Western Australia

Swan District Hospital (Eveline Road Site) By-laws 2005

Compare between:

[18 Apr 2015, 00-f0-02] and [27 Apr 2015, 00-g0-01]

Hospitals and Health Services Act 1927

Swan District Hospital (Eveline Road Site) By-laws 2005

Part 1 — Preliminary

1. Citation

These by-laws are the *Swan District Hospital (Eveline Road Site) By-laws 2005*.

2. Terms used in these by-laws

(1) In these by-laws, unless the contrary intention appears —

authorised person means a person appointed under by-law 3A as an authorised person for the purposes of the by-law in which the term is used;

board means the board of the Swan District Hospital;

chief executive officer means the person in charge of the day to day management of the affairs of the Swan District Hospital;

driver, in relation to a vehicle, includes a rider;

parking facility means land or a structure on the site that contains a parking space;

parking space means a section whether in a parking facility or not that is marked by means of painted lines or metallic studs or similar devices for the purpose of indicating where a vehicle may be parked, whether or not a permit is required in relation to the parking of the vehicle;

permit means a permit issued under by-law 16;

~~***registered owner***, in relation to~~***responsible person***, for a vehicle, means the person ~~who is the holder of~~responsible for the vehicle ~~licence issued~~ under the *Road Traffic*

(Administration) Act ~~1974 in respect of the vehicle~~2008 section 6;

roadway means a part of the site set aside for use by vehicular traffic, notwithstanding that it may not be a road within the ~~definition~~meaning of the *Road Traffic (Administration) Act ~~1974~~2008* section 4, but excludes a parking facility;

sign means a marking, notice or sign that is marked, erected or displayed by or with the authority of the chief executive officer;

speed restriction sign means a sign, in or adjacent to a roadway or a parking facility, that displays a number;

the site means all of the land from time to time within Reserve No. 37871 (known as the Eveline Road Site);

vehicle has the meaning given to that term in the *Road Traffic (Administration) Act ~~1974~~2008* section ~~5(1).~~4.

(2) A reference in these by-laws to ***permission*** is a reference to permission that is —

(a) given by the chief executive officer or an authorised person;

(b) in writing; and

(c) obtained and not revoked prior to the performing of the act that is the subject of the permission.

(3) An officer or servant of the board is to be treated as having the permission referred to in sub-bylaw (2).

[By-law 2 amended in Gazette 8 Jan 2015 p. 197-8; 17 Apr 2015 p. 1377.]

3A. Appointment of authorised persons

(1) The chief executive officer may, in writing, appoint an officer or servant of the board as an authorised person for the purposes of one or more of these by-laws.

(2) An appointment under sub-bylaw (1) may be made in respect of a specified person or persons of a specified class.

(3) The chief executive officer must issue to each authorised person who is authorised to give a direction under by-law 7(1), or issue an infringement notice under by-law 18(1), a certificate stating that the person is so authorised.

[By-law 3A inserted in Gazette 17 Apr 2015 p. 1378.]

Part 2 — Trespass and order

3. No entry without cause

A person is not to enter or remain on the site without a reasonable excuse.

Penalty: a fine of $50.

4. Directions as to use of certain areas

(1) An authorised person may, by means of a sign, direct that a specified part of the site is open to members of the public or a specified section of the public.

(2) A direction under this by-law may be made subject to specified conditions.

(3) The chief executive officer may cancel or vary a direction or condition under this by-law.

(4) In this by-law, ***specified*** means specified in the sign containing the direction.

(5) A person must not contravene a direction under this by-law.

Penalty: a fine of $50.

5. Prohibited items

(1) In this by-law —

prohibited item means —

(a) an alcoholic beverage; or

(b) a firearm as defined in the *Firearms Act 1973* section 4; or

(c) a controlled weapon as defined in the *Weapons Act 1999* section 3; or

(d) a prohibited weapon as defined in the *Weapons Act 1999* section 3; or

(e) a prohibited drug as defined in the *Misuse of Drugs Act 1981* section 3(1).

