

LOCAL GOVERNMENT ACT 1995

SHIRE OF HALLS CREEK

**PUBLIC PLACES AND LOCAL GOVERNMENT
PROPERTY LOCAL LAW 2017**

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LOCAL GOVERNMENT ACT 1995

SHIRE OF HALLS CREEK

**PUBLIC PLACES AND LOCAL GOVERNMENT
PROPERTY LOCAL LAW 2017**

Under the powers conferred by the *Local government Act 1995* and under all other powers enabling it, the Council of the Shire of Halls Creek resolved on 15 June 2017 to make the following local law.

PART 1—PRELIMINARY

1.1 Title

This is the *Shire of Halls Creek Public Places and Local Government Property Local Law 2017*.

1.2 Commencement

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

1.3 Terms used in this local law

In this local law, unless the contrary intention appears—

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

“**applicant**” means a person who applies for a licence;

“**application**” means an application for a licence;

“**application fee**” means the fee payable upon lodgement of an application for a licence and which relates to the lodgement, assessment and determination of the application but does not include the licence fee;

“**authorised person**” means a person authorised by the local government under section 9.10 of the Act;

“**boat**” means any ship, vessel or structure capable of being used in navigation by water, however propelled or moved, and includes a jet ski;

“**building**” means any building which is local government property and includes a—

(a) hall or room;

(b) corridor, stairway or annexe of any hall or room; and

(c) jetty;

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

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

“**children’s playground**” means an area set aside for use by children and noted by the presence of dedicated children’s playground equipment and the presence of either sand or other form of soft fall surface;

“**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 like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium;

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

“**commercial activity**” means an activity referred to in clause 8.1, clause 9.1, clause 10.1 or clause 11.1;

“**Crossing**” means a crossing giving access from a public thoroughfare to—

(a) private land; or

(b) a private throughfare serving private land;

“**Council**” means the council of the local government;

“**determination**” means a determination made under clause 2.1;

“**district**” means the district of the local government.

“**eating house**” means premises which are registered as an eating house under the Health Act or which are the subject of a hotel licence, a special facility licence or a restaurant licence under the Liquor Act;

“**entertain**” means conduct any form of theatrical, artistic, musical, audio or visual performance and includes busk;

“**entertainment licence**” means a licence of the kind referred to in clause 1.6(c);

“**food**” has the meaning given by clause 1.5;

“**food sales licence**” means a licence of the kind referred to in clause 1.6(d);

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

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

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

“**Health Act**” means the *Public Health Act 2016*;

“**hire**” includes offer to hire and expose for hire;

“**intersection**” has the meaning give to it in the *Road Traffic Code 2000*;

“**kerb**” includes the edge of a carriageway;

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

“**licence**” means a licence under this local law;

“**licence fee**” means the fee payable upon the issue of a licence;

“**licence document**” means a licence document issued under this local law;

“**licensee**” means a person who holds a licence;

“**liquor**” has the same meaning as is given to it in section 3 of the *Liquor Control Act 1988*;

“**Liquor Act**” means the *Liquor Control Act 1988* and includes any regulations made under that Act;

“**local government**” means the “Shire of Halls Creek”;

“**local government property**” means anything except a street—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an “otherwise unvested facility” within section 3.53 of the Act;

“**local public notice**” has the same meaning as in section 1.7 of the Act;

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

“**Manager**” means the person for the time being employed by the local government to control and manage a facility which is local government property and includes the person’s assistant or deputy;

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

“**market licence**” means a licence of the kind referred to in clause 1.6(b);

“**nuisance**” means—

- (a) any activity, thing, condition, circumstance or state of affairs caused or contributed to by a person which is injurious or dangerous to the health of another person of normal susceptibility, or which has a disturbing effect on the state of reasonable physical, mental or social wellbeing of another person;
- (b) anything a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person or any public place; or
- (c) anything a person does in or on a public place which unreasonably detracts from or interferes with the enjoyment or value of nearby land owned by another person, provided that anything done in accordance with the law or a legal right or which is consistent with the standard of behaviour in the relevant locality shall not be unreasonable for the purpose

“**owner or occupier**” in relation to land does not include the local government;

“**permissible verge treatment**” means any one of the 4 treatments described in clause 6.5 (2), and includes any reticulation pipes and sprinklers;

“**person**” does not include the local government;

“place” means anywhere at all, and includes anywhere in or on something that is moving or can move;

“private property” means any real property, parcel of land or lot that has a separate certificate of title, which is in private ownership or subject of a lease or agreement with a company or person enabling its use for private purposes and includes any building or structure thereon;

“prohibited drug” has the meaning given to it in the *Misuse of Dugs Act 1981*;

“proprietor”—

- (a) includes the owner, the occupier and any person having the management or control of any eating house; or
- (b) the holder of a licence granted under the Liquor Act where the premises in question is the subject of a hotel licence, a limited hotel licence, special facility licence or a restaurant licence granted under that Act;

“public place” has the meaning given by clause 1.4;

“repealed local law” means the local law repealed under clause 14.1;

“retailer” means a proprietor of a shop in respect of which shopping trolleys are provided for the use of customers of the shop;

“Schedule” means a schedule in this local law.

“sell” includes—

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

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

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

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

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

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

“trading” means selling or hiring goods, wares, merchandise or services and includes the setting up of a stall and conducting business at a stall;

“trading licence” means a licence of the kind referred to in clause 1.6(a);

“vehicle” includes—

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
 - (b) an animal being ridden or driven,
- but excludes—
- (c) a wheel chair or any device designed for use, by a physically impaired person on a footpath; and
 - (d) a shopping trolley

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

“water course” has the meaning given to it in the *Rights in Water and Irrigation Act 1914*;

1.4 Meaning of “public place”

For the purpose of this local law a public place is—

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

1.5 Meaning of “food”

(1) In this local law, “food” includes—

- (a) any substance or thing of kind used, or represented as being used, for human consumption (whether it is live, raw, prepared or partly prepared);

- (b) any substance or thing of a kind used, or represented as being for use, as an ingredient or additive in a substance or thing referred to in paragraph (a);
- (c) any substance used in preparing a substance or thing referred to in paragraph (a) (other than a substance used in preparing a living thing) if it comes into direct contact with the substance or thing referred to in that paragraph, such as processing aid;
- (d) chewing gum or an ingredient or additive in chewing gum, or any substance used in preparing chewing gum; and
- (e) any substance or thing declared to be a food under a declaration in force under the Commonwealth *Food Standards Australia New Zealand Act 1991* section 3B,

whether or not the substance, thing or chewing gum is in a condition fit for human consumption.

(2) To avoid doubt, “**food**” may include live plants and animals.

1.6 Types of licences

For the purposes of this local law—

- (a) a licence which authorises trading on any street or local government property is to be referred to as a trading licence;
- (b) a licence which authorises the conduct or setting up of a market on any street or local government property is to be referred to as a market licence;
- (c) a licence which authorises entertainment on any street or local government property is to be referred to as an entertainment licence; and
- (d) a licence which authorises the sale of food on any street or local government property is to be referred to as a food sales licence.

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

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

2.3 Discretion to erect sign

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

2.4 Determination to be complied with

A person shall 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 are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

2.6 Amendment or revocation of a determination

(1) The 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 is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

2.7 Activities which may be pursued on specified local government property

(1) A determination may provide that specified local government property is set aside as an area on which a person may—

- (a) 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 aeroplane;
- (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) launch, beach or leave a boat ;
- (f) take or use a boat, or a particular class of boat;
- (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
- (h) play or practice—
 - (i) golf or archery;
 - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973* or
 - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
- (i) ride a bicycle, a skateboard, rollerblades, a sand board or a similar device; and
- (j) wear no clothing.

(2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular—

- (a) the days and times during which the activity may be pursued;
- (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
- (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
- (d) may limit the activity to a class of vehicles, equipment or things, or may extend it to all vehicles, equipment or things;
- (e) may specify that the activity can be pursued by a class of persons or all persons; and
- (f) may distinguish between different classes of the activity.

2.8 Activities which may be prohibited on specified local government property

(1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property—

- (a) smoking on premises;
- (b) riding a bicycle, a skateboard, rollerblades, a sand board 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 local government 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 land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.
- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular—
- (a) the days and times during which the activity is prohibited;
 - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is prohibited in respect of a class of vehicles, equipment or things, or all vehicles, equipment or things;
 - (d) that an activity is prohibited in respect of a class of persons or all persons; and
 - (e) may distinguish between different classes of the activity.
- (3) In this clause—
- “premises” 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.

2.9 Sign under repealed local law taken to be determination

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

2.10 Assistance animals

This local law is subject to any written law and law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992* (Commonwealth) section 9(2).

PART 3—ACTIVITIES ON LOCAL GOVERNMENT PROPERTY REQUIRING A LICENCE

3.1 Activities requiring a licence

- (1) A person must not without a licence—
- (a) subject to subclause (3) hire local government property;
 - (b) advertise anything by any means on local government property;
 - (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
 - (d) teach, coach or train, for profit, any person in any facility which is local government property;
 - (e) plant any plant or sow any seeds on local government property;
 - (f) carry on any trading on local government property unless the trading is conducted—
 - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
 - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
 - (g) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose—
 - (i) drive or ride or take any vehicle on to local government property; or
 - (ii) park or stop any vehicle on local government property;
 - (h) conduct a function on local government property;
 - (i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
 - (j) light a fire on local government property except in a facility provided for that purpose;
 - (k) parachute, hang glide, abseil or base jump from or on to local government property;
 - (l) erect a building or a refuelling site on local government property;
 - (m) make any excavation on or erect or remove any fence on local government property;
 - (n) 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;
 - (o) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property; or
 - (p) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly.
- (2) The CEO may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The CEO may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

3.2 Licence required to camp outside a facility

(1) In this clause—

“facility” has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.

(2) This clause does not apply to a facility operated by the local government.

(3) A person must not without a licence—

(a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or

(b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.

(4) The maximum period for which the CEO may approve an application for a licence in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

3.3 Licence required for possession and consumption of liquor

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

(a) that is permitted under the *Liquor Control Act 1988*; and

(b) a licence has been obtained for that purpose.

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

PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

4.1 Behaviour which interferes with others

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

(a) is likely to interfere with the enjoyment of a person who might use the property; or

(b) interferes with the enjoyment of a person using the property.

4.2 Behaviour detrimental to property

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

(2) In subclause (1)—

“detrimental to the property” includes—

(a) removing anything from the local government property including a rock, a plant or a seat provided for the use of any person; and

(b) destroying, defacing or damaging anything on the local government property, including a plant, a seat provided for the use of any person or a building.

4.3 Taking or injuring any fauna

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

(2) In this clause—

“animal” means any living thing that is not a human being or plant; and

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

(a) any class of animal or individual member;

(b) the eggs or larvae; or

(c) the carcass, skin, plumage or fur.

4.4 Intoxicated persons not to enter local government property

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

4.5 No prohibited drugs

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

4.6 Signs

(1) A 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 subclause (1).

(3) A condition of use specified on a sign erected under subclause (1) is—

(a) not to be inconsistent with any provision of this local law or any determination; and

(b) to be for the purpose of giving notice of the effect of a provision of this local law.

4.7 Authorised person to be obeyed

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

4.8 Persons may be directed to leave local government property

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

4.9 Disposal of lost property

An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by the local government in any manner it thinks fit.

4.10 Liability for damage to local government property

(1) Where a person unlawfully damages local government property, the local government may by notice in writing to that person require that person within the time required 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 subclause (1), the local government may recover the costs referred to in the notice as a debt due to it.

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT 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 that person is authorised to do so by the local government.

5.2 When entry must be refused

A Manager or an authorised person shall refuse admission to, may direct to leave or shall remove or cause to be removed from a pool area any person who—

- (1) in her or his opinion is—
 - (a) under the age of 12 years and who is unaccompanied by a responsible person over the age of 16 years;
 - (b) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
 - (c) under the influence of liquor or a prohibited drug; or
- (2) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.

5.3 No school no pool

(1) A Manager or an authorised person shall refuse admission to, may direct to leave or shall remove or cause to be removed from the pool area any person who in her or his opinion may be truant, or may have been truant on that day, from a primary or secondary school in the district.

(2) Where a person is refused admission to, directed to leave, or removed from the pool area under subclause (1), that person shall not be admitted to or enter the pool area during the whole of that day or for such longer period as shall be advised by the relevant school principal.

(3) Subclause (1) does not apply to children who are home schooled, tourists, stopped schooling or under the custody of an adult.

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

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

- (a) females, then a person of the male gender must not use that entry of the toilet block or change room; or
- (b) males, then a person of the female gender must not use that entry of the toilet block or change room.

5.5 No unauthorised entry to function

(1) A person must not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorised, except—

- (a) through the proper entrance for that purpose; and
- (b) on payment of the fee chargeable for admission at the time.

(2) The local government may exempt a person from compliance with subclause (1)(b).

PART 6—ACTIVITIES IN STREETS

6.1 General prohibitions

A person must not—

- (a) plant any plant which is not maintained at or below 0.50m in height in a street so that the plant does not create a sightline hazard;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless—
 - (i) the person is the owner or the occupier of the lot abutting that portion of the street and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;
- (c) damage a street tree or remove a street tree or part of a street tree irrespective of whether the street tree was planted by the owner or occupier of the lot abutting the street or by the local government, unless—
 - (i) the removal of the street tree is authorised by the local government in writing; or
 - (ii) the person is acting under authority of written law;
- (d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (e) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a street by the local government or a person acting under the authority of a written law;
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a street; or
- (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, roller-blades or similar device;
- (g) plant any plant (except grasses or a similar plant) within 6 metres of an intersection.

6.2 Activities allowed with a licence

(1) A person must not, without a licence—

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) throw, place or deposit anything on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised in connection with that collection by the local government;
- (c) cause any obstruction to a vehicle or a person using a street as a street;
- (d) cause any obstruction to a water channel or a water course in a street;
- (e) throw, place or drain offensive, noxious or dangerous fluid onto a street;
- (f) damage a street;
- (g) fell or damage any street tree;
- (h) fell any tree onto a street;
- (i) unless installing, or in order to maintain, a permissible verge treatment—
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install anything on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
- (j) provide, erect, install or use in or on any building, structure or land abutting on a street any hoist or other thing for use over the street;
- (k) on a street use anything or do anything so as to create a nuisance;
- (l) place or cause to be placed on a street a bulk rubbish container; or
- (m) interfere with the soil of, or anything in a thoroughfare or take anything from a street.

(2) The CEO may exempt a person from compliance with subclause (1) on the application of that person.

6.3 Temporary crossings

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

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

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

- (a) the builder named on the building licence issued under the *Local Government (Miscellaneous Provisions) Act 1960*, if one has been issued in relation to the works; or
- (b) the registered proprietor of the lot, if no building licence has been issued under the *Local Government (Miscellaneous Provisions) Act 1960* in relation to the works.

(3) If the CEO approves an application for a licence for the purpose of subclause (1), the licence is taken to be issued on the condition that until such time as the temporary crossing is removed, the licensee must keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the street.

6.4 Removal of redundant crossing

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

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

- (a) remove any part of or all of a crossing which does not give access to the lot; and
- (b) reinstate the kerb, drain, footpath, verge and any other part of the street, which may be affected by the removal, within the period of time stated in the notice, and the owner or occupier of the lot must comply with that notice.

6.5 Permissible verge treatments

(1) An owner or occupier of land which abuts on a verge may on that part of the verge directly in front of her or his land may install a permissible verge treatment.

(2) The permissible verge treatments are—

- (a) the planting and maintenance of a lawn;
- (b) the planting and maintenance of a garden provided that—
 - (i) clear sight visibility is maintained at all times for a person using the abutting street in the vicinity of an intersection or bend in the street or using a driveway on land adjacent to the street for access to or from the street; and
 - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
- (c) the installation of an acceptable material; or
- (d) the installation over no more than 30 per cent of the area of the verge (excluding any approved footpath and/or vehicle crossing) of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

(3) In this clause “acceptable material” means any of the materials specified in Schedule 1.

6.6 Only permissible verge treatments to be installed

(1) A person must not install or maintain a verge treatment which is not a permissible verge treatment.

(2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 6.7.

6.7 Obligations of owner or occupier

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

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) not place any obstruction on or around the verge treatment; and
- (c) not disturb a footpath on the verge.

6.8 Notice to owner or occupier

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

6.9 Transitional provision

(1) In this clause—

“**former provisions**” means the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was repealed by this local law.

(2) A verge treatment which—

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

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

6.10 Power to carry out public works on verge

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

- (a) is not liable to compensate any person for that disturbance;
- (b) may backfill with sand, if necessary, any garden or lawn; and

- (c) is not liable to replace or restore any—
 - (i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or
 - (ii) sprinklers, pipes or other reticulation equipment.

6.11 Assignment of numbers

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.

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

The following places are specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act—

a public place, as that term is defined in clause 1.4.

6.13 Signs

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

6.14 Transitional

Where a sign erected in a street 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 6.13 if—

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

6.15 No driving on closed street

- (1) A person must not drive or take a vehicle on a closed street unless—
 - (a) it is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or
 - (b) the person has first obtained a licence.
- (2) In this clause—

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

6.16 Notice to redirect or repair sprinkler

Where a lawn or a garden is being watered with a sprinkler which is on the lawn or the garden, in a manner which causes or may cause an inconvenience or obstruction to any person using a street, the CEO may give a notice to the owner or the occupier of the land abutting on 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.

6.17 Hazardous plants

- (1) Where a plant in a garden creates or may create a hazard for any person using a street, the CEO may give a notice to the owner or the occupier of the land abutting on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.
- (2) Subclause (1) does not apply where the plant was planted by the local government.

6.18 Notice to repair damage to street

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

6.19 Notice to remove thing unlawfully placed on street

Where anything is placed on a street in contravention of this local law, the CEO may by notice in writing to the owner or the occupier of the property which abuts on that portion of the street where the thing has been placed, or any other person who may be responsible for the thing being so placed, require the relevant person to remove the thing.

PART 7—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

7.1 Leaving animal or vehicle in public place

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

7.2 Prohibitions relating to animals

(1) In subclause (2), “owner” in relation to an animal includes—

- (a) an owner of it;
- (b) a person in possession of it;
- (c) a person who has control of it; and
- (d) a person who ordinarily occupies the premises where the animal is permitted to stay.

(2) An owner of an animal must not—

- (a) allow the animal to enter or remain for any time on any public place except for the use of the public place as a thoroughfare and unless it is led, ridden or driven;
- (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
- (c) train or race the animal in a public place.

7.3 Shopping trolley to be marked

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

7.4 Person not to leave trolley in public place

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

7.5 Retailer to remove abandoned trolley

(1) If a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, the local government may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.

(2) A retailer must remove a shopping trolley within 24 hours of being so advised under subclause (1), unless the retailer—

- (a) requests the local government to collect and deliver the shopping trolley to the retailer; and
- (b) pays any fee for that collection and delivery (imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act) within the period specified by the local government.

7.6 Retailer taken to own trolley

(1) Where an Authorised Person or a member of the Western Australia Police finds a shopping trolley abandoned in a public place, the Authorised Person or a member of the Police Service may impound the shopping trolley and place it in an appointed place.

(2) Where a shopping trolley has been impounded and placed in an appointed place, the apparent owner must be advised verbally or in writing of its location by the local government and, the owner must recover the impounded shopping trolley from the appointed place as set out in the Act.

PART 8—TRADING ON STREETS AND LOCAL GOVERNMENT PROPERTY

8.1 Offence to trade in certain places

A person must not carry on trading in or on any thoroughfare or local government property except under and in accordance with the licence authorising the trading at that thoroughfare or local government property

PART 9—MARKETS ON STREETS AND LOCAL GOVERNMENT PROPERTY

9.1 Offence to conduct a market in certain places

A person must not conduct or set up a market in or on any thoroughfare or local government property except under and in accordance with a licence authorising the conduct of a market at that thoroughfare or local government property.

PART 10—ENTERTAINMENT ON STREETS AND LOCAL GOVERNMENT PROPERTY

10.1 Offence to entertain in certain places

A person must not entertain in or on any thoroughfare or local government property except under and in accordance with the licence authorising the entertainment at that thoroughfare or local government property.

PART 11—FOOD SALES ON STREETS AND LOCAL GOVERNMENT PROPERTY

11.1 Offence to sell food in certain streets or local government property

A person must not sell food in or on any thoroughfare or local government property except under and in accordance with a food sales licence authorising the sale of food at that thoroughfare or local government property

PART 12—LICENSING

12.1 Who may apply for licence

An application for a licence may only be made to the CEO by an individual or a Charitable Organisation.

12.2 Application for licence

An application must be—

- (a) in writing in a form approved by the CEO;
- (b) accompanied by any document or information that is required under this local law; and
- (c) accompanied by the application fee.

12.3 Information required for application

The following documents and information are required to accompany an application—

- (a) written statement of the details of the activity for which a licence is being requested;
- (b) written particulars of arrangements made in respect of public liability insurance; and
- (c) any other information the local government considers necessary in the circumstances of the case.

12.4 Further information relevant to application

(1) The CEO may ask an applicant for any additional document or information that the CEO considers is or could be relevant to making a decision on the application.

(2) Without limiting subclause (1), for the purpose of deciding whether or not an individual applicant is a fit and proper person to be granted a licence, and whether or not the application should be granted, the CEO—

- (a) must ask the applicant to provide a reference or report specified by the CEO; and
- (b) must ask the applicant to provide evidence that the person has the necessary experience in relation to the type of commercial activity to which the application relates.

(3) If the CEO makes a request under subclause (1) or (2) the CEO does not have to consider the application, or consider it further, until the request is complied with.

(4) Any costs incurred in complying with the request under subclause (1) or (2) are to be paid by the applicant unless the CEO determines otherwise.

12.5 Additional information required for trading licence application

The following additional information and documents are required to accompany an application for a trading licence—

- (a) the number of assistants to be employed in the trading at any one time;
- (b) a plan of the proposed location;
- (c) the proposed goods, wares, merchandise or services to be traded;
- (d) a detailed and accurate plan and description of any proposed stall, stand, table, structure or vehicle to be used for trading; and
- (e) the type of sign to be used to display the licence name and licence number.

12.6 Additional information required for market licence application

The following additional information and documents are required to accompany an application for a market licence—

- (a) a copy of the planning approval issued by the local government under a town planning scheme;
- (b) a plan or plans to a scale of 1:50 showing—
 - (i) the location and dimensions of the proposed area to be used for the market;
 - (ii) the dimensions of the public place including any footpath and the location and nature of any street furniture, trees, utilities, parking or service bays in the area; and
 - (iii) the position and dimensions of all proposed stalls;
- (c) a management plan outlining the operation of the market including—
 - (i) the proposed days and times of operation;
 - (ii) the proposed type and form of any advertising devices to be used; and
 - (iii) details of how the operational responsibilities of the licensee will be met; and
- (d) the nature and extent of any activity relating to entertainment.

12.7 Additional information required for entertainment licence application

The following additional information and documents are required to accompany an application for an entertainment licence—

- (a) the nature of the proposed entertainment;
- (b) any musical instrument or amplifier proposed to be used; and
- (c) the number of people involved in the proposed entertainment.

12.8 Additional information required for food sales licence application

The following additional information and documents are required to accompany an application for a food sales licence—

- (a) a plan and specification of the proposed area to be licenced on a scale of 1:50 showing—
 - (i) the location and dimensions of the proposed area and the means by which the area is to be separated from the balance of the public place; and
 - (ii) the position of all tables, chairs and other structures proposed to be provided in the area and which of the items, if any, are to be retained within the area at all times;
- (b) a plan and specification on a scale of 1:200 showing the area and all improvements within 30 metres of the boundaries of the area including any public facility and parking restrictions;
- (c) a colour photograph or photographs of the tables, chairs and other structures to be set up in the area;
- (d) a written statement of the manner in which foodstuffs and other dining accessories are to be conveyed to and protected from contamination within the area; and
- (e) written particulars of arrangements made in respect of public liability insurance.

12.9 Power of CEO to grant licence

- (1) The CEO may grant a licence to a person authorising the person to provide a specified type of trading at a specified public place.
- (2) In subsection (1)—

“specified” means specified in the licence document.
- (3) A licence cannot be granted in respect of more than one type of commercial activity or in respect of more than one public place.
- (4) A licence cannot be granted to 2 or more persons.
- (5) A person may be granted 2 or more licences whether for the same type of commercial activity or for different types of commercial activity or for different public places.

12.10 General restrictions on grant of licence

- (1) The CEO must not grant a licence if there are reasonable grounds for believing that the provision of the activity to which the application relates would constitute an unacceptable risk to the safety of the public.
- (2) The CEO must not grant a licence unless the CEO is satisfied that—
 - (a) the applicant is capable of carrying on the activity in accordance with this local law and the terms and conditions of the licence;
 - (b) the public place at which the activity is to be provided is suitable for that purpose;
 - (c) a licence or equivalent authority granted or issued to the applicant has not been cancelled in the period of 5 years before the application is made; and
 - (d) the applicant is a fit and proper person to carry on the activity.
- (3) The CEO must not grant a licence to an individual applicant if the applicant has been found guilty of an offence under this local law unless the CEO is satisfied that there are exceptional reasons for doing so.

12.11 Conditions applying to certain licence

It is a condition of every trading licence, market licence, entertainment licence and food sales licence that—

- (a) at all times during the period for which the licence is issued, the licensee must effect and maintain a public risk policy of insurance with a reputable insurer with respect to the commercial activity authorised by the licence.
- (b) the commercial activity can only be conducted at the public places specified in the licence; and
- (c) unless otherwise stated on the licence, the expiration date of the licence is midnight on 30 June of that year.

12.12 Other conditions

The CEO may grant a licence subject to any conditions that the CEO considers appropriate.

12.13 Condition of every trading licence

Every trading licence is taken to be subject to the conditions set out in Schedule 2.

12.14 Condition of every market licence

Every market licence is taken to be subject to the conditions set out in Schedule 3.

12.15 Condition of every entertainment licence

Every entertainment licence is taken to be subject to the conditions set out in Schedule 4.

12.16 Condition of every food sales licence

Every food sales licence is taken to be subject to the conditions set out in Schedule 5.

12.17 Contravention of conditions

A licensee who contravenes a condition of the licence commits an offence.

12.18 Duration of licence

- (1) A licence has effect for the period specified in the licence document unless—
 - (a) it is suspended under clause 12.22; or
 - (b) it is cancelled under clause 12.26; or
 - (c) it is surrendered under clause 12.27.
- (2) The period specified in the licence document must not exceed one year from the day on which the licence is granted or renewed.

