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SHIRE OF NORTHAM

CAT ACT 2011
LOCAL GOVERNMENT ACT 1995

CAT LOCAL LAW 2019

LOCAL GOVERNMENT ACT 1995

FENCING LOCAL LAW 2019

LOCAL GOVERNMENT ACT 1995

PARKING LOCAL LAW 2019

**CAT ACT 2011
LOCAL GOVERNMENT ACT 1995**

SHIRE OF NORTHAM

CAT LOCAL LAW 2019

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**CAT ACT 2011
LOCAL GOVERNMENT ACT 1995**

SHIRE OF NORTHAM

CAT LOCAL LAW 2019

Under the powers conferred by the *Cat Act 2011* and *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Northam resolved on 16 October 2019 to make the following local law.

PART 1—PRELIMINARY

1.1 Title

This local law may be cited as the *Shire of Northam Cat Local Law 2019*.

1.2 Commencement

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

1.3 Repeal

(1) The *Shire of Northam Keeping and Control of Cats Local Law 2008* published in the *Government Gazette* on 16 September 2008 and all amendments thereto are hereby repealed on the day this local law comes into operation.

(2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.

(3) The local government may resolve that notwithstanding subclause (2), specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

1.4 Application

This local law applies throughout the District.

1.5 Interpretation

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

Act means the *Cat Act 2011*;

animal establishment has the meaning given to the term in the Local Planning Scheme;

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

application means an application for approval granted under this local law;

approved person means the person to whom an approval is granted under this local law;

approved cattery means any premises which are the subject of a valid planning approval under a Scheme or which is a non-conforming use that may continue under a Scheme;

Authorised Person means a person authorised by the local government under section 9.10 of the *Local Government Act 1995* to perform any of the functions of an Authorised Person under this local law;

cat means an animal of the species *felis catus* or a hybrid of that species;

Cat Management Facility means running/operating a business for boarding cats for monetary gain as per the Act.

cattery means any premises where more than 4 cats are boarded, housed or trained temporarily, usually for profit, or the personal use of numerous cats,

CEO means the Chief Executive Officer of the Shire of Northam;

Council means the Council of the Shire of Northam;

district means the district of the local government;

infringement notice means the notice referred to in clause 6.3;

infringement withdrawal notice means the notice referred to in clause 6.3;

keeper in relation to a cat means each of the following—

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

licence means a Cat Management Facility licence issued under this local law;

licensee means the holder of a licence issued under this local law;

LG Act means the *Local Government Act 1995*;

local government means the Shire of Northam;

local planning scheme means a local planning scheme of the local government under the *Planning and Development Act 2005*, or a local planning scheme which was made under the *Planning and Development (Local Planning Schemes) Regulations 2015*;

nuisance means—

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

premises, in addition to the meaning given to it in section 3 of the Act, means the premises described in the application to be licensed as a Cat Management Facility;

person means any person, company, public body, association or body of persons corporate or unincorporated and includes an owner, occupier, licensee and permit holder, but does not include the local government;

Regulations means the *Cat Regulations 2012*;

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

Schedule means a Schedule to this local law;

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

vermin means rats, mice, flies, fleas, mites, 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; and

written law has the same meaning given to it by section 5 of the *Interpretation Act 1984* and includes this local law.

(2) A term that is used in this local law and is not defined in subclause (1) has the same meaning given to it in the Act or, if not defined in the Act, the same meaning given to it in the *Cat Regulations 2012*, the *Cat (Uniform Local Provisions) Regulations 2013* or the *Local Government Act 1995*.

PART 2—NUMBER OF CATS THAT MAY BE KEPT

2.1 Interpretation

For the purposes of applying this Part, a cat does not include a cat less than 6 months old.

2.2 Standard number of cats

Subject to clause 2.3 and the *Cat (Uniform Local Provisions) Regulations 2013*, no more than two cats may be kept on premises at which a member of a cat organisation is not ordinarily resident.

2.3 Cats to which an approval is required

(1) Subject to subclause (2) and the *Cat (Uniform Local Provisions) Regulations 2013* a person is required to have an approval—

- (a) to keep more than two cats on any premises; or
- (b) to use any premises as a cattery.

(2) An approval is not required under subclause (1) if the premises concerned are—

- (a) a refuge of the RSPCA;
- (b) a cat management facility which has been approved by the local government;
- (c) a veterinary surgery.

2.4 Application for approval

(1) An application for approval to keep an additional number of cats at prescribed premises is dealt with in regulation 8 of the *Cat (Uniform Local Provisions) Regulations 2013*; and

(2) An application for approval must be accompanied by the application fee determined by the local government from time to time.

2.5 Determining an application

- (1) For the purposes of determining whether to grant approval for an application to keep an additional number of cats at prescribed premises, the local government must have regard to—
- (a) the suitability of the zoning of the premises under the local planning scheme which applies to the premises for the use;
 - (b) the physical suitability of the premises for the proposed use;
 - (c) the environmental sensitivity and general nature of the location surrounding the premises for the proposed use;
 - (d) the structural suitability of any enclosure in which any cat is to be kept;
 - (e) the likelihood of a cat causing a nuisance, inconvenience or annoyance to an occupier of adjoining land;
 - (f) the likely effect on the amenity of the surrounding area of the proposed use;
 - (g) the likely effect on the local environment including any pollution or other environmental damage, which may be caused by the proposed use;
 - (h) any other factors which the local government considers to be relevant in the circumstances of the application; and
 - (i) any submissions received under subclause (2) within the time specified in subclause (2).
- (2) The local government may—
- (a) consult with adjoining landowners; and
 - (b) advise the adjoining landowners that they may make submissions to the local government on the application for the approval within 14 days of receiving that advice, before determining the application for the permit.
- (3) The local government may—
- (a) approve an application for a permit in which case it shall approve it subject to the conditions in clause 2.6 and may approve it subject to any other conditions it considers fit; or
 - (b) refuse to approve the application for an approval.
- (4) If the local government approves an application under subclause (3), then it shall issue to the applicant an approval in the form determined by the CEO.
- (5) If the local government refuses to approve an application under subclause (3), then it is to advise the applicant accordingly in writing.

2.6 Conditions

- (1) For the purpose of ensuring that the premises to which an application relates are suitable for the additional number of cats, the local government may impose any condition that it considers to be reasonably necessary for that purpose, including—
- (a) that each cat on the premises to which the approval relates shall be registered under the Act;
 - (b) that the premises shall be maintained in good order and in a clean and sanitary condition;
 - (c) that the premises must have adequate enclosures;
 - (d) that there must be adequate space for the exercise of the cats;
 - (e) that, in the case of multiple dwellings where there is no suitable dividing fence, each current occupier of the adjoining multiple dwellings must give their written consent to the approval; and
 - (f) that, without the consent of the local government, the approved person must not substitute or replace any cat that dies or is permanently removed from the premises.
- (2) A person who does not comply with a condition of the approval, commits an offence.

2.7 Renewal of an application

- (1) An application is to be renewed if—
- (a) the approved person has not breached the conditions of the approval;
 - (b) the approval would have been granted if a fresh application for an approval had been made; and
 - (c) the renewal fee is paid in full, imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.
- (2) On the renewal of an approval, the conditions of the approval that applied immediately before the renewal continue to have effect.

2.8 Transfer of an approval

- (1) An approval relates only to the premises specified in the approval, and only to the approved person specified in the approval, and is transferrable only in accordance with clause 4.12.
- (2) An application for the transfer of an approval from the approved person to another person must be—
- (a) made in the form determined by the CEO;
 - (b) made by the proposed transferee;
 - (c) made with the consent of the approved person; and

- (d) lodged with the local government together with the fee for the application for the transfer of an approval that is imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

2.9 Variation or cancellation of an approval

- (1) The local government may, at any time, vary the conditions of an approval by giving written notice to the approved person and specifying the date on which the changes will become effective.
- (2) The local government may cancel an approval—
- on the request of the approved person;
 - if the approved person breaches the Act, the Regulations, the *Cat (Uniform Local Provisions) Regulations 2013* or this local law; or
 - if the approved person is not a fit and proper person to provide for the health and welfare of the cats.
- (3) If an approval is cancelled, the fee paid for the approval is not refundable for the term of the approval that has not yet expired.

PART 3—CONTROL OF CATS

3.1 Cat nuisance

The owner or occupier of premises on which a cat is ordinarily kept must take reasonable measures to prevent the cat from creating a nuisance on other premises, to another person or exposing another person to health and/or safety risk.

3.2 Cats in other places

- (1) A cat shall not be in a public place unless the cat is, in the opinion of an Authorised Person, under effective control.
- (2) If a cat is at any time in contravention of clause 3.2(1)—
- the keeper of the cat commits an offence; and
 - an Authorised Person may seize and impound the cat and deal with the cat pursuant to the Act.
- (3) A cat shall not be in a place that is not a public place unless—
- consent to its being there has been given by the occupier, or a person apparently authorised to consent on behalf of the occupier; and
 - it is under effective control.
- (4) If a cat is at any time, in a place in contravention of the *Shire of Northam Cat Local Law 2019*—
- The keeper of the cat commits an offence; and
 - In any premises lawfully entered by an Authorised Person, they may seize and impound the cat and deal with the cat pursuant to the Act.

3.3 Cleanliness

The owner or occupier of premises where a cat or cats are kept must take reasonable measures to—

- keep the premises free from excrement, filth, food waste and all other matter that is likely to become offensive or injurious to health or to attract vermin;
- when so directed by an Authorised Person, clean and disinfect the premises; and
- keep the premises, so far as possible, free of flies and when directed by an Authorised Person, spray the premises with a residual insecticide or use any other effective means to kill and repel flies.

PART 4—DESIGNATED CAT MANAGEMENT FACILITIES

4.1 Operating a Cat Management Facility without a licence

Unless exempt as an organisation listed in the Regulations, a person who operates a premises as a Cat Management Facility within the District without a licence commits an offence.

4.2 Application for a licence to be designated as a Cat Management Facility

An application for a licence must be made in the form of that in Schedule 1, and must be lodged with the local government together with—

- plans and specifications of the premises, including a site plan;
- proposed details of how the facility will be kept secure;
- written evidence that either the applicant or another person who will have the charge of the cats, will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the cats and ensure their health and welfare;
- a written acknowledgement that the applicant has read and agrees to comply with any code of practise relating to the keeping of cats which may be nominated from time to time by the local government; and
- the fee for the application for a licence referred to in clause 4.7(1).

4.3 Determination of an application

In determining an application to be designated as a Cat Management Facility, the local government is to have regard to—

- (a) the matters referred to in clause 4.4;
- (b) any written submissions received on the proposed use of the premises;
- (c) the effect which the Cat Management Facility may have on the environment or amenity of the neighbourhood;
- (d) whether the Cat Management Facility will create a nuisance for the owners and occupiers of adjoining premises; and
- (e) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the Cat Management Facility identified in the preceding paragraphs.

4.4 Where applications cannot be approved

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

- (a) the facility is proposed to be located in an area where an animal establishment is not a permitted use under the Local Planning Scheme; or
- (b) an applicant or another person who will have the charge of the cats will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the cats and so as to ensure their health and welfare.

4.5 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.

(3) Operators of a Cat Management Facility must comply with their obligations as specified in Division 3 of Part 3 of the Act.

4.6 Compliance with conditions of approval

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

4.7 Fees

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

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

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

(4) The fees referred to in subclause (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*.

4.8 Exemption from requirement to pay fees

(1) In this clause—

charitable organisation means—

An institution, association, club, society or body whether incorporated or not—

- (i) where its objectives are charitable, benevolent, educational, or other like nature concerned with the welfare of cats; and
- (ii) from which any members does not receive any pecuniary profit.

(2) The local government may waive any fee required to be paid by the applicant for a licence, or the fee for the renewal of a licence by a charitable organisation.

4.9 Form of licence

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

4.10 Period of licence

(1) The period of effect of a licence is 12 months from the date of issue.

(2) A licence is to be renewed if the fee referred to in clause 4.7(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 and that variation will come into effect seven (7) days after the notice date.

(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, in the local government's opinion, the licensee is not a fit and proper person to hold a licence.

- (3) The date a licence is cancelled is to be, in the case of—
- (a) paragraph (a) of subclause (2), the date requested by the licensee; or
 - (b) paragraphs (b) and (c) of subclause (2), the date determined by an Authorised Person.
- (4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.12 Transfer

- (1) An application for the transfer of a valid licence from the licensee to another person must be—
- (a) made in the form determined by the local government;
 - (b) made by the transferee;
 - (c) made with the written consent of the licensee; and
 - (d) lodged with the local government together with—
 - (i) written evidence that a person to whom the licence is proposed to be transferred will reside at or within reasonably close to the proximity to the premises subject to the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.7(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of the approval, unless otherwise specified in the notice issued under subclause 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 paragraphs (b) or (c) of clause 4.11(2).

