

# SHIRE OF WAGIN



# LOCAL LAWS

# ARRANGEMENT

<u>LOCAL LAW</u>	<u>GAZETTAL DATE</u>
Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law .....	04/12/2001
Cemeteries Local Law .....	04/12/2001
Control of Refuse on Building Sites Local Law .....	04/12/2001
Dogs Local Law .....	04/12/2001
Extractive Industries Local Law .....	12/07/2016
Fencing Local Law .....	04/12/2001
Health Local Law.....	09/04/2001
Local Government Property Local Laws .....	04/12/2001
Local Law Relating to Pest Plants .....	10/05/2002
Standing Orders Local Law.....	09/10/2001
Unightly Land Refuse, Rubbish or Disused Material on Local Land Local Law.....	02/05/2008
Swimming Pool / Wagin Memorial Swimming Centre Local Law.....	30/03/1990
Cemetery Local Law .....	01/03/1985
Swimming Pool – Wagin Memorial Swimming Centre Local Law.....	24/10/1980
Vehicles – Speed of Local Law .....	28/09/1979
Cemetery – Fees Local Law .....	21/01/1977
Swimming Pool – Memorial Swimming Centre Local Law.....	21/02/1975
Vehicles Speed of – Metrication Local Law .....	22/02/1974
Swimming Pool – Memorial Swimming Centre Local Law.....	24/02/1970
Swimming Pool – Scale of Fees – Memorial Swimming Pool Local Law.....	25/10/1967
General & Halls Local Law .....	27/07/1923

**LOCAL GOVERNMENT ACT 1995**

Shire of Wagin

**ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES  
AND PUBLIC PLACES LOCAL LAW 2001**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Wagin resolved on 20<sup>th</sup> November 2001 to make the following local law.

The Shire of Kojonup Activities On Thoroughfares And Trading In Thoroughfares and Public Places Local Law as published in the *Government Gazette* of 16 May 2000, is adopted as a local law of the Shire of Wagin, with the modifications which follow.

**1. Preliminary**

Wherever the “Shire of Kojonup” is mentioned in the local law substitute “Shire of Wagin”.

**2. Clause 1.2**

Delete “1975” in the definition “built up area” and substitute “2000”

**3. Clause 1.2**

Delete “1975” in the definition “intersection” and substitute “2000”

**4. Clause 1.2**

Delete “Kojonup” and “Muradup” in the definition “townsite” and substitute “Wagin” and “Piesseville”.

**5. Clause 1.4—Repeal**

Delete subclause (1) and substitute—

- “(1) The following local laws are repealed—
- (a) By-laws Relating to Hawkers and Stallholders, published in the *Government Gazette* of 11 September 1931;
  - (b) By-law to Regulate Hawkers and Stalls published in the *Government Gazette* of 15 August 1958, as amended by publication in the *Government Gazette* of 30 March 1990; and
  - (c) By-laws Relating to Removal and Disposal of Obstructing Animals or Vehicles, published in the *Government Gazette* of 4 October 1972, as amended by publication in the *Government Gazette* of 10 March 1978.”.

**6. Clause 3.4 Conditions on portable sign**

3.4(a) (iv) delete subclause (iv) and renumber subclauses (v), (vi), (vii) and (ix) (iv), (v), (vi), (vii), (viii) respectfully.

**7. Clause 4.2 Prohibitions relating to animals**

4.2 (3) Delete subclause (3)

**8. Clause 5.11 Permit to clear**

Delete “and maintain in a cleared state” and “within 1m of that persons land” in line one and two, delete the full stop and add the words “or Local Government policy”.

**9. Clause 5.16 Prohibitions on Burning**

Delete

**10. Clause 6.2 Stallholders permit**

6.2(1)(b) delete “specified” and insert “with”

**11.** 6.2 (2)(b) delete subclause (b) and add a new subclause (b) “specify if an assistant will conduct the stall”

**12.** 6.2 (2)(c) after the word location insert “and size”

**13.** 6.2 (2)(f) delete subclause (f)

**14. 6.3 Traders permit**

6.3 (2)(b) delete subclause (b) and add a new subclause (b) “specify if an assistant will be trading”

**15.** 6.3 (2)(c) before the word location insert “size and”

**16.** 6.3 (2)(f) delete subclause (f)

**17. Part 6—Division 2**

Delete the whole of Part 6, Division 2, “Street Entertainers”

**18. Schedule 1**

Delete prescribed offences in respect of deleted clauses 4.2(3), 6.10, 6.11(2) and 6.14

**19. Forms**

Delete Forms 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12.

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Dated this 20th day of November 2001.

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

P. I. PIESSE, President.  
M. A. PARKER, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**

SHIRE OF KOJONUP

**Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law**

Under the powers conferred by the *Local Government Act 1995*, and all other powers, the Council of the Shire of Kojonup resolved to make the following Local Law on the 28th day of February 2000.

**PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Definitions
- 1.3 Application
- 1.4 Repeal

**PART 2—ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES**

*Division 1—General*

- 2.1 General prohibitions
- 2.2 Activities allowed with a permit—general
- 2.3 No possession and consumption of liquor on thoroughfare

*Division 2 Vehicle crossing*

Subdivision 1 Temporary crossings

- 2.4 Permit required

Subdivision 2—Redundant vehicle crossings

- 2.5 Removal of redundant crossing.

*Division 3—Verge treatments*

Subdivision 1—Preliminary

- 2.6 Interpretation
- 2.7 Application

Subdivision 2—Permissible verge treatments

- 2.8 Permissible verge treatments
- 2.9 Only permissible verge treatments to be installed
- 2.10 Obligations of owner or occupier
- 2.11 Notice to owner or occupier

Subdivision 3—Existing verge treatments

- 2.12 Transitional provision

Subdivision 4—Public works

- 2.13 Power to carry out public works on verge

*Division 4—Property numbers*

Subdivision 1—Preliminary

2.14 Interpretation

Subdivision 2—Assignment and marking of numbers

2.15 Assignment of numbers

*Division 5—Fencing*

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

*Division 6—Signs erected by the local government*

2.17 Signs

2.18 Transitional

*Division 7—Driving on a closed thoroughfare*

2.19 No driving on closed thoroughfare

**PART 3—ADVERTISING SIGNS ON THOROUGHFARES**

*Division 1—Preliminary*

3.1 Interpretation

*Division 2—Permit*

3.2 Advertising signs and portable direction signs

3.3 Matters to be considered in determining application for permit

*Division 3—Conditions on permit*

3.4 Conditions on portable sign

3.5 Conditions on election sign

**PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS**

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

4.2 Prohibitions relating to animals

*Division 2—Shopping trolleys*

4.3 Interpretation

4.4 Shopping trolley to be marked

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4.6 Retailer to remove abandoned trolley

4.7 Retailer taken to own trolley

**PART 5—ROADSIDE CONSERVATION**

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5.2 Application

*Division 2—Flora roads*

5.3 Declaration of flora road

- 5.4 Construction works on flora roads
- 5.5 Signposting of flora roads
- 5.6 Driving only on carriageway of flora roads

*Division 3—Special environmental areas*

- 5.7 Designation of special environmental areas
- 5.8 Marking of special environmental areas

*Division 4—Planting in thoroughfares*

- 5.9 Permit to plant
- 5.10 Relevant considerations in determining application

*Division 5—Clearance of vegetation*

- 5.11 Permit to clear
- 5.12 Application for permit

*Division 6—Fire management*

- 5.13 Permit to burn thoroughfare
- 5.14 Application for permit
- 5.15 When application for permit can be approved
- 5.16 Prohibitions on burning

*Division 7—Firebreaks*

- 5.17 Permit for firebreaks on thoroughfares
- 5.18 application for permit cannot be approved

*Division 8—Commercial wildflower harvesting on thoroughfares*

- 5.19 General prohibition on commercial wildflower harvesting
- 5.20 Permit for revegetation projects

**PART 6—TRADING IN THOROUGHFARES AND PUBLIC PLACES**

*Division 1—Stallholders and traders*

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Subdivision 2—Permits

- 6.2 Stallholder's permit
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- 6.4 No permit required to sell newspaper
- 6.5 Relevant considerations in determining application for permit
- 6.6 Conditions of permit
- 6.7 Exemptions from requirement to pay fee or to obtain a permit

Subdivision 3—Conduct of stallholders and traders

- 6.8 Conduct of stallholders and traders

*Division 2—Street entertainers*

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- 6.9 Interpretation

Subdivision 2—Permits

- 6.10 Permit required to perform
- 6.11 Variation of permitted area and permitted time
- 6.12 Duration of permit
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- 6.14 Obligations of permit holder

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- 6.15 Interpretation
- 6.16 Permit required to conduct Facility
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- 7.3 Conditions which may be imposed on a permit
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**PART 8—OBJECTIONS AND APPEALS**

- 8.1 Application of Part 9 Division I of Act

**PART 9—MISCELLANEOUS NOTICES**

- 9.1 Notice to redirect or repair sprinkler
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- 10.1 Offence to fail to comply with notice
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*Division 2—Offences and penalties*

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10.3 Offences

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10.4 Prescribed offences

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**SCHEDULE 1**

**PRESCRIBED OFFENCES**

**LOCAL GOVERNMENT ACT 1995**

SHIRE OF KOJONUP

**ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES  
AND PUBLIC PLACES LOCAL LAW**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Kojonup resolved on the 25th October 1999 to propose the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

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

**1.2 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;

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

“**built-up area**” has the meaning given to it in the *Road Traffic Code 1975*;

“**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**” means the paved or made portion of a thoroughfare used or intended for use by vehicles;

“**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**” means the paved or made portion of a thoroughfare used or intended for use by pedestrians and cyclists;

“**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 1975*;

“**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 Licensing Act 1988*;

“**local government**” means the Shire of Kojonup;

“**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.

“**lot**” has the meaning given to it in the *Town Planning and Development Act 1928*;

“**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 2.8(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*;

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

“**town planning scheme**” means a town-planning scheme of the local government made under the *Town Planning and Development Act 1928*;

“**townsite**” means the townsite of Kojonup and Muradup, 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 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.

### 1.3 Application

This local law applies throughout the district.

### Repeal

(1) The following local laws are repealed—

- (a) By-laws Relating to Street Lawns and Gardens as published in the *Government Gazette* of 10/06/1971 and as amended from time to time.

- (b) By-laws Relating to Trading in Public Places as published in the *Government Gazette* of 08/06/1990.
- (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 ON THOROUGHFARES AND PUBLIC PLACES**

### *Division 1—General*

#### **2.1 General prohibitions**

A person shall not—

- (a) plant any plant which exceeds or which may exceed 0.75 metre in height on a thoroughfare so that the plant is within 6 metre 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 2 metre 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 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 any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only 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 any thing 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 a permissible verge treatment
    - i lay pipes under or provide taps on any verge; or
    - ii place or install any thing 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 Licensing 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 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 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 Interpretation**

In this Division, unless the context otherwise requires—

“**acceptable material**” means any material which will create a hard surface, and which appears on a list of acceptable materials maintained by the local government.

**2.7 Application**

This Division only applies to the townsite.

*Subdivision 2—Permissible verge treatments*

**2.8 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; and
    - ii. where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2 metre 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 one third of the area of the verge (excluding any 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).

**2.9 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. 10.

### **2.10 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.

### **2.11 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*

### **2.12 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*

### **2.13 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*

### **2.14 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*

**2.15 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*

**2.16 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 I of Schedule 3.1 of the Act—

- (a) a public place, as that term is defined in clause 1.2; and
- (b) local government property

*Division 6—Signs erected by the local government*

**2.17 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.

**2.18 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 2.17 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*

**2.19 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; and

“**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 0.5m<sup>2</sup> in area provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.
- (3) Notwithstanding subclause (1), a person shall not erect or place an advertising sign—
  - (a) on a footpath;
  - (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5 metres;
  - (c) on or within 3 metres of a carriageway;
  - (d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
  - (e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

**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 one metre in height;

- ii. not exceed an area of 1 metre square 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 30 metres 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 100 metres 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 I—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 authorized 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.

#### **4.7 Retailer taken to own trolley**

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

### **PART 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 established under the Land Resource Policy Council within the Office of Premier and Cabinet; and

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

##### **5.2 Application**

This Part does not apply to the townsite.

#### *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 ‘Code of Practice for Roadside Conservation and Road Maintenance’ prepared by the Roadside Conservation Committee.

##### **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) as 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 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.

#### *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 20 metre 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,
- (c) 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;
  - ii. inviting offers or soliciting orders for the sale or the hire of goods or services; or
  - iii. carrying out any other transaction in relation to goods or services.

but does not include—

- (d) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder’s permit;
- (e) 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;
- (f) 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
- (g) 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 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.
- (3) The conditions subject to which the local government may approve an application for a trader's permit include that the permit holder is permitted to remain at a particular location for as long as there is a customer making a purchase, but if there is no customer making a purchase the permit holder must move on from that location within a reasonable time of the last purchase having been made.

### **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 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;



- (b) that the applicant is not a desirable or suitable person to hold a permit;
- (c) 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; or
- (d) such other grounds as the local government may consider to be relevant in the circumstances of the case.

### **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 authorise another person to be a nominee of the permit holder for a specified

period, and this local law and the conditions of the permit 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 *Weights and Measures Act 1915*.
- (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 local government 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 authorized 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 food premises which abut on the Facility, and whether the applicant is the person conducting such food premises;
- (b) any abutting food premises are registered in accordance with the *Health Act 1911* and whether the use of the premises is permitted under the town planning scheme;
- (c) the Facility will comply with any local law made under section 172 of the *Health Act 1911*;
- (d) users of the Facility will have access to proper and sufficient sanitary and ablutionary conveniences;
- (e) 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
- (f) 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 and any local law made under section 172 of the *Health Act 1911*;
  - (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;
  - (d) be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the Facility; and
  - (e) be solely responsible for all rates and taxes levied upon the land occupied by the Facility.
- (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 authorized 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 authorized person or a member of the Police Service or an emergency service in the event of an emergency.
- (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;
  - (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 detained 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 mutatis mutandis.

### **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 authorized person her or his permit immediately upon being required to do so by that authorized person.

### **7.10 Cancellation of permit**

- (1) Subject to clause 8.1, a permit may be cancelled by the local government on any one or more of the following grounds—
  - (a) the permit holder has not complied with a—
    - i. condition of the permit; or
    - ii. provision of any written law which may relate to the activity regulated by the permit; or
  - (b) if it is relevant to the activity regulated by the permit—
    - i. the permit holder has become bankrupt, or gone into liquidation;
    - ii. the permit holder has entered into any composition or arrangement with creditors; or

- iii. a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the permit holder's undertakings or property.
- (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 and regulations 33 and 34 of the Regulations 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 any thing 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 any thing, 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.
- (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 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.

### **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 I in Schedule I 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 I 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 I of the Regulations.

**SCHEDULE I**  
**PRESCRIBED OFFENCES**

Clause	Description	Modified Penalty \$
2.1 (a)	Plant of 0.75m in height on thoroughfare within 6m of intersection	100
2.1 (b)	Damaging lawn or garden	100
2.1 (c)	Plant (except grass) on thoroughfare within 2m of carriageway	100
2.1 (d)	Placing hazardous substance on footpath	100
2.1 (e)	Damaging or interfering with signpost or structure on thoroughfare	300
2.1 (f)	Playing games so as to impede vehicles or persons on thoroughfare	100
2.1 (g)	Riding of skateboard or similar device on mall or verandah of shopping centre	100
2.2(a)	Digging a trench through a kerb or footpath without a permit	100
2.2(b)	Throwing or placing anything on a verge without a permit	100
2.2(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	100
2.2(d)	Causing obstruction to water channel on thoroughfare without a permit	200
2.2(e)	Placing or draining offensive fluid on thoroughfare without a permit	200
2.2(g)	Lighting a fire on a thoroughfare without a permit	300
2.2(h)	Felling tree onto thoroughfare without a permit	100
2.2(i)	Installing pipes or stone on thoroughfare without a permit	100
2.2(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	300
2.2(k)	Creating a nuisance on a thoroughfare without a permit	100
2.2(l)	Placing a bulk rubbish container on a thoroughfare without a permit	100
2.2(m)	Interfering with anything on a thoroughfare without a permit	100
2.3(1)	Consumption or possession of liquor on thoroughfare	100
2.4(1)	Failure to obtain permit for temporary crossing	200
2.5(2)	Failure to comply with notice to remove crossing and reinstate kerb	300
2.9(1)	Installation of verge treatment other than permissible verge treatment	200
2.10	Failure to maintain permissible verge treatment or placement of obstruction on verge	100
2.11	Failure to comply with notice to rectify default	100
2.17(2)	Failure to comply with sign on public place	100
2.19(1)	Driving or taking a vehicle on a closed thoroughfare	300
3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	100
3.2(3)	Erecting or placing of advertising sign in a prohibited area	100
4.1(1)	Animal or vehicle obstructing a public place or local government property	100
4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	100
4.2(2)(b)	Animal on public place with infectious disease	100
4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	100
4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	100
4.5	Person leaving shopping trolley in public place other than trolley bay	100
4.6(2)	Failure to remove shopping trolley upon being advised of location	100
5.6(1)	Driving a vehicle on other than the carriageway of a flora road	200
5.9	Planting in thoroughfare without a permit	200
5.11	Failure to obtain permit to clear a thoroughfare	500
5.13	Burning of thoroughfare without a permit	500
5.17	Construction of firebreak on thoroughfare without a permit	500
5.19	Commercial harvesting of native flora on thoroughfare	500

Activities on Thoroughfares and Trading in Thoroughfares Local Law – Shire of Kojonup  
Gazetted 16/05/2000

Clause	Description	Modified Penalty \$
5.20(1)	Collecting seed from native flora on thoroughfare without a permit	300
6.2(1)	Conducting of stall in public place without a permit	300
6.3(1)	Trading without a permit	300
6.8(1)(a)	Failure of stallholder or trader to display or carry permit	100
6.8(1)(b)	Stallholder or trader not displaying valid permit	100
6.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	100
6.8(2)	Stallholder or trader engaged in prohibited conduct	100
6.10	Performing in a public place without a permit	100
6.11(2)	Failure of performer to move onto another area when directed	100
6.14	Failure of performer to comply with obligations	100
6.16	Establishment or conduct of outdoor eating facility without a permit	300
6.18	Failure of permit holder of outdoor eating facility to comply with obligations	100
6.20(1)	Use of equipment of outdoor eating facility without purchase of food or drink from facility	50
6.20(2)	Failure to leave outdoor eating facility when requested to do so by permit holder	50
7.5	Failure to comply with a condition of a permit	100
7.9	Failure to produce permit on request of authorized person	100
10.1	Failure to comply with notice given under local law	100

---

Dated..... of .....

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

L. J. CHARLESWORTH, President.  
W. LENYSZYN, Chief Executive Officer.

---

**Form 1**

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES  
LOCAL LAW

*Shire of Kojonup*

**APPLICATION FOR INSTALLATION OF A CROSSING**

TO: CEO

Shire of Kojonup P.O. Box 163 Kojonup WA 6395.

Sir/Madam

I/We apply for approval to install a crossing /temporary crossing from land owned by me/us  
and situated at lot subdivision .....

Street .....

To give access to Street.

The required position of the crossing is ..... metres from the boundary of the land  
and the width required is ..... metres.

This crossing \* is /is not the first crossing in respect of the land.

\*I/We understood that the crossing must be constructed under the superintendence and to the  
satisfaction of the CEO or Engineer, and that my/our contribution to the cost is to  
be.....

\*I/We request the local government to construct the crossing in the terms of the local laws and  
local government policies.

\* (delete if not applicable)

Signature of owner/s .....

Address: .....

.....

**Form 2**

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES  
LOCAL LAW

*Shire of Kojonup*

**APPLICATION FOR A PERMIT TO CONDUCT AN OUTDOOR EATING FACILITY**

TO: CEO

Shire of Kojonup, PO Box 163 Kojonup WA 6395.

I, ..... (Full Name)

of ..... (Residential Address)

..... (Postal Address)

..... (Occupation)

apply for a permit to set up and conduct an eating area

Details of Proposed Eating Areas: .....

.....

Location of proposed eating area: .....

Description of eating house adjacent to proposed eating area: .....

Proposed days of operation: .....

Proposed hours of operation: .....

Proposed number of tables: .....

Proposed number of other structures: .....

Description of tables and chairs including materials and dimensions: .....

Description of other structures including materials and dimensions: .....

**Form 3**

I declare that:

the eating house referred to in Item 2 above is registered in accordance with the *Health Act 1911* and the Shire of Kojonup town planning scheme;

I am the proprietor of the eating house and am licensed in respect of that eating house in accordance with the *Health Act 1911*.

The following are attached:

- Two copies of a plan and specifications of the proposed eating area on a scale of 1:50 showing:
- The location and dimensions of the proposed eating area and the means by which the eating areas are to be separated from the balance of the street or public place: and
- The position of all tables, chairs and other structures proposed to be provided in the eating area and which of such items, if any, are to be retained within the eating area at all times;
- Two copies of both a plan and specifications on a scale of 1:200 showing the eating area and all land together with any improvements, public facilities and parking restrictions, within 30 metres of the boundaries of the eating area;

A colour photograph or photographs of the tables, chairs, and other structures to be set up in the eating area;

A written statement of the manner in which foodstuffs and other dining accessories are to be conveyed to, and protected from contamination within the eating area; and

Written particulars of arrangements made in respect of public liability insurance in the sum of Five Million Dollars(\$5,000,000)..

In making this application for a permit, I agree on the issue of the permit—

- to indemnify and hold indemnified the Crown and the Shire of Kojonup against any claims for loss, damage or injury however arising from the operation of the eating area; and
- not to claim from the Crown or the Shire of Kojonup or any person acting on their behalf, for any loss, damage or injury however arising from any public work on the thoroughfare or public place.

I enclose:

the prescribed fee of \$.....; and

the prescribed charge of \$.....

Dated this ..... day of .....

.....  
(signature of applicant)

**Form 4**

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC  
PLACES LOCAL LAW

*Shire of Kojonup*

**PERMIT TO CONDUCT AN OUTDOOR EATING FACILITY**

This permit is to ..... (Full name)  
.....(address)  
("the permit holder")

**This permit authorises the person named above to set up and conduct an eating area:**

on those portions of the thoroughfare or public place shaded in on the permit plan attached to

- and forming part of this permit; and
- in compliance with the following conditions:

(insert conditions)

This permit is valid from the ..... day of ..... and expires at 12:00 o'clock  
midnight on ..... or on the sooner cancellation of this permit.

In accepting this permit, the permit holder agrees:

- to indemnify and hold indemnified the Crown and the Shire of Kojonup against any claims for any loss, damage or injury however arising from the operation of the eating area; and
- not to claim from the Crown or the Shire of Kojonup or any person acting on their behalf, for any loss, damage or injury however arising from any public work on the thoroughfare or public place.

Issued this ..... day of.....

.....  
CHIEF EXECUTIVE OFFICER

**Form 5**

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES  
LOCAL LAW

*Shire of Kojonup*

**TRANSFER OF PERMIT TO CONDUCT AN OUTDOOR EATING FACILITY**

The Shire of Kojonup transfers the permit to conduct an eating area situated at

.....

from the present holder .....

to

.....  
of ..... (“transferee”)

for the period from the date of this transfer until.....

In accepting this Transfer of Permit, the transferee agrees:

- to indemnify and hold indemnified the Crown and the Shire of Kojonup against any claim for any loss, damage or injury however arising from the operation of the eating area; and
- not to claim from the Crown or the Shire of Kojonup or any person acting on their behalf, for any loss, damage or injury however arising from any public work on the thoroughfare or public place.

.....  
CHIEF EXECUTIVE OFFICER



**Form 6**

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES  
LOCAL LAW

*Shire of Kojonup*

**APPLICATION FOR TRADER'S PERMIT**

TO: CEO

Shire of Kojonup, PO Box 163 Kojonup 6395.

I, ..... (Full Name)

of ..... (Residential Address)

..... (Postal Address)

..... (Occupation)

..... (Telephone Number)

apply for a trader's permit under the Shire of Kojonup Activities on Thoroughfares and Trading  
in Thoroughfares and Public Places Local Law.

**Details of Proposed Trading:**

Method of Trading (eg. door to door sales, selling from fixed site): .....

Location or part of the district for which permit is required: .....

Description of stand, table, structure or vehicle proposed to be used by the applicant: .....

.....

.....

.....

Kind of goods or services intended to be sold or hired: .....

.....

.....

Number, names and addresses of assistants: .....

.....

.....

Proposed days of operation: .....

Proposed hours of operation: .....

Period for which the permit is sought: .....

Attached are:

- an accurate plan and description of any proposed stand, structure or vehicle which may be used for the proposed trading; and
- details of arrangements made in respect of public liability insurance in the joint names of the applicant and the Shire of Kojonup.

I enclose:

- the permit fee of \$.....
- the additional daily / weekly / monthly annual charge of \$.....
- Total \$.....

Dated this ..... day of .....

.....

(signature of Applicant)

**Form 7**

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES  
LOCAL LAW  
*Shire of Kojonup*  
**TRADER'S PERMIT**

This permit is issued to: ..... (Full Name)  
Of .....  
(Address)

("the permit holder")

This permit is issued subject to the following conditions:

Location / part of district to which the permit applies: .....  
.....  
.....

Description of stand, table, structure or vehicle to be used by the permit holder:  
.....  
.....  
.....

Goods or services to be sold or hired:  
.....  
.....

Number, names and addresses of assistants: .....  
.....  
.....

Approved days of operation: .....

Approved hours of operation: .....

Other conditions: .....  
.....

This permit is valid from the ..... day of ..... and expires at 12:00 o'clock  
midnight on the ..... day of .....or on the sooner cancellation of this permit.  
Issued this ..... day of .....

.....  
CHIEF EXECUTIVE OFFICER

**Form 8**

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES  
LOCAL LAW

*Shire of Kojonup*

**APPLICATION FOR STALLHOLDER'S PERMIT**

To: CEO

Shire of Kojonup, PO Box 163 Kojonup 6395.

I, ..... (Full Name)

of ..... (Residential Address)

..... (Postal Address)

..... (Occupation)

..... (Telephone Number)

apply for a stallholder's permit under the Shire of Kojonup Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.

**Details of Proposed Stall**

Location of proposed site for which the permit is sought: .....

Description of stall/s proposed to be used by the applicant: .....

Kind of goods or service intended to be sold or hired: .....

Number, names and addresses of assistants: .....

Proposed days of operation: .....

Proposed hours of operation: .....

Period for which the permit is sought: .....

**Form 9**

Attached are:

- an accurate plan and description of proposed stall/s; and
- details of arrangements made in respect of public liability insurance in the joint names of the applicant and the Shire of Kojonup.

I enclose:

the permit fee \$.....

the additional daily / weekly / monthly annual charge of .....

Total \$.....

Dated this ..... day of.....

.....

(signature of Applicant)

**Form 10**

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES  
LOCAL LAW

*Shire of Kojonup*

**STALLHOLDER'S PERMIT**

This permit is issued to: ..... (Full Name)  
Of ..... (Address)  
("the permit holder")

This permit is issued subject to the following conditions:

Location to which the permit applies: .....  
.....

Description of stall/s to be used by the permit holder:  
.....

Goods or services to be sold or hired:  
.....

Number, names and addresses of assistants:  
.....  
.....

Approved days of operation:  
.....

Approved hours of operation:  
.....

Other conditions:  
.....  
.....

This permit is valid from the ..... day of ..... and expires at 12:00 o'clock  
midnight on the ..... day of ..... or on the sooner cancellation of this permit.

Issued this ..... day of .....

.....  
CHIEF EXECUTIVE OFFICER

**Form 11**

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC  
PLACES LOCAL LAW

Shire of Kojonup

APPLICATION FOR PERMIT TO PERFORM

TO: CEO

Shire of Kojonup, PO Box 163 Kojonup WA 6395.

I, ..... (Full Name)

of ..... (Residential Address)

..... (Postal Address)

..... (Occupation)

..... (Telephone Number)

apply for a permit to perform under the Shire of Kojonup Activities on Thoroughfares and  
Trading in Thoroughfares and Public Places Local Law.

Details of Proposed Performance:

Nature of proposed performance: .....

.....

Description of any musical instrument, loud speaker or amplifier to be used:

.....

.....

Preferred permitted area: .....

Preferred permitted times: .....

Dated this ..... day of .....

.....

(signature of Applicant)

**Form 12**

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES  
LOCAL LAW

*Shire of Kojonup*

**PERMIT TO PERFORM**

This permit is issued to:

..... (Full Name)

..... (Residential Address)

to perform in the following areas and times for a period of three months commencing on the date of issue of this permit, unless it is sooner cancelled.

Permitted areas: .....

Permitted times: .....

The permit authorises *[insert nature of proposed performance]*

.....  
and the use of *[insert description of any musical instrument, loud speaker or amplifier to be used]*

Issued this ..... day of .....

.....  
CHIEF EXECUTIVE OFFICER

\_\_\_\_\_

The Common Seal of the Shire of Kojonup was hereto affixed in the presence of:

L. J. CHARLESWORTH, President.

W. LENYSZYN, Chief Executive Officer.

Dated this 21<sup>st</sup> day of March 2000.

## CEMETERIES ACT 1986

Shire of Wagin

### CEMETERY LOCAL LAW 2001

Under the powers conferred by the Cemeteries Act 1986, the Shire of Wagin resolved on the 20th November 2001 to adopt the Model Local Law (Cemeteries) 1998 published in the Government Gazette on 12 May 1998 in relation to the Wagin Public Cemetery, with such modifications as are here set out.

#### **1. Preliminary**

- 1.1 In construing the following modifications, where a modification requires the renumbering of a clause, subclause or paragraph, subsequent modifications have been drafted on the basis that the renumbering has been effected.
- 1.2 Wherever the name of the Local Government is to be inserted, insert "Shire of Wagin".
- 1.3 Wherever the name of the Local Law is to be inserted, insert "Cemetery Local Law 2001".
- 1.4 Wherever the address of the Local Government is to be inserted, insert "2 Arthur Road (PO Box 200) Wagin".

#### **2. Renumbered Clause 1.4 Repeal**

After "The following Local Law is repealed: -" insert "The Wagin Public Cemetery By-laws published in the Government Gazette of 11 January 1907 as amended".

#### **3. Clause 3.2 Application for Cremation**

- 3.1 Delete the whole of this clause.
- 3.2 Renumber clauses 3.3 to 3.5 inclusive to "3.2" to "3.4" respectively.
- 3.3 In renumbered clause 3.2—
  - (a) delete "clauses 3.1 and 3.2" and substitute "clause 3.1"; and
  - (b) delete "clause 3.4" and substitute "clause 3.3".

#### **4. Clause 3.4 Certificate of Identification**

In subclause (1) delete "or crematorium within the cemetery,".

#### **5. Clause 4.2 Single Funeral Permits**

Delete ", or crematorium".

#### **6. Clause 4.3 Application refusal**

Delete "or crematorium,".

#### **7. Clause 5.1 Requirements for Funerals and Coffins**

In paragraph (a) delete "or cremation".

#### **8. Clause 5.2 Funeral Processions**

Delete "or cremation" and "or clause 3.2".

#### **9. Clause 5.6 Conduct of Funeral by Board**

Delete paragraph (d) and renumber e, f, g, d, e, f, respectively .

#### **10. Part 5, Division 2—Cremation**

In Part 5, delete the whole of Division 2 - Cremation.



### **11.1 Part 5, Division 3—Placement of Ashes**

In Part 5—

- (a) renumber Division 3 to “Division 2”;
- (b) renumber clause 5.12 to “5.7”;
- (c) in subclause (1) of renumbered clause 5.7 delete—  
“Memorial Wall  
Garden of Remembrance  
Ground Niche  
Memorial Rose, Tree or Shrub  
Family Shrub  
Memorial Desk  
Granite Seat  
Book of Remembrance  
Memorial Gardens “;
- (d) delete clauses 5.13 and 5.14.

### **12. Clause 7.12 Placing of Glass Domes and Vases**

Delete all words after the heading and substitute—

“A person shall not place glass domes, vases or other grave ornaments outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40 (2) of the Act”.

### **13. Part 7, Division 2—Lawn Section**

In Part 7, delete the whole of Division 2—Lawn Section.

### **14. Part 7, Division 3—Memorial Plaque Section**

In Part 7, delete the whole of Division 3 - Memorial Plaque Section.

### **15. Part 7, Division 4—Licensing of Monumental Masons**

In Part 7—

- (a) renumber Division 4 to “Division 2”;
- (b) renumber clauses 7.16 to 7.20 inclusive to “7.13” to “7.17” respectively;
- (c) in renumbered clause 7.14, paragraph (a), delete “7.20” and substitute “7.17”;
- (d) in renumbered clause 7.15, paragraph (a), delete “7.16” and substitute “7.13”.

### **16. Second Schedule**

In the Second Schedule, delete the prefix “19” where it is used as part of the date an alleged offence occurred and substitute “20”.

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Dated this 20<sup>th</sup> day of November 2001

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

P. I. PIESSE, President.  
M. A. PARKER, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

CEMETERIES ACT 1986

**MODEL LOCAL LAW  
(CEMETERIES) 1998**

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CEMETERIES ACT 1986

Shire of Wagin

**MODEL LOCAL LAW (CEMETERIES) 1998**

The following model local law was caused by the Governor in Executive Council to be prepared and published under section 56(1) of the Act.

Note: under section 56(1) of the Act, a Board under the Act may adopt the provisions of the model local law by reference with or without modification. If the Board is a local government they are to be adopted as a **local law**. If the Board is not a local government they are to be adopted as a **by-law**.

Note: under section 56(2) of the Act, a model local law has no effect except to the extent that it is adopted.

JOHN LYNCH, Executive Director  
Department of Local Government.

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CEMETERIES ACT 1986

*[insert name of Local Government or Board]*

*[insert name of Local Law or By-law]*

**PART 1—PRELIMINARY**

**1.1 Citation**

This *[insert "Local Law" or "By-law" as applicable]* may be cited as the *[insert name of Local Law or By-law]* *[insert year]*.

**1.2 Interpretation**

In this *[insert "Local Law" or "By-law" as applicable]* unless the context otherwise requires:

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

“authorised officer” means an employee of the Board authorised by the Board for the purposes of performing any function or exercising any power conferred upon an authorised officer by this *[insert Local Law" or "By-law" as applicable]*;

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

“Funeral Director” means a person holding a current funeral director’s licence;

“Board” means the *[insert name of Local Government or Board]*;

“mausoleum” means a building or construction wholly above or partially above and below ground level, so constructed as to allow the deposition of dead bodies into a compartment in the wall or floor and being sealed from view;

“monumental mason” means a person holding a current monumental mason’s licence;

“personal representative” means the administrator or executor of an estate of a deceased person;

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

**“single funeral permit”** means a permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct at the cemetery a funeral of a person named in the permit.

**“vault”** means a below ground lined grave with one or more sealed compartments constructed to specifications approved from time to time by the Board.

### **1.3 Repeal**

The following *[insert “Local Law” or “By-law” as applicable]* is repealed: —  
*[Insert details of local law or by-law repealed]*

## **PART 2—ADMINISTRATION**

### **2.1 Powers and Functions of CEO**

Subject to any directions given by the Board, the CEO shall exercise all the powers and functions of the Board in respect of the cemetery.

## **PART 3—APPLICATION FOR FUNERALS**

### **3.1 Application for Burial**

- (1) A person may apply for approval to bury a dead body in the cemetery in the form determined by the Board from time to time.
- (2) An application under subclause (1) is to be accompanied by the set fee.

### **3.2 Application for Cremation**

A person who desires to hold a funeral within the cemetery shall, in the case of the cremation of a dead body:

- (a) make an application to the Board in the form determined by the Board from time to time; and
- (b) lodge with the application referred to in paragraph (a), a permit to cremate issued in accordance with the Cremation Act 1929.

### **3.3 Applications to be Accompanied by Certificates etc**

All applications referred to in clauses 3.1 and 3.2 shall be accompanied by either a medical certificate of death or a Coroner’s order of burial, and a certificate issued under clause 3.4, in respect of the body.

### **3.4 Certificate of Identification**

- (1) After a dead body is placed in a coffin and prior to a dead body being removed to the cemetery, or crematorium within the cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification in the form determined by the Board from time to time, unless:
  - (a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed; or
  - (b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body.
- (2) Where:
  - (a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed; or
  - (b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body,

then the Funeral Director shall complete a certificate in the form determined by the Board from time to time.

### **3.5 Minimum Notice Required**

All bookings to hold a funeral shall be made with the Board at least twenty four hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

## **PART 4—FUNERAL DIRECTORS**

### **4.1 Funeral Director's Licence Expiry**

A funeral director's licence shall expire on the 30th day of June in each year.

### **4.2 Single Funeral Permits**

Every application for a single funeral permit made under section 20 or 21 of the Act shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite, or crematorium.

### **4.3 Application Refusal**

The Board may refuse an application for a single funeral permit if, in the opinion of the Board, either the coffin specifications or the details of the vehicle transporting the dead body to the gravesite or crematorium, are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

## **PART 5—FUNERALS**

### *Division 1—General*

### **5.1 Requirements for Funerals and Coffins**

A person shall not bring a dead body into the cemetery unless:

- (a) the Board has approved an application for the burial or cremation of that dead body in accordance with Part 3 of this *[insert "Local Law" or "By-law" as applicable]*;
  - (b) it is enclosed in a coffin which in the opinion of the Board is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin's lid;
- and
- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 mm in height.

### **5.2 Funeral Processions**

The time fixed by the Board for any burial or cremation shall be the time at which the funeral procession is to arrive at the cemetery gates, and, if not punctually observed, then the applicant who applied to hold the funeral under clause 3.1 or clause 3.2 shall pay the set fee for being late.

### **5.3 Vehicle Entry Restricted**

(1) Subject to clause 5.3(2), every funeral procession shall enter by the principal entrance, and no vehicle except the hearse, and official mourning coaches, shall be permitted to enter the cemetery.

(2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs.

#### **5.4 Vehicle Access and Speed Limitations**

Vehicles shall proceed within the cemetery by the constructed roadway or other areas designated for the use of vehicles and shall not exceed the speed of 25km per hour.

#### **5.5 Offenders may be Expelled**

A person committing an offence under clause 5.4 may be expelled from the cemetery by the CEO or an authorised officer.

#### **5.6 Conduct of Funeral by Board**

When conducting a funeral under section 22 of the Act the Board may:

- a) require a written request for it to conduct a funeral to be lodged with it;
- b) in its absolute discretion, charge any person requesting it to conduct a funeral the set fee for the conduct of that funeral by it;
- c) where no fee or a reduced fee has been charged by it for the conduct of the funeral, determine the manner in which the funeral shall be conducted;
- d) bury or cremate that dead body but may cremate the dead body only when a permit to cremate has been obtained for that body under the Cremation Act 1929;
- e) specify an area in the cemetery where the dead body is to be buried or the ashes placed;
- f) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this [insert "Local Law" or "By-law" as applicable];
- g) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

#### *Division 2—Cremation*

#### **5.7 Metal Coffins Prohibited**

Metal or metal lined coffins shall not be accepted by the Board for cremation at the cemetery.

#### **5.8 Polyvinyls, etc, Prohibited**

The use of polyvinyl or its derivative, polyurethane, aerosol cans, other sealed containers, glass and/or other materials determined from time to time to be not appropriate to the cremation process by the Board, in or upon coffins presented for cremation at the cemetery is prohibited.

#### **5.9 Depositing the Coffin**

- (1) The Funeral Director shall deposit the coffin for cremation upon the catafalque in the Crematorium chapel or at such other position within the cemetery as may be determined from time to time by the Board.
- (2) Once the coffin has been deposited for cremation in accordance with sub-clause (1), all further services will be rendered by and be under the sole control of the Board.

#### **5.10 Removal of the Name Plate and Lead Strip**

The Board shall remove the name plate and lead strip from the coffin prior to cremation at a cemetery and the lead strip shall be placed in the container with the ashes.

#### **5.11 Removal of Metal Fittings**

The Board may remove any metal or other fittings on coffins presented for cremation at the cemetery which in the opinion of the Board could impede the cremation or cause damage to the cremation equipment.



*Division 3—Placement of Ashes*

**5.12 Disposal of Ashes**

- (1) The personal representative of a deceased person whose body has been cremated may apply, in an application under clause 3.1 or otherwise, for permission to dispose of the ashes in the cemetery and upon payment of the set fee the Board may grant permission for the ashes to be disposed of by one of the following methods:
  - Niche Wall
  - Memorial Wall
  - Garden of Remembrance
  - Ground Niche
  - Memorial Rose, Tree or Shrub
  - Family Shrub
  - Memorial Desk
  - Granite Seat
  - Family Grave
  - Book of Remembrance
  - Scattering to the Winds
  - Memorial Gardens
  - Other memorials approved by the Board.
- (2) Subject to sub-clauses (3) and (4), a person shall not place the ashes of a deceased person in the cemetery.
- (3) An authorised officer may place the ashes of a deceased person in a cemetery in accordance with the Board approval provided:
  - (a) the person requesting the placement of the ashes has the permission of the Board; and
  - (b) the ashes are placed within an area set aside for that purpose by the Board.
- (4) An authorised officer may place the ashes of a deceased person within a grave in accordance with the Board approval, provided the person requesting the placement of the ashes has the written permission of the Board and the approval of the holder of the right of burial of the grave.