12.19 Application for renewal of licence

- (1) A licensee may apply to the CEO for the renewal of a licence.
- (2) An application for renewal must be—
 - (a) in writing in the form approved by the CEO;
 - (b) lodged with the CEO no later than 28 days prior to the expiry of the licence or any further time that the CEO in a particular case allows;
 - (c) accompanied by any document or information that is required under this local law; and
 - (d) accompanied by the prescribed fee.
- (3) Clause 12.4 applies in relation to an application for renewal as if it were an application for a licence.

12.20 Restrictions on renewal of licence

The CEO must not renew a licence if—

- (a) the CEO is no longer satisfied as to any matter referred to in clause 12.10 or 12.11 that was relevant to the decision to grant the licence; or
- (b) the CEO is satisfied that the licensee has persistently or frequently contravened the provisions of this local law or a term or condition of the licence; or
- (c) there are reasonable grounds for believing that the continued provision of the trading to which the application relates will constitute an unacceptable risk to the safety of the public.

12.21 Renewal of licence

If the CEO renews a licence the CEO may—

- (a) renew it subject to any existing conditions; or
- (b) impose any new conditions; or
- (c) change or remove any existing condition (other than the conditions referred to in clauses 12.11, 12.12, 12.14, 12.15 and 12.16).

12.22 Suspension of licence

- (1) The CEO may, subject to clause 12.23, by written notice given to the licensee, suspend a licence if there are reasonable grounds for believing that—
 - (a) the licensee has contravened a term or condition of a licence; or
 - (b) the licensee has contravened a provision of this local law; or
 - (c) the continued provision of the activity constitutes or will constitute an unacceptable risk to the safety of the public.
- (2) The suspension notice must—
 - (a) state the day, or the day and time, on or at which the suspension takes effect;
 - (b) state the reasons for the CEO's decision to suspend the licence; and
 - (c) where appropriate, indicate what steps need to be taken to ensure that there is compliance with the relevant provision, term or condition or that there is no longer a risk as described in subclause (1)(c); and
 - (d) inform the licensee that the licensee has a right to apply under the Act for a review of the CEO's decision to suspend the licence.

12.23 Proposed suspension

- (1) If the CEO proposes to suspend a licence for the reason mentioned in clause 12.22 (1)(a)(b), the CEO must give written notice to the licensee of the proposed suspension.
- (2) The notice must—
 - (a) state that the CEO proposes to suspend the licence;
 - (b) state the reasons for the proposed suspension; and
 - (c) inform the licensee that the licensee is entitled to make representation to the CEO in respect of the proposed suspension within 7 days after the day on which the licensee is given the notice.
- (3) In considering whether to suspend the licence the CEO must have regard to any representations made by the licensee within the period referred to in subclause (2)(c).

12.24 Revocation of suspension

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

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

12.25 Suspension of licence

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

- (a) the suspension is revoked under clause 12.24;
- (b) the licence is cancelled under clause 12.26 or expires;
- (c) the licence is surrendered in accordance with the provisions of this local law.

12.26 Cancellation of licence

Grounds for the cancellation of the licence exists if—

- (a) the licence was obtained improperly; or
- (b) the CEO can no longer be satisfied as to a matter referred to in clause 12.10 that was relevant to the decision to grant the licence; or
- (c) the licensee has persistently or frequently contravened a term or condition of the licence or a provision of this local law, whether or not the licence is or has been suspended on the grounds of a contravention; or
- (d) there are reasonable grounds for believing that the continued provision of the commercial activity constitutes or would constitute an unacceptable risk to the safety of the public whether or not the licence has been suspended on the grounds of that risk.

12.27 Surrender of licence

A licensee may at any time by notice in writing to the CEO surrender the licence.

12.28 Licence not transferable

A licence is not transferable.

12.29 Amendment of licence

(1) In this clause—

“amend” includes—

- (a) to impose any new condition; and
- (b) to change or remove any existing condition (other than a condition referred to in clauses 12.11, 12.12, 12.14, 12.15 or 12.16).

(2) The CEO may, by written notice given to the licensee, amend a licence.

(3) An amendment may be made on application made by the licensee or on the CEO’s initiative.

12.30 Licence document

If the CEO grants a licence to a person the CEO must issue to the person a licence document that contains the details required under this local law.

12.31 Production of licence document for amendment

If the CEO amends or renews a licence, the licensee must, if required by the CEO, produce the licence document to the CEO for amendment within the period specified by the CEO.

12.32 Return of licence document if licence no longer in effect

If a licence—

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

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

12.33 Advertising

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

PART 13—OFFENCES AND PENALTIES

13.1 Offences

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

(2) An offence against a clause specified in Schedule 6 is a prescribed offence for the purposes of section 9.16(1) of the Act.

(3) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

13.2 Infringement and infringement withdrawal notices

For the purpose of this local law—

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

13.3 Offence description and modified penalty

The amount appearing in the final column of Schedule 6 directly opposite an offence described in that Schedule is the modified penalty for that offence.

13.4 Prosecution for offences

A penalty for an offence against this local law (not being a modified penalty) may be recovered by the local government by taking proceedings against the alleged offender in the Magistrates Court.

13.5 Offence to fail to comply with notice

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

13.6 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 8.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

PART 14—REPEAL AND TRANSITIONAL PROVISIONS

14.1 Repeal

The *Shire of Halls Creek Local Government Act Local Law 2002* as published in the *Government Gazette* on 2 October 2002 is repealed.

14.2 Application for licence or renewal of licence

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

14.3 Licences

A licence under the repealed local law that is in force immediately before the commencement day is to be regarded on and after that day as a licence under this local law and may be dealt with accordingly.

SCHEDULE 1—ACCEPTABLE MATERIAL

[Clause 6.6]

1. General

All forms of compacted aggregate materials such as crushed stones, crushed brick and gravel are acceptable. The minimum depth of the material is to be no less than 100mm, and must be water bound and compacted to a smooth finish. The material must be contained within the verge area at all times.

2. Hardstands

The verge may be partly paved with brick paving, concrete or bitumen to form a hardstand. The maximum area that may be paved is 3 metres wide, measured from the back of the kerb and running parallel to the kerb in the verge abutting the owners or occupiers land.

SCHEDULE 2—CONDITIONS OF EVERY TRADING LICENCE

[Clause 12.13]

1. The licensee must—

- (a) display a sign with letters and numerals not less than 5cm in height in a conspicuous place in the licensed area indicating the name of the licensee and the licence number;
- (b) ensure that the licensed area is attended by either the licensee or an assistant at all times when trading is being undertaken;
- (c) keep any store, table, structure or vehicle specified in the licence in a clean and safe condition and in good repair;
- (d) ensure a minimum width of 2 metres is kept clear for pedestrian access;
- (e) keep the location specified in the licence free from refuse and rubbish;
- (f) have the licence available at operation times and produce the licence to any authorised person or any Police Officer when requested; and

- (g) remove any store, merchandise and signs from the location to which the licence applies and leave the location clean and vacant—
 - (i) at the conclusion of the permitted hours of operation specified in the licence; and
 - (ii) at the conclusion of the permitted hours of operation specified in the licence; and
 - (iii) whenever the trading is not taking place on the location to which the licence applies.

2. The licensee must not—

- (a) engage in or permit any trading in any goods, wears, merchandise or services other than those specified in the licence;
- (b) cause, permit or suffer any nuisance to exist, arise or continue on from the location to which the licence applies;
- (c) cause, permit or store any goods, wares, merchandise on any public place, other than on the location to which the licence applies;
- (d) obstruct the free passage of pedestrians on any footpath or pedestrian access way;
- (e) use or display or permit to be used or displayed any advertisement, placard, poster, sign or sign board on or about the location specified in the licence other than price tickets or labels on the permitted place not exceeding a total of 0.25m² of the licensed area;
- (f) erect and maintain signs in accordance with this paragraph (f) so as to obscure any other signage on or adjacent to the licensed area;
- (g) cry out, shout about or permit any other person to cry out or shout about any goods, wares, merchandise or services in any street or public place;
- (h) use or permit to be used any loud hailer, microphone, amplifier or other apparatus for making or transmitting sound, on or from the permitted place specified in the licence, unless approved by the CEO;
- (i) use or permit to be used any record, tape, radio, bell, musical instrument or other instrument or device capable of being heard beyond the boundaries of the permitted place specified in the licence unless approved by the CEO;
- (j) use or permit to be used any flashing or intermittent lighting apparatus or device on or from the permitted place specified in the licence; or
- (k) use or permit to be used apparatus or device including flap or shelf where the dimensions of the stall area are increased beyond that specified in the licence.

SCHEDULE 3—CONDITIONS OF EVERY MARKET LICENCE

[Clause 12.14]

1. Prior to commencing operations of the market, the licensee must—

- (a) obtain approval from the local government and the Western Australian Police Service for the closure of public streets to vehicular traffic, where the market is to be held and during the hours of operation of the market;
- (b) lodge a copy of the approved plans of the market with the Fire and Rescue Service of WA;
- (c) ensure adequate refuse collection arrangements have been made to the satisfaction of the local government;
- (d) where appropriate, have the necessary local government approval in accordance with the Health (Public Building) 1992 including a maximum occupation certificate and electrical compliance certificate; and
- (e) obtain approval from the local government in relation to entertainment aspects of the market.

2. During the operation of the market, including setting up and dismantling times, the licensee must—

- (a) maintain pedestrian access through and beyond the market area;
- (b) maintain access to adjacent building entries;
- (c) retain access to areas the subject of approved food service licences;
- (d) maintain adequate access for emergency vehicles through the streets of the licensed area;
- (e) stabilise all structures and furniture provided and used in the operation of the market at all times and removal of such structures and furniture when not in use;
- (f) maintain noise levels from any associated music announcements, and the like, in accordance with any licence condition, so as not to cause a nuisance;
- (g) maintain the area of the market clean and free from rubbish; and
- (h) provide separate sanitary facilities for food stall staff.

3. At the conclusion of each market, the licensee must ensure that all structures and equipment used in the operation of the market are removed and the area returned to the condition it was before the commencement of the market and to the satisfaction of the local government.

SCHEDULE 4—CONDITIONS OF EVERY ENTERTAINMENT LICENCE

[Clause 12.15]

1. The licensee must not permit the entertainment to extend beyond the specified portion of the public place approved in the licence.

2. The licensee must ensure that the entertainment—
 - (a) does not prevent or impede pedestrian flow or access to and along footpaths, entries or exits to shops and other buildings;
 - (b) does not prevent or impede vehicular flow or access to and along any street, entry or exit to any service delivery area;
 - (c) does not cause a nuisance to any other entertainment or activity approved by the local government;
 - (d) unless otherwise approved, does not include any person under the age of 14 years—
 - (i) during school hours, on school days; or
 - (ii) between 7pm and 6am; and
 - (e) does not include, involve or permit—
 - (i) anything that is offensive or obscene;
 - (ii) the use of fire;
 - (iii) any weapon or object with sharp edges including knives and swords;
 - (iv) any motorised machinery that omits a loud noise in its operation or is not suitable in the location;
 - (v) any other activity, object or matter whatsoever that endangers the safety of the public or the performance; or
 - (vi) cruelty to any animal;
 - (f) does not include any amplification unless specifically approved and endorsed on the licence and in any event will not be permitted in any location between Monday to Saturday, 10pm to 7am and Sundays between 10pm and 9am;
 - (g) complies at all times with the *Environmental Protection (Noise) Regulations 1997*.
3. The licensee must—
 - (a) use the allocated space and location to perform during the days and times specified in the licence or vacate the location;
 - (b) produce the licence when requested to do so by an authorised person;
 - (c) ensure a valid licence number is visibly displayed during each performance;
 - (d) comply at all times with the direction of an authorised person; and
 - (e) move at least 50 metres from the performance location at the completion of the performance and not return to the same location within 2 hours.
4. A licensee must not—
 - (a) reserve or attempt to reserve a location or leave equipment at a location used for performances unless immediately before, during and immediately after a performance;
 - (b) sell any goods or services without written approval or licence issued for that purpose; or
 - (c) perform in any one location for more than 30 minutes unless specifically authorised by endorsement on the licence, or the performance is by a pavement or visual artist.
5. A licensee who is performing pavement or visual art—
 - (a) must not perform at the same site for longer than 2 hours and must not return to the same site unless 2 hours after the previous performance of that day;
 - (b) must not use chalk unless working on paper or card;
 - (c) must not use spray paint, crayons, textures or inedible materials; and
 - (d) must return the location, including the pavement surface, to its former condition.

SCHEDULE 5—CONDITIONS OF EVERY FOOD SALES LICENCE

[Clause 12.16]

1. The licensee must not permit the operation of the food sales area to extend beyond the specified portion of the public place detailed in the plans approved as part of the licence.
2. The licensee must—
 - (a) keep the area in a clean and tidy condition at all times;
 - (b) ensure a minimum width of 2 metres is kept clear for pedestrian access;
 - (c) maintain the chairs, tables and other structures set out on the area in good and serviceable condition at all times;
 - (d) be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of the public place arising from the conduct of the area or the actions of persons in that area and the council may recover such costs from the proprietor in a court of competent jurisdiction as a debt owing to it;
 - (e) be solely responsible for payment of all rates and taxes levied upon the land occupied by the area; and
 - (f) display the licence in a conspicuous place in the adjoining eating house and whether requested by an environmental health officer to do so must produce the licence to that officer.

SCHEDULE 6—MODIFIED PENALTIES

[Clause 13.1(2)]

Item	Clause	Description	Modified Penalty \$
1	2.4	Failure to comply with determination	100
2	3.2	Failure to obtain licence to camp outside a facility	100
3	3.3(1)	Failure to obtain licence for liquor	200
4	4.2	Behaviour detrimental to property	300
5	4.3	Taking or injuring any fauna	200
6	4.4	Under influence of liquor or prohibited drug	200
7	4.6(2)	Failure to comply with sign on local government property	100
8	4.8	Failure to comply with direction of authorised person	100
9	5.1	Unauthorised entry to fenced or closed local government property	200
10	5.4	Gender not specified using entry of toilet block or change room	100
11	5.5	Unauthorised entry to function on local government property	200
12	6.1(a)	Plant creating a sightline hazard	100
13	6.1(b)	Damaging lawn or garden or remove a plant	200
14	6.1(c)	Remove or damage a thoroughfare tree	300
15	6.1(d)	Placing hazardous substance on footpath	100
16	6.1(e)	Damaging or interfering with signpost or structure on a thoroughfare	300
17	6.1(f)	Riding a bicycle, skateboard, roller-blades or similar device, playing or participating in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare.	100
18	6.2(1)(a)	Digging a trench through a kerb or footpath without a licence	100
19	6.2(1)(b)	Throw, place, store or deposit anything on a verge without a licence	200
20	6.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a licence	100
21	6.2(1)(d)	Causing obstruction to water channel on thoroughfare or verge without a licence	200
22	6.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a licence	200
23	6.2(1)(f)	Damage a thoroughfare without a licence	300
24	6.2(1)(g)	Felling or damaging any thoroughfare tree without a licence	200
25	6.2(1)(h)	Felling tree onto thoroughfare without a licence	200
26	6.2(1)(i)	Installing pipes or stone on thoroughfare without a licence	100
27	6.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a licence	300
28	6.2(1)(k)	Creating a nuisance on a thoroughfare without a licence	200
29	6.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a licence	200
30	6.2(1)(m)	Interfering with anything on a thoroughfare without a licence	200
31	3.3(1)	Consumption of liquor on a thoroughfare without a licence	200
32	6.3	Failure to obtain licence for temporary crossing	200
33	6.4	Failure to comply with notice to remove crossing and reinstate kerb	300
34	6.6	Installation of verge treatment other than permissible verge treatment	200
35	6.7	Failure to maintain permissible verge treatment or placement of obstruction on verge	100
36	6.8	Failure to comply with notice to rectify default	300
37	6.13	Failure to comply with sign on public place	200
38	6.15	Driving or taking a vehicle on a closed thoroughfare	300

Item	Clause	Description	Modified Penalty \$
39	7.1(1)	Animal or vehicle obstructing a public place or local government property	200
40	7.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	200
41	7.2(2)(b)	Animal on public place with infectious disease	300
42	7.2(2)(c)	Training or racing animal on thoroughfare in built-up area	200
44	7.4	Person leaving shopping trolley in public place other than trolley bay	200
45	7.5(2)	Failure to remove shopping trolley upon being advised of location	200
46	8.1	Trading in a thoroughfare or local government property without a licence	100
47	9.1	Set up or conduct market without a licence	100
48	10.1	Set up or entertain without a licence	100
49	11.1	Set up or conduct food sales without a licence	100
50	12.17	Failing to comply with conditions of a licence	100
51		All other offences not specified	100

Dated: 16 June 2017.

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

MALCOLM EDWARDS, Shire President.
 RODGER KERR-NEWELL, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF HALLS CREEK

FENCING LOCAL LAW 2017

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LOCAL GOVERNMENT ACT 1995

SHIRE OF HALLS CREEK

FENCING LOCAL LAW 2017

Under the powers conferred by the *Local Government Act 1995* and all other powers enabling it, the Shire of Halls Creek resolved on 15 June 2017 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law is the *Shire of Halls Creek Fencing Local Law 2017*.

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 effect

(1) The purpose of this local law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district.

(2) The effect of this local law is to establish the minimum requirements for fencing within the district.

1.4 Application

This local law applies throughout the district.

1.5 Repeal

The *Shire of Halls Creek Local Government Act Local Law 2002* published in the *Government Gazette* on 2 October 2002 is repealed.

1.6 Definitions

In this local law—

Act means the *Dividing Fences Act 1961*;

applicant means a person who makes an application for approval under this local law;

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

barbed wire fence means a wire or strand of wires having small pieces of sharply pointed wire twisted around it at short intervals;

boundary fence has the meaning given to it by the Act;

Building Surveyor means a Building Surveyor of the local government;

CEO means the Chief Executive Officer of the local government;

Commercial Lot means a lot where a commercial use—

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

dangerous in relation to any fence means—

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

district means the district of the local government;

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

dividing fence has the meaning given to it by the Act;

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

fence means any structure, not including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

front boundary means the boundary line between a lot and the thoroughfare upon which that lot abuts, or in the case of a lot abutting on more than one thoroughfare, the boundary line between the lot and the primary thoroughfare;

front fence means a fence erected on the front boundary of a lot or on a line adjacent to the front boundary;

front setback area means the area between the building line of a lot and the front boundary of that lot;

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

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

Industrial Lot means a lot where an industrial use—

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

licence means an electrified fence licence or a razor wire fence licence;

local government means the Shire of Halls Creek;

local government property means anything except a thoroughfare—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an “otherwise unvested facility” under section 3.53 of the *Local Government Act 1995*;

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

notice of breach means a notice referred to in clause 5.1;

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

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

razor wire fence means a coiled strong wire with pieces of sharp cutting edges set across it at close intervals;

Residential Lot means a lot where a residential use—

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

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

Rural Lot means a lot where a rural use—

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

Schedule means a Schedule to this local law;

Special Rural Lot means a lot where a special rural use—

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

sufficient fence means a fence described in clause 2.1

thoroughfare has the meaning given to it by the *Local Government Act 1995*, but does not include a private thoroughfare which is not under the management or control of the local government.

1.7 Licence fees and charges

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

PART 2—FENCES

Division 1—Sufficient fences

2.1 Sufficient fences

- (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Subject to subclauses (3) and (4), a sufficient fence—
 - (a) on a Residential Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 2;

- (b) on a Commercial Lot and on an Industrial Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 3; and
 - (c) on a Rural Lot and on a Special Rural Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 4.
- (3) Where a fence is erected on or near the boundary between—
- (a) a Residential Lot and an Industrial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 2;
 - (b) a Residential Lot and a Commercial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 3;
 - (c) a Residential Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4;
 - (d) a Residential Lot and a Special Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4; and
 - (e) a Special Rural Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4.
- (4) An application must be made to the local government for grant of consent to any variation to the specifications in Schedules 2, 3 and 4.
- (5) Unless an authorised person determines otherwise, a sufficient fence on a boundary between lots other than those specified in subclause (3) is a dividing fence constructed in accordance with the specifications and requirements of Schedule 2.
- (6) Notwithstanding any other provision in this local law, a dividing fence or boundary fence constructed of masonry, stone or concrete shall be a sufficient fence only if it is designed by a suitably qualified structural engineer and constructed in accordance with that design where—
- (a) it is greater than 1 800 millimetres in height; or
 - (b) the Building Surveyor so requires.
- (7) Notwithstanding any other provision in this local law, a dividing fence or boundary fence shall not exceed 1 800 millimetres in height unless the approval of the local government has been obtained for such a fence.

Division 2—General

2.2 Fences within front setback areas

- (1) A person shall not, without the written consent of the Building Surveyor, erect a free-standing fence greater than 1 200 millimetres in height, within the front set-back area of a Residential Lot within the district.
- (2) The Building Surveyor may approve the erection of a fence of a height greater than 1 200 millimetres in the front setback area of a Residential Lot only if the fence on each side of the driveway into the lot across the front boundary is to be angled into the lot for a distance of not less than 1 500 millimetres along the frontage to a distance of not less than 1 500 millimetres from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.
- (3) The provision of subclause (2) shall not apply to a fence—
- (a) of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare; or
 - (b) that does not adjoin a footpath.

2.3 Gates in fences

A person shall not erect a gate in a fence which does not—

- (a) open into the lot; or
- (b) open by sliding parallel and on the inside of the fence, which it forms part of, when closed.

2.4 Depositing fencing material on public place

A person shall not deposit or permit the deposit of any materials whatsoever used in the construction or maintenance of any fence, on any thoroughfare, public place or local government property unless the approval of the local government has been obtained.

2.5 Fences on a Rural Lot

A person shall not, without the written consent of the Building Surveyor, erect a fence on a Rural Lot of a height exceeding 1 500 millimetres.

2.6 Maintenance of fences

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

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

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

2.8 General discretion of the local government

- (1) Notwithstanding the provisions of clause 2.1, the local government may approve the erection or repair of a dividing fence which is not a sufficient fence where all of the owners of the lots to be separated by the dividing fence make an application for approval for that purpose.
- (2) In determining whether to grant its approval under subclause (1), the local government may consider whether the erection or retention of the fence would have an adverse effect on—
 - (a) the safe or convenient use of any land;
 - (b) the safety or convenience of any person; or
 - (c) the visual amenity of the locality.

Division 3—Fencing materials

2.9 Pre-used fencing materials

- (1) Notwithstanding clause 2.1, a person shall not construct a fence on a Residential Lot, a Commercial Lot or an Industrial Lot from pre-used materials without the approval of the local government.
- (2) Where the local government approves the use of pre-used materials in the construction of a fence under subclause (1), that approval shall be conditional on the applicant painting or treating the pre-used material as directed by the Building Surveyor.

2.10 Barbed wire fences and spiked or jagged materials

- (1) This clause does not apply to a fence constructed wholly or partly of razor wire.
- (2) An owner or occupier of a Residential Lot or a Commercial Lot shall not erect, affix or allow to remain on any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of the local government has been obtained.
- (3) An owner or occupier of an Industrial Lot shall not erect, affix or allow to remain on any fence bounding that lot any barbed wire or other materials with spiked or jagged projections unless the wire or other materials are carried on posts at an angle of 45 degrees, and unless the bottom row of wire or other materials is setback 150mm from the face of the fence and is not nearer than 2000mm from the ground level.
- (4) If the posts which carry the barbed wire or other materials referred to in subclause (3) are angled towards the outside of the lot bounded by the fence, the face of the fence must be set back from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach on adjoining land.
- (5) An owner or occupier of a lot shall not erect, affix or allow to remain as part of any fence or wall, whether internal or external, on that lot any broken glass.
- (6) An owner or occupier of a Rural Lot shall not erect, affix or allow to remain any barbed wire upon a fence on that lot where the fence is adjacent to a thoroughfare or other public place unless the barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.

2.11 Electrified and razor wire fences

- (1) An owner or occupier of a lot shall not—
 - (a) construct or use an electrified fence on that lot without obtaining the approval of the local government in the form prescribed in Schedule 5; or
 - (b) construct a fence wholly or partly of razor wire on that lot without obtaining the approval of the local government in the form prescribed in Schedule 6.
- (2) The local government shall not approve an application for the purpose of subclause (1)(a)—
 - (a) in respect of a lot which is or which abuts a Residential Lot;
 - (b) unless the proposed fence will comply with “AS/NZS 3016:2002 Electrical installations—Electricity security fences”; and
 - (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.
- (3) The local government shall not approve an application for the purpose of subclause (1)(b)—
 - (a) if the fence is within 3 000 millimetres of the boundary of the lot; or
 - (b) where any razor wire used in the construction of the fence is less than 2 000 millimetres or more than 2 400 millimetres above the ground level.
- (4) An application for approval for the purpose of subclauses (1)(a) or (1)(b) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

2.12 Prohibited fencing materials

A person shall not affix or use broken glass in the construction of any fence.

2.13 Certification of fencing designs

Where required by the Building Surveyor, fencing designs are to be certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions—General principles.

PART 3—APPROVALS

3.1 Application for approval

- (1) Where a person is required to obtain the approval of the local government under this local law, that person shall apply for approval in accordance with subclause (2).
- (2) An application for approval under this local law shall—
 - (a) be in the form determined by the local government;
 - (b) be signed by the applicant and the owner of the lot;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.19 of the *Local Government Act 1995*.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for approval.
- (4) The local government may refuse to consider an application for approval which is not in accordance with subclauses (2) and (3).

3.2 Decision on application for approval

- (1) The local government may—
 - (a) approve an application for approval unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for approval.
- (2) If the local government approves an application for approval, it is to issue to the applicant an approval in the form determined by the local government.
- (3) If the local government refuses to approve an application for approval, it is to 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 an approval or which are to be taken to be imposed on an approval, the clause does not limit the power of the local government to impose other conditions on the approval under subclause (1)(a).

3.3 Compliance with approval

Where an application for approval has been approved, the applicant and the owner or occupier of the lot to which the approval relates, shall comply with the terms and any conditions of that approval.

3.4 Duration of approval

Unless otherwise stated in the form of approval, an approval granted under this local law—

- (a) runs with the lot to which it relates;
- (b) may be relied upon by any subsequent occupier or owner of the lot; and
- (c) may be enforced by the local government against a subsequent occupier or owner of the lot.

PART 4—MISCELLANEOUS

4.1 False or misleading statement

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

PART 5—NOTICES OF BREACH

5.1 Notices of breach

- (1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner of that lot.
- (2) A notice of breach shall—
 - (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state that the owner is required to remedy the breach within the time specified in the notice.
- (3) Should an owner fail to comply with a notice of breach, the local government may, by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner of the lot in a court of competent jurisdiction.
- (4) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any entry on to land will be in accordance with Part 3, Division 3 of that Act.

PART 6—OFFENCES

6.1 Offences and penalties

- (1) A person who fails to comply with a notice of breach commits an offence and is liable upon conviction to a penalty of not less than \$250 and not exceeding \$5 000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.