(2) A person must not bring onto the site a prohibited item unless the person has permission to do so.

Penalty: a fine of $50.

[By-law 5 inserted in Gazette 17 Apr 2015 p. 1378.]

6. Smoking

A person must not smoke on the site.

Penalty: a fine of $50.

[By-law 6 inserted in Gazette 12 Feb 2008 p. 344; amended in Gazette 17 Apr 2015 p. 1378.]

7. Persons may be directed to leave site

(1) An authorised person may direct a person to leave the site if the authorised person reasonably believes that the person has —

(a) used abusive language on the site; or

(b) threatened a person on the site; or

(c) behaved in an indecent or disorderly manner on the site; or

(d) unreasonably interfered with the privacy of a person on the site; or

(e) committed an offence under by-law 3 or 5.

(2) A person must not contravene a direction under sub-bylaw (1).

Penalty: a fine of $50.

(3) The person whom an authorised person has given, or is about to give, a direction under sub-bylaw (1) may require the authorised person to produce the certificate referred to in by-law 3A(3).

(4) The authorised person must comply with a request under sub-bylaw (3).

[By-law 7 inserted in Gazette 17 Apr 2015 p. 1379.]

Part 3 — Traffic control

Division 1 — Driving and use of vehicles

8. Driving of vehicles

(1) A person must not drive or bring a vehicle onto a part of the site that is not a roadway or a parking facility, unless the person has permission to do so.

(2) A person must not drive or bring a vehicle that has an unladen weight of more than 4 tonnes onto the site, unless the person has permission to do so.

(3) A person must not drive, use or stand a vehicle in a part of the site contrary to a direction in a sign that relates to that part of the site.

(4) Sub-bylaw (1), (2) or (3) does not apply to a vehicle that is an emergency vehicle.

Penalty applicable to sub-bylaw (1), (2) or (3): a fine of $50.

9. Driver to obey reasonable direction

The driver of a vehicle is to obey an authorised person's reasonable direction in relation to the parking or movement of the vehicle on the site, despite that direction being different from a direction in a sign.

Penalty: a fine of $50.

10. Speed limits

(1) A person must not drive a vehicle on a roadway or parking facility —

(a) if no speed restriction sign is displayed, at a speed exceeding 30 kilometres an hour; or

(b) if a speed restriction sign is displayed in relation to a part of a roadway or parking facility, at a speed exceeding the speed indicated by the speed restriction sign.

Penalty: a fine of $50.

(2) Sub-bylaw (1) does not apply to the driving of an emergency vehicle.

11. Giving way

The driver of a vehicle that is entering or about to enter a parking facility is to give way to a vehicle that is leaving the parking facility.

Penalty: a fine of $50.

12. No instruction or repairs on the site

A person must not —

(a) drive a vehicle on the site for the purpose of giving or receiving driving instructions; or

(b) repair or adjust a vehicle on the site, except in an emergency.

Penalty: a fine of $50.

Division 2 — Parking

13. Parking to be in parking spaces only

A person must not park a vehicle on the site unless the vehicle is parked in a parking space.

Penalty: a fine of $50.

14. Signs to be obeyed

A person must not park, stand or move a vehicle on the site contrary to a direction in a sign.

Penalty: a fine of $50.

15. Parking in parking spaces

(1) A sign may contain a direction that parking in a parking space, parking facility or part of a parking facility is set aside for —

(a) a specified vehicle or specified class of vehicle;

(b) the vehicle of a specified person or specified class of persons;

(c) parking of vehicles for a specified period of time;

(d) parking of vehicles for a maximum period of time as is specified; or

(e) vehicles that display a specified permit in a specified position on the vehicle.

(2) In this by-law, ***specified*** means specified in a sign.

(3) A person must not park, stand or move a vehicle in a parking space or a parking facility contrary to a direction in a sign.

Penalty: a fine of $50.