4.14 Inspection of Cat Management Facility

Subject to the provisions of the power to enter premises within the Act, an authorised person may inspect an approved Cat Management Facility.

4.15 Record Keeping

All designated Cat Management Facilities are required to keep and maintain a register of all cats entering and leaving the facility, and where entry to the premises has been made under clause 4.14, an Authorised Person may inspect the register.

PART 5—MISCELLANEOUS

Division 1—General

5.1 Pound

The local government may establish and maintain a pound or pounds for the impounding of a cat seized pursuant to the provisions of the Act or this local law.

5.2 Pound Fees

The fees and charges in relation to the seizure, impounding and maintenance of a cat and the maintenance thereof in a pound payable under the Act, are those approved by the local government from time to time.

5.3 Fees and Charges

All fees and charges applicable under this local law must be as determined by the local government from time to time in accordance with sections 6.16 to 6.19 of the Act.

5.4 False or Misleading Statement

A person must not make a false or misleading statement in connection with any application, requirement or demand under this local law.

5.5 Serving of Infringement Notices

An infringement notice served under section 62 of the Act or this local law may be given to a person—

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

5.6 Offence to fail to comply with notice

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

5.7 Local government may undertake requirements of notice

(1) Where a person fails to comply with a notice referred to in clause 5.5, the local government 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.

(2) Notwithstanding subclause (1) any entry into private property is subject to the Act.

*Division 2—Right of Appeal and Review***5.8 Appeal and review rights**

When the local government makes a decision as to whether it will—

- (a) grant a person a permit, or licence under this local law; or
- (b) renew, vary, transfer or cancel a permit or licence that a person has under this local law, the provisions of Division 1 of Part 9 of the Act and regulations 33 of the *Local Government (Functions and General) Regulations 1996* apply to that decision; or
- (c) give a person a notice,

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

PART 6—ENFORCEMENT**6.1 Offences and Penalties**

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

(2) Any person who commits an offence under this local law is to be liable, upon conviction, to a penalty not less than \$1000 and 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.

6.2 Modified Penalties and Offence Description

(1) An offence against any provision of this local law is a prescribed offence for the purposes of section 62 of the Act.

(2) The amount of the modified penalty for a prescribed offence is the amount specified in the fourth column of Schedule 4.

6.3 Form of notices

For the purposes of this local law—

- (a) the form of the infringement notice referred to in section 9.13 of the Act is to be in the form of Form 1 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (b) the form of the notice referred to in section 9.17 of the Act is to be in the form of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (c) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (d) the issue of infringement notices, their withdrawal and the payment of modified penalties are dealt with in Division 4 of Part 4 of the Act;
- (e) an infringement notice given under the Act is to be in the form of Form 6 of Schedule 1 of the Regulations; and
- (f) a notice sent under the Act withdrawing an infringement notice is to be in the form of Form 7 of Schedule 1 of the Regulations.

**SCHEDULE 1—APPLICATION FOR A LICENCE FOR A DESIGNATED
CAT MANAGEMENT FACILITY**

[clause 4.2]

APPLICANT/S DETAILS

Name of Applicant/s (in full).....

Residential Address

..... (Suburb) Post Code.....

Postal Address (if different from above)

.....

Telephone (Home)..... (Work)..... (Mobile).....

Email

Fax

CAT MANAGEMENT FACILITY DETAILS

I/ We apply for a licence for a designated cat management facility at:

Address of premises

.....

..... (Suburb) Post Code.....

For number of cats

Person will reside (tick appropriate box) *evidence to be provided —

- at the premises
- sufficiently close to the premises so as to control the cats and so as to ensure their health and welfare

Name of person (if not applicant/s)

Address of residence (if not residing at the premises)

.....

.....

Prior to approval the following must be attached—

- (a) a site plan of the premises showing the location of the cages and runs and all other building and structures and fences;
- (b) plans and specifications of the Cat Management Facility;
- (c) proposed details of how the facility will be kept secure;
- (d) evidence that a person will reside—
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the cats and so as to ensure their health and welfare; and
 - (iii) if the person in item (d) is not the applicant, evidence that the person is a person in charge of the cats.

Signature of applicant.....

Date.....

Note: A licence, if issued, will have effect for a period of 12 months, effective from the date of issue unless and until it is revoked or it is determined by the local government non-compliance with the conditions of the *Shire of Northam Cat Local Law 2019* justifies this.

APPLICATION FEE

Cat Management Facility Establishment Fee \$200.00

OFFICE USE ONLY

Application No. Date...../...../.....

Receipt No.

Amount Paid.....

Cashier

**SCHEDULE 2—MINIMUM CONDITIONS OF A DESIGNATED
CAT MANAGEMENT FACILITY**

[clause 4.5(1)]

An application for a licence within the District may be approved subject to the following conditions—

1. Cat Management Facility Building, Fixtures, Equipment and Appliances

1.1 All building enclosures must be structurally sound, have impervious flooring, be well lit and ventilated and otherwise comply with all legislative requirements;

- 1.2 The Cat Management Facility must have a feed room, wash area, isolation cages and maternity section;
- 1.3 Materials used in structures are to be approved by the local government. The internal surfaces of walls are, where possible, to be smooth, free from cracks, crevices and other defects;
- 1.4 All fixtures, fittings and appliances are to be capable of being easily cleaned, resistant to corrosion and constructed to prevent the harbourage of vermin;
- 1.5 A wash hand basin with the minimum of piped cold water is to be provided in the building;
- 1.6 A Cat Management Facility must have a secure area where cats are housed and can exercise and must be at a distance of not less than 10 metres from the front boundary of the premises and 5 metres from any other boundary of the premises;
- 1.7 A Cat Management Facility must have adequate measures in place to minimise the risk of unauthorised entry into the facility;
- 1.8 Where floor washing is required, washings must pass through the drains and must be piped to an approved apparatus for the treatment of sewage (as specified by the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*) and in accordance with the health requirements of the local government;
- 1.9 All external surfaces of each Cat Management Facility must be impervious and kept in good condition;
- 1.10 A Cat Management Facility must have sufficient ventilation to keep animal housing areas free of dampness, noxious odours and draughts, and prevent accumulation or concentrations of gases;
- 1.11 A Cat Management Facility should supply fresh air, or if the animals are housed in a totally enclosed area where forced ventilation is the only form of air movement, there should be adequate air exchange rate;
- 1.12 The Cat Management Facility is to be located away from sources of excessive noise or pollution, and draughts that could cause injury or stress to animals;
- 1.13 Natural lighting or lighting that duplicates the characteristics of natural light including a simulated day/ night period;
- 1.14 All cages and outdoor enclosures are to have adequate shelter in the form of a roof constructed of impervious material;
- 1.15 Must have a mix of cages to provide for individual housing where required and cages or modules constructed of impervious, washable materials;
- 1.16 All cages, outdoor enclosures and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected. If in the opinion of an Authorised Person, the cage or vessel requires cleaning, an order may be given by the Authorised Person.

2. Cat Management Facility Operations and Maintenance

- 2.1 Enclosures are to be thoroughly cleaned each day and disinfected at least once a week to minimise disease;
- 2.2 All refuse, faeces and food waste must be disposed of daily to the satisfaction of an Authorised Person;
- 2.3 Noise, odours, vermin, fleas, flies and other vectors of disease must be effectively controlled.
- 2.4 Suitable water both for cleaning and drinking must be available at the Cat Management Facility;
- 2.5 The maximum number of cats to be kept on the premises stated on the licence is not to be exceeded;
- 2.6 An entry book is to be kept recording in respect of each cat the—
 - (a) date of admission;
 - (b) date of departure;
 - (c) breed, age, colour and sex; and
 - (d) the name and residential address of the keeper;
- 2.7 The entry book is to be made available for inspection on the request of an Authorised Person; and
- 2.8 The licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside—
 - (a) at the premises; or
 - (b) in the opinion of the local government, sufficiently close to the premises so as to control the cats, and to ensure their health and welfare.

3. Cat Management Facility Additional conditions

- 3.1 Any other matter which in the opinion of the local government is deemed necessary for the health and well-being of any cat, or person, or adjoining premises or the amenity of the area (or any part thereof).

SCHEDULE 3—OFFENCES AND MODIFIED PENALTIES

[Clause 6.2]

Item No.	Clause No.	Nature of offence	Modified Penalty \$
1.	2.3(1)(a)	Keeping more than 2 cats over the age of 6 months on a premises without an approval	200
2.	2.3(1)(b)	Using a premises as a cattery without an approval	200
3.	2.6	Failing to comply with conditions of an application for additional cats	200
4.	3.1	Failing to take all reasonable measures to prevent a cat creating a nuisance	200
5.	3.2(2)	If a cat is at any time in a place in contravention of clause 3.2(1)	200
	3.2(3)(a) (b)	A cat shall not be in a place that is not a public place unless— (a) consent to its being there has been given by the occupier, or a person apparently authorised to consent on behalf of the occupier; and (b) it is under effective control.	200
	3.2(4)	If a cat is at any time in a place in contravention of any of the <i>Shire of Northam Cat Local law 2019</i>	200
6.	3.3(a)	Failing to keep premises free of excrement, filth, food waste and other matter likely to be offensive or injurious to health or attract vermin.	200
7.	3.3(b)	Failing to clean and disinfect premises when directed by an Authorised Person	200
8.	3.3(c)	Failing to keep premises free of flies or when directed by an Authorised Person spray premises with residual insecticide or other means to kill or repel flies	200
9.	4.1	Operating a Cat Management Facility without a licence	500
10.	4.6	Failing to comply with conditions imposed by the local government	200
11.	5.5	Failing to comply with a notice issued under this local law	500
12.	6.1	All other offences not specified	200

Dated this 22nd day of October 2019.

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

CHRISTOPHER ANTONIO, President.
JASON WHITEAKER, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAM

FENCING LOCAL LAW 2019

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LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAM

FENCING LOCAL LAW 2019

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Northam resolved on 16 October 2019 to make the following local law.

PART 1—PRELIMINARY**1.1 Title**

This local law may be cited as the *Shire of Northam Fencing Local Law 2019*.

1.2 Commencement

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

1.3 Repeal

The *Shire of Northam Fencing Local Law 2008* published in the *Government Gazette* on 16 September 2008 and all amendments thereto are hereby repealed on the day this local law comes into operation.

1.4 Application

This local law applies throughout the district.

1.5 Interpretation

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

Act means the *Local Government Act 1995*;

AS/NZS means an Australian Standard published by the Standards Association of Australia and as amended from time to time;

Authorised Person means a person authorised by the local government under section 9.10 of the *Local Government Act 1995* to carry out functions with respect to this local law;

boundary fence means a fence, other than a dividing fence, that separates the lands of different owners whether the fence is on the common boundary of adjoining lands or on a line other than a common boundary;

building permit means a building permit issued pursuant to the *Building Act 2011*;

CEO means the Chief Executive Officer of the Shire of Northam;

commercial lot means a lot where a commercial use—

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

dangerous in relation to any fence means—

- (a) an electrified fence other than a fence in respect of which a permit under Part 5 of this local law has been issued and is current;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

district means the district of the local government;

dividing fence means a fence that separates the lands of different owners whether the fence is on the common boundary of adjoining lands or on a line other than the common boundary;

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

electrified fence permit means a permit, in the form of the Second Schedule, to have and use an electrified fence on the lot to which the permit applies;

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

estate entry statement means a fence or wall that identifies the entrance of an estate, and includes any sign (indicating the estate name and locality) sculpture, flagpole or flag;

estate fence means an estate entry statement or an estate boundary fence;

fence means any structure, that is used or functioning as a barrier, irrespective of where it is located and includes a gate that separates the road reserve and a lot adjacent to the road reserve;

front boundary means the boundary that separates a thoroughfare and the front of the lot;

front setback means the horizontal distance between the front boundary and a wall of the building measured at right angle to the front boundary;

height in relation to a fence means the vertical distance between—

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

industrial lot means a lot where an industrial use—

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

land includes a house, building, work, or structure, in or on the land;

local government means the Shire of Northam;

lot means a defined portion of land for which a separate certificate of title has been issued and includes a strata lot;

natural ground level, in relation to a development, means—

- (a) the level approved, for the purposes of the development, by the local government, under a local planning scheme; or
- (b) in any other case, the level which existed immediately before the commencement of the development, (including any site works);

non-sacrificial graffiti protection means a coating applied to a fence or wall which is not removed in the process of removing graffiti;

notice of breach means a notice referred to in clause 6.1(1);

