

A person commits an offence who—

- (a) fails to do anything required or directed to be done under this local law;
- (b) fails to comply with the requirements of a notice issued under this local law by an authorised person; or
- (c) does anything which under this local law that person is prohibited from doing.

7.4 General penalty

Any person who commits an offence shall be liable, upon conviction, to a penalty not exceeding \$5,000, and a maximum daily penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

7.5 Modified penalties

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

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

- (a) in the case of a first offence the modified penalty will be that prescribed in column 4 of Schedule 1; and
- (b) in the case of a subsequent offence the modified penalty will be that prescribed in column 5 of Schedule 1.

7.6 Form of infringement notices

For the purposes of this local law—

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

SCHEDULE 1—MODIFIED PENALTIES

[cl. 7.5]

Item	Clause No.	Nature of offence	Modified penalty— first offence \$	Modified penalty— subsequent offence \$
1	2.2	Keeping of livestock or birds without approval	100	250
2	2.3(1)	Keeping of a miniature horse other than as approved	100	250
3	2.3(2)	Failure to provide evidence of sterilisation of a miniature horse	100	250
4	2.4(1)	Keeping of a miniature pig other than as approved	100	250
5	2.4(2)	Failure to provide evidence of sterilisation or vaccination of a miniature pig	100	250
6	2.5(1)(a)	Keeping of poultry other than as approved	100	250
7	2.5(1)(b)(i)	Keeping of more than 12 poultry	100	250
8	2.5(1)(b)(ii)	Keeping of a rooster, goose, turkey or peafowl other than as approved	100	250
9	2.6(1)(a)	Keeping of pigeons other than as approved	100	250
10	2.6(1)(b)	Keeping of more than 12 pigeons	100	250
11	2.6(3)	Keeping pigeons in a loft other than as approved	100	250
12	2.7	Keeping of aviary birds other than as approved	100	250
13	2.8(1)	Allowing livestock to stray or be at large	100	250
14	2.10	Livestock or birds creating a nuisance	100	250
15	3.3(3)	Failure to comply with conditions of approval to keep livestock or birds	100	250
16	4.1	Burning cleared vegetation or other material on site	250	500

Item	Clause No.	Nature of offence	Modified penalty— first offence \$	Modified penalty— subsequent offence \$
17	4.2	Failure to remove unsightly or disused material from land	100	250
18	4.3	Failure to remove overgrowth of vegetation from land	100	250
19	4.4(1)	Release or escape of dust or liquid waste from land	100	250
20	4.5(2)	Failure to comply with notice to obtain approval of a Dust Management Plan for clearing of land	100	250
21	4.5(3)	Failure to comply with notice to cease work before obtaining approval of a Dust Management Plan for clearing of land	100	250
22	4.6(a)	Store or allow to remain on land more than one vehicle, vessel or machinery in a state of disrepair	100	250
23	4.6(b)	Store or allow to remain on land any vehicle, vessel or machinery in a state of disrepair for a period in excess of one month	100	250
24	4.6(c)	Store or allow to remain on land any vehicle, vessel or machinery parts (including tyres)	100	250
25	4.6(d)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not inside a building or not behind a sufficient fence or wall	100	250
26	4.6(e)	Wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance	100	250
27	4.7(2)	Placement of a sea container other than as approved	100	250
28	4.7(4)(a)	Placement of a sea container on land for more than six months without approval	100	250
29	4.7(4)(b)	Failure to remove a sea container within five working days	100	250
30	5.1(1)(a)	Erection or use of lighting installations other than in accordance with requirements	100	250
31	5.1(1)(b) or (c)	Emitting or reflecting excessive artificial light, or reflecting natural light that causes nuisance	100	250
32	5.2	Cause of permit the escape of smoke, fumes, odours and other emissions so as to cause a nuisance	100	250
33	5.3(2)	Set fire to rubbish, refuse or other materials other than in an approved manner	100	250
34	5.4(1)	Failure to dispose of backwash water as approved	100	250
35	5.5(1)	Failure to dispose of stormwater as approved	100	250
36	5.6(1)	Parking a livestock vehicle in excess of 30 minutes other than as approved	100	250
37	5.6(4)	Washing a livestock vehicle other than as approved	100	250
38	5.7	Starting or driving a truck on or adjacent to residential land, or adjoining residential land, other than as approved	100	250
39	5.8	Disposing of disused refrigerator or similar container other than as approved	250	500
40	7.1(3)	Failure to comply with notice	100	250
41	7.3	All other offences	100	250

Dated 9 October 2018.

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

K. J. CHAPPEL, President.
C. P. M. LINNELL, Chief Executive Officer.

**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

SHIRE OF MORAWA

CEMETERIES LOCAL LAW 2018

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**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

SHIRE OF MORAWA

CEMETERIES LOCAL LAW 2018

Under the powers conferred by the *Cemeteries Act 1986* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Morawa resolved on 20 September 2018 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Morawa Cemeteries Local Law 2018*.

1.2 Commencement

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

1.3 Application

This local law applies to the following cemeteries located in the district—

- (a) Morawa Cemetery situated on a portion of Reserve 20650 as indicated by signs or fencing;
- (b) Morawa Cemetery situated on a portion of Reserve 17311 as indicated by signs or fencing; and
- (c) Pintharuka Cemetery situated on a portion of Reserve 20814 as indicated by signs or fencing.

1.4 Repeal

The *Shire of Morawa Management and Control of Morawa Cemetery Local Law 2008* published in the *Government Gazette* on 16 July 2008 is repealed.

1.5 Definitions

In this local law, unless the context otherwise requires—

Act means the *Cemeteries Act 1986*;

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

authorised person means a person—

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

Board means the local government;

burial means placement of a coffin containing a dead body into a grave, and includes a natural burial;

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

cemetery means a cemetery under the care and control of the Board;

CEO means the chief executive officer, for the time being, of the Board;

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

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

district means the district of the local government;

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

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

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

interment includes, as the case may be—

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

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

local government means the Shire of Morawa;

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

memorial has the meaning set out in the Act;

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

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

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

natural burial means burial in the ground—

- (a) without preparation of the dead body using chemical preservatives; and
- (b) by containment of the dead body only in a shroud or biodegradable coffin;

niche wall means a structure for the placement of a container of ashes in a compartment secured with a covering memorial plaque;

personal representative means—

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

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

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

shroud means, as the context requires—

- (a) a cloth or cloths used to securely wrap a dead body for burial; or
- (b) a dead body contained within a cloth or cloths;

standard grave means a grave which does not exceed any of the following dimensions: 2000 millimetres long, 1200 millimetres wide and 2100 millimetres deep;

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

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

vehicle includes every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise, other than a wheelchair or baby stroller, and includes a bicycle and a skateboard.

PART 2—ADMINISTRATION

2.1 Powers and functions of CEO

Subject to the direction of the Board, the CEO shall exercise all the powers and functions of the Board in respect of a cemetery in the district.

2.2 Plans

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

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

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

2.3 Grant of right of burial

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

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

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

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

2.4 Pre-need certificate

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

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

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

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

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

2.5 Board may enter into an agreement for maintenance

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

PART 3—APPLICATION FOR INTERMENT

3.1 Application for interment permit

(1) A funeral director may apply for approval for an interment of a dead body in a cemetery.

(2) A funeral director, the personal representative of a deceased person whose body has been cremated, or other person approved by an authorised person may apply for approval for interment of ashes in a cemetery.

(3) An application for an interment permit under subclause (1) or (2) of—

(a) a dead body shall include details of—

(i) proposed burial method for the dead body in accordance with clause 5.1; and

(ii) the vehicle transporting the dead body to the gravesite; or

(b) ashes shall include details of the proposed interment arrangements for the ashes in accordance with clause 5.4(2).

