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SHIRE OF WYALKATCHEM

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**LOCAL GOVERNMENT ACT 1995
BUSH FIRES ACT 1954**

SHIRE OF WYALKATCHEM

BUSH FIRE BRIGADES LOCAL LAW 2022

Under the powers conferred by the *Local Government Act 1995*, *Bush Fires Act 1954* and under all other powers enabling it, the Council of the Shire of Wyalkatchem resolved on 15 December 2022 to make the following local law.

1 Citation

This local law may be cited as the *Shire of Wyalkatchem Bush Fire Brigades Local Law 2022*.

2 Definitions

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

Act means the *Bush Fires Act 1954*;

brigade area is defined in clause 5(1)(b);

bush fire brigade is defined in section 7 of the Act;

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

local government means the Shire of Wyalkatchem;

normal brigade activities is defined by section 35A of the Act; and

Regulations means Regulations made under the Act.

(2) In this local law, unless the context otherwise requires, a reference to—

(a) a Captain;

(b) a First Lieutenant;

(c) a Second Lieutenant; and

(d) any additional Lieutenants;

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

3 Application

This local law applies throughout the district.

4 Establishment of a bush fire brigade

(1) The local government may establish a bush fire brigade for the purpose of carrying out normal brigade activities.

(2) A bush fire brigade is established on the date of the local government's decision under subclause (1).

(3) A bush fire brigade established under subclause (1) is to hold a meeting at least once every financial year to appoint persons to the positions in clause 5(4), and where applicable in clause 5(6).

5 Name and officers of bush fire brigade

(1) On establishing a bush fire brigade under clause 4(1) the local government is to—

(a) Give a name to the bush fire brigade;

(b) Specify the brigade area in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities; and

(c) Appoint—

(i) a Captain;

(ii) a First Lieutenant;

(iii) a Second Lieutenant; and

(iv) additional Lieutenants if the local government considers it necessary.;

(2) A person appointed to a position pursuant to subclause (1)(c) is to be taken to be a brigade member.

(3) The appointments referred to in subclause (1)(c) expire at the completion of the first annual general meeting of the bush fire brigade.

(4) An election is to be held at the first annual general meeting by the members of the brigade for appointments to the positions referred to in subclause 1(c) or established under subclause (6) and every subsequent annual general meeting.

(5) If a position referred to in subclause (1)(c) or established under subclause (6) becomes vacant prior to the completion of the first annual general meeting or at any time, then the Brigade members are to vote for a replacement member to fill the position.

(6) The Brigade members may elect, set the term of office, describe the duties of, and dismiss, any person to any other position including secretary, treasurer, equipment officer, training officer or other positions, and may combine those positions; and

(7) The Brigade members may establish types of brigade membership including fire fighting members, auxiliary members, cadet members, and honorary life members.

6 Duties of Captain and bush fire brigade officers

(1) The duties of the Captain are to—

- (a) provide leadership to bush fire brigades;
- (b) monitor bush fire brigades' resourcing, equipment and training levels;
- (c) liaise with the local government concerning—
 - (i) fire prevention or fire suppression matters generally;
 - (ii) directions to be issued by the local government to bush fire control officers, including those who issue permits to burn; and
 - (iii) bush fire brigade officers;
- (d) ensure that a list of bush fire brigade members is maintained;
- (e) report annually to the local government the office bearers of the bush fire brigade in accordance with the Regulations;
- (f) report to the local government not later than 31 March each year, for consideration and appropriate provision being made in the next local government budget, the status of a bush fire brigade's—
 - (i) training and readiness;
 - (ii) protective clothing;
 - (iii) equipment; and
 - (iv) vehicles and appliances.
- (g) nominate persons to the CEO for appointment as bush fire control officers by the local government;
- (h) arrange for normal brigade activities as authorised by the Act or by the local government; and
- (i) where a vacancy occurs in a position appointed under clause 6(1)(c), to—
 - (i) advise the CEO of the vacancy as soon as practicable; and
 - (ii) make alternate suitable arrangements for that position until an appointment is made.

(2) The duties of other bush fire brigade officers are to support the Captain in his/her role.

7 Appointment, employment, payment, dismissal and duties of bush fire control officers

The appointment, employment, payment, dismissal and duties of bush fire control officers is dealt with by the Act.

8 Maintenance and equipment with appliances and apparatus of bush fire brigades

The local government may provide funds for the maintenance and equipment with appliances and apparatus of bush fire brigades in accordance with Part 6 of the *Local Government Act 1995*.

Dated 20 February 2023.

The Common Seal of the Shire of Wyalkatchem was affixed in the presence of—

Cr QUENTIN DAVIES, President.
PETER KLEIN, Chief Executive Officer.

CAT ACT 2011
LOCAL GOVERNMENT ACT 1995

SHIRE OF WYALKATCHEM

CATS LOCAL LAW 2022

Under the powers conferred by the *Cat Act 2011*, the *Local Government Act 1995* and all other powers enabling it, the Council of the Shire of Wyalkatchem resolved on 15 December 2022 to make the following local law.

PART 1—PRELIMINARY

1.1 Title

This is the *Shire of Wyalkatchem Cats Local Law 2022*.

1.2 Commencement

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

1.3 Repeal

Clause 5.2.4 of the *Shire of Wyalkatchem Health Local Laws* published in the *Government Gazette* on 3 May 2002 is repealed.

1.4 Terms used

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

Act means the *Cat Act 2011*;

applicant means a person who applies for an approval;

application means an application for an approval;

approval means approval under regulation 9 of the *Cat (Uniform Local Provisions) Regulations 2013* and Part 2 of this local law;

approved person means the person to whom an approval is granted;

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

cat has the meaning given to it in the Act;

cat management facility has the meaning given to it in the Act;

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

local government means the Shire of Wyalkatchem;

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

nuisance means—

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

owner has the meaning given to it in the Act;

premises has the meaning given to it in the Act; and

veterinarian has the meaning given to it in the Act.

(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*.

1.5 Application

This local law applies throughout the district.

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 Prescribed premises

For the purposes of the definition of **prescribed premises** in regulation 4(1) of the *Cat (Uniform Local Provisions) Regulations 2013*, this local law limits the number of cats that may be kept at any premises within the district except—

- (a) a cat management facility operated by a body prescribed as a cat management facility operator under the *Cat Regulations 2012*;
- (b) a cat management facility operated by the local government; or
- (c) a veterinary clinic or veterinary hospital as defined under section 2 of the *Veterinary Surgeons Act 1960*, but only in relation to cats kept on those premises for treatment.

2.3 Standard number of cats

For the purposes of the definition of **standard number of cats** in regulation 4(1) of the *Cat (Uniform Local Provisions) Regulations 2013*, no more than 3 cats over the age of 6 months may be kept on premises within the district at which a member of a cat organisation is not ordinarily resident.

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*.

(2) An application for approval must be accompanied by the application fee determined by the local government in accordance with the Act.