(2) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable on conviction to a penalty of not less than \$250 and not exceeding \$5 000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500 for each day or part of a day on which the offence continues.

6.2 Modified penalties

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

(2) The amount appearing in the final column of Schedule 1, directly opposite a prescribed offence in that Schedule, is the modified penalty for that prescribed offence.

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that—

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

6.3 Form of notices

For the purposes of this local law—

- (a) the form of the infringement notice referred to in sections 9.16 and 9.17 of the *Local Government Act 1995* is to be in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the withdrawal of infringement notice referred to in section 9.20 of the *Local Government Act 1995* is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

PART 7—OBJECTIONS AND REVIEW

7.1 Objections and review

When the local government makes a decision under clause 3.2, the provision of Part 9 Division 1 of the *Local Government Act 1995*, and regulation 33 of the *Local Government (Functions and General) Regulations 1996*, apply to that decision.

—————

Schedule 1

OFFENCES AND MODIFIED PENALTIES

[clause 6.2(2)]

Item No.	Clause No.	Nature of offence	Modified penalties \$
1	2.1(1)	Erect a fence which is not a sufficient fence	250
2	2.2	Erect a fence greater than 1 200mm in height within a front setback area without the written consent of the Building Surveyor	250
3	2.3(a)	Erect a gate in a fence not opening into the lot	200
4	2.3(b)	Erect a gate in a fence not sliding parallel and inside a fence	200
5	2.6	Failure to maintain a fence in good condition to prevent the fence becoming dangerous, dilapidated or unsightly	250
6	2.7	Erect or maintain a fence or obstruction of temporary or permanent nature across a right-of way, public access way or thoroughfare without approval	250
7	2.9(1)	Construct a dividing fence on a Residential, Commercial or Industrial Lot from pre-used materials without written approval	250
8	2.10(2)	Erect a fence using barbed wire or material with spiked or jagged projections in the fence construction without approval	250
9	2.11(1)	Construct, erect or use razor wire in a fence or electrify a fence without approval	250
10	2.12	Affix, or use, any broken glass in a fence	250
11	3.3	Failure to comply with terms or conditions of approval	250
12	6.1(1)	Failure to comply with notice of breach	250

Schedule 2

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

[clause 2.1(2)(a)]

Each of the identified categories in this Schedule is a sufficient fence on a Residential Lot and the fence design being certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with AS/NZS 1170.0:2002 Structural design actions—General principles.

Timber fence

- (a) corner posts to be 125mm x 125mm x 2 400mm and intermediate posts to be 125mm x 75mm x 2 400mm spaced at 2 400mm centres;
- (b) corner posts to be strutted two ways with 100mm x 50mm x 450mm sole plates and 75mm x 50mm struts;
- (c) intermediate posts to be doubled yankee strutted with 150mm x 25mm x 450mm struts; (d) all posts to have tops with a 60mm weather cut and to be sunk at least 600mm into the ground;
- (d) rails to be 75mm x 50mm with each rail spanning 2 bays of fencing double railed or bolted to each post with joints staggered;
- (e) the fence to be covered with 75mm x 20mm sawn pickets, 1 800mm in height placed 75mm apart and affixed securely to each rail; and
- (f) the height of the fence to be 1 800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7.

Corrugated fence

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

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600mm;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet;
- (c) the sheets to be lapped and capped with extruded "snap-fit" type capping in accordance with the manufacturers written instructions; and
- (d) the height of the fence to be 1 800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7.

Brick, stone or concrete fence

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

- (a) a site classification is to be provided by a professional engineer in accordance with AS 2870-2011 Residential slabs and footings as amended;
- (b) the footing is to be designed in accordance with AS 2870-2011 Residential slabs and footings as amended;
- (c) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar;
- (d) fences to be offset a minimum of 200mm at maximum 3 000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3 000mm centres;
- (e) expansion joints in accordance with the manufacturer's written instructions; and
- (f) the height of the fence to be 1 800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.

Composite fence

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

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

Schedule 3
SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT OR
AN INDUSTRIAL LOT

[clause 2.1(2)(b)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated, is a sufficient fence on a Commercial Lot or an Industrial Lot and the fence design being certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions—General principles.

Galvanised or PVC fence and gate

A fence constructed of galvanised or PVC coated non-rail link mesh, chain mesh or steel mesh which satisfies the following specifications—

- (a) corner posts to be minimum 50mm nominal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
- (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5m centres and with footings of a 225mm diameter x 600mm;
- (c) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and 2 at each corner post and with footings 225mm x 600mm;
- (d) cables to be affixed to the top, centre and bottom of all posts and to consist of 2 or more 3.15mm wires twisted together or single 4mm wire;
- (e) non-rail link, chain or steel mesh is to be to a height of 2 000mm on top of which are to be 3 strands of barbed wire carrying the fence to a height of 2 400mm in accordance with the requirements and standards of the local planning schemes; and
- (f) galvanised link mesh wire to be 2 000mm in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than 3.6m and shall be constructed of 25mm tubular framework with 1 horizontal and 1 vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.

Other fences—

- (a) a fence of cement sheet or steel sheeting constructed to the minimum specifications referred to in Schedule 2;
- (b) a fence constructed of aluminium sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1 800mm but no greater than 2 400mm; or
- (c) a fence of timber, brick, stone or concrete constructed to the minimum specifications referred to in Schedule 2.

Schedule 4
SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT OR
SPECIAL RURAL LOT

[clause 2.1(2)(c)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated is a sufficient fence on a Rural Lot or a Special Rural Lot and the fence design being certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions—General principles.

Non-electrified fence—

- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of 5 wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases.
- (b) posts shall be of indigenous timber or other suitable material including—
 - (i) timber impregnated with a termite and fungicidal preservative;
 - (ii) standard iron star pickets; or
 - (iii) concrete;
- (c) cut not less than 1 800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn.
- (d) posts to be set minimum 600mm in the ground and 1 200mm above the ground; and
- (e) strainer posts shall be not less than 2 250mm long and 150mm diameter at the small end (tubular steel to be 50mm in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1 000mm in the ground.

Electrified fence

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

Schedule 5
LICENCE FOR APPROVED ELECTRIFIED FENCE

[clause 2.11(1)(a)]

This is to certify that (1)
of (2)
is licensed, subject to the conditions set out below, to have and use an electrified fence on
.....
.....
(address)
from 20..... and until this licence is transferred or cancelled.
Dated this day of 20.....

.....
Chief Executive Officer,
Shire of Halls Creek.

Conditions of Licence

The holder of the licence must—

- (a) display the licence in a prominent position on the land or premises on which the electrified fence has been erected;
- (b) upon the request of a Building Surveyor produce to him or her the licence;
- (c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes;
- (d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the electrified fence; and
- (e) comply with AS/NZS 3016:2002 Electrical installations—Electric security fences.

Transfer by Endorsement

This licence is transferred to (3)
of (4)
.....
from and including the date of this endorsement.
Dated this day of 20.....

.....
Chief Executive Officer,
Shire of Halls Creek.

- (1) Name
- (2) Address
- (3) Name
- (4) Address

Schedule 6
LICENCE FOR APPROVED RAZOR/BARBED WIRE FENCE

[clause 2.11(1)(b)]
[clause 2.10(2)]

This is to certify that (1)
of (2)
is licensed, subject to the conditions set out below, to have a fence constructed wholly or partially of razor/barbed (delete inapplicable) wire at
.....
.....
(address)
from 20..... and until this licence is transferred or cancelled.
Dated this day of 20.....

.....
Chief Executive Officer,
Shire of Halls Creek.

Conditions of licence—

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

Transfer by Endorsement

This licence is transferred to (3)
of (4)
from and including the date of this endorsement.

Dated this day of 20.....

.....
Chief Executive Officer,
Shire of Halls Creek.

- (1) Name
- (2) Address
- (3) Name
- (4) Address

Dated: 16 June 2017.

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

MALCOLM EDWARDS, Shire President.
RODGER KERR-NEWELL, Chief Executive Officer.

LG301

LOCAL GOVERNMENT ACT 1995

Shire of Chittering

SHIRE OF CHITTERING REPEAL LOCAL LAW 2017

In pursuance of the powers conferred upon it by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Chittering resolved on 21 June 2017 to make the following local law.

1.1 Citation

This local law may be cited as the *Shire of Chittering Repeal Local Law 2017*.

1.2 Commencement

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

1.3 Repeal

The following local law is repealed—

- (a) By-laws relating to Signs, Hoardings and Bill Posting, published in the *Government Gazette* on 20 August 1993.

Dated: 4 July 2017.

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

Cr GORDON HOUSTON, Shire President.
ALAN SHERIDAN, Chief Executive Officer.

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LOCAL GOVERNMENT ACT 1995

CITY OF BELMONT

**STANDING ORDERS LOCAL
LAW 2017**

LOCAL GOVERNMENT ACT 1995

CITY OF BELMONT

STANDING ORDERS LOCAL LAW 2017

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LOCAL GOVERNMENT ACT 1995

CITY OF BELMONT

STANDING ORDERS LOCAL LAW 2017

Under the powers conferred by the *Local Government Act 1995* and under all other enabling powers, the Council of the City of Belmont resolved on 27 June 2017 to make this local law.

PART 1—PRELIMINARY

1.1 Citation

- (1) This local law may be cited as the *City of Belmont Standing Orders Local Law 2017*.
- (2) In the sections that follow, this local law is referred to as “these Standing Orders”.

1.2 Commencement

These Standing Orders come into operation on the 14th day after the date of their publication in the *Government Gazette*.

1.3 Purpose and effect

- (1) The purpose of these Standing Orders is to provide the rules for the conduct of meetings of the Council, the trustee, committees and electors.
- (2) The effect of these Standing Orders is intended to result in—
 - (a) better decision-making at meetings;
 - (b) the orderly and efficient conduct of meetings; and
 - (c) greater community understanding of the business of the Council.

1.4 Interpretation

- (1) In these Standing Orders—

75% majority in relation to a council, means a majority comprising enough of the members for the time being of the council for their number to be at least 75% of the number of offices (whether vacant or not) of member of the council;

absolute majority means—

- (a) in relation to a council, means a majority comprising enough of the members for the time being of the council for their number to be more than 50% of the number of offices (whether vacant or not) of member of the council;
- (b) in relation to any other body, means a majority comprising enough of the persons for the time being constituting the body for their number to be more than 50% of the number of offices (whether vacant or not) on the body;

Act means the *Local Government Act 1995*;

CEO means the Chief Executive Officer of the local government;

committee means a committee of the Council established under section 5.8 of the Act;

Council means the Council of the local government;

Deputation means a presentation by a person or group to the Council in accordance with section 6.6;

District means an area of the State that is declared to be a district under section 2.1 on the Act;

elector in relation to a district or ward, means a person who is eligible to be enrolled to vote at elections for the district or ward as defined under section 1.4 of the Act;

local government means the City of Belmont;

Mayor means the Mayor of the local government;

meeting means a meeting of the Council or the trustee or a committee or electors in accordance with the Act, as the context requires;

Member means a member of Council or a committee, as the case may be;

Presiding Member means—

- (a) in respect of the Council, the person presiding under section 5.6 of the Act;
- (b) in respect of a committee, the person presiding under sections 5.12, 5.13, and 5.14 of the Act; and
- (c) in respect of an electors' meeting, the person presiding under section 5.30 of the Act;

Regulations mean the *Local Government (Administration) Regulations 1996*

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

submission means a submission made to the Council in accordance with section 6.7;

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

trustee means the Council, when acting as trustee of the trust land; and

trust land means the land referred to in the *Belmont Park Road Board Declaration of Trust* dated 25th day of May 1954, situated at 160 Stoneham Street and 154 Great Eastern Highway, Ascot, and managed under the powers of the *Trustees Act 1962*.

(2) Unless otherwise defined, the terms used in this local law have the meaning given to them in the Act and Regulations.

1.5 Repeal

The *City of Belmont Standing Orders Local Law 2012*, published in the *Government Gazette* on 21 December 2012, and the *City of Belmont Standing Orders Amendment Local Law 2014*, published in the *Government Gazette* on 8 April 2014 are repealed.

PART 2—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES

2.1 Establishment of committees

- (1) These Standing Orders are to apply to the conduct of committee meetings.
- (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.

2.2 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.

2.3 Observers at committee meetings

- (1) For the purposes of this section, an observer is a Member attending a meeting of a committee, of which they are not a committee member.
- (2) A Member may attend, as an observer, any meeting of a committee.
- (3) Without the consent of the Presiding Member, no observer is to address a committee meeting.
- (4) An observer addressing the committee with the consent of the Presiding Member must cease that address immediately after being directed to do so by the Presiding Member.
- (5) An observer who fails to comply with a direction of the Presiding Member under subsection (4) may by order of the Presiding Member be removed from the meeting room.

PART 3—CALLING AND CONVENING MEETINGS

3.1 Ordinary and special Council meetings

- (1) 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.
- (2) 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 Convening Council meetings

- (1) Subject to subsection (2), 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.
- (2) Where, in the opinion of the Mayor 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.

3.3 Calling committee meetings

The CEO is to call a committee meeting when requested by the Mayor, the Presiding Member of a committee or any 2 Members of that committee.

3.4 Failure to receive notice not to invalidate proceedings

The validity of a meeting shall not be affected by—

- (a) the failure of any Member to receive a notice convening the meeting; or
- (b) an error contained in the notice of the meeting;

provided that all reasonable steps have been taken to prepare the notice accurately and give the notice to all Members.

PART 4—PRESIDING MEMBER AND QUORUM**4.1 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.

4.2 Names to be recorded

At any meeting—

- (a) at which there is not a quorum present; or
- (b) which is adjourned for want of a quorum,

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 meeting 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 given in the notice as the purpose of the meeting, without the approval of the Presiding Member or a decision of the committee.

(4) Subject to subsection (5), no business is to be transacted at an adjourned meeting of the Council other than that—

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

(5) Where a meeting is adjourned to the next ordinary meeting of the Council then, unless the Council resolves otherwise, the business unresolved at the adjourned meeting is to be dealt with before considering reports at that ordinary meeting.

5.2 Order of business

(1) Unless otherwise decided by the Presiding Member, the order of business at any ordinary meeting of the Council is to be as set out in the agenda of the meeting.

(2) Unless otherwise decided by the Presiding Member, the order of business at any special meeting of the Council is to be as set out in the agenda of the meeting.

(3) In determining the order of business for any meeting of the Council, 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 these Standing Orders 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 subsection (1) is to be given at least 10 clear working days before the meeting at which the motion is to be moved.

(3) A motion of which notice is given is to be accompanied by reason and relate to the good government of the district.

(4) The CEO—

- (a) with the concurrence of the Mayor, may exclude from the agenda paper any notice of motion—
 - (i) that does not comply with subsection (3);
 - (ii) deemed to be, or likely to involve, a breach of any of these Standing Orders or any other written law;
 - (iii) that is in the same terms or to the same effect of a previous notice of motion placed before the Council within the preceding 6 months; or
 - (iv) that would in a procedural manner be best dealt with in the first instance by Council at a meeting as described in Part 18 of these Standing Orders;
- (b) may make such amendments to the form but not the substance as will bring the notice of motion into due form;

- (c) may provide to the Council relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law; and
 - (d) on each occasion that a notice of motion has been excluded from the agenda, shall inform Members of that fact and the reasons for the exclusion.
- (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 Council 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 subsection (5)(a), or is lost, a notice of motion in the same terms or to the same effect is not to be given again for at least 6 months from the date of such lapse or loss.
- (7) Where a notice of motion is excluded from the agenda paper as provided in subsection (4), (a), (i), (iii), or (iv) a Member with the approval of the Presiding Member may move and the Council may resolve to have the excluded notice of motion included in the agenda paper at the next ordinary meeting of the Council.

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 subsection (1), “cases of extreme urgency or other special circumstances” means matters 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 before the next meeting.

5.5 Adoption by exception resolution

- (1) In this section, “adoption by exception resolution” means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the employee recommendation as the Council resolution, and adoption “en bloc” has a corresponding meaning.
- (2) Subject to subsection (3), the local government may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter—
- (a) that requires a 75% majority or a special majority;
 - (b) in which a financial interest has been disclosed;
 - (c) that has been the subject of a petition or of a deputation at that meeting;
 - (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.

5.6 Announcements by the Presiding Member

At any meeting of the Council or a committee, the Presiding Member may announce or raise any matter of interest or relevance to the business of the Council or committee.

PART 6—PUBLIC PARTICIPATION

6.1 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 subsection (2) is carried—
- (a) the Presiding Member is to direct everyone to leave the meeting except—
 - (i) the Members;
 - (ii) the CEO; and
 - (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 subsection (3) may, by order of the Presiding Member, be removed from the meeting.
- (5) A resolution under this section may be made without notice.
- (6) 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 made available to the public including a vote of a Member to be included in the minutes.
- (7) Where a matter before a meeting deals with a question arising out of mediation at the State Administrative Tribunal or in any other jurisdiction or in any other circumstances where there is an obligation for the Council to deal with a matter confidentially, the matter is not to be dealt with at that meeting or otherwise until the Council has resolved under section 5.23(2) of the Act to close the relevant part of the meeting to the public.

6.2 Other procedures for question time for the public

- (1) A member of the public who wishes to ask a question during question time is to—
 - (a) first state his or her name and address;
 - (b) direct the question to the Presiding Member;
 - (c) ask the question as briefly and concisely as possible;
 - (d) limit any preamble to matters directly relevant to the question;
 - (e) ensure that the question is not accompanied by any argument, expression of opinion, statement of fact or other comment, except insofar as it may be necessary to explain the question; and
 - (f) where possible provide a written copy of the question prior to question time.
- (2) Each member of the public with a question is entitled to ask up to 2 questions before other members of the public will be invited to ask their questions.
- (3) A member of the public is to have up to 2 minutes to ask his or her question or questions.
- (4) A member of the public may give written prior notice to the CEO of the text or substance of the question that he or she wishes to ask at a meeting.
- (5) Unless the Presiding Member determines otherwise, a question of which prior written notice has been given to the CEO is to be given priority in question time.
- (6) Where a member of the public gives written notice of a question, the Presiding Member may determine that the question is to be responded to as normal business correspondence.
- (7) A question may be taken on notice by the Council for later response.
- (8) When a question is taken on notice, the CEO is to ensure that—
 - (a) a written response is given to the person who asked the question; and
 - (b) a summary of the response is included in the agenda of the next meeting of the Council.
- (9) Where a question relating to a matter in which a person has an interest is directed to that person, that 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.
- (10) The Presiding Member may decide that a question is not to 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) it is in the form of a statement, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to rephrase the statement as a question; or
 - (c) the question is offensive or defamatory in nature, or is one, which, if asked by a Member, would be in breach of these Standing Orders or any other law.
- (11) The Council, by resolution, may agree to extend public question time.
- (12) 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.
- (13) Where a question is not provided in writing council minutes will only reflect a precis of what the Presiding Member understands the question to be.

6.3 Prevention of disturbance by the public

- (1) A reference in this section to a “person” is to a person other than a Member.
- (2) A person addressing the Council or committee must extend due courtesy and respect to the Council or committee and the processes under which it operates and must comply with any direction by the Presiding Member.
- (3) A person observing a meeting must not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing aloud or by any other means.
- (4) A person must ensure that his or her mobile telephone or other electronic device is switched off and not used during any meeting.
- (5) A person must not behave in a manner that is contrary to section 75 of *The Criminal Code*.
- (6) If a Member or the CEO specifically requests, immediately after their use, that any particular words used by a person be recorded, the Presiding Member is to cause the words used to be taken down and read to the meeting for verification and to then be recorded in a file note of the meeting, unless the Presiding Member in any case decides otherwise.
- (7) The Presiding Member may direct a person to refrain from conduct that is creating a disturbance and that person must comply with the direction.
- (8) If a person fails to comply with a direction of the Presiding Member, the Presiding Member may direct that person to immediately leave the meeting room. If a person fails immediately to leave the meeting room after being directed to do so by the Presiding Member or continues to create a disturbance outside the meeting room, the Presiding Member may order the person to be removed from the premises.

(9) If a person ordered by the Presiding Member to be removed from the premises cannot be removed without the application of physical force—

- (a) a member of the Police Force may be called to the meeting to effect the removal of the person, the meeting may be adjourned until the person has been removed and the person removed is prohibited from joining the reconvened meeting; or
- (b) the Presiding Member may adjourn the meeting for a period of up to one hour.

6.4 Withdrawal of offensive language by the public

- (1) A reference in this section to a “person” is to a person other than a Member.
- (2) A person who, in the opinion of the Presiding Member, uses an expression which—
 - (a) reflects adversely on the character or actions of a Member or employee;
 - (b) imputes any motive to a Member or employee; or
 - (c) is offensive or objectionable,

must, when directed by the Presiding Member, withdraw the expression and make an apology that, in the opinion of the Presiding Member, is satisfactory.

(3) If a person fails to comply with a direction of the Presiding Member under subsection (2), the Presiding Member may refuse to hear the person further on the matter then under discussion and call on the next speaker.

6.5 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 is to be recorded in the minutes.

6.6 Deputations

- (1) A person or group directly affected by a matter on the agenda paper and wishing to be received as a deputation by the Council is to either—
 - (a) apply, before the meeting, to the CEO for approval; or
 - (b) with the approval of the Presiding Member, at the meeting, address the Council.
- (2) The CEO may—
 - (a) approve the request and invite the deputation to attend a meeting of the Council; or
 - (b) refer the request to the Council to decide by simple majority whether or not to receive the deputation.
- (3) Unless the Council resolves otherwise, a deputation invited to attend a Council meeting—
 - (a) is not to exceed 5 persons, only 2 of whom may address the Council, although others may respond to specific questions from Members; and
 - (b) is not to address the Council for a period exceeding 15 minutes with discussion and questions included.
- (4) Unless the Council resolves otherwise, for the purpose of determining who may address the Council on an issue, all those people in favour and all those are deemed in either case to comprise a single deputation.
- (5) A matter, which is the subject of a deputation to the Council, is not to be decided by the Council until the deputation has completed its presentation.
- (6) Interaction between the Members and the deputation is permitted with the permission of the Presiding Member.

6.7 Submissions

- (1) A person directly affected by a matter on the agenda paper and wishing to make a submission to the Council is to—
 - (a) apply, before the meeting, to the CEO for approval; or
 - (b) with the approval of the Presiding Member, at the meeting, address the Council.
- (2) The CEO may—
 - (a) approve the request and invite the person wishing to make a submission to attend a meeting of the Council; or
 - (b) refer the request to the Council to decide by simple majority whether or not to receive the submission.
- (3) Unless the Council resolves otherwise, a person invited to make a submission must not address the Council for a period exceeding 3 minutes without the agreement of the Council.
- (4) A matter, which is the subject of a submission to the Council, is not to be decided by the Council until all submissions relating to that matter have been completed.
- (5) With the exception of the Presiding Member, there is to be no interaction between a Member and the person making the submission.

6.8 Petitions

- (1) A petition is to—
 - (a) be addressed to the Mayor;
 - (b) be made by electors of the district;

- (c) state the request on each page of the petition;
 - (d) contain the name, address and signature of each elector making the request, and the date each elector signed;
 - (e) contain a summary of the reasons for the request; and
 - (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given.
- (2) Upon receiving a petition, the local government is to submit the petition to the relevant employee to be included in his or her deliberations and report on the matter that is the subject of the petition, subject to subsection (3).
- (3) At any meeting, the Council is not to vote on any matter that is the subject of a petition presented to that meeting, unless—
- (a) the matter is the subject of a report included in the agenda; and
 - (b) the Council has considered the issues raised in the petition.

6.9 Presentations

- (1) In this section, reference to a “presentation” means the acceptance of a gift, grant 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 CEO.

6.10 Participation at committee meetings

- (1) In this section 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.
- (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, and that time is not to be exceeded without the permission of the committee.
- (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 subsection (4) may, by order of the Presiding Member, be removed from the committee room.

6.11 Recording of proceedings

- (1) A person must not use any electronic, visual or audio recording device or instrument to record the proceedings of the Council without the permission of the Presiding Member or by a decision of the Council.
- (2) If the Presiding Member or Council gives permission under subsection (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.

PART 7—QUESTIONS

7.1 Questions on notice by Members

- (1) A question on notice is to be given by a Member in writing to the CEO at least 24 hours before the meeting at which it is to be asked.
- (2) If the CEO determines that a question referred to in subsection (1) is in order, the answer is to be included in the minutes of the meeting.
- (3) Except with the consent of the Presiding Member or by a decision of the meeting, there is to be no discussion about a question on notice or its answer.

7.2 Questions without notice

- (1) Questions without notice must be of a nature pertinent to the good government of persons in the district and of such importance that there is an immediate need that it be asked and not able to be considered through the normal communication methods available to Members.
- (2) The Presiding Member shall rule by allowing or rejecting questions without notice to comply with subsection (1).
- (3) A Member who wishes to seek general information from an employee present at a Council meeting may, without notice and with the consent of the Presiding Member—
- (a) ask a question of that employee whilst demonstrating compliance with subsection (1); and
 - (b) with the consent of the Presiding Member, ask one or more further questions of that employee or another employee present at the meeting.
- (4) Where possible, the appropriate employee is to answer each question to the best of his or her knowledge and ability but, if the information is unavailable or requires research or investigation, the employee may ask—
- (a) that the question be placed on notice for the next meeting of the Council; or
 - (b) for leave for the answer to the question be given to the Member who asked it, within 7 days.

7.3 Questions during debate

At any time during the debate on a motion before the motion is put, a Member may ask a question and, with the consent of the Presiding Member, may ask one or more further questions.

7.4 Restrictions on questions and answers

- (1) Any questions asked by a Member pursuant to section 7.3, and any answer to such a question is—
 - (a) to be submitted as briefly and concisely as possible;
 - (b) to be phrased courteously and temperately;
 - (c) to relate to the good government of the local government; and
 - (d) not to be accompanied by—
 - (i) any argument expression of opinion, or statement of fact, except to the extent provided in subsection (ii);
 - (ii) any statement except so far as the Presiding Member accepts as being necessary to explain the question or answer; or
 - (iii) any discussion or further question, except with the consent of the Presiding Member.
- (2) In answering any question, a Member or an employee may qualify his or her answer and may at a later time in the meeting or at a later meeting alter, correct, add to or otherwise amend his or her 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, the CEO, in consultation with the Mayor, is to allot a position at the Council table to each Member.
- (2) Each Member is to occupy his or her allotted position at each Council meeting.

8.2 Titles to be used

A speaker, when referring to the Mayor, deputy Mayor or Presiding Member, or a Member or employee, is to use the title of that person's office.