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

owner for the purposes of the definition of ‘dividing fence’, has the meaning given to it in the Act;

owner for all other purposes, has the meaning given to it in the *Local Government Act 1995*;

permit means an electrified fence permit or a razor wire fence permit under Part 5;

person has the meaning given to it in the *Interpretation Act 1984*;

public place means a place to which the public has access;

reserve means land (including parkland or foreshore) in or adjoining the district that is—

- (a) set apart for the use and enjoyment of the public; or
- (b) Acquired for public purposes and vested in or under the care control and management of the local government;

razor wire fence permit means a permit, in the form of the Third Schedule, to construct a fence wholly or partly of razor wire on the lot to which the permit applies;

residential lot means a lot where a residential use—

- (a) is or may be permitted under a local planning scheme; and
- (b) is or will be the predominant use of the lot;

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

right of way means a portion of land that is—

- (a) shown and marked ‘Right of Way’ or ‘R.O.W’, or coloured or marked in any other way to signify that the portion of land is a right of way, on any plan or diagram deposited with the Registrar of Titles that is subject to the provisions of section 167A of the *Transfer of Land Act 1893*;
- (b) shown on a diagram or plan of survey relating to a subdivision that is created as a right of way and vested in the Crown under section 152 of the *Planning and Development Act 2005*; or
- (c) shown and marked as a right of way on a map or plan deposited with the Registrar of Titles and transferred to the Crown under the *Transfer of Land Act 1893*, but does not include—
 - (i) private driveway; or
 - (ii) right of way created by easement between two parties;

rural lot means a lot where a rural use—

- (a) is or may be permitted under a local planning scheme; and
- (b) is or will be the predominant use of the lot;

rural residential lot means a lot where a rural residential use—

- (a) is or may be permitted under the local planning scheme; or
- (b) is or will be the predominant use of the lot; and
- (c) is generally ranging from 1 to 4 hectares;

rural smallholdings lot means a lot where a rural smallholdings use—

- (a) is or may be permitted under the local planning scheme; or
- (b) is or will be the predominant use of the lot; and
- (c) is generally ranging in size from 4 to 40 hectares;

schedule means a schedule to this local law;

setback area has the meaning given to it for the purposes of a local planning scheme;

sufficient fence means a fence described in clause 2.1; and includes a fence of the description and quality agreed upon by the owners of adjoining lots which does not fail to satisfy clause 2.1

thoroughfare has the meaning given to it in the *Local Government Act 1995*;

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

unsightly has the meaning given to it in and for the purposes of the *Local Government Act 1995*;

written law has the same meaning given to it by section 5 of the *Interpretation Act 1984* and includes this local law.

(2) Any other expression used in this local law and not defined herein must have the meaning given to it in the—

- (a) *Local Government Act 1995*;
- (b) *Dividing fences Act 1961*
- (c) *Building Act 2011*; or
- (d) *Planning and Development Act 2005*;

unless the context requires otherwise.

(3) A reference to an Australian Standard is to that Australian Standard as it is amended from time to time.

1.6 Relationship with other laws

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

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

1.7 Permit fees and charges

All permit fees and charges applicable under this local law shall be as determined by the local government from time to time in accordance with section 6.16 to 6.19 of the *Local Government Act 1995*.

PART 2—SUFFICIENT FENCES

2.1 Sufficient fences

(1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.

(2) Subject to subclauses (3) and (4), a sufficient fence—

- (a) on a residential lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the First Schedule.
- (b) on a commercial lot and on an industrial lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;
- (c) on a rural lot, rural residential lot or rural small holding lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the First Schedule.

(3) Where a fence is erected on or near the boundary between—

- (a) a residential lot and an industrial lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;
- (b) a residential lot and a commercial lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;
- (c) a residential lot and a rural lot, rural residential or rural small holding a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule.

(4) Unless the local government specifies otherwise, a sufficient fence on a boundary between lots other than those specified in subclause (3) is a dividing fence constructed in accordance with the specifications and requirements of the First Schedule.

(5) Notwithstanding any other provisions in this local law, a fence constructed of stone or concrete shall be a sufficient fence only if it is designed by a structural engineer where—

- (a) it is greater than 1800mm in height; or
- (b) the local government so requires.

PART 3—GENERAL

3.1 Fences within front setback areas

(1) A person shall not, without the written consent of the local government, erect a free-standing fence greater than 1200mm in height, within the front set-back area of a residential lot within the district.

(2) The local government may approve the erection of a fence of a height greater than 1200mm in the front setback area of a residential lot only if the fence on each side of the driveway into the Lot across the front boundary is to be angled into the Lot for a distance of not less than 1500mm along the frontage to a distance of not less than 1500mm from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.

(3) The provision of subclause (2) shall not apply to a fence—

- (a) of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare; or
- (b) that does not adjoin a footpath.

(4) Secondary street fences shall be visibly permeable above 1200mm from natural ground level for 50% of the length of the street boundary, right of way or access leg and shall allow surveillance from an outdoor living area and/or major opening such as a window to a habitable room.

3.2 Maximum height of fences

A person shall not erect a fence that is greater in height than—

- (a) 1800mm on a residential or rural lot, or
- (b) 2400mm on a commercial or industrial lot.

3.3 Fences on a rural lot

A person shall not without the written consent of the local government, erect a fence on a rural lot, within 7.5m of a thoroughfare of a height exceeding 1500mm.

3.4 Maintenance of fences

(1) An owner or occupier of a lot on which a fence is erected shall maintain the fence in good condition and so as to prevent it from becoming dangerous, dilapidated, unsightly or prejudicial to the amenity of the locality.

(2) Where in the opinion of an Authorised Person, a fence is in a state of disrepair or is dangerous or is otherwise in breach of a provision of this local law, an Authorised Person may give notice in writing to the owner or occupier (as the case requires) of the land on which the fence is erected, requiring the owner or occupier to modify, repair, paint, or maintain the fence within the time and in the manner specified in the notice.

(3) A notice issued pursuant to subclause (2) may contain a condition requiring that the fence be treated with a non-sacrificial graffiti protection treatment, which protection treatment must be applied in accordance with the manufacturer's specifications.

3.5 Fences in relation to fill

(1) A free standing fence constructed of corrugated fibre reinforced pressed cement must not have more than 150mm difference in soil levels on each side.

(2) Where land has been filled or retained to a height of more than 500mm above natural ground level at or within 1m of a boundary, a person must only erect a dividing fence that is a sufficient fence on the said fill or retaining wall if the applicant produces to the local government written agreement from all and any adjoining land owners.

3.6 Gates in fences

A person shall not erect a fence which does not—

- (a) open into a lot, if the gate is providing access to a thoroughfare; or
- (b) open by sliding parallel and on the inside of the fence, which it forms part of, when closed.

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

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

3.8 General discretion of the local government

(1) Notwithstanding clauses 2.1 and 3.2, the local government may consent to the erection or repair of a fence which does not comply with the requirements of this local law.

(2) In determining whether to grant its consent to the erection or repair of any fence, the local government may consider, in addition to any other matter that it is authorised to consider, whether the erection or retention of the fence would have an adverse effect on—

- (a) the safe or convenient use of any land;
- (b) the safety or convenience of any person; or
- (c) the visual amenity of the locality.

3.9 Estate Fences

- (1) A person must not construct an estate fence without a permit.
- (2) Where an estate fence is constructed and contains an estate name, the estate fence must also depict the suburb name in equal prominence.
- (3) An owner or occupier of a lot adjacent to an estate boundary must, where that estate boundary fence is damaged, dilapidated or in need of repair, ensure that—
 - (a) it is repaired or replaced with the same or similar materials with which it was first constructed; and
 - (b) so far as is practicable the repaired or replaced section is the same as the original fence.

3.10 Tennis Court Fences

- (1) This clause does not apply to a rural lot.
- (2) A person shall not erect a fence around or partly around a tennis court on a lot unless—
 - (a) the fence is less than 3.6m in height;
 - (b) the whole of the fence is at least 900mm from the boundary between the lot on which the tennis court is located and the adjoining lot or if it is less than 900mm, the owner of the adjoining lot has been given the opportunity to make submissions to the local government on the location of the fence; and
 - (c) the fence is constructed of chain link fabric mesh and is 50mm x 2.5mm poly vinyl chloride coated or galvanised, and is erected in accordance with the manufacturers specifications.

PART 4—FENCING MATERIALS

4.1 Fencing materials

- (1) A person shall construct any fence on a residential lot, rural residential lot, small holding lot, commercial lot or an industrial lot from only those materials specified for a sufficient fence in respect of such lot in the First Schedule or some other material approved by the local government.
- (2) No person shall erect a fence of impervious material in any place, position or location where it will, or is likely to, act as a barrier to or restrict the flow of stormwater or a watercourse.

4.2 Pre-used fencing materials

- (1) A person must not construct a dividing fence on a residential lot, rural residential lot, small holding lot, commercial lot or an industrial lot from pre-used materials without the written consent of the local government or an Authorised Person.
- (2) Where the local government or an Authorised Person approves, under this Part, the use of pre-used materials in the construction of a fence that approval must be conditional on the applicant painting or treating the pre-used material as directed by the local government or an Authorised Person.

4.3 Barbed wire and broken glass fences

- (1) This clause does not apply to a fence constructed wholly or partly of razor wire.
- (2) An owner or occupier of a residential lot or a commercial lot shall not erect or affix to any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of the local government has been obtained.
- (3) An owner or occupier of an industrial lot shall not erect or affix on any fence bounding that lot any barbed wire or other materials with spiked or jagged projections unless the wire or materials are not nearer than 2000mm from the ground level.
- (4) If the posts which carry the barbed wire or other materials referred to in subclause (3) are angled towards the outside of the lot bounded by the fence the face of the fence must be set back from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach on adjoining land.
- (5) An owner or occupier of a lot shall not affix or allow to remain as part of any fence or wall, whether internal or external, on that lot any broken glass.
- (6) An owner or occupier of a rural lot shall not place or affix barbed wire upon a fence on that lot where the fence is adjacent to a thoroughfare or other public place unless the barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.

4.4 Fence Screening and Colours

- (1) On a residential lot, commercial lot, or industrial lot, any screening affixed to a fence shall be designed to integrate with the colours, materials and specification of that sufficient fence, to the satisfaction of the local government.
- (2) On a rural residential lot, rural smallholdings lot or rural lot, no person shall affix any screening to a fence.

(3) Screening affixed to a fence shall be installed and maintained in accordance with the manufacturers specifications and shall not undermine the structural integrity of the fence.

PART 5—ELECTRIFIED AND RAZOR WIRE FENCES

5.1 Requirements for a Permit

- (1) An owner or occupier of a lot, other than a rural lot, shall not—
 - (a) have and use an electrified fence on that lot without first obtaining a permit under subclause (2); or
 - (b) construct a fence wholly or partly of razor wire on that lot without first obtaining a permit under subclause (3).
- (2) A permit to have and use an electrified fence shall not be issued—
 - (a) in respect of a lot which is or which abuts a residential lot;
 - (b) unless the fence is of a design which will comply with AS/NZS 3016:2002 Electrical installations—Electricity security fences; and
 - (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.
- (3) A permit to have a fence constructed wholly or partly of razor wire shall not be issued—
 - (a) if the fence is within 3m of the boundary of the lot;
 - (b) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above the ground level.
- (4) An application for a permit referred to in subclauses (2) or (3) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

5.2 Application for a Permit

- (1) An owner or occupier of land may apply to the local government for an electrified fence permit or a razor wire fence licence permit.
- (2) An application for a permit must—
 - (a) be in the form determined by the local government;
 - (b) include—
 - (i) a written consent signed by the owner of the land on which the proposed fence is to be located—unless the applicant is the owner of that land; and
 - (ii) any further information may be required by the local government; and
 - (c) be accompanied by any fee imposed by the Council under sections 6.16 to 6.19 of the *Local Government Act 1995*.

5.3 Determining an application

- (1) The local government may refuse to consider an application that does not comply with clause 5.2.
- (2) The local government may—
 - (a) approve an application, subject to any conditions that it considers to be appropriate; or
 - (b) refuse to approve an application.
- (3) If the local government approves an application, it is to issue a permit in the form set out in the Second Schedule or the Third Schedule (as the case may be).
- (4) The local government may vary a condition to which a permit is subject by giving written notice to the permit holder and the varied condition takes effect 7 days after that notice is given.