2.5 Determining an application

(1) For the purpose 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 zoning of the land under the local planning scheme;
- (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; and
- (h) any other factors which the local government considers to be relevant in the circumstances of the application.

(2) An approval is to be in the form determined by the local government and is to be issued to the approved person.

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 the premises must be adequately fenced (and premises will be taken not to be adequately fenced if there is more than one escape of a cat from the premises);
- (b) that there must be adequate space for the exercise of the cats;
- (c) 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
- (d) 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) An approved person who does not comply with a condition of the approval, commits an offence.

Penalty: a fine of not less than \$1,000 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.

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 approval had been made; and
- (c) the renewal fee, imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*, is paid to the local government before the expiry of the approval.

(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 this clause 2.8.
- (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 local government;
 - (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*.
- (3) The local government is not to determine an application for the transfer of an approval until the proposed transferee has complied with subclause (2).
- (4) The local government may grant, or refuse to grant, an application for the transfer of an approval, and this approval will be subject to such conditions as the local government may impose under Regulation 9(3) of the *Cat (Uniform Local Provisions) Regulations 2013*.
- (5) Where the local government grants an application for the transfer of an approval—
- (a) it is to issue to the transferee an approval in the form determined by the CEO; and
 - (b) on the date of approval, unless otherwise specified in the approval, the transferee becomes the approved person for the purposes of this local law.

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 permit holder and specifying the date on which the changes will become effective.
- (2) The local government may cancel an approval—
- (a) on the request of the approved person;
 - (b) if the approved person breaches the Act, the *Cat Regulations 2012*, the *Cat (Uniform Local Provisions) Regulations 2013* or this local law; or
 - (c) 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.

2.10 Objection and review rights

A decision of the local government made under clauses 2.7, 2.8 or 2.9 is a decision to which Division 1, Part 9 of the *Local Government Act 1995* applies.

PART 3—ENFORCEMENT**3.1 Infringement notices**

- (1) An offence against clause 2.6(2) is a prescribed offence for the purposes of section 62(1) of the Act and the modified penalty for the offence is a fine of \$200.
- (2) The form of an infringement notice is Form 6 in the *Cat Regulations 2012*, Schedule 1.
- (3) The form of withdrawal of the infringement notice is Form 7 in the *Cat Regulations 2012*, Schedule 1.

Dated 17 February 2023.

The Common Seal of the Shire of Wyalkatchem was affixed in the presence of—

Cr QUENTIN DAVIES, President.
PETER KLEIN, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

SHIRE OF WYALKATCHEM

DOGS LOCAL LAW 2022

Under the powers conferred by the *Local Government Act 1995*, the *Dog Act 1976* and under all other powers enabling it, the Council of the Shire of Wyalkatchem resolved on 15 December 2022 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Wyalkatchem Dogs Local Law 2022*.

1.2 Repeal

The *Shire of Wyalkatchem Dogs By-Law 1986* published in the *Government Gazette* on 21 March 1986 and amended in the *Government Gazette* on 22 July 1988 is repealed.

1.3 Definitions

In this local law unless the context otherwise requires—

Act means the *Dog Act 1976*;

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

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

local government means the Shire of Wyalkatchem;

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

Regulations means the *Dog Regulations 2013*;

Schedule means a schedule in this local law; and

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

1.4 Application

This local law applies throughout the district.

1.5 Commencement

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

PART 2—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

2.1 Dogs to be confined

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

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

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

(3) Notwithstanding subclauses (1) and (2), the confinement of dangerous dogs is dealt with in the Act and Regulations.

2.2 Limitation on the number of dogs

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

- (a) licensed under Part 3 as an approved kennel establishment;
- (b) granted an exemption under section 26(3) of the Act; or

- (c) established as a veterinary hospital or a veterinary clinic.
- (2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act is—
 - (a) Two (2) dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite; and
 - (b) Six (6) dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a townsite.

PART 3—APPROVED KENNEL ESTABLISHMENTS

3.1 Interpretation

In this Part and in Schedule 2—

licence means a licence to keep an approved kennel establishment on premises;

licensee means the holder of a licence;

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

transferee means a person who applies for the transfer of a licence to her or him under clause 3.14.

3.2 Application for licence for approved kennel establishment

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

- (a) evidence of any approvals required under the local planning scheme—
- (b) plans and specifications of the kennel establishment, including a site plan;
- (c) copies of the notices to be given under clause 3.3;
- (d) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (e) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government; and
- (f) the fee for the application for a licence referred to in clause 3.10.

3.3 Notice of proposed use

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

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

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

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

(3) Where—

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

then the local government may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.

3.4 Exemption from notice requirements

(1) Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a—

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

under a local planning scheme, then the requirements of clauses 3.2(c), 3.3 and 3.5(c) do not apply in respect of the application for a licence.

(2) The local government may require advertising of an application as part of the planning process.

3.5 When application can be determined

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

- (a) any approvals required under the local planning scheme have been obtained by the applicant;
- (b) the applicant has complied with clause 3.2;
- (c) the applicant submits proof that the notices referred to in clause 3.3(1) have been given in accordance with that clause; and

- (d) the local government has considered any written submissions received within the time specified in clause 3.3(2)(a) on the proposed use of the premises.

3.6 Determination of application

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

- (a) the matters referred to in clause 3.7;
- (b) any written submissions received within the time specified in clause 3.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the approved kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

3.7 Where application cannot be approved

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

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

3.8 Conditions of approval

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

3.9 Compliance with conditions of approval

Penalties applicable where a licensee does not comply with the conditions of a licence are contained in the Act and Regulations.

3.10 Fees

- (1) On lodging an application for a licence, the applicant is to pay a fee to the local government.
- (2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.
- (4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.15 to 6.19 of the *Local Government Act 1995*.

3.11 Form of licence

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

3.12 Period of licence

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the fee referred to in clause 3.10(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

3.13 Variation or cancellation of licence

- (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence—
 - (a) on the request of the licensee;
 - (b) following a breach of the Act, the Regulations or this local law; or
 - (c) if the licensee is not a fit and proper person.
- (3) The date a licence is cancelled is to be, in the case of—
 - (a) paragraph (a) of subclause (2), the date requested by the licensee; or
 - (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.

3.14 Transfer

- (1) An application for the transfer of a valid licence from the licensee to another person must be—
 - (a) made in the form determined by the local government;
 - (b) made by the transferee;

- (c) made with the written consent of the licensee; and
- (d) lodged with the local government together with—
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 3.10(3).

(2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).

(3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.

(4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 3.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.

3.15 Notification

The local government is to give written notice to—

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 3.13(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 3.13(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 3.13(2), which notice is to be given in accordance with section 27(6) of the Act.

3.16 Inspection of kennel

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

PART 4—MISCELLANEOUS

4.1 Offence to excrete

- (1) A dog must not excrete on—
 - (a) any thoroughfare, any dog exercise area or other public place; or
 - (b) any land which is not a public place without the consent of the occupier.
- (2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.
- (3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.
- (4) Notwithstanding clause 5.2, the unmodified penalty for an offence under this clause is \$1000.