(4) An application under subclauses (1) or (2) shall be accompanied by the set fee.

3.2 Applications to be accompanied by certificates etc.

An application under clause 3.1(1) shall be accompanied by—

(a) a certificate issued under clause 3.3; and

(b) either a medical certificate of death or a Coroner's order of burial.

3.3 Certificate of identification

(1) Prior to the dead body being removed to a cemetery, a person who personally knew the deceased shall identify the dead body and shall provide a certificate of identification, unless—

(a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or

(b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

(2) A funeral director shall provide a certificate, where—

(a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or

(b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

3.4 Minimum notice required

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

3.5 Refusal of application

(1) The Board may refuse an application for the interment permit under clause 3.1(1).

(2) The Board may refuse an application for a pre-need certificate.

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

PART 4—FUNERALS AND MEMORIAL SERVICES**4.1 Fixing times for interments**

(1) On receipt of a completed application form and the satisfaction of all other requirements of the Act and this local law, the Board may—

- (a) approve a time for the interment; and
- (b) dig or re-open any grave that is required.

(2) The time approved for an interment is at the discretion of the Board but will be as near as possible to the time requested by the applicant.

(3) Except with the permission of the Board and subject to such conditions as may be applied, a person shall not carry out a burial—

- (a) on a Saturday, a Sunday or a public holiday;
- (b) commencing at any time other than between the hours 9:00 am to 2:00 pm; or
- (c) to conclude later than 3:00 pm.

4.2 Memorial services or processions

A person shall not conduct a memorial service or procession within a cemetery unless that person has the permission of the Board.

4.3 Processions

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

4.4 Conduct of interments by the Board

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

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

PART 5—INTERMENTS**5.1 Requirements for burials**

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

- (a) the Board has approved an application for the burial of that dead body made under clause 3.1(1);
- (b) it is enclosed in a coffin or shroud which bears the name of the deceased person indelibly inscribed in legible characters on a plate attached in a clearly visible position; and
- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 millimetres in height.

5.2 Requirements for preparation of graves

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

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

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

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

5.3 Requirements for dimensions of graves

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

(2) Every grave prepared by the Board shall be dug at least 1800 millimetres deep and shall not exceed 2300 millimetres in depth, unless otherwise determined by the Board.

(3) Unless otherwise permitted by the Board, a person shall not bury a dead body within a cemetery so that the distance from the top of the coffin or shroud to the original surface of the ground is—

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

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

5.4 Requirements for disposal of ashes

(1) Except in accordance with an approved application under clause 3.1(2), a person shall not bring or dispose of the ashes of a deceased person into a cemetery.

(2) The person approved under subclause (1) may dispose of the ashes of that deceased person in a cemetery by one of the following methods, if that method is available—

- (a) placed within the perimeter of an authorised gravesite's at a depth of at least 600 millimetres;
- (b) placed in a vault or mausoleum;
- (c) placed in a niche wall;
- (d) scattered in an area approved by the Board; or
- (e) placed in a memorial garden.

(3) The Board may require a person making an application under clause 3.1(2) to provide additional information reasonably related to the application before determining the application.

(4) The Board may—

- (a) approve an application under clause 3.1(2) unconditionally or subject to any conditions; or
- (b) refuse to approve an application under clause 3.1(2).

(5) Where an application under clause 3.1(2) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.

(6) If the Board refuses to approve an application under clause 3.1(2), written notice of the refusal is to be given to the applicant.

5.5 Requirements for vaults and mausoleums

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

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

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

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

(5) The Board may—

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

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

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

(8) A person shall not place a dead body in a vault or mausoleum except—

- (a) in a closed coffin;
- (b) in a soundly constructed and sealed chamber; and
- (c) in accordance with subclause (9).

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

5.6 Requirements for re-opening a grave

(1) A person shall not reopen a grave without the approval of the Board.

(2) If for the purpose of re-opening a grave in a cemetery, the Board finds it necessary to remove plants, grass, shrubs or other like matter from the grave, then the person ordering the re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.

5.7 Requirements for exhumation

(1) Subject to subclause (2), a person shall not exhume a dead body in a cemetery for the purposes of reburial within 12 months after the date of its interment.

(2) Subclause (1) shall not apply where the exhumation is ordered or authorised pursuant to the Act.

(3) Subject to subclause (1) and (2) prior to any other exhumation, the holder of a grant of right of burial must have applied in writing to the Board requesting the exhumation and an authorised person has authorised the exhumation.

5.8 Requirements for opening of coffin or removal of shroud

A person shall not open a coffin or remove a shroud in a cemetery unless—

- (a) the coffin is opened or shroud removed for the purposes of the exhumation of a dead body; or
- (b) that person has produced to the Board an order signed or authorised pursuant to the Act and an authorised person has approved the opening of that coffin or removal of the shroud.

5.9 Ashes not to be held by the Board

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

PART 6—APPLICATIONS FOR MEMORIALS**6.1 Application to place memorial**

(1) Upon payment of the set fee, the Board may approve an application to place a memorial with or without conditions, including restricting use of materials such as wood, dimensions of a memorial etc, so as not to detract from the amenity of a cemetery.

(2) The Board may require the written consent of the holder of the grant of right of burial of the grave, the personal representative of a deceased person, or other person to the satisfaction of an authorised person to accompany an application for a memorial made under section 30 of the Act.

(3) Where written consent is not able to be produced, the Board may approve with or without conditions or decline an application in its absolute discretion.

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

6.2 Australian War Graves

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

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

PART 7—MEMORIALS PERMITTED**7.1 Limitation on dimensions of memorials**

(1) No part of a memorial, including any grave cover, kerbing, boundary marker or enclosure is to extend beyond the dimensions of a standard grave.

(2) No part of a monument above its base shall extend horizontally beyond its base.

(3) Notwithstanding subclause (1), on request of the personal representative, the Board may approve a memorial over adjoining multiple gravesites—

- (a) where the persons interred are of the same family; or
- (b) for another acceptable reason.

7.2 Specification for monument

(1) In this clause—

approved material means—

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

(2) A monument in a cemetery—

- (a) shall be made of approved material;
- (b) shall be placed on a base of approved material;
- (c) the portion not being a grave cover, shall comply with the following specifications—
 - (i) unless a greater height is approved by the Board, the overall height of a monument above the original surface of the grave shall not exceed 1200 millimetres;
 - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150 millimetres nor more than 450 millimetres;
 - (iii) the width of the base of the monument shall not exceed 1200 millimetres; and
 - (iv) the length of the base of the monument measured along the length of the grave shall not exceed 600 millimetres;
- (d) the portion being a grave cover, shall comply with the following specifications
 - (i) unless a greater height is approved by the Board, the overall height of a monument above the original surface of the grave shall not exceed 300 millimetres;
 - (ii) the width of the grave cover shall not exceed 1200 millimetres; and
 - (iii) the length of the grave cover shall not exceed 2400 millimetres; and
- (e) shall have foundations extending to a depth of 1000 millimetres unless concrete beam foundations are approved by the Board.

(3) Subject to subclause (2) a memorial plaque may be attached to a monument that has been or is being erected.

(4) The provisions of clause 7.5 apply to plaques that are attached to a monument.

7.3 Specification for headstone

(1) In this clause—

approved material means—

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

(2) A headstone shall—

- (a) be made of approved material;
- (b) be placed on a base of approved material;
- (c) comply with the following specifications—
 - (i) be placed on proper and substantial foundations extending to a depth of 1000 millimetres unless concrete beam foundations are provided;
 - (ii) the height of the base of the headstone above the highest point of the original surface of the grave shall not be less than 150 millimetres nor more than 200 millimetres;
 - (iii) the overall height of the headstone, including the base, shall not exceed 1200 millimetres;
 - (iv) the length of the base of the headstone measured across the width of the grave shall not exceed 1200 millimetres;
 - (v) the width of the base of the headstone measured along the length of the grave shall not exceed 300 millimetres; and
 - (vi) no part of a headstone above its base shall extend horizontally beyond that base; and
- (d) have foundations extending to the bottom of the grave unless concrete beam foundations are approved by the Board.