5.4 Transfer of a permit

- (1) A permit referred to in clause 5.1 shall transfer with the land to any new occupier or owner of the lot, to which the permit applies.
- (2) On an application by a new owner or occupier, the local government is to transfer the relevant permit to that new owner or occupier (as the case may be) by a written endorsement on the permit.

5.5 Cancellation of a Permit

Subject to Division 1 Part 9 of the *Local Government Act 1995*, the local government may cancel a permit issued under this Part if—

- (a) the permit holder requests the local government to do so;
- (b) the fence to which the permit applies is being demolished and not being rebuilt for at least 6 months;
- (c) the fence no longer satisfies the requirements specified in clause 5.1(2) or 5.1(3) as the case may be;
- (d) the permit holder breaches any condition upon which the permit has been issued; or
- (e) the permit holder fails to comply with a notice issued under clause 6.1.

5.6 Right of appeal and review

When the local government makes a decision as to whether it will—

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

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 that decision.

PART 6—NOTICES OF BREACH

6.1 Notices of breach

(1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner of that lot ('notice of breach').

(2) A notice of breach shall—

- (a) specify the provision of this local law which has been breached;
- (b) specify the particulars of the breach; and
- (c) state that the owner or occupier of the lot is required to remedy the breach within 28 days from the giving of the notice.

PART 7—ENFORCEMENT

7.1 Offences and penalties

(1) A person who fails to comply with a notice of breach commits an offence and is liable upon conviction to a penalty of not less than \$500 and not exceeding \$5000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.

(2) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable to maximum penalty of \$5000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.

7.2 Modified penalties

(1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16 of the *Local Government Act 1995*.

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

(3) Before giving an infringement notice to a person in respect of the commission of a prescribed offence, an Authorised Person should be satisfied that—

- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

7.3 Form of notices

For the purposes of this local law—

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

**FIRST SCHEDULE
SPECIFICATIONS FOR A SUFFICIENT FENCE**

[clause 2.1]

Each of the following is a “sufficient fence” on the specified lot type:

A. RESIDENTIAL LOT**(1) Timber fence**

- (a) corner posts to be 125mm x 125mm x 2,400mm and intermediate posts to be 125mm x 75mm x 2,400mm spaced at 2,400mm centres;
- (b) corner posts to be strutted two ways with 100mm x 50mm x 450mm sole plates and 75mm x 50mm struts;
- (c) intermediate posts to be doubled yankee strutted with 150mm x 25mm x 450mm struts;
- (d) all posts to have tops with a 60mm weather cut and to be sunk at least 600mm into the ground;
- (e) rails to be 75mm x 50mm with each rail spanning 2 bays of fencing double railed or bolted to each post with joints staggered;
- (f) the fence to be covered with 75mm x 20mm sawn pickets, 1,800mm in height placed 75mm apart and affixed securely to each rail;
- (g) the height of the fence to be 1,800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.1(2).

(2) Corrugated fence

A fence constructed of corrugated fibre reinforced pressed cement or steel sheeting constructed to manufacturer’s specifications or which satisfies the following specifications—

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case with a minimum in-ground depth of 600mm;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet;
- (c) the sheets to be lapped and capped with extruded “snap-fit” type capping in accordance with the manufacturer’s written instructions;
- (d) the height of the fence to be 1.8 metres except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.1(2).

(3) Brick, stone or concrete fence

A fence constructed of brick, stone or concrete, which satisfies the following requirements and specifications—

- (a) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar or 400mm x 400mm concrete 20MPa with minimum 1 layer 4-L11TM;
- (b) pier specifications—
 - (i) continuous fence with engaged piers or infill panels between piers maximum 2.1 metres high with No. 2 R6 galvanised rod continuous in last mortar bed joint;
 - (ii) engaged or attached piers 290mm x 290mm (for 90mm wide masonry unit) and 350mm x 350mm (for 110 wide masonry unit) with No. 1 Y12 galvanised reinforcing rod tied into footing and located centrally in pier;
 - (iii) pier core to be filled with 15MPa concrete. Piers at maximum 2.1 metre centres.
- (c) expansion joints in accordance with the manufacturer’s written instructions;
- (d) a minimum height of 1.8 metres up to 2.1 metres (including screening), except within the street setback area which is subject to requirements outlined in clause 3.1; and
- (e) certified by a Structural Engineer as being appropriate for the particular site and wind terrain category.

(4) Composite fence

A composite fence which satisfies the following specifications for the brick construction—

- (1) (a) brick piers of minimum 345mm x 345mm at 1,800mm centres bonded to a minimum height base wall of 514mm;
- (b) each pier shall be reinforced with one R10 galvanised starting rod 1,500mm high with a 250mm horizontal leg bedded into a 500mm x 200mm concrete footing and set 65mm above the base of the footing. The top of the footing shall be 1 course (85mm) below ground level;
- (c) the minimum ultimate strength of brickwork shall be 20MPa. Mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
- (d) the ground under the footings is to be compacted to 6 blows per 300mm and checked with a standard falling weight penetrometer;
- (e) control joints in brickwork shall be provided with double piers at a maximum of 6-metre centres;
- or
- (2) (a) brick piers of a minimum 345mm x 345mm x 2,700mm centres bonded to the base wall; and
- (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified.

B. RURAL RESIDENTIAL LOT, RURAL SMALLHOLDINGS LOT OR RURAL LOT**(1) Post and wire construction**

In the case of a non-electrified fence of post and wire construction—

- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of 5 wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases;
- (b) posts shall be of indigenous timber or other suitable material including—
 - (i) timber impregnated with a termite and fungicidal preservative;
 - (ii) standard iron star pickets; or
 - (iii) concrete;
- (c) if timber posts are used, posts are to be cut not less than 1,800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn. Posts to be placed at no more than 10 metre intervals, set minimum 600mm in the ground and 1,200mm above ground;
- (d) strainer posts, if timber, shall not be less than 2,250mm long and 150mm diameter at the small end (tubular steel to be 50mm in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1,000mm in the ground and set at all corners, gateways and fence line angles but not exceeding 200 metres apart.

(2) Electrified fence

An electrified fence having 4 wires is a sufficient fence if constructed generally in accordance with a non-electrified fence.

C. COMMERCIAL LOT OR INDUSTRIAL LOT**(1) PVC coated rail-less link mesh, chain mesh or steel mesh which satisfies the following specifications—**

- (a) corner posts to be minimum 50mm normal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
- (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5 centres and with footings of a 225mm diameter x 600mm;
- (c) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and two at each corner post and with footings 225mm x 600mm;
- (d) cables to be affixed to the top, centre and bottom of all posts and to consist of two or more 3.15mm wires twisted together or single 4mm wire;
- (e) rail-less link, chain or steel mesh is to be to a height of 2 metres on top of which are to be 3 strands of barbed wire carrying the fence to a height of 2.4 metres in accordance with clause 4.3 of this local law; and
- (f) galvanised link mesh wire to be 2 metres in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than 3.6 metres and shall be constructed of 25mm tubular framework with 1 horizontal and 1 vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.

(2) Corrugated fence

A fence constructed of corrugated fibre reinforced pressed cement or steel sheeting constructed to manufacturer's specifications or which satisfies the following specifications—

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case with a minimum in-ground depth of 600mm;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet;
- (c) the sheets to be lapped and capped with extruded "snap-fit" type capping in accordance with the manufacturer's written instructions;
- (d) the height of the fence to be 1.8 metres except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.1(2).

(3) Brick, stone or concrete fence

A fence constructed of brick, stone or concrete, which satisfies the following requirements and specifications—

- (a) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar or 400mm x 400mm concrete 20MPa with minimum 1 layer 4-L11TM;
- (b) pier specifications—
 - (i) continuous fence with engaged piers or infill panels between piers maximum 2.1 metres high with No. 2 R6 galvanised rod continuous in last mortar bed joint;
 - (ii) engaged or attached piers 290mm x 290mm (for 90mm wide masonry unit) and 350mm x 350mm (for 110 wide masonry unit) with No. 1 Y12 galvanised reinforcing rod tied into footing and located centrally in pier;
 - (iii) pier core to be filled with 15MPa concrete. Piers at maximum 2.1 metre centres;
- (c) expansion joints in accordance with the manufacturer's written instructions;

- (d) a minimum height of 1.8 metres up to 2.1 metres (including screening), except within the street setback area which is subject to requirements outlined in clause 3.1; and
- (e) certified by a Structural Engineer as being appropriate for the particular site and wind terrain category.

**SECOND SCHEDULE
PERMIT FOR AN ELECTRIFIED FENCE**

[clause 5.3]

This is to certify that.....
of
is the permit holder, subject to the conditions set out below, to have and use an electrified fence on
.....
..... (address)
from 20..... and until this permit is transferred or cancelled.
Dated this day of 20.....

.....
Authorised Person,
Shire of Northam.

Conditions of Permit

The holder of the permit must—

- (a) display the permit in a prominent position on the land or premises on which the electrified fence has been constructed;
- (b) upon the request of the local government or an Authorised Person produce to him or her this permit;
- (c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the permit has been granted, notify the local government in writing of the details of that change or those changes;
- (d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the electrified fence;
- (e) comply with AS/NZS 3016:2002; and
- (f) following construction of the fence, lodge with Western Power a certificate of installation from a qualified electrician and comply with any requirements of Western Power regarding the construction of the fence.

Transfer by endorsement

This permit is transferred to
.....
of
.....
from and including the date of this endorsement.
Dated this day of 20.....

.....
Authorised Person,
Shire of Northam.

**THIRD SCHEDULE
PERMIT FOR A RAZOR WIRE FENCE**

[clause 5.3]

This is to certify that.....
of
is the permit holder, subject to the conditions set out below, to have a fence constructed wholly or partially of razor wire on
.....
..... (address)
from..... 20..... and until this permit is transferred or cancelled.
Dated this day of 20.....

.....
Authorised Person,
Shire of Northam.

Conditions of permit

The holder of the permit must—

- (a) display this permit in a prominent position on the land or premises on which the fence has been constructed;
- (b) on the request of the local government or an Authorised Person, produce to him or her this permit;
- (c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the permit has been granted, notify the local government in writing of the details of that change or those changes; and
- (d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the fence.

Transfer by endorsement

This permit is transferred to

of

from and including the date of this endorsement.

Dated this day of 20.....

.....
Authorised Person,
Shire of Northam.

**FOURTH SCHEDULE
OFFENCES AND MODIFIED PENALTIES**

[clause 7.2]

Item No.	Clause No.	Nature of offence	Modified Penalty \$
1.	2.1(1)	Erect a fence which is not a sufficient fence	250
2.	3.1(1)	Erect or modify a fence within the street setback area without written consent of the local government	250
3.	3.2	Erect a fence which is higher than the permitted height	250
4.	3.3	Erect a fence on a rural lot which is higher than the permitted height	250
5.	3.4(1)	Failing to maintain a fence in good condition or preventing a fence from becoming dangerous, dilapidated or unsightly	250
6.	3.5(1)	Erect or permit a fence of corrugated fibre reinforced pressed cement having soil higher than 150mm on a side of the fence	250
7.	3.6(a)	Erect a fence which contains a gate which does not open into the lot	250
8	3.6(b)	Erect a fence which contains a sliding gate which is not located on the inside of the fence on the lot	250
9.	3.7	Erect a fence across a right of way, public access way or thoroughfare without the approval of the local government	250
10.	4.1(1)	Construct a fence on a residential lot, rural residential lot, small holding lot, commercial lot or an industrial lot from materials not approved by the local government	250
11.	4.2(1)	Construct a dividing fence on a residential lot, rural residential lot, small holding lot, commercial lot or an industrial lot from pre-used materials without the approval of the local government	250
12.	4.3(2)	Erect a fence using barbed wire or other material with spiked or jagged projections in fence construction without written approval of the local government	500
13.	4.3(3)	Erect a fence using barbed wire or other material with spiked or jagged projections in a fence at a level lower than 2000mm from the ground	500
14.	5.1(1)	Have or use razor wire in a fence or electrify a fence without having a permit	500
15.	6.1(1)	Failing to comply with the requirements of a notice	500
16.	7.1(2)	All other penalties not specified	250

Dated this 22nd day of October 2019.

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

CHRISTOPHER ANTONIO, President.
JASON WHITEAKER, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAM

PARKING LOCAL LAW 2019

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LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAM

PARKING LOCAL LAW 2019

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Northam resolved on 16 October 2019 to make the following local law.

PART 1—PRELIMINARY

1.1 Title

This local law may be cited as the *Shire of Northam Parking Local Law 2019*.