PART 5—ENFORCEMENT

5.1 Interpretation

In this Part—

- infringement notice** means the notice referred to in clause 5.4; and
- notice of withdrawal** means the notice referred to in clause 5.7(1).

5.2 Offences and general penalty

- (1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) A person who commits an offence under this local law is liable, on conviction, to a penalty not less than \$500 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.

5.3 Modified penalties

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

5.4 Issue of infringement notice

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 8 of the First Schedule of the Regulations.

5.5 Failure to pay modified penalty

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

5.6 Payment of modified penalty

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

5.7 Withdrawal of infringement notice

- (1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 9 of the First Schedule of the Regulations.
- (2) A person authorised to issue an infringement notice under clause 5.4 cannot sign or send a notice of withdrawal.

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

(clause 3.2)

DOGS LOCAL LAW 2022

I/we (full name)

of (postal address)

(telephone number)

(facsimile number)

(E-mail address)

Apply for a licence for an approved kennel establishment at (address of premises)

.....

For (number and breed of dogs)

* (insert name of person) will be residing at the premises on and from (insert date)

* (insert name of person) will be residing (sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare) at..... (insert address of residence)

..... (insert date).

on and from (insert date).

Attached are—

(a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;

(b) plans and specifications of the kennel establishment;

(c) copy of notice of proposed use to appear in newspaper;

(d) copy of notice of proposed use to be given to adjoining premises;

(e) written evidence that a person will reside—

(i) at the premises; or

(ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and

(f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as, in the keeping of dogs at the proposed kennel establishment.

Signature of applicant

Date

* delete where inapplicable.

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

OFFICE USE ONLY

Application fee paid on *[insert date]*.

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

(clause 3.8(1))

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

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than—
 - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be—
 - (i) at least 100mm above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
- (h) the kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of—
 - (i) 2m; or
 - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside—
 - (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

SCHEDULE 3—OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES
(clause 5.3)

Offence	Nature of offence	Modified penalty \$
2.1	Failing to provide means for effectively confining a dog	100
4.1(2)	Dog excreting in prohibited place	100

Dated 20 February 2023.

The Common Seal of the Shire of Wyalkatchem was affixed in the presence of—

Cr QUENTIN DAVIES, President.
PETER KLEIN, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF WYALKATCHEM

PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2022

Under the powers conferred on it by the *Local Government Act 1995* and under all other enabling powers, the Council of the Shire of Wyalkatchem resolved on 15 December 2022 to make this local law.

PART 1—PRELIMINARY

1.1 Title

This is the *Shire of Wyalkatchem Public Places and Local Government Property Local Law 2022*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal and transitional provisions

(1) The following local laws are repealed—

- (a) The *Municipality of the Shire of Wyalkatchem By-Laws Relating to the Management and Control of the Wyalkatchem Recreation Centre (Reserve No. 15004)* published in the *Government Gazette* on 4 March 1977;
- (b) The *Municipality of the Shire of Wyalkatchem By-laws Relating to the Control and Management of the Wyalkatchem Shire Hall* published in the *Government Gazette* on 3 October 1975;
- (c) The *Municipality of the Shire of Wyalkatchem By-laws Relating to Old Refrigerators and Cabinets* published in the *Government Gazette* on 21 Feb 1963;
- (d) The *Shire of Wyalkatchem By-laws for the Management of the Wyalkatchem War Memorial Aquatic Centre* published in the *Government Gazette* on 12 Dec 1961;
- (e) The *Wyalkatchem Road Board Hawker's Licence By-Law* published in the *Government Gazette* on 1 May 1931; and
- (f) The *Wyalkatchem Road Board Bylaw for regulating and licensing, of Hawkers and Stallholders* published in the *Government Gazette* on 2 July 1926.

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

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

1.5 Definitions

In this local law—

Act means the *Local Government Act 1995*;

applicant means a person who applies for a permit;

application means an application for a permit;

application fee means the fee payable on the lodgement of an application for a permit and which relates to the lodgement, assessment and determination of the application but does not include the permit fee;

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

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

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

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

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

CEO means the chief executive officer of the local government;

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

Council means the council of the local government;

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

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

determination means a determination made under clause 2.1;

district means the district of the local government and any area outside the district of the local government in respect of which the Governor's approval under section 3.6(1) of the Act has been obtained;

entertainment means the action of providing or being provided with amusement or enjoyment, an event, performance, or activity designed to entertain others.

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

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

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

hire includes offer to hire and expose for hire;

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

kerb includes the edge of a carriageway;

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

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

Liquor Control Act means the *Liquor Control Act 1988* and all regulations made under that Act;

local government means the Shire of Wyalkatchem;

local government property means anything—

- (a) which belongs to or leased by 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;

except a street.

local public notice has the meaning given to it by the Act;

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

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

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

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

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

permit means a permit under this local law;

permit fee means the fee payable on the issue of a permit;

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

permit holder means a person who holds a permit;

permissible verge treatment means any one of the treatments described in clause 8.4(2), and includes any associated reticulation pipes and sprinklers;

person does not include the local government;

private property means any land that—

- (a) has a separate certificate of title; and
- (b) is in private ownership or is the subject of a lease or agreement with a person enabling its use for private purposes,

and includes any building or structure on the land;

prohibited drug has the meaning given to it by the *Misuse of Drugs Act 1981*;

public place means—

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

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

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

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

Schedule means a schedule to this local law;

sell includes—

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

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

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

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

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

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

thoroughfare has the meaning given to it by the Act;

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

vehicle includes—

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

but excludes—

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

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

waste includes matter—

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

1.6 Interpretation

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

1.7 Overriding power to hire and agree

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

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

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

2.1 Determinations as to use of local government property

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

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

- (d) as to any matter ancillary or necessary to give effect to a determination.
- (2) The determinations in Schedule 1—
 - (a) are to be taken to have been made in accordance with clause 2.2;
 - (b) may be amended or revoked in accordance with clause 2.6; and
 - (c) have effect on the commencement day.

2.2 Procedure for making a determination

- (1) The CEO or an authorised person is to give local public notice of the local government's intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that—
 - (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
 - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
 - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council may decide—
 - (a) to give local public notice that the proposed determination has effect as a determination on and from the date of publication;
 - (b) to amend the proposed determination, in which case subclause (5) is to apply; or
 - (c) not to continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c), the Council—
 - (a) is to consider those submissions; and
 - (b) may decide—
 - (i) whether or not to amend the proposed determination; or;
 - (ii) whether or not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice—
 - (a) of the effect of the amendments; and
 - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

2.3 Discretion to erect sign

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

2.4 Determination to be complied with

A person must comply with a determination.