**5.13 Availability of Ashes**

Subject to compliance with clause 5.12 and upon the payment of the set fee, the ashes of a deceased person that have not been placed within the cemetery will be made available to the personal representative of the deceased person during the normal office hours of the Board after the expiration of twenty four (24) hours after the completion of the cremation at the cemetery.

**5.14 Ashes held by the Board**

- (1) If at the expiration of six (6) months from the date of cremation at a cemetery:
  - (a) the ashes of the deceased person have not been claimed; or
  - (b) no arrangements have been made for the placement of the ashes of a deceased person by the personal representative, then the Board may dispose of the ashes in the cemetery by any of the methods listed in clause 5.12.
- (2) If prior to the expiration of six (6) months from the date of cremation the personal representative of the deceased person requests the Board to store the ashes of the

deceased person, and pays to the Board the set fee monthly in advance for such storage, the Board shall store the ashes in safe custody.

- (3) Notwithstanding sub-clause (2), should the personal representative default in the payment of the fee referred to in sub-clause (2), the Board may dispose of the ashes in the cemetery by any of the methods listed in clause 5.12.

## **PART 6—BURIALS**

### **6.1 Depth of Graves**

- (1) A person shall not bury a coffin within the cemetery so that the distance from the top of the coffin to the original surface of the ground is—
- (a) subject to paragraph (b), less than 750mm, unless that person has the permission of an authorised officer; or
  - (b) in any circumstances less than 600mm.
- (2) The permission of the authorised officer in sub-clause (1) (a) will only be granted where in the opinion of the authorised officer exceptional circumstances require granting of that permission.

### **6.2 Mausoleum, etc**

- (1) A person other than the Board shall not construct a brick grave, crypt, vault or mausoleum within the cemetery.
- (2) A person may request the Board to construct a vault or mausoleum within the cemetery which vault or mausoleum shall at all times remain the property of the Board.
- (3) An application under subclause (2) shall be in writing and shall be accompanied by payment of the set fee.
- (4) A person shall not place a dead body in a mausoleum except: —
- (a) in a closed coffin; and
  - (b) in a soundly constructed chamber; and
  - (c) in accordance with sub-clause (5).
- (5) The number of burials in a chamber must not exceed the number for which the chamber was designed.

## **PART 7—MEMORIALS AND OTHER WORK**

### *Division 1—General*

#### **7.1 Application for Monumental Work**

A Board may require the written consent of the holder of the right of burial of the grave to accompany an application under section 30 of the Act.

#### **7.2 Placement of Monumental Work**

Every memorial shall be placed on proper and substantial foundations.

#### **7.3 Removal of Rubbish**

All refuse, rubbish or surplus material remaining after memorial works are completed under a permit issued under section 30 of the Act shall be immediately removed from the cemetery by the person carrying out the same.

#### **7.4 Operation of Work**

All material required in the erection and completion of any work shall, as far as possible, be prepared before being taken to the cemetery, and all materials required by tradesmen shall be admitted at such entrance as the CEO or an authorised officer shall direct.

#### **7.5 Removal of Sand, Soil or Loam**

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

#### **7.6 Hours of Work**

Persons shall not be permitted to carry out memorial or other work on graves within the cemetery other than during the hours of 8.00am and 6.00pm on weekdays, and 8.00am and noon on Saturdays, without the written permission of the Board.

#### **7.7 Unfinished Work**

Should any work by masons or others be not completed before 6pm on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised officer.

#### **7.8 Use of Wood**

No wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave, other than as a temporary marker and with the prior approval of the Board.

#### **7.9 Plants and Trees**

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

#### **7.10 Supervision**

All workers, whether employed by the Board or by any other person, shall at all times whilst within the boundaries of the cemetery be subject to the supervision of the CEO or an authorised officer and shall obey such directions as the CEO or an authorised officer may give.

#### **7.11 Australian War Graves**

Notwithstanding anything in this *[insert "Local Law" or "By-law" as applicable]* to the contrary, the Office of Australian War Graves:

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

#### **7.12 Placing of Glass Domes and Vases**

A person shall not place glass domes, vases or other grave ornaments:

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

#### *Division 2—Lawn Section*

#### **7.13 Specification of Monuments**

- (1) All monuments in the lawn section of a cemetery shall:
  - (a) be made of natural stone; and
  - (b) be placed upon a base of natural stone; and
  - (c) comply with the following specifications:

- (i) the overall height of the monument above the original surface of the grave shall not exceed 1.05m;
  - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150mm nor more than 450mm;
  - (iii) the width of the base of the monument shall not exceed 1.20m;
  - (iv) the depth of the base of the monument shall not exceed 300mm; and
  - (d) have foundations extending to the bottom of the grave unless concrete beam foundations are provided by the Board.
- (2) An admiralty bronze memorial plaque may be attached to a monument erected or being erected in the lawn section of the cemetery.
- (3) A person shall not display any trade names or marks upon any monument erected within the lawn section of the cemetery.

#### **7.14 Headstones**

In the lawn section of the cemetery, that part of a headstone above its base shall not extend horizontally beyond that base.

#### *Division 3—Memorial Plaque Section*

#### **7.15 Requirements of a Memorial Plaque**

- (1) All memorial plaques placed in a memorial plaque section of the cemetery shall:
- (a) be made of admiralty bronze or any other material approved by the Board; and
  - (b) not be less than the dimensions 380mm x 280mm, nor more than 560mm x 305mm; and
- (2) All memorial plaques made of admiralty bronze shall:
- (a) not exceed 20mm in thickness; and
  - (b) be placed upon a base mounting approved by the Board.
- (3) All memorial plaques made of stone shall:
- (a) not exceed 50mm in thickness placed upon a base mounting approved by the Board; or
  - (b) not be less than 100mm in thickness if it is not to be placed upon a base mounting.

#### *Division 4—Licensing of Monumental Masons*

#### **7.16 Monumental Mason's Licence**

- (1) The Board may upon receipt of an application in writing by any person and upon payment of the set fee issue to the applicant a monumental mason's licence.
- (2) A licence issued under sub-clause (1) authorises the holder to carry out monumental works within the cemetery subject to the provisions of this [insert "Local Law" or "By-law" as applicable] and such conditions as the Board shall specify upon the issue of that licence.

#### **7.17 Expiry Date, Non-Transferability**

A monumental mason's licence:

- (a) shall, subject to clause 7.20, be valid from the date specified therein until the 30th day of June next following; and
- (b) is not transferable.

### **7.18 Carrying out Monumental Work**

A person shall not carry out monumental work within the cemetery unless that person:

- (a) is the holder of a current monumental mason's licence issued pursuant to clause 7.16 or does so as the employee of a person who holds such a licence; or
- (b) is authorised by the Board to do so.

### **7.19 Responsibilities of the Holder of a Monumental Mason's Licence**

The holder of a monumental mason's licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within the cemetery pursuant to that licence with all the requirements and conditions of the licence, this *[insert "Local Law" or "By-law" as applicable]*, the Act and any other written law which may affect the carrying out of monumental works.

### **7.20 Cancellation of a Monumental Mason's Licence**

- (1) The Board may by notice in writing to the holder of a monumental mason's licence terminate the licence on any of the following grounds:
  - (a) that the holder of the licence has committed a breach of the requirements and conditions of the licence, this *[insert "Local Law" or "By-law" as applicable]*, the Act or any other written law which may affect the carrying out of monumental works;
  - (b) that, in the opinion of the Board, the conduct of the holder of the licence or any person in the employ of that holder in carrying out or attempting to carry out any works within the cemetery, is inappropriate or unbecoming; or
  - (c) that the holder of the licence has purported to transfer the licence issued to that holder.
- (2) Upon the termination of a monumental mason's licence under this clause no part of any fee paid for the issue of that licence is refundable by the Board.
- (3) An aggrieved person whose licence has been terminated under subclause (1) may appeal to a Local Court against a decision of Board under this clause in the manner stated in section 19 (3) of the Act.

## **PART 8—GENERAL**

### **8.1 Animals**

Subject to clause 8.2, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than with the approval of the CEO or an authorised officer.

### **8.2 Guide Dogs**

Clause 8.1 shall not apply to a hearing impaired person or a person who is blind or partially blind and is accompanied by a hearing or guide dog.

### **8.3 Damaging and Removing of Objects**

Subject to clause 8.4, a person shall not damage, remove or pick any tree, plant, shrub or flower in the cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.

### **8.4 Withered Flowers**

A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Board for that purpose.

### **8.5 Littering and Vandalism**

A person shall not:

- (a) break or cause to be broken any glass, ceramic or other material in or upon the cemetery;
- (b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in or upon the cemetery other than in a receptacle provided for that purpose.

### **8.6 Advertising**

A person shall not carry on or advertise any trade, business or profession within the cemetery without the prior written approval of the Board which consent may be granted subject to such conditions as the Board thinks fit.

### **8.7 Obeying Signs and Directions**

A person shall obey all signs displayed, marked, placed or erected by the Board within the cemetery and any other lawful direction by the CEO or an authorised officer.

### **8.8 Removal from the Cemetery**

Any person failing to comply with any provisions of this *[insert "Local Law" or "By-law" as applicable]* or behaving in a manner that in the opinion of the Board, the CEO or an authorised officer is inappropriate in the cemetery may in addition to any penalty provided by this *[insert "Local Law" or "By-law" as applicable]* be ordered to leave the cemetery by the Board, the CEO or an authorised officer.

## **PART 9—OFFENCES AND MODIFIED PENALTIES**

### **9.1 General**

A person who commits a breach of any provisions of this *[insert "Local Law" or "By-law" as applicable]* commits an offence and shall on conviction be liable to a penalty not exceeding \$500.00 and if the offence is a continuing one to a further penalty not exceeding \$20.00 for every day or part of a day during which the offence has continued.

### **9.2 Modified Penalties**

- (1) The offences specified in the First Schedule are offences which may be dealt with under section 63 of the Act.
- (2) The modified penalty payable in respect of an offence specified in the First Schedule is set out in the fourth column of the First Schedule.
- (3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in the Second Schedule.
- (4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in the Third Schedule.

**First Schedule**

Cemeteries Act, 1986

***[insert name of Local Government or Board]***

***[insert name of Local Law or By-law]***

Modified Penalties

Item No	Clause	Nature of Offence	Modified Penalty
1	1 5.4	Excessive speed	\$50.00
2	2 5.4	Unauthorised use—driving of vehicles	\$50.00
3	3 7.3	Placing and removal of rubbish and surplus materials	\$50.00
4	4 7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
5	5 8.1	Animal at large	\$50.00
6	6 8.5	Dumping of Rubbish	\$50.00
7	7 8.6	Unauthorised advertising, and/or trading	\$50.00
8	8 8.7	Disobeying sign or lawful direction	\$50.00

**Second Schedule**  
Cemeteries Act, 1986  
**[insert name of Local Government or Board]**  
**[insert name of Local Law or By-law]**  
Infringement Notice

TO:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

It is alleged that at \_\_\_\_\_:\_\_\_\_\_ hours on the \_\_\_\_\_ day of \_\_\_\_\_  
20\_\_\_\_ at \_\_\_\_\_

you committed the offence indicated below by an (x) in breach of clause ..... of the **[insert name of Local Law or By-law]**

\_\_\_\_\_  
(Authorised Person)

Offence

- Animal at large
- Dumping rubbish
- Excessive speed in vehicle
- Leaving uncompleted works in an untidy or unsafe condition
- Non removal of rubbish
- Unauthorised advertising or trading
- Unauthorised vehicle use
- Disobeying sign or lawful direction

Other Offence \_\_\_\_\_  
\$ \_\_\_\_\_

You may dispose of this matter:

By payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the **[insert name of Local Government or Board]** at **[insert address of Local Government or Board]** between the hours of 9am to 4.30pm Monday to Friday.

Please make cheques payable to **[insert name of Local Government or Board]**. Payments by mail should be addressed to:

**The Chief Executive Officer**  
**[insert name of Local Government or Board]**  
**[insert address of Local Government or Board]**

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



**Third Schedule**

Cemeteries Act, 1986

***[insert name of Local Government or Board]***

***[insert name of Local Law or By-law]***

Withdrawal of Infringement Notice

No. \_\_\_\_\_

Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

To (1)

---

Infringement Notice No \_\_\_\_\_ dated \_\_\_\_ / \_\_\_\_ / \_\_\_\_ for the alleged offence of (2)

---

Penalty (3) \$ \_\_\_\_\_ is withdrawn.

(Delete whichever does not apply)

\* No further action will be taken.

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

(1) Insert name and address of alleged offender.

(2) Insert short particulars of offence alleged.

(3) Insert amount of penalty prescribed.

---

(Authorised Person)

**LOCAL GOVERNMENT ACT 1995**

Shire of Wagin

**CONTROL OF REFUSE ON BUILDING SITES LOCAL LAW 2001**

Under the powers conferred by the *Local Government Act 1995* and all other powers enabling it, the Council of the Shire of Wagin resolved on 20<sup>th</sup> November 2001 to make the following local law.

The City of Armadale Control of Refuse on Building Sites Local Law 2001 as published in the *Government Gazette* of 3rd July 2001, is adopted as a local law of the Shire of Wagin, with the modifications which follows—

1. Preliminary:- Wherever the “City of Armadale” is mentioned in the local law substitute “Shire of Wagin”.
2. Clause 1 Delete “district” in line two and insert “throughout the Townsite of Wagin”.
3. Clause 2 Delete the definition of “building site” and insert “building site” means any lot of land for which a building licence is current, but does not include a lot for which the current building licence is issued in respect only for a pergola, patio, shed or other class 10 building as classified by the Building Code.
4. Clause 2 after “building site” insert the definition “collection” means the collection and removal of rubbish satisfactory to the Council.

---

Dated this 20th day of November 2001.

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

P. I. PIESSE, President.  
M. A. PARKER, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**

City of Armadale

**CITY OF ARMADALE CONTROL OF REFUSE ON BUILDING SITES LOCAL  
LAW 2001**

Under the powers conferred by Division 2 of Part 3 of the *Local Government Act 1995* and under all other powers, the Council of the City of Armadale resolved on 21<sup>st</sup> May 2001 to make the following local law.

**1. Citation and application**

This local law may be cited as the City of Armadale Control of Refuse on Building Sites Local Law 2001 and shall apply throughout the district.

**2. Interpretation**

In this local law, unless the context requires otherwise—

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

“**builder**” means the person or persons or firm or corporation who or which shall be the holder of any building licence issued in respect of building works on a building site, and shall also include any person or persons or firm or corporation who or which shall be in effective control of such building site whether or not such person or persons or firm or corporation shall be the holder of such licence;

“**building**” means any structure classified by the Building Code;

“**Building Code**” means the latest edition of the Building Code of Australia published from time to time by, or on behalf of, the Australian Building Codes Board, as amended from time to time, but not including explanatory information published with the Code”;

“**building site**” means any lot of land for which a building licence is current, but does not include a lot upon which there exists a commercial, industrial or residential building and—

- (a) the current building licence is issued in respect only of a pergola, patio, shed or other Class 10 building as classified by the Building Code; and
- (b) means of collection and removal of rubbish, satisfactory to the Council but other than that specified within this local law, is in place;

“**construction work**” means any work involving the placement, fitting together, manufacture or erection of the components of a building, and includes pouring of footings and slabs and placement of stumps or other floor supports;

“**Council**” means the Council of the City of Armadale;

“**refuse**” means bricks, lime, cement, concrete, rubble, stones, iron, timber, tiles, bags, plastics, ashes, vegetation, wood or metal shavings, sawdust, and waste food, and includes any broken, used or discarded matter whatsoever, whether of the same type as, or a different type from, those mentioned here; and

“**street**” means any highway or thoroughfare which the public are entitled to use, and includes every part of the highway or thoroughfare, and other things including bridges and culverts appurtenant to it.

### **3. Provision of refuse receptacles**

Before commencement of any construction work on a building site, the builder shall provide and maintain available for use on the site a refuse receptacle of such design as will—

- (a) contain any refuse likely to be produced on the site; and
- (b) prevent refuse being blown from the receptacle by wind.

### **4. Other responsibilities of the builder**

- (1) From the time of commencement of construction work until the time of completion of such work, the builder shall—
  - (a) at least daily, ensure that all refuse arising on the building site is collected and placed in the refuse receptacle;
  - (b) keep the building site as free as is practicable of any refuse;
  - (c) maintain the street verge immediately adjacent to the building site free of refuse arising from the building site; and
  - (d) ensure the refuse receptacle is emptied when full.
- (2) The builder shall ensure that, within two days of completion of construction, the building site and the street verge immediately adjacent to it is cleared of all refuse and all refuse receptacles are removed from the building site.

### **5. Offences and penalties**

- (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) person who commits an offence under this local law is liable to a penalty of \$5,000 and a daily penalty of \$500 in respect of each day or part of a day during which the offence has continued.
- (3) An offence against a clause specified in the Schedule is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (4) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in the Schedule.

### **6. Forms**

For the purposes of this local law—

- (a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the notice sent under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

SCHEDULE  
PRESCRIBED OFFENCES

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
3	Failure to provide a refuse receptacle on a building site	500
4(1)(b)	Failure to keep a building site as free as practicable of refuse	250
4(1)(c)	Failure to maintain the street verge adjacent to a building site free of refuse arising from that site	250
4(1)(d)	Failure to ensure a refuse receptacle is emptied when full	250
4(2)	Failure to clear building site two days after completion of construction work	250

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Passed by a resolution of a special majority of the Council of the City Of Armadale at its meeting held on 21<sup>st</sup> May 2001.

Dated this 31<sup>st</sup> day of May 2001.

The Common Seal of the City Of Armadale was hereunder affixed in the presence of—

L. REYNOLDS JP, Mayor.

R. S. TAME, Chief Executive Officer.

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**DOG ACT 1976**

Shire of Wagin

**DOGS LOCAL LAW 2001**

Under the powers conferred by the Dog Act 1976 and under all other powers enabling it, the Council of the Shire of Wagin resolved on 20<sup>th</sup> November 2001 to make the following local law. The Shire of Moora Dogs Local Law as published in the *Government Gazette* of 29 November 1999, is adopted as a local law of the Shire of Wagin, with the modifications which follow.

**1. Preliminary**

Wherever the "Shire of Moora" is mentioned in the local law substitute "Shire of Wagin".

**2. Clause 1.2—Repeal**

Delete clause 1.2 and substitute—

"The Shire of Wagin Local Laws Relating to Dogs published in the *Government Gazette* of 31 March 1983 as amended in the *Government Gazette* of 27 May 1988, and all earlier local laws of the Shire relating to dogs, are repealed."

**3. Clause 1.3 Definitions**

After the definition for authorised person insert a new definition "built-up area" means the territory contiguous to and including any oad which is built up with structures devoted to business, industry or houses at intervals of less than 50m.

**4. Clause 1.4—Application**

In clause 1.4 delete "throughout the district" and substitute "within the Wagin and Piesseville Townsites".

**5. Clause 3.2—Limitation on the number of dogs**

Clause 3.2 (2) (b) Delete "4" and substitute "6" in line one.

**6. Clause 5.1 Places in which dogs are prohibited absolutely**

In clause 5.1(a) delete "where so indicated by a sign," and insert after the word building", unless authorised by the Local Government;"

**7. Clause 5.2—Places which are dog exercise areas**

In clause 5.2(1) delete paragraphs (a), (b) and (c) and substitute—

- (a) Reserve 19562 Town Lot 746 Corner Jaloran Road and Miller Street;
- (b) Reserve 20976 Town Lot 443 Corner Tudhoe and Bullock Hills Road; and
- (c) Reserve 8821 Town Lot 404 Scadden Street."

**8. Clause 6.1—Offence to excrete**

In clause 6.1(1)(a) delete "or other public place" and substitute "within a built up area or Recreation Reserve".

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Dated this 20th day of November 2001.

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

P. I. PIESSE, President.  
M. A. PARKER, Chief Executive Officer.

**DOG ACT 1976**

SHIRE OF MOORA

**DOGS LOCAL LAW**

ARRANGEMENT

**PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Repeal
- 1.3 Definitions
- 1.4 Application

**PART 2—IMPOUNDING OF DOGS**

- 2.1 Charges and costs
- 2.2 Attendance of pound keeper at pound
- 2.3 Release of impounded dog
- 2.4 No breaking into or destruction of pound

**PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS**

- 3.1 Dogs to be confined
- 3.2 Limitation on the number of dogs

**PART 4—APPROVED KENNEL ESTABLISHMENTS**

- 4.1 Interpretation
- 4.2 Application for licence for approved kennel establishment
- 4.3 Notice of proposed use
- 4.4 Exemption from notice requirements
- 4.5 When application can be determined
- 4.6 Determination of application
- 4.7 Where application cannot be approved
- 4.8 Conditions of approval
- 4.9 Compliance with conditions of approval
- 4.10 Fees
- 4.11 Form of licence
- 4.12 Period of licence
- 4.13 Variation or cancellation of licence
- 4.14 Transfer
- 4.15 Notification
- 4.16 Inspection of kennel

**PART 5—DOGS IN PUBLIC PLACES**

- 5.1 Places where dogs are prohibited absolutely
- 5.2 Places which are dog exercise areas

**PART 6—MISCELLANEOUS**

6.1 Offence to excrete

**PART 7—ENFORCEMENT**

7.1 Interpretation

7.2 Modified penalties

7.3 Issue of infringement notice

7.4 Failure to pay modified penalty

7.5 Payment of modified penalty

7.6 Withdrawal of infringement notice

7.7 Service

**SCHEDULE 1**

**SCHEDULE 2**

**SCHEDULE 3**



## DOG ACT 1976

SHIRE OF MOORA

## DOGS LOCAL LAW

Under the powers conferred by the *Dog Act 1976* and under all other powers enabling it, the Council of the Shire of Moora resolved on the 17 November 1999 to make the following local law.

### PART 1—PRELIMINARY

#### 1.1 Citation

This local law may be cited as the Shire of Moora Dogs Local Law.

#### 1.2 Repeal

The By-Laws Relating to the Control of Dogs and Relating to Dog Kennels and the Breeding of Dogs, published in the *Government Gazette* on 25 June, 1976, are repealed.

#### 1.3 Definitions

In this local law unless the context otherwise requires—

“**Act**” means the *Dog Act 1976*;

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

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

“**local government**” means the Shire of Moora;

“**pound keeper**” means a person authorized by the local government to perform all or any of the functions conferred on a “pound keeper” under this local law;

“**Regulations**” means the *Dog Regulations 1976*;

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

“**town planning scheme**” means a town planning scheme made by the local government under the *Town Planning and Development Act 1928* which applies throughout the whole or a part of the district.

#### 1.4 Application

This local law applies throughout the district.

### 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—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.

## **2.4 No breaking into or destruction of pound**

A person who—

- (a) unless he or she is the pound keeper or a person authorized to do so, releases or attempts to release a dog from a pound; or
- (b) destroys, breaks into, damages or in any way interferes with or renders not dog-proof—
  - (i) any pound; or
  - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog,

commits an offence.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

## **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 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.  
Penalty: Where the dog kept is a dangerous dog, \$2,000; otherwise \$1,000.

### **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 4.14.

### **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 4.10(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 Compliance with conditions of approval**

A licensee who does not comply with the conditions of a licence commits an offence.

Penalty: Where a dog involved in the contravention is a dangerous dog, \$2,000 and a daily penalty of \$200; otherwise \$1,000 and a daily penalty of \$100.

#### **4.10 Fees**

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

#### **4.11 Form of licence**

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

#### **4.12 Period of licence**

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the fee referred to in clause 4.10(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

#### **4.13 Variation or cancellation of licence**

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

#### **4.14 Transfer**

- (1) An application for the transfer of a valid licence from the licensee to another person must be—
  - (a) made in the form determined by the local government;
  - (b) made by the transferee;
  - (c) made with the written consent of the licensee; and
  - (d) lodged with the local government together with—

- (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
  - (ii) the fee for the application for the transfer of a licence referred to in clause 4.10(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.

#### **4.15 Notification**

The local government is to give written notice to—

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.13(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.13(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.13(2), which notice is to be given in accordance with section 27(6) of the Act.

#### **4.16 Inspection of kennel**

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

### **PART 5—DOGS IN PUBLIC PLACES**

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

- (1) Dogs are prohibited absolutely from entering or being in any of the following places—
- (a) where so indicated by a sign, a public building;
  - (b) all premises or vehicles classified as food premises or food vehicles under the *Health (Food Hygiene) Regulations 1993*;
  - (c) a public swimming pool.
- (2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.
- Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

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

- (1) Subject to clause 5.1 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, the following are dog exercise areas—
- (a) Reserves 14415 and 2829 Moore Street, Moora
  - (b) Reserve 26016 Miling; and

- (c) Reserve 21068 Watheroo
- (2) Subclause (1) does not apply to—
  - (a) land which has been set apart as a children’s playground;
  - (b) an area being used for sporting or other activities, as permitted by the local government, during the times of such use; or
  - (c) a car park.

## **PART 6—MISCELLANEOUS**

### **6.1 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: \$200.
- (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 7—ENFORCEMENT**

### **7.1 Interpretation**

In this Part—

“**infringement notice**” means the notice referred to in clause 7.3; and

“**notice of withdrawal**” means the notice referred to in clause 7.6(1).

### **7.2 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 third 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 fourth column directly opposite that offence.
- (3) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

### **7.3 Issue of infringement notice**

Where an authorized person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 7 of the First Schedule of the Regulations.

### **7.4 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.

### **7.5 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.

### **7.6 Withdrawal of infringement notice**

- (1) Whether or not the modified penalty has been paid, an authorized person may withdraw an infringement notice by sending a notice in the form of Form 8 of the First Schedule of the Regulations.
- (2) A person authorized to issue an infringement notice under clause 7.3 cannot sign or send a notice of withdrawal.

### **7.7 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  
(clause 4.2)

*Local laws relating to dogs*

**APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT**

I/we (full name) .....

of (postal address) .....

(telephone 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*.

OFFICE USE ONLY

Application fee paid on [insert date].

SCHEDULE 2  
(clause 4.8(1))

**CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT**

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 sheathed 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 authorized 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  
(clause 7.2)

**OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES**

Offence	Nature of offence	Modified penalty \$	Dangerous Dog Modified Penalty \$
2.4(a)	Attempting to or causing the unauthorized release of a dog from a pound	200	400
2.4(b)&(c)	Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs	200	
3.1	Failing to provide means for effectively confining a dog	50	200
4.9	Failing to comply with the conditions of a licence	100	200
5.1(2)	Dog in place from which prohibited absolutely	200	400
6.1(2)	Dog excreting in prohibited place	40	

Dated 22 November 1999.

The Common Seal of the Shire of Moora was affixed by authority of a resolution of the Council in the presence of:

L. M. BATES, President.  
J. N. WARNE, Chief Executive Officer.

## LOCAL GOVERNMENT ACT 1995

Shire of Wagin

### EXTRACTIVE INDUSTRIES LOCAL LAW 2015

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the local government of the Shire of Wagin resolved on 28th June 2016 to make the following local law.

#### PART 1—PRELIMINARY

##### 1.1 Citation

This local law may be cited as the Shire of Wagin *Extractive Industries Local Law 2015*.

##### 1.2 Commencement

This local law will come into operation fourteen (14) days after the day on which it is published in the *Government Gazette*.

##### 1.3 Application

- (1) The provisions of this local law—
  - (a) subject to paragraphs (b), (c), (d) and (e)—
    - (i) apply and have force and effect throughout the whole of the district; and
    - (ii) apply to every excavation whether commenced prior to or following the coming into operation of this local law;
  - (b) do not apply to the extraction of minerals under the *Mining Act 1978*;
  - (c) do not apply to the carrying on of an extractive industry on Crown land;
  - (d) do not affect the validity of any licence issued under any previous *Extractive Industries local law* applicable to the district; and
  - (e) do not apply to the carrying on of an extractive industry on land by the owner or occupier of that land for use on that land.
- (2) In subclause (1)(e) land includes adjoining lots or locations in the same occupation or ownership of the owner and occupier referred to in subclause (1)(e).

##### 1.4 Definitions

In this local law, unless the context otherwise requires—

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

“**carry on an extractive industry**” means quarrying and excavating for stone, gravel, sand and other material;

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

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

“**excavation**” includes quarry;

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

“**licensee**” means the person named in the licence as the licensee;

“**Local Government**” means the Shire of Wagin;

“**occupier**” has the meaning given to it in the Act;

“**owner**” has the meaning given to it in the Act;

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

“**secured**” sum means the sum required to be paid or the amount of a bond, guarantee or other security under clause 5.1; and

“**site**” means the land specified by the local government in a licence.

## **PART 2—LICENCING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY**

### **2.1 Extractive Industries Prohibited Without Licence**

A person must not carry on an extractive industry—

- (a) unless the person is the holder of a valid and current licence; and
- (b) unless the person is the holder of a current planning approval for that extractive industry granted by the local government under the relevant local planning scheme; and
- (c) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

Penalty \$5000 and a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which an offence has continued.

### **2.2 Application for Licence**

A person seeking the issue of a licence in respect of any land must apply in the form determined by the local government from time to time and must forward the application duly completed and signed by the applicant and the owner of the land to the CEO together with—

- (a) the application fee as prescribed by the local government;
- (b) three (3) copies of a detailed plan of the excavation site to a scale of between 1:500 and 1:2000 showing—
  - (i) the location, area, depth and volume of extraction (existing and proposed final contours at 1 metre intervals);
  - (ii) the distances from lot boundaries and all dwellings and other sensitive uses within a 1km radius of the extraction site;
  - (iii) road frontages and property access;
  - (iv) details of nearby and surrounding land uses;
  - (v) existing vegetation, wetlands, and watercourses, and distance to the proposed area of extraction;
  - (vi) areas of extracted materials, top soil and overburden stockpiles; and
  - (vii) the location of any buildings associated with the proposal;
- (c) a report accompanying the above plans, detailing—
  - (i) the type of material to be excavated;
  - (ii) the method(s) of extraction, including blasting, crushing and other on-site processing works;
  - (iii) a description of the methods by which vegetation is to be cleared and extracted material, overburden and top soil stockpiled and/or removed;
  - (iv) the hours of operation (including blasting, crushing and excavation);
  - (v) the anticipated overall lifespan of the extractive industry;
  - (vi) the type, volume, location and method of storage of any chemicals;
  - (vii) the type of equipment to be used, including size of trucks and machinery;
  - (viii) any on-site maintenance and/or refuelling of trucks or machinery;
  - (ix) the number and type of truck movements per day/week;
  - (x) the stages and the timing of the stages in which it is proposed to carry out the excavation;
  - (xi) proposed haulage routes and destinations; and

- (d) the required report will also address the following environmental considerations—
  - (i) noise, dust and vibration abatement measures;
  - (ii) visual impact assessment, with particular reference to major roads, tourist routes and interest points, and surrounding properties and structures;
  - (iii) drainage implications including surface and ground water impacts;
  - (iv) acid sulphate soil risks (if any) and appropriate management measures;
  - (v) proposed end use of site;
  - (vi) a detailed rehabilitation plan including types of materials, staging, source of materials, re-contouring, replacement of topsoil, screen planting and revegetation (vegetation species and densities);
  - (vii) assessment of the risk of spreading *Phytophthora* dieback and management techniques appropriate to that level of risk;
  - (viii) management techniques to address potential conflict with surrounding land uses and protection of environmental attributes; and
  - (ix) any other assessment that the local government may require, including but not limited to Aboriginal and Heritage considerations.

### **PART 3—DETERMINATION OF APPLICATION**

#### **3.1 Determination of Application**

- (1) The local government may refuse to consider an application for a licence that is not accompanied by the fees, information and documents required by clause 2.2.
- (2) The local government may undertake consultation with surrounding land owners prior to determining the application.
- (3) The applicant will be responsible for paying a consultation fee to the local government, as determined by the local government, to meet expenses for the local government undertaking any consultation under subclause (2).
- (4) The local government may, in respect of an application for a licence—
  - (a) refuse the application; or
  - (b) approve the application—
    - (i) over the whole or part of the land in respect of which the application is made; and
    - (ii) on such terms and conditions, if any, as it sees fit.
- (5) Without limiting subclause (4), the local government may impose conditions in respect of the following matters—
  - (a) the orientation of the excavation to reduce visibility from other land;
  - (b) the appropriate siting of access thoroughfares, buildings and plant;
  - (c) the stockpiling of material;
  - (d) the hours during which any excavation work may be carried out;
  - (e) the hours during which any processing plant associated with, or located on, the site may be operated;
  - (f) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the local government;

- (g) the depths below which a person must not excavate;
  - (h) distances from adjoining land or roads within which a person must not excavate;
  - (i) the safety of persons employed at or visiting the excavation site;
  - (j) the control of dust and wind-blown material;
  - (k) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
  - (l) the prevention of the spread of dieback or other disease;
  - (m) the drainage of the excavation site and the disposal of water;
  - (n) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
  - (o) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
  - (p) requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation programme;
  - (q) requiring the licensee to enter into an agreement with the local government by which it agrees to pay any extraordinary expenses incurred by the local government in repairing damage caused to thoroughfares in the district by heavy or extraordinary traffic conducted by or on behalf of the licensee under the licence;'
  - (r) requiring the licensee to enter into an agreement with the local government in respect of any condition or conditions imposed under this local law; and
  - (s) any other matter for properly regulating the carrying on of an extractive industry.
- (6) Where the local government approves an application for a licence, it must—
- (a) determine the licence period, which must not exceed 21 years from the date of issue of the licence; and
  - (b) approve the issue of a licence in the form determined by the local government from time to time.

### **3.2 Payment of Annual Licence Fee**

On or before 31 December in each year, a licensee must pay to the local government the annual licence fee determined by the local government from time to time.

## **PART 4—TRANSFER AND CANCELLATION OF LICENCE**

### **4.1 Transfer of Licence**

- (1) An application for the transfer of a licence must—
- (a) be made in writing;
  - (b) be signed by the licensee and the proposed transferee of the licence;
  - (c) be accompanied by the current licence;
  - (d) be accompanied by the consent in writing to the transfer from the owner of the excavation site;
  - (e) include any information that the local government may reasonably require; and



- (f) be forwarded to the CEO together with the fee determined by the local government from time to time.
- (2) Upon receipt of any application for the transfer of a licence, the local government may—
  - (a) refuse the application; or
  - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for the transfer of a licence, the local government shall transfer the licence by an endorsement on the licence in the form determined by the local government from time to time, signed by the CEO.
- (4) Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

#### **4.2 Cancellation of Licence**

- (1) The local government may cancel a licence where the licensee has—
  - (a) ceased to substantially carry on the extractive industry for a period in excess of 12 consecutive months;
  - (b) been convicted of an offence against—
    - (i) this local law; or
    - (ii) any other law relating to carrying on an extractive industry; or
  - (c) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government;
  - (d) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law;
  - (e) failed to pay the annual licence fee under clause 3.2; or
  - (f) failed to have a current public liability insurance policy under clause 7.1(1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 7.1(2).
- (2) Where the local government cancels a licence under this clause—
  - (a) it shall advise the licensee in writing of the cancellation;
  - (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice;
  - (c) it shall require the licensee to restore and reinstate the excavated site in accordance with the proposals approved by the local government or in such other manner as it may subsequently agree in writing with the licensee; and
  - (d) the local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

#### **4.3 Variation of Licence**

- (1) An application to vary a licence must—
  - (a) be made in writing;
  - (b) be signed by the licensee and the owner of the excavation site (if different to the licensee);
  - (c) be accompanied by the current licence;
  - (d) include any information that the local government may reasonably require; and
  - (e) be forwarded to the CEO together with the fee determined by the local government from time to time.
- (2) Upon receipt of any application to vary a licence, the local government may—

- (a) refuse the application; or
  - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves a licence variation, it shall notify the licensee and owner of the excavation site in a written form determined by the local government from time to time and signed by the CEO.

## **PART 5—SECURED SUM AND APPLICATION THEREOF**

### **5.1 Security for Restoration and Reinstatement**

- (1) For the purpose of ensuring that an excavation site is properly restored or reinstated, the local government may require that—
- (a) as a condition of a licence; or
  - (b) before the issue of a licence,
- the licensee must give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government from time to time.
- (2) Prior to the commencement of an extractive industry, a bond required under subclause (1) is to be paid into a fund established by the local government for the purposes of this clause.

### **5.2 Use by the Local Government of Secured Sum**

- (1) If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions either—
- (a) within the time specified in those conditions; or
  - (b) where no such time has been specified, within a reasonable period of time from the completion of the excavation or portion of the excavation specified in the licence conditions,
- then—
- (c) the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work as remains undone; and
  - (d) the licensee must pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause.
- (2) Subclauses 5.2(1)(c) and (d) also apply if a licensee fails to carry out or complete restoration and reinstatement works as required by the local government as a result of cancelling the licence.
- (3) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 5.1 towards its costs under this clause.
- (3) The liability of a licensee to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 5.1.

## **PART 6—LIMITATIONS AND PROHIBITIONS**

### **6.1 Blasting**

- (1) A person must not carry out or permit to be carried out any blasting in the course of excavating unless—

- (a) the local government has otherwise given approval in respect of blasting generally or in the case of each blast;
- (b) subject to subclause (2), the blasting takes place only between the hours of 8.00am and 5.00pm, or as determined by the local government, on Mondays to Fridays inclusive;
- (c) the blasting is carried out in strict accordance with the *AS2187 SAA Explosives Code*, the *Mines Safety and Inspection Act 1994*, the *Environmental Protection Act 1986*, and all relevant local laws of the local government; and
- (d) in compliance with any other conditions imposed by the local government concerning—
  - (i) the time and duration of blasting;
  - (ii) the purposes for which the blasting may be used; and
  - (iii) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.

Penalty \$5,000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

- (2) A person must not carry out or permit to be carried out any blasting on a Saturday, Sunday or Public Holiday except with the prior approval of the local government.

Penalty \$2,000

## **PART 7—MISCELLANEOUS PROVISIONS**

### **7.1 Public Liability**

- (1) A licensee must have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum of not less than \$10,000,000 in respect of any one claim relating to any of the excavation operations.
- (2) The licensee shall provide to the local government a copy of the policy taken out under subclause (1), within 14 days after the issue of that policy and shall provide to the local government evidence of renewal within 14 days of each renewal date.

### **7.2 Mines Safety and Inspection Act and Environmental Protection Act**

- (1) In any case where the *Mines Safety and Inspection Act 1994* or the *Environmental Protection Act 1986* applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site must—
  - (a) comply with all applicable provisions of that Act or those Acts; and
  - (b) provide to the local government within 14 days full particulars of any inspection or report made under that Act or those Acts.
- (2) In this clause, the *Mines Safety and Inspection Act 1994* and the *Environmental Protection Act 1986* include all subsidiary legislation made under those Acts.

## **PART 8—OBJECTIONS AND APPEALS**

### **8.1 Local Government Act**

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

- (a) grant a person a licence under this local law; or

(b) transfer, cancel or vary a licence that a person has under this local law, the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the *Local Government (Functions and General) Regulations 1996* shall apply to that decision.

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Dated this 6<sup>th</sup> day of July, 2016.

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

Cr PHILLIP BLIGHT, Shire President.  
Mr PETER WEBSTER, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**

Shire of Wagin

**FENCING LOCAL LAW 2001**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Wagin resolved on 20<sup>th</sup> November 2001 to make the following local laws.

*The Shire of Toodyay Local Laws Relating to Fencing* as published in the *Government Gazette* on 1 November 1999 are adopted as local laws of the Shire of Wagin, with the modifications which follow.

**1. Preliminary**

- 1.1 In construing the following modifications, where a modification requires the renumbering of a clause, subclause or paragraph, subsequent modifications have been drafted on the basis that the renumbering has been effected.
- 1.2 Wherever "Shire of Toodyay" is mentioned in the local laws substitute "Shire of Wagin".

**2. Clause 2—Repeal**

Delete the whole of clause 2 and insert—

"The By-laws relating to Fences published in the *Government Gazette* of 24 December 1980, are repealed."

**3. Clauses renumbered**

Renumber clauses

- 3 to 4
- 4 to 6
- 5 to 7
- 6 to 8

and

in the First, Second and Third Schedules delete the references to 'clause 4(2)(a)', 'clause 4(2)(b)' and 'clause 4(2)(c)' and substitute 'clause 6(2)(a)', 'clause 6(2)(b)', and 'clause 6(2)(c)' respectively.