8.3 Advice of entry or departure

During the course of a meeting, a Member is not to enter or leave the meeting without first indicating to the person responsible for taking minutes, in order to facilitate the recording in the minutes of the time of entry or departure.

8.4 No conversing with the public during meetings

A Member must not converse or otherwise communicate with any member of the public in the public gallery during a Council meeting without the consent of the Presiding Member.

8.5 Members to indicate their intention to speak

- (1) A Member 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.
- (2) Unless otherwise directed by the Presiding Member, all persons at meetings are to address their comments to the Presiding Member.

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 subsection (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 meeting, subject to compliance with these Standing Orders.

8.8 Relevance

- (1) 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.
- (2) The Presiding Member, at any time, may call the attention of the meeting to—
 - (a) any irrelevant, repetitious, offensive or insulting language by a Member; or
 - (b) any breach of order or decorum by a Member.
- (3) If a Member who is the subject of a call to attention under subsection (2) on three occasions while the Member is speaking, on the third occasion the Presiding Member may direct the Member to discontinue his or her speech.
- (4) A Member is to comply with the direction of the Presiding Member under subsection (3) by immediately ceasing to speak.
- (5) A Member directed by the Presiding Member under subsection (3) to cease speaking is not to speak again on the matter then under consideration without the leave of the Presiding Member, and then only to the extent permitted by the Presiding Member.

8.9 Speaking twice

A Member is not to address the meeting 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;
- (c) to make a personal explanation; or
- (d) to speak to an amendment having already spoken to the substantive motion.

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 meeting, which, if given, is to be given without debate.

(2) An extension under this section 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 motion or amendment has been put to the vote.

8.12 No interruption

(1) A Member is not to create a disturbance, converse aloud or 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 section 8.13; or
- (d) to move a procedural motion that the Member be no longer heard (see section 11.1(e)).

(2) The Presiding Member may direct a Member to refrain from creating a disturbance, conversing aloud or interrupting another Member who is speaking.

(3) If a Member fails to comply with a direction from the Presiding Member, the Presiding Member may adjourn the meeting for a period of up to 15 minutes.

(4) If a meeting is adjourned under this section, the provisions of section 14.2 apply.

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.

(4) When making a personal explanation, a Member is not—

- (a) to refer to matters unnecessary for that purpose;
- (b) to seek to strengthen their former argument by introducing a new matter; or
- (c) to reply to another Member.

8.14 No re-opening of discussion

A Member is not to re-open discussion on any decision at a meeting, except to move that the decision be revoked or changed (see Part 15).

8.15 Adverse reflection

(1) A Member is not to reflect adversely on a decision of the Council or a committee except on a motion that the decision be revoked or changed (see Part 15).

(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 or objectionable 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 and any action arising from the application of section 8.16 to be taken down and read to the meeting for verification; and
- (b) the meeting 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 section 8.15—
 - (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 objectionable,

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 subsection (1), the Presiding Member may refuse to hear the Member further on the matter then under discussion and call on the next speaker.

(3) If the Presiding Member under subsection (2) refuses to hear a Member further on a matter, the Member shall not speak further on that matter without the leave of the Presiding Member, and then only to the extent permitted by the Presiding Member, and then only consistently with the provisions of these Standing Orders.

8.17 Recording of proceedings

(1) A Member is not to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council without the permission of the Presiding Member.

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

8.18 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”;
- (b) marked “*Confidential*” in the agenda; and
- (c) kept confidential by employees and Members until the Council resolves otherwise.

(2) A Member or an employee who has—

- (a) confidential information under subsection (1); or
- (b) information that is provided or disclosed for the purposes of or during a meeting, or part of a meeting, that is closed to the public, must not disclose any of that information to any person other than another Member or employee to the extent necessary for the purpose of carrying out his or her duties.

(3) Subsection (2) does not prevent a Member or employee from disclosing information—

- (a) at a closed meeting;
- (b) to the extent specified by the meeting and subject to such other conditions as the meeting 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.

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) Subsection (2) is not to be used by the Presiding Member to exercise the right provided in section 8.7, but to preserve order.

(4) When the Presiding Member rises during the course of a meeting, a Member or any other person who is then speaking or indicating an intention to speak, is immediately to cease speaking.

(5) When the Presiding Member rises during a meeting, each Member and each other person present is to preserve strict silence so that the Presiding Member may be heard without interruption.

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 these Standing Orders; or
- (b) any other written law.

- (2) A Member raising a point of order must specify the grounds of the breach of order before speaking further on the matter.
- (3) A Member rising to express a difference of opinion or to contradict a speaker is not to be recognised as raising a point of order.
- (4) Examples of valid points of order are—
- (a) a speaker's remarks not being relevant to the motion or amendment being debated (see section 8.8);
 - (b) a speaker's use of offence of objectionable expressions or adverse reflection on a decision of the Council (see section 8.15);
 - (c) the discussion is of a matter not before the meeting.
- (5) Despite anything in these Standing Orders 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 cease speaking 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 these Standing Orders.

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—
- (a) is not to be the subject of debate or comment; and
 - (b) 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 subsection (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 and the Member shall thereupon comply with that requirement.

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 section 9.5(3),

the Presiding Member may direct the Member to refrain from taking any further part in the debate of the item, other than by voting, and the Member is to comply with that direction and is not to speak further without the leave of the Presiding Member, and then only to the extent permitted by the Presiding Member.

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 SUBSTANTIVE MOTIONS

10.1 Motions to be stated and in writing

A Member who wishes to move a substantive motion or an amendment to a substantive motion—

- (a) is to state the substance and reason of the motion before speaking to it; and
- (b) if required by the Presiding Member, is to put the motion or amendment in writing.

10.2 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.

10.3 Unopposed business

- (1) Immediately after a substantive motion has been moved and seconded, the Presiding Member may ask the meeting if any Member opposes it.
- (2) If no Member opposes the motion, the Presiding Member may declare it carried without debate and without taking a vote.
- (3) A motion declared carried under this section is to be recorded in the minutes as a unanimous decision of the meeting.
- (4) If a Member opposes a motion, the motion is to be dealt with under Part 10.
- (5) This section does not apply to a motion to revoke or change a decision which has been made at a meeting (see Part 15).

10.4 Only one substantive motion at a time

- (1) When a substantive motion is under debate at a meeting, no further substantive motion is to be accepted.
- (2) The meeting is not to consider more than one substantive motion at any time.

10.5 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 second 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) the mover takes right of reply which closes debate.

10.6 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 not all Members may have spoken.

10.7 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.

10.8 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.

10.9 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.

10.10 Form of an amendment

An amendment must add, delete, or substitute words to the substantive motion.

10.11 Amendment must not negate original motion

An amendment to a substantive motion must be relevant to and cannot negate the original motion or the intent of the original motion.

10.12 Mover of motion may speak on amendment

Any Member may speak during debate on an amendment.

10.13 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.

10.14 Withdrawal of motion or amendment

- (1) Subject to subsection (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, carried or lost.

10.15 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 does not have 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, after any amendment has been withdrawn, carried or lost, and at the conclusion of the discussion on the substantive motion or the substantive motion as amended.
- (4) After the mover of the substantive motion has commenced the reply—
 - (a) no other Member is to speak on the question;
 - (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.

10.16 Foreshadowed Motion

- (1) In speaking upon a motion, a member—
 - (a) may give notice to the meeting of the member's intention to move a different motion on the same subject matter, being a motion which cannot practically be moved by an amendment to the motion under consideration; and
 - (b) shall provide to the Presiding Member the terms of the foreshadowed motion.
- (2) If two or more members pursuant to subsection (1) foreshadow motions on the same subject, then the Presiding Member shall take note of the order in which the foreshadowed motions are raised and the terms of each foreshadowed motion.
- (3) If the substantive motion under consideration is lost, then the foreshadowed motion is to be brought forward forthwith. The foreshadowed motions shall be considered by the Council in succession, until one of the motions is passed, whereupon there shall be no further consideration of any other foreshadowed motion on that subject.

PART 11—PROCEDURAL MOTIONS**11.1 Permissible procedural motions**

In addition to the right to move an amendment to a substantive motion (under Part 10), a Member may move the following procedural motions—

- (a) that the meeting proceed to the next item of business;
- (b) that the debate be adjourned;
- (c) that the meeting be now adjourned;
- (d) that the question be now put;
- (e) that the Member be no longer heard;
- (f) that the ruling of the Presiding Member be disagreed with;
- (g) Item be referred back to Standing Committee or Briefing;
- (h) that the meeting be closed to the public (see section 6.1).

11.2 No debate

- (1) The mover of a motion specified in paragraph (a), (b), (c), (f), (g) or (h) of section 11.1 may speak to the motion for not more than 5 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 (e) of section 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.
- (3) There is to be no amendment to a procedural 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 a 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 Meeting to proceed to the next item of business

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 Council moves to the next item of business; and
- (d) there is no requirement for the matter to be raised again for consideration.

11.6 Debate to be adjourned

A motion “that the debate be adjourned”—

- (a) is to state the time to which the debate is to be adjourned; and
- (b) if carried, has the effect that all debate on the substantive motion or amendment ceases immediately, but continues at the time stated in the motion.

11.7 Meeting be now adjourned

(1) A Member is not to move or second more than one motion for adjournment of the meeting during the same sitting of the Council.

(2) Before putting the motion for the adjournment of the meeting, the Presiding Member may seek leave of the Council to deal first with matters that may be the subject of an adoption by exception resolution (see section 5.5).

(3) A motion “that the meeting be now adjourned”—

- (a) is to state the time and date to which the meeting is to be adjourned; and
- (b) if carried, has the effect that the meeting is adjourned to the time and date specified in the motion.

(4) A meeting adjourned under subsection (3) is to continue from the point at which it was adjourned, unless the Presiding Member or the Council determines otherwise.

11.8 Question be now put

(1) If the motion “that the question be now put”, is carried during debate on a substantive motion, the Presiding Member is to offer the right of reply and then put the motion to the vote without further debate.

(2) If the motion “that the question be now put” is carried during discussion of an amendment, the Presiding Member is to put the amendment to the vote without further debate.

(3) This motion, if lost, causes debate to continue.

11.9 Member be no longer heard

If the motion “that the Member be no longer heard”, is carried, the speaker against whom the motion has been moved cannot speak further on the current substantive motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the substantive motion.

11.10 Ruling of dissent against the Presiding Member

If the motion “that the ruling of the Presiding Member be disagreed with”, is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

11.11 Item be referred back to Standing Committee or Briefing

(1) If a motion “that the item be referred back to a Standing Committee or Briefing” is carried, debate on the substantive motion and any amendment is to cease and the substantive motion, including any amendment, is to be referred back to the appropriate committee or briefing for further consideration.

(2) A Briefing in this section is that as described in Part 18 of these Standing Orders.

(3) If the motion in subsection (1) is lost, debate on the substantive motion or amendment is to continue.

PART 12—VOTING

12.1 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 meeting; 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.

12.2 Dividing Motions for voting

Where a report to Council contains more than one motion, the Presiding Member may put the motions individually, in groups or as one.

12.3 Method of taking vote

(1) In taking the vote on any motion or amendment, the Presiding Member—

- (a) is to put the question, taking votes 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) is to count and determine the votes of Members in any way (such as electronically or by a show of hands) that enables a record to be taken of each Member’s vote; and
- (d) subject to this section, is to declare the result.

- (2) The CEO is to ensure that the minutes record—
- (a) the name of each Member who voted; and
 - (b) whether he or she voted in the affirmative or negative.

PART 13—MINUTES OF MEETINGS

13.1 Content of minutes

In addition to the matters required by regulation 11 of the Regulations, the minutes of a Council meeting are 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.

13.2 Confirmation of minutes

(1) When minutes of an ordinary meeting of the Council are distributed to the Council for consideration prior to their confirmation at the next meeting, if a Member is dissatisfied with the accuracy of the minutes, he or she should where possible provide to the local government 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, at the time for confirmation of minutes is—

- (a) to state the item or items with which he or she is dissatisfied; and
- (b) to propose a motion clearly outlining the alternative wording to amend the minutes.

(3) Council 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 14—ADJOURNMENT OF MEETING

14.1 Meeting may be adjourned

The Council may adjourn any meeting—

- (a) to a later time on the same day; or
- (b) to any other time on any other day.

14.2 Effect of adjournment

Where any matter, motion, debate or meeting is adjourned under these Standing Orders—

- (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 unless the Presiding Member or the Council determines otherwise; and
- (c) the provisions of section 8.10 apply when the debate is resumed.

PART 15—MAKING, REVOKING OR CHANGING DECISIONS

15.1 Limitations on powers to revoke or change decisions

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 section 15.2 to implement the decision; or
- (b) where the decision is procedural in its form or effect.

15.2 Implementing a decision

(1) In this Part—

authorisation means a licence, permit, approval or other means of authorising a person to do anything;

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

valid notice of revocation motion means a notice of a motion to revoke or change a decision that complies with the requirements of the Act, Regulations and these Standing Orders and may be considered, but has not yet been considered, by the Council or a committee as the case may be.

(2) Applicants and the public should be made aware that a decision made at a Council meeting regarding any application for authorisation should not be relied upon as effective until formal notification in writing has been received by the applicant.

(3) Subject to subsection (5), and unless a resolution is made under subsection (4), a decision made at a meeting is not to be implemented by the CEO or any employee until the afternoon of the first business day after the commencement of the meeting at which the decision was made.

(4) The Council or a committee exercising a relevant delegated power 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.

- (5) A decision made at a meeting is not to be implemented by the CEO or any employee—
- (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.
- (6) 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 section; 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 section.

15.3 Revocation motion at the same meeting

- (1) If the CEO receives a valid notice of motion, to revoke a decision made at a meeting before the close of that meeting, then the CEO is immediately to advise the Presiding Member of the notice of motion.
- (2) Where the Presiding Member is advised of a notice of motion under subsection (1) he or she at the first available opportunity and before the end of the meeting is to—
- (a) advise the meeting of the notice;
 - (b) bring on the revocation motion;
 - (c) determine whether there is sufficient support (under Regulation 10) for the motion; and
 - (d) deal with the motion, if there is sufficient support.

15.4 Method of submitting motions to revoke or change

A Member wishing to move a valid notice of revocation motion at a meeting must give to the CEO notice of the revocation, which is to—

- (a) be in writing;
- (b) specify the decision proposed to be revoked or changed;
- (c) include a reason or reasons for the revocation motion;
- (d) be signed by the number of Members required by law to support the motion to revoke or change the decision referred to on the revocation motion;

15.5 Method of Putting Motions

If a decision of the Council or a committee is unclear or in doubt, the Presiding Member is to put the motion or amendment as often as necessary to determine the votes of Members in any way (such as electronically or by a show of hands).

PART 16—SUSPENSION OF STANDING ORDERS

16.1 Suspension of Standing Orders

- (1) A Member may, at any time, move that the operation of one or more of the provisions of these Standing Orders be suspended.
- (2) A Member moving a motion under subsection (1) is to state the reasons for the motion, but no other discussion is to take place.
- (3) A motion under subsection (1) which is—
- (a) seconded; and
 - (b) carried by an absolute majority,

is to suspend the operation of the section or sections to which the motion relates for the duration of the meeting, unless the meeting earlier resolves otherwise.

16.2 Where Standing Orders do not apply

- (1) In situations where—
- (a) these Standing Orders have been suspended; or
 - (b) a matter is not regulated by the Act, the Regulations or these Standing Orders,
- the Presiding Member is to decide questions relating to the conduct of the meeting.
- (2) The decision of the Presiding Member under subsection (1) is final, except where a motion of dissent is moved and carried under section 11.10.

PART 17—MEETINGS OF ELECTORS

17.1 Procedure for electors' meetings

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 these Standing Orders.

17.2 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 to do so.

PART 18—BRIEFINGS AND OTHER INFORMAL MEETINGS**18.1 Briefings and other informal meetings**

- (1) The Council may conduct briefings, workshops and other informal meetings.
- (2) Where the Council proposes to conduct a briefing, workshop or any other informal meeting, the CEO is to—
 - (a) advise all Members of the time and date of the meeting; and
 - (b) ensure that notes of the meeting are kept.
- (3) A formal motion is not to be moved or a resolution passed at any meeting other than an ordinary or special meeting of the Council or a committee or an electors' meeting.
- (4) Section 18.1(3) does not apply to a motion and resolution for the meeting to go behind closed doors.
- (5) The Council is not to meet, except at:
 - (a) a Council or committee meeting; or
 - (b) a briefing, workshop or informal meeting under this section.

PART 19—ENFORCEMENT**19.1 Penalty for breach**

A person who commits an offence under this local law is liable to a penalty of \$1000 and where the offence is of a continuing nature, to a daily penalty of \$500 in respect of each day or part of day during which the offence has continued.

Penalty—\$1,000, and a daily penalty of \$500

PART 20—COMMON SEAL**20.1 Custody of the common seal**

The CEO is to have charge of the common seal of the local government, and is responsible for the safe custody and proper use of it.

20.2 Register

The CEO is to maintain a register that is to record, in respect of each occasion when the common seal is affixed to a document—

- (a) the date that the common seal was affixed;
- (b) the nature of the document; and
- (c) the parties described in the document.

The common seal of the City of Belmont was affixed by the authority of the Council in the presence of—

STUART COLE, Chief Executive Officer.
PHIL MARKS, Mayor.

Date: 30 June 2017.

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAMPTON

ACTIVITIES IN THOROUGHFARES AND PUBLIC
PLACES AND TRADING LOCAL LAW 2017

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SCHEDULE 1—PRESCRIBED OFFENCES

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAMPTON

ACTIVITIES IN THOROUGHFARES AND PUBLIC
PLACES AND TRADING LOCAL LAW 2017

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Northampton resolved on 16 June 2017 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Northampton Activities in Thoroughfares and Public Places and Trading Local Law 2017*.

1.2 Commencement

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

1.3 Definitions

In this local law unless the context otherwise requires—

Act means the *Local Government Act 1995*;

applicant means a person who applies for a permit;

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

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

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

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

CEO means the chief executive officer of the local government;

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

Council means the council of the local government;

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

(a) private land; or

(b) a private thoroughfare serving private land;

district means the district of the local government;

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

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

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

kerb includes the edge of a carriageway;

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

liquor has the meaning given to it in section 3 of the *Liquor Control Act 1988*;

local government means the Shire of Northampton;

local government property means anything except a thoroughfare—

(a) which belongs to the local government;

(b) of which the local government is the management body under the *Land Administration Act 1997*; or

(c) which is an 'otherwise unvested facility' within section 3.53 of the Act;

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

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

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

permissible verge treatment means any one of the 4 treatments described in clause 2.7(2), and includes any reticulation pipes and sprinklers;

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

person does not include the local government;

premises for the purpose of the definition of public place in both this clause and clause 6.1, means a building or similar structure, but does not include a carpark or a similar place;

public place includes any 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; and
- (b) local government property;

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

rural means a sub-set of rural living, generally located on the outskirts of an existing town. Rural settlement may also be used to describe proposals for rural living as this land use results in people settling in rural areas;

rural residential means a sub-set of rural living and a land use zone with land parcels from 1 to 4 hectares in size and generally provided with scheme water and power supply;

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

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

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

townsite means the townsites of Northampton, Kalbarri, Horrocks, Gregory, Binu, Isseka and Ajana which are—

- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
- (b) referred to in clause 37 of Schedule 9.3 of the Act;

vehicle includes—

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

but excludes—

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

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

1.4 Application

This local law applies throughout the district.

1.5 Repeal

(1) This local law repeals *The Municipality of the Shire of Northampton By-law Relating to Trading in Public Places* as published in the *Government Gazette* 20 March 1987.

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

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

PART 2—ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES

Division 1—General

2.1 General prohibitions

A person shall not—

- (a) plant any plant (except grasses or a similar plant) within 10 metres of an intersection;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless—
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;

- (c) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 2m of a carriageway;
- (d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (e) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare; or
- (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, rollerblades or similar device.

2.2 Activities allowed with a permit—general

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

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) subject to Division 3 of this Part, throw, place or deposit anything on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised in connection with that collection by the local government;
- (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
- (d) cause any obstruction to a water channel or a water course in a thoroughfare;
- (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
- (f) damage a thoroughfare;
- (g) light any fire or burn anything on a thoroughfare other than in a stove or fireplace provided for that purpose or under a permit issued under clause 5.13;
- (h) fell any tree onto a thoroughfare;
- (i) unless installing, or in order to maintain, a permissible verge treatment—
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install anything on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
- (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
- (k) on a public place use anything or do anything so as to create a nuisance;
- (l) place or cause to be placed on a thoroughfare a bulk rubbish container; or
- (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.

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

2.3 No possession and consumption of liquor on thoroughfare

(1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless—

- (a) that is permitted under the *Liquor Control Act 1988* or under another written law; or
- (b) the person is doing so in accordance with a permit.

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

Division 2—Vehicle crossing

Subdivision 1—Temporary crossings

2.4 Permit required

(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 shall obtain a permit for the construction 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) The *person responsible for the works* in subclause (1) is to be taken to be—

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

(3) If the local government approves an application for a permit for the purpose of subclause (1), the permit is taken to be issued on the condition that until such time as the temporary crossing is removed, the permit holder shall 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.

Subdivision 2—Redundant vehicle crossings

2.5 Removal of redundant crossing

(1) Where works on a lot will result in a crossing no longer giving access to a lot, the crossing is to be removed and the kerb, drain, footpath, verge and any other part of the 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 her or him to—

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

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

Division 3—Verge treatments

Subdivision 1—Preliminary

2.6 Application

This Division only applies to the townsites.

Subdivision 2—Permissible verge treatments

2.7 Permissible verge treatments

(1) An owner or occupier of land which abuts on a verge may on that part of the verge directly in front of her or his land install a permissible verge treatment.

(2) The permissible verge treatments are—

- (a) the planting and maintenance of a lawn;
- (b) the planting and maintenance of a garden provided that—
 - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare; and
 - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb.

2.8 Only permissible verge treatments to be installed

(1) A person shall not install or maintain a verge treatment which is not a permissible verge treatment.

(2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 2.9.

2.9 Obligations of owner or occupier

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

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) not place any obstruction on or around the verge treatment; and
- (c) not disturb a footpath on the verge.

2.10 Notice to owner or occupier

The local government may give a notice in writing to the owner or the occupier of a lot abutting on a verge to make good, within the time specified in the notice, any breach of a provision of this Division.

Subdivision 3—Existing verge treatments

2.11 Transitional provision

(1) In this clause—

former provisions means the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was repealed by this local law.

(2) A verge treatment which—

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

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

Subdivision 4—Public works

2.12 Power to carry out public works on verge

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

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

Division 4—Property numbers

Subdivision 1—Preliminary

2.13 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

2.14 Assignment of numbers

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.

Division 5—Fencing

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

The following places are specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act—

- (a) a public place, as that term is defined in clause 1.3; and
- (b) local government property.

Division 6—Signs erected by the local government

2.16 Signs

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

2.17 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 2.16 if—

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

Division 7—Driving on a closed thoroughfare

2.18 No driving on closed thoroughfare

- (1) A person shall not drive or take a vehicle on a closed thoroughfare unless—
 - (a) that is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or
 - (b) the person has first obtained a permit.
- (2) In this clause—

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

PART 3—ADVERTISING SIGNS ON THOROUGHFARES

Division 1—Preliminary

3.1 Interpretation

In this Part, unless the context otherwise requires—

advertising sign means a sign used for the purpose of advertisement and includes an *election sign*;

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

election sign means a sign or poster which advertises any aspect of a forthcoming Federal, State or local government election;

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

portable sign means a portable free standing advertising sign.

Division 2—Permit

3.2 Advertising signs and portable direction signs

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

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

(2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which neither exceeds 500mm in height nor 0.5m² in area, provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.

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

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

3.3 Matters to be considered in determining application for permit

In determining an application for a permit for the purpose of clause 3.2(1), the local government is to have regard to—

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

Division 3—Conditions on permit

3.4 Conditions on portable sign

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

- (a) the portable sign shall—
 - (i) not exceed 1m in height;
 - (ii) not exceed an area of 1m² on any side;
 - (iii) relate only to the business activity described on the permit;
 - (iv) contain letters not less than 200mm in height;
 - (v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;
 - (vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
 - (vii) be secured in position in accordance with any requirements of the local government;
 - (viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
 - (ix) be maintained in good condition; and
- (b) no more than one portable sign shall be erected in relation to the one building or business.

3.5 Conditions on election sign

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 the election to which it relates has been officially announced;
- (g) being removed within 24 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; and
- (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

Division 1—Animals and vehicles

4.1 Leaving animal or vehicle in public place or on local government property

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

4.2 Prohibitions relating to animals

- (1) In subclause (2), *owner* in relation to an animal includes—
 - (a) an owner of it;
 - (b) a person in possession of it;
 - (c) a person who has control of it; and
 - (d) a person who ordinarily occupies the premises where the animal is permitted to stay.
- (2) An owner of an animal shall not—
 - (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a 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 a public place; or
 - (c) train or race the animal on a thoroughfare.
- (3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.

Division 2—Shopping trolleys

4.3 Interpretation

In this Division—

retailer means a proprietor of a shop in respect of which shopping trolleys are provided for the use of customers of the shop; and

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

4.4 Shopping trolley to be marked

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

4.5 Person not to leave trolley in public place

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

4.6 Retailer to remove abandoned trolley

- (1) If a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, the local government may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.
- (2) A retailer shall remove a shopping trolley within 24 hours of being so advised under subclause (1), unless the retailer—
 - (a) requests the local government to collect and deliver the shopping trolley to the retailer; and
 - (b) pays any fee for that collection and delivery (imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act) within the period specified by the local government.

PART 5—ROADSIDE CONSERVATION

Division 1—Preliminary

5.1 Interpretation

In this Part—

MRWA means Main Roads Western Australia;

protected flora has the meaning given to it in section 6(1) of the *Wildlife Conservation Act 1950*;

rare flora has the meaning given to it in section 23F of the *Wildlife Conservation Act 1950*;

Roadside Conservation Committee means the Roadside Conservation Committee appointed by the responsible Minister; and

special environmental area means an area designated as such under clause 5.7.

5.2 Application

This Part does not apply to the townsites.

Division 2—Flora roads

5.3 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.

5.4 Construction works on flora roads

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

5.5 Signposting of flora roads

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

5.6 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

5.7 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.

5.8 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

5.9 Permit to plant

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

5.10 Relevant considerations in determining application

In determining an application for a permit for the purpose of clause 5.9, 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

5.11 Permit to clear

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

5.12 Application for permit

In addition to the requirements of clause 7.1(2), a person making an application for a permit for the purpose of clause 5.11 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.

Division 6—Fire management

5.13 Permit to burn thoroughfare

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

5.14 Application for permit

In addition to the requirements of clause 7.1(2), an application for a permit for the purposes of clause 5.13 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.