2.5 Register of determinations

- (1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

2.6 Amendment or revocation of a determination

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

2.7 Activities which may be pursued on specified local government property

- (1) A determination may provide that specified local government property is set aside as an area on which a person may—
 - (a) take, ride or drive a vehicle, or a particular class of vehicle;
 - (b) fly or use a motorised model aeroplane;
 - (c) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
 - (d) launch, beach or leave a boat;
 - (e) take or use a boat, or a particular class of boat;

- (f) play or practise—
 - (i) golf or archery;
 - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
 - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property; or
 - (g) ride a bicycle, a skateboard, roller skates, rollerblades, a sandboard or a similar device.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular—
- (a) the days and times during which the activity may be pursued;
 - (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
 - (d) may limit the activity to a class of vehicles, equipment or things, or may extend it to all vehicles, equipment or things;
 - (e) may specify that the activity can be pursued by a class of persons or all persons; and
 - (f) may distinguish between different classes of the activity.

2.8 Activities which may be prohibited on specified local government property

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

2.9 Sign under repealed local law taken to be determination

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

PART 3—ACTIVITIES ON LOCAL GOVERNMENT PROPERTY REQUIRING A PERMIT

3.1 Activities requiring a permit

- (1) A person must not without a permit—
- (a) subject to subclause (3) hire local government property;
 - (b) advertise anything by any means on local government property;
 - (c) erect, on local government property a structure for public amusement or for any performance, whether for gain or otherwise;
 - (d) teach, coach or train, for profit, a person or animal on local government property;
 - (e) plant any plant or sow any seeds on local government property;
 - (f) carry on any trading on local government property or public place unless the trading is conducted—

- (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
 - (ii) by a person who has a permit or permit to carry on trading on local government property under any written law;
 - (g) conduct or set up a market on local government property or public place;
 - (h) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose—
 - (i) drive or ride or take any vehicle on to local government property; or
 - (ii) park or stop any vehicle on local government property;
 - (i) conduct a function on local government property;
 - (j) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
 - (k) light a fire on local government property except in a facility provided for that purpose;
 - (l) parachute, hang glide, abseil or base jump from or on to local government property;
 - (m) erect a building or a refuelling site on local government property;
 - (n) make any excavation on or erect or remove any fence on local government property;
 - (o) erect or install any structure above or below ground of local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
 - (p) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly on local government property;
 - (q) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property;
 - (r) conduct an entertainment event on local government property;
 - (s) fly or land a drone, balloon, unmanned aircraft or similar device from or on local government property; or
 - (t) film or make a recording as part of or for commercial gain on local government property.
- (2) The CEO or an authorised person may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The CEO or an authorised person may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

3.2 Erecting structures or camping

- (1) In this clause—
- camp** unless the context requires otherwise has the same meaning as given to it in section 5 of the *Caravan Parks and Camping Grounds Act 1995*;
- caravan** has the same meaning as given to it in section 5 of the *Caravan Parks and Camping Grounds Act 1995*;
- facility** has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.
- park home** has the same meaning as given to it in section 5 of the *Caravan Parks and Camping Grounds Act 1995*; and
- structure** includes a caravan, park home, or camp.
- (2) This clause does not apply to a facility operated by the local government.
- (3) A person must not without a permit—
- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property;
 - (b) erect, on local government property, any tent, camp, hut or similar structure; or
 - (c) erect, on local government property that is not enclosed, an umbrella or temporary shade structure unless—
 - (i) it is erected for protection from the sun or other elements;
 - (ii) it has an area of no more than 18 square metres;
 - (iii) it has a height of no less than 2.5 metres;
 - (iv) it is removed by that person—
 - (I) immediately on leaving that local government property; and
 - (II) during daylight on the same day on which it was erected; and
 - (v) it is for a private use.
- (4) The maximum period for which the CEO or an authorised person may approve an application for a permit in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

3.3 Licence required for possession and consumption of liquor

(1) A person, on local government property, must not consume any liquor or have in her or his possession or under her or his control any liquor, unless—

- (a) that is permitted under the *Liquor Control Act*; and
- (b) a licence has been obtained for that purpose.

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

PART 4—ADVERTISING SIGNS ON THOROUGHFARES

4.1 Interpretation

In this Part, unless the context otherwise requires—

advertising sign means a sign used for the purpose of advertisement;

direction sign means a sign which indicates the direction of another place, activity or event, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;

portable direction sign means a portable free standing direction sign; and portable sign means a portable free standing advertising sign.

4.2 Advertising signs and portable direction signs

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

- (a) erect or place an advertising sign on a thoroughfare; or
- (b) post any bill or paint, place or affix any advertisement on a thoroughfare.

(2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which neither exceeds 500 millimetres in height nor 0.5 square metres in area, provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.

(3) Notwithstanding subclause (1), a person shall not erect or place an advertising sign—

- (a) on a footpath;
- (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5 metres;
- (c) on or within 3 metres of a carriageway;
- (d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
- (e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

4.3 Matters to be considered in determining application for permit

In determining an application for a permit for the purpose of clause 4.2(1), the local government is to have regard to—

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

4.4 Conditions on portable sign

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

- (a) the portable sign shall—
 - (i) not exceed 1 metre in height;
 - (ii) not exceed an area of 1 square metre on any side;
 - (iii) relate only to the business activity described on the permit;
 - (iv) contain letters not less than 200 millimetres in height;
 - (v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;
 - (vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
 - (vii) be secured in position in accordance with any requirements of the local government;
 - (viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
 - (ix) be maintained in good condition.

(2) No more than one portable sign shall be erected in relation to the one building or business.

(3) A person must not place or erect a sign in contravention of a condition of a permit issued under this clause.

PART 5—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY*Division 1—Prohibited behaviour***5.1 Behaviour which interferes with others**

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

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

5.2 Behaviour detrimental to property

(1) A person must not behave in or on local government property in a way which is or might be detrimental to the property.

(2) In subclause (1)—

detrimental to the property includes—

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

5.3 Taking or injuring fauna

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

(2) In this clause and in clause 5.5—

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

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

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

5.4 Flora

(1) Unless authorised to do so under a written law or with the written approval of the CEO or an authorised person, a person must not—

- (a) remove, damage or interfere with any flora that is on or above any local government property; or
- (b) cultivate, plant or deposit any flora on local government property.

(2) In this clause—

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

5.5 Intoxicated persons not to be on local government property

(1) Unless attending a function or event where a permit has been obtained under clause 3.3(1), a person must not enter or remain on local government property while under the influence of liquor; or

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

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

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

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

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

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

*Division 2—Signs and powers to give directions***5.7 Signs**

(1) The CEO or an authorised person may erect a sign on local government property—

- (a) specifying any conditions of use which apply to that property; and

- (b) for any other purpose relevant to this local law, including giving notice of a breach of clause 5.4 and substituting a sign for flora that has been removed, damaged or interfered with contrary to clause 5.4.
- (2) A person must comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is—
 - (a) not to be inconsistent with any provision of this local law or any determination; and
 - (b) to be for the purpose of giving notice of the effect of a provision of this local law.