(3) Subject to subclause (2) a memorial plaque may be attached to a headstone erected or being erected within a cemetery.

(4) The provisions of clause 7.5 apply to plaques that are attached to a headstone.

7.4 Specification for memorial plaque base

(1) A memorial plaque base shall—

- (a) have the following dimensions—
 - (i) at ground level of 85 millimetres wide; and 105 millimetres long;
 - (ii) front elevation of 30 millimetres;
 - (iii) back elevation of 85 millimetres; and
 - (iv) all measurements to be within 5 millimetres;
- (b) be constructed of materials approved by the Board;
- (c) be in a position approved by the Board; and
- (d) have foundations as approved by the Board.

(2) The provisions of clause 7.5 apply to plaques that are attached to a memorial plaque base.

(3) Upon application, the Board may permit an exemption from any of the requirements of subclause (1)(a), but shall not delegate the decision to permit an exemption to the CEO.

7.5 Specification for memorial plaque

(1) A memorial plaque shall be made of—

- (a) admiralty bronze not exceeding 20 millimetres in thickness;
- (b) polished or brushed stainless steel not exceeding 8 millimetres in thickness;
- (c) stone, and—
 - (i) if placed upon a headstone, monument or memorial plaque base, shall not exceed 50 millimetres in thickness; or
 - (ii) if it is not to be placed upon a headstone, monument or memorial plaque base, shall not be less than 100 millimetres in thickness; or
- (d) other material approved by the Board.

(2) A memorial plaque placed on a monument, headstone or other item shall not extend beyond the physical dimensions of the monument, headstone or other item on which it is affixed.

(3) A memorial plaque to be placed on a commemorative wall shall—

- (a) individual plaques—to be of a size and appearance consistent with other memorial plaques used in that location or for that purpose, as determined by the Board;

- (b) if a backing plate with multiple plaques attached—multiple plaques to be not more than two plaques wide subject to allowing a 10 millimetre border and a maximum of 10 millimetres between plaques;
 - (c) all measurements to be within 5 millimetres; and
 - (d) be placed in such a manner and in a position approved by the Board.
- (4) Upon application, the Board may permit an exemption from any of the requirements of subclause (3) but shall not delegate the decision to permit an exemption to an authorised person.

7.6 Specification for gravesite fencing

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

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

7.7 Display of trade names on memorials not allowed

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

7.8 Use of wood

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

PART 8—MEMORIALS AND OTHER WORK

8.1 Carrying out memorial work

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

8.2 Removal of sand, soil or loam

No sand, earth or other material shall be taken from any part of a cemetery for use in the construction of any memorial or other work, or cause any material to be removed from a cemetery except with the written approval of the Board.

8.3 Removal of rubbish

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

8.4 Plants and trees

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

8.5 Supervision

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

8.6 Placing of grave ornaments

A person shall not place vases or other grave ornaments—

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

8.7 Hours of work

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

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

8.8 Unfinished work

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

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

(1) A person must only drive a vehicle on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within a cemetery, unless otherwise authorised by the Board.

(2) A person driving a vehicle, within a cemetery, shall not exceed the speed limit of 20 kilometres per hour, and shall comply with the signs and directions in the cemetery.

9.2 Assistance animals

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

9.3 Utility services

(1) Other than with the approval of the Board, a person shall not—

- (a) connect any device or equipment to any utility services supplied on or at a cemetery; or
- (b) alter or interfere with utility services infrastructure located in a cemetery.

(2) The Board may recover from a person the reasonable costs incurred by the Board for the supply to and use of any utility services by that person at a cemetery.

9.4 Damaging and removing of objects

Subject to clause 9.5, a person shall not damage, remove or pick any tree, plant, shrub or flower in a cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.

9.5 Withered flowers

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

9.6 Littering and vandalism

A person shall not—

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

9.7 Advertising

(1) A person shall not advertise or carry on any trade, business or profession in a cemetery without the approval of the Board.

(2) Upon payment of the set fee, the Board may consider and give approval subject to such conditions as the Board thinks fit.

9.8 Signs and directions of the Board

(1) The Board may display, mark, place or erect a sign within a cemetery specifying conditions relating to the use of that cemetery.

(2) A person shall obey all signs displayed, marked, placed or erected by the Board within a cemetery and any other lawful direction by the Board.

9.9 Removal from a cemetery

(1) Any person failing to comply with any provisions of this local law or behaving in a manner that in the opinion of the Board is inappropriate in a cemetery may in addition to any penalty provided by this local law be ordered to leave the cemetery.

(2) A person to whom an order under subclause (1) is given must comply with that order.

9.10 Board may close cemetery

The Board may—

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

9.11 Firearms

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

9.12 Offensive matters

(1) A person shall not allow or cause to be displayed and offensive materials, wording, symbols or images of any kind, whether as a sign, on a memorial or otherwise visible.

(2) Where, in the opinion of the Board, a person does not comply with subclause (1), the Board may issue a notice under clause 9.13(1).

9.13 Liability for damage or works required to comply

(1) Where a person—

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

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

- (d) pay the costs of reinstating the property to the state it was in prior to the occurrence of the damage;
- (e) pay the costs of replacing that property;
- (f) pay the costs of works required to comply with this local law; or
- (g) carry out works required to comply with this local law.

(2) On a failure to comply with a notice issued under subclause (1), the Board may recover the costs referred to in the notice as a debt due to it.

9.14 Offence to fail to comply with notice

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

9.15 Board may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 9.14, the Board may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

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

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

10.2 Modified penalties

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

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

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

(4) The notice withdrawing an infringement notice referred to in section 63(3) of the Act shall be in the form set out in Schedule 3.

SCHEDULE 1—MODIFIED PENALTIES

[cl. 10.2(1)]

Item	Clause	Nature of offence	Modified Penalty \$
1	4.2	Conducting a memorial service or procession without permission	50
2	5.1	Failure to obtain approval to bring a dead body into a cemetery	50
3	5.2(1)	Unauthorised digging, preparation or filling of grave	50
4	5.3(1)	Unauthorised burial of dead body	50
5	5.4(1)	Unauthorised disposal of ashes	50
6	5.5(1)	Unauthorised construction of vault or mausoleum	50

Item	Clause	Nature of offence	Modified Penalty \$
7	5.6(1)	Unauthorised reopening of a grave	50
8	5.7(1)	Unauthorised exhumation of a coffin or shroud	50
9	5.8	Unauthorised opening of a coffin or shroud	50
10	7.7	Use of trade name or mark on a memorial	50
11	7.8	Unauthorised use of wood on a gravesite	50
12	8.1	Unauthorised construction of a memorial	50
13	8.2	Unauthorised use of materials taken from within a cemetery	50
14	8.3	Failure to remove rubbish and surplus materials	50
15	8.4	Unauthorised planting of tree or shrub	50
16	8.5	Failure to comply with direction of authorised person	50
17	8.6	Unauthorised placing of grave ornaments	50
18	8.7	Works carried out during unauthorised times	50
19	8.8	Failure to leave uncompleted works in a tidy and safe condition	50
20	9.1(1)	Driving vehicle other than on vehicular access way or constructed roadways or within designated areas	50
21	9.1(2)	Exceeding speed limit	50
22	9.3	Interference with utility services	50
23	9.4	Damaging or removing object	50
24	9.5	Failure to dispose of withered flowers appropriately	50
25	9.6	Littering or vandalism within a cemetery	50
26	9.7	Unauthorised advertising and/or trading	50
27	9.8(2)	Failure to obey sign or lawful direction within cemetery	50
28	9.9(2)	Failure to comply with order to leave cemetery	50
29	9.12(1)	Display of offensive materials, wording, symbols or images	50
30	9.14	Failure to comply with notice within specified period	50