5.15 When application for permit can be approved

The local government may approve an application for a permit for the purpose of clause 5.13 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.

5.16 Prohibitions on burning

Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 5.13 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.
- (c) Paragraph (b) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

Division 7—Firebreaks

5.17 Permit for firebreaks on thoroughfares

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

5.18 When application for permit cannot be approved

- (1) The local government is not to approve an application for a permit for the purpose of clause 5.17 where the thoroughfare is less than 20m wide.
- (2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

Division 8—Commercial wildflower harvesting on thoroughfares

5.19 General prohibition on commercial wildflower harvesting

Subject to clause 5.20, a person shall not commercially harvest native flora on a thoroughfare.

5.20 Permit for revegetation projects

- (1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.
- (2) The local government may approve an application for a permit under subclause (1) only where—
 - (a) the seed is required for a revegetation project in any part of the district; and
 - (b) the thoroughfare, or the relevant part of it, is not a special environmental area.
- (3) Unless the local government specifically provides to the contrary on a permit, if the local government approves an application for a permit for the purpose of subclause (1) it is to be taken to be approved subject to the following conditions—
 - (a) the collection of the seed is to be carried out so as not to endanger the long time survival of the native flora on the thoroughfare; and
 - (b) any licence or approval which may be required under any other written law is to be obtained by the applicant.

PART 6—TRADING IN THOROUGHFARES AND PUBLIC PLACES

Division 1—Stallholders and traders

Subdivision 1—Preliminary

6.1 Interpretation

In this Division, unless the context otherwise requires—

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;

public place includes—

- (a) any thoroughfare or place which the public are allowed to use whether or not the thoroughfare or place is on private property; and
- (b) local government property;

but does not include premises on private property from which trading is lawfully conducted under a written law.

stall means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold, hired or offered for sale or hire;

stallholder means a person in charge of a stall;

stallholder's permit means a permit issued to a stallholder;

trader means a person who carries on trading;

trader's permit means a permit issued to a trader; and

trading includes—

- (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;
- (b) displaying goods in any public place 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
- (c) the going from place to place, whether or not public places, and—
 - (i) offering goods or services for sale or hire; or
 - (ii) inviting offers or soliciting orders for the sale or the hire of goods or services,

but does not include—

- (d) the delivery of pre-ordered goods or services to the purchaser of those goods or services or to the person nominated by the purchaser of those goods or services whether or not payment for those goods or services is accepted on delivery; or
the taking of further orders for goods or services from the purchaser of those pre-ordered goods or services or from the person nominated by the purchaser of those pre-ordered goods or services when those orders are taken at the same time as a previous order is being delivered, whether or not payment is made for those goods or services at the time of taking the order;
- (e) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder's permit;
- (f) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from a person who sells those goods or services;
- (g) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; and
- (h) the selling or hiring or the offering for sale or hire of—
 - (i) goods by a person who represents a manufacturer of the goods; or
 - (ii) services by a person who represents a provider of the services,

which are only sold directly to consumers and not through a shop.

Subdivision 2—Permits

6.2 Stallholder's permit

(1) A person shall not conduct a stall on a public place unless that person is—

- (a) the holder of a valid stallholder's permit; or
- (b) an assistant specified in a valid stallholder's permit.

(2) Every application for a stallholder's permit shall—

- (a) state the full name and address of the applicant;
- (b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;
- (c) specify the proposed location of the stall;

- (d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;
- (e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and
- (f) be accompanied by an accurate plan and description of the proposed stall.

6.3 Trader's permit

- (1) A person shall not carry on trading unless that person is—
 - (a) the holder of a valid trader's permit; or
 - (b) an assistant specified in a valid trader's permit.
- (2) Every application for a trader's permit shall—
 - (a) state the full name and address of the applicant;
 - (b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;
 - (c) specify the location or locations in which the applicant proposes to trade;
 - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;
 - (e) specify the proposed goods or services which will be traded; and
 - (f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.

6.4 No permit required to sell newspaper

Notwithstanding any other provision of this local law, a person who sells, or offers for sale, a newspaper only is not required to obtain a permit.

6.5 Relevant considerations in determining application for permit

- (1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to—
 - (a) any relevant policies of the local government;
 - (b) the desirability of the proposed activity;
 - (c) the location of the proposed activity;
 - (d) the principles set out in the Competition Principles Agreement; and
 - (e) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds—
 - (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought; or
 - (b) that—
 - (i) the applicant is an undischarged bankrupt or is in liquidation;
 - (ii) the applicant has entered into any composition or arrangement with creditors; or
 - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property.

6.6 Conditions of permit

- (1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include—
 - (a) the place, the part of the district, or the thoroughfare to which the permit applies;
 - (b) the days and hours during which a permit holder may conduct a stall or trade;
 - (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;
 - (d) the goods or services in respect of which a permit holder may conduct a stall or trade;
 - (e) the number of persons and the names of persons permitted to conduct a stall or trade;
 - (f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;
 - (g) whether and under what terms the permit is transferable;
 - (h) any prohibitions or restrictions concerning the—
 - (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;
 - (ii) the use of amplifiers, sound equipment and sound instruments;
 - (iii) the use of signs; and
 - (iv) the use of any lighting apparatus or device;
 - (i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;

- (j) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;
 - (k) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;
 - (l) the acquisition by the stallholder or trader of public risk insurance;
 - (m) the period for which the permit is valid; and
 - (n) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.
- (2) 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 that permit holder authorize another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit shall apply to the nominee as if he or she was the permit holder.

6.7 Exemptions from requirement to pay fee or to obtain a permit

(1) In this clause—

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 like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium; and

commercial participant means any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit.

(2) The local government may waive any fee required to be paid by an applicant for a stallholder's permit or a trader's permit on making an application for or on the issue of a permit, or may return any such fee which has been paid, if the stall is conducted or the trading is carried on—

- (a) on a portion of a public place adjoining the normal place of business of the applicant; or
- (b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of a stall or trading, and any assistants that may be specified in the permit are members of that charitable organisation.

(3) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place, from the requirements of this Division.

Subdivision 3—Conduct of stallholders and traders

6.8 Conduct of stallholders and traders

(1) A stallholder while conducting a stall or a trader while trading shall—

- (a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting a stall or trading;
- (b) not display a permit unless it is a valid permit; and
- (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *National Measurement Act 1960 (Cth)*.

(2) A stallholder or trader shall not—

- (a) deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;
- (b) act in an offensive manner;
- (c) use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or
- (d) in the case of a trader, carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading.

Division 2—Street entertainers

Subdivision 1—Preliminary

6.9 Interpretation

In this Division, unless the context otherwise requires—

perform includes to play a musical instrument, sing, mime, dance, give an acrobatic or aerobic display or entertain, but does not include public speaking;

permit means a permit issued for the purpose of clause 6.10;

permitted area means the area or areas, specified in a permit, in which the permit holder may perform; and

permitted time means the time or times, specified in a permit, during which the permit holder may perform.

Subdivision 2—Permits

6.10 Permit required to perform

A person shall not perform in a public place without a permit.

6.11 Variation of permitted area and permitted time

(1) The local government may by notice in writing to a permit holder vary—

- (a) the permitted area;
- (b) the permitted time; or
- (c) both the permitted area and the permitted time,

shown on a permit.

(2) The local government may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

6.12 Duration of permit

A permit is valid for a period of 3 months after the date on which it is issued unless it is sooner cancelled under this local law.

6.13 Cancellation of permit

The CEO may cancel a permit if in her or his opinion the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place, or if, in her or his opinion, or in the opinion of an authorised person, the performance otherwise constitutes a nuisance.

6.14 Obligations of permit holder

A permit holder shall not in a public place—

- (a) perform wearing dirty, torn or ragged clothing;
- (b) act in an offensive manner; or
- (c) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier—
 - (i) other than in the permitted area; and
 - (ii) unless the musical instrument or device is specified in the permit.

Division 3—Outdoor eating facilities on public places

6.15 Interpretation

In this Division—

Facility means an outdoor eating facility or establishment on any part of a public place, but does not include such a facility or establishment on private land;

permit holder means the person to whom a permit has been issued for the purpose of clause 6.16; and

public place has the meaning given to it in clause 6.1.

6.16 Permit required to conduct Facility

A person shall not establish or conduct a Facility without a permit.

6.17 Matters to be considered in determining application

In determining an application for a permit for the purpose of clause 6.16, the local government may consider in addition to any other matter it considers relevant, whether or not—

- (a) the Facility is conducted in conjunction with and as an extension of a food business which abut on the Facility, and whether the applicant is the person conducting such food business;
- (b) any abutting food business is registered in accordance with the *Food Act 2008* and whether the use of the business is permitted under the town planning scheme;
- (c) users of the Facility will have access to proper and sufficient sanitary and ablutionary conveniences;
- (d) the Facility would—
 - (i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or
 - (ii) impede pedestrian access; and
- (e) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

6.18 Obligations of permit holder

(1) The permit holder for a Facility shall—

- (a) ensure that the Facility is conducted at all times in accordance with the provisions of this local law;
- (b) ensure that the eating area is kept in a clean and tidy condition at all times;
- (c) maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times; and

(2) Whenever, in the opinion of the local government, any work is required to be carried out to a Facility, the local government may give a notice to the permit holder for the Facility to carry out that work within the time limited by the notice.

(3) In subclause (2), “work” includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a Facility.

6.19 Removal of Facility unlawfully conducted

Where a Facility is conducted without a permit, or in contravention of a condition of a permit, any tables, chairs, umbrellas or other equipment may be removed by an authorised person and impounded in accordance with the Act.

6.20 Use of Facility by public

(1) A person shall not occupy a chair or otherwise use the equipment in a Facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the Facility.

(2) A person shall leave a Facility when requested to do so by the permit holder.

6.21 Temporary removal of Facility may be requested

(1) The permit holder for a Facility is to temporarily remove the Facility when requested to do so on reasonable grounds by an authorised person or a member of the Police Service or an emergency service.

(2) The permit holder may replace the Facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

PART 7—PERMITS

Division 1—Applying for a permit

7.1 Application for permit

(1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).

(2) An application for a permit under this local law shall—

(a) be in the form determined by the local government from time to time;

(b) be signed by the applicant;

(c) provide the information required by the form; and

(d) be forwarded to the CEO together with any fee imposed 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 require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

(4) The local government may require an applicant to give local public notice of the application for a permit.

(5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

7.2 Decision on application for permit

(1) The local government may—

(a) approve an application for a permit unconditionally or subject to any conditions; or

(b) refuse to approve an application for a permit.

(2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.

(3) If the local government refuses to approve an application for a permit, it is to 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 which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).

(5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

Division 2—Conditions

7.3 Conditions which may be imposed on a permit

The local government may approve an application for a permit subject to conditions relating to—

(a) the payment of a fee;

(b) the duration and commencement of the permit;

(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 approval of another application for a permit which may be required by the local government under any written law;
- (f) the area of the district to which the permit applies;
- (g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;
- (h) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government; and
- (i) 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 by the permit holder.

7.4 Imposing conditions under a policy

(1) In this clause—

policy means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 7.2(1)(a).

- (2) Under clause 7.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.
- (3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 7.2(2).
- (4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy is to be taken to be information within section 5.94(u)(i) of the Act.

7.5 Compliance with and variation of conditions

- (1) Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder shall comply with each of those conditions.
- (2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

Division 3—General

7.6 Duration of permit

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

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 7.10.

7.7 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 the permit.
- (2) The provisions of—
 - (a) this Part; and
 - (b) any other provision of this local law relevant to the permit which is to be renewed,
 shall apply to an application for the renewal of a permit with all the necessary changes as required.

7.8 Transfer of permit

- (1) An application for the transfer of a valid permit is to—
 - (a) be made in writing;
 - (b) be signed by the permit holder and the proposed transferee of 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 CEO 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.
- (2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) 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 CEO; or
 - (b) issuing to the transferee a permit in the form determined by the local government.
- (4) 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.

7.9 Production of permit

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

7.10 Cancellation of permit

- (1) Subject to clause 8.1, a permit may be cancelled by the local government if the permit holder has not complied with a—
 - (a) condition of the permit; or
 - (b) provision of any written law which may relate to the activity regulated by the permit.
- (2) On the cancellation of a permit the permit holder—
 - (a) shall return the permit as soon as practicable to the local government; and
 - (b) is to be taken to have forfeited any fees paid in respect of the permit.

PART 8—OBJECTIONS AND APPEALS

8.1 Application of Part 9 Division 1 of Act

When the local government makes a decision—

- (a) under clause 7.2(1); or
- (b) as to whether it will renew, vary, or cancel a permit,

the provisions of Division 1 of Part 9 of the Act apply to that decision.

PART 9—MISCELLANEOUS NOTICES

9.1 Notice to redirect or repair sprinkler

Where a lawn or a garden is being watered with a sprinkler which is on the lawn or the garden, in a manner which causes or may cause an inconvenience or obstruction to any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on 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.

9.2 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 on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.
- (2) Subclause (1) does not apply where the plant was planted by the local government.

9.3 Notice to repair damage to thoroughfare

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

9.4 Notice to remove thing unlawfully placed on thoroughfare

Where anything is placed on a thoroughfare in contravention of this local law, the local government may by notice in writing to the owner or the occupier of the property which abuts on that portion of the thoroughfare where the thing has been placed, or such other person who may be responsible for the thing being so placed, require the relevant person to remove the thing.

PART 10—ENFORCEMENT

Division 1—Notices given under this local law

10.1 Offence to fail to comply with notice

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

10.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 10.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

Division 2—Offences and penalties

Subdivision 1—General

10.3 Offences

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

Subdivision 2—Infringement notices and modified penalties

10.4 Prescribed offences

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

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

10.5 Forms

Unless otherwise specified, for the purposes of this local law—

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

Schedule 1
PRESCRIBED OFFENCES

[Clause 10.4]

	Clause	Description	Modified Penalty \$
1	2.1(a)	Plant any plant (except grasses or similar plant) within 10 metres of an intersection)	125
2	2.1(b)	Damaging lawn or garden	125
3	2.1(c)	Plant (except grass) on thoroughfare within 2m of carriageway	125
4	2.1(d)	Placing hazardous substance on footpath	125
5	2.1(e)	Damaging or interfering with signpost or structure on thoroughfare	350
6	2.1(f)	Playing games so as to impede vehicles or persons on thoroughfare	125
7	2.1(g)	Riding of skateboard or similar device on mall or verandah of shopping centre	125
8	2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	125
9	2.2(1)(b)	Throwing or placing anything on a verge without a permit	125
10	2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	125
11	2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	250
12	2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	250
13	2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	350
14	2.2(1)(h)	Felling tree onto thoroughfare without a permit	125
15	2.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	125
16	2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	350
17	2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	125
18	2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	125
19	2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	125
20	2.3(1)	Consumption or possession of liquor on thoroughfare	125
21	2.4(1)	Failure to obtain permit for temporary crossing	250
22	2.5(2)	Failure to comply with notice to remove crossing and reinstate kerb	350
23	2.8(1)	Installation of verge treatment other than permissible verge treatment	250
24	2.9	Failure to maintain permissible verge treatment or placement of obstruction on verge	125
25	2.10	Failure to comply with notice to rectify a verge treatment	125
26	2.16(2)	Failure to comply with sign on public place	125
27	2.17(1)	Driving or taking a vehicle on a closed thoroughfare	350

	Clause	Description	Modified Penalty \$
28	3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	125
29	3.2(3)	Erecting or placing of advertising sign in a prohibited area	125
30	4.1(1)	Animal or vehicle obstructing a public place or local government property	125
31	4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	125
32	4.2(2)(b)	Animal on public place with infectious disease	125
33	4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	125
34	4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	125
35	4.5	Person leaving shopping trolley in public place other than trolley bay	125
36	4.6(2)	Failure to remove shopping trolley upon being advised of location	125
37	5.6(1)	Driving a vehicle on other than the carriageway of a flora road	250
38	5.9	Planting in thoroughfare without a permit	250
39	5.11	Failure to obtain permit to clear a thoroughfare	500
40	5.13	Burning of thoroughfare without a permit	500
41	5.17	Construction of firebreak on thoroughfare without a permit	500
42	5.19	Commercial harvesting of native flora on thoroughfare	500
43	5.20(1)	Collecting seed from native flora on thoroughfare without a permit	350
44	6.2(1)	Conducting of stall in public place without a permit	350
45	6.3(1)	Trading without a permit	350
46	6.8(1)(a)	Failure of stallholder or trader to display or carry permit	125
47	6.8(1)(b)	Stallholder or trader not displaying valid permit	125
48	6.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	125
49	6.8(2)	Stallholder or trader engaged in prohibited conduct	125
50	6.10	Performing in a public place without a permit	125
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Dated: 16 June 2017.

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

C. SIMKIN, Shire President.
G. KEEFFE, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995
BUSH FIRES ACT 1954

SHIRE OF NORTHAMPTON

BUSH FIRE BRIGADES LOCAL LAW 2017

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LOCAL GOVERNMENT ACT 1995
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SHIRE OF NORTHAMPTON

BUSH FIRE BRIGADES LOCAL LAW 2017

Under the powers conferred by the *Bush Fires Act 1954* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Northampton resolved on 16 June 2017 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Northampton Bush Fire Brigades Local Law 2017*.

1.2 Commencement

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

1.3 Definitions

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

Act means the *Bush Fires Act 1954*;

brigade area is defined in clause 2.2(1)(b);

brigade member means a fire fighting member, associate member or a cadet member of a bush fire brigade;

brigade officer means a person holding a position referred to in clause 2.2(1)(c), whether or not he or she was appointed by the local government or elected at an annual general meeting of a bush fire brigade or otherwise appointed to the position;

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

bush fire control officer means a person appointed to that office by the local government;

Bush Fire Operating Procedures means the Bush Fire Operating Procedures adopted by the local government as amended from time to time;

cadet means any adolescent member of the Brigade aged 11 to 15 years;

Chief Bush Fire Control Officer means the Chief Bush Fire Control Officer appointed under the Act;

CEO means the chief executive officer of the Shire of Northampton;

Council means the Council of the local government;

Department means the department of the Public Service principally assisting in the administration of the *Fire and Emergency Services Act 1998*;

district means the district of the local government;

fire fighting activities means all normal brigade activities relating to an live bush fire which is active in the district, and includes burning off, creating fire breaks and other methods for the control of bush fires;

fire fighting member is defined in clause 4.2;

local government means the Shire of Northampton;

Regulations means Regulations made under the Act;

Rules means the Rules Governing the Operation of Bush Fire Brigades set out in the Schedule 1;

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

volunteer fire brigade has the meaning given in the *Fire Brigades Act 1942*.

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

- (a) a Captain;
- (b) a First Lieutenant;
- (c) a Second Lieutenant;

- (d) any additional Lieutenants;
- (e) an Equipment Officer;
- (f) a Secretary;
- (g) a Treasurer; or
- (h) a Secretary / Treasurer combined;

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

1.4 Repeal

The Municipality of the Shire of Northampton By-laws Relating to the Establishment, Maintenance and Equipment of Bush Fire Brigades as published in the *Government Gazette* on 15 May 1987 is repealed.

1.5 Application

This local law applies throughout the district.

PART 2—ESTABLISHMENT OF BUSH FIRE BRIGADES

Division 1—Establishment of a bush fire brigade

2.1 Establishment of a bush fire brigade

- (1) The local government may establish a bush fire brigade for the purpose of carrying out normal brigade activities.
- (2) A bush fire brigade is established on the date of the local government's decision under subclause (1).

2.2 Name and officers of bush fire brigade

- (1) On establishing a bush fire brigade under clause 2.1(1) the local government is to—
 - (a) give a name to the bush fire brigade;
 - (b) specify the area in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities; and
 - (c) appoint—
 - (i) a Captain;
 - (ii) a First Lieutenant;
 - (iii) a Second Lieutenant;
 - (iv) additional Lieutenants if the local government considers it necessary;
 - (v) an Equipment Officer;
 - (vi) a Secretary;
 - (vii) a Treasurer; and
 - (viii) a Secretary/Treasurer combined;
- (2) When considering the appointment of persons to the positions in subclause (1)(c), the local government is to have regard to the qualifications and experience which may be required to fill each position.
- (3) A person appointed to a position in subclause (1)(c) is to be a registered brigade member.
- (4) The appointments referred to in subclause (1)(c) expire at the completion of the first annual general meeting of the bush fire brigade.
- (5) If a position referred to in subclause (1)(c) becomes vacant prior to the completion of the first annual general meeting, then the local government is to appoint a person to fill the vacancy in accordance with subclause (2).

Division 2—Command at a fire

2.3 Ranks within the bush fire brigade

- (1) Where under the Act and Bush Fire Operating Procedures members of the bush fire brigade have command of a fire, unless a bush fire control officer is in attendance at the fire, the Captain has full control over other persons fighting the fire, and is to issue instructions as to the methods to be adopted by the fire fighters.
- (2) In the absence of the Captain, the Fire Control Officer, in the order of seniority determined, is to exercise all the powers and duties of the Captain.
- (3) Where a bush fire control officer is in attendance at a fire which the members of the bush fire brigade have command of under the Act and the Bush Fire Operating Procedures, the most senior bush fire control officer has full control over other persons fighting the fire and is to issue instructions as to the methods to be adopted by the fire fighters.

Division 3—Application of Rules to a bush fire brigade

2.4 Rules

- (1) The Rules govern the operation of a bush fire brigade.
- (2) A bush fire brigade and each brigade member is to comply with the Rules.

Division 4—Transitional

2.5 Existing bush fire brigades

- (1) Where a local government has established a bush fire brigade prior to the commencement date, then on and from the commencement day—
- (a) the bush fire brigade is to be taken to be a bush fire brigade established under and in accordance with this local law;
 - (b) the provisions of this local law apply to the bush fire brigade save for clause 2.2; and
 - (c) any rules governing the operation of the bush fire brigade are to be taken to have been repealed and substituted with the Rules.

- (2) In this clause—

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

Division 5—Dissolution of bush fire brigade

2.6 Dissolution of bush fire brigade

In accordance with section 41(3) of the Act, the local government may cancel the registration of a bush fire brigade if it is of the opinion that the bush fire brigade is not complying with the Act, this local law, the Bush Fire Operating Procedures or the Rules, or is not achieving the objectives for which it was established.

2.7 New arrangement after dissolution

If a local government cancels the registration of a bush fire brigade, alternative fire control arrangements are to be made in respect of the brigade area.

PART 3—ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES

Division 1—Local government responsibility

3.1 Local government responsible for structure

The local government is to ensure that there is an appropriate structure through which the organisation of bush fire brigades is maintained.

3.2 Officers to be supplied with Act

The local government is to supply each brigade officer with a copy of the Act, the Regulations, the Bush Fire Operating Procedures, this local law and any other written laws which may be relevant to the performance of the brigade officers' functions, and any amendments which are made thereto from time to time.

Division 2—Chief Bush Fire Control Officer

3.3 Managerial role of Chief Bush Fire Control Officer

- (a) Subject to any directions by the local government the Chief Bush Fire Control Officer has primary managerial responsibility for the organisation and maintenance of bush fire brigades.
- (b) Where only one person is appointed as a bush fire control officer by the local government, that person is a Chief Bush Fire Control Officer for the purposes of this local law.

3.4 Chief Bush Fire Control Officer may attend meetings

The Chief Bush Fire Control Officer or her or his nominee (who is to be a bush fire control officer) may attend as a non-voting representative of the local government at any meeting of a bush fire brigade.

3.5 Duties of Chief Bush Fire Control Officer

The duties of the Chief Bush Fire Control Officer are to—

- (a) provide leadership to volunteer fire brigade;
- (b) monitor bush fire brigades' resourcing, equipment (including protective clothing) and training levels and report thereon with recommendations at least once a year to the local government;
- (c) liaise with the local government concerning fire prevention or fire suppression matters generally and directions to be issued by the local government to bush fire control officers (including those who issue permits to burn), bush fire brigades or brigade officers; and
- (d) ensure that bush fire brigades are registered with the local government and that lists of brigade members are maintained.

Division 3—Annual general meetings of bush fire brigades

3.6 Holding of annual general meeting

A bush fire brigade is to hold one annual general meeting every financial year.

3.7 Nomination of bush fire control officers to Bush Fire Advisory Committee

At the annual general meeting of a bush fire brigade, the brigade may nominate preferred candidates for the position of bush fire control officer to the Chief Bush Fire Control Officer and to the Bush Fire Advisory Committee for consideration and recommendation to the local government.

3.8 Nomination of bush fire control officer to the local government

If the local government has not established a Bush Fire Advisory Committee, then at the annual general meeting of a bush fire brigade, the bush fire brigade is to nominate one brigade member to the local government to serve as the bush fire control officer for the brigade area until the next annual general meeting.

3.9 Minutes to be tabled before the Bush Fire Advisory Committee

(1) The Secretary is to forward a copy of the minutes of the annual general meeting of a bush fire brigade to the Chief Bush Fire Control Officer within one month after the meeting.

(2) The Chief Bush Fire Control Officer is to table the minutes of a bush fire brigade's annual general meeting at the next meeting of the—

(a) Bush Fire Advisory Committee; or

(b) Local government, if there is no Bush Fire Advisory Committee,

following their receipt under subclause (1).

Division 4—Bush Fire Advisory Committee

3.10 Functions of Advisory Committee

The Bush Fire Advisory Committee is to have the functions set out in section 67 of the Act and is to include such number of nominees of the bush fire brigades as is determined by the local government.

3.11 Advisory Committee to nominate bush fire control officers

As soon as practicable after the annual general meeting of each bush fire brigade in the district, the Bush Fire Advisory Committee is to nominate to the local government from the persons nominated by each bush fire brigade a person for the position of a bush fire control officer for the brigade area.

3.12 Local government to have regard to nominees

When considering persons for the position of a bush fire control officer, the local government is to have regard to those persons nominated by the Bush Fire Advisory Committee, but is not bound to appoint the persons nominated.

3.13 Advisory Committee to consider bush fire brigade motions

The Bush Fire Advisory Committee is to make recommendations to the local government on all motions received by the Bush Fire Advisory Committee from bush fire brigades.

PART 4—TYPES OF BUSH FIRE BRIGADE MEMBERSHIP

4.1. Types of membership of bush fire brigade

The membership of a bush fire brigade consists of the following—

(a) fire fighting members;

(b) associate members;

(c) cadet members; and

(d) honorary life members.

4.2 Fire fighting members

(1) Fire fighting members are those persons being at least 16 years of age who undertake all normal brigade activities.

(2) Notwithstanding subclause (1), a fire fighting member aged from 16 to 18 years must not attend a fire or other emergency incident unless the member has the consent of their parent or guardian and is accompanied by an appropriately trained fire fighting member over the age of 18.