5.8 Authorised person to be obeyed

A person on local government property must obey any lawful direction of the CEO or an authorised person and must not in any way obstruct or hinder the CEO or an authorised person in the execution of her or his duties.

5.9 Refusal of entry and removal

- (1) If the CEO or an authorised person reasonably suspects that a person is breaching, or has just breached, a provision of this local law or any other written law, the CEO or authorised person may—
 - (a) refuse to allow that person to enter local government property;
 - (b) if the person is on local government property, direct the person to leave the local government property; and
 - (c) specify a period of up to 30 calendar days within which the person is not to re-enter the local government property.
- (2) A person who has been refused entry or who has been directed to leave under subclause (1) must immediately leave the local government property quickly and peaceably.
- (3) If a person fails to comply with subclause (2), the CEO or an authorised person may remove the person, or arrange for the person to be removed, from the local government property.
- (4) The CEO or an authorised person may reduce the period specified in subclause (1)(c) on application of the person who has been directed not to re-enter local government property.

5.10 Disposal of lost property

An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by the CEO or an authorised person—

- (a) if the value of the property is reasonably believed to exceed the amount prescribed by regulation 30(3) of the *Local Government (Functions and General) Regulations* 1996, using the process under section 3.58 of the Act for the sale of the article as if it was property referred to in that section;
- (b) if the article is reasonably believed to be of a negligible or little value or likely to be of no interest to a not for profit body, in any manner he or she thinks fit; or
- (c) in any other case, by donation to a not for profit body incorporated under the *Associations Incorporations Act 2015*.

PART 6—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

Division 1—Functions and closed property

6.1 No unauthorised entry to function

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

6.2 No entry to fenced or closed local government property

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

Division 2—Golf courses

6.3 Interpretation

In this Division—

controller means an authorised person who has been appointed to control and manage a golf course;

golf course means that portion of a local government property which is laid out as a golf course and includes—

- (a) all tees, fairways, greens, practice tees, practice fairways, practice greens and any driving range; and
- (b) all buildings, structures, fittings, fixtures and equipment on that property.

6.4 Observance of special conditions of play

While on a golf course, a player must—

- (a) observe and comply with a direction of the controller in respect of any special conditions of play;

- (b) observe and comply with a requirement of any notice erected to direct or control play; and
- (c) not be accompanied by a non playing person without the permission of the controller or an authorised person.

6.5 Children under the age of 10 years

A person under the age of 10 years must not enter, play or practise on a golf course unless accompanied by a person of 18 years or older.

PART 7—ROADSIDE CONSERVATION

7.1 Interpretation

In this Part—

"MRWA" means Main Roads Western Australia;

"protected flora" has the meaning given to it in Part 10, Division 2 of the *Biodiversity Conservation Act 2016*;

"rare flora" has the meaning given to it in Regulation 168 of the *Biodiversity Conservation Regulations 2018*;

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

"special environmental area" means an area designated as such under clause 7.7.

7.2 Application

This Part does not apply to a townsite.

7.3 Declaration of flora road

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

7.4 Construction works on flora roads

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

7.5 Signposting of flora roads

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

7.6 Driving only on carriageway of flora roads

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

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

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

7.7 Designation of special environmental areas

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

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

7.8 Marking of special environmental areas

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

7.9 Permit to plant

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

7.10 Relevant considerations in determining application

In determining an application for a permit for the purpose of clause 7.9, the local government is to have regard to—

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

7.11 Permit to clear

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

7.12 Application for permit

A person making an application for a permit for the purpose of clause 7.11 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.

7.13 Permit to burn flora road

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

7.14 Application for permit

An application for a permit for the purposes of clause 7.13 shall—

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

7.15 When application for permit can be approved

The local government may approve an application for a permit for the purpose of clause 7.13 only if the burning of the particular part of the thoroughfare will—

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

7.16 Prohibitions on burning

(1) Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 7.13 is not to be approved by the local government—

- (a) for burning between 1 October and 1 May of the following year where the intensity of the burn could damage native flora and fauna; or
- (b) in any year to any person for any part of a thoroughfare which is on the opposite side of the carriageway to that portion of the thoroughfare for which a permit to burn has been approved in the same year.

(2) Nothing in this clause prevents the local government approving a permit to burn part of a thoroughfare to remove an imminent fire risk.

7.17 Permit for firebreaks on thoroughfares

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

7.18 When application for permit cannot be approved

(1) The local government is not to approve an application for a permit for the purpose of clause 7.17 where the thoroughfare is less than 20m wide.

(2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

7.19 General prohibition on commercial wildflower harvesting

Subject to clause 7.20, a person shall not commercially harvest native flora on a thoroughfare.

7.20 Permit for revegetation projects

(1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.

(2) The local government may approve an application for a permit under subclause (1) only where—

- (a) the seed is required for a revegetation project in any part of the district; and
- (b) the thoroughfare, or the relevant part of it, is not a special environmental area.

(3) Unless the local government specifically provides to the contrary on a permit, if the local government approves an application for a permit for the purpose of subclause (1) it is to be taken to be approved subject to the following conditions—

- (a) the collection of the seed is to be carried out so as not to endanger the long time survival of the native flora on the thoroughfare; and
- (b) any licence or approval which may be required under any other written law is to be obtained by the applicant.

PART 8—ACTIVITIES IN STREETS*Division 1—General***8.1 General prohibitions**

A person must not—

- (a) plant, or allow to remain, in a street a plant that is or may become an obstruction to a reasonable sight line hazard for a driver of any vehicle negotiating or using the street;
- (b) damage a lawn or a garden, or remove any plant or part of a plant from a lawn or a garden, in a street unless—

- (i) the person is the owner or the occupier of the lot abutting that portion of the street and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
- (ii) the person is acting under the authority of a written law;
- (c) damage, or remove a street tree, or part of a street tree, irrespective of whether it was planted by the owner or occupier of the lot abutting the street or by the local government, unless—
 - (i) the damage to, or removal of, the street tree is authorised by the CEO or an authorised person in writing; or
 - (ii) the person is acting under authority of written law;
- (d) place, or allow to be placed or remain, on a street any thing (except water) that—
 - (i) obstructs the street; or
 - (ii) results in a hazard for any person using the street;
- (e) unless at the direction of the CEO or an authorised person, damage, remove or interfere with any part of a street, or any structure erected on a street, by the local government or a person acting under the authority of a written law; or
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a street.

8.2 Activities allowed with a permit

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

8.3 Notice to owner or occupier

The CEO or an authorised person may give a notice in writing to the owner or the occupier of a lot abutting on a verge to make good, within the time specified in the notice, any breach of a provision of this Part.