(4) Without limiting sub-bylaw (3), a person must not park a vehicle in a parking space, parking facility or part of a parking facility set aside for vehicles displaying a specified permit unless the person is the holder of the specified permit that is current.

Penalty: a fine of $50.

16. Permit

(1) A person who wishes to obtain a permit to park a vehicle on the site is to apply to the chief executive officer or an authorised person.

(2) An application under sub-bylaw (1) —

(a) is to be in a form approved by the chief executive officer or an authorised person; and

(b) is to be accompanied by a fee of $2.00 per week for the period for which the permit is sought.

(3) The chief executive officer or the authorised person to whom the application under sub-bylaw (1) is made, may issue to the applicant, a permit that allows the applicant to park a vehicle on the site.

(4) A permit may be of general application or be issued —

(a) to allow a specified vehicle only to be parked;

(b) to allow a vehicle of a specified person or class of persons only to be parked;

(c) to allow a vehicle of a specified class only to be parked;

(d) to allow a vehicle to be parked only in a specified part of the site; or

(e) to allow a vehicle to be parked for a specified period of time only.

(5) A permit expires on the day specified in the permit.

(6) The chief executive officer or an authorised person may cancel a permit if —

(a) a vehicle in respect of which the permit is issued is parked on the site in contravention of —

(i) these by-laws; or

(ii) the terms of the permit;

or

(b) a person to whom the permit is issued —

(i) contravenes these by-laws; or

(ii) ceases to be in the category of persons to whom a permit may be issued.

(7) In this by-law, ***specified*** means specified in the relevant permit.

(8) A person must not park a vehicle on the site in an area that has been set aside for permit holders only, without a current permit to do so.

Penalty for an offence under this sub-bylaw: a fine of $50.

[By-law 16 amended in Gazette 26 Nov 2010 p. 5950; 17 Apr 2015 p. 1379.]

Part 4 — Infringement notices

17. Terms used in this Part

In this Part —

alleged offender includes the ~~registered owner of~~responsible person for a vehicle to which an infringement notice is attached;

infringement notice means an infringement notice under by-law 18;

modified penalty means a penalty prescribed in Schedule 1 for an offence under Part 3 or 4.

[By-law 17 amended in Gazette 12 Feb 2008 p. 344; 8 Jan 2015 p. 198.]

18. Infringement notices

(1) An authorised person who has reason to believe that a person has committed an offence under Part 3 or this Part may, within 21 days after the alleged offence is believed to have been committed, give an infringement notice to the alleged offender.

(2) An infringement notice may be given to an alleged offender by delivering it to the alleged offender or by attaching it to the vehicle involved in the commission of the alleged offence.

(3) An infringement notice is to be in the form of Schedule 2 Form 1 and in every case, is to —

(a) contain a description of the alleged offence; and

(b) advise that if the alleged offender does not wish to have the alleged offence heard and determined by a court, the amount of money specified in the notice as being the modified penalty for the offence may be paid to the cashier of the Swan District Hospital or an authorised person, within a period of 28 days after the giving of the notice.

(4) In an infringement notice the amount specified as being the modified penalty for the offence referred to in the notice is to be the amount that was the modified penalty at the time the alleged offence is believed to have been committed.

(5) An authorised person other than the authorised person who issued an infringement notice in a particular case, may extend the period of 28 days within which the modified penalty may be paid and the extension may be allowed whether or not the period of 28 days has elapsed.

(6) If the modified penalty specified in an infringement notice has been paid within 28 days or such further time as is allowed and the notice has not been withdrawn, the bringing of proceedings and the imposition of penalties are prevented to the same extent as they would be if the alleged offender had been convicted by a court of, and punished for the alleged offence.

(7) Payment of a modified penalty is not to be regarded as an admission for the purposes of any proceedings, whether civil or criminal.

[By-law 18 amended in Gazette 12 Feb 2008 p. 344; 26 Nov 2010 p. 5950.]