—————

SCHEDULE 2—INFRINGEMENT NOTICE

[cl. 10.2(3)]

INFRINGEMENT NUMBER—		
To—		
Address—		
	It is alleged that—	
Cemetery address—		
At—	Time	
On—	Date	
	You committed the following offence—	
Contrary to—	<i>Shire of Morawa Cemeteries Local Law 2018</i>	
Schedule 1 reference—	Item No.—	Clause—
Offence—		
Brief description—		
The modified penalty for the offence is—	\$	
	If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid at the Shire of Morawa within a period of 28 days after the giving of this notice.	
Name of authorised person—		
Position—		
Signature—		
Date—		

Payments may be made—	(a) EFT to the Shire of Morawa specifying the infringement number (b) In person at—Shire of Morawa, Winfield Street, Morawa during business hours (c) By mail to—Shire of Morawa PO Box 14, Morawa 6623 Please make cheques payable to Shire of Morawa.

SCHEDULE 3—WITHDRAWAL OF INFRINGEMENT NOTICE

[cl. 10.2(4)]

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

Dated 9 October 2018.

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

K. J. CHAPPEL, President.
C. P. M. LINNELL, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

SHIRE OF MORAWA

DOGS LOCAL LAW 2018

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LOCAL GOVERNMENT ACT 1995
DOG ACT 1976

SHIRE OF MORAWA

DOGS LOCAL LAW 2018

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Morawa resolved on 20 September 2018 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Morawa Dogs Local Law 2018*.

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 *Shire of Morawa Dogs Local Law* published in the *Government Gazette* on 16 July 2008, is repealed.

1.5 Definitions

In this local law unless the context otherwise requires—

Act means the *Dog Act 1976*;

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

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

CEO means the chief executive officer of the local government;

dangerous dog has the meaning given to it by section 3(1) of the Act;

district means the district of the Shire of Morawa;

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

infringement notice means the notice referred to in clause 7.4;

kennel establishment means any premises where more than the number of dogs under clause 3.2(2) over the age of three months are kept, boarded, trained or bred temporarily, usually for profit and where the occupier of the premises is not the ordinary keeper of the dogs;

licence means a licence to keep an approved kennel establishment on premises granted under clause 4.7;

licensee means the holder of a licence granted under clause 4.7;

local government means the Shire of Morawa;

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

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

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

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

premises in addition to the meaning given to it in section 3 of the Act, means the premises described in the application for a licence made under clause 4.1;

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

Regulations means the *Dog Regulations 2013*;

Schedule means a schedule to this local law;

set fee means a fee or charge made by the local government in accordance with clause 2.1 or clause 4.8;

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

transferee means a person who applies for the transfer of a licence to her or him under clause 4.12.

PART 2—IMPOUNDING OF DOGS

2.1 Fees and charges

The following are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*—

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional set fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) application for additional costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of authorised person at dog management facility

An authorised person is to be in attendance at the dog management facility for the release of dogs at the times and on the days of the week as determined by the CEO.

2.3 Release of impounded dog

- (1) A claim for the release of a dog seized and impounded is to be made to an authorised person.
- (2) An authorised person is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of an authorised person, evidence—
 - (a) of her or his ownership of the dog or of her or his authority to take delivery of it; or
 - (b) that he or she is the person identified as the owner on a microchip implanted in the dog.

2.4 Unauthorised release

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

PART 3—KEEPING OF DOGS

3.1 Dogs to be confined

- (1) An occupier of premises on which a dog is kept must—
 - (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
 - (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
 - (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures that the dog remains confined) and is fitted with a proper latch or other means of fastening it;
 - (d) maintain the fence and all gates and doors in the fence in good order and condition; and
 - (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
- (2) Where an occupier fails to comply with subclause (1), he or she commits an offence.
- (3) Notwithstanding subclause (1) and (2), the confinement of dangerous dogs is dealt with in the Act and the Regulations.

3.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been—
 - (a) licensed under Part 4 of this local law as an approved kennel establishment; or
 - (b) granted an exemption under section 26(3) of the Act.
- (2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act—
 - (a) two dogs over the age of three months and the young of those dogs under that age if the premises are zoned other than as rural, rural residential or urban under a local planning scheme; or
 - (b) four dogs over the age of three months and the young of those dogs under that age if the premises are zoned as rural, rural residential or urban under a local planning scheme.

3.3 Application to keep additional dog or dogs

(1) Subject to clause 3.5, the local government may consider an application to keep an additional dog or dogs where—

- (a) the property is deemed suitable by an authorised person—
 - (i) having sufficient space capable of confining all dogs;
 - (ii) noise, odours, fleas, flies and other vectors of disease will be effectively controlled; and
 - (iii) the care and welfare of the dogs is considered adequate.
- (b) the details of every dog proposed to be kept on the premises are provided including name, age, colour/description, breed, registration number and microchip details; and
- (c) sufficient reason has been provided, including—
 - (i) to replace an elderly or sick dog not expected to live;
 - (ii) a family emergency resulting in the dog being inherited;
 - (iii) merging of two households;
 - (iv) where the applicants have had approval to keep an additional dog or dogs in another local authority; or
 - (v) on premises zoned as rural or rural residential under a local planning scheme, the dog or dogs are required for stock management or to be on the premises temporarily for the purposes of training for stock management.

(2) An application to keep two additional dogs on premises that are zoned other than as rural or rural residential under a local planning scheme shall—

- (a) provide sufficient detail regarding the reason for keeping more than two dogs;
- (b) provide written consent from owners and occupiers of any premises adjoining the premises; and
- (c) in the case of a tenanted property, provide written consent from either the landowner or their appointed property manager.

(3) An application to keep more than four dogs on premises zoned as rural or rural residential under a local planning scheme shall—

- (a) provide sufficient detail regarding the reason for keeping more than four dogs; and
- (b) in the case of a tenanted property, provide written consent from either the landowner or their appointed property manager.

3.4 Determination of application

In determining an application for a licence, the local government is to have regard to—

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

3.5 Where application cannot be approved

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

- (a) more than four dogs are proposed to be kept on premises zoned other than as rural or rural residential under a local planning scheme;
- (b) more than six dogs are proposed to be kept on premises zoned as rural or rural residential under a local planning scheme; or
- (c) where any dog already kept on the premises is a dangerous dog.

3.6 Conditions of approval

(1) The local government may approve an application to keep an additional dog or dogs subject to any conditions as considered appropriate.

(2) Approval of an application is not transferable to successive owners or occupiers of the premises.

3.7 Revocation of licence to keep additional dogs

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

PART 4—APPROVED KENNEL ESTABLISHMENTS

4.1 Application for licence for approved kennel establishment

An application for a licence must contain the information listed in Schedule 1, and must be lodged with the local government together with—

- (a) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government;
- (b) any other information reasonably required by the local government; and
- (c) the set fee for the application for a licence referred to in clause 4.8(1).

4.2 Notice of proposed use

(1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged—

- (a) once in a newspaper circulating in the district; and
- (b) to the owners and occupiers of any premises adjoining the premises.

(2) The notices in subclause (1) must specify that—

- (a) any written submissions as to the proposed use are to be lodged with the local government within 14 days of the date the notice is given; and
- (b) the application, plans and specifications may be inspected at the offices of the local government.

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

- (a) a notice given under subclause (1) does not clearly identify the premises; or
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises.