Division 2—Permissible verge treatments

8.4 Permissible verge treatments

- (1) An owner or occupier of land which abuts on a verge may, on that part of the verge directly in front of her or his land, install a permissible verge treatment.
- (2) A permissible verge treatment is—
 - (a) the planting and maintenance of a lawn;
 - (b) the planting and maintenance of a garden provided that—
 - (i) clear sight visibility is maintained at all times for a person using the abutting street in the vicinity of an intersection or bend in the street or using a driveway on land adjacent to the street for access to or from the street;

- (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
 - (iii) it does not include a wall or built structure; and
 - (iv) it is not of a thorny, poisonous or hazardous nature; and
 - (c) the installation of an acceptable material.
- (3) In this clause **acceptable material** means any material which would create a hard surface, and which has been approved by the local government.
- (4) A person must not install or maintain a verge treatment which is not a permissible verge treatment.
- (5) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 8.5.

8.5 Obligations of owner or occupier

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

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

8.6 Transitional provision

(1) In this clause—

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

(2) A verge treatment which—

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

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

8.7 Power to carry out public works on verge

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

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

Division 3—Vehicle crossings

8.8 Temporary crossings

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

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

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

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

(3) If the permit authority for the purpose of subclause (1) is the local government, the permit is taken to be issued on the condition that until such time as the temporary crossing is removed, the person to whom the permit is given must keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the street.

8.9 Removal of redundant crossing

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

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

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

within the period of time stated in the notice, and the owner or occupier of the lot must comply with that notice.

Division 4—Property numbers

8.10 Assignment of numbers

(1) The CEO or an authorised person may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

(2) In this clause, **number** means a number of a lot with or without an alphabetical suffix indicating the address of a lot by reference to a thoroughfare.

Division 5—Fencing

8.11 Public place—Item 4(1) of Division 1, Schedule 3.1 of Act

A public place, as that term is defined in clause 1.5, is specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act.

Division 6—Signs erected by the local government

8.12 Signs

(1) The local government may erect a sign in a street specifying any conditions of use which apply to that street.

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

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

8.13 Transitional

Where a sign erected in a street has been erected under a repealed local law then, on and from the commencement day, it is to be taken to be a sign erected under clause 8.12 if—

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

Division 7—Driving on a closed street

8.14 No driving on closed street

(1) A person must not drive or take a vehicle on a closed street unless—

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

(2) In this clause—

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

Division 8—Notices

8.15 Notice to redirect or repair sprinkler

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

8.16 Notice to remove hazardous plants

(1) Where a plant in a garden creates or may create a hazard for any person using a street, the CEO or an authorised person may give a written notice to the owner or the occupier of the land abutting on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.

(2) Subclause (1) does not apply where the plant was planted by the local government.

8.17 Notice to remove any thing unlawfully placed on street

Where any thing is placed on a street in contravention of this local law, the CEO or an authorised person may give a written notice—

- (a) to the owner or the occupier of the property which abuts that portion of the street where the thing has been placed; or
 - (b) to any other person who may be responsible for the thing being so placed,
- requiring the person to remove the thing.

PART 9—ACTIVITIES IN PUBLIC PLACES

Division 1—General provisions

9.1 Leaving animal or vehicle in public place

- (1) A person must not leave an animal or a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place, unless that person has first obtained a permit or is authorised to do so under a written law.
- (2) A person does not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.
- (3) A person does not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

9.2 Prohibitions relating to animals

- (1) In subclause (2), **owner** in relation to an animal includes—
 - (a) an owner of it;
 - (b) a person in possession of it;
 - (c) a person who has control of it; and
 - (d) a person who ordinarily occupies the premises where the animal is permitted to stay.
- (2) An owner of an animal must not—
 - (a) allow the animal to enter or remain for any time on any public place except for the use of the public place as a thoroughfare and unless it is led, ridden or driven;
 - (b) allow the animal, if it has a contagious or infectious disease, to be led, ridden or driven in a public place; or
 - (c) train or race the animal in a public place.
- (3) An owner of a horse must not lead, ride or drive the horse on a street, unless that person does so under a permit or under the authority of a written law.
- (4) This clause is subject to any written law and law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992* (Commonwealth) Section 9(2).

9.3 Shopping trolley to be marked

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

9.4 Person not to leave trolley in public place

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

9.5 Retailer to remove abandoned trolley

- (1) If a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, the CEO or an authorised officer may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.
- (2) A retailer must remove a shopping trolley within 24 hours of being so advised under subclause (1).

9.6 Retailer taken to own trolley

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

PART 10—PERMITS

Division 1—Applying for a permit

10.1 Application for permit

- (1) Where a person is required to obtain a permit under this local law, that person must apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law must—
 - (a) be in the form determined by the CEO;
 - (b) be signed by the applicant;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed by the Council under sections 6.16 to 6.19 of the Act.
- (3) The CEO or an authorised person may require an applicant to provide additional information reasonably related to the application before determining the application.

(4) The CEO or an authorised person may require an applicant to give local public notice of the application.

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

10.2 Decision on application

(1) The CEO or an authorised person may—

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

(2) If the CEO or an authorised person approves an application, he or she is to issue to the applicant a permit in the form determined by the CEO.

(3) If the CEO or an authorised person refuses to approve an application, he or she is to give written notice of that refusal to the applicant.

(4) The CEO or an authorised person may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the permit holder.

10.3 General restrictions on grant of permit

(1) The CEO or an authorised person must not grant a permit if there are reasonable grounds for believing that the carrying on of the activity to which the application relates would constitute an unacceptable risk to the safety of the public.

(2) The CEO or an authorised person must not grant a permit unless the CEO or an authorised person is satisfied that—

- (a) the applicant is capable of carrying on the activity in accordance with this local law and the terms and conditions of the permit;
- (b) the public place at which the activity is to be carried on is suitable for that purpose;
- (c) a permit or similar authority granted or issued to the applicant has not been cancelled in the period of 5 years before the application is made; and
- (d) the applicant is a fit and proper person to carry on the activity.

10.4 Amendment of permit

(1) In this clause—

amend includes—

- (a) to impose any new condition; and
- (b) to change or remove any existing condition.

(2) The CEO or an authorised person may, by written notice given to the permit holder, amend a permit.

(3) An amendment may be made on application made by the permit holder or on the CEO or authorised person's initiative.

Division 2—Conditions

10.5 Examples of conditions

(1) Examples of the conditions that the CEO or an authorised person may impose on a permit under clause 10.2(1)(a) or 10.4(2) are conditions relating to—

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

(2) Examples of the type and content of the conditions on which a permit to hire local government property may be issued include—

- (a) when fees and charges are to be paid;
- (b) payment of a bond against possible damage or cleaning expenses or both;
- (c) restrictions on the erection of material or external decorations;
- (d) rules about the use of furniture, plant and effects;
- (e) limitations on the number of persons who may attend any function in or on local government property;
- (f) the duration of the hire;

- (g) the right of the CEO or an authorised person to cancel a booking during the course of an annual or seasonal booking, if the CEO or an authorised person sees fit;
- (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the Liquor Control Act;
- (i) whether or not the hire is for the exclusive use of the local government property;
- (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
- (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

10.6 Imposing conditions under a policy

(1) In this clause—

policy means a local government policy adopted by the Council under section 2.7 of the Act containing conditions subject to which an application for a permit may be approved under clause 10.2.