4.3 Associate members

Associate members are those persons who are willing to supply free vehicular transport for fire fighting members or fire fighting equipment, or who are prepared to render other assistance required by the bush fire brigade.

4.4 Cadet members

Cadet members are—

(a) to be aged 11 to 15 years;

(b) to be admitted to membership only with the consent of their parent or guardian;

(c) admitted for the purpose of training and are not to attend or be in attendance at an uncontrolled fire or other emergency incident;

(d) to be supervised by a fire fighting member when undertaking normal brigade activities as defined by paragraphs (c), (d), (e), (f) and (g) of section 35A of the Act;

- (e) ineligible to vote at bush fire brigade meetings; and
- (f) not to be assigned ranks under the Department's rank structure.

4.5 Honorary life member

- (1) The bush fire brigade may by a simple majority resolution appoint a person as an honorary life member in recognition of services by that person to the bush fire brigade.
- (2) No membership fees are to be payable by an honorary life member.

4.6 Notification of membership

No later than 31 May in each year, the bush fire brigade is to report to the Chief Bush Fire Control Officer the name, contact details and type of membership of each brigade member.

PART 5—APPOINTMENT DISMISSAL AND MANAGEMENT OF MEMBERS

5.1 Rules to govern

The appointment, dismissal and management of brigade members by the bush fire brigade are governed by the Rules.

PART 6—EQUIPMENT OF BUSH FIRE BRIGADES

6.1 Policies of local government

The local government may make policies under which it—

- (a) provides funding to bush fire brigades for the purchase of protective clothing, equipment and appliances; and
- (b) keeps bush fire brigades informed of opportunities for funding from other bodies.

6.2 Equipment in brigade area

Not later than 31 May in each year, the bush fire brigade is to report to the local government the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the brigade area (or at a station of the bush fire brigade).

6.3 Funding from local government budget

A request to the local government from the bush fire brigade for funding of protective clothing, equipment or appliance needs is to be received by the local government by 31 March in order to be considered in the next following local government budget, and is to be accompanied by the last audited financial statement and a current statement of assets and liabilities of the bush fire brigade.

6.4 Consideration in the local government budget

The local government may approve or refuse an application for funding depending upon the assessment of budget priorities for the year in question.

Schedule 1

RULES GOVERNING THE OPERATION OF BUSH FIRE BRIGADES

[Clause 5.1]

PART 1—PRELIMINARY

1.1 Interpretation

(1) In these Rules, unless the context otherwise requires, where a term is used in these Rules and is defined in the local law, the Act or the Regulations, then the term is to be taken to have the meaning assigned to it in the local law, the Act or the Regulations, as the case may be.

(2) In these Rules, unless the context otherwise requires—

absolute majority means a majority of more than 50% of the total number of—

- (a) brigade members of the bush fire brigade, whether in attendance at the meeting or not, if the majority is required at a meeting of the bush fire brigade; or
- (b) brigade officers of the bush fire brigade, whether in attendance at the meeting or not, if the majority is required at a meeting of the Committee.

Committee means the Committee of the bush fire brigade;

local law means the *Shire of Northampton Bush Fire Brigades Local Law 2017*; and

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

(3) Subject to these Rules, where a decision is to be made by the bush fire brigade, then the decision may be made by a resolution passed by a simple majority of the brigade members who are present in person or by proxy at the meeting.

(4) Subject to these Rules, where a decision is to be made by the Committee, then the decision may be made by a resolution passed by a simple majority of the brigade officers who are present in person or by proxy at the meeting.

PART 2—OBJECTS AND MEMBERSHIP OF BUSH FIRE BRIGADE

2.1 Objects of bush fire brigade

The objects of the bush fire brigade are to carry out—

- (a) the normal brigade activities; and
- (b) the functions of the bush fire brigade which are specified in the Act, the Regulations and the local law.

2.2 Committee to determine applications

Applications for membership are to be determined by the Committee.

2.3 Conditions of membership

In relation to any type of membership, as described in Part 4 of the local law, the bush fire brigade may establish policies pertaining to—

- (a) the qualifications required;
- (b) fees payable, if any;
- (c) a requirement to serve a probationary period; and
- (d) procedures to be employed by the Committee prior to approval of an application for membership,

and the Committee is to act within the parameters of any such policy in determining applications for membership.

2.4 Applications for membership

An application for membership is to be in writing and is to be submitted to the Secretary and in the case of—

- (a) an application for firefighting membership is to be accompanied by a completed form in the form of that in Appendix I.
- (b) an application for associate membership is to be accompanied by a completed form in the form of that in Appendix II.
- (c) an application for cadet membership is to be accompanied by a completed form in the form of that in Appendix III.

2.5 Decision on application for membership

(1) The Committee may—

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

(2) If the Committee refuses to approve an application for membership, it is to give written reasons for the refusal, as soon as practicable after the decision is made, to the applicant and the advice that the applicant has the right to object to the local government.

2.6 Department to be notified of registrations

If any application for membership is approved, the Secretary of the bush fire brigade is to supply registration details to the Department of Fire and Emergency Services within 14 days of a person being admitted to membership in the form required by the Department from time to time.

2.7 Termination of membership

(1) Membership of the bush fire brigade terminates if the member—

- (a) dies;
- (b) gives written notice of resignation to the Secretary;
- (c) is, in the opinion of the Committee, permanently incapacitated by mental or physical ill-health;
- (d) is dismissed by the Committee; or
- (e) ceases to be a member or is taken to have resigned under subclause (2).

(2) A brigade member whose membership fees are more than one year in arrears is to be taken to have resigned from the bush fire brigade.

2.8 Suspension of membership

(1) Membership of the bush fire brigade may be suspended at any time if, in the opinion of the Committee, circumstances warrant suspending the member.

(2) The period of suspension shall be at the discretion of the Committee.

(3) Upon the expiry of the period of suspension the Committee may—

- (a) extend the period of suspension;
- (b) terminate the membership; or
- (c) reinstate the membership.

2.9 Existing liabilities to continue

The resignation or dismissal of a member under clause 2.7 does not affect any liability of the brigade member arising prior to the date of resignation or dismissal.

2.10 Member has right of defense

A brigade member is not to be dismissed under clause 2.7(1)(d) without being given the opportunity to meet with the Committee and answer any charges which might give grounds for dismissal.

2.11 Objection Rights

A person whose—

- (a) application for membership is refused under clause 2.5(1)(b);
- (b) membership is terminated under clause 2.7(1)(c), clause 2.7(1)(d) or clause 2.8(3)(b); or
- (c) membership is suspended under clause 2.8(1) or clause 2.8(3)(a),

has the right of objection to the local government which may dispose of the objection by—

- (a) dismissing the objection;
- (b) varying the decision objected to; or
- (c) revoking the decision objected to, with or without—
 - (i) substituting for it another decision; or
 - (ii) referring the matter, with or without directions, for another decision by the Committee.

PART 3—FUNCTIONS OF BRIGADE OFFICERS

3.1 Chain of command during fire fighting activities

Subject to the Act and the local law, the command procedures to apply during fire fighting activities are as detailed in the local government's Bush Fire Operating Procedures.

3.2 Captain

- (1) Subject to subclause (2), the Captain is to preside at all meetings.
- (2) In the absence of the Captain, the meeting may elect another person to preside at the meeting.

3.3 Secretary

(1) The Secretary is to—

- (a) be in attendance at all meetings and keep a correct minute and account of the proceedings of the bush fire brigade in a book which shall be open for inspection by brigade members at any reasonable time;
- (b) answer all correspondence or direct it appropriately, and keep a record of the same;
- (c) prepare and send out all necessary notices of meetings;
- (d) receive membership fees, donations and other monies on behalf of the bush fire brigade, and remit them to the Treasurer upon receipt;
- (e) complete and forward an incident report form in the form required by the Department to the Chief Bush Fire Control Officer and the Department within 14 days after attendance by the bush fire brigade at an incident; and
- (f) maintain a register of all current brigade members which includes each brigade member's contact details and type of membership;
- (g) provide no later than 31 May in each year, a report to the Chief Bush Fire Control Officer detailing the name, contact details and type of membership of each brigade member.

(2) Where a bush fire brigade attends an incident on more than one day, the incident report form is to be completed and forwarded under subclause (1)(e) within 14 days after the last day of attendance.

3.4 Treasurer

The Treasurer is to—

- (a) receive donations and deposits from the Secretary, and deposit all monies to the credit of the bush fire brigade's bank account;
- (b) pay accounts as authorised by the Committee;
- (c) keep a record of all monies received and payments made, maintain the accounts and prepare the balance sheet for each financial year;
- (d) be the custodian of all monies of the bush fire brigade;
- (e) regularly inform the Secretary of the names of those brigade members who have paid their membership fees; and
- (f) report on the financial position at meetings of the bush fire brigade or Committee.

3.5 Equipment Officer

The Equipment Officer is responsible for the custody and maintenance in good order and condition of all protective clothing, equipment and appliances provided by the local government to the bush fire brigade (or of the bush fire brigade).

3.6 Storage of equipment

- (1) The Equipment Officer may store all of the equipment of the bush fire brigade at a place approved by the Captain (the *station*).
- (2) If there is to be more than one station in the brigade area, the Equipment Officer is to appoint in respect of each station a person who is responsible for the custody and maintenance in good order and condition of all equipment and appliances at the station, subject to any direction of the Equipment Officer.

3.7 Equipment Officer to report

The Equipment Officer is to provide, no later than 31 May of each year, a report to the local government and bush fire brigade Captain describing the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the bush fire brigade area (or at a station of the bush fire brigade).

PART 4—COMMITTEE

4.1 Management of bush fire brigade

(1) Subject to the provisions of these Rules, the administration and management of the affairs of the bush fire brigade are vested in the Committee.

(2) Without limiting the generality of subclause (1), the Committee is to have the following functions—

- (a) to recommend to the local government amendments to these Rules;
- (b) to draft the annual budget for the bush fire brigade and present it at the annual general meeting of the bush fire brigade;
- (c) to propose a motion for consideration at any meeting of the bush fire brigade;
- (d) to recommend to the local government equipment which needs to be supplied by the local government to the bush fire brigade;
- (e) to invest or place on deposit any of the funds of the bush fire brigade not immediately required to perform the normal brigade activities;
- (f) to delegate to a person, as from time to time thought fit, any functions (being less than the total functions of the Committee) on any conditions it thinks fit;
- (g) to do all things necessary or convenient in order to perform any of its functions and to secure the performance of the normal brigade activities by the bush fire brigade; and
- (h) deal with membership applications, grievances, disputes and disciplinary matters.

4.2 Constitution of Committee

(1) The Committee of the bush fire brigade is to consist of the brigade officers being the Captain, Secretary, Treasurer, Equipment Officer and the Lieutenants of the bush fire brigade.

(2) The brigade officers are to—

- (a) be elected at the annual general meeting of the bush fire brigade;
- (b) hold office until the next annual general meeting; and
- (c) be eligible for re-election at the next annual general meeting.

(3) Any brigade officer may be removed from office by an absolute majority decision of the brigade members present in person or by proxy at a special meeting called for such a purpose.

(4) The Committee may appoint a brigade member to fill a vacancy in any office arising from a resolution under subclause (3) or which has arisen for any other reason.

PART 5—MEETINGS OF BUSH FIRE BRIGADE

5.1 Ordinary meetings

(1) Ordinary meetings may be called at any time by the Secretary by giving at least 7 days notice to all brigade members and to the Chief Bush Fire Control Officer, for the purpose of—

- (a) organising and checking equipment;
- (b) requisitioning new or replacement equipment;
- (c) organising field excursions, training sessions, hazard reduction programs, and the preparation of fire-breaks;
- (d) establishing new procedures in respect of any of the normal brigade activities; and
- (e) dealing with any general business.

(2) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.

(3) Business may be conducted at an ordinary meeting of the bush fire brigade notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.

5.2 Special meetings

(1) The Secretary is to call a special meeting when 5 or more brigade members request one in writing.

(2) At least 2 days notice of a special meeting is to be given by the Secretary, to all brigade members and to the Chief Bush Fire Control Officer.

(3) In a notice given under subclause (2), the Secretary is to specify the business which is to be conducted at the meeting.

(4) No business is to be conducted at a special meeting beyond that specified in a notice given under subclause (2) in relation to that meeting.

5.3 Annual general meeting

- (1) At least 7 days notice of the annual general meeting is to be given by the Secretary to all brigade members and to the Chief Bush Fire Control Officer.
- (2) At the annual general meeting the bush fire brigade is to—
 - (a) elect the brigade officers from among the brigade members;
 - (b) consider the Captain's report on the year's activities;
 - (c) adopt the annual financial statements;
 - (d) appoint an Auditor for the ensuing financial year in accordance with clause 5.6; and
 - (e) deal with any general business.
- (3) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.
- (4) Business may be conducted at an annual general meeting notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.

5.4 Quorum

- (1) The quorum for a meeting of the bush fire brigade is at least 50% of the number of officers (whether vacant or not) of members of the bush fire brigade.
- (2) No business is to be transacted at a meeting of the bush fire brigade unless a quorum of brigade members is present in person or by proxy.

5.5 Voting

Each brigade member is to have one vote, however in the event of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

5.6 Auditor

- (1) At the annual general meeting a person, not being a brigade member, is to be appointed as the Auditor of the bush fire brigade for the ensuing financial year.
- (2) The Auditor is to audit the accounts of the bush fire brigade not less than 7 days before the annual general meeting and is to certify to their correctness or otherwise and present a report at the annual general meeting.

PART 6—MEETINGS OF COMMITTEE

6.1 Meetings of Committee

- (1) The Committee is to meet for the despatch of business, adjourn and otherwise regulate its meeting as it thinks fit.
- (2) The Captain or Secretary may convene a meeting of the Committee at any time.

6.2 Quorum

No business is to be transacted at a meeting of the Committee unless a quorum of 3 brigade officers are present in person.

6.3 Voting

Each brigade officer is to have one vote, however in the case of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

PART 7—GENERAL ADMINISTRATION MATTERS

7.1 Fees

- (1) The membership fees, if any, for each type of member for the ensuing 12 months are to be determined by the bush fire brigade at the annual general meeting.
- (2) Subject to subclause (3), a member is to pay the membership fees for her or his type of membership on or before 1 May.
- (3) The bush fire brigade may exempt a brigade member or a class of membership, from the payment of membership fees, for such period and on such conditions as the bush fire brigade may determine.

7.2 Funds

The funds of the bush fire brigade are to be used solely for the purpose of promoting the objects of the bush fire brigade.

7.3 Financial year

The financial year of the bush fire brigade is to commence on 1 July and is to end on 30 June of the following year.

7.4 Banking

- (1) The brigade must have 3 Committee Members to act as signatories for the brigade accounts each Financial Year.
- (2) At least 2 Committee Members must sign any brigade account cheque or bank transaction form.

7.5 Disclosure of interests

- (1) A brigade member shall disclose to the bush fire brigade or Committee any financial interest (whether direct or indirect) he or she may have in any matter being considered by the bush fire brigade or Committee, as appropriate.
- (2) If a financial interest has been disclosed under subclause (1), then the bush fire brigade or Committee, as appropriate, is to decide, in the absence of the brigade member who disclosed that interest, whether or not the brigade member is to be permitted to vote on that matter.
- (3) Where the bush fire brigade or Committee, as appropriate, decides under subclause (2), that a brigade member is not to be permitted to vote on a matter, and the brigade member votes on the matter, then her or his vote is to be taken to have no effect and is not to be counted.

7.6 Disagreements

- (1) Any disagreement between brigade members may be referred to either the Captain or to the Committee.
- (2) Where a disagreement in subclause (1) is considered by the Captain or the Committee to be of importance to the interests of the bush fire brigade, then the Captain or the Committee, as the case may be, is to refer the disagreement to the annual general meeting, an ordinary meeting or a special meeting of the bush fire brigade.
- (3) The local government is the final authority on matters affecting the bush fire brigade, and may resolve any disagreement which is not resolved under subclause (1) or (2).

PART 8—NOTICES AND PROXIES

8.1 Notices

- (1) Notices of meetings of the bush fire brigade are to be in writing and sent by ordinary post or by electronic communication to the registered address of each brigade member.
- (2) Notices of meetings of the Committee may be given in writing in accordance with subclause (1) or by such other means as the Committee may decide (by an absolute majority) at a meeting of the Committee.
- (3) Any accidental omission to give notice of a meeting to, or non-receipt by a person entitled to receive such notice, is not to invalidate the meeting the subject of the notice or any resolutions passed at the meeting.
- (4) Where any notice other than a notice of meeting is to be given under these Rules, the notice is to be—
 - (a) in writing;
 - (b) unless otherwise specified, given to or by the Secretary;
 - (c) given by—
 - (i) personal delivery;
 - (ii) post; or
 - (iii) an electronic communication;
 - (d) taken to have been received, as the case may be—
 - (i) at the time of personal delivery;
 - (ii) 2 business days after posting;
 - (iii) on the printing of the sender's transmission report; or
 - (iv) at the time when the electronic communication becomes capable of being retrieved by the addressee.

8.2 Proxies

- (1) Where under these Rules a brigade member may vote by proxy, in order for the proxy to so vote, the brigade member or the proxy shall give a notice in the form of that appearing in this clause, to the Secretary or the person presiding at the meeting before the start of the meeting at which the proxy is to be used.
- (2) A proxy is to be valid for the meeting for which it is given and for any adjournments of that meeting.
- (3) A proxy shall be valid for the number of votes to which the brigade member is entitled.
- (4) If the donor of the proxy does not give any indication of the manner in which the proxy is to vote, the proxy shall be entitled to vote or not vote as he or she thinks fit.
- (5) A proxy shall be entitled to speak on behalf of the donor of the proxy.
- (6) All forms appointing proxies deposited under subclause (1) are to be retained by the Secretary for not less than 28 days after the conclusion of the meeting to which they relate but if there is any objection to the validity of any vote at the meeting, they are to be retained until the determination of that objection.

(7) The form appointing a proxy shall be in writing and signed by the brigade member appointing the proxy and shall be in or substantially in the form set out below—

FORM 1
PROXY VOTE
SHIRE OF NORTHAMPTON BUSH FIRE BRIGADE
[ANNUAL] [EXTRAORDINARY] GENERAL MEETING
TO BE HELD ON [DATE]

I,

Being a brigade member appoint to be my proxy and vote on my behalf at the meeting of the bush fire brigade to be held on [insert date] and at any adjournment of it. The proxy shall vote as follows—

MOTION FOR AGAINST ABSTAIN

1.
2.

If there is no instruction to the proxy as to the way to vote, the proxy shall exercise her or his discretion as to how to vote or whether to vote at all. In respect of any vote taken at the meeting on a matter which does not appear on the agenda, the proxy shall exercise her or his discretion as to the way he or she casts the vote or whether it is cast at all.

Date:

Signed:

NOTE: To be valid this proxy must be completed and returned to the Secretary of the bush fire brigade (or the presiding member) prior to the commencement of the meeting for which the proxy is valid.

Dated this day of 20 .

APPENDIX I

APPLICATION FOR MEMBERSHIP—FIRE FIGHTING MEMBER

I make application to be a fire fighting member of the Bush Fire Brigade.

Applicant's Name.....

My private address is

My business address is

Usual Occupation.....

I can be contacted on—

Telephone No: (Home)..... (Work)..... Mobile.....

Fax No: (Home)..... (Work).....

CB Radio Channel Call Sign

If needed, I can provide my own transport to the scene of any outbreak. (This line to be struck out if not applicable)

I hold a current driver's licence No Classes

I declare that I am at least 16 years of age and in good health with no known medical conditions which might limit my capacity to fight fires.

I give these undertakings—

- (1) to promote the objects of the bush fire brigade as far as is in my power;
- (2) to be governed by the provisions of the *Bush Fires Act 1954* and the Regulations made under that Act, and the local law and policies of the *Shire of Northampton* relevant to fire control and bush fire brigades;
- (3) to use my best endeavours to give assistance in fire fighting measures when called upon and on such occasions to obey all orders and instructions issued by duly authorised officers of the bush fire brigade or the local government;
- (4) to comply with the Rules of the bush fire brigade.

Date Applicant's signature

Please list here any fire fighting equipment owned by you.

- 1.
- 2.
- 3.
- 4.

BUSH FIRE BRIGADE USE ONLY:

APPROVED / DECLINED

Signed:
Brigade Captain

APPENDIX II

APPLICATION FOR MEMBERSHIP—ASSOCIATE MEMBER

I make application to be an associate member of the..... Bush Fire Brigade.

(a) I am prepared to offer to transport fire fighting members and/or equipment to the scene of any outbreak when called upon. I have a motor vehicle of the following type available for such purpose.

MDL No:..... Classes:

(b) I am prepared to offer my services in the following capacity—

.....
.....

(paragraph (a) or (b) above may be struck out if not applicable)

Applicant's Name

My private address is.....

My business address is

I can be contacted on—

Telephone No: (Home).....(Work)..... Mobile

Fax No: (Home).....(Work).....

CB Radio..... Channel Call Sign

I give these undertakings—

- (1) to promote the objects of the bush fire brigade as far as is in my power;
- (2) to be governed by the provisions of the *Bush Fires Act 1954* and any Regulations made under the Act and the local law and policies of the *Shire of Northampton* relevant to fire control and bush fire brigades;
- (3) to use my best endeavours to assist in normal bush fire brigade activities as an associate member when called upon;
- (4) to comply with the Rules of the bush fire brigade.

Date Applicant's signature.....

BUSH FIRE BRIGADE USE ONLY:

APPROVED / DECLINED

Signed:
Brigade Captain

APPENDIX III

APPLICATION FOR MEMBERSHIP—CADET MEMBER

I make application to be a cadet member of the..... Bush Fire Brigade.

Applicant's Name

My private address is.....

I can be contacted on—

Telephone No: (Home).....(Work).....

Fax No: (Home).....

CB Radio Channel Call Sign

I declare that I am years of age and in good health.

Date of Birth:

I give these undertakings—

- (1) to promote the objects of the bush fire brigade as far as is in my power;
- (2) to be governed by the provisions of the *Bush Fires Act 1954* and the Regulations made under that Act, and the local law and policies of the *Shire of Northampton* relevant to the activities of cadet members;
- (3) to obey all orders and instructions issued by duly authorised officers of the bush fire brigade or the local government;
- (4) to comply with the Rules of the bush fire brigade.

Date Applicant's signature

Parent / Guardian Consent—

I being the parent/guardian of the above applicant, consent to him/her being a cadet member of the Bush Fire Brigade, in accordance with the rules applicable to cadet membership.

Signed:

BUSH FIRE BRIGADE USE ONLY:

APPROVED / DECLINED

Signed:
Brigade Captain

Dated 16 June 2017.

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

CRAIG SIMKIN, Shire President.

GARRY KEEFFE, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995
DOG ACT 1976

SHIRE OF NORTHAMPTON

DOGS LOCAL LAW 2017

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**SCHEDULE 1—APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL
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SCHEDULE 3—OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES

LOCAL GOVERNMENT ACT 1995
DOG ACT 1976

SHIRE OF NORTHAMPTON

DOGS LOCAL LAW 2017

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 Northampton resolved on 16 June 2017 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Northampton Dogs Local Law 2017*.

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

The *Shire of Northampton Local Law Relating to Dogs* as published in the *Government Gazette* on 29 October 2004 is repealed.

1.5 Interpretation

In this local law unless the context otherwise requires—

Act means the *Dog Act 1976*;

authorised person means a person who is appointed under section 29 of the Act;

CEO means the Chief Executive Officer of the local government;

dangerous dog has the meaning given under the Act;

district means the district of the local government;

fit and proper person—means a person who has been deemed to be not fit to care for animals by a reputable body such as the RSPCA, or a person who is deemed by an authorised officer, not to have the ability or adequate support to undertake obligations of the license;

local government means the Shire of Northampton;

nuisance means—

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

owner has the meaning given to it under section 3 of the Act;

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

premises has the meaning given under the Act;

Regulations means the *Dog Regulations 2013*;

Schedule means a schedule in this local law;

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

town planning scheme means a town planning scheme made by the local government under the *Planning and Development Act 2005* which applies throughout the whole or a part of the district; and

townsite means the townsites of *Northampton, Kalbarri, Horrocks, Gregory, Binu, Isseka and Ajana* which are—

- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
- (b) referred to in clause 37 of Schedule 9.3 of the *Local Government Act 1995*.

PART 2—IMPOUNDING OF DOGS

2.1 Charges and costs

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 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) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of pound keeper at pound

The pound keeper is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are 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 the pound keeper or in the absence of the pound keeper, to the CEO.
- (2) The pound keeper is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper, satisfactory 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.

PART 3—REQUIREMENTS AND LIMITATIONS ON THE 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 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(4) of the Act—
 - (a) 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite; or
 - (b) 4 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a townsite.

PART 4—APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2—

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

licensee means the holder of a licence;

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

transferee means a person who applies for the transfer of a licence to her or him under clause 4.13.

4.2 Application for licence for approved kennel establishment

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

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;
- (c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government; and
- (e) the fee for the application for a licence referred to in clause 4.9(1).

4.3 Notice of proposed use

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

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

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

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

(3) Where—

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

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

4.4 Exemption from notice requirements

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

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

under a town planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence.

4.5 When application can be determined

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

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 Determination of application

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

- (a) the matters referred to in clause 4.7;
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the 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.

4.7 Where application cannot be approved

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

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a town 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.

4.8 Conditions of approval

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

4.9 Fees

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

4.10 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.

4.11 Period of licence

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the fee referred to in clause 4.9(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.

4.12 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) subclauses (2)(b) and (2)(c), the date determined under section 27(6) of the Act.
- (4) If a licence is cancelled, the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.13 Transfer

- (1) An application for the transfer of a valid licence from the licensee to another person must be—
 - (a) made in the form determined by the local government from time to time;
 - (b) made by the transferee;
 - (c) made with the written consent of the licensee; and
 - (d) lodged with the local government together with—
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.9(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.14(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.14 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 4.12(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 4.12(2)(a); and
- (g) a licensee of the cancellation of a licence under clause 4.12(2)(b) and 4.12(2)(c), which notice is to be given in accordance with section 27(6) of the Act.

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—OFFENCES

5.1 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.

Penalty: \$1000

(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.

PART 6—ENFORCEMENT

6.1 Interpretation

In this Part—

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

notice of withdrawal means the notice referred to in clause 6.6(1).

6.2 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—

- (a) the dog is not a dangerous dog; or
- (b) the dog is a dangerous dog, but an amount does not appear in the fifth column directly opposite that offence.

(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.

6.3 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 determined by the local government from time to time.

6.4 Failure to pay modified penalty

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

6.5 Payment of modified penalty

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

6.6 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 determined by the local government from time to time.

(2) A person authorised to issue an infringement notice under clause 6.3 cannot sign or send a notice of withdrawal.