4.3 Exemption from notice requirements

The requirements of clauses 4.2 and 4.4(a) and Schedule 1 clause 5(c) do not apply in respect of the application for a licence where under a local planning scheme an application for a licence is made in respect of premises on which an approved kennel establishment is either a—

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements.

4.4 When application can be determined

An application for a licence is not to be determined by the local government until—

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.2(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.2(2)(a) on the proposed use of the premises.

4.5 Determination of application

In determining an application for a licence, the local government is to have regard to—

- (a) the matters referred to in clause 4.6;
- (b) any written submissions received within the time specified in clause 4.2(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.6 Where application cannot be approved

The local government cannot approve an application for a licence where—

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a local planning scheme; or
- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

4.7 Conditions of approval

(1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.

(2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.

4.8 Fees

(1) On lodging an application for a licence, the applicant is to pay a set fee to the local government.

(2) On the issue or renewal of a licence, the licensee is to pay a set fee to the local government.

(3) On lodging an application for the transfer of a valid licence, the transferee is to pay a set fee to the local government.

(4) The set fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

4.9 Form of licence

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

4.10 Period of licence

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the set fee referred to in clause 4.8(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

4.11 Variation or cancellation of licence

- (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence—
 - (a) on the request of the licensee;
 - (b) following a breach of the Act, the Regulations or this local law; or
 - (c) if the licensee is not a fit and proper person.
- (3) The date a licence is cancelled is to be, in the case of—
 - (a) subclause (2)(a), the date requested by the licensee; or
 - (b) subclause (2)(b) or (c), the date determined under section 27(6) of the Act.
- (4) If a licence is cancelled the set fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.12 Transfer

- (1) An written application for the transfer of a valid licence from the licensee to another person must be—
 - (a) made by the transferee;
 - (b) made with the written consent of the licensee; and
 - (c) lodged with the local government together with—
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence;
 - (ii) the set fee for the application for the transfer of a licence referred to in clause 4.8(3); and
 - (iii) any other relevant information required.
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.13(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.13 Notification

The local government is to give written notice to—

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.11(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.11(2)(a); and
- (g) a licensee of the cancellation of a licence under clause 4.11(2)(b) or (c), which notice is to be given in accordance with section 27(6) of the Act.

4.14 Objections and appeals

- (1) The provisions of Division 1 of Part 9 of the *Local Government Act 1995* and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to a decision where the local government makes a decision as to whether it will—
 - (a) grant an application for a licence;
 - (b) vary or cancel a licence;
 - (c) impose or amend a condition to which a licence is subject; or
 - (d) transfer of a licence.
- (2) Under these provisions, an affected person may have the right to object to, or to appeal against, a decision of the local government.

4.15 Inspection of kennel

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

PART 5—DOGS IN PUBLIC PLACES**5.1 Places where dogs are prohibited absolutely**

Designation of places where dogs are prohibited absolutely is dealt with in the Act.

5.2 Places which are dog exercise areas

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

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

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

6.2 Offence to excrete

(1) A dog must not excrete on—

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

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

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

(4) Notwithstanding clause 7.2, the maximum penalty for an offence under subclause (1) is \$1000.

PART 7—ENFORCEMENT**7.1 Offences**

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

7.2 General penalty

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

7.3 Modified penalties

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

(2) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is not a dangerous dog.

(3) The amount appearing in the fifth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

7.4 Issue of infringement notice

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

7.5 Failure to pay modified penalty

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

7.6 Payment of modified penalty

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

7.7 Withdrawal of infringement notice

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

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

7.8 Service of notices

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

SCHEDULE 1—INFORMATION REQUIRED FOR APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

[cl. 4.1]

1. Details of applicant/s—
 - (a) Full name/s of applicant/s;
 - (b) Postal address;
 - (c) Telephone number;
 - (d) Mobile number;
 - (e) Fax number; and
 - (f) E-mail address.
2. Address of proposed premises.
3. Dogs to be kept—
 - (a) Number; and
 - (b) Breed.
4. Either—
 - (a) Person residing on the premises—
 - (i) Name;
 - (ii) As from; and
 - (iii) Mobile phone number, or
 - (b) Person sufficiently close to the premises so as to control the dogs and ensure their health and welfare—
 - (i) Name;
 - (ii) Address;
 - (iii) As from; and
 - (iv) Mobile phone number.
5. To be included—
 - (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
 - (b) plans and specifications of the proposed kennel establishment;
 - (c) copy of notice of proposed use to appear in newspaper and to be given to adjoining premises under clause 4.2;
 - (d) written evidence that a person will reside—
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
 - (e) if the person in item (d) is not the applicant, written evidence that the person is a person in charge of the dogs.
6. Signature of applicant/s.
7. Date.

SCHEDULE 2—CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

[cl. 4.7]

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

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than—
 - (i) 25 metres from the front boundary of the premises and 5 metres from any other boundary of the premises;
 - (ii) 10 metres from any dwelling; and
 - (iii) 25 metres from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;

- (f) the upper surface of the kennel floor must be—
- (i) at least 100 millimetres above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
- (h) the kennel floor must have a durable upstand rising 75 millimetres above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50 millimetres from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of—
- (i) 2000 millimetres; or
 - (ii) four times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zinalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside—
- (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

SCHEDULE 3—PRESCRIBED OFFENCES

[cl. 7.3]

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

Dated 9 October 2018.

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

K. J. CHAPPEL, President.
C. P. M. LINNELL, Chief Executive Officer.

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SCHEDULE 1—MODIFIED PENALTIES

LOCAL GOVERNMENT ACT 1995

SHIRE OF MORAWA

PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY
LOCAL LAW 2018

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Morawa resolved on 20 September 2018 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Morawa Public Places and Local Government Property Local Law 2018*.

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 *Shire of Morawa Parking and Parking Facilities Local Law* published in the *Government Gazette* on 23 June 2000 is repealed.

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*;

animal means any living thing that is not a human being or plant but excludes dogs and cats;

applicant means a person who applies for a licence under this local law;

application means an application for a licence under this local law;

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*;

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 of 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*;

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

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 Morawa;

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*;

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 means 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;

UAV means unmanned aircraft, other than a balloon or kite, as defined by the *Civil Aviation Safety Regulations 1998* (Commonwealth);

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; and

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

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* (Commonwealth).

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) use a UAV;
- (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) 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
- (e) 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) 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;
- (e) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
- (f) 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) conduct a function or entertainment event on local government property;
 - (h) 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;
 - (i) light a fire on local government property except in a facility provided for that purpose;
 - (j) light or set off any firework or conduct a fireworks display on local government property;
 - (k) use a UAV from or over local government property;
 - (l) parachute, hang glide, abseil or base jump from or on to local government property;
 - (m) play or practise on local government property—
 - (i) golf or archery; or
 - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*;
 - (n) erect a building or a refuelling site on local government property;
 - (o) make any excavation on or erect or remove any fence on local government property;
 - (p) 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;
 - (q) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property;
 - (r) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly on local government property; or
 - (s) 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 subclause (2)(a) or (b) 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 subclause (2)(b) and any associated goods may be impounded, subject to Regulation 29 of the *Local Government (Functions and General) Regulations 1996*.
- (5) 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—

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 Glass

Unless authorised by a licence or by the local government, a person must not take glass within any area of local government property as indicated by a sign.

4.7 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.

4.8 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.

4.9 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.

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) Subclause (1)(a) and (b) does not apply to a child, when accompanied by a parent, guardian or caregiver, where the child is—

- (a) under the age of eight 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;
- (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; or
- (g) plant any plant (except grasses or similar plant) within six metres of an intersection.