(2) Under clause 10.2(1)(a) the CEO or an authorised person may approve an application subject to conditions by reference to a policy.

(3) The CEO or an authorised person must give to the permit holder a copy of the policy or, at the discretion of the CEO or the authorised person, the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 10.2(2).

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

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

10.7 Compliance with conditions

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

Division 3—Duration of permits

10.8 Duration of permit

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

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

10.9 Renewal of permit

(1) A permit holder may apply to the CEO for the renewal of a permit.

(2) An application for renewal must—

- (a) be in the form determined by the CEO;
- (b) be signed by the permit holder;
- (c) provide the information required by the form;
- (d) be forwarded to the CEO no later than 28 days before the expiry of the permit, or within a shorter period that the CEO in a particular case permits; and
- (e) be accompanied by any fee imposed by the Council under section 6.16 to 6.19 of the Act.

(3) The provisions of this Part that apply to an application for a permit also apply to an application for the renewal of a permit as though it were an application for a permit.

10.10 Transfer of permit

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

- (a) to be made in writing;
- (b) to be signed by the permit holder and the proposed transferee of the permit;
- (c) to include such information as the CEO or an authorised person may require to enable the application to be determined; and
- (d) to be forwarded to the CEO together with any fee imposed by the Council under sections 6.16 to 6.19 of the Act.

(2) The CEO or an authorised person may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.

(3) Where the CEO or an authorised person approves an application for the transfer of a permit, the transfer may be effected by an endorsement on the permit signed by the CEO or the authorised person.

(4) Where the CEO or an authorised person approves the transfer of a permit, the local government is not required to refund any part of any fee paid by the former permit holder.

10.11 Suspension of permit

(1) The CEO may, subject to clause 10.12, by written notice given to the permit holder, suspend a permit if there are reasonable grounds for believing that—

- (a) the permit holder has contravened a term or condition of a permit;
- (b) the permit holder has contravened a provision of this local law; or
- (c) the continued carrying on of the activity authorised by the permit constitutes or will constitute an unacceptable risk to the safety of the public.

(2) The suspension notice must—

- (a) state the day, or the day and time, on or at which the suspension takes effect;
- (b) state the reasons for the CEO's decision to suspend the permit; and
- (c) where appropriate, indicate what steps need to be taken to ensure that there is compliance with the relevant provision, term or condition or that there is no longer a risk as described in subclause (1)(c); and
- (d) inform the permit holder that he/she has a right to apply under the Act for a review of the CEO's decision to suspend the permit.

10.12 Proposed suspension

(1) If the CEO proposes to suspend a permit for the reason mentioned in clause 10.11(1)(a), the CEO must give written notice to the permit holder of the proposed suspension.

(2) The notice must—

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

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

10.13 Revocation of suspension

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

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

10.14 Period of suspension

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

- (a) the suspension is revoked under clause 10.13;
- (b) the permit is cancelled under clause 10.15 or expires; or
- (c) the permit is surrendered in accordance with the provisions of this local law.

10.15 Cancellation of permit

A permit may be cancelled by the CEO if—

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

10.16 Surrender of permit

A permit holder may, at any time by notice in writing to the CEO, surrender the permit.

Division 4—Responsibilities of permit holders and others

10.17 Production of permit

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

10.18 Other responsibilities of permit holder

A permit holder must, in respect of local government property to which the permit relates—

- (a) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (b) comply with a direction from the CEO or an authorised person to take the action specified in the direction for the purpose of maintaining public safety;
- (c) leave the local government property in a clean and tidy condition after its use;
- (d) report any damage or defacement of the local government property to the CEO or an authorised person; and

- (e) take reasonable action to prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Control Act* for that purpose.

10.19 Production of permit document for amendment

If the CEO or an authorised person amends or renews a permit, the permit holder must, if required by the CEO or authorised person, produce the permit document to the CEO or authorised person for amendment within the period specified by the CEO or authorised person.

10.20 Return of permit document if permit no longer in effect

If a permit—

- (a) has expired or has not been renewed;
- (b) has been suspended or cancelled; or
- (c) has been surrendered,

the person who was the permit holder must, as soon as practicable after the expiry, suspension, cancellation or surrender, return the permit document to the CEO.

10.21 Advertising

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

10.22 False or misleading statement

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

PART 11—OBJECTIONS AND REVIEW

11.1 Objection and review rights

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

PART 12—ENFORCEMENT

Division 1—Notices

12.1 Definition

In this Division—

costs of the local government include its administrative costs.

12.2 Damage to local government property

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

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

12.3 Breach of a permit

If a permit holder breaches a condition of the permit, or fails to comply with a direction under this local law, the CEO or an authorised person may give the person a notice.

12.4 Notice requirements

A notice under this Division must—

- (a) be in writing;
- (b) specify the reason for giving the notice, the work or action that is required to be undertaken and the time within which it is to be undertaken; and
- (c) be given to the person referred to in clause 12.2 or 12.3, as the case may be.

12.5 Local government may undertake requirements of notice

- (1) If a person fails to comply with a notice referred to in clause 12.2, the local government may—
 - (a) do the thing specified in the notice, including replace the property, or reinstate the property to the state it was in before the removal, damage or interference; and
 - (b) recover from the person, as a debt, the costs of doing so.
- (2) If a person fails to comply with a notice referred to in clause 12.3, the local government may—
 - (a) take whatever remedial action it considers appropriate to put the local government in the position it would have been in if the breach or failure had not occurred; and
 - (b) recover from the person, as a debt, the costs of doing so.

12.6 Offence to fail to comply with notice

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

*Division 2—Offences and penalties***12.7 Offences and general penalty**

- (1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) A person who commits an offence under this local law is liable, on conviction, to a penalty not less than \$500 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.

12.8 Prescribed offences

- (1) An offence against a clause specified in Schedule 3 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The modified penalty for a prescribed offence is the amount specified adjacent to the clause in Schedule 3.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, the local government 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.

12.9 Form of notices

- (1) For the purposes of this local law—
- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
 - (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
 - (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.
- (2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

12.10 Evidence of a determination

- (1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.
- (2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.
- (3) Subclause (2) does not make valid a determination that has not been properly made.

SCHEDULE 1—DETERMINATIONS

[Clause 2.1]

The following determinations are to be taken to have been made by the local government under clause 2.1.

PART 1—PRELIMINARY**1.1 Definition**

In these determinations—

local law means the *Public Places and Local Government Property Local Law 2022* made by the local government.

1.2 Interpretation

Where a term is used but not defined in a determination and that term is defined in this local law then the term is to have the meaning given to it in this local law.