19. Withdrawal of infringement notice

(1) An authorised person other than the authorised person who issued an infringement notice in a particular case, may, whether or not the modified penalty has been paid, withdraw an infringement notice by delivering to the alleged offender a notice in the form of Schedule 2 Form 2 stating that the infringement notice has been withdrawn.

(2) If an infringement notice is withdrawn after the modified penalty has been paid, the amount is to be refunded.

20. Authorised persons to produce certificate

(1) The person whom an authorised person has given, or is about to give, an infringement notice may require the authorised person to produce the certificate referred to in by-law 3A(3).

(2) The authorised person must comply with a request under sub-bylaw (1).

[By-law 20 inserted in Gazette 17 Apr 2015 p. 1379.]

21. Authorised persons only to endorse and alter infringement notices

A person must not endorse or alter an infringement notice unless the person is an authorised person.

Penalty: a fine of $50.

22. Restriction on removal of infringement notices

A person must not remove an infringement notice that is attached to a vehicle unless the person is —

(a) the driver~~, registered owner~~ of, responsible person for, or person in charge of, the vehicle; or

(b) an authorised person.

Penalty: a fine of $50.

[By-law 22 amended in Gazette 8 Jan 2015 p. 198.]

Part 5 — General

23. Removal of vehicles

(1) The chief executive officer or an authorised person may order that a vehicle that —

(a) is parked in contravention of these by-laws; or

(b) has been left on the site for more than 3 days,

be removed to a storage place on the site.

(2) The chief executive officer or an authorised person may order that a vehicle that —

(a) is parked in contravention of these by-laws; and

(b) is obstructing other vehicles or activities of the Swan District Hospital,

be removed immediately to a storage place on the site.

(3) An authorised person may take such action as is reasonably necessary for the purposes of removing a vehicle under this by-law, by way of unlocking, driving, towing or otherwise causing the removal of the vehicle.

(4) The board may retain possession of a vehicle removed and stored under this by-law until the ~~owner of~~responsible person for the vehicle has paid to the cashier of the Swan District Hospital or an authorised person, fees to recover the vehicle at the rate of $50 for the first 24 hours or part thereof and $5 for each 7 days or part thereof thereafter.

[By-law 23 amended in Gazette 8 Jan 2015 p. 199.]

24. ~~Registered owner~~ Responsible person may be treated as ~~being~~ driver or person in charge of vehicle ~~at time of offence~~

(1) If an offence under these by-laws is alleged to have been committed by the driver or person in charge of a vehicle, the chief executive officer or an authorised person may, by written notice delivered to the ~~registered owner of~~responsible person for

the vehicle, request the name and address of the driver or person in charge of the vehicle at the time the offence is alleged to have been committed.

(2) If the ~~registered owner of~~responsible person for the vehicle does not supply the requested details to the chief executive officer or the authorised person (as the case may be) within 14 days of the date of receipt of the notice, the ~~registered owner~~responsible person is to be treated as being the driver or the person in charge of the vehicle at the time the offence is alleged to have been committed.

[By-law 24 amended in Gazette 8 Jan 2015 p. 199.]

25. Other offences

A person must not —

(a) intentionally obstruct an officer or servant of the board in the discharge of his or her duty under these by-laws; or

(b) remove, damage, deface or misuse a sign.

Penalty: a fine of $50.

Part 6 — Repeal

26. By-laws repealed

The *Swan District Hospital (Traffic and Grounds) By-laws 1971* are repealed.