1.2 Commencement

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

1.3 Repeal

The *Shire of Northam Parking and Parking Facilities Local Law 2008* published in the *Government Gazette* on 16 September 2008 and all amendments thereto are hereby repealed on the day this local law comes into operation.

1.4 Interpretation

In this local law unless the context otherwise requires—

Act means the *Local Government Act 1995*;

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

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

bicycle has the meaning given to it by the Code;

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

bus has the meaning given to it by the Code;

bus embayment has the meaning given to it by the Code;

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

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

caravan has the meaning given to it in the *Caravan Parks and Camping Grounds Act 1995*;

carriageway has the meaning given to it by the Code;

centre has the meaning given to it by the Code;

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

CEO means the Chief Executive Officer of the local government

clearway means a length of carriageway which carries a high traffic volume that has 'clearway' or 'no stopping' signs erected appurtenant to it, to facilitate the unhindered flow of traffic;

Code means the *Road Traffic Code 2000*;

coin means any coin which is legal tender pursuant to the *Currency Act 1965 (Commonwealth)*;

commercial vehicle means—

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

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

continuous dividing line means—

- (a) a single continuous dividing line only;
- (b) a single continuous dividing line to the left or right of a broken dividing line; or
- (c) parallel continuous dividing lines;

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

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

district means the district of the local government;

driver has the meaning given to it in the *Road Traffic (Administration) Act 2008*;

eating area means an area in which tables, chairs and other structures are provided for the purpose of the supply of food and beverages to a member of the public or the consumption of food and beverages by a member of the public;

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

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

fire hydrant has the meaning given to it by the Code;

fee means the prescribed amount of legal tender that the local government may impose and determine from time to time for the stopping or parking of a vehicle under and in accordance with sections 6.16 to 6.19 of the Act;

footpath has the meaning given to it by the Code;

GVM (which stands for 'gross vehicle mass') has the meaning given to it by the *Road Traffic (Administration) Act 2008*;

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

intersection has the meaning given to it by the Code;

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

kerb means any structure, mark, marking or device to delineate or indicate the edge of a carriageway;

length of carriageway means the same side of the road between intersections on that side of the road;

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

local government means the Shire of Northam;

long vehicle means a vehicle or any combination of vehicles that, together with any projection or combination of vehicles is 7.5 metres or more in length;

mail zone has the meaning given to it by the Code;

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

metered space means a section or part of a metered zone that is adjacent to a parking meter and that is marked or defined by painted lines or by metallic studs or similar devices for the purpose of indicating where a vehicle may be parked on payment of a fee or charge;

metered zone means any thoroughfare or reserve, or part of any thoroughfare or reserve, in which parking meters regulate the parking of vehicles;

motorcycle has the meaning given to it by the Code;

motor vehicle has the meaning given to it by the *Road Traffic (Administration) Act 2008*;

nature strip has the meaning given to it by the Code;

no parking area has the meaning given to it by the Code;

no parking sign means a sign with the words 'no parking' in red letters on a white background, or the letter 'P' within a red annulus and a red diagonal line across it on a white background;

no stopping area has the meaning given to it by the Code;

no stopping sign means a sign with the words 'no stopping' or 'no standing' in red letters on a white background or the letter 'S' within a red annulus and a red diagonal line across it on a white background;

obstruct means to prevent, hinder, or impede the normal passage of any vehicle, wheelchair, perambulator or pedestrian and 'obstruction' has a corresponding meaning;

occupier has the meaning given to it by the Act;

owner means—

- (a) where used in relation to a vehicle licensed under the *Road Traffic Act 1974*, means the person in whose name the vehicle has been registered under that *Road Traffic Act 1974*;
- (b) where used in relation to any other vehicle, means the person who owns, or is entitled to possession of that vehicle; and
- (c) where used in relation to land, has the meaning given to it by the Act;

painted island has the meaning given to it by the Code;

park has the meaning given to it by the Code;

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

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

- parking control sign** has the meaning given to it by the Code;
- parking facilities** includes land, buildings, shelters, metered zones, metered spaces, parking stalls and other facilities open to the public generally for the parking of vehicles with or without charge and signs, notices and facilities used in connection with the parking of vehicles;
- parking fee payment equipment** means a parking meter, parking ticket machine or other; credit/debit card terminal or other device approved by the local government for payment of the applicable parking fee;
- parking meter** includes the stand on which the meter is erected and a ticket issuing machine;
- parking permit** means a permit issued by the local government under this local law;
- parking ticket** means a ticket which is issued from a ticket issuing machine and which authorises the parking of a vehicle and includes the date and time of which the authorisation expires, whether or not the payment of a fee is required;
- parking region** means the area described in Schedule 1;
- parking scheme** means the mapped record of the local government, which details the location of parking facilities, parking bay layout and any parking time restrictions, parking prohibitions and special uses like bus or taxi zones, that are applied to those parking facilities;
- parking stall** means a section or part of a thoroughfare or of a parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked, but does not include a metered space;
- parking station** means any land, or structure provided for the purpose of parking of multiple vehicles;
- path** has the meaning given to it by the Code;
- pay station** means a machine or device within or near a parking station, which accepts payment of the fee for the period a vehicle has been parked and issues a token, ticket or other media to activate a barrier to allow the vehicle to exit from the parking station;
- pedestrian** has the meaning given to it by the Code;
- pedestrian crossing** has the meaning given to it by the Code;
- postal vehicle** has the meaning given to it in the Code;
- Private Property Parking Enforcement Agreement** means a written agreement between the local government and a property owner or occupier that allows for the enforcement of this local law, or part thereof, upon that property;
- property line** means the boundary between the land comprising a road and the land that abuts that road;
- public place** means any place to which the public has access whether or not that place is on private property;
- reserve** means any land—
- (a) which belongs to the local government;
 - (b) of which the local government is the management body under the *Land Administration Act 1997*; or
 - (c) which is an ‘otherwise unvested facility’ within the meaning of section 3.53 of the Act;
- right of way** means a portion of land that is—
- (a) shown and marked ‘Right of Way’ or ‘R.O.W’, or coloured or marked in any other way to signify that the portion of land is a right of way, on any plan or diagram deposited with the Registrar of Titles that is subject to the provisions of section 167A of the *Transfer of Land Act 1893*;
 - (b) shown on a diagram or plan of survey relating to a subdivision that is created as a right of way and vested in the Crown under section 152 of the *Planning and Development Act 2005*; or
 - (c) shown and marked as a right of way on a map or plan deposited with the Registrar of Titles and transferred to the Crown under the *Transfer of Land Act 1893*, but does not include—
 - (i) a private driveway; or
 - (ii) a right of way created by easement between two parties;
- road** means a highway, lane, thoroughfare or similar place which the public are allowed to use and includes all of the land including the nature strip and paths appurtenant thereto lying between the property lines abutting the road;
- Road Traffic Act** means the *Road Traffic Act 1974*;
- Road Traffic (Administration) Act** means the *Road Traffic (Administration) Act 2008*;
- Schedule** means a Schedule to this local law;
- shared zone** has the meaning given to it by the Code;
- sign** includes a traffic sign, inscription, road marking, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols, and which is placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking of vehicles;

- special purpose vehicle** has the meaning given to it by the Code;
- stop** has the meaning given to it by the Code;
- symbol** includes any symbol specified by the Code;
- taxi** has the meaning given to it by the Code;
- taxi zone** has the meaning given to it by the Code;
- thoroughfare** has the meaning given to it by the Act;
- ticket machine** means a machine or device which issues, as a result of money or other permitted form of payment being inserted into the machine, a ticket showing the period during which it is lawful to remain parked in the area to which the machine relates;
- ticket issuing machine** means a parking meter which issues, as a result of money being inserted in the machine or such other form of payment as may be permitted to be made, a ticket showing the period during which it shall be lawful to remain parked in a metered space to which the machine is referable;
- ticket parking area** means a parking area or facility where a sign applies which indicates a parking fee applies by purchase of a ticket;
- tour coach** means a vehicle licensed as a Tour Coach and displaying "TC" registration plates, which is hired or chartered to carry passengers for the specific purpose of sight-seeing and/or tourism;
- traffic** includes the passage of both vehicles and pedestrians;
- traffic-control signal** has the meaning given to it by the Code;
- traffic island** has the meaning given to it by the Code;
- traffic sign** has the meaning given to it by the Code;
- trailer** has the meaning given to it by the Code;
- truck** has the meaning given to it by the Code;
- unattended** means the driver has left the vehicle so that the driver is more than 3 metres from the closest point of the vehicle;
- unexpired parking ticket** means a parking ticket on which a date and a time is printed and the printed time has not expired;
- vehicle** has the meaning given to it by the *Road Traffic (Administration) Act 2008*;
- verge** means the portion of a thoroughfare which lies between the boundary of a carriageway and the adjacent property line but does not include a footpath.

1.5 Application of particular definitions

- (1) For the purposes of the application of the definitions 'no parking area' and 'parking area' an arrow inscribed on a traffic sign erected at an angle to the boundary of the carriageway is deemed to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the boundary.
- (2) A reference to a parking station or ticket parking area includes a reference to a part of the parking station or ticket parking area.
- (3) Unless the context otherwise requires, where a term is used, but not defined, in this local law, and that term is defined in the *Road Traffic Act 1974*, *Road Traffic (Administration) Act 2008*, *Road Traffic Code 2000* or in the *Local Government Act 1995*, then the term shall have the meaning given to it in those Acts or the Code.

1.6 Application and pre-existing signs

- (1) Subject to subclause (2), this local law applies to the parking region.
- (2) This local law does not apply to a parking facility or a parking station that is not occupied by the local government, unless the local government and the owner or occupier of that facility or station have agreed in writing that this local law will apply to that facility or station.
- (3) The agreement referred to in subclause (2) may be made on such terms and conditions as the parties may agree.
- (4) Where a parking facility or a parking station is identified in Schedule 3, then the facility or station shall be deemed to be a parking station to which this local law applies and it shall not be necessary to prove that it is the subject of an agreement referred to in subclause (2).
- (5) A sign that—
- was erected by the local government or the Commissioner of Main Roads prior to the coming into operation of this local law; and
 - relates to the parking of vehicles within the parking region, shall be deemed for the purposes of this local law to have been erected by the local government under the authority of this local law.
- (6) An inscription or symbol on a sign referred to in subclause (5) operates and has effect according to its tenor, and where the inscription or symbol relates to the stopping of vehicles, it shall be deemed for the purposes of this local law to operate and have effect as if it related to the parking of vehicles.
- (7) The provisions of Parts 2, 3, 4 and 5 do not apply to a bicycle parked at a bicycle rail or bicycle rack.

1.7 Classes of vehicles

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

- (a) buses;
- (b) commercial vehicles;
- (c) motorcycles and bicycles;
- (d) emergency vehicles;
- (e) special purpose vehicles;
- (f) taxis; and
- (g) all other vehicles.

1.8 Part of thoroughfare to which sign applies

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

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

1.9 Powers of Local Government

The local government may, by resolution, prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with the provisions of this local law.

PART 2—PARKING BAYS, PARKING STATIONS AND PARKING AREAS

2.1 Determination of parking bays, parking stations and parking areas

(1) The local government may by Council resolution constitute, determine and vary—

- (a) parking bays;
- (b) parking stations;
- (c) parking areas;
- (d) general no parking or restricted parking zones;
- (e) permitted time and conditions of parking in parking bays, parking stations and parking areas which may vary with the locality;
- (f) permitted classes of vehicles which may park in parking bays, parking stations and parking areas;
- (g) permitted classes of persons who may park in specified parking bays, parking stations and parking areas; and
- (h) the manner of parking in parking bays, parking stations and parking areas.

(2) Where the local government makes a determination under subclause (1) it must erect signs to give effect to the determination.

(3) Where the local government makes a determination or a resolution under subclause (1)(d) it may erect signs at entry points to the general no parking zone indicating the dates and/or days and times during which the area is a general no parking or restricted parking zone.

2.2 Vehicles to be within a parking bay

(1) Subject to subclauses (2) and (3) a person must not park a vehicle in a parking bay in a parking area or parking station otherwise than—

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

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

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

2.3 Parking where fees are payable

A person must not park a vehicle, or permit a vehicle to remain parked, in a parking station or parking area where a permissive parking sign indicates that a fee is payable, unless—

- (a) the vehicle is parked in compliance with any instructions on or with the sign, or parking fee payment equipment; and
- (b) the appropriate fee is paid for each parking bay that the vehicle occupies.

2.4 Parking restrictions in fee paying zones

A person must not park a vehicle in a fee paying zone except in accordance with signs referable to the zone.