PART 2—APPLICATION**2.1 Vehicles on local government property**

- (1) Unless authorised by a permit or determination, a person must not take or cause a vehicle to be taken onto or driven on local government property unless—
- (a) subject to subclause (3), the local government property is clearly designated as a road, access way or car park;
 - (b) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government, who is engaged in—
 - (i) providing a service or making a delivery in connection with the local government property; or
 - (ii) maintaining the local government property;

- (c) the person is driving an emergency vehicle in the course of his or her duties;
 - (d) the vehicle is—
 - (i) driven on local government property that has been designated as a golf course;
 - (ii) used in accordance with the conditions set down by the local government, the controller or an authorised person; and
 - (iii) of a type allowed to be taken onto the golf course by the local government, the controller or an authorised person; or
 - (e) the vehicle is a motorised wheelchair, and the driver of that vehicle is a disabled person.
- (2) A person must not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 10 kilometres per hour or as otherwise indicated by a sign, or in such a manner as to cause danger to any person.
- (3) Other than in accordance with paragraphs (b), (c), (d) or (e) of subclause (1), a person must not drive a vehicle on local government property that is being used for a function for which a permit has been obtained unless permitted to do so by the permit holder or an authorised person.

2.2 Motorised model aeroplanes, toys or ships

A person must not use, launch or fly a drone, motorised model aeroplane, toy, ship, glider or rocket that is propelled by mechanical, hydraulic, combustion or pyrotechnic means on or from local government property except in accordance with a permit or determination that specifies that particular local government property.

2.3 Children's playgrounds

- (1) The local government may set aside a public reserve or any portion of a public reserve as a children's playground.
- (2) The local government may limit the ages of persons who are permitted to use a children's playground and may erect a sign under clause 2.3 of this local law to that effect on or in the immediate vicinity of the playground.
- (3) A person over the age specified on that sign, other than a person having the charge of a child or children in the playground, must not use a playground or interfere with the use by children of the playground.

2.4 Launching and retrieval of boats

A person must not take a boat onto, launch a boat from, or retrieve a boat on, local government property except in accordance with permit or a determination that specifies that particular local government property unless—

- (a) the person is
 - (i) a local government employee or authorised person; or
 - (ii) a contractor engaged by the local government and who is engaged in providing a service, maintaining or making a delivery in connection with, the local government property.
- (b) the person is in charge of a boat engaged in rescue services or dealing with an emergency; or
- (c) the local government property is a boat ramp that is delineated by a sign to that effect.

2.5 Activities prohibited on local government property

- (1) A person must not play or practise archery or pistol or rifle shooting on local government property except on land which is reserved by the local government for that purpose, or as otherwise permitted by a determination or permit.
- (2) A person must not play or practise golf on local government property except on a reserve set aside by the local government as a golf course.
- (3) A person must not, on any local government property, use or ride a bicycle or wheeled recreational device, skateboard, or sand board—
 - (a) inside, or on the curtilage to, a building;
 - (b) on a golf course except to the extent permitted under clause 2.1(1)(d) of these Determinations; or
 - (c) in or on a lakebed or waterway.
- (4) A person must not use on, or take on to, any local government property, a spear gun, hand spear, gidgie or similar device unless permitted by a determination or permit.
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SCHEDULE 2—PRESCRIBED OFFENCES

[Clause 12.8]

Item number	Clause	Description	Modified Penalty (\$)
1	2.4	Failure to comply with a determination	100
2	3.1	Undertaking activity on local government property without a permit	100
3	3.2	Camping on local government property or erecting an unauthorised structure	100
4	3.3	Failure to obtain licence for liquor	100
5	4.2	Failure to obtain permit for sign	100
6	4.4(3)	Failure to comply with sign permit condition	100
7	5.1	Behaviour interfering with others	100
8	5.2	Behaviour detrimental to local government property	100
9	5.3	Taking or injuring fauna without authorisation	100
10	5.4	Removing, damaging or depositing flora without authorisation	100
11	5.5	Under influence of liquor or prohibited drug on local government property	100
12	5.7	Failure to comply with sign	100
13	5.8	Failure to comply with direction of authorised person	100
14	6.1, 6.2	Unauthorised entry to event, closed or fenced local government property	100
15	6.4	Failure to observe conditions of play or direction of course controller on golf course	100
16	7.6(1)	Driving or riding vehicle on area of a flora road that is not a carriageway	100
17	7.9	Planting in flora road without a permit	100
18	7.11	Clearing a flora road without a permit	100
19	7.13	Burning a flora road without a permit	100
20	7.17	Constructing firebreak without a permit	100
21	7.19	Commercially harvesting flora without a permit	100
22	7.20(1)	Collecting native flora seeds without a permit	100
23	8.1(a), 8.4(2)(b)	Planting or allowing plant or verge treatment in street to become a sightline hazard	100
24	8.1(b)	Damaging a street lawn or garden	100
25	8.1(c)	Damaging or removing whole or part of a street tree without authorisation	300
26	8.1(d)	Obstruction of street	100
27	8.1(e)	Damaging, removing or interfering with street, part of street, sign or structure in a street without authorisation	100
28	8.1(f)	Playing games in street so as to impede vehicles or persons	100
29	8.2	Carry on or undertake prohibited activity in street or damage local government property in a street without authorisation	300
30	8.4(4)	Install verge treatment that is not a permissible treatment	100
31	8.5(a), 8.5(d), 8.5(e)	Failure to keep permissible verge treatment in good and tidy condition, obstruct a street, footpath, drain, or driveway	100
32	8.5(c)	Placing an obstruction on or around a verge treatment	100
33	8.5(f)	Failure to ensure sprinklers or reticulation pipes do not protrude above level of verge treatment when not in use, not used at such times as to cause inconvenience to pedestrians, or otherwise present a hazard	100
34	8.8	Failure to obtain permit for a temporary crossing	100
35	8.9	Failure to remove redundant crossing or reinstate kerb, drain, footpath, verge or street	100

Item number	Clause	Description	Modified Penalty (\$)
36	8.12	Failure to comply with condition of use of a street indicated by a sign	100
37	9.1(1)	Animal or vehicle obstructing public place without authorisation	100
38	9.2(2)	Animal in public place when not led, ridden or driven	100
39	9.3	Failure to clearly mark name or trading name on shopping trolley	100
40	9.4	Person leaving a shopping trolley in a public place other than trolley bay	100
41	9.5	Failure to remove shopping trolley after being advised of location	100
42	10.7	Failure to comply with permit condition	100
43	10.18	Failure to comply with permit condition in relation to local government property	100
44	10.17, 10.19, 10.20	Failure to produce permit for inspection, amendment or to return permit when no longer in effect	100
45	12.6	Failure to comply with notice	300
46	12.7	All other offences not specified	100

Dated 8 February 2023.

The Common Seal of the Shire of Wyalkatchem was affixed in the presence of—

Cr QUENTIN DAVIES, President.
PETER KLEIN, Chief Executive Officer.