**4. Clause 3—Inserted**

Insert the following clause—

**"Application of Local Laws**

3. These Local Laws apply throughout the district."

**5. Clause 4—Interpretation**

- 5.1 Insert the following definition in the appropriate alphabetical position—  
**"local government"** means the Shire of Wagin.
- 5.2 In the definition of "sufficient fence" delete "4" and substitute "6".

#### **6. Clause 5 Inserted**

Insert the following clause—

##### **“Licence Fees and Charges**

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

#### **7. Clause 6—Sufficient Fences**

Delete “A” at the beginning of subclause 6(1) and substitute “Unless by agreement between the owners of adjoining properties, a”.

#### **8. Fences within Front Setback Areas**

Delete clauses 7 and 8 and substitute the following—

##### **“Fences Within Front Setback Areas**

- 7 (1) A person shall not, without the written consent of the Building Surveyor, erect a freestanding fence greater than 1200mm 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 1200mm 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 1500mm along the frontage to a distance of not less than 1500mm 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 sub-clause (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
  - (c) that does not adjoin a footpath.”.

#### **9. Clauses renumbered**

Renumber clause: the original clause 7 (Fences on a Rural Lot) to 8

8 to 9

9 to 10

10 to 11

11 to 12

12 to 13

13 to 14

14 to 15

15 to 16

16 to 17

17 to 18

18 to 19.

#### **10. Clause 10—General Discretion of the Local Government**

In subclause (1) delete “The” and substitute “Notwithstanding clause 6, the”.

#### **11. Clause 11—Fencing Materials**

In subclause (1) delete “colour bonded metal” and substitute “prepainted steel sheeting”.

**12. Clause 12—Barbed wire and Broken Glass Fences**

- 12.2 In subclause (2) delete “or allow to remain on or as part of”.
- 12.3 In subclause (3)—
- (a) delete “or allow to remain as part of” and substitute “on”; and
  - (b) delete “bent back into the lot from the boundary”.
- 12.4 Renumber subclauses ‘(4)’ and ‘(5)’ to ‘(5)’ and ‘(6)’ respectively.
- 12.5 Insert a new subclause (4) as follows—
- “(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.”.

**13. Clause 13—Requirements for a Licence**

In clause 13(1)(b) delete “have a fence constructed” and substitute “construct a fence”.

**14. Clause 14—Transfer of a Licence**

Delete clause 14 and substitute the following—

“A licence referred to in clause 13 shall transfer with the land to any new occupier or owner of the lot.”.

**15. “Local Laws” substituted for “local laws”**

In clauses 18(1) and (2) and 19 delete “local laws” in the three places that it appears and substitute “Local Laws”.

**16. First Schedule—Specifications for a Sufficient Fence on a Residential Lot**

- 16.1 In item A paragraph (g)—
- (a) delete “a minimum of” and substitute “be”; and
  - (b) after “1800mm” insert “except with respect to the front set back area for which there is no minimum height but which is subject to clause 7”;
- 16.2 In item B—
- (a) insert “or steel” after “cement”, after “sheeting” insert “erected to manufacturer’s specifications or” and after “which” insert “otherwise”;
  - (b) in paragraph (b) insert “or steel” after “cement”;
  - (c) in paragraph (d) delete “a minimum of” ; and
  - (d) in paragraph (d) after “1800mm” insert “except with respect to the front set back area for which there is no minimum height but which is subject to clause 7”;
- 16.3 In item C paragraph (d)—
- (a) delete “a minimum of”; and
  - (b) after “1800mm” insert “except with respect to the front set back area for which there is no minimum height but which is subject to clause 7” ; and
- 16.4 In item D after “composite fence” insert “having a minimum overall height of 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7”.

**17. Second Schedule—Specifications For a Sufficient Fence on a Commercial Lot and an Industrial Lot**

- 17.1 In item A (e) delete “in accordance with Part 4, Section 11(3) of the Local Law” and substitute “in accordance with clause 12(3) of these Local Laws”.

- 17.2 In item B insert “or steel sheeting” after “cement sheet”.
- 17.3 Delete item C and insert the following—  
“C. 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 1800mm but no greater than 2400mm.”.

**18. Third Schedule—Specifications for a Sufficient Fence on a Rural Lot**

Delete the Third Schedule and substitute the following—

**“ Third Schedule Clause 6(2)(c)**

**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT**

- (1) In the case of a non-electrified fence, a sufficient fence on a Rural Lot is a fence of posts and wire construction, the minimum specifications for which are—
- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of five 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—  
timber impregnated with a termite and fungicidal preservative; standard iron star pickets; or concrete; cut not less than 1800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn.  
Posts to be set minimum 600mm in the ground and 1200mm above the ground; and
- (c) strainer posts shall not be less than 2250mm long and 50mm 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 1000mm in the ground.
- (2) An electrified fence having four wires only is a sufficient fence if constructed generally in accordance with (1).”.

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Dated this 20th day of November 2001.

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

P. I. PIESSE, President.  
M. A. PARKER, Chief Executive Officer.



**LOCAL GOVERNMENT ACT 1995**

SHIRE OF TOODYAY

**LOCAL LAWS RELATING TO FENCING**

Under the powers conferred by the *Local Government Act 1995* and by all other powers the Council of the Shire of Toodyay resolved to make the following local laws on the 22<sup>nd</sup> day of July 1999.

**PART 1—PRELIMINARY**

**1. Citation**

These Local Laws may be cited as the *Shire of Toodyay Local Laws Relating to Fencing*.

**2. Repeal**

The Shire of Toodyay By-laws Relating to Fencing published in the *Government Gazette* of 12 July 1972, are repealed.

**3. Interpretation**

In these Local Laws, unless the context requires otherwise—

“**Act**” means the *Dividing Fences Act 1961*;

“**AS**” means an Australian Standard published by the Standards Association of Australia;

“**boundary fence**” has the meaning given to it for the purposes of 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 town 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 in respect of which a licence under Part 6 of these Local Laws has been issued and is current;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with these Local Laws;
- (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;

“**dividing fence**” has the meaning given to it in and for the purposes of the Act;

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

“**fence**” means any structure, 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 upon which that lot abuts;

“**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 town planning scheme; and

(b) is or will be the predominant use of the lot;

**“lot”** has the meaning given to it in and for the purposes of the Town Planning and Development Act 1928;

**“notice of breach”** means a notice referred to in clause 15(1);

**“Residential Lot”** means a lot where a residential use—

(a) is or may be permitted under the town 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 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 town planning scheme; and

(b) is or will be the predominant use of the lot;

**“Schedule”** means a Schedule to these Local Laws;

**“setback area”** has the meaning given to it for the purposes of the town planning scheme;

**“Special Rural Lot”** means a lot where a special rural use—

(a) is or may be permitted under the town planning scheme; and

(b) is or will be the predominant use of the lot;

**“sufficient fence”** means a fence described in clause 4; and

**“town planning scheme”** means a town planning scheme of the local government made under the *Town Planning and Development Act 1928*.

## PART 2—SUFFICIENT FENCES

### 4. Sufficient Fences

- (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Subject to sub-clauses (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 the First Schedule.
  - (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 the Second Schedule;
  - (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 the Third Schedule;
- (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 the First Schedule;

- (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 the Second Schedule;
  - (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 the Third Schedule;
  - (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 the Third Schedule; 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 the Third Schedule.
- (4) Unless the Building Surveyor specifies 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 the Second Schedule.
- (5) Notwithstanding any other provisions in these Local Laws, a fence constructed of stone or concrete shall be a sufficient fence only if it is designed by a structural engineer where—
- (a) it is greater than 1800mm in height; or
  - (b) the Building Surveyor so requires.

### **PART 3—GENERAL**

#### **5. Dividing Fences**

- (1) In determining an application for a building licence in respect of a fence, the Building Surveyor may approve the erection of a fence of a height greater than 750mm 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 1500mm along the frontage to a distance of not less than 1500mm from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.
- (2) The provision of sub-clause (1) 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.

#### **6. Fences Within Front Setback Areas**

A person shall not, without the written consent of the Building Surveyor erect, or repair a freestanding fence constructed of corrugated fibre reinforced cement sheeting within the front setback area of a lot within the district.

#### **7. Fences on a Rural Lot**

A person shall not without the written consent of the Building Surveyor, erect a fence on a Rural Lot, within 7.5m of a thoroughfare of a height exceeding 1500mm.

#### **8. Maintenance of Fences**

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

### **9. General Discretion of the Local Government**

- (1) The local government may consent to the erection or repair of a fence which does not comply with the requirements of these Local Laws.
- (2) In determining whether to grant its consent to the erection or repair of any fence, the local government may consider, in addition to any other matter that it is authorized to consider, whether the erection or retention of the fence would have an adverse effect on—
  - (a) the safe or convenient use of any land; or
  - (b) the safety or convenience of any person.

## **PART 4—FENCING MATERIALS**

### **10. Fencing Materials**

- (1) A person shall construct a fence on a Residential Lot, a Commercial Lot or an Industrial Lot from only brick, stone, concrete, wrought iron, tubular steel framed, link mesh, timber, plastic coated or galvanised link mesh, corrugated fibre reinforced cement sheeting, colour bonded metal or a material approved by the Building Surveyor.
- (2) Where the Building Surveyor approves the use of pre-used materials in the construction of a fence under subclause (1), that approval shall be conditional on the applicant for approval, painting or treating the pre-used material as directed by the Building Surveyor.

### **11. Barbed Wire and Broken Glass Fences**

- (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 or affix to or allow to remain on or as part of any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of the Building Surveyor has been obtained.
- (3) An owner or occupier of an Industrial Lot shall not erect or affix or allow to remain as part of any fence bounding that Lot any barbed wire or other materials with spiked or jagged projections unless the wire or materials are carried on posts bent back into the lot from the boundary at an angle of 45 degrees, and unless the bottom row of wire or other materials is set back 150mm from the face of the fence and is not nearer than 2000mm from the ground level.
- (4) An owner or occupier of a lot shall not affix or allow to remain as part of any fence or wall, whether internal or external, on that lot any broken glass.
- (5) An owner or occupier of a Rural Lot shall not place or affix 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.

## **PART 5—ELECTRIFIED AND RAZOR WIRE FENCES**

### **12. Requirement for a Licence**

- (1) An owner or occupier of a lot, other than a Rural Lot, shall not—
  - (a) have and use an electrified fence on that lot without first obtaining a licence under subclause (2); or

- (b) have a fence constructed wholly or partly of razor wire on that lot without first obtaining a licence under subclause (3).
- (2) A licence to have and use an electrified fence shall not be issued—
  - (a) in respect of a lot which is or which abuts a Residential Lot;
  - (b) unless the fence complies with AS/NZS 3016:1994; 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) A licence to have a fence constructed wholly or partly of razor wire shall not be issued—
  - (a) if the fence is within 3m of the boundary of the lot;
  - (b) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above the ground level.
- (4) An application for a licence referred to in subclauses (2) or (3) 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.
- (5) An application for a licence referred to in subclauses (2) or (3) may be—
  - (a) approved by the local government;
  - (b) approved by the local government subject to such conditions as it thinks fit; or
  - (c) refused by the local government.

### **13. Transfer of a Licence**

- (1) The holder of a licence referred to in clause 12 may transfer that licence to another occupier or owner of the lot where the licence is to be used only on that property for which the licence was approved;

### **14. Cancellation of a Licence**

Subject to Division 1 Part 9 of the *Local Government Act 1995*, the local government may cancel a licence issued under this Part if —

- (a) the fence no longer satisfies the requirements specified in clause 12(2) or 12(3) as the case may be; or
- (b) the licence holder breaches any condition upon which the licence has been issued.

## **PART 6—NOTICES OF BREACH**

### **15. Notices of Breach**

- (1) Where a breach of any provision of these Local Laws has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner or occupier of that lot ('notice of breach').
- (2) A notice of breach shall—
  - (a) specify the provision of these Local Laws which has been breached;
  - (b) specify the particulars of the breach; and
  - (c) state that the owner or occupier of the lot is required to remedy the breach within 28 days from the giving of the notice.
- (3) Should an owner or occupier 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 or occupier of the lot, as the case may be, in a court of competent jurisdiction.

## **PART 7—OFFENCES**

### **16. Offences and Penalties**

- (1) An owner or occupier who fails to comply with a notice of breach commits an offence and is liable upon conviction to a maximum penalty of \$5000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.
- (2) A person who fails to comply with or who contravenes any provision of these Local Laws commits an offence and is liable to a maximum penalty of \$5000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

### **17. Modified Penalties**

- (1) An offence against any provision of these local laws is a prescribed offence for the purposes of section 9.16 (1) of the *Local Government Act 1995*.
- (2) Unless otherwise specified, the amount of the modified penalty for an offence against any provision of these local laws is \$100.

### **18. Form of Notices**

For the purposes of these local laws—

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

**First Schedule**  
**SPECIFICATIONS FOR A SUFFICIENT FENCE**  
**ON A RESIDENTIAL LOT**

Each of the following is a “sufficient fence” on a Residential Lot—

- A. A picket timber fence which satisfied the following specifications—
- (a) corner posts to be 125mm x 125mm x 2400mm and intermediate posts to be 125mm x 75mm x 2400mm spaced at 2400mm 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;
  - (e) rails to be 75mm x 50mm with each rail spanning two bays of fencing double railed or bolted to each post with joints staggered;
  - (f) the fence to be covered with 75mm x 20mm sawn pickets, 1800mm in height placed 75mm apart and affixed securely to each rail; and
  - (g) the height of the fence to a minimum of 1800mm.
- B. A fence constructed of corrugated fibre reinforced pressed cement sheeting 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 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 a minimum of 1800mm.
- C. A fence constructed of brick, stone or concrete, which satisfies the following specifications:
- (a) footings of minimum 225mm x 150mm concrete 15MPA or 300mm x 175mm brick laid in cement mortar;
  - (b) fences to be offset a minimum of 200mm at maximum 3000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3000mm centres;
  - (c) expansion joints in accordance with the manufacturer’s written instructions; and
  - (d) the height of the fence to be a minimum of 1800mm.
- D. A composite fence which satisfies the following specifications for the brick construction:
- (1) (a) brick piers of minimum 345mm x 345mm at 1800mm centres bonded to a minimum height base wall of 514mm;
  - (b) each pier shall be reinforced with one R10 galvanised starting rod 1500mm 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 2700mm centres bonded to the base wall; and
  - (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified;



**Second Schedule**  
SPECIFICATIONS FOR A SUFFICIENT FENCE ON A  
COMMERCIAL LOT AND AN INDUSTRIAL LOT

Each of the following is a “sufficient fence” on a Commercial Lot and an Industrial Lot—

- A. A fence constructed of galvanised or PVC coated rail-less 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 two 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 two or more 3.15mm wires twisted together or single 4mm wire;
  - (e) rail-less link, chain or steel mesh is to be to a height of 2000mm on top of which are to be three strands of barbed wire carrying the fence to a height of 2400mm in accordance with Part 4, Section 11(3) of the Local Law; and
  - (f) galvanised link mesh wire to be 2000mm 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 one horizontal and one 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.
- B. A fence of fibre reinforced cement sheet constructed to the minimum specifications referred to in Item B of the First Schedule.
- C. A fence constructed of painted or galvanised steel or aluminium sheeting provided that this is used behind the building line to maximum height of 2400mm when supported on posts and rails.
- D. Fences of timber, brick, stone or concrete constructed to the minimum specifications referred to in the First Schedule

**Third Schedule**  
SPECIFICATIONS FOR A SUFFICIENT FENCE  
ON A RURAL LOT

A sufficient fence on a Rural Lot is a fence of posts and wire construction, the minimum specifications for which are—

- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of five wires shall be used, these to be spaced equally and connected to posts for 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 1800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn. Posts to be set minimum 600mm in the ground and 1200mm above the ground; and
- (c) strainer posts shall be not less than 2250mm long and 50mm diameter at the small end and shall be cut from indigenous timber or other suitable material.

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Dated this 25th day of October 1999.

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

A. J. W. BOLTON, President.  
A. D. SMITH, Chief Executive Officer.

## HEALTH ACT 1911

### *Shire of Wagin*

#### Health Local Laws 2001

Made by the Council of the Shire of Wagin under section 342 of the *Health Act 1911* in accordance with subdivision 2 of Division 2 of Part 3 of the *Local Government act 1995*.

#### **Citation**

These Local Laws may be cited as the "*Shire of Wagin Health Local Laws 2001*"

#### **Incorporation by Reference**

2. (i) in these Local Laws, "*The Shire of Leonora Health Local Laws 1999*"
  - (a) means *The Shire of Leonora Health Local Laws 1999* published in the *Government Gazette*, special edition number 56, on the 9 April 1999; and
  - (b) does not include any amendments that might be made to those Local Laws
- (ii) Subject to the modifications set out in the Schedule, *The Shire of Leonora Health Local Laws 1999* are incorporated with and form part of these Local Laws.

#### **Repeal**

*The Shire of Wagin Health Local Laws 1997* made by the Shire of Wagin on 28 October 1997 and published in the *Government Gazette* on 22 May 1998, are repealed.

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### Schedule

Modifications to *The Shire of Leonora Health Local Law 1999*

Item	Sections Affected	Description
1.	1.1	Delete Section 1.1 and substitute the following: " <b>1.1</b> These Local Laws may be cited as the " <i>Shire of Wagin Health Local Laws 2001</i> "."
2.	1.2	Delete Section 1.2.
3.	1.3(1) and Schedules 1-11	Delete "Shire of Leonora" wherever it occurs and substitute "Shire of Wagin".
4.	1.3 (1)	In the definition of "Act", delete the words "and includes subsidiary legislation made under the <i>Health Act 1911</i> ".
5.	1.3(1)	In the appropriate alphabetical position add the following definitions: " <b>AS/NZS 1276.1-1999</b> " means the standard published by the Standards Association of Australia as <i>AS/NZS 1276.1:1999</i> and called "Acoustics – Rating of sound insulation in buildings and of building elements – Airborne sound insulation" " <b>AS1530.2-1993</b> " means the standard published by the Standards Association of Australia as <i>AS 1530.2: 1993</i> and called "Methods for fire tests on building materials, components and structures - Tests for flammability of materials." " <b>AS 1530.3-1999</b> " means the standard published by the Standards Association of Australia as <i>AS 1530.3:1999</i> and called "Methods for

fire tests on building materials, components and structures – Simultaneous determination of ignitability, flame propagation, heat release and smoke release.””.

“**AS 16628.2 – 1991**” means the standard published by the Standards Association of Australia as *AS 1668.2 – 1991* and called “The use of mechanical ventilations and air-conditioning in buildings – Mechanical ventilation for acceptable indoor – air quality””.

“**AS/NZA 3666.2-1995**” means the standard published by the Standards Association of Australia as *AS/NZS 3666.2: 1995* and called “Air handling and water systems of buildings – Microbial Control – Operation and maintenance””.

6. 1.3(1) In the definition of “**hot water**” delete “**75°C**” and substitute “**60°C**”.
7. 1.3(1) Delete the definition of “**water**” and substitute: “**water**” means drinking water within the meaning of the *Australian Drinking Water Guidelines – 1996* as published by the *National Health and Medical research Council* and amended and endorsed by the Minister for Health from time to time; and
8. 2.1.3(1)(c)(ii) Delete the first word “**or**” from subparagraph (ii) and substitute the word “**for**”
9. 2.1.3(1)(c)(v) Delete the second word “**with**” from subparagraph (v) and substitute the word “**within**”
10. 2.1.4 After subsection (3) insert a new subsection:  
“(4) the organiser of an outdoor Festival may apply in writing to the Council for approval to vary any of the requirements of Clause 2.1.4 and the Council may grant such application, provided it is satisfied that the variation will not cause a nuisance or be injurious or dangerous to health”
11. 2.1.5 (2) In paragraph (a) delete “*AS1276*” and substitute “*AS/NZS 1276.1-1999*”.
12. 2.1.8(1) Delete (1) in subsection text.
13. 2.1.10 Delete the word “electric” from the second line.
14. 2.1.11 Delete the word “*Country*” from the title of the Act and substitute the word “*Metropolitan*”.
15. 2.1.11 After the year “1909” insert the words “and the *Health (treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*”.
16. 2.2.1(2) Delete subsection 2.2.1(2).
17. 2.2.2(1)(c) Delete subsection 2.2.2(1)(c).
18. 2.2.2(1)(d) Delete subsection 2.2.2(1)(d).
19. 2.2.2(1)(e) Delete (e) in subsection text and substitute (c)
20. 2.2.2(1)(f) Delete (f) in subsection text and substitute (d)
21. 2.2.2(2) Delete subsection 2.2.2 (2) and substitute:  
“(2) The laundry referred to in subsection (1) must conform to the provisions of the Building Code”
22. 2.2.2(3) & (4) Delete subsections 2.2.2(3) and 2.2.2(4)
23. 2.2.4(2)(c)(i) Delete the word “millilitres” before the word “deep” and substitute the word “millimetres”.
24. 2.2.4(4)(a) After the words “requirements of” insert the words “the Office of Energy and”.
25. 2.2.4(5) Delete the first line and substitute the words “Where mechanical extraction is provided in a kitchen, the exhaust air shall be –”.
26. 3.1.1 Insert the missing section title “**Dwelling House Maintenance**”
27. 3.1.1 (1) In paragraph (1), delete the word “*Country*” from the title of the Act and substitute the word “*Metropolitan*”.
28. 3.1.2(b) Delete “, street”.

29. 3.2.4(3) In paragraph (b) delete "AS1668.2" and substitute "AS 1668.2:-1991"
30. 3.2.4(3) In paragraph (a) delete "AS3666.2 – 1989" and substitute "AS/NZS 3666.2: 1995".
31. 3.2.4(3)(b) Delete paragraph (b) and substitute:  
“(b) in use at all times the building is occupied, if it is a building without approved natural ventilation.”
32. 3.5.1(2)(c) Delete the words “prescribed in Schedule (12)” and substitute the words “as fixed from time to time by Council under Section 344C of the Act”.
33. 4.2.1 Delete the definition “**approved enclosure**”
34. 4.2.1 Delete the definition “**building line**”
35. 4.2.10(2)(d) Delete “in A.S. 1875-1976” and substitute “by Council”
36. 4.2.10(2)(e)(i) In subparagraph (i), delete “3 metres” and substitute “2 metres”.
37. 4.2.10(3) Delete the words “Fire Rules of the Local Fire Brigade issued by the Western Australia Fire Brigades Board” and substitute “local fire rules”.
38. 4.2.13 Delete the word “Leonora” and substitute the word “Wagin”.
39. 5.1.2 Delete the words “in a clean condition” and after the last word “premises”, insert the words “, clear of any rubbish, matter or things coming from or belonging to the premises”.
40. 5.1.3 Make the existing text subsection (1), then delete the first word “An” and substitute “Subject to subsection(2), an”. Next insert “smoke,” before “dust”. Then insert a subsection (2) as follows;  
“(2) Subsection (1) does not apply to smoke from the chimney of a private dwelling house.”.
41. 5.1.10 Delete the words “within a townsite” and substitute the words “other than in an authorised zone for such vehicles, and for a maximum period of two hours, unless”.
42. 5.2.4(5)(b) Delete the words “provide a shelter or an enclosure to be” and substitute the words “ensure every shelter and enclosure is”.
43. 5.2.6(2) Delete the words “immediately remove the carcass for its disposal” and substitute the words “when directed by Council, dispose of the carcass”.
44. 5.2.6(3) Delete the word “immediately” and substitute the words “, when directed by Council,”.
45. 5.3.3(1)(e) In paragraph (e) insert the words “subject to subsection (3), “before the first word “have”.
46. 5.3.3 After subsection (2) insert new subsections (3) and (4) as follows:  
“(3) A stable constructed with a sand floor may be permitted by the Council, subject to the following;  
(i) the site must be well drained with the highest known water table at least 1.5 metres below the sand floor level, which may be achieved artificially;  
(ii) a 300mm thick bed of crushed limestone shall be laid under the sand of the stable;  
(iii) sand whether natural or imported, must be clean, coarse and free from dust;  
(iv) the stable design must allow for the access of small earth moving machinery such as a skid steer loader, into each stall, to maintain the correct floor height;  
(v) the minimum floor area of each stall shall be not less than 28 square metres vertically or 4 metres horizontally;  
(vi) the roofed area of each stall shall not be less than 50

- percent of the floor area of the stall.
- (4) An owner occupier of premises may apply in writing to the Council for approval to vary any of the requirements of subsection (3) and the Council may grant such application, with or without conditions, provided it is satisfied that the variation will not cause a nuisance or be injurious or dangerous to health.
47. 5.5.3(1)(a) Delete the word "slopping" and substitute the word "sloping"
48. 5.6.4 In Table 3, under the column heading "Townsite Boundaries", delete all the entries and substitute "5000m" for each category; then under the column heading "Isolated rural dwellings, dairies, industries", delete all the entries and substitute "1000m" for each category.
49. 5.7.1 to 5.7.3 Delete **Division 7 – Car Parks.**
50. 6.2.2(1)(b) Delete the comma after the word "in".
51. 6.2.2(4) Insert the word "to" before the word "be".
52. 6.5.2(c)(ii) Delete the first word "removed" and substitute the word "remove".
53. 6.8.1(f) Delete paragraph (f).
54. 7.1.4 Delete section 7.1.4 and renumber subclauses 7.1.5, 7.1.6, 7.1.7, 7.1.8, 7.1.9 and 7.1.10 to 7.1.4, 7.1.5, 7.1.6, 7.1.7, 7.1.8 and 7.1.9 respectively.
55. 8.1.3(c)(i) Delete the words "prescribed in Schedule (12)" and substitute the words "as fixed from time to time by Council under Section 344C of the Act". Item Sections Affected Description
56. 8.1.5(b) Delete the words "prescribed in Schedule (12)" and substitute the words "as fixed from time to time by Council under Section 344C of the Act".
57. 8.2.2(b) Delete the word "*Regulation*" and substitute "*Regulations*".
58. 8.2.5(1)(b) Delete subsection 8.2.5(1)(b) and substitute – "(b) bathrooms, each fitted with a wash basin and either a shower or a bath."
59. 8.2.5(5)(b) Delete subsection 8.2.5 (5)(b)
60. 8.2.5(5)(c) Delete (c) in subsection text and substitute (b)
61. 8.2.5(5)(d) Delete (d) in subsection text and substitute (c)
62. 8.2.5(6) Delete the words "paragraph (b) and" and substitute "Paragraph" and delete the word "do" and substitute "does".
63. 8.2.6(3)(d) Delete "75°C" in the first line and substitute "60°C"
64. 8.2.7(2) Delete the words "advised by the Western Australian Fire Brigades Board" and substitute "required by the Building Code".
65. 8.2.11(8) In paragraph (a) delete "AS 1530.2 and AS 1530.3" and substitute "AS 1530.2 – 1993 and AS 1530.3 – 1999".
66. 8.2.11(8)(c) Delete subsection (8)(c) and substitute–  
“(c) a lodger or other person does not smoke in any dormitory, kitchen, dining room, or other enclosed public place, within a short term hostel or recreational campsite;”.
67. 8.2.12 After subsection (2), insert new subsections (3) and (4) as follows:  
“(3) The sheets and blankets required to be provided by subsection (1)(b)(ii), shall be deemed to have been provided by the keeper, where the keeper offers them for hire to the lodgers. In such circumstances, each lodger must either provide his own clean sheets or hire the from the keeper.  
(4) In a short term hostel or recreational campsite, the storage facilities required by subsection (1)(c) may be located in a separate secure storage room or locker room.”
68. 8.3.1 Delete clause 8.3.1 and substitute "No keeper of a lodging-house shall absent himself from such house, unless he leaves some reputable

- person in-charge thereof.”
69. 9.1.1 In the definition of “**offensive trade**”, delete paragraph (d).
70. 9.2.7 In paragraph (d), delete the words “and at such more frequent intervals as may be directed” and substitute the words “or at such other intervals as may be approved or directed”.
71. Schedules 1 In the table entitled “**Laundry Facilities**” delete the entry; “**Coppers**”.
72. Schedules 5 & 7 In each schedule delete the prefix “19” in the line provided for entering the date of signature.
73. Schedule 12 Delete Schedule 12.

Made at a meeting of the Council of the Shire of Wagin held on 19th February 2002.

The Common Seal of the Shire of Wagin was hereunto affixed in the presence of—

P. I. PIESSE, President.

M. A. PARKER, Chief Executive Officer.

on this 13<sup>th</sup> day of March 2002.

Consented to —

Dr RICHARD LUG, delegate of  
Executive Director, Public Health.

Dated this 25<sup>th</sup> day of March 2002.

**HEALTH ACT 1911**

SHIRE OF LEONORA

**HEALTH LOCAL LAWS 1999**

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## HEALTH ACT 1911

### SHIRE OF LEONORA

## HEALTH LOCAL LAWS 1999

### PART 1—PRELIMINARY

#### 1.1 Citation

These Local-laws may be cited as “*The Shire of Leonora Health Local-Laws 1999*”.

#### 1.2 Repeal

- (1) The Health Local Laws adopted by the Shire of Leonora and published in the *Government Gazette* on 28 August 1942, and amended from time to time, are repealed;
- (2) The Health Local Laws adopted by the Shire of Leonora on the 10 November 1953 and published in the *Government Gazette* on 31 December 1953, and amended from time to time, are repealed;
- (3) The Health Local Laws adopted by the Shire of Leonora on 23 October 1956 and published in the *Government Gazette* on 25 January 1957, and amended from time to time, are repealed; and
- (4) The Health Local Laws adopted by the Shire of Leonora on 11 February 1964 and published in the *Government Gazette* on 16 April 1964, and amended from time to time are repealed.

#### 1.3 Interpretation

- (1) In these Local-Laws, unless the context otherwise requires—
  - “**Act**” means *Health Act 1911* and includes subsidiary legislation made under the *Health Act 1911*;
  - “**adequate supply of water**” means a flow of water of not less than 0.076 litres per second;
  - “**approved**” means approved by the Council of the Shire of Leonora;
  - “**AS**” means Australian Standard published by the Standards Association of Australia;
  - “**Building Code**” means the latest edition of the Building Code of Australia published from time to time by, or on behalf of, the Australian Building Codes Board, as amended from time to time, but not including explanatory information published with that Code.
  - “**Chief Executive Officer**” means the Chief Executive Officer of the Shire of Leonora and includes an Acting Chief Executive Officer;
  - “**Council**” means the Council of the Shire of Leonora;
  - “**district**” means the district of the Shire of Leonora and includes any area placed under the jurisdiction of the Council pursuant to Section 22 of the Act;
  - “**dwelling house**” means a place of residence or house containing at least one sleeping room and includes a room or outbuilding separate from, but ancillary to, the building in which the sleeping room is located;
  - “**Environmental Health Officer**” means an Environmental Health Officer appointed by the Council under the Act and includes an Acting or Assistant Environmental Health Officer;
  - “**habitable room**” means a room used for normal domestic activities; and

- (a) includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, play-room, family room and sun-room; but
- (b) excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, lobby, photographic dark room, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods;

**“hot water”** means water at a temperature of at least 75 degrees Celsius;

**“Medical Officer”** means the Medical Officer appointed by the Council under the Act and includes an Acting Medical Officer so appointed;

**“Principal Environmental Health Officer”** means an Environmental Health Officer appointed by the Council to the office of Principal Environmental Health Officer and includes an Acting Principal Environmental Health Officer;

**“public place”** includes every place to which the public ordinarily have access, whether by payment of a fee or not;

**“sanitary convenience”** includes urinals, water closets, earth-closets, privies, sinks, baths, wash troughs, apparatus for the treatment of sewage, ash-pits, ash-tubs, or other receptacle for the deposit of ashes, faecal matter, or refuse, and all similar conveniences;

**“sewage”** means any kind of sewage, nightsoil, faecal matter or urine, and any waste composed wholly or in part of liquid;

**“sewer”** includes sewers and drains of every description, except drains to which the word “drain” as defined in the Act applies, also water channels constructed of stone, brick, concrete, or any other material, including the property of the Council;

**“street”** includes any highway, any public bridge, and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

**“toilet”** means a water closet, earth closet, privy or urinal and includes a room or cubicle in which one or more of these is located;

**“water”** means drinking water within the meaning of the *Australian Drinking Water Guidelines—1987* as published by the National Health and Medical Research Council; and

**“window”** means a glass panel, roof light, glass brick, glass louvre, glazed sash, glazed door, or other device which transmits natural light directly from outside a building to the room concerned when in the closed position.

- (2) Where in these Local-Laws, a duty or liability is imposed on an “owner or occupier”, the duty or liability shall be deemed to be imposed jointly and severally on each of the owner or occupier.
- (3) Where under these Local-Laws an act is required to be done or forbidden to be done in relation to any premises, the owner or occupier of those premises has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.

## PART 2—SANITATION

### *Division 1—Sanitary Conveniences*

#### **2.1.1 Interpretation**

In this Part, unless the context otherwise requires—

**“festival”** includes a fair, function or event;



**“organiser”** means a person—

- (a) to whom approval has been granted by the Council to conduct the festival; or
- (b) responsible for the conduct of the festival;

**“public sanitary convenience”** means a sanitary convenience to which the public ordinarily have access, whether by payment of a fee or not; and

**“temporary sanitary convenience”** means a sanitary convenience, temporarily placed for use by—

- (a) patrons in conjunction with a festival; or
- (b) employees at construction sites or the like.

**“urinal”** may be—

- (i) an individual stall or wall-hung urinal; or
- (ii) each 600mm length of a continuous urinal trough; or
- (iii) a closet pan used in place of a urinal.

### **2.1.2 Dwelling House**

- (1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house unless it has at least one toilet.
- (2) A room in which a toilet is located shall have adequate lighting.

### **2.1.3 Premises other than a Dwelling House**

- (1) The owner of premises other than a dwelling house shall not use or occupy, or permit to be used or occupied, premises other than a dwelling house unless—
  - (a) the premises have sanitary conveniences in accordance with the Building Code and this Part;
  - (b) the toilets required by this section are situated within 90m and are easily accessible to the persons for whom they are provided; and
  - (c) the premises have hand wash basins—
    - (i) in accordance with the Building Code
    - (ii) or the use of persons employed or engaged on the premises
    - (iii) provided with an adequate supply of water supplied by taps located over each basin;
    - (iv) separate from any trough, sink or basin used in connection with any process carried out on the premises; and
    - (v) situated with or adjacent to the sanitary conveniences and easily accessible to the person for whom they are provided.
- (2) The occupier of premises other than a dwelling house shall ensure that—
  - (a) clean toilet paper is available at all times in each cubicle;
  - (b) a sanitary napkin disposal facility is provided in each toilet set aside for the use of females; and
  - (c) each hand wash basin is provided with—
    - (i) an adequate supply of soap or other hand cleaning substances; and
    - (ii) hand drying facilities, situated adjacent to and visible from the hand basin.

### **2.1.4 Outdoor Festivals**

- (1) The organiser of an outdoor festival at which not more than 20,000 people are expected to attend shall provide sanitary conveniences in accordance with the following scale—
  - (a) for the first 250 males—

- (i) one water closet for each 150;
    - (ii) one urinal stall for each 50; and
    - (iii) one hand wash basin for each 50;
  - (b) for additional males—
    - (i) one water closet for each 200;
    - (ii) one urinal stall for each 100; and
    - (iii) one hand wash basin for each 200;
  - (c) for the first 250 females—
    - (i) one water closet for each 40; and
    - (ii) one wash hand basin for each 50;
  - (d) for additional females—
    - (i) one water closet for each 100; and
    - (ii) one wash hand basin for each 200.
- (2) Where, under subsection (1), the number of a particular sanitary convenience to be provided is not a whole number, that number shall be rounded up to the next higher whole number.
- (3) The organiser of an outdoor festival at which more than 20,000 people are expected to attend shall provide sanitary conveniences of a number as directed by the Principal Environmental Health Officer.

#### **2.1.5 Toilets**

- (1) Toilets on premises shall be maintained in accordance with the following requirements—
- (a) the door to a toilet, other than an internal toilet, shall be properly screened to a continuous height of 1.8 metres from the floor;
  - (b) a toilet or its entrance which is visible from overlooking windows shall be properly screened;
- (2) Toilets on premises other than a dwelling house shall be maintained in accordance with the following additional requirements—
- (a) a toilet for the exclusive use of males shall not adjoin any toilet for the exclusive use of females unless the toilets are separated by a wall extending from floor to ceiling and of sufficient density to have a Sound Transmission Class of not less than 50 as required by *AS1276*;
  - (b) where more than one toilet is provided on the premises, the entrance to each toilet shall bear a suitable sign indicating for which sex its use is intended.

#### **2.1.6 Temporary Works**

A person who undertakes temporary work at any place shall ensure every temporary sanitary convenience is installed and maintained in accordance with the requirements of the *Health (Temporary Sanitary Conveniences) Regulations 1997*.

#### **2.1.7 Maintenance of Sanitary Conveniences and Fittings**

- (1) The occupier of premises shall—
- (a) keep clean, in good condition and repair; and
  - (b) whenever required by an Environmental Health Officer, effectively disinfect and clean, all sanitary conveniences including sanitary fittings in or on the premises.
- (2) The owner of premises shall—
- (a) keep or cause to be kept in good repair; and

- (b) maintain an adequate supply of water to, all sanitary conveniences including sanitary fittings in or on the premises.

#### **2.1.8 Ventilation of Toilets**

- (1) A toilet in any premises shall be ventilated in accordance with the *Sewage (Lighting, Ventilation and Construction) Regulations 1971* and the Building Code.

#### **2.1.9 Public Sanitary Conveniences**

- (1) A person shall not—
  - (a) foul
  - (b) damage or vandalise; or
  - (c) write on or otherwise deface,a public convenience or sanitary fixtures or fittings or the premises in or on which the sanitary convenience is located.
- (2) A person shall not live or sleep in the premises in which a public sanitary convenience is located or use it for a purpose other than that for which it was intended.

#### **2.1.10 Lighting**

The owner and occupier of a premises in which a sanitary convenience or a public sanitary convenience is located shall provide and maintain adequate electric lighting for persons using the convenience.

#### **2.1.11 Installation**

Every sanitary convenience shall be installed in accordance with the requirements of the *Country Water Supply Sewage and Drainage Act 1909* and shall have an adequate supply of water.

### *Division 2—Bathroom, Laundries and Kitchens*

#### **2.2.1 Bathrooms**

- (1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a bathroom that—
  - (a) is adequately lined with an impervious material and has an adequate ceiling;
  - (b) complies with the *Health Act (Laundries and Bathrooms) Regulations*; and
  - (c) is equipped with—
    - (i) a wash basin; and
    - (ii) either a shower in a shower recess or a bath.
- (2) The floor of the bathroom referred to in subsection (1) shall be—
  - (a) of concrete or other approved impervious material of an approved thickness;
  - (b) properly surfaced with an even fall to a floor waste, suitably trapped and discharging to—
    - (i) the sewer of a licensed water service operator; or
    - (ii) a proper discharge pipe with flap valve fitted and, where necessary, protected by an approved sump.
- (3) All baths, showers, hand basins and similar fittings shall be provided with an adequate supply of hot and cold water.

#### **2.2.2 Laundries**

- (1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a laundry that—
  - (a) is properly enclosed and roofed;

- (b) is adequately lined with an impervious material;
  - (c) has a minimum floor area of 3 square metres and is constructed of concrete or other approved impervious material of an approved thickness and the minimum width of the room shall be not less than 1.5 metres;
  - (d) is properly surfaced, with an even fall to a floor waste, suitably trapped and discharging to—
    - (i) the sewer of a licensed waste service operator; or
    - (ii) a proper discharge pipe with flap valve fitted and, where necessary, protected by an approved sump; and
  - (e) is not a room in which food is stored, prepared, served or consumed.
  - (f) is provided with adequate ventilation.
- (2) In the case of a single occupancy dwelling, the laundry referred to in subsection (1) shall have—
- (a) either—
    - (i) two wash troughs; or
    - (ii) a washing machine and a wash trough; and
  - (b) a clothes drying facility comprising either a mechanical clothes dryer or not less than 20 metres of clothes line erected externally.
- (3) All wash troughs, sinks and washing machines shall be—
- (a) in a laundry and connected to an adequate supply of hot and cold water; and
  - (b) installed to Manufacturers' specifications,
- and all wash troughs shall have a capacity of at least 36 litres.
- (4) Sole or multiple units, each being a separate dwelling, shall have—
- (a) laundry facilities, in accordance with the Building Code, for the exclusive use of the occupants of each unit; or
  - (b) a separate laundry with communal laundry facilities in accordance with the Building Code, for up to 4 sole occupancy units that do not have their own laundry facilities.
- (5) Where, in any building, a laundry is situated adjacent to a kitchen or a room where food is stored or consumed, the laundry shall be separated from the kitchen by a wall extending from the floor to the roof or ceiling.
- (6) Where there is an opening between a laundry and a kitchen or other room where food is stored or consumed, the opening shall—
- (a) not be more than 1220 millimetres wide; and
  - (b) have a door which when closed shall completely fill the opening.

