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## **SHIRE OF CHITTERING**

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CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995

### **CEMETERIES LOCAL LAW 2023**

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LOCAL GOVERNMENT ACT 1995  
DOG ACT 1976

### **DOGS LOCAL LAW 2023**

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**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

**SHIRE OF CHITTERING**

**CEMETERIES LOCAL LAW 2023**

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**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

**SHIRE OF CHITTERING**

**CEMETERIES LOCAL LAW 2023**

Under the powers conferred by the *Cemeteries Act 1986* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Chittering resolved on 19 April 2023 to adopt the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Chittering Cemeteries Local Law 2023*.

**1.2 Commencement**

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

**1.3 Application**

This local law applies to the Chittering Cemetery, Gray Road, Bindoon located in the district.

**1.4 Repeal**

This local law repeals the *Shire of Chittering Cemetery Local Law 2003* as published in the *Government Gazette* on 12 September 2003.

**1.5 Definitions**

In this local law, unless the context otherwise requires—

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

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

**authorised person** means a person—

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

**Board** means the local government;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**memorial** has the meaning set out in the Act;

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

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

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

**natural burial** means burial in the ground—

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

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

**personal representative** means—

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

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

**shroud** means, as the context requires—

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

**standard grave** means a grave which does not exceed any of the following dimensions: 2400 millimetres long, 1000 millimetres wide and 2400 millimetres deep;

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

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

## PART 2—ADMINISTRATION

### *Division 1—General*

#### 2.1 Powers and functions of CEO

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

#### 2.2 Plans

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

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

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

### *Division 2—Right of Burial*

#### 2.3 Issuing of grants

The Board may from time to time issue to a person a grant for the term specified in the Act, upon—

- (a) Written application by that person; and
- (b) Payment of the set fee.

#### 2.4 Right of holder

(1) Subject to the local law, to the prior approval of the Board and to the terms and conditions (if any) imposed by the Board, a grant confers on the holder, during the term of the grant, an exclusive right—

- (a) to be buried in a grave specified in the grant; and
- (b) to carry out monumental works on the gravesite specified in the grant.

(2) The Board at its absolute discretion, may determine from time to time the number of dead bodies or ashes which may be placed in the grave.

(3) The Board or an authorised officer may request the holder to produce the grant before the exercise of any rights referred to in subclause (1) and the holder shall forthwith comply with that request.

(4) If the location stipulated in the grant of right of burial is significantly and adversely affected prior to or at the time of burial by unforeseen conditions such as flooding, a high water table, rock, large tree roots or any other significant matter the Board may allocate any other gravesite of the grantee's choosing that is not already subject to a grant.

### **2.5 Renewal of grant**

- (1) Where, at any time during the term of a grant, a holder—
  - (a) makes written application; and
  - (b) pays a set fee, the Board must renew the grant for a further term of twenty five (25) years commencing on the expiry date of the grant.
- (2) The set fee for the issue of a new grant pursuant to this clause shall be determined by the Board from time to time.
- (3) The Board may request the holder to deliver an existing grant to it prior to issuing a new grant.
- (4) The holder shall forthwith upon receiving a request by the Board in accordance with subclause (3) deliver the existing grant to the Board.

### **2.6 Replacement of grant**

- (1) The Board may—
  - (a) upon the written application of a holder; and
  - (b) upon the production of evidence to the satisfaction of the Board, issue a new grant to replace a grant which is lost or destroyed.
- (2) Notwithstanding subclause (1), the Board may prior to issuing a replacement grant, require the holder to make a statutory declaration in a form determined by the Board.
- (3) The replacement grant issued by the Board shall be deemed to be the original grant.

### **2.7 Transfer of grant**

A holder who desires to transfer a grant to another person shall make an application to the Board in a form determined by the Board and upon receipt of the application the Board may grant permission in accordance with section 26 of the Act.

### **2.8 Exercising the rights of holder**

If evidence is produced in writing to the satisfaction of the Board that a holder is unavailable or not immediately ascertainable, or has died and has not specifically bequeathed a grant, then the rights conferred upon that holder may be exercised by a holder's personal representative or a person acting expressly on behalf of a personal representative. If those persons are unavailable or not immediately ascertainable, the Board may approve any other person.

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

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

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

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

- (1) A funeral director, the personal representative of a deceased person, or other person approved by an authorised person may apply for approval for an interment of a dead body in a cemetery.
- (2) A funeral director, the personal representative of a deceased person whose body has been cremated, or other person approved by an authorised person may apply for approval for interment of ashes in a cemetery.
- (3) An application for an interment permit under subclause (1) or (2) of—
  - (a) a dead body shall include details of—
    - (i) proposed burial method for the dead body in accordance with clause 5.1; and
    - (ii) the vehicle transporting the dead body to the gravesite; or
  - (b) ashes shall include details of the proposed interment arrangements for the ashes in accordance with clause 5.4(2).
- (4) An application under subclauses (1) or (2) shall be accompanied by the set fee.

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

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

- (a) a certificate issued under clause 3.3; and
- (b) either a medical certificate of death or a Coroner's order of burial.

### **3.3 Certificate of identification**

- (1) Prior to the dead body being removed to a cemetery, a person who personally knew the deceased shall identify the dead body and shall provide a certificate of identification, unless—
  - (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
  - (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

- (2) A funeral director shall provide a certificate, where—
- (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
  - (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

### **3.4 Minimum notice required**

An application for interment shall be made to the Board at least 24 hours prior to the day proposed for interment, otherwise an extra fee may be charged.

### **3.5 Refusal of application**

- (1) The Board may refuse an application for the interment permit under clause 3.1(1).
- (2) If the Board refuses to approve an application under subclause (1), written notice of the refusal is to be given to the applicant.

## **PART 4—FUNERALS AND MEMORIAL SERVICES**

### **4.1 Fixing times for interments**

- (1) On receipt of a completed application form and the satisfaction of all other requirements of the Act and this local law, the Board may—
- (a) approve a time for the interment; and
  - (b) dig or re-open any grave that is required.
- (2) The time approved for an interment is at the discretion of the Board but will be as near as possible to the time requested by the applicant.
- (3) Except with the permission of the Board and subject to such conditions as may be applied, a person shall not carry out a burial—
- (a) on a Saturday, a Sunday or a public holiday;
  - (b) commencing at any time other than between the hours 9:00 am to 3:00 pm; or
  - (c) to conclude later than 4:00 pm.

### **4.2 Memorial services or processions**

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

### **4.3 Conduct of interments by the Board**

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

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

## **PART 5—INTERMENTS**

### **5.1 Requirements for burials**

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

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

### **5.2 Requirements for preparation of graves**

- (1) A person shall not dig or prepare a grave or fill a grave, unless that person has the permission of the Board.
- (2) Regardless of prior grant of right of burial under clause 2.3 or gravesite approved upon application made under clause 3.1, the Board may direct the digging or preparation of a grave in an alternate position, where—
  - (a) evidence of a prior interment is found, or known to have occurred;
  - (b) access to the position is constrained;



- (c) the digging or preparation of the grave is unreasonably difficult; or
  - (d) utility services may be interfered with.
- (3) Where an alternative position for the grave is directed under subclause (2), the Board is to advise the funeral director, the personal representative of a deceased person, or other person approved by an authorised person, immediately.

### **5.3 Requirements for dimensions of graves**

- (1) A person shall not bury a dead body in a cemetery other than in a standard grave, unless that person has the permission of the Board.
- (2) Every grave prepared by the Board shall be dug at least 1800 millimetres deep and shall not exceed 2400 millimetres in depth, unless otherwise determined by the Board.
- (3) Unless otherwise permitted by the Board, a person shall not bury a dead body within a cemetery so that the distance from the top of the coffin or shroud to the original surface of the ground is—
- (a) subject to paragraph (b), less than 1600 millimetres, unless that person has the permission of an authorised person; or
  - (b) in any circumstances less than 750 millimetres.
- (4) The permission of the Board in subclause (3) shall not be granted unless in the opinion of the authorised person exceptional circumstances require granting of that permission.

### **5.4 Requirements for disposal of ashes**

- (1) Except in accordance with an approved application under clause 3.1(2), a person shall not bring or dispose of the ashes of a deceased person into a cemetery.
- (2) The person approved under subclause (1) may dispose of the ashes of that deceased person in a cemetery by one of the following methods, if that method is available—
- (a) placed within the perimeter of an authorised gravesite at a depth of at least 600 millimetres;
  - (b) placed in a family grave;
  - (c) placed in a niche wall; or
  - (d) other method approved by the Board.
- (3) The Board may require a person making an application under clause 3.1(2) to provide additional information reasonably related to the application before determining the application.
- (4) The Board may—
- (a) approve an application under clause 3.1(2) unconditionally or subject to any conditions; or
  - (b) refuse to approve an application under clause 3.1(2).
- (5) Where an application under clause 3.1(2) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.
- (6) If the Board refuses to approve an application under clause 3.1(2), written notice of the refusal is to be given to the applicant.

### **5.5 Requirements for re-opening a grave**

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

### **5.6 Requirements for exhumation**

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

### **5.7 Requirements for opening of coffin or removal of shroud**

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

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

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

The Board shall not accept custody of ashes of a deceased person, unless the Board determines that there are exceptional circumstances for it to do so.

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

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

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

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

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

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

## **6.2 Australian War Graves**

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

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

## **PART 7—MEMORIALS PERMITTED**

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

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

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

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

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

### **7.2 Specification for monument**

A monument is to be constructed in a manner approved by the Board.

### **7.3 Specification for headstone**

A headstone is to be constructed in a manner approved by the Board.

### **7.4 Specification for memorial plaque base**

A memorial plaque base is to be constructed in a manner approved by the Board.

### **7.5 Specification for memorial plaque**

A memorial plaque is to be made in a manner approved by the Board.

### **7.6 Specification for gravesite fencing**

Gravesite fencing is to be constructed in a manner approved by the Board.

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

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

### **7.8 Use of wood**

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

## **PART 8—MEMORIALS AND OTHER WORK**

### **8.1 Carrying out memorial work**

(1) A person shall not carry out memorial work within a cemetery unless that person is authorised by the Board to do so under clause 6.1.

(2) All material required in the erection and completion of any memorial work shall, be prepared before being taken to a cemetery.

(3) The Board may place restrictions on the hours of work, access to a cemetery or other matters considered appropriate.

(4) Memorial works shall be suspended during the conduct of any funeral within a cemetery.

(5) Work is not permitted to be left unattended in an untidy or unsafe state.

### **8.2 Removal of sand, soil or loam**

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

### **8.3 Removal of rubbish**

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

### **8.4 Plants and trees**

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

### 8.5 Supervision

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

### 8.6 Placing of grave ornaments

A person shall not place vases or other grave ornaments—

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

### 8.7 Hours of work

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

- (a) during a funeral; or
- (b) other than between the hours of 8:00 am and 4:00 pm on a business day.

### 8.8 Unfinished work

A person who does not complete any work before 4:00 pm on a business day shall leave the work in a neat and safe condition to the satisfaction of the Board.

## PART 9—GENERAL

### 9.1 Vehicle access and speed limitation

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

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

### 9.2 Animals

A person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than an *assistance animal* as defined in section 9(2) of the *Disability Discrimination Act 1992* (Cth) or with the approval of the CEO or an authorised officer.

### 9.3 Utility services

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

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

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

### 9.4 Damaging and removing of objects

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

### 9.5 Withered flowers

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

### 9.6 Littering and vandalism

A person shall not—

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

### 9.7 Advertising

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

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

### 9.8 Signs and directions of the Board

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

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

**9.9 Removal from a cemetery**

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

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

**9.10 Board may close cemetery**

The Board may—

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

**9.11 Offensive matters**

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

(2) Where, in the opinion, based on reasonable grounds, of the Board, a person does not comply with subclause (1), the Board may issue a notice under clause 9.12(1).

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

(1) Where a person—

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

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

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

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

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

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

**9.14 Board may undertake requirements of notice**

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

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

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

**10.2 Modified penalties**

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

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

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

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

**SCHEDULE 1—MODIFIED PENALTIES**

[cl. 10.2(1)]

<b>Item</b>	<b>Clause</b>	<b>Nature of offence</b>	<b>Modified Penalty \$</b>
1	4.2	Conducting a memorial service or procession without permission	50
2	5.1	Failure to obtain approval to bring a dead body into a cemetery	50
3	5.2(1)	Unauthorised digging, preparation or filling of grave	50
4	5.3(1)	Unauthorised burial of dead body	50
5	5.4(1)	Unauthorised disposal of ashes	50
6	5.5(1)	Unauthorised reopening of a grave	50
7	5.6(1)	Unauthorised exhumation of a coffin or shroud	50
8	5.7	Unauthorised opening of a coffin or shroud	50
9	7.7	Use of trade name or mark on a memorial	50
10	7.8	Unauthorised use of wood on a gravesite	50
11	8.1	Unauthorised construction of a memorial	50
12	8.2	Unauthorised use of materials taken from within a cemetery	50
13	8.3	Failure to remove rubbish and surplus materials	50
14	8.4	Unauthorised planting of tree or shrub	50
15	8.5	Failure to comply with direction of authorised person	50
16	8.6	Unauthorised placing of grave ornaments	50
17	8.7	Works carried out during unauthorised times	50
18	8.8	Failure to leave uncompleted works in a tidy and safe condition	50
19	9.1(1)	Driving vehicle other than on vehicular access way or constructed roadways or within designated areas	50
20	9.1(2)	Exceeding speed limit	50
21	9.3	Interference with utility services	50
22	9.4	Damaging or removing object	50
23	9.5	Failure to dispose of withered flowers appropriately	50
24	9.6	Littering or vandalism within a cemetery	50
25	9.7	Unauthorised advertising and/or trading	50
26	9.8(2)	Failure to obey sign or lawful direction within cemetery	50
27	9.9(2)	Failure to comply with order to leave cemetery	50
28	9.11(1)	Display of offensive materials, wording, symbols or images	50
29	9.13	Failure to comply with notice within specified period	50

**SCHEDULE 2—INFRINGEMENT NOTICE**

[cl. 10.2(3)]

**Infringement Notice**

<b>INFRINGEMENT NUMBER—</b>		
To—		
Address—		
	It is alleged that—	
Cemetery address—		
At—	Time	
On—	Date	
	You committed the following offence—	
Contrary to—	<i>Shire of Chittering Cemeteries Local Law 2023</i>	
Schedule 1 reference—	Item No.—	Clause—
Offence—		
Brief description—		
The modified penalty for the offence is—	\$	
	If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid at the Shire of Chittering within a period of 28 days after the giving of this notice.	
Name of authorised person—		
Position—		
Signature—		
Date—		
Payments may be made—	(a) EFT to the Shire of Chittering specifying the infringement number (b) In person at—Shire of Chittering, 6177 Great Northern Highway, Bindoon during business hours (c) By mail to—Shire of Chittering PO Box 70, Bindoon 6502 Please make cheques payable to Shire of Chittering.	

If the penalty is not paid within the time specified, then a complaint of the alleged offence may be made and heard and determined by a court.

**SCHEDULE 3—WITHDRAWAL OF INFRINGEMENT NOTICE**

[cl. 10.2(4)]

**Withdrawal of Infringement Notice**

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

To: <sup>[1]</sup>

Infringement Notice No dated \_\_\_\_/\_\_\_\_/\_\_\_\_ for the alleged offence of <sup>[2]</sup>

Penalty <sup>[3]</sup> \$\_\_\_\_\_ is withdrawn.

(Delete whichever does not apply)

\* No further action will be taken.

\* It is proposed to institute court proceedings for the alleged offence.

(Authorised Person)

<sup>[1]</sup> Insert name and address of alleged offender.

<sup>[2]</sup> Insert short particulars of offence alleged.

<sup>[3]</sup> Insert amount of penalty prescribed.

Dated 19 April 2023.

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

AARON KING, Shire President.  
MELINDA PRINSLOO, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995  
DOG ACT 1976**

SHIRE OF CHITTERING

**DOGS LOCAL LAW 2023**

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**LOCAL GOVERNMENT ACT 1995**  
**DOG ACT 1976**

**SHIRE OF CHITTERING**

**DOGS LOCAL LAW 2023**

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Chittering resolved on 19 April 2023 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Chittering Dogs Local Law 2023*.