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) cause any obstruction to a water channel or a water course in a thoroughfare;
 - (c) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
 - (d) damage a thoroughfare;
 - (e) fell or damage any street tree;
 - (f) 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;
 - (g) throw, place or deposit any thing on a verge;
 - (h) cause any obstruction to a vehicle or a person using a thoroughfare;
 - (i) fell any tree onto a thoroughfare;
 - (j) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose;
 - (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) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare;
 - (n) carry on any trading on a thoroughfare;
 - (o) conduct or set up a market on a thoroughfare; or
 - (p) 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 2000 millimetres 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;
 - (c) subject to subclause (4), the installation of material which does 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 50 millimetres and contained within the verge area at all times; and
 - (d) any 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 1000 millimetres 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, gully, 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 of 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 one 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 and who has care and control of the animal.
- (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.

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 all other written law regulating 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 one square metre;
 - (ii) does not exceed 750 millimetres horizontally;
 - (iii) has a minimum height of 300 millimetres;
 - (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 five free standing event signs where each—
 - (i) does not exceed an area of one square metre;
 - (ii) does not exceed 750 millimetres horizontally;
 - (iii) has a minimum height of 300 millimetres; and
 - (iv) complies in all other respects with clauses 8.5, 8.6 and 8.8;
- (c) not more than five event signs requiring support where each—
 - (i) does not exceed an area of five square metres individually or an aggregate of 15 square metres;
 - (ii) has a maximum height of 1200 millimetres 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 1000 millimetres in width from the property boundary;
 - (ii) is placed against the property boundary, or if no adjoining business, does not exceed 5000 millimetres 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 be erected until the election to which it relates has been officially announced;
- (b) be removed within seven days of the close of polls; and
- (c) be placed at least 2.5 metres from the trafficable surface of a thoroughfare.

8.10 Conditions for trade displays

A trade display shall—

- (a) relate to the adjoining business activity;
- (b) be 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 local government;

- (b) be signed by the applicant;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the local government 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 be issued to the applicant in the form determined by the local government.
- (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 five 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 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 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 local government;
- (b) be signed by the licensee;
- (c) provide the information required by the form;
- (d) be forwarded to the local government no later than 28 days before the expiry of the licence, or within a shorter period that the local government 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 local government 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;
- (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 seven 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 two 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, consent, approval or authorisation.

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;
- (c) specify the work or action that is required to be undertaken; and
- (d) 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

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*.

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—MODIFIED PENALTIES

[cl. 13.2]

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 without a licence	100
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Item	Clause	Nature of offence	Modified penalty \$
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36	6.11(1)	Failure to obtain licence for a temporary crossover	200
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Dated 9 October 2018.

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

K. J. CHAPPEL, President.
C. P. M. LINNELL, Chief Executive Officer.

**WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
LOCAL GOVERNMENT ACT 1995**

SHIRE OF MORAWA

WASTE LOCAL LAW 2018

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WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
LOCAL GOVERNMENT ACT 1995

SHIRE OF MORAWA

WASTE LOCAL LAW 2018

Under the powers conferred by the *Waste Avoidance and Resource Recovery Act 2007* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Morawa resolved on 20 September 2018 to make the following local law.

PART 1—PRELIMINARY

1.1 Short title

This is the *Shire of Morawa Waste Local Law 2018*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

Part 4, Division 2, clauses 4.7 to 4.16 inclusive of the *Shire of Morawa Health Local Laws 2004* published in the *Government Gazette* on 14 September 2004 are repealed.

1.5 Meanings of terms in this local law

(1) In this local law—

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

collectable waste means local government waste that is not—

- (a) liquid refuse;
- (b) liquid waste; or
- (c) non-collectable waste;

collectable waste receptacle means a receptacle for the deposit and collection of collectable waste that is—

- (a) a recycling waste receptacle;
- (b) a general waste receptacle; or
- (c) an organic waste receptacle;

collection when used in relation to a receptacle, means the collection and removal of collectable waste from the receptacle by the local government or its contractor;

collection day means the day determined by the local government for the collection of collectable waste in the district or a part of the district;

collection time means the time on the collection day determined by the local government for the collection of collectable waste in the district or a part of the district;

costs of the local government include administrative costs;

Council means the council of the local government;

district means the district of the local government;

general waste receptacle means a receptacle for the deposit and collection of collectable waste that is not recycling waste;

LG Act means the *Local Government Act 1995*;

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

local government means the Shire of Morawa;

local government waste has the same meaning as in the WARR Act;

non-collectable waste has the meaning set out in Schedule 1;

occupier in relation to premises, means any or all of the following—

- (a) a person by whom or on whose behalf the premises are actually occupied; or
- (b) a person having the management or control of the premises;

organic waste means waste that decomposes readily, such as garden waste or food waste;

organic waste receptacle means a receptacle for the deposit and collection of organic waste;

owner has the same meaning as in the LG Act;

public place includes a place to which the public ordinarily have access, whether or not by payment of a fee;

receptacle means a receptacle—

- (a) that has been supplied for the use of the premises by the local government or its contractor, or which has otherwise been approved by the local government; and
- (b) the waste from which is collected and removed from the premises by the local government or its contractor;

recycling waste receptacle means a receptacle for the deposit and collection of recycling waste;

recycling waste means—

- (a) paper and cardboard;
- (b) plastic containers comprised of polyethylene terephthalate or high density polyethylene;
- (c) glass containers;
- (d) steel containers;
- (e) aluminium containers;
- (f) liquid paper board; and
- (g) any other waste determined by the local government to be recycling waste;

specified means specified by the local government or an authorised person, as the case may be;

street alignment means the boundary between the land comprising a street and the land that abuts the street;

WARR Act means the *Waste Avoidance and Resource Recovery Act 2007*;

waste has the same meaning as in the WARR Act;

waste facility means a waste facility, as defined in the WARR Act, that is operated by the local government; and

waste service has the same meaning as in the WARR Act.

(2) Where, in this local law, a duty or liability is imposed on an owner or occupier, or on an owner and occupier, the duty or liability is taken to be imposed jointly and severally on each of the owners or occupiers.

1.6 Local public notice of determinations

Where, under this local law, the local government has a power to determine a matter—

- (a) local public notice, under section 1.7 of the LG Act, must be given of the matter determined;
- (b) the determination becomes effective only after local public notice has been given;
- (c) the determination remains in force for the period of one year after the date that local public notice has been given under paragraph (a);
- (d) after the period referred to in paragraph (c), the determination continues in force only if, and for so long as, it is the subject of local public notice, given annually, under section 1.7 of the LG Act; and
- (e) the determination must be recorded in a publicly accessible register of determinations that must be maintained by the local government.

1.7 Rates, fees and charges

The local government's powers to impose rates, fees and charges in relation to waste services are set out in sections 66 to 68 of the WARR Act and section 6.16 and 6.17 of the LG Act.

1.8 Power to provide waste services

The local government's power to provide, or enter into a contract for the provision of, waste services is dealt with in section 50 of the WARR Act.

PART 2—LOCAL GOVERNMENT WASTE

2.1 Supply of receptacles

(1) The local government is to supply, for the use of each premises that are, or are capable of being, occupied or used for residential purposes, one or more receptacles for the collection and removal, from those premises, of collectable waste.

(2) The owner of premises to which subclause (1) applies must—

- (a) ensure that the fee or charge (if any) imposed by the local government in relation to each receptacle is paid to the local government; and
- (b) ensure that each receptacle is used, in respect of those premises, in accordance with this local law.

2.2 Deposit of waste in receptacles

- (1) An owner or occupier of premises must not deposit or permit to be deposited in a receptacle any non-collectable waste.
- (2) A person must not deposit waste in a receptacle that has been provided for the use of other premises without the consent of the owner or occupier of those premises.

2.3 General waste receptacles

- (1) An owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle—
 - (a) where the receptacle has a capacity of 240 litres—more than 70 kilograms of collectable waste; or
 - (b) where the receptacle has any other capacity—more than the weight determined by the local government.
- (2) Where the local government supplies recycling waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any recycling waste.
- (3) Where the local government supplies organic waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any organic waste.