### **2.2.3 Washing or Keeping of Clothes in Kitchens**

A person shall not in any kitchen or other place where food is kept—

- (a) wash or permit to be washed any clothing or bedding; or
- (b) keep or permit to be kept any soiled clothing or bedding.

### **2.2.4 Kitchens**

- (1) In this section, “a cooking facility” includes a stove, oven, facility or appliance used for or in connection with the cooking of food.

- (2) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a kitchen equipped with—
  - (a) an electric, gas, wood or other fuel burning stove;
  - (b) an oven with a capacity of not less than 0.005 cubic metres per person usually accommodated in the house with a minimum capacity of 0.03 cubic metres; and
  - (c) a sink which shall—
    - (i) be at least 380 millimetres long, 300 millimetres wide and 150 millilitres deep; and
    - (ii) have an adequate supply of hot and cold water.
- (3) The occupier of a dwelling house shall ensure that the stove, oven and sink are kept clean, in good order and repair and fit for use.
- (4) A cooking facility shall—
  - (a) be installed in accordance with the requirements of the “Manufacturers’ Specifications”; and
  - (b) not be installed or used in any room other than a kitchen.
- (5) Mechanical extraction shall be provided in a kitchen and the exhaust air shall be—
  - (a) carried to the outside air as directly as practicable; and
  - (b) boxed throughout.
- (6) Mechanical ventilation shall be maintained in good working order and condition.

### **PART 3—HOUSING AND GENERAL**

#### *Division 1—Maintenance of Houses*

- 3.1.1** The owner or occupier of a dwelling house shall maintain the dwelling house and any appurtenant buildings in sound condition and fit for use and, in particular, shall—
- (a) maintain all roofs, guttering and downpipes in sound weatherproof condition;
  - (b) maintain any footings, foundations and walls, either external or internal, in a sound condition;
  - (c) replace any missing, broken, decayed or termite-eaten timber or other deteriorated material in any veranda, roof, walls, steps, handrails, floors or their supports with material of sound quality;
  - (d) comply with the directions of an Environmental Health Officer to treat the premises for the purpose of destroying any termites;
  - (e) maintain any brick, stone, mortar or cement work in a sound condition;
  - (f) maintain, repair or replace any flashings or ant caps which are missing or defective;
  - (g) maintain all ventilators in good order and repair;
  - (h) maintain all floors even and level in surface and free from cracks and gaps;
  - (i) maintain all ceilings, internal wall finishes, skirtings, architraves and other fixtures and fittings complete and with smooth unbroken surfaces;
  - (j) maintain all doors and windows in good working order and weatherproof condition;
  - (k) retain all natural lighting free from any obstruction which would reduce the natural lighting, below the ratio of 10% of the floor area;
  - (l) maintain all pipes, fittings and fixtures connected with water supply, drainage or sewerage so that they comply in all respects with the provisions of the *Country*

*Water Supply, Sewerage and Drainage Act 1909* and any other legal requirements to which they are subject; and

- (m) maintain all electric wiring, gas services and fittings to comply in all respects with the requirements of the Office of Energy.

### **3.1.2 Maintenance of Guttering and Downpipes and Disposal of Rainwater**

The owner or occupier of a house shall—

- (a) maintain all guttering, downpipes and drains on the premises in a good state of repair, clean and free from obstructions; and
- (b) not permit any rainwater from the premises to discharge onto or over a footpath, street or other property.

#### *Division 2—Ventilation of Houses*

### **3.2.1 Exemption for Short Term Hostels and Recreational Campsites**

This Division shall not apply to short term hostels and recreational campsites referred to in Division 1 of Part 8.

### **3.2.2 Overcrowding**

The owner or occupier of a house shall not permit—

- (a) a room in the house that is not a habitable room to be used for sleeping purposes; or
- (b) a habitable room in the house to be used for sleeping purposes unless—
  - (i) for every person over the age of 10 years using the room there is at least 14 cubic metres of air space per person; and
  - (ii) for every person between the ages of 1 and 10 years there is at least 8 cubic metres of air space per person; or
- (c) any garage or shed to be used for sleeping purposes.

### **3.2.3 Calculated Sufficient Space**

For the purpose of Section 3.2.2, in calculating the space required for each person—

- (a) each room shall be considered separately and sufficient space shall be allowed in each room for the number of persons present in the room at any one time; and
- (b) a deduction shall be made for the space occupied by furniture, fittings and projections of the walls into a room.

### **3.2.4 Ventilation**

- (1) A person shall not use or occupy, or permit to be used or occupied, a house unless the house is properly ventilated.
- (2) For the purpose of subsection (1) a house shall be deemed to be properly ventilated if it complies with the Building Code, including the provision of—
  - (a) natural ventilation; or
  - (b) a mechanical ventilation or air-conditioning system complying with *AS1668.2*.
- (3) The owner of a house provided with mechanical ventilation or an air-conditioning system shall ensure that the system is—
  - (a) maintained in good working condition and in accordance with *AS3666-1989*; and
  - (b) in use at all times the building is occupied.
- (4) If, in the opinion of an Environmental Health Officer, a house is not properly ventilated, the Council may by notice require the owner of the house to—
  - (a) provide a different, or additional method of ventilation; or

- (b) cease using the house until it is properly ventilated.
- (5) the owner shall comply with a notice under subsection (4).

### **3.2.5 Sub-Floor Ventilation**

The owner or occupier of a house shall make provision for sub-floor ventilation by ensuring that air bricks and other openings are kept clean of refuse, vegetation, building materials, dirt and the like.

## *Division 3—Water Supply*

### **3.3.1 Water Supply**

- (1) The owner of a house shall ensure that it is connected with a separate and independent water supply from the mains of a licensed water service operator or a water supply to the satisfaction of the Council.
- (2) The water supply shall at all times deliver an adequate supply of drinking water to each tap in the house.
- (3) The water supply to toilets, or for garden use may be from an alternative source, not necessarily drinking water.

### **3.3.2 Rain Water Tanks**

The owner or occupier of a house where part of the water supply is drawn from a rain water tank shall—

- (a) maintain in a clean condition—
  - (i) the roof forming the catchment for the tank; and
  - (ii) the guttering and downpipes appurtenant to the roof;
- (b) ensure that each rain water tank is fitted with a tight-fitting mosquito proof cover which shall not be removed at any time except for the purpose of cleaning, repairing or maintaining the tank;
- (c) annually clean any tank which is used to store water for human consumption;
- (d) when directed by an Environmental Health Officer, empty, clean and disinfect any tank upon the premises, used to store water for human consumption.

### **3.3.3 Wells**

The owner or occupier of any premises shall not use or permit for human consumption the use of the water from any bore or well unless the bore or well is—

- (a) at least 30 metres from any soak or other possible source of pollution unless otherwise approved by the Executive Director of Public Health; and
- (b) covered with a tight-fitting cover without openings of any sort other than those essential for the insertion of a pump.

### **3.3.4 Pollution**

A person shall not deposit on any land, any sewage, offensive matter or any other thing which may pollute or render unfit for human consumption, water from a well or other underground source.

## *Division 4—Secondhand Furniture, Bedding and Clothing*

### **3.4.1 Prohibition of Sale**

A person shall not offer for sale or sell any secondhand furniture, bedding or clothing which is filthy or infested with vectors of disease.

### 3.4.2 Prohibition of Possession

A dealer in secondhand furniture, bedding or clothing shall not have on any premises used for the operation of the business any secondhand furniture, bedding or clothing which is filthy or infested with vectors of disease.

#### *Division 5—Morgues*

### 3.5.1 Application and Licensing of Morgues

- (1) All morgues, other than those of any public hospital or any Council or police morgue, shall be licensed annually in accordance with the requirements of this Division.
- (2) An application for a licence of a morgue shall be—
  - (a) made by the applicant;
  - (b) made in the form prescribed in schedule (7); and
  - (c) forwarded to the Chief Executive Officer with the fee prescribed in Schedule (12).
- (3) A licence shall—
  - (a) be in the form prescribed in Schedule (8); and
  - (b) expire on 30 June next and after the date of its issue.
- (4) A licence shall not be granted in respect of any premises unless—
  - (a) provision has been made for the keeping of the bodies of the dead at a temperature not exceeding zero degrees Celsius;
  - (b) the walls are constructed of stone or brickwork or other approved material;
  - (c) the interior surface of all walls is covered with glazed tiles or is rendered impervious so as to be non-absorbent and washable;
  - (d) all floors are constructed of an approved impervious material, having a fall to an outlet discharging over a trapped gully; andthe premises are adequately ventilated by direct communication with the outside air.

## **PART 4—WASTE FOOD AND REFUSE**

### *Division 1—Liquid Refuse*

#### 4.1.1 Interpretation

In this division, unless the context otherwise requires—

“**liquid refuse**” includes swimming pool discharges, all washings from windows, vehicles and carpet cleaning, overflow, bleed off, condensate and drainage from air conditioning equipment including evaporative coolers and other liquid used for cooling purposes;

“**liquid waste**” means bathroom, kitchen, scullery and laundry wastes, the contents of septic tanks, all washings from animal and poultry pens and any other domestic or trade wastes that are discharged by means of a drain to a receptacle for drainage; and

“**approved carrier**” means a carrier approved by the Council.

#### 4.1.2 Deposit of Liquid Refuse

A person shall not deposit or cause or permit to be deposited liquid refuse or liquid waste—

- (a) on a street;
- (b) in a stormwater disposal system; or
- (c) on any land or place other than a place or depot duly authorised for that purpose.



#### **4.1.3 Disposal of Liquid Waste**

- (1) The owner or occupier of premises shall—
  - (a) provide, one of the methods prescribed in this section, for the disposal of all liquid waste produced on the premises; and
  - (b) at all times maintain in good working order and condition any apparatus used for the disposal of liquid waste.
- (2) Liquid waste shall be disposed of by one of the following methods—
  - (a) discharging it into the sewerage system of a licensed water service operator in a manner approved by the licensed water service operator;
  - (b) discharging it into an apparatus for the treatment of sewage and disposal of effluent and liquid waste approved by the Executive Director, Public Health or the Council;
  - (c) collection and disposal at an approved liquid waste disposal site in a manner approved by the Executive Director Public Health.

#### **4.1.4 Approval for Septic Tank Pumpouts and Removal of Liquid Waste**

A person shall not—

- (a) unless he or she is an approved carrier;
- (b) without the written approval of the Council; and
- (c) except in accordance with any terms and conditions imposed by the Council or the Executive Director, Public Health in connection with the approval under paragraph (b),

collect, remove or dispose of the contents of a septic tank, the pumpouts from holding tanks or an apparatus for the treatment of sewage and other liquid wastes.

#### **4.1.5 Application for Approval**

- (1) A carrier may apply in writing to the Council for approval to collect, remove or dispose of the contents of a septic tank, the pumpouts from holding tanks or an apparatus for the treatment of sewage.
- (2) The Council may grant or refuse an application under this section subject to conditions relating to—
  - (a) the time and method of collection, removal or disposal of the contents; or
  - (b) the route to be followed by a vehicle used in collection, removal or disposal of the contents; or
  - (c) the type of liquid waste that can be collected.
- (3) Any conditions imposed by the Council under this section shall be—
  - (a) specified in the written approval of the Council; and
  - (b) in addition to any conditions imposed by the Executive Director of Public Health or conditions applying under any other law.
- (4) The Council may from time to time vary conditions imposed by it under this section by giving written notice of the variation to the person to whom approval was given.

#### **4.1.6 Provision of Quarterly Reports**

The approved carrier may be required to provide Quarterly Reports to the Council containing accurate details of—

- (a) the date of servicing the liquid waste system;
- (b) the address or location of the involved property; and
- (c) the type of system serviced.

*Division 2—Disposal of Refuse*

**4.2.1 Interpretation**

In this division, unless the context otherwise requires—

“**approved enclosure**” means an enclosure for the storage of receptacles which complies with Section 4.2.7;

“**building line**” has the meaning given to it in and for the purposes of the *Local Government (Miscellaneous Provisions) Act 1960*;

“**collection day**” means the day of the week on which rubbish and refuse is collected and removed by the Council or its contractor;

“**commercial waste**” means refuse and other rubbish generated by or originating from commercial or industrial premises and includes trade refuse;

“**domestic waste**” means refuse and other rubbish generated by or emanating from residential premises and includes house refuse;

“**public place**” includes a street, way or place which the public are allowed to use, whether the street, way or place is or is not on private property;

“**receptacle**” means a polyethylene cart fitted with wheels, a handle and a lid and having a capacity of 120 litres or 240 litres, or other type of receptacle specified or approved by the Council;

“**rubbish or refuse**” includes any filth, dirt, ashes, vegetation, garden refuse, waste material, waste food, sludge, offensive matter, cinders, wood or metal shavings and sawdust but does not include liquid waste or liquid refuse;

“**street**” includes a highway and a thoroughfare which the public are allowed to use and includes every part of the highway or thoroughfare, and other things including bridges and culverts, appurtenant to it;

“**street alignment**” means the boundary between the land comprising a street and the land that abuts thereon, but where a new street alignment is prescribed under the *Local Government (Miscellaneous Provisions) Act 1960*, means the new street alignment so prescribed; and

“**waste**” means commercial or domestic waste or both as the context requires.

**4.2.2 Receptacles**

An owner or occupier of premises shall—

- (a) provide a receptacle for the depositing of rubbish or refuse and maintain the receptacle in a serviceable condition;
- (b) at all times keep the lid of the receptacle closed except when depositing rubbish or refuse or cleaning the receptacle;
- (c) except for a reasonable period before and after collection time, keep the receptacle on the premises and located—
  - (i) behind the street alignment and so as not to be visible from a street or public place; or
  - (ii) in such other position as is approved by the Council;
- (d) on each collection day at or prior to 6.00am place the receptacle out in the street in a position, prescribed by the Council, where it is visible from the carriageway of the street or the right of way, but so that it does not obstruct any thoroughfare, land, footpath, cycleway or other carriageway and positioned with the handle facing away from the kerb line, or placed in such other position as is approved by the Council.

#### 4.2.3 Exemption

- (1) An owner or occupier of premises may apply in writing to the Council for an exemption from compliance with the requirements of Section 4.2.2 (c) or (d).
- (2) The Council may grant or refuse, with or without conditions, an application for exemption from compliance under this Section.
- (3) An exemption granted under this Section shall state—
  - (a) the premises to which the exemption applies;
  - (b) the period during which the exemption applies; and
  - (c) any conditions imposed by the Council.
- (4) The Council may rescind the exemption or from time to time vary conditions imposed by it under this Section by giving written notice of the variation to the person to whom the exemption was given.

#### 4.2.4 Use of Receptacles

An owner or occupier of premises shall—

- (a) not deposit or permit to be deposited in a receptacle—
  - (i) more than 70 kilograms of rubbish or refuse;
  - (ii) hot or burning ash;
  - (iii) oil, motor spirit or other flammable liquid;
  - (iv) liquid paint or other solvent;
  - (v) bricks, concrete, building rubble, asbestos, earth or other like substances;
  - (vi) drugs, dressings, bandages, swabs or blood samples unless placed in a sealed impervious and leak-proof container;
  - (vii) hospital, medical, veterinary, laboratory or pathological substances containing blood unless placed in a sealed impervious and leak-proof container;
  - (viii) syringes, needles, surgical hardware, broken glass, sharps or other sharp objects;
  - (ix) cytotoxics, radioactive substances and dangerous chemicals;
  - (x) sewage, manure, nightsoil, faeces or urine;
  - (xi) any object which is greater in length, width or breadth than the corresponding dimension of the receptacle or which will not allow the lid of the receptacle to be tightly closed;
  - (xii) rubbish or refuse which is or is likely to become offensive or a nuisance, or give off an offensive or noxious odour, or to attract flies or cause fly breeding unless it is first wrapped in non-absorbent or impervious material or placed in a sealed impervious container; or
  - (xiii) hazardous products including ammunition and flares;
- (b) at all times keep the receptacle in a clean condition;
- (c) whenever directed to do so by an Environmental Health Officer, thoroughly clean, disinfect, deodorise and apply a residual insecticide to the receptacle;
- (d) take all reasonable steps to prevent—
  - (i) fly breeding and keep the receptacle free of flies, maggots, cockroaches, rodents and other vectors of disease; and
  - (ii) the emission of offensive and noxious odours from the receptacle; and

- (e) ensure that the receptacle does not cause a nuisance to the occupiers of adjoining premises.

#### **4.2.5 Damage to Receptacles**

A person shall not—

- (a) damage, destroy or interfere with a receptacle; or
- (b) except as permitted by these Local-Laws or as authorised by the Council, remove a receptacle from any premises.

#### **4.2.6 Use of Other Containers**

- (1) In the case of premises consisting of more than 3 dwellings, any premises used for commercial or industrial purposes or a food premises, the Council may authorise rubbish or refuse to be deposited in a container other than a receptacle.
- (2) The owner or occupier of premises who is authorised under this Section to deposit rubbish or refuse in a container shall—
  - (a) unless approved by the Council not deposit or permit to be deposited in the container anything specified in Section 4.2.4 (a) (ii) to (xiii);
  - (b) take all reasonable steps to prevent fly breeding in, and the emission of offensive or noxious odours from the container;
  - (c) whenever directed by an Environmental Health Officer to do so, thoroughly clean, disinfect, deodorise and apply a residual insecticide to the container;
  - (d) cause the container to be located on the premises in an enclosure constructed and located as approved by the Council;
  - (e) ensure that the container is not visible from the street but is readily accessible for the purposes of collection; and
  - (f) ensure that the container does not cause a nuisance to an occupier of adjoining premises.
- (3) An owner or occupier shall—
  - (a) ensure that there are a sufficient number of containers provided to contain all rubbish and refuse which accumulates or may accumulate in or from the premises;
  - (b) ensure that each container on the premises—
    - (i) has a close fitting lid;
    - (ii) is constructed of non-absorbent and non-corrosive material; and
    - (iii) is clearly marked, for the use of, and is used only for, the temporary deposit of rubbish or refuse;
  - (c) keep or cause to be kept each container thoroughly clean and in good condition and repair;
  - (d) place any rubbish or refuse in, and only in, a container marked for that purpose;
  - (e) keep the cover on each container except when it is necessary to place something in, or remove something from, it; and
  - (f) ensure that each container is emptied at least weekly or as directed by the Council.

#### **4.2.7 Suitable Enclosure**

- (1) An owner or occupier of premises—
  - (a) consisting of more than three (3) dwellings; or

- (b) used for commercial or industrial purposes, or a food premises shall if required by the Council  
provide a suitable enclosure for the storage and cleaning of receptacles on the premises.
- (2) An owner or occupier of premises required to provide a suitable enclosure under this Section shall keep the enclosure thoroughly clean and disinfected.
- (3) For the purposes of this Section, a “suitable enclosure” means an enclosure—
  - (a) of sufficient size to accommodate all receptacles used on the premises but in any event having a floor area not less than a size approved by the Council;
  - (b) constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness approved by the Council;
  - (c) having walls not less than 1.8 metres in height and having an access way of not less than 1 metre in width and fitted with a self closing gate;
  - (d) containing a smooth, non-slip and impervious floor—
    - (i) of not less than 75 millimetres in thickness; and
    - (ii) which is evenly graded to an approved liquid refuse disposal system;
  - (e) which is easily accessible to allow for the removal of the receptacles;
  - (f) provided with a ramp into the enclosure having a gradient no steeper than 1:8 unless otherwise approved by the Council; and
  - (g) provided with a tap connected to an adequate supply of water.

#### **4.2.8 Deposit of Refuse**

A person shall not deposit or cause or permit to be deposited any rubbish or refuse in or on any street or on any land other than a refuse disposal site.

#### **4.2.9 Removal of Rubbish from Premises or Receptacle**

- (1) A person shall not remove any rubbish or refuse from premises unless that person is—
  - (a) the owner or occupier of the premises;
  - (b) authorised to do so by the owner or occupier of the premises; or
  - (c) authorised in writing to do so by the Council.
- (2) A person shall not, without the approval of the Council or the owner of a receptacle, remove any rubbish or refuse from the receptacle or other container provided for the use of the general public in a public place.
- (3) Where the Council provides—
  - (a) a collection service for recyclable material, the occupier of premises shall comply with and observe the directions given by the Council in relation to that collection;
  - (b) a collection for bulk material, the occupier of premises shall comply with and observe the directions given by the Council in relation to that collection.
- (4) Where additional collection services are provided upon request by the occupier of premises, fees as prescribed by the Council shall be paid.

#### **4.2.10 Burning Rubbish or Refuse**

- (1) A person shall not—
  - (a) without the approval of the Council; and
  - (b) except in accordance with the terms and conditions to which the approval is subject, set fire to, or cause to be set on fire, any rubbish or refuse either—
    - (i) in any incinerator; or
    - (ii) on the ground.

- (2) Subject to subsection (3), an approval of the Council is issued subject to the following conditions—
- (a) the material to be burnt—
    - (i) does not include any plastic, rubber, food scraps, green garden cuttings and other material which may become offensive when burnt; and
    - (ii) is of such quantity, or of such a nature, as to be unsuitable for removal by the Council’s refuse collection service;
  - (b) there is no other appropriate means of disposal;
  - (c) burning shall not take place—
    - (i) during any period for which an air dispersion alert has been issued by the Bureau of Meteorology; or
    - (ii) where there is no current dispersion alert, outside the hours of 10.00am to 6.00pm;
  - (d) an incinerator must meet the standards specified in *A.S.1875-1976*; and
  - (e) an incinerator unit used for fire must be located—
    - (i) at least 3 metres from a fence, building or inflammable matter; and
    - (ii) in such a position so as not to create a nuisance or be offensive to other persons.
- (3) Subject to the Fire Rules of the Local Fire Brigade issued by the Western Australian Fire Brigades Board the Council may grant approval to clear by burning fire breaks or vacant blocks of grass, straw, hay undergrowth, herbage and other similar vegetation.

#### **4.2.11 Rubbish Removal Vehicles**

A vehicle used by the Council or its contractor for the collection and transport of rubbish shall—

- (a) be provided with a compartment in which all rubbish shall be deposited for removal, and of which the interior is constructed from or surfaced with impermeable material; and
- (b) have a cover over the compartment at all times when the vehicle is engaged in the transport of rubbish.

#### **4.2.12 Method of Removal of Rubbish**

A person engaged in the removal of rubbish from premises shall—

- (a) convey all rubbish from the receptacles of the occupier of the premises and deposit the rubbish in the portion of the collection vehicle intended to hold the rubbish; and
- (b) replace the receptacle in the position it was lifted from.

#### **4.2.13 Rubbish Disposal Areas**

The Town Site of Leonora is the prescribed area within which the provision of Section 112A of the Act shall operate and have effect.

### *Division 3—Transport of Butchers’ Waste*

#### **4.3.1 Interpretation**

In this Division, unless the context otherwise requires—

“**butchers’ waste**” includes animal skeletons, rib cages from a boning room and the inedible products of an abattoir.

#### **4.3.2 Restriction of Vehicles**

A person shall not use, for the transport of butchers’ waste—

- (a) a vehicle or container not approved by the council; or
- (b) a vehicle used for the transport of food or drugs; or
- (c) anything intended to be used for the packing or handling of food or drugs.

#### **4.3.3 Transport of Butchers' Waste**

- (1) A person shall not transport butchers' waste other than in—
  - (a) a compartment complying with the following specifications—
    - (i) all internal surfaces to be constructed of an approved, smooth, impervious material not less than 910 millimetres high;
    - (ii) all joints to be sealed and made water-tight;
    - (iii) the loading doors, if any, to be water-tight and kept closed at all times except when loading; and
    - (iv) the top to be completely covered by a tarpaulin or other impervious material approved by Council, carried over, and secured to the outside of the walls at least 300 millimetres from the top so as to keep the load out of sight of the public; or
  - (b) a sealed container fitted with a lid which can be tightly closed.
- (2) A person shall not transport any butchers' waste in a vehicle unless the vehicle and its fittings, including the compartment or container referred to in this Section, are—
  - (a) maintained in good order and condition; and
  - (b) thoroughly cleaned at the conclusion of each day's work.
- (3) A person shall not load, transport, or unload butchers' waste in a manner that is or maybe offensive due to—
  - (a) the sight of animal skeletons, bones, offal or waste matter;
  - (b) the odour of putrefaction, offal or waste matter; or
  - (c) the presence of blood and particles of flesh or fat dropping onto the surface of the street pavement or ground.

### **PART 5—NUISANCES AND GENERAL**

#### *Division 1—Nuisances*

##### **5.1.1 Interpretation**

In this Division, unless the context otherwise requires—

“fertiliser” includes manure.

##### **5.1.2 Footpaths etc. to be kept clean**

An owner or occupier of premises shall maintain in a clean condition any footpath, pavement, area or right of way immediately adjacent to the premises.

##### **5.1.3 Escape of Smoke etc.**

An owner or occupier shall not cause or permit the escape of dust, sand, fumes, offensive or foul odours, liquid waste or liquid refuse from the premises in such quantity or of such nature as to cause or to be a nuisance.

##### **5.1.4 Public Vehicles to be kept clean**

The owner or person in control of a public vehicle shall—

- (a) maintain the vehicle at all times—
  - (i) in a clean condition; and
  - (ii) free from vectors of disease; and

- (b) whenever directed to do so by the Environment Health Officer, thoroughly clean and disinfect the vehicle as directed.

#### **5.1.5 Prohibition against Spitting**

A person shall not spit—

- (a) on a footpath, street or public place; or
- (b) in a train, bus or other public transport.

#### **5.1.6 Transportation, Use and Storage of Offal, Blood, or other Offensive Matter**

- (1) A person shall not transport or store offal or blood, for the purpose of being used as manure, unless it has been sterilised by steam and properly dried.
- (2) No person shall remove any offensive matter unless such offensive matter is carried in sealed containers to prevent the escape of any of the contents thereof, or the emission of any offensive odour therefrom.
- (3) Every person using any sealed containers or vehicle for the removal of offensive matter shall keep such container or vehicle in a thoroughly clean condition and in good repair.

#### **5.1.7 Use or Storage of Fertiliser**

An owner or occupier of premises shall not use or keep for the purpose of use, as fertiliser any

- (a) pig manure;
- (b) human faeces; or
- (c) urine.

#### **5.1.8 Storage and Dispatch of Artificial Fertiliser**

An owner or occupier of premises where fertiliser is stored in bulk for sale shall—

- (a) keep all artificial fertiliser in a building—
  - (i) of which all internal surfaces are constructed of durable and non-absorbent materials, finished internally with a smooth surface;
  - (ii) that protects it from the absorption of moisture; and
  - (iii) that is adequately ventilated;
- (b) take adequate measures to prevent the emission of dust or offensive effluvia from the building; and
- (c) ensure that all artificial fertiliser despatched from the premises is handled and loaded in such a manner as to prevent any nuisance arising during transit.

#### **5.1.9 Storage of Fertiliser in a House**

The owner or occupier of a house where fertiliser or compost is stored or used shall—

- (a) prevent the escape of odours, dust or particles of fertiliser or compost;
- (b) treat the fertiliser or compost in such a manner as to effectively prevent it attracting or being a breeding place for flies or other vectors of disease; and
- (c) store only such amounts of fertiliser or compost—
  - (i) as can be readily used within a reasonable period; or
  - (ii) as may be directed by an Environmental Health Officer.

#### **5.1.10 Vehicles Used for Transporting of Animals and Birds**

No person having the control or management of any vehicle in which animals or birds are being or have been transported or confined shall allow such vehicle to stand within a townsite until the vehicle has been thoroughly cleaned.



*Division 2—Keeping of Animals and Birds*

**5.2.1 Interpretation**

In this division, unless the context otherwise requires—

“**animal**” includes cats, dogs, rabbits and ferrets or the like; and

“**bird**” includes galahs, parrots, budgerigars, finches, pigeons and doves or the like.

**5.2.2 Cleanliness**

An owner or occupier of premises, excluding an extensive farming premises, in or on which an animal or bird is kept shall—

- (a) keep the premises free from excrement, filth, food waste and all other matter which is or likely to become offensive or injurious to health or to attract rats or other vectors of disease;
- (b) when so directed by an Environmental Health Officer, clean and disinfect the premises;
- (c) keep the premises, so far as possible, free from flies or other vectors of disease by spraying with a residual insecticide or other effective means; and
- (d) ensure the animal or bird kept is not causing a nuisance or is injurious, offensive or dangerous to health.

**5.2.3 Animal Enclosures**

- (1) A person shall not keep or cause or permit to be kept any animals or birds on premises which are not effectively drained.
- (2) The owner or occupier of premises, where animals or birds are kept shall, when directed by the Council, pave, grade and drain the floors of all structures and the surface of the ground of all enclosures used for the keeping of animals or birds.

**5.2.4 Cats**

- (1) Subject to subsection (6), a person shall not, without an exemption in writing from the Council, keep more than 2 cats over the ages of 3 months on premises on any land within the District.
- (2) An owner or occupier of premises may apply in writing to the Council for exemption from the requirements of subsection (1).
- (3) The Council shall not grant an exemption under this Section unless it is satisfied that the number of cats to be kept will not be a nuisance or injurious or dangerous to health.
- (4) An exemption granted under this Section shall specify—
  - (a) the owner or occupier to whom the exemption applies;
  - (b) the premises to which the exemption applies; and
  - (c) the maximum number of cats which may be kept on the premises.
- (5) A person who is granted an exemption under subsection (3) may be required by Council to—
  - (a) provide for each cat kept at or on the premises, a properly constructed shelter with an enclosure complying with the following—
    - (i) each shelter shall have a floor area of not less than 0.5 square metres for each cat over the age of 3 months kept or to be kept therein; and
    - (ii) the area of the enclosure appurtenant to each shelter shall be not less than 3 times the area of the shelter;
  - (b) provide a shelter or an enclosure to be situated at a distance of not less than—

- (i) 2 metres from the boundary of any lot not owned or occupied by the person by whom the cats are kept;
  - (ii) 10 metres from any dwelling, church, schoolroom, hall or premises in which food is manufactured, packed or prepared for human consumption;
  - (c) keep all shelters, enclosures, yards and grounds in which cats are kept in a clean condition and free from vectors of disease at all times and clean, disinfect or otherwise deal with them as directed by an Environmental Health Officer from time to time.
- (6) A person may keep more the 2 cats on premises used for veterinary purposes or as a pet shop.

#### **5.2.5 Slaughter of Animals**

- (1) Subject to subsection (2), a person shall not slaughter any animal within the district.
- (2) Subsection (1) does not apply to—
  - (a) euthanasia of animals by veterinarians or other duly authorised persons;
  - (b) slaughter of animals for the purposes of pet meat and game meat operations;
  - (c) slaughter of animals for human consumption in abattoirs approved by the Council; and
  - (d) farming or grazing property occupiers preparing meat for their own consumption.

#### **5.2.6 Disposal of Dead Animals**

- (1) An owner or operator of a veterinary practice where dead animals are kept for more than 12 hours, shall refrigerate the carcass prior to its removal and disposal, at an approved disposal site.
- (2) An owner or occupier of premises, other than a veterinary practice, on which there is a dead animal shall immediately remove the carcass for its disposal at an approved disposal site.
- (3) An owner, or a person having the care, of any animal that dies or is killed in a public or private place shall immediately remove the carcass and arrange for its disposal at an approved disposal site.

### *Division 3—Keeping of Large Animals*

#### **5.3.1 Interpretation**

In this Division, unless the context otherwise requires—

“**approved animal**” includes a horse, cow or large animal the subject of an approval by Council under Section 5.3.2;

“**cow**” includes an ox, calf, or bull;

“**horse**” includes an ass, mule, donkey or pony; and

“**large animal**” includes a pig, sheep, goat, deer or camel.

#### **5.3.2 Conditions for keeping of an animal**

- (1) An owner or occupier of premises, within a townsite shall not keep a horse, cow or large animal on those premises without approval of the Council.
- (2) An owner or occupier of premises who has an approved animal shall ensure—
  - (a) the premises has an area of not less than 0.2 hectares for the exclusive use of the approved animal; and

- (b) the approved animal does not approach within 30 metres of a dwelling.

### 5.3.3 Stables

- (1) The owner or occupier of premises within a townsite, who has an approved animal may provide for its use a stable which shall—
  - (a) not be situated within 30 metres of a house or other premises;
  - (b) have a proper separate stall—
    - (i) for each horse or cow; and
    - (ii) the floor area of which shall be a minimum of 6 square metres;
  - (c) have each wall and roof constructed of an approved impervious material;
  - (d) have on all sides of the building between the wall and the roof a clear opening of at least 150 millimetres in height;
  - (e) have a floor, the surface of which shall—
    - (i) be at least 75 millimetre above the surface of the ground;
    - (ii) be constructed of cement, concrete or other similar impervious materials;
    - (iii) have a fall of 1 in 100 to a drain which shall empty into a trapped gully situated outside the stable and shall discharge in a manner approved by the Council.
- (2) The owner or occupier of any premises on which a stable is located shall—
  - (a) maintain the stable in a clean condition and when so directed by an Environmental Health Officer, clean, wash and disinfect it;
  - (b) keep all parts of the stable so far as possible free from flies or other vectors of disease by spraying with a residual insecticide or other effective means; and
  - (c) when so ordered by an Environmental Health Officer, spray the stable or such parts as maybe directed, with a residual insecticide.

### 5.3.4 Manure Receptacle

- 5.3.4 An owner or occupier of premises on which an approved animal is kept shall—
- (a) provide in a position convenient to the stable a receptacle for manure, which is constructed of smooth, impervious, durable, easily cleanable materials and, provided with a tight-fitting cover, and with no part of the receptacle base being lower than the surface of the adjoining ground;
  - (b) keep the lid of the receptacle closed except when manure is being deposited or removed;
  - (c) cause the receptacle to be emptied at least once a week and as often as may be necessary to prevent it becoming offensive or a breeding place for flies or other vectors of disease;
  - (d) keep the receptacle so far as possible free from flies or other vectors of disease by spraying with a residual insecticide or other effective means; and
  - (e) cause all manure produced on the premises to be collected daily and placed in the receptacle.

#### *Division 4—Keeping of Poultry and Pigeons*

### 5.4.1 Interpretation

In this Division, unless the context otherwise requires—

“poultry” includes bantams, ducks and other domestic fowls;

#### **5.4.2 Limitation on Numbers of Poultry and Pigeons**

An owner or occupier of premises within a townsite shall not keep a combined total of more than 12 poultry and pigeons without the approval of Council, on any one lot of land.

#### **5.4.3 Conditions for Keeping Poultry in Limited Numbers**

A person who keeps poultry or permits poultry to be kept shall ensure that—

- (a) no poultry is able to approach within 15 metres of a dwelling house, public building or premises where people are employed or where food is stored, prepared, manufactured or sold;
- (b) all poultry is kept in a properly constructed and securely fastened structure or enclosure;
- (c) the structure is in a yard having an otherwise unobstructed area of at least 30 square metres;
- (d) no poultry is able to approach within 15 metres of a street other than a right of way unless, in the case of land at the junction of two or more streets, Council has approved a lesser distance; and
- (e) all enclosures or cages within which poultry are kept shall be maintained at all times in a clean condition and shall be disinfected or otherwise dealt with in a way as directed by an Environmental Health Officer.

#### **5.4.4 Roosters, Geese, Turkeys, Peafowl's and Gamebirds**

- (1) An occupier of premises within a townsite, shall not without the written approval of the Council, keep or permit to be kept on those premises, any one or more of the following fowl—
  - (a) a rooster;
  - (b) a goose or gander;
  - (c) a turkey;
  - (d) a peacock or peahen;
  - (e) a gamebird (includes emus and ostriches)
- (2) The Council may upon written application, grant approval with or without conditions to the owner or occupier of premises to keep any one or more birds as specified in subsection (1) of this section.
- (3) A person who has been granted approval under this Section to keep a bird may keep the bird on the premises only while he is the occupier thereof.
- (4) The Council may revoke an approval granted under this Section if it is of the opinion that the keeping of the birds specified in the approval is causing a nuisance or is injurious, offensive or dangerous to health.

#### **5.4.5 Pigeons or Doves**

A person who keeps, or permits to be kept, pigeons or doves shall ensure that—

- (a) none is able to approach within 15 metres of a dwelling, public building or premises where people are employed or where food is stored, prepared, manufactured or sold; and
- (b) except where registered homing pigeons are freed for exercise, the pigeons or doves are kept in a properly constructed pigeon loft or dove cote that—
  - (i) is in a yard having an otherwise unobstructed area of at least 30 square metres; and

- (ii) is maintained in such a manner so as not to create a nuisance by the emission of dust, effluvia or odours.

#### 5.4.6 Removal of Non-Conforming Structure or Enclosure

- (1) If a structure or enclosure is used for the keeping of poultry or pigeons or doves contrary to the provision of Section 5.4.3 and 5.4.5, the Council may direct the owner or occupier to remove it.
- (2) An owner or occupier shall comply with a direction from the Council under this Section.

#### 5.4.7 Restrictions on Pigeon Nesting or Perching

- (1) The Council may order an owner or occupier of a house in or on which pigeons which are, or are in the habit of, nesting or perching to take adequate steps to prevent them continuing to do so.
- (2) An owner or occupier shall comply with the Council order under this Section.

### Division 5—Feedlots

#### 5.5.1 Interpretation

5.5.1 For the purpose of this division—

“**feedlot**” means a confined area with watering and feeding facilities where animals or birds are held and fed for the purpose of weight gain;

“**animal**” includes sheep, lambs, goats, deer, cattle and buffalo;

“**birds**” includes roosters, hens, geese, turkeys, ducks, poultry, emus and ostriches.

#### 5.5.2 Premises to be approved

- (1) No premises shall be used as a feedlot unless approved by Council;
- (2) Subject to subsection (3), no premises shall be approved as a feedlot by Council unless every portion of such feedlot complies with the minimum separation distances listed in Table 1; and
- (3) Sites unable to satisfy the separation requirements may be approved at the discretion of Council, if Council is satisfied that approving the feedlot will not give rise to a health nuisance.

Table 1. — Required Buffer Distances for Feedlots

Buffer	
Townsite boundaries	5 000m
Isolated rural dwellings, dairies and industries	1 000m
Public roads and recreation areas	100m
Neighbouring rural property boundaries	50m
Major water course and water impoundments	300m
Bores, wells or soaks used for drinking, stock or irrigation	300m
Minor water courses	100m

#### 5.5.3 Site Conditions

- (1) The owner or occupier of the approved feedlot shall ensure the premises—
- (a) is sited on gently sloping land, no greater than 1:20 but not less than 1:100;
- (b) is sited on soils composed of sandy loam soils with sufficient infiltration to avoid surface ponding and run-off;
- (c) has a minimum groundwater clearance of 3 metres;
- (d) drainage diverts all uncontaminated stormwater from the general waste stream;

- (e) has solid and liquid waste disposal arrangements that are not offensive or injurious to health.
- (2) The owner or occupier of the approved feedlot shall take effective measures to prevent the discharge of dust which may involve—
  - (a) reducing the stocking rate immediately to a level that does not cause the discharge of dust; or
  - (b) stabilisation of the soil surface to a level that does not cause the discharge of dust; or
  - (c) provision of adequate windbreaks to effectively prevent the discharge of dust.

*Division 6—Piggeries*

**5.6.1 Interpretation**

For the purpose of this division—

“**intensive piggery**” means pigs are housed, fed and watered in breeding and growing pens in sheds;

“**piggery**” in relation to premises shall include any portion of premises to which the pigs have access.

**5.6.2 Premises to be Approved**

- (1) No premises shall be used as a piggery unless approved by Council;
- (2) Subject to subsection (3), no premises shall be approved as a piggery by Council unless every portion of such piggery complies with the minimum separation distances listed in Table 2; or if it is an intensive piggery, the minimum separation distances listed in Table 3; and
- (3) Sites unable to satisfy the separation requirements may be approved at the discretion of Council, if Council is satisfied that approving the piggery will not give rise to a health nuisance.

Table 2. — Required Buffer Distances for Piggeries

Buffer	
Townsite boundaries	5 000m
Isolated rural dwellings, dairies and industries	1 000m
Public roads and recreation areas	100m
Neighbouring rural property boundaries	50m
Major water course and water impoundments	300m
Bores, wells or soaks used for drinking, stock or irrigation	300m
Minor water courses	100m

**5.6.3 Site Conditions**

The owner or occupier of premises shall take effective measures to prevent the discharge of dust which may involve—

- (a) reducing the stocking rate immediately to a level that does not cause the discharge of dust; or
- (b) stabilisation of the soil surface to a level that does not cause the discharge of dust; or
- (c) provision of adequate windbreaks to effectively prevent the discharge of dust.

### 5.6.4 Prevention of Nuisances

In order to prevent dust, offensive fumes and effluent becoming a nuisance to the health of the inhabitants of the district, an intensive piggery shall comply with the minimum separation distances listed in Table 3.