**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**

This local law repeals the *Shire of Chittering Dogs Local Law 2011* published in the *Government Gazette* on 12 August 2011.

**1.5 Definitions**

In this local law unless the context otherwise requires—

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

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

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

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

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

**district** means the district of the Shire of Chittering;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**townsite** means land constituted, defined, or reserved as the site of a town or village under the *Land Administration Act 1997*; and

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

## PART 2—IMPOUNDING OF DOGS

### 2.1 Fees and charges

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

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

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

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

### 2.3 Release of impounded dog

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

### 2.4 Unauthorised release

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

## PART 3—KEEPING OF DOGS

### 3.1 Dogs to be confined

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

### 3.2 Limitation on the number of dogs

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

### 3.3 Application to keep additional dog or dogs

- (1) Subject to clause 3.5, the local government may consider an application to keep an additional dog or dogs where—
  - (a) the property is deemed suitable by an authorised person—
    - (i) having sufficient space capable of confining all dogs;
    - (ii) noise, odours, fleas, flies and other vectors of disease will be effectively controlled; and
    - (iii) the care and welfare of the dogs is considered adequate;
  - (b) the details of every dog proposed to be kept on the premises are provided including name, age, colour/description, breed, registration number and microchip details; and

- (c) sufficient reason has been provided, including—
  - (i) to replace an elderly or sick dog not expected to live;
  - (ii) a family emergency resulting in the dog being inherited;
  - (iii) merging of two households;
  - (iv) where the applicants have had approval to keep an additional dog or dogs in another local authority; or
  - (v) on premises zoned as rural or rural residential under a local planning scheme, the dog or dogs are required for stock management or to be on the premises temporarily for the purposes of training for stock management.
- (d) in the case of a tenanted property provide written consent by either the landowner or their appointed property owner

### **3.4 Determination of application**

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

- (a) the matters referred to in clause 3.3;
- (b) the effect which approval of the application may have on the environment or amenity of the neighbourhood;
- (c) whether approval of the application will create a nuisance for the owners and occupiers of adjoining premises.

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

The local government will not approve an application to keep an additional dog or dogs where it exceeds the limit (6) referred to in the Act.

### **3.6 Conditions of approval**

- (1) The local government may approve an application to keep an additional dog or dogs subject to any conditions as considered appropriate.
- (2) Approval of an application is not transferable to successive owners or occupiers of the premises.
- (3) A person who fails to comply with a condition imposed under subclause (1) commits an offence.

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

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

## **PART 4—APPROVED KENNEL ESTABLISHMENTS**

### **4.1 Application for licence for approved kennel establishment**

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

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

### **4.2 Notice of proposed use**

(1) Upon receipt of an application for a licence under clause 4.1, the local government is to give notice of the proposed use of the premises as an approved kennel establishment—

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

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

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

(3) The local government may refuse to determine the application for a licence until the notice or notices, as the case may be, is given.

### **4.3 Exemption from notice requirements**

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

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

### **4.4 When application can be determined**

An application for a licence is not to be determined by the local government until the local government has considered any written submissions received within the time specified in clause 4.2(2)(a) on the proposed use of the premises.

#### 4.5 Determination of application

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

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

#### 4.6 Where application cannot be approved

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

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

#### 4.7 Conditions of approval

- (1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.
- (2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.
- (3) A person who fails to comply with a condition imposed under subclause (1) commits an offence.

#### 4.8 Fees

- (1) On lodging an application for a licence, the applicant is to pay a set fee to the local government.
- (2) On the issue or renewal of a licence, the licensee is to pay a set fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a set fee to the local government.
- (4) The set fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

#### 4.9 Form of licence

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

#### 4.10 Period of licence

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

#### 4.11 Variation or cancellation of licence

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

#### 4.12 Transfer

- (1) A written application for the transfer of a valid licence from the licensee to another person must be—
  - (a) made by the transferee;
  - (b) made with the written consent of the licensee; and

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

#### **4.13 Notification**

The local government is to give written notice to—

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

#### **4.14 Objections and appeals**

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

#### **4.15 Inspection of kennel**

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

### **PART 5—DOGS IN PUBLIC PLACES**

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

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

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

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

### **PART 6— MISCELLANEOUS**

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

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

#### **6.2 Offence to excrete**

- (1) A dog must not excrete on—
  - (a) any thoroughfare or other public place; or
  - (b) any land which is not a public place without the consent of the occupier.
- (2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.
- (3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.
- (4) Notwithstanding clause 7.2, the maximum penalty for an offence under subclause (1) is \$1000.

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

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

**7.2 General penalty**

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

**7.3 Modified penalties**

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

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

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

**7.4 Issue of infringement notice**

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

**7.5 Failure to pay modified penalty**

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

**7.6 Payment of modified penalty**

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

**7.7 Withdrawal of infringement notice**

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

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

**7.8 Service of notices**

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

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

[cl. 4.1]

**1. Details of applicants—**

- (a) Full name/s of applicant/s;
- (b) Postal address;
- (c) Telephone number;
- (d) Mobile number;
- (e) Fax number; and
- (f) E-mail address.
- (g) Address of proposed premises.
- (h) Dogs to be kept—
  - (a) Number; and
  - (b) Breed.
- (i) Either—
  - (a) Person residing on the premises—
    - (i) Name;
    - (ii) As from; and

- (iii) Mobile phone number, or
- (b) Person sufficiently close to the premises so as to control the dogs and ensure their health and welfare—
  - (i) Name;
  - (ii) Address;
  - (iii) As from; and
  - (iv) Mobile phone number.
- (j) To be included—
  - (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
  - (b) plans and specifications of the proposed kennel establishment;
  - (c) copy of notice of proposed use to appear in newspaper and to be given to adjoining premises under clause 4.2;
  - (d) written evidence that a person will reside—
    - (i) at the premises; or
    - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
  - (e) if the person in item (d) is not the applicant, written evidence that the person is a person in charge of the dogs.
- (k) Signature of applicant/s.
- (l) Date.

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

[cl. 4.7]

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

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than—
  - (i) 25 metres from the front boundary of the premises and 5 metres from any other boundary of the premises;
  - (ii) 10 metres from any dwelling; and
  - (iii) 25 metres from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be—
  - (i) at least 100 millimetres above the surface of the surrounding ground;
  - (ii) smooth so as to facilitate cleaning;
  - (iii) rigid;
  - (iv) durable;
  - (v) slip resistant;
  - (vi) resistant to corrosion;
  - (vii) non-toxic;
  - (viii) impervious;
  - (ix) free from cracks, crevices and other defects; and
  - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;

- (h) the kennel floor must have a durable up-stand rising 75 millimetres above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50 millimetres from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of—
  - (i) 2000 millimetres; or
  - (ii) four times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new 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—PRESCRIBED OFFENCES

[cl. 7.3(1)]

Item	Clause	Nature of offence	Modified penalty \$	Dangerous Dog Modified Penalty \$
1	3.1	Failing to provide means for effectively confining a dog	200	As per Regulations
2	3.6	Failure to comply with conditions of approval to keep additional dog or dogs	200	500
3	4.7	Failure to comply with the conditions of a licence	200	200
4	6.2	Dog excreting in prohibited place	100	100

Dated 19 April 2023.

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

AARON KING, Shire President.  
MELINDA PRINSLOO, Chief Executive Officer.



**CAT ACT 2011  
LOCAL GOVERNMENT ACT 1995**

**SHIRE OF CHITTERING**

**KEEPING AND CONTROL OF CATS LOCAL LAW 2023**

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**CAT ACT 2011  
LOCAL GOVERNMENT ACT 1995**

**SHIRE OF CHITTERING**

**KEEPING AND CONTROL OF CATS LOCAL LAW 2023**

Under the powers conferred by the *Cat Act 2011*, the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Chittering resolved on 19 April 2023 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Chittering Keeping and Control of Cats Local Law 2023*.

**1.2 Commencement**

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

**1.3 Application**

This local law applies throughout the district.

**1.4 Definitions**

In this local law unless the context otherwise requires—

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

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

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

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

***cat management facility*** means—

- (a) a facility operated by a local government that is, or may be, used for keeping cats;
- (b) a facility for keeping cats that is operated by a person or body prescribed; or
- (c) a facility for keeping cats that is operated by a person or body approved in writing by a local government;

***cat prohibited area*** means an area as outlined in Schedule 3;

***cattery*** means any premises where more than 6 cats are kept, bred, boarded, housed, or trained temporarily, whether for profit or otherwise, and where the occupier of the premises is not the ordinary owner of the cats;

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

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

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

- (a) held by a person who is capable of controlling the cat;
- (b) securely Tethered;
- (c) secured In A Cage; Or
- (d) any other means of preventing escape;

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

***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;

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

***owner***, in relation to a cat, has the meaning given to it in the Act;

***permit*** means a permit issued by the local government under Part 3;

***permit holder*** means a person who holds a valid permit under Part 3;

***premises*** includes the following—

- (a) land (whether or not vacant);

(b) the whole or part of a building or structure (whether of a permanent or temporary nature); and

(c) a vehicle;

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

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

**scheme** means a planning scheme of the local government made by it under the *Planning and Development Act 2005* and its antecedents.

### 1.5 Repeal

This local law repeals *the Shire of Chittering Cats Local Law 2015* as published in the *Government Gazette* on 8 December 2015 and amended in the *Government Gazette* on 30 August 2016.

## PART 2—CAT CONTROL

### 2.1 Cats not to be a nuisance

- (1) An owner shall not allow a cat to be or create a nuisance.
- (2) Where in the opinion of an authorised person, a cat is creating a nuisance, the local government may give written notice to the owner of the cat requiring that person to abate the nuisance.
- (3) When a nuisance has occurred and a notice to abate the nuisance is given, the notice remains in force for the period specified by the local government in the notice which shall not exceed 28 days.
- (4) An owner given a notice to abate the nuisance shall comply with the notice within the period specified in the notice.
- (5) If the owner fails to comply— the owner of the cat commits an offence

### 2.2 Cat prohibited areas

- (1) A cat shall not be in places specified in Schedule 3 at any time, whether or not under effective control.
- (2) If a cat is in a cat prohibited area in contravention of subclause (1), then—
  - (a) The owner of the cat commits an offence; and
  - (b) An authorised person may seize and impound the cat in accordance with the Act.

## PART 3—PERMITS FOR KEEPING CATS

### 3.1 Interpretation

In this part, *cat* does not include a cat less than 6 months old.

### 3.2 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*; or
- (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*.

### 3.3 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 two (2) cats may be kept on any premises.

### 3.4 Cats for which a permit is required

- (1) Subject to subclause (2) a person is required to have a permit to—
  - (a) Keep more than 2 cats on any premises; or
  - (b) Use any premises as a cattery or cat management facility.
- (2) A permit is not required under subclause (1) if the premises concerned are—
  - (a) A refuge of the RSPCA or any other body prescribed in regulation 4 of the *Cat Regulations 2012*; or
  - (b) A cat management facility which has been approved by the local government;
  - (c) A veterinary surgery.

### 3.5 Application for permit

An application for a permit under clause 3.4 shall be—

- (a) Made in writing by an occupier of the premises in relation to those premises;
- (b) In a form approved by the local government, describing and specifying the number of cats to be kept on the premises;
- (c) Accompanied by a brief reason and justification for the request;

- (d) Accompanied by the plans of the premises to which the application relates in the form determined by the local government from time to time;
- (e) Accompanied by the consent in writing of the owner of the premises where the occupier is not the owner of the premises to which the application relates; and
- (f) Accompanied by the application fee for the permit determined by the local government in accordance with section 6.16 to 6.19 of the *Local Government Act 1995*.

### 3.6 Refusal to determine application

The local government may refuse to determine an application for a permit if it is not made in accordance with clause 3.5.

### 3.7 Factors relevant to the determination of application

- (1) In determining an application for a permit, the local government may have regard to—
  - (a) The reasons and justification provided for the request;
  - (b) The physical suitability of the premises for the proposed use;
  - (c) The suitability of the zoning of the premises under any Scheme which applies to the premises for the proposed use;
  - (d) The environmental sensitivity and general nature of the location surrounding the premises for the proposed use;
  - (e) The structural suitability of any enclosure in which any cat is to be kept;
  - (f) The likelihood of a cat causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land;
  - (g) The likely effect on the amenity of the surrounding area of the proposed use;
  - (h) The likely effect on the local environment including any pollution or other environmental damage, which may be caused by the use;
  - (i) Any submissions received under subclause (2) within the time specified in subclause (2); and
  - (j) Such other factors which the local government may consider to be relevant in the circumstances of the particular case.
- (2) Before determining the application for the permit, the local government may—
  - (a) Consult with nearby landowners; or
  - (b) Advise nearby landowners that they may make submissions to the local government on the application for a permit within 14 days of receiving that advice.

### 3.8 Decision on application

- (1) The local government may—
  - (a) Approve an application for a permit as it was submitted, in which case it shall approve it subject to the conditions in clause 3.9 and may approve it subject to any other conditions it sees fit;
  - (b) Approve an application but specify an alternative number of cats permitted to be housed at the address; or
  - (c) Refuse to approve an application for a permit.
- (2) If the local government approves an application under subclause (1), then it shall issue a permit to the applicant in the form determined by the Local Government.
- (3) If the local government refuses to approve an application under subclause (1) then it shall advise the applicant accordingly in writing.
- (4) A permit may only be issued by the local government for a maximum of 6 cats on any premises other than a cattery or cat management facility or a premises specified in clause 3.4(2).

### 3.9 Conditions

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

### 3.10 Compliance with conditions of permit

A permit holder shall comply with each condition of a permit.

### 3.11 Duration of a permit

Unless otherwise specified in a condition on a permit, a permit commences on the date of issue and expires—

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

**3.12 Revocation**

The local government may revoke a permit if the permit holder fails to observe any provision of this local law or a condition of a permit.

**3.13 Permit not transferable**

A permit issued under clause 3.8 (1) (a) is not transferable either in relation to the permit holder or the premises.

**3.14 Permit to be kept at premises and available for view**

(1) A permit issued by the local government shall be kept at the premises to which it applies and shall be provided to an authorised person on demand.

(2) In the case of a registered cattery or cat management facility, the permit shall be displayed in a prominent place within the premises.

**PART 4—MISCELLANEOUS****4.1 Giving of an infringement notice**

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

- (a) Personally;
- (b) By postal mail addressed to the person; or
- (c) By leaving it for the person at her or his address.

**PART 5—OBJECTIONS AND APPEALS****5.1 Objections and appeal rights**

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

**PART 6—OFFENCES AND PENALTIES****6.1 Offences**

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

(2) Unless otherwise specified, any person who commits an offence under this local law is liable on conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to a further penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

**6.2 Prescribed offences**

(1) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 62(1) of the Act.

(2) The amount appearing directly opposite each such offence is the modified penalty in relation to that offence.

**6.3 Forms**

(1) The issue of infringement notices, their withdrawal and the payment of modified penalties are dealt with in Division 4 of Part 4 of the Act.

(2) An infringement notice in respect of an offence against this local law may be given under section 62 of the Act and is to be in the form of Schedule 1, Form 6 of the *Cat Regulations 2012*.

(3) A notice sent under section 65 of the Act withdrawing an infringement notice is to be in the form of Schedule 1, Form 7 of the *Cat Regulations 2012*

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**SCHEDULE 1**  
**ADDITIONAL CONDITIONS APPLICABLE TO PARTICULAR PERMITS**

[Clause 3.9(1) (e)]

**A. Permit to keep more than the prescribed number of cats.**

***Additional conditions***

- (1) In the case of a grouped dwelling where there is no suitable dividing fence or multiple dwellings on the same level, the written consent to the application for a permit of the occupier of the adjoining dwellings has been obtained.
- (2) Without the consent of the local government, the permit holder will not substitute or replace any cat that is the subject of a permit once that cat—
  - (a) Dies; or
  - (b) Is permanently removed from the premises.