6.7 Service

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.

Schedule 1

APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

(clause 4.2)

I/we (full name)
of (postal address)
(telephone number)
(facsimile number)
(E-mail address)
Apply for a licence for an approved kennel establishment at (address of premises)

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

Attached are—

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) written evidence that a person will reside—
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

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

Signature of applicant

Date

* delete where inapplicable.

Note: a licence if issued will have effect for a period of 12 months—section 27(5) of the *Dog Act 1976*.

OFFICE USE ONLY

Application fee paid on *[insert date]*.

Schedule 2

CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

(clause 4.8(1))

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

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than—
 - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;

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

Schedule 3

OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES

(clause 6.2)

Item	Offence	Nature of offence	Modified penalty \$
1	3.1	Failing to provide means for effectively confining a dog	50
2	5.1(2)	Dog excreting in prohibited place	100

Dated 16th of June 2017.

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

C. SIMKIN, Shire President.
G. KEEFFE, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAMPTON

FENCING LOCAL LAW 2017

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LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAMPTON

FENCING LOCAL LAW 2017

Under the powers conferred by the *Local Government Act 1995* and all other powers enabling it, the Shire of Northampton resolved on 16 June 2017 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law is the *Shire of Northampton Fencing Local Law 2017*.

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

The *Municipality of the Shire of Northampton By-laws Relating to Fences* as published in the *Government Gazette* on 3 November 1989 is repealed.

1.5 Definitions

In this local law—

Act means the *Dividing Fences Act 1961*;

applicant means a person who makes an application for approval under this local law;

AS or AS/NZS means an Australian Standard or an Australian/New Zealand Standard published by Standards Australia and available for viewing free of charge at the Shire of Northampton Administration offices;

AS/NZS 1170 means *Australian/New Zealand Standard 1170:2011 Structural design actions—General principles*, published by Standards Australia as amended from time to time;

AS 2870 means the *Australian/New Zealand Standard 2870:2011 Residential slabs and footing*, published by Standards Australia as amended from time to time;

AS/NZS 3016 means *Australian/New Zealand Standard 3016:2002—Electrical Installations—Electricity security fences*, published by Standards Australia as amended from time to time;

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

barbed wire fence means a wire or strand of wires having small pieces of sharply pointed wire twisted around it at short intervals;

boundary fence has the meaning given to it by the Act;

building surveyor means a Building Surveyor of the local government;

CEO means the Chief Executive Officer of the local government;

commercial lot means a lot where a commercial use—

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

composite fence means a fence constructed of brick piers and with infill panels between the piers of materials other than brick or a fence where the supporting posts and infill panels are of different materials.

dangerous in relation to any fence means—

- (a) an electrified fence other than a fence approved by the local government under this local law;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;

- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

district means the district of the local government;

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

dividing fence has the meaning given to it by the Act;

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

fence means any structure, not including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

frontage means the boundary line between a lot and the thoroughfare which that lot adjoins;

front boundary means the boundary line between a lot and the thoroughfare upon which that lot abuts, or in the case of a lot abutting on more than one thoroughfare, the boundary line between the lot and the primary thoroughfare;

front setback area means the area between the building line of a lot and the front boundary of that lot;

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

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

hours of business operations means the hours of the day during which business is usually conducted;

industrial lot means a lot where an industrial use—

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

licence means an electrified fence licence or a razor wire fence licence;

local government means the Shire of Northampton;

local government property means anything except a thoroughfare—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an otherwise unvested facility under section 3.53 of the *Local Government Act 1995*;

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

notice of breach means a notice referred to in clause 5.1;

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

open construction means a visually permeable fence comprising of—

- (a) continuous gaps at least 50 millimetres wide which in aggregate occupy at least one third of the length of the fence; or
- (b) continuous gaps less than 50 millimetres wide which in aggregate occupy at least half of the length of the fence;

provided that the gaps are evenly distributed along the length of the fence.

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

public access way means a portion of public land used as a means of pedestrian access between thoroughfares or other public places and for providing a corridor for public utility services;

public place means any place to which the public has access whether or not that place is on private property;

razor wire means a coiled strong wire with pieces of sharp cutting edges set across it at close intervals;

residential lot means a lot where a residential use—

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

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

right of way means a strip of land available either for use by the general public, or a restricted section of the community, and may be created by subdivision, specific transfer, or continued use over a period of years.

rural lot means a lot where a rural use—

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

Schedule means a Schedule to this local law;

special residential lot means a lot where a special residential use—

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

special rural lot means a lot where a special rural use—

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

structural engineer means a qualified engineer trained to understand and calculate the stability, strength and rigidity of built structures for buildings and non-building structures;

sufficient fence means a fence described in clause 2.1; and

thoroughfare has the meaning given to it by the *Local Government Act 1995*, but does not include a private thoroughfare which is not under the management or control of the local government.

1.6 Relationship with other laws

- (1) Anything allowed under any Act, Regulation or district planning scheme, is not affected by any prohibition, requirement or restriction under this local law.
- (2) In the event of any inconsistency with any Act, Regulation or district planning scheme, the provisions of those Acts, Regulations or district planning scheme are to prevail.

1.7 Approval fees and charges

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

PART 2—SUFFICIENT FENCES

Division 1—Sufficient fences

2.1 Sufficient fences

- (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Subject to subclauses (3) and (4), a sufficient fence—
 - (a) on a residential lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 2;
 - (b) on a commercial lot or an industrial lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 3; and
 - (c) on a rural lot or a special rural lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 4; and
 - (d) on a special residential lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 5.
- (3) Where a fence is erected on or near the boundary between—
 - (a) a residential lot and an industrial lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 2;
 - (b) a residential lot and a commercial lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 3;
 - (c) a residential lot and a rural lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4;
 - (d) a residential lot and a special rural lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4; and
 - (e) a special rural lot; rural lot and special residential lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4.
- (4) An application must be made to the local government for grant of consent to any variation to the specifications in Schedules 2, 3, 4 and 5.
- (5) Unless an authorised officer determines otherwise, a sufficient fence on a boundary between lots other than those specified in subclause (3) is a dividing fence constructed in accordance with the specifications and requirements of Schedule 2.
- (6) Notwithstanding any other provision in this local law, a dividing fence or boundary fence constructed of masonry, stone or concrete shall be a sufficient fence only if it is designed by a suitably qualified structural engineer and constructed in accordance with that design where—
 - (a) it is greater than 1 800 millimetres in height; or
 - (b) the Building Surveyor requires.
- (7) Notwithstanding any other provision in this local law, a dividing fence or boundary fence shall not exceed 1 800 millimetres in height unless the approval of the local government has been obtained for such a fence.

Division 2—General

2.2 Fences within front setback areas

(1) A person shall not, without the written consent of the Building Surveyor, erect a free standing fence greater than 1 200 millimetres in height, within the front setback area of a residential lot within the district.

(2) The Building Surveyor may approve the erection of a fence of a height greater than 1 200 millimetres in the front setback area of a residential lot only if the fence on each side of the driveway into the lot across the front boundary is to be angled into the lot for a distance of not less than 1 500 millimetres along the frontage to a distance of not less than 1 500 millimetres from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.

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

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

2.3 Gates in fences

A person shall not erect a gate in a fence which does not—

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

2.4 Depositing fencing material on public place

A person shall not deposit or permit the deposit of any materials whatsoever used in the construction or maintenance of any fence, on any thoroughfare, public place or local government property without the approval of the local government.

2.5 Fences on a rural lot

A person shall not, without the written consent of the Building Surveyor, erect a fence on a rural lot of a height exceeding 1 500 millimetres.

2.6 Maintenance of fences

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

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

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

2.8 General discretion of the local government

(1) Notwithstanding the provisions of clause 2.1, the local government may approve the erection or repair of a dividing fence which is not a sufficient fence where all of the owners of the lots to be separated by the dividing fence make an application for approval for that purpose.

(2) In determining whether to grant its approval under subclause (1), the local government may consider whether the erection or retention of the fence would have an adverse effect on—

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

Division 3—Fencing materials

Where required by the Building Surveyor, fencing designs are to be certified by a suitably qualified structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of *AS/NZS 1170:2011* as amended from time to time.

2.9 Pre-used fencing materials

(1) Notwithstanding clause 2.1, a person shall not construct a fence on a residential lot, a commercial lot or an industrial lot from pre-used materials without the approval of the local government.

(2) Where the local government approves the use of pre-used materials in the construction of a fence under subclause (1), that approval shall be conditional on the applicant painting or treating the pre-used material as directed by the Building Surveyor.

2.10 Barbed wire fences and spiked or jagged materials

(1) This clause does not apply to a fence constructed wholly or partly of razor wire.

(2) An owner or occupier of a residential lot or a commercial lot shall not erect, affix or allow to remain on any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of the local government has been obtained.

(3) An owner or occupier of an industrial lot shall not erect, affix or allow to remain on any fence bounding that lot any barbed wire or other materials with spiked or jagged projections unless the wire or other materials are carried on posts at an angle of 45 degrees, and unless the bottom row of wire or

other materials is setback 150 millimetres from the face of the fence and is not nearer than 2 000 millimetres from the ground level.

(4) If the posts which carry the barbed wire or other materials referred to in subclause (3) are angled towards the outside of the lot bounded by the fence, the face of the fence must be setback from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach on adjoining land.

(5) An owner or occupier of a lot shall not erect, affix or allow to remain as part of any fence or wall, whether internal or external on that lot, any broken glass.

(6) An owner or occupier of a rural lot, a special rural lot or a special residential lot, shall not erect, affix or allow to remain any barbed wire upon a fence on that lot, where the fence is adjacent to a thoroughfare or other public place, unless the barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.

2.11 Electrified and razor wire fences

(1) An owner or occupier of a lot shall not—

- (a) construct or use an electrified fence on that lot, without obtaining the approval of the local government, in the form prescribed in Schedule 6; or
- (b) construct a fence wholly or partly of razor wire on that lot, without obtaining the approval of the local government.

(2) The local government shall not approve an application for the purpose of subclause (1)(a)—

- (a) in respect of a lot which is or which abuts a residential lot;
- (b) unless the proposed fence will comply with *AS/NZS 3016:2002* as amended from time to time; and
- (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.

(3) The local government shall not approve an application for the purpose of subclause (1)(b)—

- (a) if the fence is within 3 000 millimetres of the boundary of the lot; or
- (b) where any razor wire used in the construction of the fence is less than 2 000 millimetres or more than 2 400 millimetres above the ground level.

(4) An application for approval for the purpose of subclauses (1)(a) or (1)(b) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

2.12 Prohibited fencing materials

A person shall not affix or use broken glass in the construction of any fence.

PART 3—APPROVALS

3.1 Application for approval

(1) Where a person is required to obtain the approval of the local government under this local law, that person shall apply for approval in accordance with subclause (2).

(2) An application for approval under this local law shall—

- (a) be in the form determined by the local government;
- (b) be signed by the applicant and the owner of the lot;
- (c) provide the information required by the form; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 and 6.19 of the *Local Government Act 1995*.

(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for approval.

(4) The local government may refuse to consider an application for approval which is not in accordance with subclauses (2) and (3).

3.2 Decision on application for approval

(1) The local government may—

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

(2) If the local government approves an application for approval, it is to issue to the applicant an approval in the form determined by the local government.

(3) If the local government refuses to approve an application for approval, it is to 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 an approval or which are to be taken to be imposed on an approval, the clause does not limit the power of the local government to impose other conditions on the approval under subclause (1)(a).

3.3 Compliance with approval

Where an application for approval has been approved, the applicant and the owner or occupier of the lot to which the approval relates, shall comply with the terms and any conditions of that approval.

3.4 Duration of approval

Unless otherwise stated in the form of approval, an approval granted under this local law runs with the lot to which it relates and for the avoidance of doubt, it may be relied upon by any subsequent occupier or owner of the lot, and may be enforced against them by the local government.

3.5 Cancellation of an approval

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

- (a) the fence no longer satisfies the required specifications; or
- (b) the owner or occupier breaches any condition upon which the approval has been issued.

PART 4—MISCELLANEOUS

4.1 False or misleading statement

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

PART 5—NOTICES OF BREACH

5.1 Notices of breach

- (1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner of that lot.
- (2) A notice of breach shall—
 - (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state that the owner is required to remedy the breach within the time specified in the notice.
- (3) Should an owner fail to comply with a notice of breach, the local government may, by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner of the lot in a court of competent jurisdiction.
- (4) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the Act and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3 of the Act.

PART 6—OFFENCES

6.1 Offences and penalties

- (1) A person who fails to comply with a notice of breach commits an offence and is liable upon conviction to a penalty of not less than \$250 and not exceeding \$5 000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.
- (2) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable on conviction to a penalty of not less than \$250 and not exceeding \$5 000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.

6.2 Modified penalties

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the *Local Government Act 1995*.
- (2) The amount appearing in the final column of Schedule 1, directly opposite a prescribed offence in that Schedule, is the modified penalty for that prescribed offence.

6.3 Forms of notices

For the purposes of this local law—

- (a) the form of the infringement notice referred to in sections 9.16 and 9.17 of the *Local Government Act 1995* is to be in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the withdrawal of infringement notice referred to in section 9.20 of the *Local Government Act 1995* is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

PART 7—OBJECTIONS AND REVIEW

7.1 Objections and review

When the local government makes a decision under clause 3.2, the provisions of Part 9 Division 1 of the *Local Government Act 1995*, and regulation 33 of the *Local Government (Functions and General) Regulations 1996*, apply to that decision.

Schedule 1
OFFENCES AND MODIFIED PENALTIES

[clause 6.2(2)]

Item No	Clause No.	Nature of offence	Modified penalties \$
1	2.1(1)	Erect a fence which is not a sufficient fence	250
2	2.2	Erect a fence greater than 1 200 millimetres in height within a front setback area of a residential lot without the written consent of the local government	250
3	2.3(a)	Erect a gate in a fence not opening into the lot, if the gate is providing access to a thoroughfare	200
4	2.3(b)	Erect a gate in a fence not sliding parallel and inside a fence	200
5	2.5	Erect a fence on a rural lot of a height exceeding 1 500 millimetres without the written consent of the local government	200
6	2.6	Failure to maintain a fence in good condition to prevent the fence becoming dangerous, dilapidated or unsightly	250
7	2.7	Erect or maintain a fence or obstruction of temporary or permanent nature across a right-of way, public access way or thoroughfare without approval	250
8	2.9(1)	Construct a fence on a residential, commercial or industrial lot from pre-used materials without written approval	250
9	2.10(2)	Erect a fence using barbed wire or material with spiked or jagged projections in the fence construction without written approval	250
10	2.11(1)	Construct, erect or use razor wire in a fence or electrify a fence without approval	250
11	2.12	Affix, or use, any broken glass in a fence	250
12	3.3	Failure to comply with terms or conditions of approval	250
13	6.1	Failure to comply with notice of breach	250

Schedule 2

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

[clause 2.1(2)(a)]

Each of the identified categories in this Schedule is a sufficient fence on a residential lot—

1. Timber fence

- (a) corner posts to be 125 millimetres x 125 millimetres x 2 400 millimetres and intermediate posts to be 125 millimetres x 75 millimetres x 2 400 millimetres spaced at 2 400 millimetres centres;
- (b) corner posts to be strutted 2 ways with 100 millimetres x 50 millimetres x 450 millimetres sole plates and 75 millimetres x 50 millimetres struts;
- (c) intermediate posts to be doubled yankee strutted with 150 millimetres x 25 millimetres x 450 millimetres struts;
- (d) all posts to have tops with a 60 millimetres weather cut and to be sunk at least 600 millimetres into the ground;
- (e) rails to be 75 millimetres x 50 millimetres with each rail spanning 2 bays of fencing double railed or bolted to each post with joints staggered;
- (f) the fence to be covered with 75 millimetres x 20 millimetres sawn pickets, 1 800 millimetres in height placed 75 millimetres apart and affixed securely to each rail; and
- (g) the height of the fence to be 1 800 millimetres except with respect to the front setback area for which there is no minimum height but which is subject to clause 7.

2. Corrugated fence

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

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600 millimetres;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet;
- (c) the sheets to be lapped and capped with extruded snap-fit type capping in accordance with the manufacturer's specifications; and
- (d) the height of the fence to be 1 800 millimetres except with respect to the front setback area for which there is no minimum height but which is subject to clause 7.

3. Brick, stone or concrete fence

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

- (a) a site classification is to be provided by a suitably qualified engineer in accordance with *AS 2870:2011 Residential slabs and footings* as amended from time to time;
- (b) the footing is to be designed in accordance with *AS 2870:2011 Residential slabs and footings* as amended from time to time;
- (c) footings having a minimum of 225 millimetres x 150 millimetres concrete 15MPa or 300 millimetres x 175 millimetres brick laid in cement mortar;
- (d) fences to be offset a minimum of 200 millimetres at maximum 3 000 millimetres centres or 225 millimetres x 100 millimetres engaged piers to be provided at maximum 3 000 millimetres centres;
- (e) expansion joints in accordance with the manufacturer's specifications; and
- (f) the height of the fence to be 1 800 millimetres except with respect to the front setback area for which there is no minimum height but which is subject to clause 2.2.

4. Composite fence

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

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

Schedule 3

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT OR AN INDUSTRIAL LOT

[clause 2.1(2)(b)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated, is a sufficient fence on a commercial lot or an industrial lot and the fence design being certified by a suitably qualified structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of *AS/NZS 1170:2011* as amended from time to time.

1. Galvanised or PVC fence and gate

A fence constructed of galvanised or PVC coated non-rail link mesh, chain mesh or steel mesh which satisfies the following specifications—

- (a) corner posts to be a minimum of 50 millimetres nominal bore x 3.5 millimetres and with footings of a 225 millimetres diameter x 900 millimetres;
- (b) intermediate posts to be minimum 37 millimetres nominal bore x 3.15 millimetres at maximum 3.5 metre centres and with footings of a 225 millimetres diameter x 600 millimetres;
- (c) struts to be minimum 30 millimetres nominal bore x 3.15 millimetres fitted at each gate and 2 at each corner post and with footings 225 millimetres x 600 millimetres;
- (d) cables to be affixed to the top, centre and bottom of all posts and to consist of 2 or more 3.15 millimetres wires twisted together or single 4 millimetres wire;
- (e) non-rail link, chain or steel mesh is to be to a height of 2 000 millimetres on top of which are to be 3 strands of barbed wire carrying the fence to a height of 2 400 millimetres in accordance with the requirements and standards of the district planning schemes; and

- (f) galvanised link mesh wire to be 2 000 millimetres in height and constructed of 50 millimetres mesh 2.5 millimetres galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than 3.6 metres and shall be constructed of 25 millimetres tubular framework with 1 horizontal and 1 vertical stay constructed of 20 millimetres piping and shall be covered with 50 millimetres x 2.5 millimetres galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.

2. Other fences

- (a) a fence of cement sheet or steel sheeting constructed to the minimum specifications referred to in Schedule 2;
- (b) a fence constructed of aluminium sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1 800 millimetres but no greater than 2 400 millimetres; or
- (c) a fence of timber, brick, stone or concrete constructed to the minimum specifications referred to in Schedule 2.

Schedule 4

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT OR
SPECIAL RURAL LOT

[clause 2.1(2)(c)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated is a sufficient fence on a rural lot or a special rural lot and the fence design being certified by a suitably qualified structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of *AS/NZS 1170:2011* as amended from time to time.

1. Non-electrified fence

- (a) wire shall be high tensile wire and not less than 2.5 millimetres. A minimum of 5 wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases.
- (b) posts shall be of indigenous timber or other suitable material including—
 - (i) timber impregnated with a termite and fungicidal preservative;
 - (ii) standard iron star pickets; or
 - (iii) concrete;
- (c) cut not less than 1 800 millimetres long x 50 millimetres diameter at small end if round or 125 millimetres x 60 millimetres if split or sawn;
- (d) posts to be set minimum 600 millimetres in the ground and 1 200 millimetres above the ground; and
- (e) strainer posts shall be not less than 2 250 millimetres long and 150 millimetres diameter at the small end (tubular steel to be 50 millimetres in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1 000 millimetres in the ground.

2. Electrified fence

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

Schedule 5

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A SPECIAL
RESIDENTIAL LOT

[clause 2.1(2)(d)]

A sufficient fence on a special residential lot is a fence of posts and wire construction, shall satisfy the following minimum specifications—

- (a) wire shall be high tensile wire and not less than 2.5 millimetres. A minimum of 5 wires shall be used, these to be spaced equally and threaded through 6 millimetres holes in posts to all fences;
- (b) posts shall be of indigenous timber or other suitable material including timber impregnated with a termite and fungicidal preservative cut not less than 1800 millimetres long x 100 millimetres diameter at small end if round or 125 millimetres x 60 millimetres if split or sawn. Posts to be set minimum 600 millimetres in the ground and 1200 millimetres above the ground spaced at 4000 millimetres maximum centres; and
- (c) strainer posts shall be not less than 2250 millimetres long and 150 millimetres diameter at the small end and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1000 millimetres in the ground and set at all corners, gateways and fence line angles but not exceeding 200 metres apart.

- (d) No boundary fence shall be constructed of the following materials—
- (i) fibro cement;
 - (ii) metal sheeting; or
 - (iii) wooden pickets.

Schedule 6

LICENCE FOR APPROVED ELECTRIFIED FENCE

[clause 2.11(1)(a)]

This is to certify that

(1)

of (2)

is licensed, subject to the conditions set out below, to have and use an electrified fence on

.....
(address)

from.....20 and until this licence is transferred or cancelled.

Dated this day of 20.....

.....

Chief Executive Officer

Shire of Northampton

Conditions of Licence—

The holder of the licence must—

- (a) display the licence in a prominent position on the land or premises on which the electrified fence has been erected;
- (b) upon the request of a Building Surveyor produce to him or her the licence;
- (c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the CEO in writing of the details of that change or those changes;
- (d) obtain the written consent of the authorised person prior to the commencement of any alteration, addition or other work relating to or affecting the electrified fence; and
- (e) comply with AS/NZS 3016:2002 as amended from time to time.

Transfer by Endorsement

This licence is transferred to (3)

of (4)

from and including the date of this endorsement.

Dated this day of 20.....

.....

Chief Executive Officer

Shire of Northampton

- (1) Name
- (2) Address
- (3) Name
- (4) Address

Dated 16th day of June 2017.

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

CRAIG SIMKIN, Shire President.
GARRY KEEFFE, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAMPTON

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2017

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LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAMPTON

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2017

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Northampton resolved on 16 June 2017 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Northampton Local Government Property Local Law 2017*.

1.2 Commencement

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

1.3 Definitions

In this local law unless the context otherwise requires—

Act means the *Local Government Act 1995*;

applicant means a person who applies for a permit under clause 3.2;

assistance animal means an animal who is being used as an assistance animal as defined in the *Disability Discrimination Act 1992* (Commonwealth);

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;

bait means food, or some substance, used as a lure in fishing;

berth means—

- (a) to lie alongside the jetties; or
- (b) to be connected or tied to a vessel lying alongside the jetties;

boat means any ship, vessel or structure capable of being used in navigation by water, however propelled or moved, and includes a jet ski;

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

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

CEO means the Chief Executive Officer of the local government;

children's playground means an area set aside for use by children and noted by the presence of dedicated children's playground equipment and the presence of either sand or other form of soft fall surface;

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

Council means the council of the local government;

date of publication means, where local public notice is required to be given of a matter under this local law, the date on which notice of the matter is published in a newspaper circulating generally throughout the district;

determination means a determination made under clause 2.1;

district means the district of the local government;

fish has the meaning given to it by section 4 of the *Fish Resources Management Act 1994*;

fishing has the meaning given to it by section 4 of the *Fish Resources Management Act 1994*;

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

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

liquor has the same meaning as is given to it in section 3 of the *Liquor Control Act 1988*;

local government means the Shire of Northampton;

local government property means anything except a thoroughfare—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an ‘otherwise unvested facility’ within section 3.53 of the Act;

local public notice has the same meaning as given in section 1.7 of the *Local Government Act 1995*;

Manager means the person for the time being employed by the local government to control and manage a facility which is local government property and includes the person’s assistant or deputy;

Mooring means something to which a vessel may be moored or fastened and includes an anchor, stake, ringbolts, fastenings, or mooring pile;

Mooring line means any line, rope, cable, chain or similar device used or capable of being used to fasten or secure a vessel to a mooring;

mooring pile means any pile used or capable of being used to secure a vessel;

owner means the person who is the lawful owner or the person entitled to possession of any vessel or vehicle;

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

person does not include the local government;

prohibited drug is given its meaning under section 4 of the *Misuse of Drugs Act 1981*;

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

Schedule means a schedule in this local law;

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

trading means the selling or hiring, or the offering for sale or hire of goods or services, and includes displaying goods for the purpose of—

- (a) offering them for sale or hire;
- (b) inviting offers for their sale or hire;
- (c) soliciting orders for them; or
- (d) carrying out any other transaction in relation to them;

vehicle includes—

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

but excludes—

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

vessel means any kind of vessel, whether licensed or unlicensed, used or being capable of being used in navigation by water, however being propelled or moved, and without limiting the generality of the foregoing, includes—

- (a) a barge, lighter, floating restaurant, dinghy, commercial vessel, tender vessel or other floating structure;
- (b) a jet-ski; and
- (c) an air-cushion vehicle, or other similar craft, used wholly or primarily in navigation by water,

but does not include structures used only for the purpose of walkways or storage; and

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

1.4 Interpretation

In this local law unless the context otherwise requires a reference to local government property includes a reference to any part of that local government property.

1.5 Application

- (1) This local law applies throughout the district.
- (2) Notwithstanding anything to the contrary in this local law, the local government may—
 - (a) hire local government property to any person; or
 - (b) enter into an agreement with any person regarding the use of any local government property.

(3) Subject to section 3.6 of the Act, this local law applies to the area bounded by the low water mark of the Indian Ocean and extending for a distance 200 metres seawards from the western boundary of the district.

1.6 Repeal

(1) This local law repeals the *Shire of Northampton Local Government Property Local Law* as published in the *Government Gazette* on 23 June 2000.

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

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

1.7 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 (Commonwealth)* section 9(2).

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

2.3 Discretion to erect sign

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

2.4 Determination to be complied with

A person shall 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 are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

2.6 Amendment or revocation of a determination

- (1) The 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 is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

Division 2—Activities which may be pursued or prohibited under 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;
- (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) launch, beach or leave a boat;
- (f) take or use a boat, or a particular class of boat;
- (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
- (h) play or practice—
 - (i) golf or archery;
 - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
 - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
- (i) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and
- (j) wear no clothing.

(2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular—

- (a) the days and times during which the activity may be pursued;
- (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
- (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
- (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, 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 on premises;
- (b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
- (c) taking, riding or driving a vehicle or a particular class of vehicle on the property;
- (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 local government 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 local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.