Table 3. — Required Buffer Distances for Intensive Piggeries

	Townsite Boundaries	Isolated rural dwellings, dairies, industries	Public roads, recreation areas	Neighbouring rural property boundaries	Surface water supply catchments	Water-courses/ rural water impoundments	Bores/wells soaks Drinking water supply	Stock irrigation supply
Piggeries & facilities catering for more than 5000 pigs	5000m	300m	200m	50m	not permitted	300m	300m	100m
500-5000 pigs 50m not permitted 300m 300m 100m	3 500m	300m	150m		not permitted			
50-500 pigs	2 000m	300m	100m	50m	not permitted	300m	300m	100m
less than 50 pigs	500m	300m	50m	50m	not permitted	200m	300m	100m
Land used to dispose of raw or partly treated wastes	1 000m	300m	100m	300m	not permitted	300m	300m	300m
Land used to dispose of effectively treated wastes	200m	50m	20m	20m	not permitted	100m	100m	100m

### Division 7—Car Parks

#### 5.7.1 Interpretation

In this Division, unless the context otherwise requires—

“**car parks**” means premises, or part of premises, set aside for parking of 3 or more vehicles; and

“**occupier**” means a person having the charge, management or control of a car park.

#### 5.7.2 Ventilation

- (1) A person shall not use or occupy, or permit to be used or occupied, a car park unless it is ventilated by either—
  - (a) natural ventilation; or
  - (b) mechanical means,
 in accordance with *AS1668.2 Part 2 1991*.
- (2) If, in the opinion of the Council, a car park is not properly ventilated, the Council may by notice require the occupier within a specified time to—
  - (a) provide a different or additional method of ventilation; and
  - (b) cease using the car park until it is properly ventilated.
- (3) An occupier shall comply with a notice under subsection (2).

### 5.7.3 Exhaust Air Discharge Points and Exhaust Registers

An owner or occupier shall ensure that—

- (a) all exhaust air that is discharged from a car park shall be discharged—
  - (i) at discharge points—
    - (a) in accordance with AS1668.2 Part 2 1991;  
and
    - (b) located so that the hourly average exhaust flow rate is not reduced below the minimum requirements of *AS1668.2 Part 2 1991*;
  - (ii) at a velocity and in a direction so as not to be a danger to health or a nuisance;
- (b) exhaust registers are located as far as possible from the source of supply air;
- (c) in the case of a car park having a floor level below that of the external ground level, at least 50% of the required air is drawn into exhaust registers having their bottom edge located within 100 millimetres of the floor level; and
- (d) any mechanical ventilation system is—
  - (i) maintained in good working condition; and
  - (ii) in operation at all times when the car park is in use.

## PART 6—PEST CONTROL

### *Division 1—Flies*

#### 6.1.1 Interpretation

In this Division, unless the context otherwise requires—

“flies” means any of the two-winged insects constituting the order Diptera commonly known as flies.

#### 6.1.2 Fly breeding matter not to be left on Premises unless Covered or Treated

An owner or occupier of premises shall not place, throw or leave, or permit or cause to be placed, thrown or left, in, on or about the premises any matter or thing which is liable to attract or be a breeding place for flies, unless that matter or thing is covered, protected, treated or dealt with in such a manner as to effectively prevent it from attracting or being a breeding place for flies.

#### 6.1.3 Measures to be taken by an Occupier

An owner or occupier of premises shall ensure that—

- (a) rubbish receptacles are kept clean and tightly sealed at all times except when refuse is being deposited or emptied;
- (b) food scraps and uneaten pet food are wrapped tightly and deposited in a rubbish receptacle without delay;
- (c) lawn clippings used on gardens as mulch are raked out thinly;
- (d) fertilisers are dug well into the soil;
- (e) compost heaps are kept well covered;
- (f) barbecues are kept clean and free from food scraps;
- (g) anything that is buried and may attract or be a breeding place for flies is covered with at least 100 millimetres of soil; and
- (h) excrement from pets is collected and properly disposed of without delay.



#### **6.1.4 Officer may give Notice directing Measures to be Taken**

Where in the opinion of an Environmental Health Officer, flies are prevalent or are breeding on any premises, the Environmental Health Officer may give to the owner or occupier of the premises notice in writing directing him or her to take, within the time specified in the notice, such measures as in the opinion of the Environmental Health Officer are necessary to—

- (a) control the prevalence;
- (b) effect the eradication; or
- (c) effectively prevent the breeding;

of flies.

#### **6.1.5 Council may Execute Work and Recover Costs**

- (1) Where—
  - (a) a person is required under this Division or directed by a notice given under section 6.1.4, to execute any work; and
  - (b) that person fails or neglects to comply with the requirement, the Council may execute the work and may recover from that person the cost of executing the work, in addition to any penalty for which that person may be liable under these Local Laws.
- (2) The costs and expenses incurred by the Council in the execution of a power under subsection (1) may be recovered in a court of competent jurisdiction from the person referred to in subsection (1).
- (3) The Council shall not be liable to pay compensation or damages of any kind to the person referred to in subsection (1) in relation to any action taken by the Council under this Section.

### *Division 2—Mosquitoes*

#### **6.2.1 Interpretation**

In this Division, unless the context otherwise requires—

“**mosquitoes**” means any of the two-winged insects constituting the family Diptera Culicidae commonly known as mosquitoes.

#### **6.2.2 Measures to be taken to prevent mosquitoes breeding**

- (1) An owner or occupier of premises shall ensure that the premises are kept free from possible mosquito breeding sites and shall—
  - (a) follow any direction of an Environmental Health Officer for the purpose of
    - (i) controlling the prevalence of mosquitoes;
    - (ii) eradication; or
    - (iii) effectively preventing the breeding of mosquitoes.
  - (b) assist the Environmental Health Officer to locate any possible mosquito breeding sites that may be present in, or about the premises.
- (2) An owner or occupier of premises where water is kept in a horse trough, poultry drinking vessel or other receptacle shall—
  - (a) frequently change the water; and
  - (b) keep the water clean and free from vegetable matter and slime.
- (3) An owner or occupier of premises where a septic tank is installed shall ensure the fixture is in sound condition at all times, and mesh having openings no larger than 1.2mm covers any educt vent to the system.

- (4) An owner or occupier of land shall cause all drains and channels in or on the land be kept in good order and free from obstruction.

### **6.2.3 Council may Execute and Recover Costs**

- (1) Where—
  - (a) a person is required under this division or directed by a notice given under Section 6.2.2. to execute any work; and
  - (b) that person fails or neglects to comply with the requirement, the Council may execute the work and recover from that person the cost of executing the work, in addition to any penalty for which that person may be liable.
- (2) The costs and expenses incurred by the Council in the execution of a power under Section (1) may be recovered in a court of competent jurisdiction from that person.
- (3) The Council shall not be liable to pay compensation or damages of any kind to the person referred to in Section (1) in relation to any action taken by the Council.

## *Division 3—Rodents*

### **6.3.1 Interpretation**

In this Division, unless the context otherwise requires—

“rodents” means those animals belonging to the order Rodentia and includes rats, mice and rabbits but does not include animals kept as pets in an enclosure designed for the purpose of keeping as pets animals of that kind.

### **6.3.2 Measures to be taken to eradicate Rodents**

- (1) An owner or occupier of premises shall at all times take effective measures to eradicate any rodents in or on the premises.
- (2) An Environmental Health Officer may direct, orally or in writing, an owner or occupier of premises to take whatever action, in the opinion of the Environmental Health Officer, is necessary or desirable to prevent or deter the presence of rodents in or on the premises.
- (3) An owner or occupier shall within the time specified comply with any direction given by an Environmental Health Officer under this Section.

### **6.3.3 Food and Wastes to be kept in rodent proof Receptacles**

A person shall not place or cause to be placed in or on any premises, and an owner or occupier of premises shall not permit to remain in or on the premises—

- (a) any food, refuse, or other waste matter which might attract rodents to the premises or which might afford harbourage for rodents; or
- (b) any food intended for birds or other animals, unless it is contained in a rodent proof receptacle or a compartment which is kept effectively protected against access by rodents.

### **6.3.4 Restrictions on the Keeping of Rodents**

6.3.4 A person or body which keeps rodents shall—

- (a) at all times ensure that all live rodents are kept in the effective control of a person or in locked cages; and
- (b) if a rodent escapes, forthwith comply with the requirements of Section 6.3.2 and ensure that all reasonable steps are taken to destroy or recapture the rodent.

### **6.3.5 Food Premises etc. to be cleaned after Use**

An owner or occupier of a food premises, theatre or place of entertainment, whether indoor or outdoor, shall cause the premises to be cleaned immediately after the last occasion on which the premises has been used on that day or, if the use extends after midnight, then immediately after that use.

*Division 4—Cockroaches*

**6.4.1 Interpretation**

In this Division, unless the context otherwise requires—

“**cockroach**” means any of the various orthopterous insects commonly known as cockroaches.

**6.4.2 Measures to be taken to eradicate Cockroaches**

- (1) An owner or occupier of premises shall take effective measures to eradicate any cockroaches in or on the premises.
- (2) An Environmental Health Officer may direct, orally or in writing, an owner or occupier of premises to take whatever action that, in the opinion of the Environmental Health Officer, is necessary or desirable to prevent or deter the presence of cockroaches in or on the premises.
- (3) An owner or occupier shall within the time specified comply with any direction given by an Environmental Health Officer under this Section.

*Division 5—Argentine Ants*

**6.5.1 Interpretation**

In this Division, unless the context otherwise requires—

“**Argentine Ant**” means an ant belonging to the species *Irdomyrmex humilis*.

**6.5.2 Measures to be taken to keep premises free from Argentine Ants**

An owner or occupier of premises shall ensure that the premises are kept free from Argentine Ant colonies and shall—

- (a) take all steps to locate any nests, if Argentine Ants are noticed in, on or about the premises;
- (b) properly treat all nests of Argentine Ants with an approved residual based insecticide; and
- (c) whenever required by an Environmental Health Officer—
  - (i) treat any area or infestation with an insecticide referred to in paragraph (b); and
  - (ii) removed any objects, including timber, firewood, compost or pot plants in accordance with a direction from the Environmental Health Officer.

*Division 6—European Wasps*

**6.6.1 Interpretation**

In this Division, unless the context otherwise requires—

“**European Wasp**” means a wasp *Vespula germanica*.

**6.6.2 Measures to be taken to keep premises free from European Wasp Nests**

An owner or occupier of premises shall ensure that the premises are kept free from European Wasp nests and shall—

- (a) follow any direction of an Environmental Health Officer for the purpose of destroying the wasps and their nest; and
- (b) assist an Environmental Health Officer to trace any nest that may be present in, on or about the premises.

*Division 7—Bee keeping*

**6.7.1 Interpretation**

In this Division, unless the context otherwise requires—

“**bees**” means an insect belonging to any of the various hymenopterous insects of the super family Apoidea and commonly known as a bee.

**6.7.2 Restrictions on keeping of Bees in Hives**

- (1) A person shall not keep or permit the keeping of bees anywhere within the district unless approval to do so has been given by the Council.
- (2) If, in the opinion of an Environmental Health Officer, the approved bee hives are causing a nuisance, the Council may direct any bees or approved bee hives to be removed.
- (3) A person shall comply with a direction within the time specified.

*Division 8—Arthropod Vectors of Disease*

**6.8.1 Interpretation**

In this Division, unless the context otherwise requires—

“**Arthropod vectors of disease**” includes—

- (a) fleas (*Siphonaptera*);
- (b) bedbugs (*Cimex lectularius*);
- (c) crab lice (*Phthirus pubis*);
- (d) body lice (*Pediculus humanus var. corporis*);
- (e) head lice (*Pediculus humanus var. capitis*); and
- (f) any other insect prescribed by the Council.

**6.8.2 Responsibility of the Owner or Occupier**

The owner or occupier of premises shall—

- (a) keep the premises and any person residing in or on the premises, free from any arthropod vectors of disease; and
- (b) comply with the direction of an Environmental Health Officer to treat the premises, or anything on the premises, for the purpose of destroying any arthropod vectors of disease.

**PART 7—INFECTIOUS DISEASES**

*Division 1—General Provisions*

**7.1.1 Requirements for an owner or occupier to clean, disinfect and disinfest.**

- (1) The Council or an Environmental Health Officer may, by notice in writing, direct an owner or occupier of premises, within the time and in the manner specified in the notice, to clean, disinfect and disinfest—
  - (a) the premises; or
  - (b) such things in or on the premises as are specified in the notice, or both, to the satisfaction of an Environmental Health Officer.
- (2) An owner or occupier shall comply with a notice given under subsection (1).

### **7.1.2 Environmental Health Officer may disinfect or disinfect premises**

- (1) Where the Council or the Medical Officer is satisfied that any case of infectious disease has occurred on any premises, the Council or the Medical Officer may direct an Environmental Health Officer, other Council officer or other person to disinfect and disinfect the premises or any part of the premises and anything in or on the premises.
- (2) An owner or occupier of premises shall permit, and provide access to enable, an Environmental Health Officer, other Council officer or other person to carry out the direction given under subsection (1).
- (3) The Council may recover, in a court of competent jurisdiction, the cost of carrying out the work under this Section from the owner or occupier of the premises in or on which the work was carried out.
- (4) The Council shall not be liable to pay compensation or damages of any kind to the owner or occupier of premises in relation to any action taken by the Council or any of its staff or employees under this Section.

### **7.1.3 Insanitary houses, premises and things**

- (1) An owner or occupier of any house or premises shall maintain the house or premises free from any insanitary condition or thing.
- (2) Where an Environmental Health Officer considers that a house is insanitary, the officer may, by notice in writing, direct an owner of the house, within the time and in the manner specified in the notice, to amend the house.
- (3) Where an Environmental Health Officer considers that—
  - (a) a house or premises is not being maintained in a sanitary condition; or
  - (b) any thing is insanitary, the officer may, by notice in writing, direct, as the case may be—
    - (i) the owner or occupier of the house or premises to amend any insanitary condition; or
    - (ii) the owner or occupier of the thing to destroy or amend it,within the time and in the manner specified in the notice.
- (4) A person to whom a notice has been given under subsections (2) or (3) shall comply with the terms of the notice.

### **7.1.4 Medical Officer may Examine Persons**

The Medical Officer may enter any house and examine bacteriologically or otherwise any inmate of the house, or any person found thereon at the time, for the purpose of ascertaining whether the inmate or person is suffering from an infectious disease or is a medium for the transmission of an infectious disease, and the person shall submit to an examination and shall permit the medical officer to remove whatever specimens are considered necessary for proper examination.

### **7.1.5 Medical Officer may authorise disinfecting**

- (1) Where the Medical Officer believes that a person is or may be infected by an infectious disease, the Officer may direct the person to have his or her body, clothing and effects disinfected at a place and in a manner directed by the Medical Officer.
- (2) A person shall comply with any direction of the Medical Officer under this Section.

### **7.1.6 Persons in contact with an infectious disease sufferer**

If a person in any house is, or is suspected of, suffering from an infectious disease, any occupant of the house or any person who enters or leaves the house—

- (a) shall obey such instructions or directions as the Council or the Medical Officer may issue;
- (b) may be removed, at the direction of the Council or the Medical Officer to isolation in an appropriate place to prevent or minimise the risk of the infection spreading and if so removed, shall remain in that place until the Medical Officer otherwise directs.

#### **7.1.7 Declaration of infected house or premises**

- (1) To prevent or check the spread of infectious disease, the Council or the Medical Officer may from time to time declare any house or premises to be infected.
- (2) A person shall not enter or leave any house or premises declared to be infected without the written consent of the Medical Officer or an Environmental Health Officer.

#### **7.1.8 Destruction of infected animals**

- (1) The Principal Environmental Health Officer, upon being satisfied that an animal is or may be infected or is liable to be infected or to convey infection may, by notice in writing, direct that the animal be examined by a registered veterinary officer and that all steps be taken to enable the condition to be controlled or eradicated or the animal destroyed and disposed of—
  - (a) in the manner and within the time specified in the notice; and
  - (b) by the person in whose possession, or upon whose premises, the animal is located.
- (2) A person who has in his or her possession or upon premises occupied by him or her, an animal which is the subject of a notice under subsection (1) shall comply with the terms of the notice.

#### **7.1.9 Disposal of a body**

- (1) An occupier of premises in or on which is located the body of a person who has died of any infectious disease shall, subject to subsection (2), cause the body to be buried or disposed of in such manner, within such time and with such precautions as may be directed by the Medical Officer.
- (2) A body shall not be removed from premises where death occurred except to a morgue.

#### **7.1.10 Council may carry out work and recover costs**

- (1) Where—
  - (a) a person is required under this Division or by a notice given under this Division, to carry out any work; and
  - (b) that person fails or neglects to comply with the requirement,that person commits an offence and the Council may carry out the work or arrange for the work to be carried out by another.
- (2) The costs and expenses incurred by the Council in the execution of a power under this Section may be recovered in a court of competent jurisdiction from the person referred to in subsection (1)(a).
- (3) The Council shall not be liable to pay compensation or damages of any kind to the person referred to in subsection (1)(a) in relation to any action taken by the Council under this Section.

*Division 2—Disposal of used Condoms and Needles*

**7.2.1 Disposal of used condoms**

- (1) An occupier of premises on or from which used condoms are produced shall ensure that the condoms are—
- (a) placed in a sealed impervious container and disposed of in a sanitary manner; or
  - (b) disposed of in such a manner as may be directed by the Council.
- (2) A person shall not dispose of a used condom in a public place except in accordance with subsection (1).

**7.2.2 Disposal of used needles**

A person shall not dispose of a used hypodermic syringe or needle in a public place unless it is placed in an impenetrable, leak-proof container and deposited in a refuse receptacle.

**PART 8—LODGING HOUSES**

*Division 1—Registration*

**8.1.1 Interpretation**

- (1) In this Part, unless the context otherwise requires—
- “bed”** means a single sleeping berth only. A double bed provided for the use of couples, shall have the same floor space requirements as two single beds;
- “bunk”** means a sleeping berth comprising one of two arranged vertically;
- “dormitory”** means a building or room utilised for sleeping purposes at a short term hostel or recreational campsite;
- “keeper”** means a person whose name appears on the register of keepers, in respect of a lodging house, as the keeper of that lodging house;
- “lodger”** means a person who obtains, for hire or reward, board or lodging in a lodging house;
- “lodging house”** includes a recreational campsite, a serviced apartment and a short term hostel.
- “manager”** means a person duly appointed by the keeper in accordance with this Division to reside in, and have the care and management of, a lodging house;
- “recreational campsite”** means a lodging-house—
- (a) situated on a campsite principally used for—
    - (i) recreational, sporting, religious, ethnic or educational pursuits; or
    - (ii) conferences or conventions.and
  - (b) where the period of occupancy of any lodger is not more than 14 consecutive days; and includes youth camps, youth education camps, church camps and riding schools;
- “register of lodgers”** means the register kept in accordance with Section 157 of the Act and this Part;
- “resident”** means a person, other than a lodger, who resides in a lodging house;
- “serviced apartment”** means a lodging house in which each sleeping apartment, or group of sleeping apartments in common occupancy, is provided with its own sanitary conveniences and may have its own cooking facilities;

“**short term hostel**” means a lodging house where the period of occupancy of any lodger is not more than 14 consecutive days and shall include youth hostels and backpacker hostels; and

“**vector of disease**” means an arthropod or rodent that transmits, by biological or mechanical means, an infectious agent from a source or reservoir to a person, and includes fleas, bedbugs, crab lice, body lice and head lice.

- (2) Where in this Part an act is required to be done or forbidden to be done in relation to any lodging house, the keeper of the lodging house has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.

### **8.1.2 Lodging House Not to be Kept Unless Registered**

A person shall not keep or cause, suffer or permit to be kept a lodging house unless—

- (a) the lodging house is constructed in accordance with the requirements of this Part;
- (b) the lodging house is registered by the Council under Section 8.1.4;
- (c) the name of the person keeping or proposing to keep the lodging house is entered in the register of keepers; and
- (d) either—
  - (i) the keeper; or
  - (ii) a manager who, with the written approval of an Environmental Health Officer, has been appointed by the keeper to have the care and management of the lodging house; resides or intends to reside continuously in the lodging house whenever there is one or more lodgers in the lodging house.

### **8.1.3 Application for Registration**

An application for registration of a lodging house shall be—

- (a) in the form prescribed in Schedule (1);
- (b) duly completed and signed by the proposed keeper; and
- (c) accompanied by—
  - (i) the fee prescribed in Schedule (12); and
  - (ii) detailed plans and specification of the lodging house.

### **8.1.4 Approval of Application**

The Council may approve, with or without conditions, an application under Section 8.1.3 by issuing to the applicant a certificate in the form prescribed in Schedule (2).

### **8.1.5 Renewal of Registration**

A person who keeps a lodging house which is registered under this Part shall—

- (a) during the month of June in each year apply to the Council for the renewal of the registration of the lodging house; and
- (b) pay the fee prescribed in Schedule (12) at the time of making each application for renewal.

### **8.1.6 Notification upon Sale or Transfer**

If the owner of a lodging house sells or transfers or agrees to sell or transfer the lodging house to another person, he or she shall, within 14 days of the date of sale, transfer or agreement, give to the Council written notice in the form prescribed in Schedule (3) of the full name, address



and occupation of the person to whom the lodging house has been, or is to be sold or transferred.

### **8.1.7 Revocation of Registration**

- (1) Subject to subsection (3), the Council may, at any time, revoke the registration of a lodging house for any reason which, in the opinion of the Council, justifies the revocation.
- (2) Without limiting the generality of subsection (1), the Council may revoke a registration upon any one or more of the following grounds—
  - (a) that the lodging house has not, to the satisfaction of Council, been kept free from vectors of disease or in a clean, wholesome and sanitary condition;
  - (b) that the keeper has—
    - (i) been convicted of an offence against these local laws in respect of the lodging house;
    - (ii) not complied with a requirement of this Part; or
    - (iii) not complied with a condition of registration;
  - (c) that the Council, having regard to a report from the Police Service, is satisfied that the keeper or manager is not a fit and proper person; and
  - (d) that, by reason of alterations or additions or neglect to repair and renovate, the condition of the lodging house is such as to render it, in the opinion of an Environmental Health Officer, unfit to remain registered;
- (3) Before revoking the registration of a lodging house under this section, the Council shall give notice to the keeper requiring him or her, within a time specified in the notice, to show cause why the registration should not be revoked.
- (4) Whenever the Council revokes the registration of a lodging house, it shall give the keeper notice of the revocation and the registration shall be revoked as from the date on which the notice is served on the keeper.

### *Division 2—Construction and Use Requirements*

#### **8.2.1 General Construction Requirements**

The general construction requirements of a lodging house shall comply with the Building Code and the Act.

#### **8.2.2 Kitchen**

A keeper of a lodging house shall provide in that lodging house a kitchen which—

- (a) has adequate—
  - (i) food storage facilities and cupboards to prevent contamination of food, or cooking or eating utensils, by dirt, dust, flies or other vectors of disease of any kind; and
  - (ii) refrigerator space for storage of perishable goods;
- (b) may be required by Council to comply with the requirements of the *Health (Food Hygiene) Regulation 1993*.

#### **8.2.3 Dining Room**

The keeper of a lodging house shall provide in that lodging house a dining room—

- (a) located in close proximity to, or combined with, the kitchen;
- (b) the floor area of which shall be 0.5 square metres per person or not less than 10 square metres whichever is the greater; and

- (c) which shall be—
  - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
  - (ii) provided with a suitable floor covering.

#### **8.2.4 Lounge Room**

The keeper of a lodging house shall provide in that lodging house a lounge room—

- (a) with a floor area of—
  - (i) where the lounge is not combined with the dining room—not less than 0.6 square metres per person; or
  - (ii) where the lounge room is combined with a dining room—not less than 1.2 square metres per person,but in either case having a minimum of 13 square metres; and
- (b) which shall be—
  - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
  - (ii) provided with a suitable floor covering.

#### **8.2.5 Sanitary Conveniences**

- (1) A keeper shall maintain in good working order and condition and in convenient positions on the premises—
  - (a) toilets; and
  - (b) bathrooms, each fitted with a shower, bath and wash basin, in accordance with the requirements of the Building Code.
- (2) A bathroom or toilet which is used as a private bathroom or toilet to the exclusion of other lodgers or residents shall not be counted for the purposes of subsection (1).
- (3) Each bath, shower and hand wash basin shall be provided with an adequate supply of hot and cold water.
- (4) The walls of each shower and bath shall be of an impervious material to a minimum height of 1.8 metres above the floor level.
- (5) Each toilet and bathroom shall—
  - (a) be situated, separated and screened as to ensure privacy;
  - (b) be apportioned to each sex;
  - (c) have a distinct sign displayed in a prominent position denoting the sex for which the toilet or bathroom is provided; and
  - (d) be provided with adequate electric lighting.
- (6) paragraphs (b) and (c) of subsection (5) do not apply to a serviced apartment.

#### **8.2.6 Laundry**

- (1) A keeper shall—
  - (a) subject to subsection (2)—
    - (i) in the case of a recreational campsite, provide on the premises a laundry consisting of at least one 45 litre stainless steel trough; and
    - (ii) in any other case, provide on the premises a laundry unit for each 15 lodgers;
  - (b) at all times maintain each laundry in a proper sanitary condition and in good repair;

- (c) provide an adequate supply of hot and cold water to each wash trough, sink and washing machine; and
  - (d) ensure that the floor area of each laundry is properly surfaced with an even fall to a floor waste.
- (2) An Environmental Health Officer may approve the provision of a reduced number of laundry units if suitable equipment of a commercial type is installed.
- (3) In this section—
- “laundry unit”** means a group of facilities consisting of—
- (a) a washing machine with a capacity of not less than 4 kilograms of dry clothing;
  - (b) one wash trough of not less than 36 litres capacity, connected to both hot and cold water; and
  - (c) either an electric drying cabinet or not less than 30 metres of clothes line, and for which a hot water system is provided that—
  - (d) is capable of delivering 136 litres of water per hour at a temperature of at least 75°C for each washing machine provided with the communal facilities; and
  - (e) has a delivery rate of not less than 18 litres per minute to each washing machine.

### **8.2.7 Fire Prevention and Control**

- (1) A keeper shall—
- (a) in each passage of the lodging house provide an emergency light—
    - (i) in such a position and of such a pattern, as shall be approved by an Environmental Health Officer; and
    - (ii) which shall be kept separate from the general lighting system and kept illuminated during the hours of darkness;
  - (b) provide an approved fire blanket positioned within 2 metres of the cooking area in each kitchen;
  - (c) ensure that each exit sign and fire fighting appliance is clearly visible, accessible and maintained in good working order at all times;
  - (d) ensure all fire fighting equipment and fire detection and alarm systems are adequately maintained at all times in such a condition as will enable their proper performance.
- (2) A keeper shall ensure that all buildings comprising the lodging house are fitted with fire protection equipment as advised by the Western Australian Fire Brigades Board and approved by the Council.

### **8.2.8 Obstruction of Passages and Stairways**

A keeper shall not cause, suffer or permit furniture, fittings or other things to be placed either temporarily or permanently in or on—

- (a) a stairway, stair landing, fire-escape, window or common passageway; or
- (b) part of the lodging house in common use or intended or adapted for common use, in such a manner as to form an obstruction to the free passage of lodgers, residents or persons in or occupying the lodging house.

### **8.2.9 Fitting of Locks**

A person shall not fit, or cause or permit to be fitted, to an exit door a lock or other device which prevents the door being opened from within a lodging house.

### **8.2.10 Restriction on use of Rooms for Sleeping**

- (1) Subject to subsection (3) and Section 8.3.10, a keeper shall not use or permit to be used as a sleeping apartment a room in a lodging house—
  - (a) which contains food;
  - (b) which contains or is fitted with a cooking appliance or kitchen sink;
  - (c) which is used as a kitchen, scullery, store room, dining room, general sitting room, lounge room or for the preparation or storage of food;
  - (d) which is not reasonably accessible without passing through a sleeping or other room in the private occupation of another person;
  - (e) which, except in the case of a short term hostel or a recreational campsite, contains less than 5.5 square metres of clear space for each lodger occupying the room;
  - (f) which is naturally illuminated by windows having a ratio of less than 0.1 square metre of unobstructed glass to every 1.0 square metre of floor area;
  - (g) which is ventilated at a ratio of less than 0.5 square metre of unobstructed ventilating area to every 10 square metres of floor area;
  - (h) in which the lighting or ventilation referred to in paragraphs (f) and (g) is obstructed or is not in good and efficient order;
  - (i) which is not free from internal dampness;
  - (j) of which any part of the floor is below the level of the adjoining ground; or
  - (k) the floor of which is not fitted with an approved carpet or vinyl floor covering or other floor treatment approved by an Environmental Health Officer.
- (2) For the purpose of this Section, two children under the age of 10 years shall be counted as one lodger.
- (3) Paragraphs (a), (b) and (c) of subsection (1) shall not apply to a serviced apartment.

#### **8.2.11 Sleeping Accommodation, Short Term Hostels and Recreational Campsites**

- (1) A keeper of a short term hostel or recreational campsite shall provide clear floor space of not less than—
  - (a) 4 square metres per person in each dormitory utilising beds;
  - (b) 2.5 square metres per person in dormitories utilising bunks.
- (2) The calculation of floor space in subsection (1) shall exclude the area occupied by any large items of furniture, such as wardrobes, but may include the area occupied by beds.
- (3) The minimum height of any ceiling in a short term hostel or recreational campsite shall be 2.4 metres in any dormitory utilising beds, and 2.7 metres in any dormitory utilising bunks
- (4) The minimum floor area requirements in subsection (1) will only apply if there is ventilation, separation distances, fire egress and other safety requirements in accordance with the Building Code.
- (5) The keeper of any short term hostel or recreational campsite shall provide—
  - (a) fixed outlet ventilation at a ratio of 0.15 square metres to each 10 square metres of floor area of the dormitories, and shall ensure that dormitories are provided with direct ventilation to the open air from a point within 230 millimetres of the ceiling level through a fixed open window or vents, carried as direct to the open air as practicable;
  - (b) mechanical ventilation in lieu of fixed ventilation, subject to Council's approval.
- (6) The keeper of any short term hostel or recreational campsite shall provide—
  - (a) beds with a minimum size of—

- (i) in short term hostels—800 millimetres x 1.9 metres; and
    - (ii) in recreational campsites—750 millimetres x 1.85 metres.
  - (b) storage space for personal effects, including backpacks, so that cleaning operations are not hindered and access spaces are not obstructed.
- (7) The keeper of any short term hostel or recreational campsite shall—
- (a) maintain at all times a minimum distance of 750 millimetres between beds, and a minimum distance of 900 millimetres between bunks;
  - (b) ensure that, where bed or bunk heads are placed against the wall on either side of a dormitory, there is a passageway of at least 1.35 metres between each row of beds and a passageway of at least 2 metres between each row of bunks and shall ensure that the passageway is kept clear of obstruction at all times; and
  - (c) ensure all doors, windows and ventilators are kept free of obstruction.
- (8) The keeper of any short term hostel or recreational campsite shall ensure that—
- (a) materials used in dormitory areas comply with *AS 1530.2* and *AS 1530.3* as follows—
    - drapes, curtains, blinds and bed covers—maximum Flammability Index of 6;
    - upholstery and bedding—
      - a maximum Spread of Flame Index of 6;
      - a maximum Smoke Developed Index of 5; and
    - floor coverings—
      - a maximum Spread of Flame Index of 7;
      - a maximum Smoke Developed Index of 5;Fire retardant coatings used to make a material comply with these indices must be—
    - (i) certified by the manufacturer as approved for use with the fabric to achieve the required indices; and
    - (ii) certified by the manufacturer to retain its fire retardative effect after a minimum of 5 commercial dry cleaning or laundering operations carried out in accordance with *AS 2001.5.4-1987, Procedure 7A*, using ECE reference detergent; and
    - (iii) certified by the applicator as having been carried out in accordance with the manufacturer's specification;
  - (b) emergency lighting is provided in accordance with the Building Code;
  - (c) a lodger or other person does not smoke in any dormitory, kitchen, or dining room, within a short term hostel or recreational campsite, but the keeper may permit smoking in a meeting or assembly hall area, within a short term hostel or recreational campsite;
  - (d) all mattresses in a short term hostel or recreational campsite are fitted with a mattress protector.

#### **8.2.12 Furnishing etc. of Sleeping Apartments**

- (1) The keeper shall—
- (a) furnish each sleeping apartment with a sufficient number of beds and sufficient bedding of good quality;
  - (b) ensure that each bed—
    - (i) has a bed head, mattress and pillow; and

- (ii) is provided with a pillow case, mattress cover, two sheets, two blankets or equivalent; and
  - (c) furnish each bedroom so that there are adequate storage facilities for belongings within the room.
- (2) The keeper shall not cause, suffer or permit any tiered beds or bunks to be used in a sleeping apartment other than in a lodging house used exclusively as a short term hostel or recreational campsite.

#### **8.2.13 Ventilation**

- (1) If, in the opinion of an Environmental Health Officer, a kitchen, bathroom, toilet, laundry or habitable room is not adequately or properly ventilated, he or she may direct the keeper to provide a different or additional method of ventilation.
- (2) The keeper shall comply with any direction given under subsection (1) within such time as directed.

#### **8.2.14 Numbers to be Placed on Doors**

- (1) A keeper shall, place or cause to be placed on the outside of the doors of all rooms available to lodgers in the lodging house, serial numbers so that—
- (a) the number “1” is placed on the outside of the door of the room nearest to the front or main entry door of the lodging house; and
  - (b) the numbers continue in sequence throughout each floor (if there is more than one) of the lodging house.
- (2) The numbers to be placed on the doors under subsection (1) shall be—
- (a) not less than 40 millimetres in height;
  - (b) 1.5 metres from the floor; and
  - (c) permanently fixed either by being painted on the doors or by other legible means.

### *Division 3—Management and Care*

#### **8.3.1 Keeper or Manager to Reside in the Lodging House**

Whenever there is one or more lodgers in a lodging house, a keeper or manager shall—

- (a) reside continuously in the lodging house; and
- (b) not be absent from the lodging house unless he or she arranges for a reputable person to have the care and management of the lodging house.

#### **8.3.2 Register of Lodgers**

- (1) A keeper shall keep a register of lodgers in the form prescribed in Schedule (4).
- (2) The Register of lodgers shall be—
- (a) kept in the lodging house; and
  - (b) open to inspection at any time on demand by any member of the Police Service or by an Environmental Health Officer.

#### **8.3.3 Keeper Report**

A keeper shall, whenever required by the Council, report to the Council in the form prescribed in Schedule (5), the name of each lodger who lodged in the lodging house during the preceding day or night.

#### **8.3.4 Certificate in Respect of Sleeping Accommodation**

- (1) An Environmental Health Officer may issue to a keeper a certificate, in respect of each room, which shall be in the form prescribed in Schedule (6).

- (2) The certificate issued under subsection (1) shall specify the maximum number of persons who shall be permitted to occupy each room as a sleeping apartment at any one time.
- (3) When required by an Environmental Health Officer, a keeper shall exhibit the certificate issued under this section in a conspicuous place.
- (4) A person shall not cause, suffer or permit a greater number of persons than is specified on a certificate issued under this Section to occupy the room to which it refers.

### **8.3.5 Duplicate Keys and Inspection**

Each keeper and manager of a lodging house shall—

- (a) retain possession of a duplicate key to the door of each room; and
- (b) when required by an Environmental Health Officer, open the door of any room for the purpose of inspection by the Officer.

### **8.3.6 Room Occupancy**

(1) A keeper shall not—

- (a) cause, suffer or permit more than the maximum number of persons permitted by the Certificate of Registration of the lodging house to be lodged at any one time in the lodging house;
- (b) cause, suffer or permit to be placed or kept in any sleeping apartments—
  - (i) a larger number of beds; or
  - (ii) a larger quantity of bedding,

than is required to accommodate and provide for the maximum number of persons permitted to occupy the sleeping apartment at any one time; and

- (c) use or cause, suffer or permit to be used for sleeping purposes a room that—
  - (i) has not been certified for that purpose; and
  - (ii) the Council or Medical Officer has forbidden to be used as a sleeping apartment.

(2) For the purpose of this Section, two children under 10 years of age shall be counted as one lodger.

### **8.3.7 Maintenance of a Room by a Lodger or Resident**

- (1) A keeper may permit, or contract with, a lodger or resident to service, clean or maintain the room or rooms occupied by the lodger or resident.
- (2) Where permission is given or a contract entered into under subsection (1), the keeper shall—
  - (a) inspect each room the subject of the permission or agreement at least once a week; and
  - (b) ensure that each room is being maintained in a clean and sanitary condition.
- (3) A lodger or resident who contracts with a keeper to service, clean or maintain a room occupied by him or her, shall maintain the room in a clean and sanitary condition.

### **8.3.8 Cleaning and Maintenance Requirements**

(1) In this Section—

“**bed linen**” includes sheets, pillow cases, mattress protectors and mattress covers.

(2) A keeper of a lodging house shall—

- (a) maintain in a clean, sound and undamaged condition—
  - (i) the floor, walls, ceilings, woodwork and painted surfaces;
  - (ii) the floor coverings and window treatments; and

- (iii) the toilet seats;
- (b) maintain in a clean condition and in good working order—
  - (i) all fixtures and fittings; and
  - (ii) windows, doors and furniture;
- (c) ensure that the internal walls of each bathroom and toilet have a smooth impervious washable surface;
- (d) whenever there is one or more lodgers in a lodging house, ensure that the laundry floor is cleaned daily;
- (e) ensure that—
  - (i) all bed linen, towels, and house linen in use is washed at least once a week;
  - (ii) within a reasonable time of a bed having been vacated by a lodger or resident, the bed linen is removed and washed;
  - (iii) a person does not occupy a bed which has been used by another person unless the bed has been provided with clean bed linen;
  - (iv) all beds, bedheads, blankets, rugs, covers, bed linen, towels and house linen are kept clean, in good repair and free from vectors of disease;
  - (v) when any vectors of disease are found in a bed, furniture, room or sleeping apartment, immediate effective action is taken to eradicate the vectors of disease; and
  - (vi) a room which is not free from vectors of disease is not used as a sleeping apartment;
- (f) when so directed by an Environmental Health Officer, ensure that—
  - (i) a room, together with its contents, and any other part of the lodging house, is cleaned and disinfected; and
  - (ii) a bed or other article of furniture is removed from the lodging house and properly disposed of;
- (g) ensure that the yard is kept clean at all times;
- (h) provide all bedrooms, passages, common areas, toilets, bathrooms and laundries with adequate lighting; and
- (i) comply with any direction, whether orally or in writing, given by an Environmental Health Officer.

### **8.3.9 Responsibilities of Lodgers and Residents**

A lodger or resident shall not—

- (a) use any room available to lodgers—
  - (i) as a shop, store or factory; or
  - (ii) for manufacturing or trading services;
- (b) keep or store in or on the lodging house any goods or materials which are inflammable, obnoxious or offensive;
- (c) use a bath or wash hand basin other than for ablutionary purposes;
- (d) use a bathroom facility or fixture for laundry purposes;
- (e) use a sink installed in a kitchen or scullery for any purpose other than the washing and cleaning of cooking and eating utensils, other kitchenware and culinary purposes;
- (f) deposit rubbish or waste food other than into a proper rubbish receptacle;
- (g) in a kitchen or other place where food is kept—



- (i) wash or permit the washing of clothing or bedding; or
- (ii) keep or permit to be kept any soiled clothing or bedding;
- (h) subject to Section 8.3.10—
  - (i) keep, store, prepare or cook food in any sleeping apartment; or
  - (ii) unless sick or invalid and unable to leave a sleeping apartment for that reason, use a sleeping apartment for dining purposes;
- (i) place or keep, in any part of a lodging house, any luggage, clothing, bedding or furniture, that is infested with vectors of disease;
- (j) store or keep items other than personal effects—
  - (i) in any kitchen, living or sleeping apartment so as to prevent the cleaning of the floors, walls, fittings or fixtures; or
  - (ii) in a sleeping apartment so as to decrease the air space to less than the minimum required by this Part;
- (k) obstruct or prevent the keeper or manager from inspecting or examining the room or rooms occupied by the lodger or resident; and
- (l) fix any fastener or change any lock to a door or room without the written approval of the keeper.

#### **8.3.10 Approval for storage of food**

- (1) An Environmental Health Officer may—
  - (a) upon written application from a keeper, approve the storage of food within a refrigerator or sealed container in a sleeping apartment; and
  - (b) withdraw the approval if a nuisance or vector of disease infestation is found to exist in the lodging house.
- (2) The keeper of a serviced apartment may permit the storage and consumption of food within that apartment if suitable storage and dining facilities are provided.

### **PART 9—OFFENSIVE TRADES**

#### *Division 1—General*

##### **9.1.1 Interpretation**

9.1.1 In this Part, unless the context otherwise requires—

“**occupier**” in relation to premises includes the person registered as the occupier of the premises specified in the Certificate of Registration;

“**offensive trade**” means any one or more of the trades, businesses or occupations usually carried on, in or connected with, the following works or establishments—

- (a) fish processing premises, fish curing premises and shellfish and crustacean processing establishments;
- (b) laundries, dry cleaning premises and dye works;
- (c) any trade as defined by Section 186 of the Act; and
- (d) any other trade that, unless preventive measures are adopted, may become a nuisance to the health of the inhabitants of the district; and “premises” includes houses.