**B. Permit to use premises as a Cattery or Cat Management Facility**

***Additional conditions***

- (1) All building enclosures must be structurally sound, have impervious flooring, be well lit and ventilated and otherwise comply with all legislative requirements.
- (2) There is to be a feed room, wash area, isolation cages and maternity section.
- (3) Materials used in structures are to be approved by the local government.
- (4) The internal surfaces of walls are, where possible, to be smooth, free from cracks, crevices, and other defects.
- (5) All fixtures, fittings and appliances are to be capable of being easily cleaned, resistant to corrosion and constructed to prevent the harbourage of vermin.
- (6) Washing basins with a minimum of running cold water are to be available to the satisfaction of the local government.
- (7) The maximum number of cats to be kept on the premises stated on the permit is not to be exceeded.
- (8) A register is to be kept recording in respect of each cat the—
  - (a) Date of admission;
  - (b) Date of departure;
  - (c) Breed, age, colour, and sex; and
  - (d) Name and residential address of the owner.
- (9) The register is to be made available for inspection on the request of an authorised person.
- (10) Enclosures are to be thoroughly cleaned each day and disinfected at least once a week to minimise disease.
- (11) Any sick or ailing cat is to be removed from the premises or transferred to an isolation cage separated from other cats kept on the premises.
- (12) Any other matter which in the opinion of the local government is deemed necessary for the health and wellbeing of any cat, or person, or adjoining premises or the amenity of the area (or any part thereof).

**SCHEDULE 2**  
**MODIFIED PENALTIES**

[Clause 6.2]

ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY
1.	2.1(1)	Cat causing a nuisance	\$200
2.	2.1(5)	Failure to abate a nuisance	\$200
3.	2.2(2)(a)	Cat in prohibited area	\$500
4.	3.4(1)(a)	Failure of a person to hold a permit when keeping more than 2 cats	\$200
5.	3.4(1)(b)	Failure of a person to hold a permit for a cattery or cat management facility	\$200
6.	3.10	Breach of a condition of a permit	\$200
7.	6.1(2)	Other offences not specified	\$200

**SCHEDULE 3**  
**CAT PROHIBITED AREAS**

Areas where cats are prohibited—

Reserve Name	Physical Boundaries	Lot	Reserve Number	Description of prohibition

\_\_\_\_\_

Dated 19 April 2023.  
The Common Seal of the Shire of Chittering was affixed by authority of a resolution of the Council in the presence of—

AARON KING, Shire President.  
MELINDA PRINSLOO, Chief Executive Officer.

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## LOCAL GOVERNMENT ACT 1995

## SHIRE OF CHITTERING

## LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2023

Under the power conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Chittering resolved on 19 April 2023 to make the following local law.

## PART 1—PRELIMINARY

## 1.1 Citation

This local law may be cited as the *Shire of Chittering Local Government Property and Public Places Local Law 2023*.

## 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

This local law repeals the *Shire of Chittering Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* as published in the *Government Gazette* on 20 April 2001.

## 1.5 Definitions

In this local law, unless the context otherwise requires—

**Act** means the *Local Government Act 1995* (WA);

**advertising sign** means a sign or advertisement used for the purposes of advertising or drawing attention to a product, business, person or event and includes election advertising and portable signs;

**animal** means any animal other than a cat or dog;

**AS or AS/NZS** means an Australian or New Zealand Standard as published by Standards Australia and amended from time to time;

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

**Building Act** means the *Building Act 2011* (WA);

**Building Code Australia** means the Building Code of Australia which is volumes 1 and 2, as amended from time to time, of the National Construction Code series published by, or on behalf of, the Australian Building Codes Board;

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

**camera device** means an apparatus for taking photographs or moving pictures and includes a mobile phone when used for this purpose;

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

**change room** means a room designated for the changing of clothes and may include showers, toilets and hand washing basins;

**charitable organisation** means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other similar nature and from which no member receives any pecuniary profit except where the member is an employee or the profit is an honorarium;

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

**closed thoroughfare** means a thoroughfare wholly or partially closed by the local government under sections 3.50 or 3.50A of the Act;

**commencement day** means the day on which this local law commences under clause 1.2;

**Commissioner of Main Roads WA** means the person appointed under section 7 of the *Main Roads Act 1930* (WA) to be the Commissioner;

**Competition Principles Agreement** means the Competition Principles Agreement executed by each State and Territory of the Commonwealth and the Commonwealth of Australia on 11 April 1995;

**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;

**detrimental to the property** includes—

- (a) removing anything from the local government property such as a rock, plant, fixture, fitting, chattel, equipment or furniture provided for the use, enjoyment or safety of any person;
- (b) destroying, defacing or damaging a building or anything on the local government property, such as a plant, fixture, chattel, equipment or furniture provided for the use, enjoyment or safety of any person; and
- (c) causing environmental harm or nuisance on the local government property;

**development approval** means an approval issued under the local government's planning scheme;

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

**drunk** has the meaning provided in the *Liquor Control Act 1988*;

**election advertising** means any sign or advertisement which encourages persons to vote for a candidate, political party or referenda or matter relating to any federal, state or local government election;

**election date** means the date on which a federal, state or local government election is held;

**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 members;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur;

**Firearms Act** means the *Firearms Act 1973* (WA);

**flora** means all vascular plants other than plants recognised as weeds;

**Food Act** means the *Food Act 2008* (WA);

**food business** has the same meaning as given in the Food Act;

**footpath** has the meaning given in the *Road Traffic Code 2000* and includes a shared and dual use path;

**gaming** means has the same meaning as in the *Gaming and Wagering Commission Act 1987*;

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

**liquor** has the meaning given to it by the Liquor Act;

**Liquor Act** means the *Liquor Control Act 1988* (WA);

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

**local government policy** means a policy or standard adopted by the local government;

**local government property** means anything except a thoroughfare which—

- (a) is owned by the local government;
- (b) is vested in the local government;
- (c) is otherwise under the care, control or management of the local government, including under the *Land Administration Act 1997* (WA); or
- (d) is an 'otherwise unvested facility' within the meaning of section 3.53 of the Act;

**local public notice** means notice given in accordance with the procedure set out in section 1.7 of the Act;

**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 common 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;

**occupier** has the meaning given to it by the Act, but does not include the local government;

**off-road vehicle** has the meaning given to that term by the *Control of Vehicles (Off-road Areas) Act 1978* (WA);

**other portable sign** means a portable sign other than a home open sign, display home sign or garage sale sign;

**owner** has the meaning given to it by the Act;

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

**permit holder** means a person who holds a valid permit;

**permitted area** means the area or areas, specified in a permit for the purpose of street entertaining, in which the permit holder may perform;

**permitted time** means the time or times, specified in a permit for the purpose of street entertaining, during which the permit holder may perform;

**planning scheme** has the same meaning as "local planning scheme" in the *Planning and Development Act 2005*;

**portable sign** means a free standing portable advertising sign not permanently attached to a structure or fixed to the ground or pavement, and includes a 'A' frame sign;

**premises** for the purposes of clauses 2.8(1)(a) and 4.6 means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field;

**prohibited drug** has the meaning given to it in the *Misuse of Drugs Act 1981* (WA);

**promotional activity** means the advertising of, promotion of, or raising of funds for, a particular group, product or service;

**public interest sign** means an advertising sign for an event that is open to the public to attend at no cost and is of significant interest to persons within, and visitors to, the district, and which is being held on local government property or in a public place, but does not include election advertising;

**public place** includes a thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include—

- (a) premises on private property from which trading is lawfully conducted under a written law; or
- (b) local government property;

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

**smoke** has the meaning given to it in the *Tobacco Products Control Act 2006* (WA);

**street market** means a collection of stalls, stands and displays on local government property or a public place for the purposes of selling goods, wares, merchandise, produce or services, or carrying out any other transaction;

**lot numbering** means a number or numbers with or without an alphabetical suffix assigned to identify the street address of a property;

**street tree** means any tree or tall plant that has a wooden trunk and branches that grow from its upper part, planted or self-sown in the street, of an appropriate species and in an appropriate location for the purpose of contributing to the streetscape;

**thoroughfare** has the meaning given to it by the Act, but does not include a private thoroughfare which is not under the management or control of the local government;

**tobacco product** has the meaning given to it in the *Tobacco Products Control Act 2006* (WA);

**trader** means a person who carries on trading;

**trading** means—

- (a) the selling or hiring of, the offering for sale or hire of, or the soliciting of orders for, goods or services in a public place or on local government property;
- (b) displaying goods in a public place or local government property for the purpose of—
  - (i) offering them for sale or hire;
  - (ii) inviting offers for their sale or hire;
  - (iii) soliciting orders for them; or
  - (iv) carrying out any other transaction in relation to them,

and includes the setting up of a stall, or the conducting of a business at a stall;

**vehicle** includes—

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

but excludes—

- (c) a wheelchair or any device designed for use by physically impaired person on a footpath;
- (d) a pram, a stroller or a similar device;
- (e) a bicycle or wheeled recreational device; and
- (f) a shopping trolley;

**Western Power** means the body corporate known as the Electricity Networks Corporation established under section 4 of the *Electricity Corporations Act 2005* (WA) or such other entity established or constituted in its place or by which its functions have become exercisable;

**wheeled recreational device** means a wheeled device built to transport a person which is propelled by human power or gravity and ordinarily used for recreation or play, including—

- (a) in-line skaters, rollerskates, a skateboard or similar wheeled device;
- (b) a scooter being used by a person 12 years of age or older; and
- (c) a unicycle,

but excludes a goffer, golf buggy, pram, stroller or trolley, or a bicycle, wheelchair or wheeled toy.

**1.6 Transitional**

Any permit, licence, consent or authorisation issued in accordance with a local law listed in clause 1.4—

- (a) is taken to be a permit granted under this local law;
- (b) is to be valid for the period specified on the permit, licence, consent or authorisation; and
- (c) may be earlier cancelled or suspended in accordance with this local law.

**1.7 Application as to assistance animals**

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

**PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY***Division 1—Determinations***2.1 Determinations as to use of local government property**

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

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

**2.2 Procedure for making a determination**

- (1) The local government is to give local public notice of its intention to make a determination.
- (2) The local public notice must 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 under clause 2.2(2)(c), the local government is to 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 clause 2.2(5) will apply; or
  - (c) not to continue with the proposed determination.
- (4) If submissions are received under clause 2.2(2)(c), the local government—
  - (a) is to consider those submissions; and
  - (b) is to decide—
    - (i) whether to amend the proposed determination; or
    - (ii) not to continue with the proposed determination.
- (5) If the local government decides to amend the proposed determination, it is to give local public notice—
  - (a) of the effects of the amendments; and
  - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the local government decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed amendment is to have effect as a determination on and from the date of publication of the local public notice referred to in clauses 2.2(3), 2.2(5) and 2.2(6).
- (8) A decision under clauses 2.2(3) or 2.2(4) is not to be delegated by Council.

**2.3 Discretion to erect a sign**

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

**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 clause 2.5(1) and for that purpose, the register is taken to be information within section 5.94(u)(i) of the Act.



**2.6 Amendment or revocation of a determination**

- (1) The Council 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 Council revokes a determination, it must give local public notice of the revocation and the determination will cease to have effect on and from the date of publication.

*Division 2—Activities which may be pursued or prohibited on specified local government property as a result of a determination*

**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) bring, ride or drive an animal;
  - (b) take, ride or drive a vehicle, or a particular class of vehicle;
  - (c) fly or use a motorised model aircraft, car, ship, glider or rocket;
  - (d) 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;
  - (e) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
  - (f) play or practice—
    - (i) golf or archery;
    - (ii) pistol or rifle shooting, but subject to compliance of that person with the Firearms Act; 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 and damage to a person or property; or
  - (g) ride a bicycle, a wheeled recreational device, or similar device; or
  - (h) wear no clothing.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in clause 2.7(1) may be pursued and in particular—
  - (a) the days and times during which the activity may be pursued;
  - (b) that any 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 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) smoking in premises;
  - (b) riding a bicycle, a wheeled recreational device, or a similar device;
  - (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
  - (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
  - (e) the playing or practice of—
    - (i) golf, archery, pistol 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 clause 2.7(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.

*Division 3—Transitional*

### **2.9 Existing signs to have effect as a determination**

- (1) Where a sign erected on local government property has been erected under a local law that is repealed by this local law, then it is to be taken to have effect as a determination under this local law on and from the commencement day, except to the extent that the sign is inconsistent with any provisions 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 clause 2.9(1).

## **PART 3—ACTIVITIES ON LOCAL GOVERNMENT PROPERTY**

*Division 1—When a permit is required*

### **3.1 Activities needing a permit—general**

- (1) Subject to this local law, a person must not without a permit granted in accordance with Part 14—
- (a) hire local government property;
  - (b) cut, break, damage, injure, deface, pull up, pick, remove, or destroy any tree, shrub, flower, grass, plant or flora of any kind on any local government property;
  - (c) cut, collect or remove any timber, firewood, stone, sand or other materials on local government property;
  - (d) plant any plant or sow any seeds on local government property;
  - (e) erect any sign on local government property;
  - (f) erect on local government property a structure for public amusement or for any other performance, whether for gain or otherwise;
  - (g) erect a building or a refuelling site on local government property;
  - (h) make any excavation on, erect a fence on or remove a fence from, local government property;
  - (i) erect or install any structure above or below ground which is local government property for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
  - (j) deposit or store anything on local government property;
  - (k) depasture, tether, drive or ride any animal on local government property;
  - (l) launch an aircraft or helicopter from, or land an aircraft or helicopter into, local government property;
  - (m) camp on or lodge at local government property for the purpose of sleeping on local government property;
  - (n) occupy any structure, including a vehicle, at night for the purpose of sleeping on local government property;
  - (o) erect a tent, camp, hut or similar structure on local government property other than a sunshade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day;
  - (p) teach, coach or train for profit any person, animal or dog on or in local government property;
  - (q) conduct a function, or undertake any promotional activity, on local government property;
  - (r) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a charitable organisation;
  - (s) light a fire on local government property except in a facility provided for that purpose;
  - (t) light or set off any fireworks or conduct a fireworks display on local government property;
  - (u) parachute, hang glide, abseil or base jump from or onto local government property;
  - (v) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly on local government property; or
  - (w) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property, other than those used by a sporting club in the performance of its functions.
- (2) The local government may exempt by written notice—
- (a) a person from compliance with clause 3.1(1) or any part thereof on the application by that person; or
  - (b) specified local government property or a class of local government property or any part thereof from the application of clause 3.1(1).

### **3.2 Possession and/or consumption of liquor**

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

- (a) it is permitted under the *Liquor Control Act 1988* (WA); and
- (b) any necessary permit has been obtained for that purpose.

*Division 2—Hiring local government property***3.3 Application for a permit to hire local government property**

(1) The local government may hire local government property to a person who makes an application for a permit for the hire of local government property under Part 12 and who pays the hire fee determined by the local government.

(2) The local government may—

- (a) determine that the requirements of this local law do not apply to the hiring of particular local government property or a class of local government property; and
- (b) waive the requirement to pay a hire fee or any part thereof on the application of the person seeking a permit.

**3.4 Decision on application where two or more applicants**

In the event of two or more applications being made for the hire of the same local government property for the same date and time, the local government may determine, in its absolute discretion, which, if any, applicant shall be granted a permit to hire the local government property.

**3.5 Responsibilities of a permit holder**

The holder of a permit must—

- (a) take reasonable steps to maintain law and order by all in attendance at any function for which the local government property has been hired;
- (b) 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;
- (c) prevent overcrowding;
- (d) leave the local government property in a clean and tidy condition after its use;
- (e) comply with a direction from the Chief Executive Officer or an authorised person to take the action specified in the direction for the purpose of maintaining public safety;
- (f) report any damage or defacement of the local government property to the local government;
- (g) 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 Act for that purpose; and
- (h) comply with any other direction imposed by the local government.