2.4 Recycling waste receptacles

An owner or occupier of premises must not deposit or permit to be deposited in a recycling waste receptacle—

- (a) anything other than the particular type of recycling waste for which that receptacle was provided by the local government for those premises;
- (b) where the receptacle has a capacity of 240 litres—more than 70 kilograms of recycling waste; or
- (c) where the receptacle has any other capacity—more than the weight determined by the local government.

2.5 Organic waste receptacles

An owner or occupier of premises must not deposit or permit to be deposited in an organic waste receptacle—

- (a) anything other than the particular type of organic waste for which that receptacle was provided by the local government for those premises;
- (b) where the receptacle has a capacity of 240 litres—more than 70 kilograms of organic waste; or
- (c) where the receptacle has any other capacity—more than the weight determined by the local government.

2.6 Direction to place or remove a receptacle

- (1) The local government or an authorised person may give a written direction to an owner or occupier of specified premises—
 - (a) to place a receptacle in respect of those premises for collection; or
 - (b) to remove a receptacle in respect of those premises after collection.
- (2) The direction under subclause (1) may specify when the placement or removal is to occur, or where the receptacle is to be placed, or both.
- (3) An owner or occupier of premises must comply with a direction given under this clause.

2.7 Duties of owner or occupier

An owner or occupier of premises must—

- (a) except for a reasonable period before and after collection time, keep each receptacle in a storage space or area that is behind the street alignment;
- (b) take reasonable steps, if placing a receptacle for collection on the verge adjoining the premises, or other area as determined by the local government, to ensure that, within a reasonable period before collection time, each receptacle is—
 - (i) within one metre of the carriageway;
 - (ii) placed so that it does not unduly obstruct any footpath, cycle way, right-of-way or carriageway; and
 - (iii) facing squarely to the edge of and opening towards the carriageway,or in such other position as is approved in writing by the local government or an authorised person;
- (c) take reasonable steps to ensure that the premises are provided with an adequate number of receptacles; and
- (d) if the receptacle is lost, stolen, damaged or defective, notify the local government, as soon as practicable, after the event.

2.8 Exemption

- (1) An owner or occupier of premises may apply in writing to the local government for an exemption from compliance with the requirements of clause 2.7(a) or (b).

- (2) The local government or an authorised person may grant, with or without conditions, or refuse an application for exemption from compliance under this clause.
- (3) An exemption granted under this clause must state—
- the premises to which the exemption applies;
 - the period during which the exemption applies; and
 - any conditions imposed by the local government or the authorised person.
- (4) An exemption granted under this clause ceases to apply—
- if the local government decides, on reasonable grounds, that there has been a failure to comply with a condition of the exemption; and
 - from the date that the local government informs the owner or occupier of its decision under clause 2.8(4)(a).

2.9 Damaging or removing receptacles

A person, other than the local government or its contractor, must not—

- damage, destroy or interfere with a receptacle; or
- except as permitted by this local law or as authorised by the local government or an authorised person, remove a receptacle from any premises to which it was delivered by the local government or its contractor.

2.10 Verge collections

- (1) Where the local government has advertised a verge waste collection (such as a green waste, or a bulk waste, verge collection) a person, unless with and in accordance with the approval of the local government or an authorised person—
- must deposit waste only during the period of time, and in accordance with other terms and conditions, as advertised by the local government in relation to that verge waste collection; and
 - must otherwise comply with those terms and conditions.
- (2) Where waste has been deposited on a verge for a verge waste collection, a person must not remove any of that waste for a commercial purpose but may remove it for any other purpose.
- (3) Except where waste is lawfully removed from a verge under this clause, a person must not disassemble or tamper with any waste deposited on a verge for a verge waste collection so as to increase the risk of harm to any person.
- (4) Clause 2.10(2) does not apply to the local government or a person engaged or contracted by the local government in relation to the verge waste collection.

PART 3—GENERAL DUTIES

3.1 Duties of an owner or occupier

An owner or occupier of premises must—

- take all reasonable steps to ensure that an adequate number of receptacles are provided to contain all waste which accumulates or may accumulate in or from the premises;
- ensure that each receptacle is kept in good condition and repair;
- take all reasonable steps to—
 - prevent fly breeding and keep each receptacle free of flies, maggots, cockroaches, rodents and other vectors of disease;
 - prevent the emission of offensive or noxious odours from each receptacle; and
 - ensure that each receptacle does not cause a nuisance to an occupier of adjoining premises; and
- whenever directed to do so by the local government or an authorised person, thoroughly clean, disinfect, deodorise and apply a residual insecticide to each receptacle.

3.2 Removal of waste from premises

- (1) A person must not remove any waste from premises unless that person is—
- the owner or occupier of the premises;
 - authorised to do so by the owner or occupier of the premises; or
 - authorised in writing to do so by the local government or an authorised person.
- (2) A person must not remove any waste from a receptacle without the approval of—
- the local government or an authorised person; or
 - the owner or occupier of the premises at which the receptacle is ordinarily kept.

3.3 Receptacles and containers for public use

A person must not, without the approval of the local government or an authorised person—

- deposit household, commercial or other waste from any premises on or into; or
- remove any waste from,

a receptacle provided for the use of the general public in a public place.

3.4 Waste control on building sites

(1) In this clause—

building work means—

- (a) building work for which a building permit is required under the *Building Act 2011*; and
- (b) demolition work for which a demolition permit is required under the *Building Act 2011*;

building work waste means all waste from building work that is capable of being windblown; and

receptacle means a receptacle the waste from which is collected and removed otherwise than by the local government or its contractor.

(2) A person must not allow, commence or continue any building work on premises unless, at all times while the building work is being undertaken—

- (a) there is located on the premises, as close as practicable to the building work a receptacle with adequate capacity, or as otherwise approved by the local government, suitable for the collection and disposal of building work waste;
- (b) building work waste is deposited and kept in the receptacle; and
- (c) the lid of the receptacle is kept closed except when waste is being deposited in the receptacle.

(3) The owner or occupier of the premises shall ensure that within two days of completion of works on the site—

- (a) the site and the thoroughfare verge immediately adjacent to it is cleared of all refuse generated or originating from the building or development site; and
- (b) that all refuse receptacles are permanently removed from the site.

PART 4—OPERATION OF WASTE FACILITIES

4.1 Operation of this Part

This Part applies to a person who enters a waste facility.

4.2 Hours of operation

The local government may from time to time determine the hours of operation of a waste facility.

4.3 Signs and directions

(1) The local government or an authorised person may regulate the use of a waste facility—

- (a) by means of a sign; or
- (b) by giving a direction to a person within a waste facility.

(2) A person within a waste facility must comply with a sign or direction under subclause (1).

(3) The local government or an authorised person may direct a person who commits, or is reasonably suspected by the local government or the authorised person of having committed, an offence under this clause to leave the waste facility immediately.

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

4.4 Fees and charges

(1) Unless subclause (3) applies, a person must, on or before entering a waste facility or on demand by the local government or an authorised person, pay the fee or charge as assessed by an authorised person.

(2) An authorised person may assess the fee or charge in respect of a particular load of waste at a rate that applies to any part of that load, even if that rate is higher than the rate that would apply to any other part of the load.

(3) Subclause (1) does not apply—

- (a) to a person who disposes of waste in accordance with the terms of—
 - (i) a credit arrangement with the local government; or
 - (ii) any other arrangement with the local government to pay the fee or charge at a different time or in a different manner; and
- (b) to the deposit of waste owned by the local government, or in the possession of an employee on behalf of the local government.