##### **9.1.2 Consent to Establish an Offensive Trade**

A person seeking the consent of the Council under Section 187 of the Act to establish an offensive trade shall make application in the form prescribed in Schedule (9) and in accordance with Council’s Town Planning Scheme.

### **9.1.3 False Statement**

A person who makes a false statement in an application under Section 9.1.2 shall be guilty of an offence.

### **9.1.4 Registration of Premises**

An application for the registration of premises pursuant to Section 191 of the Act shall be—

- (a) in the form prescribed in Schedule (10);
- (b) accompanied by the fee prescribed in the *Offensive Trade (Fees) Regulations 1976* as amended from time to time; and
- (c) lodged with the Chief Executive Officer.

### **9.1.5 Certificate of Registration**

Upon the registration of premises for the carrying on of an offensive trade, the Council shall issue to the applicant a certificate in the form prescribed in Schedule (11).

### **9.1.6 Change of Occupier**

Where there is a change of occupier of the premises registered pursuant to this Division, the new occupier shall forthwith notify the Chief Executive Officer in writing of such change.

### **9.1.7 Alterations to Premises**

While any premises remain registered under this Division, a person shall not, without the written permission of the Council, make or permit any change or alteration whatever to the premises.

### **9.1.8 Occupier Includes Employee**

Where in any Section contained in this Part; a duty is imposed upon the occupier of premises in or upon which an offensive trade is carried on, the reference to the occupier shall be interpreted to include the employees of the occupier and any employee committing a breach of any provision of this Part shall be liable to the same penalties as if he were the occupier.

## *Division 2—General Duties of an Occupier*

### **9.2.1 Interpretation**

In this Division, unless the context otherwise requires—

- “**occupier**” means the occupier, or where there is more than one occupier, each of the occupiers of the premises in or upon which an offensive trade is carried on; and
- “**the premises**” means those premises in or upon which an offensive trade is carried on.

### **9.2.2 Cleanliness**

The occupier shall—

- (a) keep or cause to be kept in a clean and sanitary condition and in a state of good repair the floors, walls and ceilings and all other portions of the premises;
- (b) keep or cause to be kept in a clean and sanitary condition and in a state of good repair all fittings, fixtures, appliances, machinery, implements, shelves, counters, tables, benches, bins, cabinets, sinks, drain boards, drains, grease traps, tubs, vessels and other things used on or in connection with the premises;
- (c) keep the premises free from any unwholesome or offensive odour arising from the premises;
- (d) maintain in a clean and tidy condition all yards, footpaths, passage ways, paved areas, stores or outbuildings used in connection with the premises; and

- (e) clean daily and at all times keep and maintain all sanitary conveniences and all sanitary fittings and grease traps on the premises in a clean and sanitary condition.

### **9.2.3 Rats and Other Vectors of Disease**

The occupier shall—

- (a) ensure that the premises are kept free from rodents, cockroaches, flies and other vectors of disease; and
- (b) provide in and on the premises all effective means and methods for the eradication and prevention of rodents, cockroaches, flies and other vectors of disease.

### **9.2.4 Sanitary Conveniences and Wash Basins**

The occupier shall provide on the premises in an approved position sufficient sanitary conveniences and wash hand basins, each with an adequate supply of hot and cold water for use by employees and by all other persons lawfully upon the premises.

### **9.2.5 Painting of Walls etc.**

The occupier shall cause the internal surface of every wall, the underside of every ceiling or roof and all fittings as may be directed in and on the premises to be cleaned and painted when instructed by an Environmental Health Officer.

### **9.2.6 Effluvia, Vapours, Gases or Dust**

The occupier shall provide, use and maintain in a state of good repair and working order, appliances and preventive measures capable of effectively destroying or of rendering harmless all offensive effluvia, vapours, dust or gases arising in any process of his business or from any material, residue or other substance which may be kept or stored upon the premises.

### **9.2.7 Offensive Material**

The occupier shall—

- (a) provide on the premises impervious receptacles of sufficient capacity to receive all offensive material and trade refuse produced upon the premises in any one day;
- (b) keep air-tight covers on the receptacles, except when it is necessary to place something in or remove something from them;
- (c) cause all offensive material and trade refuse to be placed immediately in the receptacles;
- (d) cause the contents of the receptacles to be removed from the premises at least once in every working day and at such more frequent intervals as may be directed by an Environmental Health Officer; and
- (e) cause all receptacles after being emptied to be cleaned immediately with an efficient disinfectant.

### **9.2.8 Storage of Materials**

The occupier shall cause all material on the premises to be stored so as not to be offensive or injurious to health whether by smell or otherwise and so as to prevent the creation of a nuisance.

### **9.2.9 Specified Offensive Trade**

- (1) For the purposes of this Section, “specified offensive trade” means one or more of the offensive trades carried on, in or connected with the following works or premises—

- (a) fish processing premises, fish curing premises, and shellfish and crustacean processing establishments; and
  - (b) laundries, dry cleaning premises and dye works.
- (2) Where premises are used for or in relation to a specified offensive trade, the occupier shall—
- (a) cause the floor of the premises to—
    - (i) be properly paved and drained with impervious material;
    - (ii) have a smooth surface; and
    - (iii) have a fall to a bucket trap or spoon drain in such a way that all liquids falling on the floor shall be conducted by the trap or drain to a drain inlet situated inside the building where the floor is situated;
  - (b) cause the angles formed by the walls with any other wall, and by the wall with the floor, to be coved to a radius of not less than 25 millimetres; and
  - (c) cause all liquid refuse to be—
    - (i) cooled to a temperature not exceeding 26 degrees Celsius and be in accordance with the *Metropolitan Water Supply, Sewerage and Drainage Board By-Laws 1981* before being discharged into any drain outlet from any part of the premises; and
    - (ii) directed through such screening or purifying treatment as an Environmental Health Officer may from time to time direct.

#### **9.2.10 Directions**

- (1) An Environmental Health Officer may give to the occupier directions to prevent or diminish the offensiveness of a trade or to safeguard the public health.
- (2) The occupier shall comply with any directions given under this Section.

#### **9.2.11 Other Duties of Occupier**

In addition to the requirements of this Division, the occupier shall comply with all other requirements of this Part that apply to the particular offensive trade or trades conducted on the premises.

### *Division 3—Fish Premises*

#### **9.3.1 Interpretation**

In this Division, unless the context otherwise requires—

“**fish premises**” may include a fish processing establishment, fish curing establishment and a shellfish and crustacean processing establishment;

#### **9.3.2 Duties of an Occupier**

The occupier of a Fish premises shall—

- (a) not suffer or permit any decomposing fish to be kept on the premises where his trade is carried on for a longer period than is reasonably necessary to dispose of them;
- (b) cause all decomposing fish, to be immediately deposited in an impervious receptacle furnished with an airtight cover; and
- (c) cause the brine of pickle to be removed as often as is necessary to prevent it from becoming offensive.

### 9.3.3 Disposal of Waste

The occupier of a fish premises shall cause all offal and wastes, all rejected and unsaleable fish and any rubbish or refuse which is likely to be offensive or a nuisance to be—

- (a) placed in the receptacles referred to in 9.2.7 and disposed of in accordance with that Section; or
- (b) kept in a frozen state in an approved enclosure before its removal from the premises.

### 9.3.4 Fish Containers

The occupier of a fish premises shall not allow any container used for the transport of fish to—

- (a) remain on the premises longer than is necessary for it to be emptied; or
- (b) be kept so as to cause a nuisance or to attract flies.

#### *Division 4—Laundries, Dry Cleaning Establishments and Dye Works*

### 9.4.1 Interpretation

In this Division, unless the context otherwise requires—

**“dry cleaning establishment”**—

- (i) means premises where clothes or other articles are cleaned by use of solvents without using water; but
- (ii) does not include premises in which perchlorethylene or arklone is used as dry cleaning fluid in a fully enclosed machine operating on a full cycle;

**“dye works”** means a place where articles are commercially dyed, but does not include dye works in which provision is made for the discharge of all liquid waste there from, into a public sewer;

**“exempt laundromat”** means a premises in which—

- (a) laundering is carried out by members of the public using, machines or equipment provided by the owners or occupiers of those establishments;
- (b) laundering is not carried out by those owners or occupiers for or on behalf of other persons;
- (c) provision is made for the discharge of all liquid waste therefrom into a public sewer;

**“laundromat”** means a public place with coin operated washing machines, spin dryers or dry cleaning machines; and

**“laundry”** means any places where articles are laundered for the purpose of trade but does not include an exempt laundromat.

### 9.4.2 Receiving Depot

An owner or occupier of premises shall not use or permit the premises to be used as a receiving depot for a laundry, dry cleaning establishment or dye works except with the written permission of the Council who may at any time by written notice withdraw such permission.

### 9.4.3 Reception Room

(1) The occupier of a laundry or dry cleaning establishment or dye works shall—

- (a) provide a reception room in which all articles brought to the premises for treatment shall be received and shall not receive or permit to be received any such articles except in that room; and
- (b) cause such articles as may be directed by an Environmental Health Officer to be thoroughly disinfected to the satisfaction of the officer.

- (2) A person shall not bring or permit food to be brought into the reception room referred to in this Section.

#### **9.4.4 Walls and Floors**

The occupier of a laundry, dry cleaning establishment or dye works shall cause—

- (a) the internal surfaces of all walls to be rendered with a cement plaster with a steel float finish or other approved material to a height of 2 metres with a smooth impervious surface;
- (b) the floor to be constructed of concrete and finished with a smooth impervious surface; and
- (c) every floor and wall of any building on the premises to be kept at all times in good order and repair, so as to prevent the absorption of any liquid which may be splashed or spilled or may fall or be deposited on it.

#### **9.4.5 Laundry Floor**

The occupier of a laundry shall provide in front of each washing machine a non-corrosive grating, at least 910 millimetres in width and so constructed as to prevent any person from standing in water on the floor.

#### **9.4.6 Escape of Dust**

The occupier of a dry cleaning establishment shall provide effective means to prevent the escape into the open air of all dust or other material from the premises.

#### **9.4.7 Precautions Against Combustion**

The occupier of a dry cleaning establishment where volatile liquids are used shall take all proper precautions against combustion and shall comply with all directions given by an Environmental Health Officer for that purpose.

#### **9.4.8 Trolleys**

The occupier of a dry cleaning establishment shall—

- (a) provide trolleys for the use of transporting dirty and clean linen; and
- (b) ensure that each trolley is—
  - (i) clearly designated to indicate the use for which it is intended;
  - (ii) lined internally with a smooth impervious non-absorbent material that is easily cleaned; and
  - (iii) thoroughly cleaned and disinfected on a regular basis.

#### **9.4.9 Sleeping on Premises**

A person shall not use or permit any room in a laundry, dry cleaning establishment or dye works to be used for sleeping purposes.

## **PART 10—OFFENCES AND PENALTIES**

### *Division 1—General*

#### **10.1.1 Penalties**

- (1) A person who contravenes a provision of these Local-Laws commits an offence.
- (2) A person who commits an offence under subsection (1) is liable to—
  - (a) a penalty which is not more than \$1,000 and not less than—
    - (i) in the case of a first such offence, \$100;
    - (ii) in the case of a second such offence, \$200; and

- (iii) in the case of a third and subsequent such offence, \$500; and
- (b) if the offence is a continuing offence, a daily penalty which is not more than \$100 and not less than \$50 for each day during which the offence continues.

**Schedule 1**  
Shire of Leonora  
Health Act 1911

**APPLICATION FOR REGISTRATION OF A LODGING HOUSE**

To: Chief Executive Officer  
Shire of Leonora

I/We,.....  
(Full name of applicant/s)

of.....  
(Residential Address of Applicant/s)

apply for the registration of premises situated (or to be situated) at .....

as a lodging house to be classified as—

- \* a lodging house;
- \* a short term hostel
- \* recreational campsite
- \* serviced apartments

(Specify which is to apply)

and for my name to be entered in the Register as the keeper of a lodging house.

**DESCRIPTION OF LODGING HOUSE**

Number of stories.....

**Rooms for private use**

	Number	Area
Laundries/toilets/bathrooms	.....	.....
Bedrooms	.....	.....
Dining Rooms	.....	.....
Kitchens	.....	.....
Sitting Rooms	.....	.....
Other Rooms (Specify)	.....	.....

**Rooms for lodgers**

	Number	Area
Bedrooms	.....	.....
Dining Rooms	.....	.....
Kitchens	.....	.....
Sitting Rooms	.....	.....
Other Rooms (Specify)	.....	.....

**Sanitary conveniences for male lodgers**

	Number
Toilets	.....
Urinals	.....
Baths	.....
Showers	.....
Wash hand basins	.....



**Sanitary conveniences for female lodgers**

Number

- Toilets .....
- Baths .....
- Showers .....
- Wash hand basins .....

**Laundry facilities**

Number

- Coppers .....
- Washtroughs .....
- Washing machines .....
- Drying cabinets or clothes lines .....

**Additional details**

- (a) Lodgers meals will be provided by the manager/keeper/lodgers.
- (b) The keeper will/will not reside continuously on the premises.
- (c) Name and occupation of proposed manager if keeper resides elsewhere-
- (d) There will be ..... family members residing on the premises with the manager/keeper.

Application fee of \$..... is attached.

.....  
(Signature of Applicant/s)

.....  
(Date)

**Schedule 2**

Shire of Leonora  
Health Act 1911

**CERTIFICATE OF REGISTRATION OF A LODGING HOUSE**

This is to certify that the premises situated at .....  
are registered as a lodging house and classified as—

- \* a lodging house;
- \* a short term hostel
- \* recreational campsite, or
- \* serviced apartments.

until 30 June ....., on the following conditions—

1. That ....., whose name is entered on the register of keepers of the Shire of Leonora, continues to be the keeper of the lodging house;
2. That ....., appointed by the keeper to be the manager of the lodging house, continues to be the manager of the lodging house;
3. That the certificate of registration is not cancelled or revoked;
4. That the maximum number of rooms to be used as sleeping apartments for lodgers is .....; and
5. That the maximum number of lodgers on the premises shall not exceed .....

This certificate of registration is issued subject to the Health Act and the Shire of Leonora Local Laws and is not transferable.

Dated .....

.....  
Environmental Health Officer

Fee Received: \$.....

**Schedule 3**

Shire of Leonora  
Health Act 1911

**NOTICE OF CHANGE OF OWNER OF A LODGING HOUSE**

To: Chief Executive Officer  
Shire of Leonora

I/We, .....  
(Full name of applicant)

Of .....  
.....  
(Residential address of applicant)

am/are the new owner/s of premises situated at .....  
.....  
which are registered in the name of .....  
for the carrying on of the lodging house business.

.....  
(Signature of applicant/s)

.....  
(Date)

**Schedule 4**  
Shire of Leonora  
Health Act 1911  
**REGISTER OF LODGERS**

Location of Lodging House .....

Date of Arrival	Name	Previous address	Signature	Room Number	Date of Departure
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....

**Schedule 5**  
Shire of Leonora  
Health Act 1911  
**LIST OF LODGERS**

TO: The Chief Executive Officer  
Shire of Leonora

The following is the name of every person who resided in the lodging house at

.....  
.....

on the ..... day of ..... 20.....

.....  
Signed (keeper)

.....  
(Date)

**Schedule 6**  
Shire of Leonora  
Health Act 1911

**CERTIFICATE OF SLEEPING ACCOMMODATION FOR A LODGING HOUSE**

To: .....  
(Name of Keeper)

Of .....  
(Address of Keeper)

For the registered lodging house situated at: .....

The rooms listed below are not to be occupied by more than the number of lodgers or residents indicated below.

ROOM NUMBER:

MAXIMUM OCCUPANCY:

.....	.....
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....

Date: .....

.....  
Environmental Health Officer

**Schedule 7**  
Shire of Leonora  
Health Act 1911  
**APPLICATION FOR LICENCE OF A MORGUE**

To: Chief Executive Officer  
Shire of Leonora

.....  
(Full name in block letters)

Of .....  
(Residential Address)

apply to licence the premises listed below as a Morgue

Address of premises: .....

Name of premises: .....

Dated this ..... day of ..... 20.....

.....  
(Signature of Applicant)

**Schedule 8**

Shire of Leonora  
Health Act 1911

**CERTIFICATE OF LICENCE OF A MORGUE**

This is to certify the following premises is licensed as a Morgue from the  
..... day of ..... until the 30<sup>th</sup> Day of June .....

Address of premises: .....

Name of Premises: .....

Dated this ..... day of .....

.....  
Environmental Health Officer



**Schedule 9**

Shire of Leonora  
Health Act 1911

**APPLICATION FOR CONSENT TO ESTABLISH AN OFFENSIVE TRADE**

To: Chief Executive Officer  
Shire of Leonora

I/We, .....  
(Full Name of Applicant/s)

Of .....  
(Residential Address of Applicant/s)

apply for consent to establish an offensive trade being .....  
.....  
(Description of Offensive Trade)

in or upon .....  
(Location of the House or Premises)

Notice of my/our intention to make this application was advertised in .....  
.....  
(Name of Newspaper)

On .....  
(Date of Advertisement)

Plans and specifications of the buildings proposed to be used or erected in connection with the proposed offensive trade are attached.

.....  
(Signature of Applicant/s)                      (Date)

**Schedule 10**

Shire of Leonora  
Health Act 1911

**APPLICATION FOR REGISTRATION OF PREMISES FOR OFFENSIVE TRADE**

To: Chief Executive Officer  
Shire of Leonora

I/We, .....  
(Full Name of Applicant/s)

Of .....  
.....  
(Residential Address of Applicant/s)

apply for registration, for the year ended ..... Of .....  
.....  
(Location of Premises)

being premises in or upon which there is (or is to be) carried on an offensive trade, namely .....  
.....  
.....  
(Description of Offensive Trade)

under the business name of .....

The prescribed registration fee \$ ..... is attached.

.....  
(Signature of Applicant/s)

.....  
(Date)

**Schedule 11**  
Shire of Leonora  
Health Act 1911

**CERTIFICATE OF REGISTRATION OF PREMISES FOR OFFENSIVE TRADE**

This is to certify that the premises situated at .....  
of which ..... is the occupier;  
are registered for the carrying on of the trade of .....  
.....  
.....  
Trade Name .....  
This registration expires on .....  
Dated this .....day of ..... 20.....

.....  
Environmental Health Officer  
Shire of Leonora

**Schedule 12**  
Shire of Leonora  
Health Act 1911  
**PRESCRIBED FEES**

SCHEDULE	DESCRIPTION	PRESCRIBED FEE
2	Registration of Lodging House	\$180.00
8	Licence of a Morgue	\$50.00
11	Registration of Offensive Trade	As per regulation

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Passed at a meeting of the Council of the Shire of Leonora held on Tuesday, 16 February 1999.  
The Common Seal of the Shire of Leonora was hereunto affixed in the presence of—  
on this 16<sup>th</sup> day of February, 1999

G. W. BAKER, President.  
J. G. EPIS, Chief Executive Officer.

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Consented to—

Dr C. F. QUADROS, delegate of Executive Director, Public Health.

Dated this 19<sup>th</sup> day of March, 1999.

**LOCAL GOVERNMENT ACT 1995**

Shire of Wagin

**LOCAL GOVERNMENT PROPERTY LOCAL LAW 2001**

Under the powers conferred by the Local Government Act 1995 and under all other powers enabling it, the Council of the Shire of Wagin resolved on 20th November 2001 to make the following local law.

The Shire of Moora Local Government Property Local Law as published in the Government Gazette of 29th November 1999, is adopted as a local law of the Shire of Wagin with the modifications which follow.

**1. Preliminary**

Wherever the "Shire of Moora" is mentioned in the local law substitute "Shire of Wagin"

**2. Clause 1.2—Definitions**

In the appropriate alphabetical position insert—

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

In the definition of "vehicle", add a new paragraph—

“(e) a boat”.

**3. Clause 1.5—Repeal**

Delete clause 1.5 (1) and substitute—

“1.5 (1) The following local laws are repealed—

- (a) Relating to Wagin Memorial Swimming Centre, published in the *Government Gazette* of 1 June 1967, as amended: and
- (b) Relating to Speed of Vehicles Driven on land which is vested in or under the Care, Control or Management of the Shire of Wagin, published in the *Government Gazette* of 23 December 1971, as amended.

**4. Clause 2.7—Activities which may be pursued on specified local government property**

In clause 2.7 (1) renumber paragraphs (e) to (h) inclusive to (g) to (j) respectively and insert the following two paragraphs—

“(e) launch, beach or leave a boat;

(f) take or use a boat, or a particular class of boat;”.

In clause 2.7(2)(d), insert "boats," after "Vehicles", in both places where this occurs.

**5. Clause 2.8—Activities which may be prohibited on specified local government property.**

In clause 2.8(1)—

(a) delete paragraph (g);

(b) renumber paragraphs (e) and (f) to (f) and (g) respectively; and

(c) insert the following paragraph—

“(e) taking or using a boat, or a particular class of boat;”.

In clause 2.8(2)(c), insert "boats," after "vehicles," in both places where this occurs.

**6. Clause 4.6 Signs**

Add subclause (4) "The provisions of this clause do not apply to persons engaged by the Local Government to perform duties on behalf of the Local Government"

**7. Clause 5.1 When entry must be refused**

In subclause 1(a)(i) "5 years and who is unaccompanied" and insert "9 years, unless they have achieved level 5 of the Education Department of Western Australia swimming and Water Safety Section, or equivalent, and is "

**8. Clause 5.3**

Add new subclause (c) "The provisions of this clause do not apply to persons engaged by the Local Government to perform duties on behalf of the Local Government"

**9. Schedule 2 insert the following—**

**2.1 Speed of Vehicles on Local Government Property**

- (1) A person shall not drive a vehicle or allow a vehicle to be driven upon a sporting or recreational reserve which is local government property at a speed exceeding 15km an hour
- (2) Provisions of subclause (1) do not apply to activities conducted by a legitimate sporting associations or body conducting an approved event.
- (3) Provisions of subclause (1) do not apply to the training of horses or the conducting of gymkhana events on Reserve 11339.
- (4) The speed limit for the ungazetted roadway connecting Rifle Street Wagin and Arthur Road Wagin through Reserve 11339 shall be 50km per hour.

**2.2 Prohibitions of Activities on Reserves**

- (1) A circus is not to be located on the main grassed oval on Reserve 6985
- (2) Golf or the practise of golf is not to be conducted on Reserve 6985 or Reserve 11339
- (3) Archery or the practise of archery is not to be conducted on Reserve 6985 or Reserve 11339.
- (4) Council may grant approval to conduct a prohibited activity subject to obtaining a permit which may contain conditions considered appropriate by the local government.

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Dated this 20th day of November 2001.

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

P. I. PIESSE, President.  
M. A. PARKER, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**

SHIRE OF MOORA

**LOCAL GOVERNMENT PROPERTY LOCAL LAW**

ARRANGEMENT

**PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Definitions
- 1.3 Interpretation
- 1.4 Application
- 1.5 Repeal

**PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY**

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- 2.1 Determinations as to use of local government property
- 2.2 Procedure for making a determination
- 2.3 Discretion to erect sign
- 2.4 Determination to be complied with
- 2.5 Register of determinations
- 2.6 Amendment or revocation of a determination

*Division 2—Activities which may be pursued or prohibited under a determination*

- 2.7 Activities which may be pursued on specified local government property
- 2.8 Activities which may be prohibited on specified local government property

*Division 3—Transitional*

- 2.9 Signs taken to be determinations

**PART 3—PERMITS**

*Division 1—Preliminary*

- 3.1 Application of Part

*Division 2—Applying for a permit*

- 3.2 Application for permit
- 3.3 Decision on application for permit

*Division 3—Conditions*

- 3.4 Conditions which may be imposed on a permit
- 3.5 Imposing conditions under a policy
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*Division 4—General*

- 3.7 Agreement for building
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- 3.9 Renewal of permit
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- 3.12 Cancellation of permit

*Division 5—When a permit is required*

- 3.13 Activities needing a permit
- 3.14 Permit required to camp outside a facility
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*Division 6—Responsibilities of permit holder*

- 3.16 Responsibilities of permit holder

**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
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- 4.6 Signs

**PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY**

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*Division 2—Fenced or closed property*

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**PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY**

- 6.1 No unauthorized entry to function

**PART 7—OBJECTIONS AND APPEALS**

- 7.1 Application of Division 1, Part 9 of the Act

**PART 8—MISCELLANEOUS**

- 8.1 Authorized person to be obeyed
- 8.2 Persons may be directed to leave local government property
- 8.3 Disposal of lost property
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**PART 9—ENFORCEMENT**

*Division 1—Notices given under this local law*

9.1 Offence to fail to comply with notice

9.2 Local government may undertake requirements of notice

*Division 2—Offences and penalties*

*Subdivision 1—General*

9.3 Offences and general penalty

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9.4 Prescribed offences

9.5 Form of notices

*Division 3—Evidence in legal proceedings*

9.6 Evidence of a determination

**SCHEDULE 1—PRESCRIBED OFFENCES**

**SCHEDULE 2—DETERMINATIONS**

**LOCAL GOVERNMENT ACT 1995**

SHIRE OF MOORA

**LOCAL GOVERNMENT PROPERTY LOCAL LAW**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Moora resolved on the 17 November 1999 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the Shire of Moora Local Government Property Local Law.

**1.2 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;

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

“**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

“**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;

“**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;

“**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 Licensing Act 1988*;

“**local government**” means the Shire of Moora;

“**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;

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

**“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;

**“pool area”** means any swimming and wading pools and spas and all buildings, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of or used in connection with such swimming and wading pools and spas which are local government property;

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

**“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; and

**“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 or a similar device.

### **1.3 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.

### **1.4 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.

### **1.5 Repeal**

- (1) The following local laws are repealed—

By-laws relating to—

Moora and District War Memorial Swimming Pool, published in the *Government Gazettes* of 19 December 1962, 4 August 1965, 28 December 1967, 13 January 1971, 9 November 1971, 14 November 1975, 28 October 1977 and 30 March 1979; and

Control and Management of the Town Hall, Moora; Amenities Hall, Moora; Recreation Ground Hall, Moora; Miling Hall, Miling; Watheroo Hall, Watheroo; Bindi Bindi Hall, Bindi Bindi; Coomberdale Hall, Coomberdale; Round Hill and Walebing Hall, Walebing;

published in the *Government Gazettes* of 25 March 1960, 19 August 1965, 17 August 1973, 28 May 1976 and 30 March 1979.

- (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—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY**

### *Division 1—Determinations*

#### **2.1 Determinations as to use of local government property**

- (1) The local government may make a determination in accordance with clause 2.2—
  - (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
  - (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
  - (c) as to the matters in clauses 2.7(2) and 2.8(2); and
  - (d) as to any matter ancillary or necessary to give effect to a determination.
- (2) The determinations in Schedule 2—
  - (a) are to be taken to have been made in accordance with clause 2.2;
  - (b) may be amended or revoked in accordance with clause 2.6; and
  - (c) have effect on the commencement day.

#### **2.2 Procedure for making a determination**

- (1) The 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 submission is 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 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) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
  - (f) play or practice—
    - (i) golf or archery;
    - (ii) pistol or rifle shooting, but subject to 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;
  - (g) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and
  - (h) 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 sandboard or a similar device;
  - (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
  - (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
  - (e) the playing or practice of—
    - (i) golf, archery, pistol shooting or rifle shooting; or
    - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
  - (f) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
  - (g) the traversing of 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;
  - (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, 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.

*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 Licensing 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 Agreement for building**

Where a person applies for a permit to erect a building on local government property the local government may enter into an agreement with the permit holder in respect of the ownership of the materials in the building.

### **3.8 Duration of permit**

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

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 3.12.

### **3.9 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 mutatis mutandis.

### **3.10 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.

### **3.11 Production of permit**

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

### **3.12 Cancellation of permit**

- (1) Subject to clause 7.1, 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*

### **3.13 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 pool area or an 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 stand 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; or
  - (o) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property.
- (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).

### **3.14 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*.

### **3.15 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 Licensing 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*

### **3.16 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 authorized 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) 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 Licensing 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, 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 authorized 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—Swimming pool areas*

#### **5.1 When entry must be refused**

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

- (a) in her or his opinion is—
  - (i) under the age of 6 years and who is unaccompanied by a responsible person over the age of 14 years;
  - (ii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
  - (iii) under the influence of liquor or a prohibited drug; or
- (b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.

### *Division 2—Fenced or closed property*

#### **5.2 No entry to fenced or closed local government property**

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

### *Division 3—Toilet blocks and change rooms*

#### **5.3 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 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.

## **PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY**

#### **6.1 No unauthorized 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 authorized, 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—OBJECTIONS AND APPEALS**

#### **7.1 Application of Division 1, Part 9 of the Act**

7.1 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 33 and 34 of the Regulations apply to that decision.

## **PART 8—MISCELLANEOUS**

### **8.1 Authorized person to be obeyed**

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

### **8.2 Persons may be directed to leave local government property**

An authorized 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.

### **8.3 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.

### **8.4 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) Unless there is proof to the contrary, a person is to be taken to have damaged local government property within subclause (1) where—
  - (a) a vehicle or a boat caused the damage, the person was the person responsible, at the time the damage occurred, for the control of the vehicle or the boat; or
  - (b) the damage occurred under a permit, the person is the permit holder in relation to that permit.
- (3) 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 9—ENFORCEMENT**

### *Division 1—Notices given under this local law*

#### **9.1 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.

#### **9.2 Local government may undertake requirements of notice**

Where a person fails to comply with a notice referred to in clause 9.1, 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*

#### **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*

**9.4 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) For the purpose of guidance only, 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.

**9.5 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
  - (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.
- (2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

*Division 3—Evidence in legal proceedings*

**9.6 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	DESCRIPTION	MODIFIED PENALTY \$
2.4	Failure to comply with determination	100
3.6	Failure to comply with conditions of permit	100
3.13(1)	Failure to obtain a permit	100
3.14(3)	Failure to obtain permit to camp outside a facility	100
3.15(1)	Failure to obtain permit for liquor	100
3.16	Failure of permit holder to comply with responsibilities	100
4.2(1)	Behaviour detrimental to property	100
4.4	Under influence of liquor or prohibited drug	100
4.6(2)	Failure to comply with sign on local government property	100
5.2	Unauthorized entry to fenced or closed local government property	100
5.3	Gender not specified using entry of toilet block or change room	100
6.1(1)	Unauthorized entry to function on local government property	100
9.1	Failure to comply with notice	200



SCHEDULE 2  
**DETERMINATIONS**

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

**PART 1—PRELIMINARY**

**1.1 Definitions**

In these determinations unless the context otherwise requires—

“**local law**” means the *Local Government Property Local Law* made by the local government;

**1.2 Interpretation**

Unless the context otherwise requires, where a term is used but not defined in a determination and that term is defined in the local law then the term shall have the meaning given to it in the local law.

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Dated 22 November 1999.

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

L. M. BATES, President.  
J. N. WARNE, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**  
**AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976**

Shire of Wagin

**LOCAL LAW RELATING TO PEST PLANTS 2002**

In pursuance of the powers conferred upon it by the abovementioned Act and of all other powers enabling it, the Council of the Shire of Wagin hereby resolved on the 16<sup>th</sup> day of April 2002 to make the following local law;

**Citation**

(1) This Local Law may be cited as the *Shire of Wagin Pest Plant Local Law 2002*.

**Repeal**

(2) The following Local Law is repealed; *Shire of Wagin Pest Plant Local Law* published in the *Government Gazette* of 2 April 1993.

**Interpretation**

(3) In this local law, unless the context otherwise requires–

“**Council**” means the Council of the Shire of Wagin;

“**district**” means the district of the Shire of Wagin;

“**Pest Plant**” means a plant described as a pest plant by clause (4) of this local law.

(4) Every plant described in the in the First Schedule of this local law is a pest plant.

(5) The Council may serve on the owner or occupier of private land within the district a duly completed notice in the form of the Second Schedule to this local law requiring that person to destroy, eradicate or otherwise control any pest plant on that land and any person so served shall comply with that notice within the time and in the manner specified therein.

(6) Where a person fails to comply with a notice served under clause (5) of this local law, the Council may–

(a) without payment of any compensation in respect thereof, destroy, eradicate or control, as the case may be, any pest plant the destruction, eradication and control of which was required by the notice; and

(b) recover in a court of competent jurisdiction from the person to whom the notice is directed, the amount of the expense of such destruction, eradication or control.

First Schedule  
Pest Plants

Common Name  
Caltrop

Scientific Name  
Tribulus terrestris

Second Schedule  
Agriculture and Related Resources Protection Act 1976  
Shire of Wagin Pest Plant Local Law 2002

No.....  
To .....  
(Full names)  
of .....  
(address)

You are hereby given notice under the above local law that you are required to-  
(specify whether required to destroy, eradicate, or otherwise control) the pest plant-

.....  
(Common Name) (Scientific Name)

on .....  
(Specify the Land)

of which you are the ..... (owner or occupier)

This notice may be complied with by .....

.....  
(specify manner of achieving destruction, eradication or control)

Such measure shall be commenced not later than.....  
(date)

and shall be completed by .....  
(date)

Upon failure to comply with this notice within the times specified, the Council may destroy, eradicate or control, as the case may be, any specified pest plants at your expense.

Date of service of this notice .....

.....  
Signature of person authorised by the Council  
of the Shire of Wagin.

Dated this 3<sup>rd</sup> day of May 2002

The Common Seal of the Shire of Wagin was hereto affixed by authority of a Resolution of the Council in the presence of

P. I. PIESSE, President.  
B. K. FISHER, Acting Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**

SHIRE OF WAGIN

**LOCAL LAW (STANDING ORDERS) 2001**

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## LOCAL GOVERNMENT ACT 1995

### SHIRE OF WAGIN

## LOCAL LAW (STANDING ORDERS) 2001

### PART 1—PRELIMINARY

#### 1.1 Citation

- (1) This Local Law may be cited as the *Shire of Wagin Standing Orders Local Law 2001*.
- (2) In the clauses to follow, this Local Law is referred to as “the Standing Orders.”

#### 1.2 Application

All meetings of the Council or a committee and other matters as prescribed are to be conducted in accordance with the Act, the Regulations and these Standing Orders.

#### 1.3 Interpretation

- (1) In these Standing Orders unless the context otherwise requires—
  - “**CEO**” means the Chief Executive Officer or Acting Chief Executive Officer for the time being of the Shire of Wagin;
  - “**committee**” means a committee of the Council;
  - “**Council**” means the Council of the Shire of Wagin;
  - “**presiding member**” means the presiding member of a committee or the deputy presiding member, or a member of the committee when performing a function of the presiding member in accordance with the Act;
  - “**Regulations**” means the *Local Government (Administration) Regulations 1996*;
  - “**simple majority**” is more than 50% of the members present and voting;
  - “**substantive motion**” means an original motion or an original motion as amended, but does not include an amendment or a procedural motion.
- (2) Unless otherwise defined herein the terms and expressions used in the Standing Orders are to have the meaning given to them in the Act and Regulations.

#### 2.1 Calling Committee Meetings

A meeting of a committee is to be held—

- (a) if called for in a verbal or written request to the CEO by the presiding member of the committee, setting out the date and purpose of the proposed meeting;
- (b) if called for by at least 1/3 of the members of the committee in a notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (c) if so decided by the committee.

#### 2.2 Notice of Special Council Meetings

- (1) Subject to subclause (2), the CEO is to convene a special meeting of the Council by giving each Council member at least 72 hours’ notice of the date, time, place and purpose of the meeting.
- (2) Where there is a need to meet urgently, in the opinion of the President, the CEO may give a lesser period of notice of a special meeting than mentioned in subclause (1).



### **PART 3—BUSINESS OF THE MEETING**

#### **3.1 Business to be Specified on Notice Paper**

- (1) No business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda, without the approval of the person presiding or a decision of 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) No business is to be transacted at an adjourned meeting of the Council or a committee other than that—
  - (a) specified in the notice of the meeting which had been adjourned; and
  - (b) which remains unresolved;except in the case of an adjournment to the next ordinary meeting of the Council or the committee, when the business unresolved at the adjourned meeting is to have precedence at that ordinary meeting.

#### **3.2 Order of Business**

- (1) Unless otherwise decided by the Council the order of business at any ordinary meeting of the Council is to be as follows—
  - (a) Official opening
  - (b) Public question time
  - (c) Apologies and leave of absence
  - (d) Petitions
  - (e) Confirmation of minutes
  - (f) Announcements by the person presiding without discussion
  - (g) Matters for which meeting may be closed
  - (h) Reports
  - (i) Motions of which previous notice has been given
  - (j) Questions by members of which due notice has been given
  - (k) Urgent business approved by the person presiding or by decision
  - (l) Matters behind closed doors
  - (m) Closure
- (2) Unless otherwise decided by the members present, the order of business at any special meeting of the Council or at a committee meeting is to be the order in which that business stands in the agenda of the meeting.
- (3) Notwithstanding subclauses (1) and (2) in the order of business for any meeting of the Council or a committee, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.
- (4) Notwithstanding subclause (1), the CEO may include on the agenda of a Council or committee meeting in an appropriate place within the order of business any matter which must be decided, or which he or she considers is appropriately decided, by that meeting.

### **3.3 Public Question Time**

- (1) A member of the public who raises a question during question time is to state his or her name and address.
- (2) A question may be taken on notice by the Council or committee for later response.
- (3) When a question is taken on notice under sub-clause (2) a response is to be given to the member of the public in writing by the CEO, and a copy is to be included in the agenda of the next meeting of the Council or committee as the case requires.

### **3.4 Petitions**

A petition, in order to be effective, is to—

- (a) be addressed to the President;
- (b) be made by electors of the district;
- (c) state the request on each page of the petition;
- (d) contain the names, addresses and signatures of the electors making the request, and the date each elector signed;
- (e) contain a summary of the reasons for the request;
- (f) state the name of the person upon whom, and an address at which, notice to the petitioners can be given;
- (g) be in the form prescribed by the Act and *Local Government (Constitution) Regulations 1996* if it is—
  - (i) a proposal to change the method of filling the office of President;
  - (ii) a proposal to create a new district or the boundaries of the Local Government;
  - (iii) a request for a poll on a recommended amalgamation;
  - (iv) a submission about changes to wards, the name of a district or ward or the number of councillors for a district or ward.

### **3.5 Announcements by the Person Presiding Without Discussion**

- (1) At any meeting of the Council or a committee the person presiding may announce or raise any matter of interest or relevance to the business of the Council or committee, or propose a change to the order of business.
- (2) Any member may move that a change in order of business proposed by the person presiding not be accepted and if carried by a majority of members present, the proposed change in order is not to take place.

### **3.6 Matters for which Meeting May be Closed**

For the convenience of members of the public, the Council or committee may identify by decision, early in the meeting, any matter on the agenda of the meeting to be discussed behind closed doors, and that matter is to be deferred for consideration as the last item of the meeting.

### **3.7 Correspondence**

- (1) The CEO is to use discretion in deciding what correspondence to place before the Council or a committee.
- (2) Correspondence may be placed before the Council or a committee in the form of a precis, provided all relevant and material facts are contained in the precis.
- (3) Where correspondence contains a matter to be decided by the Council or committee, the CEO is, if the circumstances permit, to recommend a course of action to the Council or committee, or state the alternative courses of action available.

### **3.8 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.
- (2) A notice of motion under subclause (1) is to be given at least four (4) clear working days before the meeting at which the motion is moved.
- (3) A notice of motion is to relate to the good government of persons in the district.
- (4) The CEO—
  - (a) with the concurrence of the President, may exclude from the notice paper any notice of motion deemed to be out of order; or
  - (b) may on his or her own initiative make such amendments to the form but not the substance thereof as will bring the notice of motion into due form; and
  - (c) may under his or her name provide relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.
- (5) No notice of motion is to be out of order because the policy involved is considered to be objectionable.
- (6) A motion of which notice has been given is to lapse unless—
  - (a) the member who gave notice thereof, or some other member authorised by him or her 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.
- (7) If a notice of motion is given and lapses in the circumstances referred to in subclause (6)(a), notice of motion in the same terms or the same effect is not to be given again for at least 3 months from the date of such lapse.

### **3.9 Questions by Members of which Due Notice has been given**

- (1) A question on notice is to be given by a member in writing to the CEO at least four (4) clear working days before the meeting at which it is raised.
- (2) If the question referred to in subclause (1) is in order, the answer is, so far as is practicable, to be included in written form in the agenda of the meeting, or otherwise tabled at that meeting.
- (3) Every question and answer is to be submitted as briefly and concisely as possible and no discussion is to be allowed thereon, unless with the consent of the person presiding.