**3.6 Conditions on use and hire**

In addition to the conditions described in clause 12.4, the local government may impose conditions on the hire of local government property relating to—

- (i) the purpose for which the local government property may be hired;
- (ii) the use of furniture, plants and effects;
- (iii) restrictions on the erection of decorations inside and outside any building which is local government property;
- (iv) the number of persons that may attend any function in or on local government property;
- (v) the right of the local government to cancel a booking at any time during the course of an annual or seasonal booking;
- (vi) securing and locking up local government property at the end of each hire period;
- (vii) the prohibition of gaming unless a gaming approval has been obtained under the *Gaming and Wagering Commission Act 1987* (WA);
- (viii) requiring that the amplification of any noise or any noise emitted during the hire complies at all times with the *Environmental Protection (Noise) Regulations 1997* (WA); or
- (ix) any other matter that the local government considers fit or appropriate.

*Division 3—Camping on local government property***3.7 Camping on local government property**

(1) The maximum period for which the local government may approve an application for a permit in respect of the activities set out in clauses 3.1(1)(m) and 3.1(1)(o) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997* (WA).

(2) Any tent, camp, hut or similar structure erected in contravention of clause 3.1(1)(o) and associated goods may, subject to regulation 29 of the Regulations, be impounded.

**PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY***Division 1—Behaviour on and interference with local government property***4.1 Behaviour which interferes with others**

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

- (a) is likely to or does interfere with, interrupt or disturb the enjoyment of a person who might use the property or who is using the property;
- (b) causes or is likely to cause a disturbance to nearby residents;
- (c) otherwise creates a nuisance; or
- (d) places the public at risk or interferes with the safety of others.

**4.2 Behaviour detrimental to property**

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

**4.3 Taking or injuring any fauna**

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.

**4.4 Drunk persons not to enter local government property**

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

**4.5 No prohibited drugs**

A person must not take a prohibited drug onto or consume or use a prohibited drug on local government property.

**4.6 No smoking**

A person must not smoke within a 5 metre radius of any entrance, exit or aperture of premises on local government property.

**4.7 Appropriate behaviour and adequate clothing**

(1) A person over the age of 6 years shall not on or in any local government property—

- (a) appear in public unless properly dressed in clothing which covers the body to prevent indecent exposure, except where the property is set aside for the wearing of no clothes under clause 2.7(1)(h);
- (b) loiter outside or act in an inappropriate manner in any portion of a toilet block or change room facility; or
- (c) without the consent of the occupier, enter or attempt to enter any toilet or other compartment which is already occupied.

(2) Where an authorised person considers that the clothing of any person on local government property is not proper or adequate to cover the body so as to prevent indecent exposure, the authorised person may direct that person to put on adequate clothing and that person shall comply with that direction immediately.

**4.8 Entry to local government property**

A person, other than an authorised person performing a function or a contractor of the local government carrying out a contracted duty, shall not—

- (a) enter or leave any local government property other than by the public entrance or exit, except in an emergency;
- (b) enter or remain on any local government property except on those days and during those times when access is available to the public; or
- (c) enter any place that has been fenced off or closed to the public.

**4.9 Refusal of entry to local government property**

(1) Subject to clauses 5.3 and 5.4, an authorised person may refuse to allow entry, or suspend admission, to any local government property to any person whom he or she reasonably suspects has behaved in a manner contrary to the provisions of this Part.

(2) A refusal or suspension under subclause (1) can be for any period of up to 12 months as determined by an authorised person.

(3) Subclause (1) does not apply to a venue where Council or Committee meetings are held.

*Division 2—Signs*

**4.10 Signs**

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

(2) A person must comply with a sign erected under clause 4.10(1).

(3) A condition of use specified on a sign erected under clause 4.10(1) must not be inconsistent with any provision of this local law or any determination.

**PART 5—SPECIFIC MATTERS RELATING TO TYPES OF  
LOCAL GOVERNMENT PROPERTY**

*Division 1—Fenced or closed property*

**5.1 No entry to fenced or closed local government property**

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

*Division 2—Toilet blocks and change rooms*

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

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

- (a) females, then a person of the male gender must not use that entry to the toilet block or change room; or
  - (b) males, then a person of the female gender must not use that entry to the toilet block or change room.
- (2) Clause 5.2 (1) does not apply to a child, when accompanied by a parent, guardian or caregiver where the child is—
- (a) under the age of 6 years; or
  - (b) otherwise permitted by an authorised person to use the relevant entry.

### **5.3 Use of showers**

A person may use a shower in a change room provided that—

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

### **5.4 No use of camera devices in toilet blocks or change rooms**

A person must not operate a camera device in any portion of a toilet block or change room to record or transmit an image.

## **PART 6—FEES FOR ENTRY ONTO LOCAL GOVERNMENT PROPERTY**

### **6.1 Payment of applicable fees for entry or participation**

- (1) Subject to clause 6.1(2), where a fee is payable for entry to local government property or participation in an activity on or in any local government property, a person shall not enter that property or participate in the activity without first paying the applicable fee.
- (2) The local government may exempt a person from compliance with clause 6.1(1) on the application of that person.

## **PART 7—ACTIVITIES IN PUBLIC PLACES**

### *Division 1—General*

### **7.1 General prohibitions**

- (1) Subject to this local law, a person shall not—
- (a) plant any plant on a thoroughfare—
    - (i) within the vicinity of an intersection that creates a sight line hazard in relation to pedestrians or drivers of vehicles using that intersection and which is not maintained at or below 0.5 metres in height; or
    - (ii) so that it is within 2 metres of a carriageway, except in the case of grass or a similar plant to grass;
  - (b) damage a lawn or garden on or in a public place or remove any plant or part of a plant from a lawn or garden on or in a public place unless—
    - (i) the person is the owner or occupier of the lot abutting that portion of the thoroughfare and the lawn, garden or the particular plant was installed or planted by that owner or occupier; or
    - (ii) the person is acting under the authority of a written law;
  - (c) on a verge, repair or service any vehicle;
  - (d) place, allow to be placed or allow to remain on a thoroughfare or verge anything that results in a hazard for any person using the thoroughfare or verge;
  - (e) cause or permit any water from a hose or sprinkler to interfere with the use of any street, way or footpath by pedestrians;
  - (f) play or participate in any game or sport so as to—
    - (i) cause danger to any person on a thoroughfare; or
    - (ii) obstruct the movement of vehicles or persons on a thoroughfare;
  - (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, wheeled recreational device or similar device; or
  - (h) use anything or do anything so as to create a nuisance on or in a public place.

### **7.2 Activities requiring a permit**

- (1) Subject to clause 7.2(2), a person must not without a permit—
- (a) dig or otherwise create a trench through or under a kerb or footpath;
  - (b) damage a street tree or remove a street tree or part of a street tree, including the roots, which is on or in a public place irrespective of whether the street tree was planted by the owner or occupier of the lot abutting the thoroughfare or by the local government unless the person is acting under the authority of a written law;

- (c) damage, remove or interfere with any part of a thoroughfare, kerb, footpath or any structure or sign erected on or in a thoroughfare by the local government or a person acting under written authority;
- (d) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
- (e) cause any obstruction to a water channel or a water course, including drainage swales, in a thoroughfare;
- (f) light any fire or burn anything on a thoroughfare or verge;
- (g) lay pipes under or provide taps on any verge;
- (h) place or install, on any part of a thoroughfare, anything such as crushed limestone, gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust, including for the purposes of storage or stockpiling;
- (i) provide, erect, install or use in or on any building, structure or land abutting a thoroughfare any hoist or other thing for use over the thoroughfare;
- (j) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare;
- (k) drive any vehicle over or across a kerb or footpath except at a vehicle crossing;
- (l) drive a vehicle or permit a vehicle to be driven across a kerb or footpath if such vehicle is so heavy or is of such a nature that it causes or is likely to cause damage to the kerb or the paving of the footpath; and
- (m) drive or take a vehicle on a closed thoroughfare unless it is in accordance with any limit or exception specified in an order made under section 3.50 of the Act.

(2) The local government may exempt a person from compliance with clause 7.2(1) on the application of that person.

### 7.3 Obstructions

Where anything is deposited or an obstruction is caused to a thoroughfare, kerb or footpath contrary to clauses 7.1 and 7.2, the local government may—

- (a) remove or cause to be removed such deposit or obstruction; and
- (b) recover the costs of doing so as a debt due to it.

#### *Division 2—Vehicle crossings*

### 7.4 Temporary crossing

(1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works must obtain a permit for the construction and use of a temporary crossing to protect the existing carriageway, kerb, drains and footpath 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) If the local government approves an application for a permit for the purpose of clause 7.4(1), the permit is taken to be issued on the condition that, until such time as the temporary crossing is removed, the permit holder 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 thoroughfare.

### 7.5 Removal of a 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 thoroughfare affected by the removal are to be reinstated to the satisfaction of the local government.

(2) The local government may give written notice to the owner or occupier of a lot requiring him or her 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 thoroughfare, which may be affected by the removal,

within the period of time stated in the notice.

#### *Division 3—Property numbers*

##### *Subdivision 1—Preliminary*

### 7.6 Interpretation

In this Division, unless the context requires otherwise—

**number** means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare.

##### *Subdivision 2—Assignment and marking of numbers*

### 7.7 Assignment and marking of number

(1) The local government may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

(2) The owner or occupier of each property must display and maintain the current lot number assigned by the local government in a conspicuous place at the front of the property.

(3) A person shall not place or display the lot number of the property in such a location as to cause confusion or be misleading.

(4) Where the location of a street number causes confusion or is misleading, or an unauthorised lot number is being used or displayed on a property, the local government or an authorised person may serve notice in writing on the owner or occupier of the land specifying remedial action to be taken and the time within which action must be taken.

*Division 4—Fencing*

**7.8 Public place—clause 4(1) of Division 1, Schedule 3.1 of the Act**

Each of the following places is specified as a public place for the purpose of clause 4(1) of Division 1 of Schedule 3.1 of the Act—

- (a) a public place, as that term is defined in clause 1.5; and
- (b) local government property.

*Division 5—Signs erected by the local government*

**7.9 Signs**

- (1) The local government may erect a sign on a public place specifying any conditions of use which apply to that place.
- (2) A person must comply with a sign erected under clause 7.9(1).
- (3) A condition of use specified on a sign erected under clause 7.9(1) is to be for the purpose of giving notice of the effect of the provision of a local law.

**7.10 Transitional**

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 7.10 if the sign is not inconsistent with any provisions of this local law.

**PART 8—ADVERTISING DEVICES ON OR IN LOCAL GOVERNMENT PROPERTY OR PUBLIC PLACES**

**8.1 General prohibitions**

- (1) A person must not erect, place, post, paint or affix any advertising sign on, in or over local government property or a public place other than in accordance with this local law.
- (2) Subject to clauses 8.3 to 8.7, a person must not, unless authorised by the local government in writing or a written law, erect or place an advertising sign on or in local government property or a public place—
  - (a) within 30 metres of a similar or identical advertising sign erected or placed for the same purpose;
  - (b) over any footpath where the resulting vertical clearance between the advertising sign is less than 2.5 metres;
  - (c) on any roundabout;
  - (d) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge;
  - (e) on any pedestrian overpass bridges in the District; or
  - (f) in any location where, in the opinion of the local government, the advertising sign or portable direction sign is likely to—
    - (i) obstruct or impede the reasonable use of a thoroughfare or access to a place by any person;
    - (ii) obstruct a line of sight of drivers of vehicles along a thoroughfare, verge or vehicle crossing; or
    - (iii) create a hazard for any person using the thoroughfare or verge, including by obstructing or impeding the vision of a driver of a vehicle entering or leaving a thoroughfare or vehicle crossing.
- (3) Public liability insurance in respect of the erection or placement of the advertising sign must be obtained if required by the local government.

**8.2 Public interest signage**

- (1) Public interest signage is subject to the general prohibitions outlined in clause 8.1.
- (2) A person must not erect or display a public interest sign on or in any local government property or a public place unless that person has a permit issued by the local government for that purpose.
- (3) A permit holder must not erect or display on or in local government property or a public place—
  - (a) subject to clause 8.3(3)(b), more than 6 public interest signs for one event at any one time within the district;
  - (b) more than 10 public interest signs for one event on the day on which the event is taking place within the district;
  - (c) more than one public interest sign for one event on or in the same location, including an intersection, within the district;
  - (d) subject to clause 8.3(3)(e), a public interest sign for a period longer than 10 days in any 6 month period within the district;
  - (e) a public interest sign for an event that occurs on a regular basis for a period longer than 3 days prior to the day on which the event takes place within the district;

- (f) a public interest sign which is, at the absolute discretion of the local government, not of a professional standard and quality;
- (g) a public interest sign in a position which—
  - (i) creates a hazard for pedestrians; or
  - (ii) causes interference with the clear visual lines of sight required by motorists for the safe movement of vehicular traffic,

unless permitted by the terms and conditions of a permit;

- (h) a public interest sign with colours that may cause confusion for motorists approaching an intersection controlled by traffic lights;
  - (i) a public interest sign which is not maintained in a good and orderly manner for the duration of the period that the public interest sign is on display;
  - (j) a public interest sign that exceeds dimensions of 2 metres long x 1 metre high, unless permitted by the terms and conditions of a permit;
  - (k) on a verge, a public interest sign which is—
    - (i) less than 3 metres from the kerb line;
    - (ii) if there is no kerb line, less than 3 metres from the edge line or the edge of the seal where there is no edge line; and
    - (iii) less than 80 metres from the projection of the nearest kerb line of any intersecting road; or
  - (l) a public interest sign which is tied or secured to power poles or street lights, unless permitted by Western Power.
- (4) The local government may approve an advertising sign, that is not public interest signage, associated with an event in accordance with this local law, subject to any condition imposed by the local government.

### 8.3 Other Portable Signs

(1) Other portable signs are subject to the general prohibitions outlined in clause 8.2.

(2) Subject to clause 8.5 any other portable sign shall—

- (a) not exceed 1.2 metres in height above the finished ground or pavement level;
- (b) not contain more than 2 sign faces;
- (c) not exceed 1 square metre total area on any single sign face;
- (d) not be illuminated or incorporate reflective or fluorescent materials;
- (e) not have moving parts once the sign is in place;
- (f) contain writing that is of a professional standard and quality, and is appropriately maintained;
- (g) in the case of any other portable sign relating to a business, only incorporate the name of the businesses operating from the lot and must not incorporate brand advertising;
- (h) only be erected and displayed on pedestrian areas with the sign faces directed at pedestrians and not at drivers;
- (i) not be erected and displayed within regional road reservations, as defined by the local government's planning scheme;
- (j) in the case of another portable sign relating to a business—
  - (i) be displayed in a location immediately adjacent to the business premises to which the sign relates; and
  - (ii) be removed at the close of trading each day and not displayed again until the business opens for trading the next day;
- (k) not be erected or displayed so as to impede the reasonable use of local government property or a public place;
- (l) not be erected or displayed within 1.8 metres of an intersection or crossover;
- (m) not be fixed or attached to a building, wall, fence, pole, tree or other structure within a road reserve; and
- (n) be removed and relocated at the request of a person authorised for the purpose of a special event, parade, road or footpath works, or other event.

(3) A person can only erect one other portable sign per business.

(4) A person can only erect another portable sign on a verge of a road which is under the care, control and management of the local government if—

- (a) that person has provided the local government with a current certificate for public liability insurance to an amount not less than \$10 million, which notes that the cover extends to any sign that is located within a road reserve, and maintains that public liability insurance for the duration that the portable sign is so displayed;
- (b) the portable sign is to be erected and displayed adjacent to and between the front of the business premises and the nearest kerb, as approved by the local government in writing;
- (c) no part of the sign is to be less than 600 millimetres from the face of the nearest kerb or, if no kerb, from the edge of the nearest road surface or car parking bay; and



- (d) the effective width of a footpath, pedestrian access way or similar access route is not reduced to less than 2 metres effective width.