4.5 Depositing waste

(1) A person must not deposit waste at a waste facility other than—

- (a) at a location determined by a sign and in accordance with the sign; and
- (b) in accordance with the direction of an authorised person.

(2) The local government may determine the classification of any waste that may be deposited at a waste facility.

4.6 Prohibited activities

(1) Unless authorised by the local government, a person must not—

- (a) remove any waste or any other thing from a waste facility;
- (b) deposit at a waste facility that is a landfill site any waste that is toxic, poisonous or hazardous, or the depositing of which is regulated or prohibited by any written law;

- (c) light a fire in a waste facility;
 - (d) remove, damage or otherwise interfere with any flora in a waste facility;
 - (e) remove, injure or otherwise interfere with any fauna in a waste facility; or
 - (f) damage, deface or destroy any building, equipment, plant or property within a waste facility.
- (2) A person must not act in an abusive or threatening manner towards any person using, or engaged in the management or operation of, a waste facility.

PART 5—OBJECTIONS AND APPEALS

5.1 Objection and appeal rights

Division 1 of Part 9 of the *Local Government Act 1995* applies to a decision under this local law to grant, vary or cancel—

- (a) an approval under clause 2.7(b);
- (b) an exemption under clause 2.8(2);
- (c) an authorisation under clause 2.9(b);
- (d) an approval under clause 2.10(1);
- (e) an authorisation under clause 3.2(1)(c);
- (f) an approval under clause 3.2(2); and
- (g) an approval under clause 3.3.

PART 6—ENFORCEMENT

6.1 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 a 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 a further penalty not exceeding \$500 in respect of each day or part of a day during which the offence has continued.

6.2 Other costs and expenses

- (1) A person who is convicted of an offence under this local law is to be liable, in addition to any penalty imposed under clause 6.1, to pay to the local government the costs and expenses incurred by the local government in taking remedial action such as—
- (a) removing and lawfully disposing of toxic, hazardous or poisonous waste; or
 - (b) making good any damage caused to a waste facility.
- (2) The costs and expenses incurred by the local government are to be recoverable, as a debt due to the local government, in a court of competent civil jurisdiction.

6.3 Prescribed offences

- (1) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 9.16(1) of the LG Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 2.

6.4 Form of notices

- (1) Where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the LG Act is that of Form 1 in Schedule 1 of the LG Regulations.
- (2) The form of the infringement notice given under section 9.16 of the LG Act is that of Form 2 in Schedule 1 of the LG Regulations.
- (3) The form of the infringement withdrawal notice given under section 9.20 of the LG Act is that of Form 3 in Schedule 1 of the LG Regulations.

SCHEDULE 1—MEANING OF ‘NON-COLLECTABLE WASTE’

(Clause 1.5(1))

non-collectable waste means—

- (a) hot or burning material;
- (b) household hazardous waste, including paint, acids, alkalis, fire extinguishers, solvents, pesticides, oils, gas cylinders, batteries, chemicals and heavy metals;
- (c) any other hazardous material, such as radioactive waste;
- (d) any explosive material, such as flares or ammunition;
- (e) electrical and electronic equipment;
- (f) hospital, medical, veterinary, laboratory or pathological substances;
- (g) construction or demolition waste;
- (h) sewage;

- (i) 'controlled waste' for the purposes of the *Environmental Protection (Controlled Waste) Regulations 2004*;
- (j) any object that is greater in length, width, or breadth than the corresponding dimension of the receptacle or that will not allow the lid of the receptacle to be tightly closed;
- (k) waste that is or is likely to become offensive or a nuisance, or give off an offensive or noxious odour, or to attract flies or cause fly breeding unless it is first wrapped in non-absorbent or impervious material or placed in a sealed impervious and leak-proof container; and
- (l) any other waste determined by the local government to be non-collectable waste.

SCHEDULE 2—PRESCRIBED OFFENCES

(Clause 6.3)

Item No.	Clause No.	Description	Modified Penalty (\$)
1	2.1(2)(a)	Failing to pay fee or charge	100
2	2.1(2)(b)	Failing to ensure lawful use of receptacle	100
3	2.2(1)	Depositing non-collectable waste in a receptacle	100
4	2.2(2)	Depositing waste in another receptacle without consent	100
5	2.3(1)	Exceeding weight capacity of a general waste receptacle	100
6	2.3(2) and (3)	Depositing unauthorised waste in a general waste receptacle	100
7	2.4(a)	Depositing unauthorised waste in a recycling waste receptacle	100
8	2.4(b) and (c)	Exceeding weight capacity of a recycling waste receptacle	100
9	2.5(a)	Depositing unauthorised waste in an organic waste receptacle	100
10	2.5(b) and (c)	Exceeding weight capacity of an organic waste receptacle	100
11	2.6(3)	Failing to comply with a direction concerning placement or removal of a receptacle	100
12	2.7(a)	Failing to keep a receptacle in the required location	100
13	2.7(b)	Failing to place a receptacle for collection in a lawful position	100
14	2.7(c)	Failing to provide an adequate number of receptacles	200
15	2.7(d)	Failing to notify of a lost, stolen, damaged or defective receptacle	100
16	2.9(a)	Damaging, destroying or interfering with a receptacle	200
17	2.9(b)	Removing a receptacle from premises without permission or authorisation	100
18	2.10(1)	Failing to comply with a term or condition of verge waste collection	100
19	2.10(2)	Removing waste from a verge waste collection for commercial purposes	200
20	2.10(3)	Disassembling or tampering with waste deposited for collection	200
21	3.1(a)	Failing to provide an adequate number of receptacles	100
22	3.1(b)	Failing to keep a receptacle in a good condition and repair	100
23	3.1(c)(i)	Failing to prevent fly breeding and vectors of disease in a receptacle	200
24	3.1(c)(ii)	Failing to prevent the emission of offensive or noxious odours from a receptacle	100
25	3.1(c)(iii)	Allowing a receptacle to cause a nuisance	200
26	3.1(d)	Failing to comply with a direction to clean, disinfect or deodorise receptacle	100
27	3.2(1)	Unauthorised removal of waste from premises	100
28	3.2(2)	Removing waste from a receptacle without approval	100
29	3.3	Depositing household, commercial or other waste into, or removing waste from, a receptacle provided for the use of the general public in a public place without approval	100
30	3.4(2)(a)	Failing to have a suitable receptacle for building work waste	200
31	3.4(2)(b)	Failing to keep building work waste in a receptacle	200
32	3.4(3)(a)	Failure to clear from the building or development site or verge, all refuse generated or originating on the site	200

Item No.	Clause No.	Description	Modified Penalty (\$)
33	3.4(3)(b)	Failure to remove building or demolition refuse receptacle within two days	200
34	4.3(2)	Failing to comply with a sign or direction	100
35	4.3(4)	Failing to comply with a direction to leave	100
36	4.4(1)	Disposing waste without payment of fee or charge	100
37	4.5(1)	Depositing waste contrary to sign or direction	100
38	4.6(1)(a)	Removing waste without authority in a waste facility	200
39	4.6(1)(b)	Depositing toxic, poisonous or hazardous waste at a waste facility	200
40	4.6(1)(c)	Lighting a fire in a waste facility	200
41	4.6(1)(d)	Removing or interfering with any flora in a waste facility	200
42	4.6(1)(e)	Removing or interfering with any fauna without approval in a waste facility	200
43	4.6(1)(f)	Damaging, defacing or destroying any building, equipment, plant or property within a waste facility	200
44	4.6(2)	Acting in an abusive or threatening manner	200

Dated 25 October 2018.

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

K. J. CHAPPEL, President.
C. P. M. LINNELL, Chief Executive Officer.

Consented to—

MIKE ROWE, Chief Executive Officer,
Department of Water and Environmental Regulation.

Dated 3 September 2018.