2.5 Parking in a ticket parking zone or ticket parking area

A person must not park a vehicle, except a motorcycle in a motorcycle bay, in a parking zone, parking area or parking station which is equipped with a parking ticket machine without—

- (a) purchasing or obtaining a ticket, from the ticket machine for that area, which remains valid for the period the vehicle is parked; and
- (b) displaying the ticket inside the vehicle in a prominent position, in such a manner as to be clearly visible from the front of the vehicle at all times while that vehicle remains parked in that ticket parking zone, ticket parking area or parking station.
- (c) If a parking ticket machine allows for number plate recognition, a person must purchase a ticket for a motorcycle.

2.6 Methods of payment

(1) The local government may introduce and apply methods of payment for parking fees which may include but not be limited to payment by—

- (a) Australian currency including coins and or bank notes;
- (b) credit or debit card;
- (c) payment by telephone; or
- (d) any other approved method of payment.

(2) The local government may introduce various paid parking processes which may include but not be limited to the following—

- (a) ticket parking;
- (b) pay by vehicle registration number; or
- (c) pay by parking bay.

2.7 Reserved fee paying zones

Unless authorised by the local government a person must not leave or permit a vehicle to remain stopped or parked in a fee paying space or zone if the parking meter or ticket issuing machine is hooded with a cover bearing the words No Parking, Reserved Parking, Temporary Bus Stop, No Stopping, Tow Away Zone or with an equivalent symbol, depicting one of these purposes or any other words or symbols that indicate parking is not permitted within the space or zone including temporary signage.

2.8 Use of counterfeit or altered parking tickets

A person must not—

- (a) park a vehicle in a parking facility which requires a parking ticket, if there is displayed in that vehicle so as to be visible from outside the vehicle, a parking ticket which has been counterfeited, altered, obliterated or interfered with; or
- (b) produce to an Authorised Person who accepts payment for parking, a parking ticket which has been counterfeited, altered, obliterated or interfered with.

PART 3—PARKING GENERALLY

3.1 Restrictions on parking in particular areas

(1) A person must not park a vehicle in a parking station or part of a parking station or parking area—

- (a) if by a sign it is set apart for the parking of vehicles of a different class;
- (b) if by a sign it is set apart for the parking of vehicles by persons displaying a valid parking permit; or
- (c) during any period when the parking of vehicles is prohibited by a sign, but does not include a clearway.

(2) Unless a sign or road markings indicate otherwise a person must not park any portion of a vehicle in a parking station or parking area—

- (a) for more than the maximum time specified;
- (b) in a bay marked 'M/C' unless it is a motorcycle without a sidecar or a trailer;
- (c) so as to obstruct an entrance to or an exit from a parking station, or an access way within a parking station; or
- (d) park or attempt to park a vehicle in a parking bay in which another vehicle is parked.

(3) Notwithstanding the provisions of subclause (2)(a), a person may park a vehicle in a permissive parking bay or station (except in a parking area for people with disabilities) for twice the length of time allowed, provided that—

- (a) the person's vehicle displays a current disability parking permit sticker; and
- (b) a disabled person to whom that disability parking permit sticker relates, is either the driver or a passenger in the vehicle.

(4) A person must not park a vehicle or permit a vehicle to remain parked in a parking facility controlled by a sign stating 'Authorised Vehicles Only', without—

- (a) a valid permit displayed inside the vehicle that must be displayed in a prominent position, in such a manner as to be clearly visible from the front of the vehicle; or

- (b) prior written permission of the local government or an Authorised Person to park within the area has been obtained and the written permission is displayed in a prominent position, in such a manner as to be clearly visible from the front of the vehicle to indicate it has authorisation to park.

3.2 Parking and stopping on a carriageway

- (1) Subclauses (4)(b), (d), (h) and (i) do not apply to a bus which stops in a bus embayment.
- (2) A person parking a vehicle on a carriageway other than in a parking bay must park it—
- in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the carriageway on which the vehicle is parked;
 - in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic;
 - so that at least 3 metres of the width of the carriageway lies between the vehicle and the farther boundary of the carriageway, or median strip, or between the vehicle and a vehicle parked on the farther side of the carriageway;
 - so that the front and the rear of the vehicle respectively is not less than 1 metre from any other vehicle, except a motorcycle without a trailer, or a bicycle parked in accordance with this local law;
 - so that it does not obstruct any vehicle on the carriageway, or
 - so that the vehicle is not faced against the normal flow of traffic on that side of the carriageway;

unless otherwise indicated on a parking control sign or markings on the carriageway.

- (3) A person must not stop a vehicle on a carriageway or any part of a carriageway—
- if the parking of a vehicle is prohibited at all times by a sign; or
 - during a period in which the parking of vehicles on that part is prohibited by a sign.
- (4) A person must not stop a vehicle on a carriageway so that any portion of the vehicle—
- is on or adjacent to a median strip;
 - obstructs a private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway;
 - is alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway if the vehicle would obstruct traffic;
 - is on or within 10 metres of any portion of a carriageway bounded by a traffic island;
 - is on any pedestrian crossing;
 - is within 10 metres of the departure side or within 20 metres of the approach side of a children's crossing or pedestrian crossing;
 - is within 20 metres of either the approach side or the departure side of the nearest rail of a railway level crossing;
 - is between the boundaries of a carriageway and any double longitudinal line consisting of two continuous dividing lines or a continuous dividing line and a broken or dotted line, unless there is a distance of at least 3 metres clear between the vehicle and the nearer continuous dividing line; or
 - is contrary to a clearway sign referable to that part,

unless the person stops the vehicle at a place on a length of carriageway, or in an area, to which a parking control sign applies and the person is permitted to stop at that place under this local law.

- (5) A person must not stop a vehicle on a carriageway—
- if the parking of a vehicle is prohibited at all times by a sign; or
 - during a period in which the parking of vehicles on that part is prohibited by a sign;
 - or in an area to which a 'no stopping' sign applies;
 - marked with a continuous yellow edge line;
 - if by a sign it is set apart for the parking of vehicles of a different class; or
 - if by a sign it is set apart for the parking of vehicles by persons of a different class,

unless the person stops the vehicle at a place on a length of carriageway, or in an area, to which a parking control sign applies and the person is permitted to stop at that place under this local law.

- (6) A person must not park a vehicle on a length of carriageway or in an area to which a 'no parking' sign applies, unless the driver—
- is dropping off, or picking up, passengers or goods;
 - does not leave the vehicle unattended; and
 - completes the dropping off, or picking up, of the passengers or goods within 2 minutes of stopping and drives on.

3.3 When parallel and right-angled parking apply

- (1) Where a traffic sign associated with a parking area is not inscribed with the words 'angle parking' (or with an equivalent symbol depicting this purpose), then unless a sign associated with the parking

area indicates, or marks on the carriageway indicate, that vehicles have to park in a different position, where the parking area is—

- (a) adjacent to the boundary of a carriageway, a person parking a vehicle in the parking area must park it as near as practicable to and parallel with that boundary; or
- (b) at or near the centre of the carriageway, a person parking a vehicle in that parking area must park it at approximately right angles to the center of the carriageway.

(2) Clause 3.3(1)(a) does not apply to the rider of a motorcycle if the rider positions the motorcycle so at least one wheel is as near as practicable to the far left or far right side of the carriageway.

3.4 When angle parking applies

(1) This clause does not apply to—

- (a) a passenger vehicle or a commercial vehicle with a mass including any load, of over three tonnes; or
- (b) a person parking a motorcycle without a trailer.

(2) Where a sign associated with a parking area is inscribed with the words 'angle parking' (or with an equivalent symbol depicting this purpose), a person parking a vehicle in the area must park the vehicle at an angle of approximately 45 degrees to the centre of the carriageway unless otherwise indicated by the inscription on the parking sign or marks on the carriageway that indicate the required angle of parking.

(3) Where a sign associated with an angle parking area is inscribed with the words 'reverse in' a person parking a vehicle in the area must reverse the vehicle into the parking bay so that the vehicle is driven forward when it is leaving the parking bay.

3.5 Parking of heavy and long vehicles

(1) A person must not park a heavy or long vehicle—

- (a) on a carriageway for any period exceeding one hour, unless actively engaged in the loading or unloading of goods; or
- (b) on a carriageway except on the shoulder of the carriageway, or in a truck bay or other area set aside for the parking of heavy or long vehicles.

(2) Nothing in this clause mitigates the limitations or condition imposed by any other clause in this local law, any other written law or traffic sign relating to the parking or stopping of vehicles.

3.6 Authorised Person may order vehicle on thoroughfare to be moved

A person must not park a vehicle on any part of a thoroughfare in contravention of this local law after an Authorised Person has directed that person to move the vehicle.

3.7 Authorised Person

(1) An Authorised Person may—

- (a) mark the tyres of a vehicle parked in a parking facility with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties or powers;
- (b) take a valve stem reading of the vehicle;
- (c) record vehicle registration numbers; and
- (d) place a notice or parking fact sheet upon a vehicle.

(2) A person must not remove a mark made by an Authorised Person so that the purpose of the affixing of such a mark is defeated or likely to be defeated.

(3) An Authorised Person may in the course of performing his/her duties, park contrary to the provisions of a parking control sign for the minimum amount of time required to complete those duties.

3.8 No movement of vehicles to avoid time limitation

(1) Where the parking of vehicles in a parking facility is permitted for a limited time, a person must not move a vehicle within the parking facility so that the total time of parking exceeds the maximum time allowed for parking in the parking facility, unless the vehicle has first been removed from the parking facility for at least one hour.

(2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person must not move a vehicle along a section of thoroughfare so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from that section of thoroughfare for at least one hour.

(3) For the purposes of this local law a section of thoroughfare ends and another begins whenever an intersecting carriageway occurs.

3.9 No parking of vehicles exposed for sale and in other circumstances

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

- (a) for the purpose of exposing it for sale or hire;
- (b) if that vehicle is not licensed under the *Road Traffic Act 1974*;
- (c) if that vehicle is a trailer or a caravan unattached to a motor vehicle;
- (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

3.10 Parking on private land

- (1) In this clause, a reference to 'land' does not include land—
- (a) which belongs to the local government;
 - (b) of which the local government is the management body under the *Land Administration Act 1997*; or
 - (c) which is an 'otherwise unvested facility' within section 3.53 of the Act.
- (2) A person must not park a vehicle on private land without the consent of the owner or occupier of the land on which the vehicle is parked.
- (3) Where the owner or occupier of private land, by a sign referable to that land or otherwise, consents to the parking of vehicles of a specified class or classes on the land for a limited period, a person must not park a vehicle on the land otherwise than in accordance with the consent.
- (4) The owner or occupier of private land must not permit a private property parking enforcement agreement sign to remain erected and visible to the public if the owner or occupier no longer has a current private property parking enforcement agreement with the local government.

3.11 Parking on reserves

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

3.12 Right of ways

A person must not stop or park a vehicle at any time in a right of way so as to cause an obstruction or so as to prevent a vehicle reasonable access to or egress from the right of way.

3.13 Suspension of parking limitations for urgent, essential or official duties

- (1) Where by a sign the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the local government or an Authorised Person, may, subject to the Code, permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time in order that the person may carry out urgent, essential or official duties.
- (2) Where permission is granted under subclause (1), the local government or an Authorised Person may prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates, for the duration of that permission.
- (3) An Authorised Person may, in the course of performing his or her duties, park a vehicle contrary to a sign or other restriction in this local law for the minimum amount of time required to complete those duties.

PART 4—PARKING AND STOPPING IN ZONES FOR PARTICULAR VEHICLES

4.1 Stopping at intersections

- (1) A person must not stop any portion of a vehicle on a thoroughfare within 20 metres from the nearest point of an intersecting carriageway at an intersection with traffic-control signals, unless the person stops at a place on a length of thoroughfare, or in an area, to which a parking control sign applies and the person is permitted to stop at the place under this local law.
- (2) A person must not stop any portion of a vehicle on a thoroughfare so that any portion of the vehicle is within 10 metres of the prolongation of the nearer edge of any intersecting carriageway (without traffic-control signals) intersecting that carriageway on the side on which the vehicle is stopped, unless the person stops—
- (a) at a place on the thoroughfare, or in an area, to which a parking control sign applies and the person is permitted to stop at that place under this local law; or
 - (b) if the intersection is a T-intersection—along the continuous side of the continuing carriageway at the intersection.

4.2 Stopping in a loading zone

A person must not stop a vehicle in a loading zone—

- (a) unless it is a commercial vehicle continuously engaged in the picking up or setting down of goods;
- (b) (if no time is indicated on the sign) for longer than a time indicated on the loading zone sign; or
- (c) for longer than 30 minutes.