#### **8.4 Election advertising**

- (1) Election advertising is subject to the general prohibitions outlined in clause 8.1.
- (2) If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign—
  - (a) being erected at least 30m from any intersection;
  - (b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;
  - (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access to a place by any person;
  - (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
  - (e) being maintained in good condition;
  - (f) not being erected until 6 weeks prior to the election to which it relates has been officially announced;
  - (g) being removed within 72 hours of the close of polls on voting day;
  - (h) not being placed within 100m of any works on the thoroughfare;
  - (i) being securely installed;
  - (j) not being an illuminated sign;
  - (k) not incorporating reflective or fluorescent materials; or
  - (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

#### **8.5 Notification regarding removal and impounding of advertising signs**

- (1) An authorised person may issue a person who has erected or placed an advertising sign on or in local government property or a public place with a notice requiring that person to remove the advertising sign within 24 hours, or earlier if, at the absolute discretion of the local government or an authorised person, the advertising sign is a potential hazard or nuisance to members of the public.
- (2) An authorised person may remove or impound an advertising sign that has been erected or placed on or in local government property or a public place contrary to this local law.

#### **8.6 Advertising sign to be marked**

Each advertising sign erected in or on local government property or a public place shall be clearly marked with the name of the person, organisation or business who erected the advertising sign.

#### **8.7 Person or business taken to own advertising sign**

In the absence of any proof to the contrary, an advertising sign is to be taken to belong to the person, organisation or business whose name is marked on the advertising sign.

#### **8.8 Insurance**

If a person is required by the local government to hold public liability insurance in respect of the erection or placement of an advertising sign on or in local government property or a public place, that person must present an authorised person with a current certificate of public liability insurance upon the direction of the authorised person.

### **PART 9—OBSTRUCTING ANIMALS OR VEHICLES ON OR IN LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES**

#### *Division 1—Animals*

#### **9.1 Leaving an animal on local government property or in a public place**

A person must not leave an animal on local government property or a public place so that it obstructs the use of any part of that local government property or public place unless that person—

- (a) has first obtained a permit; or
- (b) is authorised to do so under a written law or a determination made under this local law.

#### **9.2 Prohibitions relating to animals**

- (1) In this clause, **owner** in relation to an animal includes—
  - (a) the owner of the animal;
  - (b) a person who has the animal in his or her possession or under his or her control; or
  - (c) the occupier of any premises where the animal is ordinarily kept or ordinarily permitted to live.
- (2) An owner of an animal must not—
  - (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare and unless it is led, ridden or driven;
  - (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in or on local government or a public place;
  - (c) train or race the animal on a thoroughfare; or

- (d) subject to clause 9.2(4), allow the animal to defecate on local government property or in a public place.
- (3) An owner of a horse must not lead, ride or drive the horse on a thoroughfare in a built-up area, unless the person does so under a permit or under the authority of a written law.
- (4) An owner of an animal does not commit an offence if the defecation is immediately removed.

### 9.3 Removal of animals

An authorised person may impound an animal left on or in local government property or a public place contrary to clause 9.1.

#### *Division 2—Vehicles*

### 9.4 Leaving a vehicle in a public place

A person must not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place, unless that person has first obtained a permit from the local government or is authorised to do so under a written law.

## PART 10—ROADSIDE CONSERVATION

### *Division 1—Preliminary*

#### 10.1 Interpretations

In this Part—

**MRWA** means Main Roads Western Australia;

**protected flora** has the meaning given to it in the *Biodiversity Conservation Act 2016*;

**rare flora** has the meaning given to it in the *Biodiversity Conservation Act 2016*;

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

**special environmental area** means an area designated as such under clause 10.7.

#### 10.2 Application

This Part does not apply to any townsites within the district.

#### *Division 2—Flora roads*

#### 10.3 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.

#### 10.4 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 Code of Practice for Roadside Conservation and Road Maintenance prepared by the Roadside Conservation Committee.

#### 10.5 Signposting of flora roads

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

#### 10.6 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.

#### *Division 3—Special environmental areas*

#### 10.7 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.

#### 10.8 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.

#### *Division 4—Planting in thoroughfares*

#### 10.9 Permit to plant

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

**10.10 Relevant considerations in determining application**

In determining an application for a permit for the purpose of clause 10.9, 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.

*Division 5—Clearance of vegetation***10.11 Permit to clear**

(1) A person shall not clear and maintain in a cleared state, the surface of a thoroughfare outside a gazetted town boundary, beyond 1.5m of that person's land without first obtaining a permit and any other approvals which may be required under any written law.

(2) A person shall not clear and maintain in a cleared state, the surface of any thoroughfare within a gazetted town boundary, without first obtaining a permit and any other approvals which may be required under any written law.

**10.12 Application for permit**

In addition to the requirements of clause 12.1(2), a person making an application for a permit for the purpose of clause 10.11 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.

**10.13 Permit to burn thoroughfare**

A person shall not burn part of a thoroughfare without first obtaining a permit from an authorised person other than a Fire Control Officer, or unless acting under the authority of any other written law.

**10.14 Application for permit**

In addition to the requirements of clause 12.1(2), an application for a permit for the purposes of clause 10.13 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.

**10.15 When application for permit can be approved**

The local government may approve an application for a permit for the purpose of clause 10.13 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.

**10.16 Prohibitions on burning**

Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 10.13 is not to be approved by the local government—

- (a) for burning between 31 August 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.

*Division 7—Firebreaks***10.17 Firebreaks on thoroughfares**

A person shall not construct a firebreak on a thoroughfare.

*Division 8—Commercial wildflower harvesting on thoroughfares***10.18 General prohibition on commercial wildflower harvesting**

Subject to clause 10.19, a person shall not commercially harvest native flora on a thoroughfare.

**10.19 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 11—TRADING IN PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY**

### **11.1 Restrictions and requirement to obtain a permit**

- (1) A person must not carry on trading on local government property or in a public place unless—
  - (a) subject to clause 11.1(2), that person is—
    - (i) the holder of a permit for that purpose; or
    - (ii) an assistant specified in a permit for trading; and
  - (b) if required by the local government, public liability insurance in respect of the trading activity has been taken out by the relevant permit holder; and
  - (c) if the person is trading in food, the place of trading must have access to a supply of potable water and/or a sewer for the disposal of wastewater.
- (2) The local government may by written notice exempt a person or class of persons from the need to obtain a permit.
- (3) In determining whether to grant an exemption under clause 11.1(2), the local government may have regard to the matters set out in any local government policy.

### **11.2 Exemptions from requirement to pay a fee**

- (1) The local government may waive any fee required to be paid by an applicant for a permit for the purpose of trading on the application if the trading is carried on—
  - (a) at a portion of local government property or a public place adjoining the normal place of business of the applicant; or
  - (b) by a charitable organisation that—
    - (i) does not sublet space to commercial participants;
    - (ii) does not involve commercial participants in the conduct of the stall or trading; and
    - (iii) operates under a permit where any assistants specified in the permit are members of that charitable organisation.
- (2) In this clause 11.2, **commercial participant** means any person who is involved in operating or in conducting any trading activity for personal gain or profit.

### **11.3 Insurance**

If required by the local government to hold public liability insurance in respect of the permit holder's trading activities, a permit holder must produce to an authorised person a current certificate of insurance upon the direction of that authorised person.

### **11.4 When a permit is required for a street market**

A person must not conduct a street market on a public place or on local government property—

- (a) without a valid permit for that purpose; and
- (b) unless, if required by the local government, the holder of the permit has taken out public liability insurance in respect of the street market.

## **PART 12—PERMITS**

### *Division 1—Applying for a permit*

#### **12.1 Application for a permit**

- (1) A person who is required to obtain a permit under this local law must apply for the permit in accordance with clause 12.1(2).
- (2) An application for a permit under this local law must—
  - (a) be in the form determined by the local government;
  - (b) state the full name and address of the applicant;
  - (c) be signed by the applicant;
  - (d) contain the information required by the form;
  - (e) contain any other information required for that particular type of permit under this local law; and
  - (f) be forwarded to the local government together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) An application for a permit for the purposes of conducting trading or a street market on or in local government property or a public place must contain the following additional information (as applicable)—
  - (a) the proposed number of assistants, if any, to be engaged by the applicant in trading or the street market, as well as their full names and addresses;
  - (b) details of any location in which the applicant proposes to trade or conduct a street market;
  - (c) the period of time for which the permit is sought, together with the proposed days and hours of operation of the street market;

- (d) the proposed goods and services which will be traded or sold by the trader or at a street market; and
  - (e) details of any proposed structure, stall or vehicle which may be used in conducting the trading or street market and a plan showing where any such structure, stall or vehicle will be located.
- (4) The local government may refuse to consider an application for a permit which does not satisfy the requirements within clause 12.1(2).
- (5) The local government may require an applicant to give local public notice of the application for the permit.

### **12.2 Decision on application for permit**

- (1) The local government may—
- (a) approve an application for a permit;
  - (b) approve an application for a permit subject to conditions; or
  - (c) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit with or without conditions, it must issue to the applicant a permit in the form approved by the local government.
- (3) If the local government refuses to approve an application for a permit, it must give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on a permit or the grounds on which an application for a permit may be refused, the clause does not limit the power of the local government to impose other conditions on the permit or to refuse the application for a permit on other grounds.

### **12.3 Relevant considerations in determining application for granting a permit**

- (1) In determining an application for a permit, the local government is to have regard to—
- (a) any relevant local government policies;
  - (b) the Competition Principles Agreement;
  - (c) the desirability of the proposed activity;
  - (d) the location of the proposed activity, including safety and health requirements, and the character and function of, the location; and
  - (e) such other matters as the local government considers relevant.
- (2) A local government may refuse to approve an application for a permit on any one or more of the following grounds—
- (a) the application is inconsistent with a local government policy or would result in an activity being carried out contrary to this local law or any other written law;
  - (b) the applicant has committed a breach of any provision of this local law or of any other written law relevant to the activity in respect of which the permit is sought;
  - (c) the applicant is insolvent or under administration;
  - (d) the activity may result in traffic and pedestrian safety being adversely impacted;
  - (e) the activity is not in keeping with the surrounding land uses; or
  - (f) such other grounds as the local government considers relevant.

#### *Division 2—Conditions on a permit*

### **12.4 Examples of conditions**

The local government may impose conditions on a permit relating to—

- (a) the payment of a fee;
- (b) the duration and commencement of the permit, including the days and hours within which the activity the subject of the permit may be carried out or is prohibited;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the area or specific location within the district to which the permit applies, including any set back distances applicable to the activity;
- (f) the payment of a bond against possible damage, cleaning or other expenses;
- (g) the obtaining of public liability insurance in an amount and on terms reasonably required by the local government;
- (h) the provision of an indemnity from the permit holder 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 use of the public place or local government property by the permit holder;
- (i) if the permit relates to the trading of food, the provisions to be made for the storage of cooked and uncooked food, and the storage and disposal of waste water; and
- (j) any other matter that the local government considers fit or appropriate.

**12.5 Compliance with and variations to terms and conditions**

- (1) A permit holder must comply with any terms and conditions imposed on a permit, including any conditions as varied.
- (2) A permit holder may apply to the local government to vary or remove any conditions imposed on a permit.
- (3) In determining whether to vary any condition imposed on a permit, the local government must have regard to any relevant local government policy.

*Division 3—General***12.6 Duration of permit**

- (1) 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 terms and conditions of the permit; or
  - (b) cancelled under clause 12.10.

**12.7 Renewal of permit**

- (1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of a permit.
- (2) The provisions of this Part 12 regarding an application for a permit apply to an application for the renewal of a permit with any necessary modifications.

**12.8 Transfer of permit**

- (1) An application may be made to the local government to transfer a valid permit.
- (2) An application to transfer a permit must—
  - (a) be made in writing;
  - (b) be signed by the permit holder and the proposed transferee for the permit;
  - (c) provide such information as the local government may require to enable the application to be determined; and
  - (d) be forwarded to the local government together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government may—
  - (a) approve an application for the transfer of a permit;
  - (b) approve an application for the transfer of a permit subject to conditions; or
  - (c) refuse an application to transfer a permit.
- (4) Where the local government approves an application for the transfer of a permit, the transfer may be effected by—
  - (a) an endorsement on the permit signed by the Chief Executive Officer or an authorised person; or
  - (b) issuing to the transferee a permit in the form determined by the local government.
- (5) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

**12.9 Production of permit**

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

**12.10 Cancellation or suspension of permit**

- (1) Subject to clause 13.1, a permit may be cancelled by the local government if—
  - (a) the permit holder has not complied with a condition of the permit;
  - (b) the permit holder has not complied with a provision of any written law which relates to the activity regulated by the permit; or
  - (c) the permit holder has transferred or assigned or sought to transfer or assign the permit without the approval of the local government; or
  - (d) a law is amended or repealed in a manner which is inconsistent with the terms and conditions of the permit and which renders the permit invalid, ineffective or contrary to law.
- (2) If a permit is cancelled under clause 12.10(1), the permit holder—
  - (a) must return the permit to the local government as soon as practicable; and
  - (b) is to be taken to have forfeited any fees paid in respect of the permit.
- (3) The local government may cancel or suspend a permit if the local government or a utility requires access to or near the place to which a permit applies for the purposes of carrying out works in or near the vicinity of that place.
- (4) On the cancellation or suspension of a permit under clause 12.10(3), the permit holder is, subject to clause 12.10(5), to be taken to have forfeited any fees paid in respect of the permit.
- (5) Where a permit is cancelled or suspended under clause 12.10(3) through no fault of the permit holder, the local government may refund to the permit holder all or part of the fees paid in respect of what would otherwise have been the remaining term of the permit.

**12.11 Nominee of permit holder**

Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may, at the request of the permit holder, authorise another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit apply to the nominee as if he or she was the permit holder.

**PART 13—OBJECTIONS AND APPEALS****13.1 Objection and appeal rights**

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

- (a) grant a person a permit or consent; or
- (b) renew, vary or cancel a permit or consent that a person has under this local law, the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to that decision.

**PART 14—MISCELLANEOUS***Division 1—Authorised person***14.1 Authorised person to be obeyed**

A person in or on local government property or a public place—

- (a) must obey any lawful direction of an authorised person; and
- (b) must not in any way obstruct or hinder an authorised person in the execution of his or her duties.

**14.2 Persons may be directed to leave local government property or a public place**

An authorised person may direct a person to leave local government property or a public place where he or she reasonably suspects that the person has contravened a provision of this local law.

*Division 2—Notices***14.3 Liability for damage to local government property or a public place**

(1) Where a person unlawfully damages local government property or a public place, the local government may by notice in writing to that person require that person within the time specified in the notice to, at the option of the local government, pay the costs of—

- (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
- (b) replacing that property.

(2) On a failure to comply with a notice issued under clause 14.3(1), the local government may recover the costs referred to in the notice as a debt due to it.

**14.4 Notice to redirect or repair sprinklers**

Where a lawn or 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 thoroughfare, the local government or an authorised person may give a 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.

**14.5 Notice to remove thing unlawfully placed on thoroughfare**

Where anything is placed on a thoroughfare contrary to this local law, the local government or an authorised person may give a notice to—

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

**14.6 Notice to repair damage to thoroughfare**

Where any portion of a thoroughfare has been damaged, the local government or an authorised person may by notice to the person who caused the damage order the person to repair or replace that portion of the thoroughfare.

**14.7 Hazardous plants**

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

(2) Clause 14.7(1) does not apply where the plant was planted by the local government.

**PART 15—ENFORCEMENT***Division 1—Notices given under this local law***15.1 Offence to fail to comply with a notice**

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

**15.2 Local government may undertake requirements of a notice**

If a person fails to comply with a notice given to him or her under this local law, the local government may do, or arrange to be done, the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in doing so.

*Division 2—Offences and penalties***15.3 Offences and general penalty**

(1) A person who—

- (a) fails to do anything required or directed to be done under this local law; or
- (b) does an act or omits to do an act contrary to this local law,

commits an offence.

(2) A person who commits an offence under this local law is liable, upon conviction to—

- (a) a penalty not exceeding \$5,000; and
- (b) if the offence is a continuing offence, an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

**15.4 Prescribed offences**

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

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

**15.5 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 give 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.

*Division 3—Person to give name and address on demand***15.6 Requirement to give name and address on demand**

(1) An authorised person may—

- (a) upon finding a person committing or having committed; or
- (b) on reasonable grounds suspecting a person of having committed, an offence against this local law, demand from the person the person's name, place of residence and date of birth.