Schedule 1 — Infringement notices and modified penalties

[bl. 17]

By-law	Description of offence	Modified penalty $
[6(2) deleted]		
8(1)	Driving or bringing vehicle on part of the site other than on roadway or parking facility, without permission	40
8(2)	Driving or bringing onto the site, a vehicle with an unladen weight of more than 4 tonnes, without permission	20
8(3)	Driving, using or standing on part of the site, a vehicle contrary to a sign	40
9	Disobeying an authorised person's reasonable direction	20
10(1)(a)	Driving in excess of 30 kph	40
10(1)(b)	Driving in excess of speed limit indicated by speed restriction sign	40
11	Failing to give way when entering parking facility	20
12(a)	Driving on the site for the giving or receiving of driving instruction	20
12(b)	Repairing or adjusting a vehicle on the site	10
13	Parking a vehicle on the site not in a parking space	40
14	Failing to obey a stop sign on the site	45
14	Parking, standing or moving a vehicle on the site contrary to a sign other than a stop sign	40
15(3) & 15(1)(b)	Parking in an area on the site set aside for vehicles of disabled persons identified in the manner specified in a sign, contrary to the sign	45

By-law	Description of offence	Modified penalty $
15(3) & 15(1)(e)	Displaying a permit in a manner other than that specified in a sign	10
15(3) & 15(1)(e)	Failing to display a permit, contrary to a sign	20
15(3)	Parking, standing or moving a vehicle in a parking space or parking facility contrary to a sign in relation to vehicles of disabled persons or contrary to any sign other than a sign with a direction under by-law 15(1)(e)	40
16(8)	Parking in an area on the site set apart for permit holders only, without a current permit	30
21	Unauthorised person endorsing or altering an infringement notice	20
22	Removing an infringement notice when not authorised to do so	20

[Schedule 1 amended in Gazette 12 Feb 2008 p. 344.]

Schedule 2 — Forms

[bl. 18(3) and 19]

Form 1

Hospitals And Health Services Act 1927

Swan District Hospital (Eveline Road Site) By-laws 2005

INFRINGEMENT NOTICE No. .....…

Date of service .... / .... / .....

TO: THE ~~OWNER~~RESPONSIBLE PERSON FOR / DRIVER / PERSON IN CHARGE OF VEHICLE

MAKE .....……..……..... TYPE .....……...

PLATE NO. .....……..... COLOUR .....……..

IT IS ALLEGED THAT AT ABOUT ....…….. HRS ON THE ……..... DAY OF …….....,

YOU CONTRAVENED THE BY-LAW SPECIFIED AND BRIEFLY DESCRIBED AS FOLLOWS:

.....

Authorised person

BY-LAW NO. .....……

DESCRIPTION OF OFFENCE .....……..

.....……

MODIFIED PENALTY .....……..

You may dispose of this matter either —

(a) by paying the modified penalty within 28 days of the date you received this notice, or such further time as an authorised person allows, to the Cashier Swan District Hospital or an authorised person, Swan District Hospital; or

(b) by having it heard and determined by a court.

If the modified penalty is not paid within the period referred to above, court proceedings may be taken against you. If convicted, you may be liable to a penalty not exceeding $50.

Payment of the modified penalty is not to be regarded as an admission for the purposes of any proceedings, whether civil or criminal. Retain the receipt for proof of payment.

Date ...../...../.....

Received from .....……
of .....…..
the sum of $ ..... in payment of the modified penalty referred to above.

…….
Authorised person

[Form 1 amended in Gazette 8 Jan 2015 p. 200.]

Form 2

Hospitals And Health Services Act 1927

Swan District Hospital (Eveline Road Site) By-laws 2005

WITHDRAWAL OF INFRINGEMENT NOTICE

Date .... / .... / .....
To: ……..
of ……...
Infringement notice No. ..... served on you on the …... day of ….....…,
for the alleged offence of ……...
……
is hereby withdrawn and no further action will be taken against you in respect of the alleged offence.

If you have paid the modified penalty before receiving this notice, the amount of the payment will be refunded to you on presentation of the receipt issued by the cashier or an authorised person of the Swan District Hospital for the payment.

…….
Authorised person

Notes

[1] This is a compilation of the *Swan District Hospital (Eveline Road Site) By-laws 2005* and includes the amendments made by the other written laws referred to in the following table[1a].