4.3 Stopping in a taxi zone or a bus zone

- (1) A person must not stop a vehicle in a taxi zone, unless that person is driving a taxi.
- (2) A person must not stop a vehicle in a bus zone unless that vehicle is a bus that is permitted to stop at the bus zone by information on or with the 'bus zone' sign applying to the bus zone.

4.4 Stopping in a mail zone

A person must not stop a vehicle in a mail zone unless authorised under a written law.

4.5 Construction site vehicle parking

(1) In this clause unless the context otherwise requires—

builder has the meaning given to it in the *Building Act 2011*;

construction site means any land subject to development;

construction site vehicle means a commercial vehicle, truck heavy or long vehicle;

daily fee means the applicable daily fee as determined in accordance with section 6.16 of the Act;

development means the demolition, erection, construction, alteration of or addition to any building or structure on land or the carrying out on land of any excavation or other works;

eligible person means an owner or occupier of a construction site or any builder carrying out work on a construction site;

establishment fee means the applicable establishment fee as determined in accordance with section 6.16 of the Act;

work zone means any carriageway or part of a carriageway, whether or not marked as a metered space, parking bay or ticket machine zone, which is set aside by the local government by a sign, for a period specified on the sign, for the stopping or parking of construction site vehicles.

(2) An eligible person seeking to establish a work zone adjacent to a construction site may apply in writing to the local government, which may approve or refuse the application.

(3) Where the local government approves an application, it is to give the applicant written notice specifying—

- (a) the number and location of work zones the applicant may use;
- (b) the times during which the stopping or parking of construction site vehicles is permitted in the work zone;
- (c) the period for which the approval is valid;
- (d) any conditions to which the approval of the local government is subject; and
- (e) the amount of the establishment fee and daily fee applicable.

(4) The local government is to set aside a work zone in accordance with the notice referred to in subclause (3) within 14 days from the date of payment of the establishment fee.

(5) An eligible person must, in addition to the establishment fee, pay to the local government a daily fee for each day that a work zone is set aside.

(6) The daily fee is payable monthly in advance.

(7) Where the local government has approved an application to establish a work zone adjacent to a construction site, the local government may cancel its approval by written notice to the applicant in the event that, the applicant or any person authorised by the applicant to use the work zone stops or parks a vehicle other than in accordance with—

- (a) any condition stipulated in the notice issued to the applicant pursuant to subclause (3);
- (b) any sign applicable to the work zone;
- (c) the applicant fails to pay the daily fee as required pursuant to subclause (5); or
- (d) if the local government or a person authorised by the local government requires access to or near the place where the work zone is situated, for the purposes of carrying out works in or near the vicinity of that place.

(8) A person must not stop or park a vehicle in a work zone unless the person is driving a vehicle that is—

- (a) engaged in construction work in or near the zone; or
- (b) permitted to stop in the works zone in accordance with this local law.

4.6 Other limitations in zones

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

PART 5—OTHER PLACES WHERE STOPPING IS RESTRICTED

5.1 Stopping in a shared zone

A person must not stop a vehicle in a shared zone unless—

- (a) the person stops a vehicle at a place on a length of carriageway, or in an area, to which a parking control sign applies and the person is permitted to stop at that place under this local law;
- (b) the person stops a vehicle in a parking bay and the person is permitted to stop in the parking bay under this local law; or
- (c) the person is engaged in door-to-door delivery or collection of goods, or in the collection of waste or garbage.

5.2 Double parking

(1) A person must not stop a vehicle so that any portion of the vehicle is between any other stopped vehicle and the centre of the carriageway.

(2) This clause does not apply to—

- (a) a vehicle stopped in traffic; or
- (b) a vehicle angle parking on the side of the carriageway or in a median strip parking area, in accordance with this local law.

5.3 Stopping near an obstruction

A person must not stop a vehicle on a carriageway near an obstruction on the carriageway in a position that further obstructs traffic on the carriageway.

5.4 Stopping in a bus lane, transit lane or truck lane

A driver must not stop in—

- (a) a bus lane;
- (b) a transit lane;
- (c) a truck lane; or
- (d) a bicycle lane,

unless the driver is driving a public bus or taxi, and is dropping off, or picking up, passengers.

5.5 Stopping on a bridge, causeway, ramp or in a tunnel

(1) A person must not stop a vehicle on a bridge, causeway, ramp or similar structure unless—

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

(2) A person must not stop a vehicle in a tunnel or underpass unless—

- (c) the carriageway is at least as wide in the tunnel or underpass as it is on each of the approaches and a sign does not prohibit stopping or parking; or
- (d) the vehicle is a bus stopped at a bus stop, or in a bus zone or parking area marked on the carriageway, for the purpose of setting down or taking up passengers.

5.6 Stopping on crests and curves

(1) Subject to subclause (2), a person must not stop a vehicle on, or partly on, a carriageway within the parking region, in any position where it is not visible to the driver of an overtaking vehicle, from a distance of 50 metres.

(2) A person may stop a vehicle on a crest or curve on a carriageway within the parking region if the vehicle stops at a place on the carriageway, or in an area, to which a parking control sign applies and the vehicle is permitted to stop at that place under this local law.

5.7 Stopping near a fire hydrant

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

- (a) the person is driving a public bus, and stops in a bus zone or at a bus stop and does not leave the bus unattended; or
- (b) the person is driving a taxi and stops in a taxi zone and does not leave the taxi unattended.

5.8 Stopping near a bus stop

(1) A person must not stop a vehicle so that any portion of the vehicle is within 20 metres of the approach side of a bus stop or within 10 metres of the departure side of a bus stop, unless—

- (a) the vehicle is a public bus stopped to take up or set down passengers; or
- (b) the person stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the person is permitted to stop at that place under this local law.

(2) In this clause a trailer attached to a public bus is deemed to be a part of the public bus.

5.9 Stopping on a traffic island

A person must not stop a vehicle (other than a bicycle) so that any portion of the vehicle is on a traffic island, unless the vehicle stops in an area to which a parking control sign applies and the vehicle is permitted to stop at that place under this local law.

5.10 Stopping on a verge

(1) A person must not stop—

- (a) a vehicle (other than a bicycle);
- (b) a commercial vehicle, a bus, a trailer, a boat, a caravan, a truck or any other vehicle with a GVM in excess of 2.5 tonnes or 7.5 metres in length; or
- (c) a vehicle during any period when stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge,

so that any portion of it is on a verge.

(2) Subclause (1)(a) does not apply to the driver if he or she is the owner or occupier of a premises that abuts the verge or is a person authorised by the owner or occupier of those premises to park the vehicle so that any portion of it is on the verge.

(3) Subclause (1)(b) does not apply to a commercial vehicle when it is being loaded or unloaded with reasonable expedition with goods or materials collected from or delivered to the premises that abuts the verge on which the commercial vehicle is parked, (but in any event not for any period exceeding 3 consecutive hours between the hours of 7am and 6pm Western Australian Standard Time and not at any other time), provided no obstruction is caused to the passage of any other vehicle or person using a carriageway or path.

(4) Notwithstanding subclause (2) and (3), clause 4.1 applies.

5.11 Obstructing access to a footpath, path or crossover

(1) A person must not stop a vehicle so that any portion of the vehicle is on or across a footpath, path or in a position that it obstructs access or egress by pedestrians using that footpath or path or other vehicles to that path, unless—

- (a) the driver is dropping off or picking up passengers and must not remain for longer than 2 minutes; or
- (b) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under this local law.

(2) A person must not stop a vehicle on or across a crossover or other way of access for vehicles travelling to or from adjacent land, unless—

- (a) the vehicle is dropping off, or picking up, passengers and must not remain for longer than 2 minutes;
- (b) the vehicle stops in a parking bay and the vehicle is permitted to stop in the parking bay under this local law; or
- (c) the driver is the owner or occupier of the premises that abuts the crossover or is a person permitted by the owner or occupier of the premises.

(3) A person must not park a vehicle on a crossover if any portion of the vehicle obstructs a footpath or prolongation thereof.

5.12 Stopping near a public letter box

A person must not stop a vehicle other than a postal vehicle, so that any portion of the vehicle is within 3 metres of a public letter box, unless the vehicle stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the vehicle is permitted to stop at that place under this local law.

5.13 Stopping on a carriageway with a bicycle parking sign

A person must not stop a vehicle (other than a bicycle) on a length of carriageway to which a 'bicycle parking' sign applies, unless the vehicle is dropping off or picking up passengers.

5.14 Stopping on a carriageway with motorcycle parking sign

A person must not stop a vehicle on a length of carriageway, or in a parking bay to which a 'motorcycle parking' sign applies, or an area marked 'M/C', unless the vehicle is a motor cycle.

5.15 Stopping on a median strip

A person must not stop a vehicle (other than a bicycle) so that any portion of the vehicle is on a median strip, unless the vehicle stops in an area to which a parking control sign applies and the vehicle is permitted to stop at that place under this local law.

5.16 Eating Areas in parking bays

A person must not stop a vehicle in a parking bay which has been authorised in writing by the local government, to be set up or conducted as an eating area and which is designated by signs as such at that time.

PART 6—PARKING PERMITS

6.1 Interpretation

In this part of this Local Law, unless the context requires otherwise—

Commercial Parking Permit means a permit issued by the local government pursuant to clause 6.2(3).

dwelling unit means premises lawfully used for self-contained living quarters.

eligible person means the owner of a vehicle registered under the Road Traffic Act at the address shown on the application for the parking permit, where used—

- (a) in relation to an application for a residential parking permit means a single house occupier, a unit occupier, a unit owner;
- (b) in relation to an application for a visitor's parking permit means—
 - (i) a single house occupier;
 - (ii) a strata company; or
 - (iii) a unit owner of a residential unit which is not a strata lot;
- (c) in relation to an application for a commercial parking permit means the proprietor of a commercial business.

Residential Parking Permit means a permit issued by the local government pursuant to Clause 6.2(1).

Residential Unit means a dwelling unit which is part of a building adjacent to a part of a road on which road the stopping or parking of vehicles is prohibited for more than a specified period and which building contains—

- (a) 2 or more dwelling units with or without any non-residential units; or
- (b) 1 dwelling unit with one or more non-residential units.

single house means a dwelling unit constructed on its own lot and used for self-contained living quarters and which is adjacent to a part of a road on which the stopping or parking of vehicles is prohibited for more than a specified period.

single house occupier means an occupier of a single house.

strata company means a body corporate constituted under section 32 of the *Strata Titles Act 1985*.

unit occupier means an occupier of a residential unit but does not include a unit owner.

unit owner means a person who is the owner of a residential unit.

Visitors Parking Permit means a permit issued by the local government pursuant to Clause 6.2(2).

6.2 Issue of a parking permit

- (1) The local government may upon a written application of an eligible person issue a residential parking permit in the prescribed form approved by the local government and for the prescribed fee.
- (2) The local government may upon a written application of an eligible person issue a visitor's parking permit in the prescribed form approved by the local government and for the prescribed fee.
- (3) The local government may upon a written application of an eligible person issue a commercial parking permit in the prescribed form approved by the local government and for the prescribed fee.
- (4) The local government's power to issue, replace and revoke permits under this Part may be exercised by an Authorised Person.

6.3 Validity of a parking permit

Every parking permit as the case may be, must cease to be valid upon—

- (a) on 31 December of the year of expiry of a period of either 1 or 3 years (depending upon the permit issued) from and including the date on which it is issued;
- (b) the holder of the permit ceasing to be an eligible person;
- (c) the revocation of the permit by the local government pursuant to clause 6.4; or
- (d) the replacement of any permit by a new permit issued by the local government pursuant to clause 6.2.

6.4 Revoking a parking permit

- (1) The local government may revoke a parking permit if the permit holder breaches any of the conditions for its use or the prerequisites for the issue of the permit no longer apply.
- (2) The local government may at any time give an eligible person to whom a permit was issued pursuant to the provisions of this local law a notice of intention in the prescribed form approved by the local government requiring that person to notify the local government of any reason why that permit should not be revoked.
- (3) The local government must give notice referred to in subclause (2) by serving a notice of intention on the eligible person to whom the permit was issued.
- (4) If within 7 days after the date of receipt of the notice of intention referred to in subclause (2) the eligible person to whom the permit was issued—
 - (a) fails to give the local government notice in writing of any reason why the permit should not be revoked;
 - (b) gives the local government notice in writing of any reasons why the permit should not be revoked,

then the local government may in its absolute discretion revoke that permit.

(5) For the purpose of subclause (2) the date of receipt of the notice must be the date the notice was served.

(6) The local government must give notice in the prescribed form of the revocation by serving a notice of revocation on the eligible person to whom the permit was issued.