(2) A person from whom information is demanded in accordance with clause 15.6(1) commits an offence if the person—

- (a) refuses without lawful excuse to give the information; or
- (b) gives information that is false or misleading in any material particular.

**SCHEDULE 1—PRESCRIBED OFFENCES**

[Clause 15.4(1)]

ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY
1.	2.4	Failure to comply with a determination	\$300
2.	3.1(1)(b)	Damaging a tree or plant etc. on local government property without a permit	\$300
3.	3.1(1)(c)	Cutting, collecting or removing timber, firewood etc. on local government property without a permit	\$300
4.	3.1(1)(d)	Planting any plant or sowing any seeds on local government property without a permit	\$300
5.	3.1(1)(e)	Erecting a sign on local government property without a permit	\$300
6.	3.1(1)(f)	Erecting a structure for public amusement etc. on local government property without a permit	\$300
7.	3.1(1)(g)	Erecting a building or a refuelling site on local government property without a permit	\$300



ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY
8.	3.1(1)(h)	Making an excavation on, erecting a fence or removing a fence on local government property without a permit	\$300
9.	3.1(1)(i)	Erecting or installing structures on local government for supplying power, water etc. services without a permit	\$300
10.	3.1(1)(j)	Depositing or storing anything on local government property without a permit	\$300
11.	3.1(1)(k)	Depasturing, tethering, driving or riding animals on local government property without a permit	\$300
12.	3.1(1)(l)	Launching an aircraft or helicopter from or landing an aircraft into local government property without a permit	\$300
13.	3.1(1)(m)	Camping on or lodging at local government property for the purpose of sleeping on local government property without a permit	\$300
14.	3.1(1)(n)	Occupying a structure on local government property at night for the purpose of sleeping without a permit	\$300
15.	3.1(1)(o)	Erecting a tent, camp, hut or similar structure on local government property in certain circumstances without a permit	\$300
16.	3.1(1)(p)	Teaching, coaching or training person, animal or dog for profit in or on local government property without a permit	\$300
17.	3.1(1)(q)	Conducting a function or undertaking a promotional activity on local government property without a permit	\$300
18.	3.1(1)(r)	Charging a person for entry to local government property without a permit	\$300
19.	3.1(1)(s)	Lighting a fire on local government property without a permit	\$300
20.	3.1(1)(t)	Lighting, setting off or conducting a display of fireworks on local government property without a permit	\$300
21.	3.1(1)(u)	Parachuting, hang-gliding, abseiling or base jumping from or onto local government property without a permit	\$300
22.	3.1(1)(v)	Gambling or betting etc. on local government property without permit	\$300
23.	3.1(1)(w)	Erecting, installing, operating or using devices for the emission and amplification of noise on local government property without a permit	\$300
24.	3.5	Failure of permit holder to comply with responsibilities	\$300
25.	4.1	Behaviour on local government property which interferes with others	\$300
26.	4.2	Behaviour on local government property detrimental to property	\$300
27.	4.3	Taking or injuring any fauna on local government property	\$300
28.	4.4	Entering or remaining on local government property while drunk or under the influence of a prohibited drug	\$300
29.	4.5	Taking or consuming a prohibited drug on local government property	\$300
30.	4.6	Smoking within a 5 metre radius of an entrance, exit or aperture of premises on local government property	\$300
31.	4.7(1)(a)	Failing to wear adequate clothing to prevent indecent exposure on local government property	\$300
32.	4.7(1)(b)	Loitering outside or acting in an inappropriate manner in a toilet block or change room facility on local government property	\$300
33.	4.7(1)(c)	Entering or attempting to enter an occupied toilet or other compartment without the consent of the occupier	\$300
34.	4.7(2)	Failing to comply with a direction to put on adequate clothing	\$300
35.	4.8	Unauthorised entry to local government property	\$300
36.	4.10(2)	Failure to comply with a sign on local government property regarding conditions of use	\$300
37.	5.1	Unauthorised entry to fenced off or closed local government property	\$300

ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY
38.	5.2(1)	Gender not specified using entry of toilet block or change room on local government property	\$300
39.	5.3	Using a shower in a prohibited manner	\$300
40.	5.4	Using a camera device to record or transmit an image in a toilet, shower or change room	\$300
41.	6.1(1)	Entering local government property without paying the required fee	\$300
42.	7.1(a)	Planting a plant on a thoroughfare in a prohibited manner	\$300
43.	7.1(b)	Damaging a lawn or garden or removing any plant or part of a plant on or in a public place	\$300
44.	7.1(c)	Repairing or servicing any vehicle on a verge	\$300
45.	7.1(d)	Placing, allowing to be placed or allowing to remain on a thoroughfare or verge an obstructive or hazardous thing	\$300
46.	7.1(e)	Causing or permitting water from a hose or sprinkler to interfere with the use of any street, way or footpath by pedestrians	\$300
47.	7.1(f)	Playing games or sport in a prohibited manner on or in a thoroughfare	\$300
48.	7.1(g)	Riding a bicycle or wheeled recreational device within a mall, arcade or verandah of a shopping centre	\$300
49.	7.1(h)	Creating a nuisance on or in a public place	\$300
50.	7.2(1)(a)	Digging or creating a trench through or under a kerb or footpath without a permit	\$300
51.	7.2(1)(b)	Damaging or removing a street tree without a permit	\$300
52.	7.2(1)(c)	Damaging, removing or interfering with a thoroughfare, kerb, footpath or structure or sign erected on a thoroughfare without a permit	\$300
53.	7.2(1)(d)	Causing an obstruction to a thoroughfare without a permit	\$300
54.	7.2(1)(e)	Causing an obstruction to a water channel or a water course in a thoroughfare without a permit	\$300
55.	7.2(1)(f)	Lighting a fire or burning anything on a thoroughfare or verge without a permit	\$300
56.	7.2(1)(g)	Laying pipes under or providing taps on any verge without a permit	\$300
57.	7.2(1)(h)	Placing or installing prohibited materials on a thoroughfare without a permit	\$300
58.	7.2(1)(i)	Providing, erecting, installing or using a hoist or other thing for use over a thoroughfare without a permit	\$300
59.	7.2(1)(j)	Interfering with the soil of or anything in a thoroughfare or taking anything from a thoroughfare without a permit	\$300
60.	7.2(1)(k)	Driving any vehicle over or across a kerb or footpath except at a vehicle crossing without a permit	\$300
61.	7.2(1)(l)	Driving a vehicle or permitting a vehicle to be driven across a kerb or footpath without a permit	\$300
62.	7.2(1)(m)	Driving or taking a vehicle on a closed thoroughfare without a permit	\$300
63.	7.3	Depositing anything or causing an obstruction to a thoroughfare, kerb or footpath	\$300
64.	7.4(1)	Failure to obtain a permit for a temporary vehicle crossing	\$300
65.	7.7(2)	Failure to properly display and maintain street number	\$300
66.	7.7(3)	Placing or display a street number in a location causing confusion or which is misleading	\$300
67.	7.7(4)	Adopting, using or displaying a street number other than the street number assigned.	\$300
68.	7.9(2)	Failure to comply with a sign on a public place	\$300
69.	8.1(2)	Erecting or placing etc. advertising sign in a prohibited manner	\$300
70.	8.2(1)	Erecting or displaying a public interest sign without a permit	\$300
71.	8.2(3)	Permit holder erecting or displaying a public interest sign in a prohibited manner	\$300

ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY
72.	8.3(1)	Erecting or displaying an other portable sign contrary to local law	\$300
73.	8.3(3)	Erecting or displaying more than one other portable sign per business	\$300
74.	8.3(4)	Erecting or displaying another portable sign on a local government verge contrary to local law	\$300
75.	8.4(1)	Erecting or placing election advertising contrary to local law	\$300
76.	8.4(2)(e)	Failing to maintain election advertising in good condition	\$300
77.	8.4(2)(g)	Failing to remove election advertising within 72 hours of close of polls on election date	\$300
78.	8.4(2)(i)	Failing to securely install election advertising	\$300
79.	8.6	Erecting an advertising sign without marking a name	\$300
80.	9.1	Leaving an animal in a public place or local government property without a permit or authorisation	\$300
81.	9.2(2)(a)	Allowing an animal to enter or remain on a thoroughfare	\$300
82.	9.2(2)(b)	Allowing an animal with a contagious or infectious disease to enter local government property or a public place	\$300
83.	9.2(2)(c)	Training or racing an animal on a thoroughfare	\$300
84.	9.2(2)(d)	Allowing an animal to defecate on local government property or a thoroughfare and failing to remove defecation	\$300
85.	9.2(3)	Leading, riding or driving a horse on a thoroughfare in a built-up area without a permit or authorisation	\$300
86.	9.4	Leaving a vehicle in a public place which causes an obstruction without a permit or authorisation	\$300
87.	10.6(1)	Driving a vehicle on other than the carriageway of a flora road	\$300
88.	10.9	Planting in thoroughfare without a permit	\$300
89.	10.11	Failure to obtain permit to clear a thoroughfare	\$750
90.	10.13	Burning of thoroughfare without a permit	\$750
91.	10.17	Construction of firebreak on thoroughfare	\$750
92.	10.19	Commercial harvesting of native flora on thoroughfare	\$750
93.	10.20(1)	Collecting seed from native flora on thoroughfare without a permit	\$400
94.	11.1	Carrying on trading in a restricted area without the express written consent of the local government	\$300
95.	11.1(1)	Carrying on trading in a public place or on local government property contrary to local law	\$300
96.	11.4(a)	Conducting a street market on or in a public place without a permit	\$300
97.	12.5(1)	Failure to comply with terms and conditions of a permit	\$300
98.	12.9	Failure to produce permit upon request by an authorised person	\$300
99.	14.1(a)	Failure to obey a lawful direction of an authorised person	\$300
100.	14.1(b)	Obstructing or hindering an authorised person in the execution of his or her duties	\$300
101.	15.1	Failure to comply with a notice	\$300
102.	15.6(2)(a)	Refusing to give name and address contrary to local law	\$300
103.	15.6(2)(b)	Giving false or misleading information regarding name and address etc.	\$300

Dated 19 April 2023.

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

AARON KING, Shire President.  
MELINDA PRINSLOO, Chief Executive Officer.



**LOCAL GOVERNMENT ACT 1995****SHIRE OF CHITTERING****STANDING ORDERS LOCAL LAW 2023****ARRANGEMENT****PART 1—PRELIMINARY**

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**SCHEDULE 1—PETITION OF ELECTORS OF THE SHIRE OF CHITTERING**



**LOCAL GOVERNMENT ACT 1995****SHIRE OF CHITTERING****STANDING ORDERS LOCAL LAW 2023**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Chittering resolved on 19 April 2023 to make the following local law.

**PART 1—PRELIMINARY****1.1 Citation**

This local law may be cited as the *Shire of Chittering Standing Orders Local Law 2023*.

**1.2 Commencement**

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

**1.3 Purpose and intent**

(1) The purpose of the local law is to provide for the conduct of meetings of the Council, Committees and electors.

(2) This local law is intended to result in—

- (a) better decision-making at meetings;
- (b) the orderly and efficient conduct of meetings;
- (c) greater community participation and understanding of the business of the Council; and
- (d) more open and accountable local government.

**1.4 Application**

All meetings of the Council, committees and the electors are to be conducted in accordance with the Act, the Regulations and this local law.

**1.5 Repeal**

This local law repeals the *Shire of Chittering (Council Meetings) Local Law 2014* as published in the *Government Gazette* on 3 June 2014.

**1.6 Interpretation**

In this local law, unless the contrary intention appears—

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

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

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

**committee** means a committee of the council (established under section 5.8 of the Act);

**Council** means the Council of the Shire;

**Councillor** has the same meaning as is given to it in the Act;

**Deputy President** means the deputy president of the Shire;

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

**employee** has the same meaning as is given to it in the Act;

**Local Government** means the Shire;

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

**member** has the same meaning as given to it in the Act;

**Minister** means the Minister responsible for administering the Act;

**minor amendment** in relation to a motion, means an amendment which does not alter the basic intent of the motion to which the amendment applies;

**President** means the president of the Shire;

**presiding person** means the person presiding at a meeting;

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

**Shire** means the Shire of Chittering;

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

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

**PART 2—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES****2.1 Establishment of committees**

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

**2.2 Types of committees**

The types of committees are dealt with in the Act.

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

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

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

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

**2.5 Appointment of committee members**

The appointment of committee members is dealt with in the Act.

**2.6 Tenure of committee membership**

Tenure of committee membership is dealt with in the Act.

**2.7 Resignation of committee members**

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

**2.8 Register of delegations to committees**

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

**2.9 Committees to report**

A committee—

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

**PART 3—CALLING AND CONVENING MEETINGS****3.1 Ordinary and special Council meetings**

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

**3.2 Calling Council meetings**

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

**3.3 Convening Council meetings**

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

**3.4 Calling committee meetings**

A meeting of a committee is to be held—

- (a) If called for in a verbal or written request to the CEO by the President or the presiding member of the committee, advising the date and purpose of the proposed meeting;
- (b) If called for by at least one-third of the members of the committee in a notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (c) In accordance with a decision of the Council or the committee.

**3.5 Convening committee meetings**

- (1) The CEO is to convene a committee meeting by giving each member of the committee notice of the date, time and place of the meeting and an agenda for the meeting.

(2) Subject to subclause (3), the CEO is to give at least 72 hours notice, for the purposes of subclause (1), in convening a meeting of a committee.

(3) Where, in the opinion of the President, the presiding member of the committee or at least one-third of the members of the committee, there is a need to meet urgently, the CEO may give a lesser period of notice of a committee meeting.

### **3.6 Public notice of meetings**

Public notice of meetings is dealt with in the Regulations.

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

### *Division 1: Who presides*

#### **4.1 Who presides**

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

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

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

#### **4.3 Who acts if no President**

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

#### **4.4 Election of presiding members of committees**

The election of presiding members of committees and their deputies is dealt with in the Act.

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

The election of deputy presiding members of committees is dealt with in the Act.

#### **4.6 Functions of deputy presiding members**

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

#### **4.7 Who acts if no presiding member**

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

### *Division 2—Quorum*

#### **4.8 Quorum for meetings**

The quorum for meetings is dealt with in the Act.

#### **4.9 Reduction of quorum for Council meetings**

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

#### **4.10 Reduction of quorum for committee meetings**

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

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

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

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

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

- (a) immediately to suspend the proceedings of the meeting for a period of up to 15 minutes; and
- (b) if a quorum is not present at the expiry of that period, the presiding member is to adjourn the meeting to some future time or date.

#### **4.13 Names to be recorded**

At any meeting—

- (a) at which there is not a quorum present; or
- which is adjourned for want of a quorum,
- (b) the names of the members then present are to be recorded in the minutes.

## **PART 5—BUSINESS OF A MEETING**

### **5.1 Business to be specified**

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

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

(3) No business is to be transacted at a committee meeting other than that specified in the agenda or in the notice of the meeting as the purpose of the meeting, without the approval of the presiding member or the committee.

(4) Where a Council meeting is adjourned to the next ordinary meeting of the Council, the business unresolved at the meeting that is adjourned is to be dealt with as soon as practicable after the confirmation of the minutes of the previous meeting.

(5) Where a committee meeting is adjourned to the next ordinary committee meeting, the business unresolved at the meeting that is adjourned is to be dealt with as soon as practicable after the confirmation of the minutes of the previous meeting.

(6) Where a Council or committee meeting is adjourned to a meeting not described in subclauses (4) or (5), no business is to be transacted at that later meeting other than that—

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

## **5.2 Order of business**

(1) The order of business of an ordinary meeting of the Council or a committee must be determined by the Council from time to time.

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

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

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

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

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

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

(4) The CEO—

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

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

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

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

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

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

(2) In subclause (1), 'cases of extreme urgency or other special circumstances' means matters—

- (a) that have arisen after the preparation of the agenda that are considered by the presiding member to be of such importance and urgency that they are unable to be dealt with administratively by the Local Government and must be considered and dealt with by the Council or committee before the next meeting; and
- (b) that, if not dealt with at the meeting, are likely to—
  - (i) have a significant adverse effect (financially or otherwise) on the Local Government; or
  - (ii) result in a contravention of a written law.

