

LOCAL GOVERNMENT ACT 1995

Shire of Busselton

LOCAL GOVERNMENT PROPERTY AMENDMENT LOCAL LAW 2011

Under the powers conferred by the *Local Government Act 1995* and under all other enabling powers, the Council of the Shire of Busselton resolved on 9 March 2011 to make this local law.

1. Citation

This local law may be cited as the *Shire of Busselton Local Government Property Amendment Local Law 2011*.

2. Commencement

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

3. Principal Local Law

In this local law "Principal Local Law" means the *Shire of Busselton Local Government Property Local Law 2010* as published in the *Government Gazette* of 9 March 2010. The Principal Local Law is amended.

4. Clause 1.5 amended

4.1 In clause 1.5, in the "local government property" definition—

- (a) inserting "or" at the end of subclause "(b)";
- (b) delete "or" at the end of subclause "(d)";
- (c) re-designate subclause "(d)" to "(c)"; and
- (d) delete subclause (e).

4.2 After the "vehicles" definition insert—

"waste" includes matter—

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

5. Clause 2.7 amended

5.1 In clause 2.7(1)(h)(iii), delete "local government" and insert "Shire".

5.2 In subclause (1)—

- (a) delete paragraphs (a) and (g);
- (b) re-designate paragraphs "(b)", "(c)", "(d)", "(e)", "(f)", "(h)", "(i)" and "(j)" to "(a)", "(b)", "(c)", "(d)", "(e)", "(f)", "(g)" and "(h)" respectively.

6. Clause 2.8 amended

In clause 2.8, delete subclause (1) and insert—

(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 on premises;
- (b) riding a bicycle, a skateboard, rollerblades, a sandboard 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) taking or using a boat, or a particular class of boat;
- (f) the playing or practice of—
 - (i) golf, archery, pistol shooting or rifle shooting; or
 - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the Shire may cause injury or damage to a person or property;
- (g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
- (h) the traversing of sand dunes or land which in the opinion of the Shire has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.

7. Part 4 amended

7.1 In Part 4, re-designate clause "4.8" to "4.11"

7.2 After clause 4.7 insert—

4.8 Animals

(1) A person must not—

- (a) tether any animal to a tree, shrub, tree guard, wall or fence; or**
- (b) permit any animal to enter upon or into any local government property,**

unless authorised by a permit.

(2) The CEO or an authorised person may, by the placement of an approved sign, prohibit dogs from being in a children's playground or in the vicinity of a children's playground.

(3) This clause does not apply to a guide dog used for the assistance of visually impaired persons and is subject to the provisions of section 8 of the *Dog Act 1976* and section 66J of the *Equal Opportunity Act 1984*.

4.9 Waste

A person must not deposit or discard waste on local government property except—

- (a) in a place or receptacle set aside by the CEO or an authorised person for that purpose and subject to any conditions that may be specified on the receptacle or a sign, such as a condition in relation to the type of waste that may be deposited; or**
- (b) at the Busselton Waste Facility, Rendezvous Road Busselton and the Dunsborough Waste Facility, Vidler Road Dunsborough, and subject to directions issued from time to time by the CEO or an authorised person for the orderly and proper use of those waste facilities in relation to hours of business, separation of waste into designated receptacles, prohibition of the deposit of certain types of refuse or waste, and conduct of persons or persons in charge of vehicles while on the site.**

4.10 Glass containers

Unless authorised by a permit or by the CEO or an authorised person, a person must not take a glass container—

- (a) within 5m of the edge of a swimming pool on local government property;**
- (b) on to a children's playground; or**
- (c) within any area of local government property as indicated by a sign.**

8. Clause 5.1 amended

8.1 In clause 5.1(1)(a)(i) delete “4” and insert “10”.

8.2 In clause 5.1(1)(a)(ii) delete “4” and insert “10”.

9. Clause 5.3 amended

9.1 In clause 5.3, delete subclause (2) and insert—

(2) Subject to sub clause (3), the CEO may, where the power to appoint authorised persons has been delegated under section 5.42 of the Act, appoint under section 9.10 of the Act a member or members of a surf life saving club to perform all or any of the functions listed in subclause (1).

9.2 In clause 5.3(3), delete “Persons” and insert “A person”.

9.3 In clause 5.3(4), delete “and all appointments must be in writing”.

10. Clause 5.10 amended

In clause 5.10 (b), delete “mins” and insert “minutes”.

11. Clause 9 amended

11.1 Delete clause 9.4 and insert—

9.4 Shire may undertake requirements of notice

(1) If a person fails to comply with a notice referred to in clause 9.2, the Shire may—

- (a) do the thing specified in the notice, including replace the property, or reinstate the property to the state it was in before the removal, damage or interference; and**
- (b) recover from the person, as a debt, the costs of doing so.**

(2) If a person fails to comply with a notice referred to in clause 9.3, the Shire may—

- (a) take whatever remedial action it considers appropriate to put the Shire in the position it would have been in if the breach or failure had not occurred; and**

(b) recover from the person, as a debt, the costs of doing so.

11.2 In clause 9.9(3), delete “local government” and insert “Shire”.

12. Schedule 1 amended

12.1 In the table in Schedule 1—

(a) insert after “4.7(2) Failure to leave local government property \$200” the following—

4.8(1)	Tethering animal to tree etcetera or permitting animal to enter local government property.....	\$200
4.9	Depositing or discarding waste on local government property.....	\$200
4.10	Taking a glass container within 5m of pool, to a children's playground or within local government property as indicated by a sign.....	\$200

(b) under the column heading “Clause”, delete “4.8(2)” and insert “4.11(2)”; and

13. Schedule 2 amended

13.1 In Part 1 clause 1.1—

(a) in the “local law” definition, delete “Shire; and” and insert “Shire.”; and

(b) delete the “waste” definition.

13.2 In Part 2—

(a) in clause 2.4, delete subclause (4);

(b) in clause 2.6, delete subclause (5);

(c) delete clauses 2.1 and 2.8; and

(d) re-designate clauses “2.2”, “2.3”, “2.4”, “2.5”, “2.6”, “2.7” and “2.9” to “2.1”, “2.2”, “2.3”, “2.4”, “2.5”, “2.6” and “2.7” respectively.

Dated: 17 March 2011.

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

IAN WILLIAM STUBBS, Shire President.
MICHAEL STEPHEN LEE ARCHER, Chief Executive Officer.