### **3.10 Urgent Business Approved By the Person Presiding or by Decision**

In cases of extreme urgency or other special circumstance, matters may, with the consent of the person presiding, or by decision of the members present, be raised without notice and decided by the meeting.

### **3.11 Deputations**

- (1) A deputation wishing to be received by the Council or a committee is to apply in writing to the CEO who is to forward the written request to the President, or the Presiding Member as the case may be.
- (2) The President if the request is to attend a Council meeting, or the Presiding Member of the committee, if the request is to attend a meeting of a committee, may either approve the request, in which event the CEO is to invite the deputation to attend a meeting of the Council or committee as the case may be, or may instruct the CEO to refer the request to

- the Council or committee to decide by simple majority whether or not to receive the deputation.
- (3) A deputation invited to attend a Council or committee meeting—
    - (a) is not to exceed five persons, only two of whom may address the Council or committee, although others may respond to specific questions from the members; and
    - (b) is not to address the Council or committee for a period exceeding 15 minutes without the agreement of the Council or the committee as the case requires.
  - (4) Any matter which is the subject of a deputation to the Council or a committee is not to be decided by the Council or that committee until the deputation has completed its presentation.

#### **PART 4—PUBLIC ACCESS TO AGENDA MATERIAL**

##### **4.1 Inspection Entitlement**

Members of the public have access to agenda material in the terms set out in Regulation 14 of the Regulations.

##### **4.2 Confidentiality of Information Withheld**

- (1) Information withheld by the CEO from members of the public under Regulation 14.2, of the Regulations, is to be—
  - (a) identified in the agenda of a Council or committee meeting under the item “Matters for which meeting may be closed”; and
  - (b) marked “confidential” in the agenda.
- (2) A member of the Council or a committee or an employee of the Council in receipt of confidential information is not to disclose such information to any person other than a member of the Council or the committee or an employee of the Council to the extent necessary for the purpose of carrying out his or her duties.  
Penalty \$5,000

#### **PART 5—DISCLOSURE OF FINANCIAL INTERESTS**

##### **5.1 Separation of Committee Recommendations**

Where a member of the Council has disclosed an interest in a matter, at a committee meeting, and the matter is contained in the recommendations of the committee to an ordinary meeting of Council or to another committee meeting that will be attended by the member, the recommendation concerned is to be separated on the agenda of that ordinary meeting or other committee meeting, from other recommendations of the committee, to enable the member concerned to declare the interest and leave the room prior to consideration of that matter only.

##### **5.2 Member with an Interest may ask to be Present**

- (1) Where a member has disclosed the nature of his or her interest in a matter, immediately before the matter is considered by the meeting, he or she may, without disclosing the extent of the interest, request that he or she be allowed to be present during any discussion or decision making procedure related to the matter.
- (2) If such a request is made, the member is to leave the room while the request is considered. If the request is allowed by the members, the member may return to the meeting and be present during the discussion or decision making procedure related to that matter, but is not permitted to participate in any way.

### **5.3 Member with an Interest may ask Permission to Participate**

- (1) A member who discloses both the nature and extent of an interest, may request permission to take part in the consideration or discussion of the matter, or to vote on the matter.
- (2) If such a request is made, the member is to leave the room while the request is considered. If it is decided at a meeting that a member who has disclosed both the nature and extent of an interest in a matter, be permitted to participate in the consideration and discussion of the matter or to vote on the matter, or both, then the member may return to participate to the extent permitted.

### **5.4 Invitation to Return to Provide Information**

Where a member has disclosed an interest in a matter and has left the room in accordance with the Act, the meeting may resolve to invite the member to return to provide information in respect of the matter or in respect of the member's interest in the matter and in such case the member is to withdraw after providing the information.

### **5.5 Disclosures by Employees**

- (1) If an employee within the meaning of section 5.70 of the Act, presents a written report to a meeting, on a matter in which the employee has an interest, the nature of the interest is to be disclosed at the commencement of the report.
- (2) If such an employee makes a verbal report to a meeting on a matter in which the employee has an interest, the employee is to preface his or her advice to the meeting by verbally disclosing the nature of the interest.

## **PART 6—QUORUM**

### **6.1 Quorum to be Present**

- (1) The Council or a committee is not to transact business at a meeting unless a quorum is present.

### **6.2 Loss of Quorum During a Meeting**

- (1) If at any time during the course of a meeting of the Council or a committee a quorum is not present—
  - (a) in relation to a particular matter because of a member or members leaving the meeting after disclosing a financial interest, the matter is adjourned until either—
    - (i) a quorum is present to decide the matter; or
    - (ii) the Minister allows a disclosing member or members to preside at the meeting or to participate in discussions or the decision making procedures relating to the matter under section 5.69 of the Act; or
  - (b) because of a member or members leaving the meeting for reasons other than disclosure of a financial interest, the person presiding is to suspend the proceedings of the meeting for a period of five minutes, and if a quorum is not present at the end of that time, the meeting is deemed to have been adjourned and the person presiding is to reschedule it to some future time or date having regard to the period of notice which needs to be given under the Act, Regulations, or the Standing Orders when calling a meeting of that type.

- (2) Where debate on a motion is interrupted by an adjournment under subclause (1) (b)—
- (a) the debate is to be resumed at the next meeting at the point where it was so interrupted; and
  - (b) in the case of a Council meeting—
    - (i) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
    - (ii) the provisions of clause 9.5 apply when the debate is resumed.

## **PART 7—KEEPING OF MINUTES**

### **7.1 Content of Minutes**

In addition to the matters contained in Regulation 11 of the Regulations, the content of minutes of a meeting of the Council or a committee is to include, where an application for approval is declined or the authorisation of a licence, permit, or certificate is otherwise withheld or cancelled, the reasons for the decision.

### **7.2 Preservation of Minutes**

Minutes including the agenda of each Council and committee meeting are to be kept as a permanent record of the activities of the local government and are to be transferred to the Public Records Office, being a directorate of the Library and Information Service of Western Australia, in accordance with the retention and disposal policy determined by that office from time to time.

## **PART 8—CONDUCT OF PERSONS AT COUNCIL AND COMMITTEE MEETINGS**

### **8.1 Official Titles to be Used**

Members of the Council are to speak of each other in the Council or committee by their respective titles of President or councillor. Members of the Council, in speaking of or addressing employees, are to designate them by their respective official titles.

### **8.2 Members to Occupy Own Seats**

At the first meeting held after each ordinary elections day, the CEO is to allot by random draw, a position at the Council table to each councillor and the councillor is to occupy that position when present at meetings of the Council until such time as there is a call by a majority of councillors for a re-allotment of positions.

### **8.3 Leaving Meetings**

During the course of a meeting of the Council or a committee no member is to enter or leave the meeting without first advising the person presiding, in order to facilitate the recording in the minutes of the time of entry or departure.

### **8.4 Adverse Reflection**

- (1) No member of the Council or a committee is to use offensive or objectionable expressions in reference to any member, employee of the Council, or any other person.  
Penalty \$1,000
- (2) If a member of the Council or committee specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes, the person presiding is to cause the words used to be taken down and read to the meeting for verification and to then be recorded in the minutes.

### **8.5 Recording of Proceedings**

- (1) No person is to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council or a committee without the written permission of the Council.
- (2) Subclause (1) does not apply if the record is taken by or at the direction of the CEO, with the permission of the Council or committee.

### **8.6 Prevention of Disturbance**

- (1) Any member of the public addressing the Council or a committee is to extend due courtesy and respect to the Council or committee and the processes under which they operate and must take direction from the person presiding whenever called upon to do so.  
Penalty \$1,000
- (2) No person observing a meeting, is to create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.  
Penalty \$1,000

### **8.7 Distinguished Visitors**

If a distinguished visitor is present at a meeting of the Council or a committee, the person presiding may invite such person to sit beside the person presiding or at the Council table.

## **PART 9—CONDUCT OF MEMBERS DURING DEBATE**

### **9.1 Members to Rise**

Every member of the Council wishing to speak is to indicate by show of hands or other method agreed upon by the Council. When invited by the person presiding to speak, members are to rise if requested by the person presiding and address the Council through the person presiding, provided that where any member of the Council is unable to stand by reason of sickness or disability he or she may sit while speaking.

### **9.2 Priority**

In the event of two or more members of the Council or a committee wishing to speak at the same time, the person presiding is to decide which member is entitled to be heard first. The decision is not open to discussion or dissent.

### **9.3 The Person Presiding to Take Part in Debates**

Unless otherwise prohibited by the Act, and subject to compliance with procedures for the debate of motions contained in these Standing Orders, the person presiding may take part in a discussion of any matter before the Council or committee as the case may be.

### **9.4 Relevance**

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

### **9.5 Limitation of Duration of Speeches**

All addresses are to be limited to a maximum of five minutes. Extension of time is permissible only with the agreement of a simple majority of members present.

### **9.6 Members Not to Speak After Conclusion of Debate**

No member of the Council or a committee is to speak to any question after it has been put by the person presiding.

### **9.7 Members Not to Interrupt**

No member of the Council or a committee is to interrupt another member of the Council or committee whilst speaking unless—

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 10.16; or
- (d) to move a motion under clause 11(1)(e).

### **9.8 Re-Opening Discussion on Decisions**

No member of the Council or a committee is to re-open discussion on any decision of the Council or committee, except for the purpose of moving that the decision be revoked or changed.

## **PART 10—PROCEDURES FOR DEBATE OF MOTIONS**

### **10.1 Motions To be Stated**

Any member of the Council or a committee who moves a substantive motion or amendment to a substantive motion is to state the substance of the motion before speaking to it.

### **10.2 Motions to be Supported**

No motion or amendment to a substantive motion is open to debate until it has been seconded, or, in the case of a motion to revoke or change the decision made at a Council or a committee meeting, unless the motion has the support required under Regulation 10 of the Regulations.

### **10.3 Unopposed Business**

- (1) Upon a motion being moved and seconded, the person presiding may ask the meeting if any member opposes it.
- (2) If no member signifies opposition to the motion the person presiding may declare the motion in subclause (1) carried without debate and without taking a vote on it.
- (3) A motion carried under subclause (2) is to be recorded in the minutes as a unanimous decision of the Council or committee.
- (4) If a member signifies opposition to a motion the motion is to be dealt with according to this Part.
- (5) This clause does not apply to any motion or decision to revoke or change a decision which has been made at a Council or committee meeting.

### **10.4 Only One Substantive Motion Considered**

When a substantive motion is under debate at any meeting of the Council or a committee, no further substantive motion is to be accepted.

### **10.5 Breaking Down of Complex Questions**

The person presiding may order a complex question to be broken down and put in the form of several motions, which are to be put in sequence.

### **10.6 Order of Call in Debate**

The person presiding is to call speakers to a substantive motion in the following order—

- (a) The mover to state the motion;
- (b) A seconder to the motion;



- (c) The mover to speak to the motion;
- (d) The seconder to speak to the motion;
- (e) A speaker against the motion;
- (f) A speaker for the motion;
- (g) Other speakers against and for the motion, alternating in view, if any;
- (h) Mover takes right of reply which closes debate.

#### **10.7 Limit of Debate**

The person presiding may offer the right of reply and put the motion to the vote if he or she believes sufficient discussion has taken place even though all members may not have spoken.

#### **10.8 Member May Require Questions to be Read**

Any 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 whilst speaking.

#### **10.9 Consent of Secunder Required to Accept Alteration of Wording**

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

#### **10.10 Order of Amendments**

Any number of amendments may be proposed to a 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 or lost.

#### **10.11 Amendments Must Not Negate Original Motion**

No amendment to a motion can be moved which negates the original motion or the intent of the original motion.

#### **10.12 Substantive Motion**

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.

#### **10.13 Withdrawal of Motion and Amendments**

Council or a committee may, without debate, grant leave to withdraw a motion or amendment upon request of the mover of the motion or amendment and with the approval of the seconder provided that there is no voice expressed to the contrary view by any member, in which case discussion on the motion or amendment is to continue.

#### **10.14 Limitation of Withdrawal**

Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

#### **10.15 Personal Explanation**

No member is to speak at any meeting of the Council or a committee, except upon the matter before the Council or committee, unless it is to make a personal explanation. Any member of the Council or committee who is permitted to speak under these circumstances is to confine the observations to a succinct statement relating to a specific part of the former speech which may have been misunderstood. When a member of the Council or committee makes a personal explanation, no reference is to be made to matters unnecessary for that purpose.

### **10.16 Personal Explanation—When Heard**

A member of the Council or a committee wishing to make a personal explanation of matters referred to by any member of the Council or committee then speaking, is entitled to be heard immediately, if the member of the Council or committee then speaking consents at the time, but if the member of the Council or committee who is speaking declines to give way, the explanation is to be offered at the conclusion of that speech.

### **10.17 Ruling on Questions of Personal Explanation**

The ruling of the person presiding on the admissibility of a personal explanation is final unless a motion of dissent with the ruling is moved before any other business proceeds.

### **10.18 Right of Reply**

- (1) The mover of a substantive motion has the right of reply. After the mover of the substantive motion has commenced the reply, no other member is to speak on the question.
- (2) The right of reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

### **10.19 Right of Reply Provisions**

The right of reply is governed by the following provisions—

- (a) if no amendment is moved to the substantive motion, the mover may reply at the conclusion of the discussion on the motion;
- (b) if an amendment is moved to the substantive motion the mover of the substantive motion is to take the right of reply at the conclusion of the vote on any amendments;
- (c) the mover of any amendment does not have a right of reply;
- (d) once the right of reply has been taken, there can be no further discussion, nor any other amendment and the original motion or the original motion as amended is immediately put to the vote.

## **PART 11—PROCEDURAL MOTIONS**

### **11.1 Permissible Procedural Motions**

In addition to proposing a properly worded amendment to a substantive motion, it is permissible for a member to move the following procedural motions—

- (a) that the Council (or committee) proceed to the next business;
- (b) that the question be adjourned;
- (c) that the Council (or committee) now adjourn;
- (d) that the question be now put;
- (e) that the member be no longer heard;
- (f) that the ruling of the person presiding be disagreed with;
- (g) that the Council (or committee) meet behind closed doors, if the meeting or part of the meeting to which the motion relates is a matter in respect of which the meeting may be closed to members of the public under section 5.23 of the Act.

### **11.2 No Debate on Procedural Motions**

- (1) The mover of a motion stated in each of paragraphs (a), (b), (c), (f) and (g) of clause 11.1 may speak to the motion for not more than five minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

- (2) The mover of a motion stated in each of paragraphs (d) and (e) of clause 11.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

**11.3 Procedural Motions—Closing Debate—Who May Move**

No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment may move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

**11.4 Procedural Motions—Right of Reply on Substantive Motion**

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

**PART 12—EFFECT OF PROCEDURAL MOTIONS**

**12.1 Council (or Committee) to Proceed to the Next Business—Effect of Motion**

The motion “that the Council (or committee) proceed to the next business”, if carried, causes the debate to cease immediately and for the Council (or committee) to move to the next business of the meeting. No decision will be made on the substantive motion being discussed, nor is there any requirement for the matter to be again raised for consideration.

**12.2 Question to be Adjourned—Effect of Motion**

The motion “that the question be adjourned”, if carried, causes all debate on the substantive motion or amendment to cease but to continue at a time stated in the motion.

**12.3 Council (or Committee) to Now Adjourn—Effect of Motion**

The motion “that the Council (or committee) now adjourn”, if carried, causes the meeting to stand adjourned until it is re-opened at which time the meeting continues from the point at which it was adjourned, unless the person presiding or a simple majority of members upon vote, determine otherwise.

- (2) Where debate on a motion is interrupted by an adjournment under subclause (1) the debate is to be resumed at the next meeting at the point where it was so interrupted.

**12.4 Question to be Put—Effect of Motion**

- (1) The motion “that the question be now put”, if carried during discussion of a substantive motion without amendment, causes the person presiding to offer the right of reply and then immediately put the matter under consideration without further debate.
- (2) This motion, if carried during discussion of an amendment, causes the person presiding to put the amendment to the vote without further debate.
- (3) This motion, if lost, causes debate to continue.

**12.5 Member to be No Longer Heard—Effect of Motion**

The motion “that the member be no longer heard”, if carried, causes the person presiding to not allow the speaker against whom the motion has been moved to speak to the current substantive motion or any amendment relating to it, except to exercise the right of reply if the person is the mover of the substantive motion.

### **12.6 Ruling of the Person Presiding Disagreed With—Effect of Motion**

The motion “that the ruling of the person presiding be disagreed with”, if carried, causes the ruling of the person presiding about which this motion was moved, to have no effect and for the meeting to proceed accordingly.

### **12.7 Council (or Committee) to Meet Behind Closed Doors—Effect of Motion**

- (1) Subject to any deferral under clause 3.7 or other decision of the Council or committee, this motion, if carried, causes the general public and any officer or employee the Council or committee determines, to leave the room.
- (2) Upon the public again being admitted to the meeting the person presiding, unless the Council or committee decides otherwise, is to cause the motions passed by the Council or committee whilst it was proceeding behind closed doors to be read out including the vote of a member or members to be recorded in the minutes under section 5.21 of the Act.
- (3) A person who is a Council member, a committee member, or an employee is not to publish, or make public any of the discussion taking place on a matter discussed behind closed doors, but this prohibition does not extend to the actual decision made as a result of such discussion and other information properly recorded in the minutes.  
Penalty \$5,000.

## **PART 13—MAKING DECISIONS**

### **13.1 Question—When Put**

When the debate upon any question is concluded and the right of reply has been exercised the person presiding shall immediately put the question to the Council or the committee, and, if so desired by any member of the Council or committee, shall again state it.

### **13.2 Question—Method of Putting**

If a decision of the Council or a committee is unclear or in doubt, the person presiding shall put the motion or amendment as often as necessary to determine the decision from a show of hands or other method agreed upon so that no voter’s vote is secret, before declaring the decision.

## **PART 14—IMPLEMENTING DECISIONS**

### **14.1 Implementation of a Decision**

- (1) If a notice of motion to revoke or change a decision of the Council or a committee is received before any action has been taken to implement that decision, then no steps are to be taken to implement or give effect to that decision until such time as the motion of revocation or change has been dealt with, except that—
  - (a) if a notice of motion to revoke or change a decision of the Council or a committee is given during the same meeting at which the decision was made, the notice of motion is of no effect unless the number of members required to support the motion under Regulation 10 of the Regulations indicate their support for the notice of motion at that meeting; and
  - (b) if a notice of motion to revoke or change a decision of the Council or a committee is received after the closure of the meeting at which the decision was made, implementation of the decision is not to be withheld unless the notice of motion has the support in writing, of the number of members required to support the motion under Regulation 10 of the Regulations.

- (2) Implementation of a decision is only to be withheld under sub-clause (1) if the effect of the change proposed in a notice of motion would be that the decision would be revoked or would become substantially different.
- (3) The Council or a committee shall not vote on a motion to revoke or change a decision of the Council or committee whether the motion of revocation or change is moved with or without notice, if at the time the motion is moved or notice is given—
- (a) action has been taken to implement the decision; or
  - (b) where the decision concerns the issue of an approval or the authorisation of a licence, permit or certificate, and where that approval or authorisation of a licence, permit or certificate has been put into effect by the Council in writing to the applicant or the applicant's agent by an employee of the Council authorised to do so;
- without having considered a statement of impact prepared by or at the direction of the CEO of the legal and financial consequences of the proposed revocation or change.

## **PART 15—PRESERVING ORDER**

### **15.1 The Person Presiding to Preserve Order**

The person presiding is to preserve order, and may call any member or other person in attendance to order, whenever, in his or her opinion, there is cause for so doing.

### **15.2 Demand for Withdrawal**

A member at a meeting of the Council or a committee may be required by the person presiding, or by a decision of the Council or committee, to apologise and unreservedly withdraw any expression which is considered to reflect offensively on another member or an employee, and if the member declines or neglects to do so, the person presiding may refuse to hear the member further upon the matter then under discussion and call upon the next speaker.

### **15.3 Points of Order—When to Raise—Procedure**

Upon a matter of order arising during the progress of a debate, any member may raise a point of order including interrupting the speaker. Any member who is speaking when a point of order is raised, is to immediately stop speaking and be seated if required while the person presiding listens to the point of order.

### **15.4 Points of Order—When Valid**

The following are to be recognised as valid points of order—

- (a) that the discussion is of a matter not before the Council or committee;
- (b) that offensive or insulting language is being used;
- (c) drawing attention to the violation of any written law, or policy of the Local Government, provided that the member making the point of order states the written law or policy believed to be breached.

### **15.5 Points Of Order—Ruling**

The person presiding is to give a decision on any point of order which is raised by either upholding or rejecting the point of order.

### **15.6 Points of Order—Ruling Conclusive, Unless Dissent Motion is Moved**

The ruling of the person presiding upon any question of order is final, unless a majority of the members support a motion of dissent with the ruling.

### **15.7 Points of Order Take Precedence**

Notwithstanding anything contained in these Standing Orders to the contrary, all points of order take precedence over any other discussion and until decided, suspend the consideration and decision of every other matter.

#### **15.8 Precedence of Person Presiding**

- (1) When the person presiding rises during the progress of a debate, any member of the Council or committee then speaking, or offering to speak, is to immediately sit down and every member of the Council or committee present shall preserve strict silence so that the person presiding may be heard without interruption.  
Penalty \$500
- (2) Subclause (1) is not to be used by the person presiding to exercise the right provided in clause 9.3, but to preserve order.

#### **15.9 Right of the Person Presiding to Adjourn Without Explanation to Regain Order**

If a meeting ceases to operate in an orderly manner, the person presiding may use discretion to adjourn the meeting for a period of up to fifteen minutes without explanation, for the purpose of regaining order. Upon resumption, debate is to continue at the point at which the meeting was adjourned. If, at any one meeting, the person presiding has cause to further adjourn the meeting, such adjournment may be to a later time on the same day or to any other day.

### **PART 16—ADJOURNMENT OF MEETING**

#### **16.1 Meeting May be Adjourned**

The Council or a committee may decide to adjourn any meeting to a later time on the same day, or to any other day.

#### **16.2 Limit to Moving Adjournment**

No member is to move or second more than one motion of adjournment during the same sitting of the Council or committee.

#### **16.3 Unopposed Business—Motion for Adjournment**

On a motion for the adjournment of the Council or committee, the person presiding, before putting the motion, may seek leave of the Council or committee to proceed to the transaction of unopposed business.

#### **16.4 Withdrawal of Motion for Adjournment**

A motion or an amendment relating to the adjournment of the Council or a committee may be withdrawn by the mover, with the consent of the seconder, except that if any member objects to the withdrawal, debate of the motion is to continue.

#### **16.5 Time To Which Adjourned**

The time to which a meeting is adjourned for want of a quorum, by the person presiding to regain order, or by decision of the Council, may be to a specified hour on a particular day or to a time which coincides with the conclusion of another meeting or event on a particular day.

### **PART 17—COMMITTEES OF THE COUNCIL**

#### **17.1 Establishment and Appointment of Committees**

A committee is not to be established except on a motion setting out the proposed functions of the committee and either—

- (a) the names of the Council members, employees and other persons to be appointed to the committee; or
- (b) the number of Council members, employees and other persons to be appointed to the committee and a provision that they be appointed by a separate motion.

### **17.2 Appointment of Deputy Committee Members**

- (1) The Council may appoint one or more persons to be the deputy or deputies, as the case may be, to act on behalf of a member of a committee whenever that member is unable to be present at a meeting thereof and where two or more deputies are so appointed they are to have seniority in the order determined by the Council.
- (2) Where a member of a committee does not attend a meeting thereof a deputy of that member, selected according to seniority, is entitled to attend that meeting in place of the member and act for the member, and while so acting has all the powers of that member.

### **17.3 Presentation of Committee Reports**

When the report or recommendations of a committee are placed before the Council, the adoption of recommendations of the committee is to be moved by—

- (a) the Presiding Member of the Committee if the Presiding Member is a Council member and is in attendance; or
- (b) a Council member who is a member of the committee, if the Presiding Member of the Committee is not a Council member, or is absent; or
- (c) otherwise, by a Council member who is not a member of the committee.

### **17.4 Reports of Committees—Questions**

When a recommendation of any committee is submitted for adoption by the Council, any member of the Council may direct questions directly relating to the recommendation through the person presiding to the Presiding Member or to any member of the committee in attendance.

### **17.5 Permissible Motions on Recommendation From Committee**

A recommendation made by or contained in the minutes of a committee may be adopted by the Council without amendment or modification, failing which, it may be—

- (a) rejected by the Council and replaced by an alternative decision; or
- (b) amended or modified and adopted with such amendment or modification; or
- (c) referred back to the committee for further consideration.

### **17.6 Standing Orders Apply to Committees**

Where not otherwise specifically provided, these Standing Orders apply generally to the proceedings of committees, except that the following Standing Orders do not apply to the meeting of a committee—

- (a) Clause 8.2, in regard to seating;
- (b) Clause 9.1, in respect of the requirement to rise.

## **PART 18—ADMINISTRATIVE MATTERS**

### **18.1 Suspension of Standing Orders**

- (1) The Council or a committee may decide, by simple majority vote, to suspend temporarily one or more of the Standing Orders.
- (2) The mover of a motion to suspend temporarily any one or more of the Standing Orders is to state the clause or clauses to be suspended, and the purpose of the suspension.

### **18.2 Cases not Provided for in Standing Orders**

The person presiding is to decide questions of order, procedure, debate, or otherwise in cases where these Standing Orders and the Act and Regulations are silent. The decision of the person presiding in these cases is final, except where a motion is moved and carried under clause 11.1 (f).

### **18.3 Electors Meeting**

- (1) Standing Orders to apply.  
The Standing orders apply, so far as is practicable, to any meeting of ratepayers or electors convened in accordance with the Act.
- (2) Restrictions on Voting and Speaking—
  - (i) No person shall vote at a meeting of ratepayers or electors unless his or her name is on the current electoral roll.
  - (ii) Any person who is not a ratepayer or an elector may not take part in any discussion at the meeting unless the President so decides.
  - (iii) The President may request any questions or motions to be submitted in writing.
  - (iv) Subject to the Act and this Local Law the conduct of a meeting of ratepayers or electors convened in accordance with the Act is at the sole discretion of the President.

## **PART 19—COMMON SEAL**

### **19.1 The Council's Common Seal**

- (1) 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.
- (2) The common seal of the Local Government may only be used on the authority of the Council given either generally or specifically and every document to which the seal is affixed must be signed by the President and the CEO or a senior employee authorised by him or her.
- (3) The common seal of the Local Government is to be affixed to any local law which is made by the Local Government.
- (4) The CEO is to record in a register each date on which the common seal of the Local Government was affixed to a document, the nature of the document, and the parties to any agreement to which the common seal was affixed.
- (5) Any person who uses the common seal of the Local Government or a replica thereof without authority commits an offence.  
Penalty \$1,000.



**LOCAL GOVERNMENT ACT 1995**

*Shire of Wagin*

**UNSIGHTLY LAND AND REFUSE, RUBBISH OR DISUSED MATERIAL ON  
LAND LOCAL LAW 2008**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Wagin resolved on the 15 April 2008 to make the following local law.

**1. Citation**

This local law may be cited as the *Shire of Wagin Unightly Land and Refuse, Rubbish or Disused Material on Land Local Law 2008*.

**2. Definitions**

- (1) In this local law, unless the context otherwise requires—
- “**abandoned**” means being left on the land without being moved or used for it’s original purpose for a period longer than 3 months;
  - “**Act**” means the *Local Government Act 1995*;
  - “**authorized person**” means a person appointed by the local government to be an authorized person for the purposes of this local law;
  - “**CEO**” means the Chief Executive Officer of the local government;
  - “**district**” means the district of the local government;
  - “**deposited**” means placed on the land and not used for it’s original purpose for a period longer than 3 months;
  - “**local government**” means the Shire of Wagin;
  - “**unightly**” has the same meaning as defined in schedule 3.1 of the *Local Government Act 1995* as amended;
  - “**material**” means the substance of which things are composed and includes organic and inorganic matter;
  - “**refuse, rubbish or disused material**” includes—
    - (i) any abandoned or unwanted object, material or thing, whether it has any present value or not, placed on the land;
    - (ii) any motor vehicle, motor vehicle part, caravan, trailer, boat or other thing or machinery which has been parked, deposited or stored on any land, notwithstanding that it may have a value, being visible from the road or adjoining land, which in the opinion of the CEO, or an authorized person, is unightly;
    - (iii) any wood, timber, lumber or cuttings, logs or remnants of trees, or chopped, split or chipped wood, and any like material notwithstanding that it may have a value; or
    - (iv) anything placed on the land that in the opinion of an authorized person is—
      - a. unightly;
      - b. is likely to adversely affect the health, safety, comfort, convenience or amenity of the inhabitants of that land or any other land or is likely to cause damage to that land or any other land; or

- c. results in that land having an appearance which does not conform with the general appearance of other land in the locality.

**“placed”** means stored, deposited or put;

**“serve”** has the same meaning as defined in section 75 and 76 of the Interpretation Act 1984; and

**“stored”** means placed on the land and not used for its original purpose.

- (2) Where in this local law a duty of liability is imposed on an owner or owner-occupier of land, the duty of liability is imposed jointly and severally on each tenant in common.

### **3. Object and purpose**

The object and purpose of this local law is to ensure owners or owner-occupiers maintain their land in a condition free of refuse, rubbish or disused material that is unsightly.

### **4. Notices**

- (1) If there is on any land, vacant or otherwise within the district, any refuse, rubbish or disused material, an authorized person may issue and serve a notice signed by the CEO—
  - (i) requiring the owner or owner-occupier to—
    - a. clean up;
    - b. clear away; and
    - c. remove;any refuse, rubbish or disused material; and
  - (ii) requiring the owner or owner-occupier to dispose of any refuse, rubbish or disused material; and
  - (iii) advising the owner or owner-occupier that they have 28 days in which to lodge a notice of objection with the CEO of the local government; and
  - (iv) advising the owner or owner-occupier that failure to comply with the notice may result in Court action proceeding without further notice; and
  - (v) advising the owner or owner-occupier that failure to comply with the notice may result in the local government carrying out the work set out in the notice, the costs of which will be recovered from the owner or owner-occupier of the land.
- (2) If there is on any land, vacant or otherwise within the district, any refuse, rubbish or disused material, an authorized person may issue and serve a notice signed by the CEO—
  - (i) requiring the owner or owner-occupier to—
    - a. shield from view by the construction of a fence or screen to the satisfaction of the local government; or
    - b. carry out any other works to achieve the object of this local law; and
  - (ii) advising the owner or owner-occupier that they have 28 days in which to lodge a notice of objection with the CEO of the local government; and
  - (iii) advising the owner or owner-occupier that failure to comply with the notice may result in Court action proceeding without further notice; and
  - (iv) advising the owner or owner-occupier that failure to comply with the notice may result in the local government carrying out the work set out in the notice, the costs of which will be recovered from the owner or owner-occupier of the land.

### **5. Application of Division 1, Part 9 of the Act**

When the local government makes a decision under clause 4, the provisions of Division 1 of Part 9 of the Act and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

### **6. Objections and appeals**

The owner or owner-occupier of land, having been served with notice under this local law, is deemed to be an affected person under the Act, and may within 28 days of being served with the notice, lodge a notice of objection, in writing, addressed to the CEO.

### **7. Breach for failure to comply with a notice**

An owner or owner-occupier, having been served with a notice, who fails to comply with the terms of the notice within the prescribed time, commits an offence.

Penalty—

- (i) \$5,000; and
- (ii) a daily penalty of \$500.

### **8. Entry and disposal of refuse, rubbish or disused material**

Where an owner or owner-occupier fails to comply with the terms of a notice, and refuses to give the local government written permission to enter onto the land to carry out the work specified in the notice, the local government may, at the time of conviction for a breach of this local law make application to the Court for—

- (i) a warrant to enter onto the land to carry out the work specified in the notice;  
and,
- (ii) an order that refuse, rubbish or disused material that is removed and impounded be confiscated and disposed of.

### **9. Recovery of costs**

The local government may recover the cost of work that an owner or owner-occupier fails to carry out prescribed by a notice under this local law as a debt due from the owner or owner-occupier.

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Dated: 29 April 2008.

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

M. J. BROCKWAY, Shire President.  
L. J. CALNEGGIA, A/Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1960**

Municipality of the Shire of Wagin

**By-law relating to-Verandahs Removal of  
Wagin Memorial Swimming Pool  
To Regulate Hawkers and Stalls**

In pursuance of the powers confirmed upon it by the abovementioned Act and all other powers enabling it, the Council of the abovementioned municipality hereby records having resolved on the 17<sup>th</sup> day of October 1989 to make and submit by-laws for confirmation by His Excellency the Governor as follows-

"Verandahs (Removal of)" published in the *Government Gazette* on 21 February 1963;

"Wagin Memorial Swimming Pool" published in the *Government Gazette* on 1 June 1967 and amended on 25 October 1967, 24 February 1970, 21 February 1975 and 24 October 1980;

**"To Regulate Hawkers and Stalls" published on 15 August 1958.**

- (a) By-law No. 2 Verandahs (Removal of).  
The By-law is repealed.
- (b) By-laws relating to the Wagin Memorial Swimming Centre.  
By-law 31 is amended by deleting the word-  
"premises" in line three and adding "premises, with the exception of a bona fide guide dog accompanying blind or partially blind persons or bona fide hearing dogs accompanying deaf or partially deaf persons".
- (c) By-law to Regulate Hawkers and Stalls.  
The By-law is amended by-
  - (i) The title is amended by deleting "Wagin Road Board" and substituting "The Municipality of the Shire of Wagin".
  - (ii) Clause 1 is amended by deleting the definitions of "Board", "District" and "Secretary" and inserting the following-  
"Council" means the Council of the Municipality of the Shire of Wagin.  
"District" means the District of the Municipality of the Shire of Wagin.  
"Shire Clerk" means the Shire Clerk of the Shire of Wagin.  
Clause 3 is amended by deleting the word "Board" in line two and substituting the word "Council".  
Clause 4 (1) and (2) are amended by deleting the word-  
"Secretary" in lines two and seven and substituting the words "Shire Clerk".  
Clause 5 is amended by deleting the word "Board" in line three and substituting the word "Council".  
Clause 6 (1) is amended by deleting the word "Board" in lines one and two and substituting the word "Council" in both instances.  
Clause 6 (2) is amended by deleting the word "Secretary" in line two and substituting the words "Shire Clerk".  
Clause 7 (1) is amended by deleting the word "Board" and substituting the word "Council".

Clause 9 is amended by deleting the word "Board" in line three and substituting the word "Council".

Clause 11 is amended by deleting all words after the word "Liable" and substituting the following-

"upon conviction;

- (a) in respect to a hawking offence to a maximum penalty as prescribed in section 190 (7) (d) (i) of the Act, and
- (b) in respect to a stall offence to a maximum penalty or term of imprisonment as prescribed in section 242 (4) of the Act."

**Schedule A of the By-laws is amended by-**

- (i) deleting the words "Road Board" and "Road District" where they appear and substituting the words "Shire Council".
- (ii) deleting the words "Secretary" where they appear and substituting the words "Shire Clerk".

**Schedule C of the By-laws is deleted and substituted with the following-**

Schedule C

Fees for Hawkers Licence

The annual fee shall be forty dollars.

Fee for Stall Holders

Five dollars per week or two hundred dollars per year.

Dated this 8<sup>th</sup> day of February 1990.

H. L. PEDERICK, Shire President.  
GARY P. BRENNAN, Shire Clerk.

Recommended-

\_\_\_\_\_  
G. HILL, Minister for Local Government.

Approved by His Excellency the Governor in Executive Council this 27<sup>th</sup> day of March 1990.

\_\_\_\_\_  
G. PEARCE, Clerk of the Council.

**CEMETERIES ACT 1897.**

Shire of Wagin

**Wagin Public Cemetery By-laws.**

IN pursuance of the powers conferred upon it by the abovementioned Act and of all other powers enabling it, the Trustees of the Wagin Public Cemetery hereby record having resolved on 18 September 1984, to make and submit for confirmation by the Governor the following by-laws: -

The by-laws as published in the Government Gazette on 11 January 1907, and amended by notices published in the Government Gazette on 8 December 1916, 21 January 1938, 24 February 1950, 20 April 1955, 25 October 1967, and 21 January 1977 are further amended: -  
By making the following inclusion in Schedule "A".

- |     |   |       |
|-----|---|-------|
| 6.  | Niche Wall.   | \$    |
| (a) | For the interment of ashes in a single niche without the supply of a niche plaque | 20,00 |
| (b) | For the interment of ashes in a single niche with the supply of a niche plaque    | 55.00 |

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Dated this 30th day of October, 1984  
The Common Seal of the Shire of Wagin was  
hereto affixed in the presence of-

[L.S.]

E. R. BLIGHT,  
President.  
K. J. LEECE,  
Shire Clerk.

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Recommended-

JEFF CARR,  
Minister for Local Government.

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Approved by His Excellency the Governor in Executive Council this 19th day of February, 1985.

R. G. COOPER,  
Clerk of the Council.

**LOCAL GOVERNMENT ACT, 1960-1979**

The Municipality of the Shire of Wagin

**By-Laws Relating to Wagin Memorial Swimming Centre**

IN pursuance of the powers conferred upon it by the abovementioned Act, and of all other powers enabling it, the Council of the abovementioned Municipality hereby records having resolved on the 20<sup>th</sup> day of May, 1980, to make and submit for confirmation by the Governor the following by-laws: -

The by-laws published in the Government Gazette on the 1<sup>st</sup> day of June, 1967, and amended by notices published in the Government Gazette on the 25<sup>th</sup> day of October, 1967, the 24<sup>th</sup> day of February, 1970 and the 21<sup>st</sup> day of February, 1975, are further amended: -

(a) By repealing by-law 6 and re-enacting it as follows: -

6. The maximum charges payable for admission to the Pool shall be as specified hereunder: -

Each Session: -	\$
Adults (16 years and over)	1.00
Children (Under 16 years)	.40
Tickets valid for one calendar month from date of issue: -	\$
Adults (16 years and over)	20.00
Children (Under 16 years)	10.00
Season Tickets: -	\$
Family	100.00
Adults (16 years and over)	40.00
Children (Under 16 years)	20.00

(b) By repealing by-law 35 (a) and re-enacting it as follows: -

35. (a) Any person offending against any of the provisions contained in these by-laws shall upon conviction be liable to a penalty not exceeding \$200.

Dated this 21<sup>st</sup> day of May, 1980.

The Common Seal of the Shire of Wagin was  
hereunto affixed in the presence of-

[L.S.]

E. R. BLIGHT, President  
V. S. SPALDING, Shire Clerk.

Recommended-

JUNE CRAIG,  
Minister for Local Government.

Approved by His Excellency the Administrator in Executive Council this 16<sup>th</sup> day of October, 1980.

R. D. DAVIES,  
Clerk of the Council.

**LOCAL GOVERNMENT ACT, 1960-1978.**

The Municipality of the Shire of Wagin.

**By-laws relating to Speed of Vehicles Driven on land which is vested in  
or under the Care, Control or Management of the Shire of Wagin.**

IN pursuance of the powers conferred upon it by the abovementioned Act and all other powers enabling it, the abovementioned Municipality hereby records having resolved on the 19<sup>th</sup> day of June, 1979 to amend its By-laws relating to Speed of Vehicles Driven on land which is vested in or under the Care, Control or Management of the Shire of Wagin published in the Government Gazette on the 23rd day of December, 1971 and amended in the Government Gazette on the 22nd day of February, 1974, as follows: -

Delete "12 kilometres per hour" in line 2, substitute "15 kilometres per hour".

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Dated this 20<sup>th</sup> day of June, 1979.

The Common Seal of the Shire of Wagin was  
hereunto affixed by authority of a resolution  
of the Council in the presence of-

E. R. BLIGHT,  
[L.S.]

President.  
V. S. SPALDING,  
Shire Clerk.

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Recommended-

JUNE CRAIG,  
Minister for Local Government.

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Approved by His Excellency the Governor in Executive Council this 18<sup>th</sup> day of September, 1979.

R. D. DAVIES,  
Clerk of the Council.



**CEMETERIES ACT, 1897-1972.**

The Municipality of the Shire of Wagin

**Wagin Public Cemetery By-laws.**

L.G. 244-54.

IN pursuance of the powers conferred upon it by the abovementioned Act and of all other powers enabling it, the Trustees of the Wagin Public Cemetery hereby record having resolved on the 17th day of August, 1976, to make and submit for confirmation by the Governor the following by-laws: -

The by-laws as published in the Government Gazette on the 11th day of January, 1907, and amended by notices published in the Government Gazette on the 8th day of December, 1916 and the 21st day of January, 1938, and the 24th day of February, 1950 and the 20th day of April, 1955 and the 25th day of October, 1967, are further amended: -

1. By repealing Schedule "A" and re-enacting it as follows: -  
Schedule "A".

Wagin Public Cemetery.