6.5 Where a parking permit applies

- (1) Where the parking of a vehicle on any part of a carriageway within the parking region is prohibited for more than a specified time, or in a ticket parking zone without an unexpired parking ticket being displayed within the vehicle, or in a parking fee zone requiring the fee to be paid, the holder of a permit issued under this clause is exempt from such prohibition, provided that such exemption must only apply—
 - (a) to the part of the carriageway specified in the permit;
 - (b) if the permit is displayed inside the vehicle in a prominent position, in such a manner as to be clearly visible from the front of the vehicle;
 - (c) if the permit was validly issued and has not expired; and
 - (d) if the permit holder occupies the premises in respect of which the permit is issued.

(2) A person must not stop or park a vehicle in an area set aside for persons or vehicles of a particular class during any permitted period unless a permit is displayed inside the vehicle in a prominent position, in such a manner as to be clearly visible from the front of the vehicle and able to be read by an Authorised Person at all times while the vehicle remains stopped or parked in the zone.

6.6 Return of a parking permit to the local government

A parking permit holder who ceases to occupy the premises or own a vehicle for which a parking permit was issued, must remove any permit displayed in or affixed to the windscreen of any vehicle and return the permit(s) to the local government.

6.7 Counterfeit or altered parking permit

A person must not use or display in a vehicle, a parking permit that has in any way been counterfeited, altered, obliterated or interfered with.

6.8 Replacement of a parking permit

The local government may issue a replacement residential, visitors or commercial parking permit when a written application is made and the appropriate fee is paid.

6.9 Discretionary Authority

Notwithstanding any other provisions in this local law or a policy adopted by the local government which restricts the number of parking permits that may be issued, the local government may approve the issue of additional parking permits to any eligible person on such terms and conditions as the local government sees fit.

6.10 Fees payable

Fees payable for the issue of a permit must be determined in accordance with section 6.16 to 6.19 of the Act.

PART 7—MISCELLANEOUS

7.1 Impersonating an Authorised Person

A person who is not an Authorised Person of the local government must not impersonate or assume the duties of an Authorised Person.

7.2 Removal of notices from a vehicle

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

7.3 Unauthorised signs and defacing signs

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

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

7.4 Contravention of signs

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

7.5 General provisions about signs

A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary presumed to be a sign marked, erected, set up, established or displayed under the authority of this local law.

7.6 Damage to parking areas and associated infrastructure

- (1) A person must not, nor attempt to, remove, damage, deface, misuse or interfere with any part of a parking station, parking facility, parking area or any infrastructure appurtenant to those areas.
- (2) A person must not operate or attempt to operate a ticket issuing machine or pay station except in accordance with the operating instructions appearing on those devices.

7.7 Special purpose and emergency vehicles

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

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

7.8 Vehicles not to obstruct a public place

(1) A person must not park or leave 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 without the permission of the local government or unless authorised under any written law.

- (2) A vehicle which is parked in any portion of a public place where vehicles may be lawfully parked, is deemed to cause an obstruction and may be impounded where—
- (a) the vehicle is parked for any period exceeding 24 hours;
 - (b) the vehicle is so parked during any period in which the parking of vehicles is prohibited or restricted by a sign; or
 - (c) the vehicle is abandoned, unregistered or disused.
- (3) The powers of the local government to remove and impound vehicles are set out in Part 3 Division 3 Subdivision 4 of the Act.

PART 8—ENFORCEMENT

8.1 Offences and penalties

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything, which under this local law that person is prohibited from doing, commits an offence.
- (2) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) Any person who commits an offence under this local law is to be liable, upon conviction, to a penalty not less than \$1000 and 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.
- (4) The amount appearing in the final column of Schedule 2 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

8.2 Form of notices

For the purposes of this local law—

- (a) 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 referred to in section 9.17 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 infringement withdrawal 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*.

SCHEDULE 1—PARKING REGION

[Clause 1.7(1)]

The parking region is the whole of the district, but excludes the following portions of the district—

- (1) the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;
- (2) prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
- (3) any road which comes under the control of the Commissioner of Main Roads unless the control of parking and parking facilities on that road is carried out subject to the control and direction of the Commissioner of Main Roads or has been delegated by the Commissioner to the local government.

SCHEDULE 2—PRESCRIBED OFFENCES

[Clause 8.1(4)]

Item No.	Clause No.	Nature of offence	Modified Penalty \$
1.	2.2(1)(b)	Failure to park wholly within a parking bay	80
2.	2.2(1)(c)	Parking against the flow of traffic	80
3.	2.2(3)	Failure to park wholly within a parking area	80
4.	2.3(a)	Parking in fee paying area contrary to instructions	80
5.	2.3(b)	Failure to pay the required fees	80
6.	2.4	Parking contrary to signage where fees are payable	80
7.	2.5(a)	Parking with an expired parking ticket	80
8.	2.5(b)	Failing to clearly display parking ticket	80
9.	2.7	Stopping a vehicle when stopping is not permitted within a fee paying zone	80
10.	2.8	Use counterfeit or altered parking ticket	250
11.	3.1(1)(a)	Parking wrong class of vehicle	80
12.	3.1(1)(b)	Parking by persons of a different class	80
13.	3.1(1)(c)	Parking during prohibited period, excluding clearways	80
14.	3.1(2)(a)	Parking in excess of maximum time	80
15.	3.1(2)(b)	Parking vehicle in a motorcycle only area	80
16.	3.1(2)(c)	Causing obstruction in a parking station	80
17.	3.1(2)(d)	Parking or attempting to park a vehicle in a parking bay occupied by another vehicle	80
18.	3.1(4)	Parking without permission in an area designated for 'Authorised Vehicles Only'	100
19.	3.2(2)(a)	Failure to park as near as practicable to the left side of the carriageway	80
20.	3.2(2)(b)	Failure to park as near as practicable to the side of the carriageway along a one way carriageway	80
21.	3.2(2)(c)	Parking within 3 metres of the farther carriageway boundary, median strip or a vehicle parked on the farther carriageway boundary	80
22.	3.2(2)(d)	Parking closer than 1 metre from another vehicle	80
23.	3.2(2)(e)	Causing obstruction to another vehicle on a carriageway	100
24.	3.2(2)(f)	Parking a vehicle against the normal flow of traffic whilst on a carriageway	80
25.	3.2(3)(a)	Parking on a carriageway when prohibited at all times by a sign	80
26.	3.2(3)(b)	Parking on a carriageway when prohibited during a period by a sign	80
27.	3.2(4)(a)	Parking on or adjacent to a median strip	80
28.	3.2(4)(b)	Obstructs a private drive or carriageway or denies reasonable access to a private drive or right of way or carriageway	150
29.	3.2(4)(c)	Stopping beside excavation or obstruction so as to obstruct traffic	80
30.	3.2(4)(d)	Stopping within 10 metres of traffic island	80
31.	3.2(4)(e)	Stopping on pedestrian crossing	100
32.	3.2(4)(f)	Stopping a vehicle within 10 metres of departure side or 20 metres approach side of a children's or pedestrian crossing	100

Item No.	Clause No.	Nature of offence	Modified Penalty \$
33.	3.2(4)(g)	Stopping a vehicle within 20 metres of approach side or departure side of railway level crossing	80
34.	3.2(4)(h)	Stopping within 3 metres of continuous dividing line markings	80
35.	3.2(4)(i)	Stopping in a clearway	150
36.	3.2(5)(a)	Stopping on a carriageway when prohibited by a sign	80
37.	3.2(5)(b)	Stopping on a carriageway when prohibited during a period by a sign	80
38.	3.2(5)(c)	Stopping contrary to a 'no stopping' sign	100
39.	3.2(5)(d)	Stopping within continuous yellow line	100
40.	3.2(5)(e)	Stopping in an area set aside for vehicles of a different class	100
41.	3.2(5)(f)	Stopping in an area set aside for persons of a different class	100
42.	3.2(6)	Parked in a 'no parking' area	100
43.	3.3(1)(a)	Failure to park as near as practicable or parallel with the boundary	80
44.	3.3(1)(b)	Failure to park at approximate right angle	80
45.	3.4(2)	Failure to park at an appropriate angle	80
46.	3.4(3)	Vehicle not reversed in to a parking bay in accordance with signage	80
47.	3.5(1)(a)	Parking a heavy or long vehicle on a carriageway in excess of 1 hour when not actively engaged in loading or unloading	80
48.	3.5(1)(b)	Parking a heavy or long vehicle not on the shoulder of a carriageway or other specified area	80
49.	3.6	Parking contrary to directions of an Authorised Person	250
50.	3.7(2)	Removing a mark made by an Authorised Person	250
51.	3.9(a)	Parking in thoroughfare for purpose of sale	80
52.	3.9(b)	Parking unlicensed vehicle in thoroughfare	80
53.	3.9(c)	Parking a trailer or caravan on a thoroughfare unattached to a motor vehicle	80
54.	3.9(d)	Parking in thoroughfare in order to effect repairs	80
55.	3.10(2)	Parking on private land without consent	100
56.	3.10(3)	Parking on land not in accordance with consent	100
57.	3.10(4)	Displaying a Private Property Parking Enforcement Agreement sign without a current Private Property Parking Enforcement Agreement	250
58.	3.11	Driving or parking on a reserve	150
59.	3.12	Vehicle stopped or parked in a right of way causing an obstruction	150
60.	3.13(2)	Parking without authorisation	100
61.	4.1(1)	Parking on thoroughfare within 20 metres of a signaled intersection	100
62.	4.1(2)	Parking on thoroughfare within 10 metres of an intersection	100
63.	4.2(a)	Not engaged in loading or unloading whilst stopped in a loading zone	80
64.	4.2(b),(c)	Stopping in a loading zone in excess of maximum time allowed	80
65.	4.3	Stopping unlawfully in a taxi zone or bus zone	80
66.	4.4	Stopping unlawfully in a mail zone	80
67.	4.5(8)	Unauthorised stopping in a construction site work zone	100
68.	5.1	Stopping unlawfully in a shared zone	80
69.	5.2(1)	Double parking	100
70.	5.3	Stopping near an obstruction	80
71.	5.4(a)	Stopping in a bus lane	80
72.	5.4(b)	Stopping in a transit lane	80
73.	5.4(c)	Stopping in a truck lane	80
74.	5.4(d)	Stopping in a bicycle lane	80
75.	5.5(1)	Stopping on a bridge, causeway or ramp	100
76.	5.5(2)	Stopping in a tunnel or underpass	100

Item No.	Clause No.	Nature of offence	Modified Penalty \$
77.	5.6(1)	Stopping on a crest or curve	100
78	5.7	Stopping within 1 metre of a fire hydrant or fire plug	100
79.	5.8(1)	Stopping near a bus stop	100
80.	5.9	Stopping on a traffic island	100
81.	5.10(1)(a)	Stopping on a verge without consent of adjacent owner or occupier	100
82.	5.10(1)(b)	Stopping a commercial vehicle, bus, trailer, boat, caravan or truck on a verge	100
83.	5.10(1)(c)	Stopping on a verge contrary to a sign	100
84.	5.11	Driving a vehicle across a footpath or verge adjacent to a length of carriageway	100
85.	5.12(1)	Causing an obstruction to a footpath or path	100
86.	5.12(2)	Stopped on or across a crossover to deny access to the adjacent premises or land	150
87.	5.12(3)	Stopped on or across a crossover obstructing a footpath	150
88.	5.13	Stopping within 3 metres of a public letter box	80
89.	5.14	Stopping in a bicycle parking area	80
90.	5.15	Stopping in a motorcycle parking area	80
91.	5.16	Stopping on a median strip	100
92.	5.17	Stopping in an eating area	100
93.	6.5(2)	Failure to display a valid Permit	80
94.	6.7	Use of a counterfeit or altered parking permit	250
95.	7.1	Impersonating an Authorised Person	250
96.	7.2	Removing a notice from a vehicle without authority	100
97.	7.3(a)	Unauthorised exhibition of a parking control sign	100
98.	7.3(b)	Misuse or deface a sign exhibited by the local government	100
99.	7.3(c)	Affix anything to a sign exhibited by the local government	100
100.	7.6(1)	Cause or attempting to cause damage to a parking area or associated infrastructure	500
101.	7.6(2)	Operating a ticket machine or pay station not in accordance with instructions	100
102.	7.8(1)	Leaving a vehicle so as to obstruct a public place	150
103.	—	All other offences not specified	100

Dated this 22nd day of October 2019.

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

CHRISTOPHER ANTONIO, President.
JASON WHITEAKER, Chief Executive Officer.