(3) Before debate begins on a matter under this clause that is not the subject of a written employee report to the meeting—

- (a) the presiding member is to ask the CEO to give; and
- (b) the CEO, or the CEO's nominee, is to give,

a verbal report to the meeting.

(4) The minutes of the meeting are to include—

- (a) a summary of the verbal report and any recommendations of the CEO or the CEO's nominee; and
- (b) the reasons for any decision made at the meeting that is significantly different from any advice or recommendations of the CEO or the CEO's nominee.

## **5.5 Motions without notice**

A motion moved without notice, must be worded so as to refer to a particular matter for investigation and report to a committee for consideration of the Council at a later date, or directly to Council.

**5.6 Adoption by exception resolution**

- (1) In this clause 'adoption by exception resolution' means a resolution of the Council that has the effect of adopting, recommendations from any committee or, for a number of specifically identified reports, the employee recommendation as the Council resolution.
- (2) Subject to subclause (3), the Council may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter—
- (a) that requires an absolute majority;
  - (b) in which an interest has been disclosed;
  - (c) that has been the subject of a petition or deputation;
  - (d) that is a matter on which a member wishes to make a statement; or
  - (e) that is a matter on which a member wishes to move a motion that is different to the recommendation.

**PART 6—PUBLIC PARTICIPATION****6.1 Meetings generally open to the public**

Meetings being generally open to the public is dealt with in the Act.

**6.2 Meetings not open to the public**

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried—
- (a) the presiding member is to direct everyone to leave the meeting except—
    - (i) the members;
    - (ii) the CEO;
    - (iii) any employee specified by the presiding member; and
  - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the presiding member, be removed from the meeting.
- (5) While the resolution under subclause (2) remains in force, the operation of clause 8.9 is to be suspended until the Council or the committee, by resolution, decides otherwise.
- (6) A resolution under this clause may be made without notice.
- (7) Unless the Council resolves otherwise, once the meeting is reopened to members of the public, the presiding member is to ensure that any resolution of the Council made while the meeting was closed is to be read out including the vote of a member or members that is required under clause 13.4(3) to be included in the minutes.

**6.3 Question time for the public**

Question time for the public is dealt with in the Act.

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

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

**6.5 Minimum question time for the public**

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

**6.6 Procedures for question time for the public**

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

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

- (1) A member of the public who raises a question during question time, is to state his or her name and address.
- (2) A question may be taken on notice by the Council or a committee for later response.
- (3) When a question is taken on notice the CEO is to ensure that—
- (a) a response is given to the member of the public in writing; and
  - (b) a summary of the response is included in the agenda of the next meeting of the Council or the committee.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to—
- (a) declare that he or she has an interest in the matter; and
  - (b) allow another person to respond to the question.
- (5) Where a member of the public provides written questions then the presiding member may elect for the questions to be responded to as normal business correspondence.

- (6) The presiding member may decide that a public question must not be responded to where—
- (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;
  - (b) the member of the public uses public question time to make a statement, provided that the presiding member has taken reasonable steps to assist the member of the public to phrase the statement as a question; or
  - (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the presiding member has taken reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.
- (7) The presiding member may agree to extend public question time.
- (8) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.
- (9) In this clause: "**relevant person**" has the same meaning as in section 5.59 of the Act.

### 6.8 Distinguished visitors

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

### 6.9 Deputations

- (1) Any person or group wishing to be received as a deputation by the Council or a committee, is to either—
- (a) apply, before the meeting, to the President for approval; or
  - (b) with the approval of the presiding member, at the meeting, address the Council or a committee.
- (2) Any application for a deputation is to include details of the topic on which the deputation is to be made and a brief outline of the contents of the proposed submission which will be made during the deputation.
- (3) The President may either—
- (a) approve the request and invite the deputation to attend a meeting of the Council or committee; or
  - (b) refer the request to the Council or the committee to decide by simple majority whether or not to receive the deputation.
- (4) Unless the Council or committee resolves otherwise, a deputation invited to attend a Council or committee meeting—
- (a) is not to exceed 5 persons, only 2 of whom may address the Council or a committee, although others may respond to specific questions from members;
  - (b) is not to address the Council or a committee for a period exceeding 10 minutes without the agreement of the Council; and
  - (c) an extension of time and the increase in number of speaking members of the deputation may be allowed with the leave of the presiding member.
- (5) Unless decided otherwise by the President or presiding member of a committee, the number of deputations approved for any meeting must not exceed four.
- (6) Any matter which is the subject of a deputation to the Council or a committee is not to be decided by the Council or the committee until the deputation has completed its presentation.

### 6.10 Petitions

- (1) Where a member or the CEO receives a petition conforming to the requirements of clause 6.10 (2), that petition is to be presented to the next Council meeting.
- (2) Except where required by the Act, the Regulations or any other written law, any petition to the Council—
- (a) must be addressed to the Council;
  - (b) state the name and address of the person to whom correspondence in respect of the petition may be served; and
  - (c) be in the form detailed in Schedule 1 of this local law.
- (3) Once a petition is presented to the Council, a motion may be moved to receive the petition and refer it to the CEO for action.

### 6.11 Presentations

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

**6.12 Participation at committee meetings**

- (1) In this clause a reference to a **person** is to a person who—
- (a) is entitled to attend a committee meeting;
  - (b) attends a committee meeting; and
  - (c) is not a member of that committee.
- (2) Without the consent of the presiding member, no person is to address a committee meeting.
- (3) The presiding member of a committee may allow a person to make an oral submission to the committee for up to 3 minutes on a recommendation contained in a report to the committee, with a maximum of 3 speakers for the recommendation and 3 speakers against the recommendation.
- (4) A person addressing the committee with the consent of the presiding member is to cease that address immediately after being directed to do so by the presiding member.
- (5) A person who fails to comply with a direction of the presiding member under subclause (4) may, by order of the presiding member, be removed from the committee room.
- (6) The Council may make a policy dealing with the circumstances in which a person may be given consent to address a committee meeting.

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

- (1) Where an item on the agenda at a Council meeting is contentious and is likely to be the subject of a number of deputations, the Council may resolve to meet at another time to provide a greater opportunity to be heard.
- (2) The CEO and the President must set the time and date of the meeting to provide the opportunity to be heard.
- (3) Where the Council resolves to meet to provide the opportunity to be heard under subclause (1), the presiding member must—
- (a) instruct the CEO to provide local public notice of the time and date when the Council will meet to provide an opportunity to be heard;
  - (b) provide a written invitation to attend the meeting to provide the opportunity to be heard to all members of the public who have applied under clause 6.9 to make a deputation on the issue; and
  - (c) cause minutes to be kept of the meeting to provide the opportunity to be heard.
- (4) A meeting held under subclause (1) must be conducted only to hear submissions but a member may, at any time with leave of the presiding member, ask a question to seek to clarify any aspect of a submission. The Council must not make resolutions at a meeting held under subclause (1).
- (5) At a meeting held under subclause (1), each person making a submission must be provided with the opportunity to fully state his or her case.
- (6) A member of the public must be limited to 10 minutes in making an oral submission, but this period may be extended at the discretion of the presiding member.
- (7) Once every member of the public has had the opportunity to make a submission the presiding member is to close the meeting.
- (8) The CEO is to ensure that a report is included on the agenda of the next Council meeting summarising each submission made at the meeting.
- (9) The Council must not resolve on the matter that is the subject of a meeting to provide the opportunity to be heard until it has received the CEO's report under subclause (8).

**6.14 Public Inspection of agenda materials**

The right of the public to inspect the documents referred to, and in accordance with, regulation 14 of the Regulations may be exercised at the Shire's administration office, any Shire library or on the Local Government's website.

**6.15 Confidentiality of information withheld**

- (1) Information withheld by the CEO from the public under regulation 14(2) of the Regulations is to be—
- (a) identified in the agenda of a Council meeting under the item "Matters for which meeting may be closed"; and
  - (b) marked "*Confidential*" in the agenda.
- (2) A member or an employee who has—
- (a) confidential information under subclause (1); or
  - (b) information that is provided or disclosed during a meeting or part of a meeting that is closed to the public,
- is not to disclose any of that information to any person other than member employee to the extent necessary for the purpose of carrying out his or her functions.
- (3) Subclause (2) does not prevent a member or employee from disclosing the information—
- (a) at a closed meeting;
  - (b) to the extent specified by Council and subject to such other conditions as the Council determines;
  - (c) that is already in the public domain;

- (d) to an officer of the Department;
- (e) to the Minister;
- (f) to a legal practitioner for the purpose of obtaining legal advice; or
- (g) if the disclosure is required or permitted by law.

(4) The Council may by resolution declare that any information withheld under clause 6.15 (1) must remain confidential for a specified period or indefinitely.

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

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

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

#### **6.17 Standard of conduct**

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

(2) A person at a meeting—

- (a) addressing the Council or a committee must, when invited to speak, extend due courtesy and respect to the person presiding and others at the meeting;
- (b) must not reflect adversely on the character or actions of any member or employee;
- (c) must not impute any motive to a member or employee;
- (d) must not use offensive or objectionable expressions;
- (e) must not create a disturbance, by interrupting or interfering with the orderly conduct of the proceedings, whether expressing approval or dissent, by conversing or by any other means;
- (f) must ensure that his or her mobile telephone or audible pager is not switched on or used; and
- (g) must not behave in a manner that is contrary to section 75 of the Criminal Code.

(3) The presiding person may warn a person who fails to comply with this clause.

(4) If a person—

- (a) after being warned, acts contrary to this clause, or to this local law; or
- (b) refuses or fails to comply with a direction by the presiding member,

the presiding member may expel the person from the meeting by ordering him or her to leave the meeting room.

(5) A person who is ordered to leave the meeting room and fails to do so may, by order of the presiding person, be removed from the meeting room and, if the presiding person orders, from the premises.

#### **6.18 Right of reply**

(1) A member who is aggrieved by a statement made (including a question asked) by a member of the public at a meeting may, with the leave of the presiding member, reply to that statement.

(2) A reply under this clause is to be confined to a succinct response to the specific part of the statement in respect of which the member is aggrieved.

### **PART 7—QUESTIONS BY MEMBERS**

#### **7.1 With due notice**

(1) A question on notice is to be given by a member in writing to the CEO at least four (4) clear business days before the meeting at which it is raised.

(2) If the question referred to in subclause (1) is in order, the answer is, so far as practicable, to be included in written form in the agenda of the meeting, or otherwise tabled at that meeting.

(3) Every question and answer is to be submitted as briefly and concisely as possible and no discussion is to be allowed thereon, unless with the consent of the presiding member.

#### **7.2 Without due notice**

(1) Members may ask questions relating to an item on the notice paper or on matters related to the good government of persons in the district.

(2) A member requesting general information from an employee at a Council or committee meeting may ask a question without notice and with the consent of the presiding member, may ask one or more further questions of that employee or another employee present at the meeting.

(3) Where possible the employee must endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the employee may ask that—

- (a) the question be placed on notice for the next meeting of Council; or committee and
- (b) the answer to the question be given to the member who asked it within 14 days.



- (4) Every question and answer—
- (a) is to be brief and concise; and
  - (b) is not to be accompanied by argument, expression of opinion or statement of facts, except to the extent necessary to explain the question or answer.
- (5) In answering any question, an employee may qualify his or her answer and may at a later time in the meeting or at a subsequent meeting alter, correct, add to or otherwise amend the original answer.

## **PART 8—CONDUCT OF MEMBERS**

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

- (1) At the first meeting held after each election day, or at any other time considered necessary, each member, other than the President, is to be allocated a seat at the Council table by a method determined by the Council from time to time.
- (2) In any set allocation, the President is to be seated next to the CEO.
- (3) Each member is to occupy his or her position allotted position at each Council or committee meeting, until decided otherwise.

### **8.2 Respect to the presiding member**

After the business of a Council or a committee has been commenced, a member is not to enter or leave the meeting without first paying due respect to the presiding member.

### **8.3 Titles to be used**

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

### **8.4 Advice of entry or departure**

A member is not to enter or leave the meeting without first advising the presiding member, in order to facilitate the recording in the minutes of the time of entry or departure.

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

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

### **8.6 Priority of speaking**

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

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

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

### **8.8 Relevance**

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

### **8.9 Speaking twice**

A member is not to address the Council or a committee more than once on any motion or amendment except—

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

### **8.10 Duration of speeches**

- (1) A member is not to speak on any matter for more than 5 minutes without the consent of the Council or a committee which, if given, is to be given without debate.
- (2) An extension under this clause cannot be given to allow a member's total speaking time to exceed 10 minutes.

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

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

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

**8.12 No interruption**

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

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 8.13; or
- (d) to move a procedural motion that the member be no longer heard (see clause 11.1(i)).

**8.13 Personal explanations**

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

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

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

**8.14 No reopening of discussion**

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

**8.15 Adverse reflection**

(1) A member is not to reflect adversely on a decision of the Council or committee except—

- (a) on a motion that the decision be revoked or changed; or
- (b) where the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.

(2) A member is not—

- (a) to reflect adversely on the character or actions of another member or employee; or
- (b) to impute any motive to a member or employee, unless the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.

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

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

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

**8.16 Withdrawal of offensive language**

(1) A member who, in the opinion of the presiding member, uses an expression which—

- (a) in the absence of a resolution under clause 8.15(2)—
  - (i) reflects adversely on the character or actions of another member or employee; or
  - (ii) imputes any motive to a member or employee; or
- (b) is offensive or insulting,

must, when directed by the presiding member, withdraw the expression and make a satisfactory apology.

(2) If a member fails to comply with a direction of the presiding member under subclause (1), the presiding member may direct the member to refrain from taking any further part in the debate of that item, other than by voting, and the member must comply with that direction.

**PART 9—PRESERVING ORDER****9.1 Presiding member to preserve order**

(1) The presiding member is to preserve order, and, whenever he or she considers necessary, may call any member to order.

(2) When the presiding member speaks during a debate, any member then speaking, or indicating that he or she wishes to speak, is to preserve strict silence so that the presiding member may be heard without interruption.

(3) Subclause (2) is not to be used by the presiding member to exercise the right provided in clause 8.7, but to preserve order.

**9.2 Point of order**

(1) A member may object, by way of a point of order, only to a breach of—

- (a) any of this local law; or
- (b) any other written law.

(2) Despite anything in this local law to the contrary, a point of order—

- (a) takes precedence over any discussion; and
- (b) until determined, suspends the consideration or discussion of any other matter.

**9.3 Procedures on a point of order**

- (1) A member who is addressing the presiding member is not to be interrupted except on a point of order.
- (2) A member interrupted on a point of order is to resume his or her seat until—
  - (a) the member raising the point of order has been heard; and
  - (b) the presiding member has ruled on the point of order, and, if permitted, the member who has been interrupted may then proceed.

**9.4 Calling attention to breach**

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

**9.5 Ruling by the presiding member**

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

**9.6 Continued breach of order**

If a member—

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

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

**9.7 Right of presiding member to adjourn**

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

**PART 10—DEBATE OF MEMBERS****10.1 Recommendations in reports**

- (1) Recommendations contained in a committee or employee's report are to be given first priority consideration for adoption by the Council.
- (2) Any proposed amendment to a recommendation in a committee or employees' report that is significantly different to the recommendation, is not to be accepted unless a notice of motion in accordance with clause 5.3 has been given by the mover of the proposed amendment.
- (3) The Council may by majority decision dispense with requirements of clause 5.1 (2) where the Council is satisfied that the reason for the proposed amendment meets the criteria of *"extreme urgency or other special circumstances"* in clause 5.4 (2).
- (4) The requirements for recording of written reasons in the minutes of a meeting for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee are dealt with in the regulations.