Compilation table

Citation	Gazettal	Commencement
Swan District Hospital (Eveline Road Site) By-laws 2005	30 Sep 2005 p. 4431-54	30 Sep 2005
Swan District Hospital (Eveline Road Site) Amendment By-laws 2008	12 Feb 2008 p. 343-4	bl. 1 and 2: 12 Feb 2008 (see bl. 2(a)); By-laws other than bl. 1 and 2: 13 Feb 2008 (see bl. 2(b))
Swan District Hospital (Eveline Road Site) Amendment By-laws 2010	26 Nov 2010 p. 5949-50	bl. 1 and 2: 26 Nov 2010 (see bl. 2(a)); By-laws other than bl. 1 and 2: 1 Jan 2011 (see bl. 2(b))
Swan District Hospital (Eveline Road Site) Amendment By-laws 2014	8 Jan 2015 p. 197-200	bl. 1 and 2: 8 Jan 2015 (see bl. 2(a)); By-laws other than bl. 1 and 2: 27 Apr 2015 (see bl. 2(b) and *Gazette* 17 Apr 2015 p. 1371)
Swan District Hospital (Eveline Road Site) Amendment By laws 2015	17 Apr 2015 p. 1377-9	bl. 1 and 2: 17 Apr 2015 (see bl. 2(a)); By-laws other than bl. 1 and 2: 18 Apr 2015 (see bl. 2(b))

~~[1a] On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.~~

~~Provisions that have not come into operation~~

~~Citation~~	~~Gazettal~~	~~Commencement~~
~~*Swan District Hospital (Eveline Road Site) Amendment By-laws 2014* bl. 3-9[2]~~	~~8 Jan 2015 p. 197-200~~	~~Operative on the day fixed under the *Road Traffic (Administration) Act 2008* s. 2(b) (see bl. 2(b))~~

~~[2] On the date as at which this compilation was prepared, the *Swan District Hospital (Eveline Road Site) Amendment By laws 2014* bl. 3-9 had not come into operation. They read as follows:~~

~~3. By-laws amended~~

~~These by-laws amend the *Swan District Hospital (Eveline Road Site) By-laws 2005*.~~

~~4. By-law 2 amended~~

~~(1) In by-law 2(1) delete the definition of ***registered owner***.~~

~~(2) In by-law 2(1) insert in alphabetical order:~~

~~***responsible person***, for a vehicle, means the person responsible for the vehicle under the *Road Traffic (Administration) Act 2008* section 6;~~

~~(3) In by-law 2(1) in the definition of ***roadway*** delete "definition of the *Road Traffic Act 1974*," and insert:~~

~~meaning of the *Road Traffic (Administration) Act 2008* section 4,~~

~~(4) In by-law 2(1) in the definition of ***vehicle*** delete "*Road Traffic Act 1974* section 5(1)." and insert:~~

~~*Road Traffic (Administration) Act 2008* section 4.~~

~~5. By-law 17 amended~~

~~In by-law 17 in the definition of ***alleged offender*** delete "registered owner of" and insert:~~

~~responsible person for~~

~~6. By-law 22 amended~~

~~Delete by-law 22(a) and insert:~~

~~(a) the driver of, responsible person for, or person in charge of, the vehicle; or~~

~~7. By-law 23 amended~~

~~In by-law 23(4) delete "owner of" and insert:~~

~~responsible person for~~

~~8. By-law 24 amended~~

~~(1) In by-law 24(1) delete "registered owner of" and insert:~~

~~responsible person for~~

~~(2) In by-law 24(2):~~

~~(a) delete "registered owner of" and insert:~~

~~responsible person for~~

~~(b) delete "registered owner is" and insert:~~

~~responsible person is~~

~~Note: The heading to amended by-law 24 is to read:~~

~~**Responsible person may be treated as driver or person in charge of vehicle**~~

~~9. Schedule 2 amended~~

~~In Schedule 2 in Form 1 delete "OWNER /" and insert:~~

~~RESPONSIBLE PERSON FOR /~~