(2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular—

- (a) the days and times during which the activity is prohibited;
 - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, 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.
- (3) In this clause—

premises 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.

Division 3—Transitional

2.9 Signs taken to be determinations

(1) Where a sign erected on local government property has been erected under a local law of the local government repealed by this local law, then it is to be taken to be and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 2.1.

(2) Clause 2.5 does not apply to a sign referred to in subclause (1).

PART 3—PERMITS

Division 1—Preliminary

3.1 Application of Part

This Part does not apply to a person who uses or occupies local government property under a written agreement with the local government to do so.

Division 2—Applying for a permit

3.2 Application for permit

(1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).

(2) An application for a permit under this local law shall—

- (a) be in the form determined by the local government;
- (b) be signed by the applicant;
- (c) provide the information required by the form; and
- (d) be forwarded to the CEO together with any fee imposed 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 require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

(4) The local government may require an applicant to give local public notice of the application for a permit.

(5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

3.3 Decision on application for permit

(1) The local government may—

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

(2) If the local government approves an application for a permit, it is to issue to the applicant, a permit in the form determined by the local government.

(3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

Division 3—Conditions

3.4 Conditions which may be imposed on a permit

(1) Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to—

- (a) the payment of a fee;
- (b) compliance with a standard or a policy of the local government adopted by the local government;
- (c) the duration and commencement of the permit;
- (d) the commencement of the permit being contingent on the happening of an event;

- (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
 - (f) the approval of another application for a permit which may be required by the local government under any written law;
 - (g) the area of the district to which the permit applies;
 - (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
 - (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government.
- (2) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued—
- (a) when fees and charges are to be paid;
 - (b) payment of a bond against possible damage or cleaning expenses or both;
 - (c) restrictions on the erection of material or external decorations;
 - (d) rules about the use of furniture, plant and effects;
 - (e) limitations on the number of persons who may attend any function in or on local government property;
 - (f) the duration of the hire;
 - (g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;
 - (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Control Act 1988*;
 - (i) whether or not the hire is for the exclusive use of the local government property;
 - (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
 - (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

3.5 Imposing conditions under a policy

(1) In this clause—

policy means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 3.3(1)(a).

(2) Under clause 3.3(1)(a) the local government may approve an application subject to conditions by reference to a policy.

(3) The local government shall give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 3.3(2).

(4) An application for a permit shall be deemed not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.

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

3.6 Compliance with and variation of conditions

(1) Where an application for a permit has been approved subject to conditions, the permit holder shall comply with each of those conditions.

(2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

Division 4—General

3.7 Duration of permit

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

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 3.11.

3.8 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 the permit.

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

3.9 Transfer of permit

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

- (a) be made in writing;
- (b) be signed by the permit holder and the proposed transferee of 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 CEO 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.
- (2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by an endorsement on the permit signed by the CEO.
- (4) Where the local government approves the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

3.10 Production of permit

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

3.11 Cancellation of permit

- (1) Subject to clause 8.1, a permit may be cancelled by the local government if the permit holder has not complied with a—
- (a) condition of the permit; or
 - (b) determination or a provision of any written law which may relate to the activity regulated by the permit.
- (2) On the cancellation of a permit the permit holder—
- (a) shall return the permit as soon as practicable to the CEO; and
 - (b) is to be taken to have forfeited any fees paid in respect of the permit.

Division 5—When a permit is required

3.12 Activities needing a permit

- (1) A person shall not without a permit—
- (a) subject to subclause (3), hire local government property;
 - (b) advertise anything by any means on local government property;
 - (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
 - (d) teach, coach or train, for profit, any person in a indoor recreation facility which is local government property;
 - (e) plant any plant or sow any seeds on local government property;
 - (f) carry on any trading on local government property unless the trading is conducted—
 - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
 - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
 - (g) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose—
 - (i) drive or ride or take any vehicle on to local government property; or
 - (ii) park or stop any vehicle on local government property;
 - (h) conduct a function on local government property;
 - (i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
 - (j) light a fire on local government property except in a facility provided for that purpose;
 - (k) parachute, hang glide, abseil or base jump from or on to local government property;
 - (l) erect a building or a refuelling site on local government property;
 - (m) make any excavation on or erect or remove any fence on local government property;
 - (n) 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;
 - (o) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property; or
 - (p) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

3.13 Permit required to camp outside a facility

- (1) In this clause—

facility has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.

- (2) This clause does not apply to a facility operated by the local government.
- (3) A person shall not without a permit—
- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or
 - (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.
- (4) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

3.14 Permit required for possession and consumption of liquor

- (1) A person, on local government property, shall not consume any liquor or have in her or his possession or under her or his control any liquor, unless—
- (a) that is permitted under the *Liquor Control Act 1988*; and
 - (b) a permit has been obtained for that purpose.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

Division 6—Responsibilities of permit holder

3.15 Responsibilities of permit holder

A holder of a permit shall in respect of local government property to which the permit relates—

- (a) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (b) leave the local government property in a clean and tidy condition after its use;
- (c) report any damage or defacement of the local government property to the local government; and
- (d) take all reasonable action to prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Control Act 1988* for that purpose.

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 shall not in or on any local government property behave in a manner which—

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

4.2 Behaviour detrimental to property

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

(2) In subclause (1)—

detrimental to the property includes—

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

4.3 Taking or injuring any fauna

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

(2) In this clause—

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

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

- (a) any class of animal or individual member;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur.

4.4 Intoxicated persons not to enter local government property

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

4.5 No prohibited drugs

A person shall not take a prohibited drug on to, or consume or use a prohibited drug on, local government property.

Division 2—Signs

4.6 Signs

- (1) A local government may erect a sign on local government property specifying any conditions of use which apply to that property.
- (2) A person shall comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is—
 - (a) not to be inconsistent with any provision of this local law or any determination; and
 - (b) to be for the purpose of giving notice of the effect of a provision of this local law.

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

Division 1—Beaches

5.1 Powers of surf lifesaving club members

- (1) Subject to subclause (2), the local government may authorise under section 9.10 of the Act the members of a surf lifesaving club to perform all or any of the following functions in relation to a beach—
 - (a) patrol any beach;
 - (b) carry out any activity on any beach;
 - (c) erect signs designating bathing areas and signs regulating, prohibiting or restricting specified activities on the whole or any part of a beach or in or on the water adjacent to the beach and to direct persons on the beach or in or on the water to comply with such signs;
 - (d) temporarily enclose any area with rope, hessian, wire or any other means for the conduct of surf lifesaving club activities; and
 - (e) direct persons to leave the water adjacent to a beach during dangerous conditions or if a shark is suspected of being in the vicinity of a beach.
- (2) Under subclause (1), the local government shall authorise only those members who have been recommended by the surf lifesaving club as competent to perform the functions referred to in that subclause in respect of which they are authorised.
- (3) Under subclause (1), the local government may authorise members generally, or in relation to particular times, days or months.

5.2 Authorising other persons

- (1) A local government may authorise, under section 9.10 of the Act, a person to perform all or any of the functions referred to in clause 5.1(1) in relation to a beach.
- (2) Under subclause (1), the local government shall authorise only those persons who, in the reasonable opinion of the local government, are competent to perform the functions referred to in clause 5.1(1) in respect of which they are authorised.
- (3) Under subclause (1), the local government may authorise a person generally, or in relation to particular times, days or months.
- (4) Where the local government has authorised members of a surf lifesaving club under clause 5.1(1) and a person under subclause (1) in relation to the same beach, so that they can perform all or any of the functions referred to in clause 5.1(1) contemporaneously, the local government is to specify which authorisation is rendered ineffective when both are exercised.

5.3 Persons to comply with signs and directions

A person shall—

- (a) not act in contravention of any sign erected on a beach under clause 5.1(1)(c);
- (b) not enter an area which has been temporarily closed with rope, hessian, wire or any other means for the conduct of surf lifesaving club activities, unless he or she is a member of the club or has obtained permission to enter from the club; and
- (c) comply with any direction given under clause 5.1(1)(c) or 5.1(1)(e),

notwithstanding that the sign or the direction was erected or given, as the case may be, by a person referred to in clause 5.4(1).

Division 2—Fenced or closed property

5.4 No entry to fenced or closed local government property

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

Division 3—Toilet blocks and change rooms

5.5 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 shall not use that entry of the toilet block or change room; or
 - (b) males, then a person of the female gender shall not use that entry of the toilet block or change room.

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

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

PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY

6.1 No unauthorised entry to function

(1) A person shall not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorised, except—

- (a) through the proper entrance for that purpose; and
- (b) on payment of the fee chargeable for admission at the time.

(2) The local government may exempt a person from compliance with subclause (1)(b).

PART 7—JETTIES AND BRIDGES

Division 1—Preliminary

7.1 Interpretation

(1) This Part only applies to bridges and jetties which are local government property.

(2) In this Part—

jetty means—

- (a) any jetty, pier, wharf, quay, grid, slip, landing place, stage, platform (other than a platform that is a vessel for the purposes of the *Western Australian Marine Act 1982*) over any waters, and
- (b) any ramp or supporting structure for the launching, landing or retrieving of a vessel;

bulk cargo means bulk produce, such as grain, coal, oil or mineral ore, which is not packaged.

Division 2—Consents and fees

7.2 Application for consent and application fee

(1) Where a person is required to obtain the consent of the local government under this Part, the person is to apply for that consent in the manner required by the local government or an authorised person.

(2) The local government or an authorised person, may require an application for consent made under subclause (1) to be accompanied by a fee.

(3) If an application for consent is not made in the manner required by the local government or the fee which is to accompany that application is not paid, the local government or an authorised person, may refuse to consider the application for consent.

(4) The local government or an authorised person, shall give its decision on an application for consent, in writing to the person who applied for that consent.

(5) Where a fee is referred to in this Part, the fee must be imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

Division 3—Prohibitions on use of jetty

7.3 Obstruction of jetties

(1) A person shall not, without the written consent of the local government or an authorised person—

- (a) cause any obstruction on or under or near a jetty; or
- (b) interfere with the free movement of a vessel approaching, leaving or passing a jetty.

(2) A person shall not obstruct or hinder any local government employee, authorised person or contract or engaged by the local government, who is engaged in the repair, maintenance or construction of a jetty.

7.4 Animals

(1) A person shall not, without the written consent of the local government or an authorised person—

- (a) tether an animal to a jetty;
- (b) take an animal onto a jetty; or
- (c) permit an animal to enter or stray upon a jetty.

(2) Subclause (1) does not apply to—

- (a) an assistance animal;
- (b) bait; or
- (c) fish taken from a jetty in accordance with this local law.

7.5 Local government may close a jetty or regulate activities

The local government may—

- (a) close or cause to be closed a jetty or any part thereof;
- (b) exclude or cause to be excluded the public and all persons or so many of the public or so many persons as in the discretion of the local government or an authorised person shall be deemed necessary from a jetty or the local government property;
- (c) regulate, prohibit or restrict access to a jetty or the local government property or any part thereof;
- (d) regulate, prohibit or restrict—
 - (i) jumping or diving from a jetty; or
 - (ii) swimming in the water within the local government property within the vicinity of a jetty;
- (e) direct persons to leave a jetty or the local government property within the vicinity of a jetty or any part thereof, for purposes of—
 - (i) a function or public convenience at or on a jetty or in or on the water on local government property;
 - (ii) repair, maintenance or construction of a jetty;
 - (iii) public safety; or
 - (iv) other operational reasons.

7.6 When use of a jetty is prohibited

A person shall not land at, use or go on any part of a jetty which is—

- (a) under construction or repair; or
- (b) closed,

unless that person has first obtained the consent of the local government or an authorised person.

Division 4—Mooring boats to jetties

7.7 Mooring of vessels

(1) A person shall not moor to or berth a vessel at a jetty or moor or berth a vessel on local government property unless the mooring or berthing of the vessel is authorised or permitted by the local government or an authorised person either by way of a sign affixed by the local government to a jetty or by written consent of the local government or an authorised person.

(2) Subclause (1) does not apply to—

- (a) a person who needs to moor to or berth a vessel at a jetty or on local government property in an emergency;
- (b) a vessel in distress such as that repairs are required and then only to effect the minimum repairs necessary to enable the vessel to be moved elsewhere;
- (c) a person who uses a jetty under and in accordance with a written agreement with the local government; and
- (d) a person who has been exempted from subclause (1) by the local government or an authorised person.

(3) A person shall not—

- (a) moor a vessel to a jetty or any part of a jetty except to such moorings or mooring piles as are provided; or
- (b) permit a vessel to remain alongside a jetty unless the vessel is so moored or fastened.

Division 5—Vehicles on jetties

7.8 Vehicles on jetties

(1) A person shall not take on to or drive or ride a vehicle on a jetty or allow a vehicle to remain on a jetty without the written consent of the local government or an authorised person.

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

- (a) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government who is engaged in providing a service, maintaining or making a delivery in connection with a jetty; or
- (b) the person is driving an emergency vehicle in the course of his or her duties.

(3) A person must not drive a vehicle or allow a vehicle to be driven on a jetty at a speed exceeding 10km per hour or in such a manner to cause danger to a person.

7.9 Local government may order removal of vessel or vehicle or attendance

Not with standing anything to the contrary in this local law, a person shall, upon being directed to do so by the local government or an authorised person, immediately remove—

- (a) a vessel moored to or berthed at a jetty or moored or berthed on local government property; or
- (b) a vehicle from a jetty.

Division 6—Launching of boats

7.10 Restrictions on launching

A person shall not launch a boat from or over any jetty (other than a boat ramp) unless she or he has first obtained the consent of the local government or an authorised person.

Division 7—Cargo or other goods

7.11 Loading and discharging

A person in control of a boat or vessel shall not allow the boat or vessel to come alongside or be moored or made fast to a jetty for the purpose of loading or discharging cargo or other goods—

- (a) until the cargo or other goods are ready to be loaded or discharged; or
- (b) without the consent of the local government or an authorised person—
 - (i) between the hours of 6.00pm to 6.00am on the next day; or
 - (ii) for longer than 2 consecutive hours.

7.12 Outgoing cargo not to be stored on jetty

A person in control of cargo or other goods intended for loading on to a boat or vessel shall—

- (a) not allow them to be stored or placed on a jetty unless and until the boat is moored or fastened to or alongside the jetty; and
- (b) load them on to the boat or vessel as soon as practicable after the boat is moored or fastened to or alongside the jetty.

7.13 Removal of incoming cargo from jetty

Any person unloading cargo or other goods from a boat on to a jetty shall remove them, or cause them to be removed from the jetty as soon as practicable, but not later than 6.00pm on the day on which they were placed there.

7.14 Handling of bulk cargo

Except with the prior consent of the local government or an authorised person, a person shall not place or deposit bulk cargo from a vehicle, boat, vessel or container on to a jetty.

7.15 Petroleum and explosives

A person shall not without the written consent of the local government—

- (a) store or handle or let off explosives on the jetties;
- (b) store petroleum on the jetties; or
- (c) discharge petroleum from the jetties.

Division 8—Fishing from jetties and bridges

7.16 Limitations on fishing

(1) In this clause—

attend has the meaning given to it by regulation 64B of the *Fish Resources Management Regulations 1995*.

(2) A person fishing from a jetty or bridge using a fishing line or drop net must attend that line or net.

(3) Subject to subclause (2), a person shall not—

- (a) fish from a jetty or bridge so as to obstruct or interfere with the free movement of a vessel approaching, leaving or passing a jetty or bridge;
- (b) fish from a jetty or bridge so as to cause a nuisance or danger to a person on or near a jetty or bridge;
- (c) hang or spread a fishing net, other than a drop net, on, over, under or from a jetty or bridge;
- (d) when fishing from a jetty or bridge, use more than 2 fishing lines or 4 drop nets at a time; or
- (e) fish from a jetty or bridge so as to interfere with scheduled vocational swimming classes.

Division 9—General Provisions

7.17 General provisions

(1) A person on local government property must obey any lawful direction of an authorised person and must not in any way obstruct or hinder an authorised person in the execution of their duties.

(2) If the local government or an authorised person considers that a person has behaved in a manner contrary to this local law or where the local government or an authorised person reasonably suspects that a person has contravened a provision of any written local law, the local government or an authorised person may—

- (a) refuse to allow that person to enter local government property or any part thereof; and
- (b) if the person is on local government property, direct that person to leave the local government property or any part thereof.

(3) A person who has been refused entry or who has been directed to leave under subclause (1) must immediately leave the local government property, or, if the direction applies to a part of the local government property, that part of the local government property quickly and peaceably.

- (4) If a person fails to comply with subclause (2), the local government or an authorised person may remove that person, or arrange for that person to be removed, from the land.
- (5) A person shall not charge admission or seek payment for entering or using the jetties without having first obtained the written consent of the local government or an authorised person.
- (6) A person shall not enter upon or use the jetties without first having paid—
- (a) the fees and charges which may apply to such entry or use, as determined by the local government from time to time; or
 - (b) admission charged by a person who obtained written consent pursuant to subclause (2).

PART 8—OBJECTIONS AND APPEALS

8.1 Application of Division 1, Part 9 of the Act

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

- (a) grant a person a permit or consent under this local law; 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 regulations 32A and 33 of the Regulations apply to that decision.

PART 9—MISCELLANEOUS

9.1 Authorised person to be obeyed

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

9.2 Persons may be directed to leave local government property

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

9.3 Disposal of lost property

An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by the local government in any manner it thinks fit.

9.4 Liability for damage to local government property

(1) Where a person unlawfully damages local government property, the local government may by notice in writing to that person require that person within the time required 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 subclause (1), the local government may recover the costs referred to in the notice as a debt due to it.

PART 10—ENFORCEMENT

Division 1—Notices given under this local law

10.1 Offence to fail to comply with notice

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

10.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 10.1, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

Division 2—Offences and penalties

Subdivision 1—General

10.3 Offences and general penalty

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

(2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

Subdivision 2—Infringement notices and modified penalties

10.4 Prescribed offences

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

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

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

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

10.5 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 given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (a) 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—Evidence in legal proceedings

10.6 Evidence of a determination

(1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.

(2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.

(3) Subclause (2) does not make valid a determination that has not been properly made.

Schedule 1

PRESCRIBED OFFENCES

(Clause 10.4)

	Clause	Description	Modified Penalty \$
1	2.4	Failure to comply with determination	125
2	3.6	Failure to comply with conditions of permit	125
3	3.12(1)	Failure to obtain a permit	125
4	3.13(3)	Failure to obtain permit to camp outside a facility	125
5	3.14(1)	Failure to obtain permit for liquor	125
6	3.15	Failure of permit holder to comply with responsibilities	125
7	4.2(1)	Behaviour detrimental to property	125
8	4.4	Under influence of liquor or prohibited drug	125
9	4.6(2)	Failure to comply with sign on local government property	125
10	5.3	Failure to comply with sign or direction on beach	125
11	5.4	Unauthorised entry to fenced or closed local government property	125
12	5.5	Gender not specified using entry of toilet block or change room	125
13	6.1(1)	Unauthorised entry to function on local government property	125
14	7.3	Obstruction of jetties	125
15	7.7	Mooring of boats in unauthorised manner	125
16	7.10	Launching of boat from jetty without consent	125
17	7.11	Removing goods from jetty during other than permitted hours	125
18	7.12	Unlawful storing of goods on jetty	125
19	7.13	Removal of incoming cargo from jetty	125
20	7.16(3)	Fishing from jetty or bridge so as to obstruct a boat or another person	125
21	10.1	Failure to comply with notice	250

Dated: 16 June 2016.

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

C. SIMKIN, Shire President.
G. KEEFFE, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAMPTON

REPEAL LOCAL LAW 2017

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Northampton resolved on 16 June 2017 to make the following local law.

1. Citation

This local law is cited as the *Shire of Northampton Repeal Local Law 2017*.

2. Operation

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

3. Repeal

This local law repeals the following local laws—

- (a) *By-Laws Relating to Aerodromes* as published in the *Government Gazette* on 9 December 1977;
- (b) *By-law Relating to the Keeping of Bees* as published in the *Government Gazette* on 8 July 1994;
- (c) *By-laws relating to Half Way Bay—Reserve No. 34945* as published in the *Government Gazette* on 28 July 1978;
- (d) *Shire of Northampton By-Laws Relating to the Prohibition of Hawking* as published in the *Government Gazette* on 3 May 1985;
- (e) *By-laws Relating to Horrocks Beach* as published in the *Government Gazette* on 16 June 1978;
- (f) *By-laws Relating to the Control and Usage of Kalbarri Jetty* as published in the *Government Gazette* on 9 December 1977;
- (g) *By-Laws Relating to the Removal and Disposal of Obstructing Vehicles* as published in the *Government Gazette* on 29 April 1994;
- (h) *Local Law Relating to Reserves and Foreshores* as published in the *Government Gazette* on 13 January 1998; and
- (i) *Adoption of Draft Model By-law known as the Local Government Model By-laws (Safety, Decency, Convenience and Comfort of Persons in respect of Bathing) No. 14* as published in the *Government Gazette* on 17 September 1964.

Dated 16th day of June 2017.

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

CRAIG SIMKIN, Shire President.

GARRY KEEFFE, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAMPTON

URBAN ENVIRONMENT AND NUISANCE LOCAL LAW 2017

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SCHEDULE 1—PRESCRIBED OFFENCES

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAMPTON

URBAN ENVIRONMENT AND NUISANCE LOCAL LAW 2017

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the *Shire of Northampton* resolved on 16 June 2017 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Northampton Urban Environment and Nuisance Local Law 2017*.

1.2 Application

This local law applies throughout the district.

1.3 Definitions

In this local law unless the context otherwise requires—

Act means the *Local Government Act 1995*;

Council means the council of the local government;

district means the district of the local government;

livestock includes cattle, sheep, pigs, goats and horses;

local government means the Shire of Northampton;

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

nuisance includes—

- (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 in her or his ownership or occupation of land; and
- (c) interference which causes material damage to land or other property on the land affected by the interference;

person does not include the local government;

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

vehicle includes—

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

but excludes—

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

1.4 Repeal

The *Draft Model By-law (Old Refrigerators and Cabinets)* as published in the *Government Gazette* on the 29 November 1962 is repealed.

PART 2—GENERAL—NOISE, LIGHT AND VIBRATIONS

Division 1—Amusements

2.1 Definitions

In this Division—

amusement means anything usually conducted for amusement at a fair, a carnival or a show, whether conducted at a fair, a carnival or a show or elsewhere.

2.2 Nuisance

A person shall not provide or conduct any amusement on land so as to create or be a nuisance to any owner or occupier of land in the district.

2.3 Abatement by authorized person

Subject to Subdivision 3 of Division 3 of Part 3 of the Act, an authorized person may enter on any land where an amusement is provided or conducted and may do any act or thing reasonably required to abate a nuisance referred to in clause 2.2.

Division 2—Light

2.4 Emission or reflection of light

(1) Where artificial light is emitted or reflected from anything on a lot so as to illuminate land outside the lot to more than 50 lux, then every owner and occupier of the lot commits an offence.

(2) Where natural light is reflected from anything on a lot so as to create or be a nuisance to any—

(a) owner or occupier of land; or

(b) person using a thoroughfare as a thoroughfare,

then every owner and occupier of the lot commits an offence.

2.5 Use of floodlights

An owner or occupier of a lot on which floodlights or other exterior lights are erected or used shall not allow the floodlights or other exterior lights to shine directly onto an adjoining lot.

2.6 Notice

The local government may give a notice to the owner or occupier of a lot—

(a) requiring that any reflective surfaces creating a nuisance within clause 2.4(2) be painted or otherwise treated so as to abate the nuisance; and

(b) on which floodlights or other exterior lights are erected, requiring that—

(i) the hours of use of the lighting be limited to the hours specified in the notice; or

(ii) the direction in which the lights are shining be altered as specified in the notice.

Division 3—Parking of livestock trucks

2.7 Livestock trucks

(1) A person shall not park a vehicle containing livestock in a townsite for a period in excess of 30 minutes.

(2) A person shall not park a vehicle which contains or has been used for the carriage of livestock so as to create or be a nuisance to any person, by reason of the odour emanating from the vehicle.

(3) If a person parks a vehicle containing livestock in a townsite under and in accordance with subclause (1), then the person does not contravene subclause (2).

Division 4—Truck noise from residential land

2.8 Truck noise from residential land

(1) A person shall not start or drive a truck on land zoned, approved or used for residential purposes between the hours of 11pm and 7am on the following day without first obtaining the written consent of the local government.

(2) In this clause, a truck means a vehicle having a tare in excess of 2,000 kgs.

PART 3—DISPOSING OF DISUSED REFRIGERATORS

3.1 Disposing of disused refrigerators or similar containers

A person shall not place, leave or dispose of a disused refrigerator, ice-chest, ice-box, trunk, chest or other similar article having a compartment which has a capacity of 0.04 cubic metres or more on any land without first—

(a) removing every door and lid and every lock, catch and hinge attached to a door or lid; or

(b) rendering every door and lid incapable of being fastened.

PART 4—OBJECTIONS AND APPEALS

4.1 Application of Part 9 Division 1 of the Act

When the local government makes a decision under clause 2.6 or 2.8 (1) the provisions of Division 1 of Part 9 of the Act and regulations 33 of the Regulations apply to that decision.

PART 5—ENFORCEMENT

Division 1—Notices given under this local law

5.1 Offence to fail to comply with notice

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

5.2 Local government may undertake requirements of notice

Subject to Subdivision 3 of Division 3 of Part 3 of the Act, where a person fails to comply with a notice referred to in clause 5.1, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

Division 2—Offences and penalties

Subdivision 1—General

5.3 Offences and general penalty

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

(2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

Subdivision 2—Infringement notices and modified penalties

5.4 Prescribed offences

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

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

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

(a) commission of the prescribed offence is a relatively minor matter; and

(b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

5.5 Form of notices

For the purposes of this local law—

(a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;

(b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and

(c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

Schedule 1

PRESCRIBED OFFENCES

[Clause 5.4(2)]

Item	Clause	Description	Modified penalty \$
1	2.2	Conducting an amusement so as to create a nuisance	125
2	2.4 (1)	Emitting light of more than 50 lux	125
3	2.4 (2)	Where natural light is reflected from anything on a lot so as to create or be a nuisance	125
4	2.5	Erection or use of lights other than in accordance with requirements	125
5	2.7 (1)	Parking a livestock truck in a townsite in excess of 30 minutes	125
6	2.8 (1)	Starting or driving a truck on residential land without consent	125
7	3.1	Disposing of disused refrigerator or similar container with door or lid that can be fastened	300
8	5.1	Failure to comply with notice	125

Dated 16th day of June 2017.

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

CRAIG SIMKIN, Shire President.
GARRY KEEFFE, Chief Executive Officer.