**10.2 Alternative motion**

- (1) A member may submit an alternative motion for consideration by the Council that differs from a committee or employee's recommendation contained in the meeting agenda.
- (2) A member may submit an alternative motion for consideration by a committee that differs from an employee's recommendation contained in a meeting agenda.
- (3) A request for an alternative motion must be received by the CEO or their delegate no later than 9.00am on the day of the meeting.
- (4) The meeting may by absolute majority dispense with the requirement of clause 10.2 (3) where the meeting is satisfied that that the alternative motion does not—
  - (a) reflect a significant departure from the intent of the recommendation; or
  - (b) involve a determination of a matter or the exercise of a discretion under the Local Planning Scheme.

**10.3 Motions to be stated in writing**

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

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

**10.4 Motions to be supported**

(1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.

(2) A motion to revoke or change a decision made at a Council meeting is not open to debate unless the motion has the support required under regulation 10 of the Regulations.

**10.5 Unopposed business**

(1) Immediately after a substantive motion has been moved and seconded, the presiding member may ask the meeting—

- (a) if any member opposes it; or
- (b) if any member wishes the mover to speak to the motion before deciding whether to oppose it.

(2) If any member wishes the mover to speak to the motion, the presiding member may—

- (a) call on the mover to speak to the motion; and
- (b) after the mover has spoken to the motion, again ask the meeting if any member opposes it.

(3) If no member opposes the motion, the presiding member may declare it carried without debate and without taking a vote.

(4) A motion declared carried under this clause is to be recorded in the minutes as a "carried without dissent" decision of the Council.

(5) If a member opposes a motion, the motion is to be dealt with under this Part.

(6) This clause does not apply to a motion to revoke or change a decision which has been made at a Council meeting.

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

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

**10.7 Order of call in debate**

The presiding member is to call speakers to a substantive motion in the following order—

- (a) the mover to state the motion;
- (b) a seconder to the motion;
- (c) the mover to speak to the motion;
- (d) the seconder to speak to the motion;
- (e) a speaker against the motion;
- (f) a speaker for the motion;
- (g) other speakers against and for the motion, alternating where possible; and
- (h) mover takes right of reply which closes debate.

**10.8 Limit of debate**

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

**10.9 Member may require question to be read**

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

**10.10 Consent of seconder required for alteration**

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

**10.11 Order of amendments**

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

**10.12 Form of an amendment**

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

**10.13 Amendment must not negate original motion**

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

**10.14 Relevance of amendments**

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

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

Any member may speak during debate on an amendment in reference to the order set out in clause 10.7.

**10.16 Effect of an amendment**

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

**10.17 Withdrawal of motion or amendment**

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

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

**10.18 Right of reply**

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

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

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

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

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

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

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

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

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

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

**10.19 Foreshadowing alternative motions**

(1) Should a member wish to negate a substantive motion and have a meeting consider a new substantive motion on the matter with different intent, the member is to foreshadow the new substantive motion prior to the right of reply.

(2) Should a substantive motion be lost, the presiding member is to call upon the member who foreshadowed the new substantive motion to move the proposed motion.

(3) Once moved and seconded, the foreshadowed motion becomes the substantive motion and the same procedures and rules of debate apply to this motion as any other motion.

(4) If more than one foreshadowed motion is proposed for any item before a meeting, the presiding member is to deal with them in the order in which they were presented.

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

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

(a) that the motion be deferred;

(b) that the meeting now adjourn;

(c) that the debate be adjourned;

(d) that the motion be now put;

(e) that the motion lie on the table;

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

(g) that the meeting be closed to members of the public;

(h) that the ruling of the Presiding Member be overruled;

(i) that the member be no longer heard; or

(j) that the item be referred back to the (appropriate) Committee.

**11.2 No debate**

(1) The mover of a motion specified in paragraph (a), (b), (c), (e), (f), (g), (i) and (j) of clause 11.1 may speak to the motion for not more than five minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

(2) The mover of a motion specified in paragraph (d) or (h) of clause 11.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

### 11.3 Who may move

No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

### 11.4 Procedural motions—right of reply on substantive motion

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

### 11.5 Effect of procedural motions

#### 11.5.1 The motion be deferred

- (1) If a motion "that the motion be deferred", is carried, then all debate on the primary motion and any amendment is to cease and the motion or amendment is to be resubmitted for consideration at a time and date specified in the motion.
- (2) A motion "that the motion be deferred" must not be moved in respect of the election of a Presiding Member or the Deputy President.
- (3) A member must not, at the same meeting, move or second more than one motion "that the motion be deferred" in respect of the same item.

#### 11.5.2 The meeting now adjourn

- (1) If a motion "that the meeting now adjourn", is carried then the meeting is to be adjourned to a time and date specified in the motion, or where no time and date is specified, to such time and date as the Presiding Member declares, or to the next ordinary meeting.
- (2) Where debate on a motion is interrupted by an adjournment under subclause (1)—
  - (a) the debate is to be resumed at the date and time specified as required in subclause (1) and at the point where it was so interrupted; and
  - (b) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
  - (c) the provisions of clause 8.9 apply when the debate is resumed.
- (3) If a motion "that the meeting now adjourn" is lost, no similar motion is to be moved until—
  - (a) after the conclusion of the business under discussion at the time the motion was moved; or
  - (b) if the motion was moved on the conclusion of an item of business, after the conclusion of the next item of business; or
  - (c) after the conclusion of any other business allowed precedence by the meeting.
- (4) A member must not, at the same meeting, move or second more than one motion for the adjournment of the meeting.

#### 11.5.3 The debate be adjourned

- (1) If a motion "that the debate be adjourned", is carried—
  - (a) all debate on the primary motion or amendment is to cease and is to continue at a time and date specified in the motion;
  - (b) the names of members who have spoken on the matter are to be recorded in the minutes; and
  - (c) the provisions of clause 8.9 apply when the debate is resumed.
- (2) A motion "that the debate be adjourned" must not be moved in respect of the election of a Presiding Member or the Deputy President.
- (3) A member must not, at the same meeting, move or second more than one motion "that the debate be adjourned" in respect of the same item.

#### 11.5.4 The motion be now put

- (1) If a motion "that the motion be now put", is carried during discussion of a primary motion, the Presiding Member is to offer the right of reply and then immediately put the motion to the vote without further debate.
- (2) If the motion "that the motion be now put" is carried during debate of an amendment, the Presiding Member is to put the amendment to the vote without further debate.
- (3) If the motion "that the motion be now put" is lost, debate is to continue.

#### 11.5.5 The motion lie on the table

- (1) If a motion "that the motion lie on the table", is carried, debate on the primary motion and any amendment must cease and the meeting is to proceed to the next item of business.
- (2) Debate on the motion laid on the table is to be adjourned until such time (if any) as the meeting resolves to take the motion from the table.
- (3) Where debate on a motion is interrupted by laying a motion on the table under subclause (1)—
  - (a) the names of members who have spoken on the matter are to be recorded in the minutes; and
  - (b) the provisions of clause 7.11 apply when the debate is resumed.

(4) A motion "that the motion lie on the table" must not be moved in respect of the election of a Presiding Member or the Deputy President.

(5) A member moving the taking of the motion from the table is entitled to speak first on the resumption of the debate.

#### **11.5.6 Meeting to proceed to the next business**

(1) The motion "that the meeting proceed to the next item of business", if carried has the effect that—

- (a) the debate on the substantive motion or amendment ceases immediately;
- (b) no decision is made on the substantive motion;
- (c) the meeting moves to the next item of business; and
- (d) there is no requirement for the matter to be raised again for consideration.

(2) A motion that "the meeting proceed to the next item of business" must not be moved in respect of the election of a Presiding Member or the Deputy President.

#### **11.5.7 Meeting be closed to members of the public**

If a motion "that the meeting be closed to members of the public" is carried then the Presiding Member is to close the meeting in accordance with clause 6.2.

#### **11.5.8 Ruling by the Presiding Member be overruled**

If a motion "that the ruling of the Presiding Member be overruled" is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

#### **11.5.9 Member be no longer heard**

If a motion "that the member be no longer heard" is carried, the speaker against whom the motion has been moved must not speak further on the current primary motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the primary motion.

#### **11.5.10 Item be referred back to Committee**

(1) If a motion "that the item be referred back to Committee" is carried, debate on the primary motion and any amendment is to cease and the primary motion, excluding any amendment, is to be referred back to the appropriate Committee for further consideration.

(2) If the motion in subclause (1) is lost, debate on the primary motion or amendment is to continue.

### **PART 12—DISCLOSURE OF INTERESTS**

#### **12.1 Disclosure of interests**

Disclosure of interests is dealt with in the Act.

### **PART 13—VOTING**

#### **13.1 Question—when put**

(1) Immediately after the debate on any question is concluded and the right of reply has been exercised, the presiding member—

- (a) is to put the question to the Council; and
- (b) if requested by any member, is to again state the terms of the question.

(2) A member is not to leave the meeting when the presiding member is putting any question.

#### **13.2 Voting**

Voting is dealt with in the Act and the Regulations.

#### **13.3 Majorities required for decisions**

The majorities required for decisions of the Council and committees are dealt with in the Act.

#### **13.4 Method of taking vote**

(1) In taking the vote on any motion or amendment the presiding member—

- (a) is to put the question, first in the affirmative, and then in the negative;
- (b) may put the question in this way as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes;
- (c) may accept a vote on the voices or may require a show of hands; and
- (d) is, subject to this clause, to declare the result.

(2) If a member calls for a show of hands, the result of the vote is to be determined on the count of raised hands.

(3) Unless decided otherwise by a decision of Council or a committee the details of the members vote or votes for or against, a matter, as the case may be, is to be recorded in the minutes.

**PART 14—MINUTES OF MEETINGS****14.1 Keeping of minutes**

The keeping and confirmation of minutes are dealt with in the Act.

**14.2 Content of minutes**

- (1) The content of minutes is dealt with in the Regulations.
- (2) In addition to the matters required by regulation 11 of the Regulations, the minutes of a Council meeting is to include, where an application for approval is refused or the authorisation of a licence, permit or certificate is withheld or cancelled, the reasons for the decision.

**14.3 Public inspection of unconfirmed minutes**

The public inspection of unconfirmed minutes is dealt with in Regulations.

**14.4 Confirmation of minutes**

- (1) When minutes of an ordinary meeting of the Council are distributed for consideration prior to their confirmation at the next meeting, if a member is dissatisfied with the accuracy of the minutes, the member may provide the Local Government with a written copy of the alternative wording to amend the minutes no later than 7 clear working days before the next ordinary meeting of the Council.
- (2) At the next ordinary meeting of the Council, the member who provided the alternative wording must, at the time for confirmation of minutes—
  - (a) state the item or items with which he or she is dissatisfied; and
  - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (3) Members must not discuss items of business contained in the minutes, other than discussion as to their accuracy as a record of the proceedings.

**PART 15—ADJOURNMENT OF MEETING****15.1 Meeting may be adjourned**

The Council or a committee may adjourn any meeting—

- (a) to a later time on the same day; or
- (b) to any other time on any other day, including a time which coincides with the conclusion of another meeting or event.

**15.2 Effect of adjournment**

Where any matter, motion, debate or meeting is adjourned under this local law—

- (a) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes;
- (b) debate is to be resumed at the next meeting at the point where it was interrupted; and
- (c) the provisions of clause 8.9 apply when the debate is resumed.

**PART 16—REVOKING OR CHANGING DECISIONS****16.1 Requirements to revoke or change decisions**

The requirements to revoke or change a decision made at a meeting are dealt with in regulation 10 of the Regulations.

**16.2 Limitations on powers to revoke or change decisions**

- (1) Subject to subclause (2), the Council or a committee is not to consider a motion to revoke or change a decision—
  - (a) where, at the time the motion is moved or notice is given, any action has been taken under clause 16.3 to implement the decision; or
  - (b) where the decision is procedural in its form or effect.
- (2) The Council or a committee may consider a motion to revoke or change a decision of the kind described in subclause (1)(a) if the motion is accompanied by a written statement of the legal and financial consequences of carrying the motion.

**16.3 Implementing a decision**

(1) In this clause—

- (a) **authorisation** means a licence, permit, approval or other means of authorising a person to do anything;
- (b) **implement**, in relation to a decision, includes—
  - (i) communicate notice of the decision to a person affected by, or with an interest in, the decision; and
  - (ii) take any other action to give effect to the decision; and
- (c) **valid notice of revocation motion** means a notice of motion to revoke or change a decision that complies with the requirements of the Act, Regulations and the local laws and may be considered, but has not yet been considered, by the Council or a committee as the case may be.



- (2) Subject to subclause (4), and unless a resolution is made under subclause (3), a decision made at a meeting is not to be implemented by the CEO or any other person until the morning of the first business day after the commencement of the meeting at which the decision was made.
- (3) The Council or a committee may, by resolution carried at the same meeting at which a decision was made, direct the CEO or another person to take immediate action to implement the decision.
- (4) A decision made at a meeting is not to be implemented by the CEO or any other person—
- (a) if, before commencing any implementation action, the CEO or that person is given a valid notice of revocation motion; and
  - (b) unless and until the valid notice of revocation motion has been determined by the Council or the committee as the case may be.
- (5) The CEO is to ensure that members of the public attending the meeting are informed by an appropriate notice that a decision to grant an authorisation—
- (a) is to take effect only in accordance with this clause; and
  - (b) cannot be acted upon by the person who has been granted the authorisation unless and until the decision has been implemented in accordance with this clause.

## **PART 17—SUSPENSION OF LOCAL LAW**

### **17.1 Suspension of local law**

- (1) A member may at any time move that the operation of one or more of the provisions of this local law be suspended.
- (2) A member moving a motion under subclause (1) is to state the reasons for the motion but no other discussion is to take place.
- (3) A motion under subclause (1) which is—
- (a) seconded; and
  - (b) carried by an absolute majority,

is to suspend the operation of the clause or clauses to which the motion relates for the duration of the meeting unless the meeting earlier resolves otherwise.

### **17.2 Where local law does not apply**

- (1) In situations where—
- (a) one or more provisions of this local law have been suspended; or
  - (b) a matter is not regulated by the Act, the Regulations or this local law,
- the presiding member is to decide questions relating to the conduct of the meeting.
- (2) The decision of the presiding member under subclause (1) is final, except where a motion is moved and carried under clause 11.1(h).

## **PART 18—MEETINGS OF ELECTORS**

### **18.1 Electors' general meetings**

Electors' general meetings are dealt with in the Act.

### **18.2 Matters for discussion at electors' general meetings**

The matters to be discussed at electors' general meetings are dealt with in the Regulations.

### **18.3 Electors' special meetings**

Electors' special meetings are dealt with in the Act.

### **18.4 Requests for electors' special meetings**

Requests for electors' special meetings are dealt with in the Regulations.

### **18.5 Convening electors' meetings**

Convening electors' meetings is dealt with in the Act.

### **18.6 Who presides at electors' meetings**

Who presides at electors' meetings is dealt with in the Act.

### **18.7 Procedure for electors' meetings**

- (1) The procedure for electors' meetings is dealt with in the Act and the Regulations.
- (2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the presiding member is to have regard to this local law.

### **18.8 Participation of non-electors**

A person who is not an elector of the Local Government must not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits the person do so.

### **18.9 Voting at electors' meetings**

Voting at electors' meetings is dealt with in the Regulations.

**18.10 Minutes of electors' meetings**

Minutes of electors' meetings are dealt with in the Act.

**18.11 Decisions made at electors' meetings**

Decisions made at electors' meetings are dealt with in the Act.

**PART 19—ENFORCEMENT****19.1 Penalty for breach**

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

**Penalty: \$1,000.00 and a daily penalty of \$500.00.**

**19.2 Who can prosecute**

Who can prosecute is dealt with in the Act.

**SCHEDULE 1—PETITION OF ELECTORS OF THE SHIRE OF CHITTERING**

To the Shire President and Councillors of the Shire of Chittering

We, the undersigned, all being electors of the Shire of Chittering do respectfully request that the Council—

*[Here set out a concise statement of facts and the action sought]*

Correspondence in respect of this petition should be addressed to—

*[Here set out relevant name(s) and address (es) for correspondence]*

The names and addresses of your petitioners are as follows—

Date	Full Name	Address	Signature	Agree/Disagree/ No Opinion

Dated 19 April 2023.

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

AARON KING, Shire President.  
MELINDA PRINSLOO, Chief Executive Officer.