**SCALE OF FEES AND CHARGES PAYABLE TO THE SHIRE OF WAGIN.**

1. On application for an Order for Burial the following fees shall be payable in advance.
  - (a) Interment fees \$

For interment of any adult in grave 1.8 metres deep	40.00
For interment of any juvenile (under 14 years of age) in grave 1.8 metres deep	30.00
For interment of any stillborn child	15.00
For Government interment of an adult	20.00
For Government interment of a juvenile under 14 years of age	15.00
  - (b) Land for Burial.
    - (1) For ordinary land for burial in denominational and non-denominational sections, selected by the Trustees: -

(a) Land 2.4 metres x 1.2 metres	5.00
(b) Land 2.4 metres x 2.4 metres	10.00
(c) Land 2.4 metres x 3.7 metres	12.00
    - (2) For Special land selected by applicant approved by the Trustees including a grant for Right of Burial-

(a) Land 2.4 metres x 1.2 metres	8.00
(b) Land 2.4 metres x 2.4 metres	16.00
(c) Land 2.4 metres x 3.7 metres	24.00
2. If graves are required to be sunk deeper than 1.8 metres, the following additional charges shall be payable: -

For first additional 30 centimetres	7.00
For second additional 30 centimetres	10.00
For third additional 30 centimetres	15.00
3. For re-opening an ordinary grave: -

For each interment of an adult	40.00
For each interment of a juvenile under 14 years	30.00
For each interment of a still born child	15.00
4. For re-opening a brick grave-according to work required, from 40.00

5.	For each interment without due notice under by-law 6, an additional	20.00
	For each interment on a Sunday or Public Holiday, an additional	30.00
	For each interment not in usual hours as prescribed by by-law 13, an additional	30.00
	Fee for exhumation	10.00
	Re-opening of grave for exhumation: -	
	For an adult	40.00
	For a juvenile under 14 years of age	30.00
	Re-interment in a new grave after exhumation for an adult	40.00
	Re-interment in a new grave after exhumation for a juvenile under 14 years of age	30.00
	For permission to erect a headstone	50.00
	For permission to erect a monument	5.00
	For permission to enclose any grave with a kerb	2.00
	For permission to erect a name plate	1.00
	For registration of transfer of Right of Burial	0.25
	For a copy of Right of Burial	1.00
	For Grave Number plate	2.00
	Undertakers Annual License Fee	10.00
	Grave reservation fee	5.00

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Schedule B.

Delete the passage "...feet long ...feet wide" in line 7 and substitute the passage "...metre long ...metre wide".

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Dated this 24th day of August, 1976.

The Common Seal of the Shire of Wagin was  
hereto affixed in the presence of-

A. G. JUSTINS,  
President.  
V. S. SPALDING,  
Shire Clerk.

[L.S.]

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Recommended-

E. C. RUSHTON,  
Minister for Local Government.

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Approved by His Excellency the Governor in Executive Council this 12<sup>th</sup> day of January, 1977.

R.D. DAVIES,  
Clerk of the Council.

**LOCAL GOVERNMENT ACT, 1960-1973**

The Municipality of the Shire of Wagin

**By-laws Relating to Wagin Memorial Swimming Centre.**

L.G. 188/67.

IN pursuance of the powers conferred upon it by the abovementioned Act, and of all the powers enabling it, the Council of the abovementioned municipality hereby records having resolved on the 19<sup>th</sup> day of November, 1974, to make and submit for confirmation by the Governor the following by-laws: -

The by-laws published in the *Government Gazette* on the 1<sup>st</sup> day of June, 1967, and amended by notices published in the *Government Gazette* on the 25<sup>th</sup> day of October, 1967, and on the 24<sup>th</sup> day of February, 1970, are further amended: -

By repealing by-law 6 and re-enacting it as follows: -

6. The maximum charges payable for admission to the Pool shall be as specified hereunder: -

Each Session: -	\$
Adults (16 years and over)	0.50
Children (Under 16 years)	0.20
Tickets valid for one calendar month from date of issue:	\$
Adults (16 years and over)	10.00
Children (Under 16 years)	5.00
Season Tickets:	\$
Family	50.00
Adults (16 years and over)	20.00
Children (Under 16 years)	10.00

Dated this 19<sup>th</sup> day of November, 1974.

The Common Seal of the Shire of Wagin was hereunto affixed in the presence of-

[L.S.]

A. G. JUSTINS,  
President.  
V. S. SPALDING,  
Shire Clerk.

Recommended-

E. C. RUSHTON,  
Minister for Local Government.

Approved by His Excellency the Lieutenant Governor and Administrator in Executive Council this 5<sup>th</sup> day of February, 1975.

R. D. DAVIES,  
Clerk of the Council.

**METRIC CONVERSION ACT, 1972-1973.**

(Section 6.)

**NOTICE**

L.G. 601/73.

I, ROBERT HENRY CLAUDE STUBBS, being the Minister administering the Local Government Act, 1960-1973, in exercise of the powers conferred under Section 6 of the Metric Conversion Act, 1972-1973, with the approval of the Governor do hereby amend the By-law relating to Speed of Vehicles Driven on Land which is Vested in or under the Care, Control or Management of the Shire of Wagin made by the Council of the Municipality of the Shire of Wagin published in the Government Gazette on the twenty-second day of December, 1971, in the manner set out in the Schedule of this Notice with effect on and from the day that this Notice is published in the Government Gazette .

Dated this 14<sup>th</sup> day of February, 1974.

R. H. C. STUBBS,  
Minister for Local Government.

**SCHEDULE**

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Provision Amended	Amendment
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Clause (a) ...	... Delete "7 miles per hour" in line 2, substitute "12 kilometres per hour"
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Approved by His Excellency the Governor in Executive Council this 14<sup>th</sup> day of February, 1974.

W. S. LONNIE,  
Clerk of the Council.

**LOCAL GOVERNMENT ACT, 1960-1969.**

The Municipality of the Shire of Wagin.

**By-Laws Relating to Wagin Memorial Swimming Centre.**

L.G. 188/67.

IN pursuance of the powers conferred upon it by the abovementioned Act and of all the powers enabling it, the Council of the abovementioned Municipality hereby records having resolved on the 7<sup>th</sup> day of October, 1969, to make and submit for confirmation by the Governor the following by-laws: -

The by-laws published in the *Government Gazette* on the 1<sup>st</sup> day of June, 1967, and amended by notice published in the *Government Gazette* on the 25<sup>th</sup> day of October, 1967, are further amended: -

By repeating and re-enacting section 6 as follows: -

The charges to be made for admission to the Pool, shall be as specified hereunder: -

Each session-	\$
Adults (16 years and over)	0.22
Children (under 16 years)	0.06
Tickets valid for one calendar month from date of issue: -	\$
Adults (16 years and over)	3.30
Children (under 16 years)	1.65
Season Tickets-	\$
Family	22.00
Adults (16 years and over>	8.80
Children (under 16 years)	3.30

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Sealed with the Seal of the Shire of Wagin in the presence of-

[L.S.]

J. NALDER,  
President.  
K. B. LANG,  
Shire Clerk.

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Recommended-

L.A. LOGAN,  
Minister for Local Government.

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Approved by His Excellency the Governor in Executive Council this 4<sup>th</sup> day of February, 1970.

W. S. LONNIE,  
Clerk of the Council.

**LOCAL GOVERNMENT ACT, 1960.**

The Municipality of the Shire of Wagin.

**By-Laws Relating to Wagin Memorial Swimming Centre.**

L.G. 188/67.

IN pursuance of the powers conferred upon it by the abovementioned Act and of all other powers enabling it, the Council of the abovementioned Municipality hereby records having resolved on the 15<sup>th</sup> day of August, 1967, to make and submit for confirmation by the Governor the following by-laws:

The by-laws of the Shire of Wagin published in the Government Gazette on the 1<sup>st</sup> day of June, 1967, are hereby amended in the following manner: -

Section 6 is altered by the substitution for the last two lines of the section the following: -

Family	\$21.00
Adults (15 years and over)	\$8.00
Children (under 15 years)	\$3.00

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Sealed with the Seal of the Shire of Wagin  
in the presence of-

[L.S.]

J. S. HEBITON,  
President.  
K. B. LANG,  
Shire Clerk.

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Recommended-

L. A. LOGAN,  
Minister for Local Government.

---

Approved by His Excellency the Governor in Executive Council this 12<sup>th</sup> day of October, 1967.

P. L. SPARROW,  
Acting Clerk of the Council.

**THE ROAD DISTRICTS ACT, 1919.**

Wagin Road Board.

**Department of Works and Trading Concerns,**

Perth, 27th March, 1923.

Ex. Co. 797; Pw. 2924/22.

IT is hereby notified, for general information, that His Excellency the Governor in Council has approved of the attached By-laws of the Wagin Road Board, in accordance with the provisions of "The- Road Districts Act, 1919."

H.W. STANLEY-LOW,  
Acting Under Secretary for Works and Trading Concerns.

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**WAGIN DISTRICT ROAD BOARD.**

*By laws of the Wagin Road Board.*

WHEREAS by "The Road Districts Act, 1919," the Road Board of any District is empowered to make Bylaws for all or any purposes in the said Act mentioned, the Wagin Road Board, in pursuance of the powers vested in the said Board under and by virtue of the said Act and of every other authority enabling it in that behalf, doth hereby make and publish the following Bylaws: -

**Interpretations.**

1. In these by-law's the interpretations set out in "The Road Districts Act, 1919," shall apply, in addition to which, the following terms shall, unless the context otherwise indicates, bear the meaning set against them, in the Road Districts Act, or respectively, that is to say: -  
"The Act" - "The Road Districts Act, 1919," and all amendments thereto which may hereafter come into force.  
"Board" - The Wagin Road Board.  
"Board Room" shall be the office, hall, or building in which the meeting of the Board is held from time to time.  
"District" - The District under the jurisdiction of the Wagin Road Board.  
"Secretary" the Secretary of the Board.

All other interpretations to be as prescribed in the Road Districts Act or other Acts or regulations thereunder.

**Duties of Secretary.**

2. The duties of the Secretary shall be:
  - (a) To attend all Board meetings.
  - (b) To attend all Committee meetings.
  - (c) To take notes of minutes and prepare reports of Committees.
  - (d) Conduct all correspondence, and to give the other officers instructions as directed by the minutes and carry out the resolutions of the Board as contained in such minutes.
  - (e) Answer all questions on the Board 's business.

- (f) See that the accounts are audited once a year, and the balance sheets prepared and published yearly in the *Government Gazette*, and any other duties specified under "The Road Districts Act, 1919."
  - (g) Prepare and place before the Board the quarterly financial statement at the end of each quarter of the 'financial year, and enter the same on the minutes as required by the Att.
  - (h) Supervise the preparations of the rate-books and the Board's electoral lists; to examine proof of the latter, and to arrange for the distribution of copies prior to elections; also to attend all courts of revision or appeal; to make the necessary arrangements for the elections; to issue instructions to the supervisor in accordance with the Board's resolution.
  - (i) Summon, the members to Board and Committee meetings.
  - (j) Keep all books entered up to date in accordance with instructions issued by the Minister, and additional instructions of Board.
  - (k) Check all accounts sent into tile Board, and see all accounts for works have stated in them the authority under which such works have been done, and to check all returns made by the Collector or other of the Board's officers, and see that the counterfoils of the receipt book accompany all returns; to supervise and attend to the due payment of all moneys coming through the hands of the Board's officers and payable to the credit of the Board.
  - (l) Report to the Board at its next meeting any officer neglecting to make his returns as provided, with the necessary vouchers attached thereto.
  - (m) To pay into the bank after receipt, to the credit of the Board, all moneys received by him on behalf of the Board when such moneys shall amount in the aggregate to the sum of or over, with the exception of moneys granted by the Government, which, are paid into Treasury book.
  - (n) No money shall be paid into the bank to the credit of the Board by ant- officer of the Board except by or through the Secretary, as directed by the Board, and the Secretary shall give all receipts on printed forms.
  - (o) Readily and cheerfully obey all lawful commands or orders of the Board, and to attend. to all other matters affecting the finances and welfare of the Board and not herein specified.
  - (p) See that all bonds and other forms of security to lie taken from the contractors are prepared, and that the security required of servants is taken within due time, and report as to such matters to the Board.
  - (q) Report to the Chairman tiny servant of the Board who has been guilty of any neglect of duty or who is incapable of performing the duties allotted to him.
  - (r) Exercise, subject to any directions given by the Board or Chairman, control over all servants of the Board.
3. (a) All current books and legal documents when not in actual use shall be kept in the strong room or safe.
- (b) One key of the strong room or safe shall be kept in the personal custody of the Secretary, and the duplicate lodged at the bank, in the names of the Chairman and one member of the Board.
- (e) The Cash Books must be written up to the close of the day preceding the day of banking, or upon the day of banking as the case may warrant, and the amount of the bank lodgment entered bank lodgment column of the Cash Book and dated.



- (d) Regular bankings must be made every Saturday morning of all moneys in hand of the :Board, or daily if circumstances warrant, in order to comply with the provisions of the Act.
- (e) The money shall be banked to the Board's credit at the Commonwealth Bank, or such other bank as the Board may, from time to time, direct, by the Secretary or such other officer as he may direct.
- (f) the event of any officer whose duty it should be by these regulations to bank money failing to do so for any cause whatever, the duty shall devolve upon the next officer in seniority, who shall bank the money and report the occurrence to the Chairman in writing.
- (g) All moneys in hand belonging to the Board which cannot be banked at the close of the day must be locked up in the Board's strong room or safe, by the Secretary, or, if he is absent, by the officer next in seniority.
- (h) Full particulars of all cheques and moneys included in each bank lodgment must be entered in the Bank Lodgment Book by the officer entrusted with the banking, who shall also get the same duly receipted or endorsed by the bank at each lodgment.
- (i) All books, including the Rate Book and personal Ledgers, must be written up to date, at least every seven days, when totals should be balanced to agree with bank lodgments.
- (j) All accounts must be rendered within the first seven clays of each month. In the event of this action not being taken particulars of accounts, together with particulars of delays, must be reported, in writing, to the Chairman by the Secretary.
- (k.) The Secretary must balance the books (in ink) and make out the quarterly statement at the end of every quarter. The books and quarterly statement shall be then laid on the table of the Board at the first meeting in each quarter for the inspection of members.
- (l) All stores and requirements of the Board must be obtained by issue of official orders signed by the Secretary.
- (m) Any officer who fails or neglects to comply with any of these By-laws or regulations shall be suspended.

**Duties of Supervisor.**

4. The duties of the Supervisor shall be:

- (a) The Supervisor shall have the control of works, plant, and all property of the Board, and shall issue instructions to the Foreman and shall see that same are faithfully carried out. Should the foreman be guilty of insubordination or disobedience, or be found incapable of performing the duties allotted to him, the Supervisor shall report the matter to the Chairman, who shall inquire into the matter and, if necessary, shall suspend the Foreman and report the matter to the next meeting of the Board.
- (b) To prepare proper plans and specifications for all works and improvements as regards roads and culverts under the control of the Board; examine all materials to be employed in such works, and to see the same faithfully and properly executed and performed, and watch the progress and formation thereof; submit all specifications and plans to the Board before tenders are called.

- (c) To see that the work of cleaning and repairing all public roads and footways is properly carried out.
- (d) To see that no labourers are engaged but those who are able-bodied and sober.
- (e) To see that all drains, sewers, culverts, and bridges are maintained in a state of efficiency.
- (f) To see that all servants under his control carry out their duties efficiently, and to report any departure therefrom.
- (g) To attend all Board and Committee meetings if required.
- (h) To specially examine all roads throughout the district at least once each six months, or as required by the Board.
- (i) To supply monthly, or as required, to the Board returns of all work completed or in progress, with remarks thereon.

**Duties of Collector.**

- 5. (a) The Collector shall collect moneys that may be due to the Board, issuing receipts for payment, and entering particulars of all payments in the book for that purpose.
- (b) He shall pay all such moneys as are collected from day to day to the Secretary of the Board, who shall check all such entries on receiving the moneys answering thereto, and shall initial such entries.

**Appointments of Officers.**

- 6. (a) No permanent appointment shall be made to any office under the Board until after an advertisement has been published in one or more local newspapers calling for applications from persons competent to fill such an appointment. All appointments shall be made by resolution passed by the Board. In the event of there being more than one applicant for such appointment, the election thereto shall be conducted by ballot, so as to obtain an absolute majority of the members present.
- (b) The election of all other officers shall be conducted by a show of hands, unless a ballot be demanded, in which case the procedure in the foregoing By-law shall be followed.
- 7. The salary or allowance attached to the office under consideration of the Board shall be fixed in all cases preceding the election, and the salary of any officer when fixed shall not at any time be considered with a view to its increase or reduction, unless specially authorised by a meeting of the Board, at which a majority of the members are present.
- 8. All complaints against servants of the Board must be in writing, and must in every case be signed by the person or persons complaining, and 110 notice whatever shall be taken of any complaint not made in accordance with this By-law. All such complaints as are receivable may be addressed to the Chairman, who, upon the receipt of such complaints, shall have power to investigate the same, and he shall report thereon to the Board at their next meeting.

**Meetings and Proceedings.**

- 9. Notice shall be given in writing by the Chairman or Secretary of ordinary or regular meetings, and also of every meeting adjourned for a term exceeding six days.
- 10. Meetings of the Board shall be of two kinds "Ordinary" and "Special." Ordinary meetings are the regular meetings held in pursuance of these By-laws for the transaction of the general business of the Board, including meetings adjourned for the purpose of any

incomplete business, but an adjourned meeting would not exclude any business which was considered necessary to transact. Special meetings are those called under Section 130 of the Act, and shall include those called by the Chairman in response to a requisition signed by three members on his own behalf, and the notices for such special meeting shall have such special business notified thereon, for which the meeting was called, and for which each member shall receive seven days notice. No business shall be transacted at a special meeting other than that for which the special meeting was called, provided that any matter of emergency can be discussed, with the ruling of the Chairman and the consent of those present. The ratepayers meeting shall consist of one called under Section 143 of the Road Districts Act, and the Standing Orders shall, so far as the Act allows, apply to the proceedings, but the provisions of the act shall be first dealt with. The Chairman, if present, shall preside at all meetings of ratepayers and of the Board, and in his absence, or after being present, he shall retire, one of the ratepayers chosen by the ratepayers or members of the Board, as the case may be, shall preside.

11. Ordinary meetings shall be held at the office of the Board, Wagin, on the second Friday in the month, unless otherwise arranged by resolution carried to that effect at the preceding ordinary meeting of the Board, at which each member has received due notice of the proposed alteration.
12. A special meeting may, on the requisition of three members of the Board, be called at any time in the manner prescribed by the Act, but the Chairman may call a special meeting of the Board as often as he may think proper. No business will be transacted at any ordinary or special meeting unless at least five members of the Board, inclusive of the Chairman, or the member of the Board chosen to preside in his absence, shall be present.
13. A majority of members present may require the Board room to be cleared of strangers, and the Chairman, or other presiding Chairman, shall immediately give directions to have the order executed.
14. At all meetings of the Board when there is not a quorum present, or when the Board is counted out (which counting out shall take place whenever there shall be less than a quorum present), or within 30 minutes after time for which meeting is called; such circumstances, together with the names of the members then present, shall be recorded in the minute book.
15. The first business of all meetings of the Board shall be the reading of the minutes of the preceding meeting aloud with a view to their confirmation.

**Voting.**

16. Each member (including the Chairman) shall have one vote, and such Chairman shall, in case of equality of votes, have a casting vote in addition to his ordinary vote, and all questions at such meetings shall be decided by a majority of the votes of the members present. All motions and amendments shall be decided by a show of hands, unless a division is demanded, before the next business is proceeded with.

**Minutes of Meeting.**

17. The minute-book prescribed by the Act shall be kept in which any item of business transacted by the Board at a meeting shall be then and there entered by the Secretary. Minutes of special or ordinary meetings shall be confirmed at the next ordinary meeting.

No discussion shall take place upon the minutes of proceedings, except as to their accuracy or for the rectification of a clerical error.

18. The order of business at all ordinary meetings of the Board shall be as follows, that is to say: -
- (a) Reading and confirmation of minutes of last ordinary, also special meetings (if any).
  - (b) Consideration of business arising out of minutes.
  - (c) Questions of which due notice has been given by members or officers of the Board
  - (d) The Chairman shall have the right of directing attention at any meeting to any matter or subject within the jurisdiction or official cognisance of the Board by a minute signed by himself, and such minute shall, when introduced, take precedence of all business before or to come before the Board, and the adoption thereof may be put by him from the Chair as a motion without being seconded, but he shall confine himself to the questions contained therein.
  - (e) Reports of sub-committees.
  - (f) Presentation of petitions or memorials, and consideration thereby.
  - (g) Reading of correspondence (received and despatched) and taking action as may be deemed expedient in regard thereto.
  - (h) Consideration of tenders and ratification of contracts.
  - (i) Passing of accounts for payment.
  - (j) Motions of which previous notice has been given.
  - (k) Motions without notice (by leave of the Board under By-law 19).
  - (l) General business.
  - (m) Notice of motions.
19. In the event of any member having urgent business to place before the meeting he may move the suspension of the Standing Orders, and, if agreed to by the Board, such business shall take precedence to all others.
20. Any member wishing to rescind any motion shall act in direct compliance with Section 135 of the Road Districts Act, by giving seven days' notice to each member or submitting to the Secretary of the Board notice of his intention in time to enable him to give the necessary notice prescribed by the Act to each member.

**Petitions.**

21. Every petition or memorial shall be respectful and temperate in its language, and shall be presented to the Board by a member only, and any member presenting a petition or memorial to the Board shall affix his name to the beginning thereof, with the number of signatures; and any member presenting a petition or memorial shall acquaint himself with the contents thereof and ascertain that it does not contain language disrespectful to the Board. The nature or prayer of every petition or memorial shall be stated to the Board by the member presenting the same.

**Tenders.**

22. Tenders for work shall be opened and dealt with when the subject matter of the tenders comes on to be considered at the meeting of the Board, or by a committee appointed for the purpose.

### **Orders of Debate.**

#### **Speakers must not digress.**

23. A member having audience shall not digress from the subject of debate.

#### **Unopposed Notices of Motion.**

24. The Chairman may call over the notices of motion on the business paper in the order in which they appear thereon; and if objection is not taken to a motion being taken as a formal motion, may call upon the mover to move the same, and upon the motion being seconded may then, without discussion, put the motion to the vote.

#### **Correspondence.**

25. All correspondence with the Board shall be addressed to the Secretary and submitted to the Board. No letter addressed to the Board shall be presented or read by a member.

#### **Consideration of Reports.**

26. (a) If in a report of a committee distinct recommendations are made, the decision of the Board may be taken separately on each recommendation.
- (b) Any report of a committee or any portion thereof may be amended by the Board in any matter if it may think fit, or may be referred back to the committee for further consideration.
- (c) The recommendations of any committee when adopted by the Board shall be resolutions of the Board.

#### **Precedence of Chairman.**

27. When the Chairman rises in his place during the progress of a debate, any member then speaking or offering to speak shall immediately resume his seat, and every member present shall preserve strict silence so that the Chairman shall be heard without interruption, but the member who was speaking may resume when the Chairman takes his seat.

#### **Notice of Motion: Absence of Mover.**

28. In the absence of a member who had placed a notice of motion on the business paper for any meeting, any other member may at such meeting move the same, or such motion may be deferred until the next ordinary meeting of the Board.

#### **Withdrawal of Motions.**

29. Except as elsewhere provided, no motion, after being placed on the business paper, shall be withdrawn without the consent of the Board.

#### **Motions to be seconded.**

30. No motion shall be debated unless or until it has been seconded.

#### **Motions not to be withdrawn without consent.**

31. When a motion has been proposed and seconded it shall become subject to the control of the Board, and shall not be withdrawn without consent of the Board.

#### **Amendment may be moved.**

32. When a motion has been proposed and seconded, any member shall be at liberty to move an amendment thereon, but no such amendment shall be debated unless or until it has been seconded.

**Motions and Amendments to be in writing.**

33. No motion or amendment shall be debated unless or until it has been reduced to writing if the Chairman so directs.

**Further Amendment may be moved on amended Question.**

34. If an amendment has been carried, the question as amended thereby shall become itself the question before the Board, whereupon any further amendment upon such question may be moved.

**How subsequent Amendments may be moved.**

35. If an amendment, whether upon an original question or upon any question amended as aforesaid, has been negatived, then a further amendment may be moved to the question to which such first-mentioned amendment was moved and so on, provided that not more than one question and one proposed amendment thereof shall be before the Board at any one time.

**Motions for Adjournment.**

36. No discussion shall be permitted upon any motion for adjournment of the Board. If upon the question being put on any such motion the same is negatived, the subject then under consideration or next on the business paper shall be discussed, and it shall not be competent for any member to again move a motion for adjournment until half an hour has elapsed from the time of moving the one that has been negatived.

**Mover of Adjournment – when entitled to Priority.**

37. On resuming any discussion which has been adjourned, the mover of such adjournment shall be entitled, if he has not already spoken on the subject under discussion, to speak first.

**Notice of Questions to be given.**

38. Sufficient notice of every question shall be given to the Chairman or member expected to reply thereto, to permit of consideration of such reply and, if necessary, reference to other persons or to documents.

**Questions to be put without argument.**

39. Every such question shall be put categorically and without any argument.

**Replies and Objections and subsequent Motions received.**

40. No discussion shall be permitted respecting any reply or refusal to reply to any question.

**Mode of addressing Board, etc.**

41. Members shall, on all occasions when at a meeting, address and speak to each other by their official designations, as Chairman or Secretary, as the case may be. and, with the exception of the Chairman, shall rise in their place and stand while speaking (except when prevented from so doing by bodily infirmity).

**Speaker not to be interrupted if in order.**

42. No member shall be interrupted while speaking, except for the purpose of calling him to order as hereinafter provided or in pursuance of Bylaw.
43. A motion or amendment not seconded cannot be discussed by any member except the mover, nor put by the Chairman.
44. In submitting a motion or amendment, the Chairman shall put the question first in the affirmative and then in the negative.

45. When all amendment is carried, the motion amended thereby becomes a substantive motion, upon which further amendments may be moved before it is finally dealt with.

**Limitation as to number of Speeches.**

46. The mover of an original motion shall have the right of general reply to all observations which have been made in reference to such motion and to any amendment thereon, as well as the right to speak upon every such amendment. Every member, other than the mover of all original motion, shall have the right to speak once upon such motion and once upon every amendment moved thereon. No member shall without the consent of the Board speak more than once upon any one question, or for longer than ten minutes at any one time, unless when misrepresented or misunderstood, in which case he may be permitted to explain without adding further observations than may be necessary for the purpose of such explanation.

**All Members to vote.**

47. Upon a vote being taken, all members present within the Board room, unless disqualified from voting, and the Chairman unless so disqualified may, upon the question being put, record their respective votes; in the affirmative or negative as each shall deem desirable, but if a member other than the Chairman neglects or refuses to vote, his vote shall be counted for the negative.

**Determination. of Questions.**

48. (a) All questions shall, if not otherwise decided by law, be determined thus: -Upon a question being put, those in favour shall say "Aye" and those against "No"; and the Chairman shall declare whether the "Ayes" or "Noes" have determined the question; or if the Chairman prefer, he may call for a show of hands for and against the question. The decision of the Chairman shall be final and conclusive unless such decision be immediately challenged and two members rise and demand a division.
- (b) Where there is only one dissentient, he may request that his name be recorded in the Minutes as opposed to the motion, and it shall be so recorded.

**Divisions.**

49. Upon a division being so called for, the question shall first be put in the affirmative and then in the negative, and the Chairman and all members present shall vote by show of hands, and the names and votes of the Chairman and members present shall be recorded in the minutes by the Secretary. Any member of the Board present when a division is called for who does not in the manner above indicated vote on such motion, not being disabled by law from so voting, his vote shall be counted for the negative.

**Chairman may repeat Question.**

50. The Chairman shall be at liberty to put any question as often as may be necessary to enable him to form his opinion as to the result of the voting and declare the same.

**Acts of Disorder.**

51. Any member who, at any meeting of the Board or any committee commits, a breach of any By-law, or who moves or attempts to move any motion or amendment embodying any matter beyond the legal jurisdiction of the Board or committee, or who in any other way raises or attempts to raise any question or addresses or attempts to address the Board or committee upon any subject which the Board or committee have no legal right to entertain or discuss, or who uses any language which, according to the common usage of gentlemen, would be held

disorderly, or makes use of any expression inconsistent with good order and decorum, or who says or does anything calculated to bring the Board or committee into contempt, shall be guilty of an act of disorder.

**Ruling of Chairman.**

52. (a) The Chairman when called upon to decide a point of order or practice shall state the rule or precedent applicable to the case, without argument or comment, and his decision shall be final in that particular case.
- (b) If the ruling of the Chairman be disagreed with then the usual Parliamentary procedure may be adopted.

**Members called to order more than once.**

53. Any member who, having been called to order by the Chairman for any. Infringement of any of the provisions of By-law or for any breach of decorum, shall, upon the request of the Chairman, withdraw from the Board room for the remainder of the meeting.

**Removal from Board Room; Penalty for continued Breach of Order, etc.**

54. In the event of a member declining to withdraw from the Board room on being required so to do by the Chairman, the Chairman may order his removal until the termination of the sitting, and such member shall be deemed guilty of an offence, and shall be liable to a penalty not exceeding Two pounds.

**Disorder.**

55. If disorder arise at any meeting, the Chairman may adjourn the meeting for a period of fifteen minutes and quit the chair. The Board on resuming shall, on question put from the chair, decide without debate whether the business shall be proceeded with or not.

**Appointment of Committees.**

56. The Board may at any time appoint one or more members as a committee to inquire into any matter and make a report and recommendation thereon, but no committee shall incur any financial liability or in any way commit the Board to any responsibility whatever, without express and specific authority conferred by the By-laws, or a resolution of the Board.

**Finance and Accounts.**

57. All accounts, bills, and vouchers shall be submitted to the ordinary meeting; and after being certified as correct shall be paid by cheque.
58. An account shall be opened with such bank as the Board may from time to time direct, and all moneys received from whatever source, with the exception of money granted by the Government, shall be paid into such bank to the credit of the Board, and no account shall be paid except by cheque signed by the Chairman and one or more members of the Board, and counter. signed by the Secretary. .All moneys belonging to the Board shall, within 24 hours after they come into the hands of any officer, servant, or clerk, be paid to the Secretary or to any other responsible officer if directed by the Board.

**Urgent Works.**

59. The Chairman, with One member, or, in the absence of the Chairman any two members may, in case of urgency authorise the expenditure of a sum not exceeding. Ten pounds.
60. Any one measlier is empowered, in cases of very urgent necessity, to authorise the expenditure, upon declared roads, of a sum not exceeding Two pounds ten shillings. In both these cases such action should be confirmed at the next meeting.



**Unauthorised Expenditure.**

61. Every item of expenditure and every liability incurred by any Committee, or member of the Board, otherwise than under the authority of the Act or of these By-laws, shall be deemed unlawful expenditure, and a breach of this By-law by such person.

**Common Seal.**

62. The common seal of the Board shall be kept in the Board's safe. The common seal shall not be affixed to any deed or other instrument except by order of the Board.

**Prevention of Nuisances.**

63. Any person who-
- (a) shall keep, or cause to be kept, any abattoir, slaughterhouse, pigsty, manure works, works for boiling down meat, bones, blood, or offal, bone mill, bone manure depot, fellmongery, tannery, wool-scouring establishment, glue factory, soap or candle works, fish-curing establishment, place for storing, drying, or preserving bones, hides, hoofs, or skins, dairy, or oilier work or establishment; or
  - (b) shall keep, or cause to be kept, any house, passage, yard, way, cellar, drain, stable, cowshed, earth or other closet or cesspool; or
  - (c) shall permit any accumulation of stagnant water, manure, dung, offal, or other filth upon any premises owned or occupied by him, so as to be likely to become a nuisance or injurious to public health,
- shall be deemed guilty of an offence against these Bylaws, and shall, on conviction, be liable to a penalty not exceeding £20.

**Abatement of Nuisances.**

64. If any person shall permit or suffer any of the nuisances contained in the foregoing By-law to continue after notice from the Board requiring such person to remedy or abate the same, he shall be liable to a penalty of Five shillings for every day during which such nuisance shall remain unremedied or unabated to the satisfaction of the Board. Such penalty shall not exceed in the aggregate £20.

**Offences, Omissions, or Neglects.**

65. Any person guilty of the following offences shall, on conviction thereof, pay a penalty not exceeding £10:
- (a) Damaging or destroying any building, dam, well, tank, pump, windmill, windlass, bucket, rope, piping, troughing fence, gate, or other property strider the control of the Board.
  - (b) Placing any placard or other document, writing, printing on or otherwise defacing any house or building abutting or contiguous to a public road, or on any wall, fence, or gate without the consent of the occupier or owner thereof.
  - (c) Blasting any rock, stone, or timber in or near any road without the permission of the Board, and not attending to such directions in regard thereto given by such Board.
  - (d) Placing, stacking, or storing within the limits of any townsite in the open air, any cases, paper, shavings, crates packed- with straw, or dangerous or inflammable substances so as to be, or likely to become, a source of danger through fire.

**Preservation of Trees.**

66. Any person who shall carelessly, wilfully, or wantonly injure, destroy, carry away, or remove from its place any tree or shrub or plant standing in any of the roads, enclosures, public places, or reserves, or who shall carelessly, wilfully, or wantonly injure, destroy, carry away, or remove out of its place or ride or drive against any of the tree guards; fences, or other protection to such trees, shrubs, or plants aforesaid, shall be liable to a penalty of not more than £10, and in addition thereto shall also pay the Board a sum equal to the damage so done.

**Prescribing removal of Verandahs.**

67. Any verandah or balcony which obstructs the footway or roadway, or is dangerous, and all other obstructions on the footways, or roadways, or overhanging the same, shall be removed when ordered within such time as shall be notified by the Board, and all expenses incurred in removing same shall be borne by the owner or occupier of such verandah, balcony-, or other obstruction, whether removed by the Board or otherwise; and any person whatsoever interfering or obstructing any officer or person employed by the Board in carrying out this By-law shall be liable to a penalty not exceeding £10.

**Encroachments, etc - Removal of.**

68. On the order of the Board, the Secretary or other appointed officer may direct the removal within 14 days of any building, fence, or other obstruction or encroachment in Or upon any road, street, lane, or public place under the control of the Board. In any case where, after service of notice for such removal, any such obstruction or encroachment has not been removed within the specified time, it shall be lawful for the officer appointed by the Board to remove the same, at the cost and charges of the person so offending, and to proceed against the offender for the breach of this By-law, the penalty for which breach shall not be more than £20 for every day or part of a day during which such offence shall be committed or continued after the expiry of the notice prescribed therein.

**Lighting.**

69. Any unauthorised, person who Shall light, put out when lighted, or in any other way interfere with any lamp belonging to the .Board, or any person who shall damage or destroy such lamp shall pay, in addition to the value of such damage, if any, on conviction a sum not exceeding £5.

**Water Supply.**

70. Any person who shall injure or destroy any well, bore, pipe, tank, or place of storage for water, or any machinery, appliances, or property used in connection therewith, shall be liable to a penalty not exceeding £5, and also shall pay to the Board the sum of such damages.
71. Any person who shall waste, or allow water to escape, foul, pollute, or taint any water contained in any bore, pipe, tank, or place of storage shall be guilty of an offence against this By-law, and shall be liable to a penalty not exceeding £20.
72. No person shall pollute or cause to be polluted any watercourse, pool, well, tank, reservoir, or other water within the district..
73. Any person or persons leaving open the lid of any well in the district shall be guilty of an offence against these By-laws, and notwithstanding any civil remedy for damages so caused, shall be liable, on conviction, to a penalty not exceeding £5.

74. Any person who shall remove any water from any well, bore, tank, or other place of storage under the control of the Board, except in the direct watering of, stock thereat, or for *bona fide* camping use, or except with the written consent of the Board and payment thereon of such reasonable fee as may be demanded, shall forfeit and pay, on conviction, a penalty not exceeding £5.

**Sand and Timber.**

75. Any person who shall remove any sand or other materials from any lands under the control of the Board without a license shall forfeit and pay, on conviction, a sum not exceeding £5.

**Barbed Wire.**

76. Barbed wire shall not be allowed on the outer or road side of any fence along any road. Any person offending against this By-law shall be liable to a penalty not exceeding £5.

**Fencing.**

77. The owner or any land abutting on any road in any townsite shall fence all such boundaries so abutting with such description of fence as may be directed by the Board, and shall maintain every such boundary fence erected, or to be erected, in good order. In the event of such fence not being erected or repaired after due notice has been given so to do, the Board may fence or repair such fences and recover the cost of so doing from the owner or owners of the land.

**Bathing.**

78. No person shall bathe in any river or open public water within the limits of the Road District within the jurisdiction of the Board without suitable bathing costume or clothing. Every person offending against this By-law shall, for every such offence, be liable to a penalty not exceeding £20.

**Depasturing of Cattle, etc.**

79. Any person who shall turn loose, or suffer any kind of animals belonging to him or under his control to stray or go about, or to be tethered or depastured in or upon any road, recreation ground or reserve shall, upon conviction, be liable to a penalty not exceeding £5.
80. No animal shall be allowed to stray on any roads or places, and no animal suffering from an infectious or contagious disease shall be ridden or driven on any road or be allowed to drink at any public watering place within the district. Any animal so suffering may be slaughtered and destroyed at the owner's expense. The owner or driver of such animal shall be liable to a penalty not exceeding £10 for a breach of this By-law.

**Copulation of Stock.**

81. Any person who, as owner or otherwise, -while in charge of an entire horse, bull, or ass shall cause, allow, permit, or suffer any such entire horse, bull, or ass to try to cover any mare or cow .within any township within the district, or shall cause, permit, allow, or suffer any such entire horse, bull, or ass to be turned loose in any yard or other place with any mare or cow for the purpose of allowing such mare or cow to be tried or covered except in some yard, building, or other premises as shall be entirely and sufficiently screened from public view, shall forfeit and pay, on conviction, a sum not exceeding £10.

**Goats.**

82. (1.) No person shall keep any goat Within the boundaries of the Wagin Road District unless such goat shall have been registered and the registration fee of sixpence paid to the Secretary of the Board.
- (2.) Every registration shall be renewed in the month of January in each year.
- (3.) The Board may refuse to register any goat if in the opinion of the Board suitable accommodation has not been provided for keeping such goat.
- (4.) No person shall allow or cause any goat to be depastured upon, or tethered upon, or to loiter or stray upon any roads, streets, or reserves, or any vacant land adjacent thereto.
- (5.) Any goat found wandering upon any street, road, or reserve, as above, may be seized and impounded, or destroyed.
- (6.) The penalty for breach of any of the preceding clauses shall be a sum not exceeding £5 for each breach, in addition to such sums as the Justices may direct as compensation for damages done by such goats.

**Crossing Places.**

83. It shall be lawful for the owner of any land fronting or adjoining any road or public way requiring access thereto, with horse and vehicles, from such street to such land across any existing made footpath, kerbing, channel or gutter, having first had and obtained the consent of the Board, to construct a crossing of such dimensions and materials, and in such form and manner as the regulations of the Board for the time being require, or as may be directed by the Secretary, and shall thereafter keep and maintain the same in good repair. Any person not complying with this By-law shall be liable to a penalty not exceeding £5.
84. Any person who shall break, damage, or destroy any fence, gate, lock, shed, trough, or other premises, the property of the Board, shall be liable to a penalty not exceeding £5.
85. Any person who shall release, or attempt to release, any cattle which shall be lawfully seized for the purpose of being impounded, whether such cattle shall be in the pound or on the way to or from any such pound, shall be guilty of an offence against this By-law and shall, on conviction, be liable to a penalty not exceeding £5.
86. The owner of any bull or stallion straying on any road within the district shall be liable to a penalty of not less than £3 and not exceeding £5 in the night time, and not less than £2 and not exceeding £4 in the daytime.

**Heavy Traffic.**

87. The Board may, by notice affixed to any bridge or culvert, declare the maximum weight of any engine, agricultural or other machine or vehicle of any kind, and of any load or material which shall be permitted to cross such bridge or culvert, and also the pace or speed at which such engine, machine, vehicle, or load shall be driven, led, or taken over such bridge or culvert, and any person who shall cross such bridge or culvert in contravention of this By-law shall, in addition to any liability for damage he may have caused, be liable to a penalty not exceeding £10.
88. No person shall drive or take or cause to be driven any engine, agricultural or other machine or vehicle of any kind across any bridge or culvert so specified from time to time whose weight including any load thereon shall exceed 10 tons, and any person committing any breach of this By-law shall be liable to a penalty not exceeding £20.

**Damaging Roads.**

89. No person shall either wilfully or negligently damage or destroy by means of horse, team, or any other means, any road under construction or repair, and any person found guilty of such damage or destruction shall be liable to a penalty not exceeding £20.
- Any person who-
- (a) cuts or removes, without the consent in writing of the Board, timber, earth, stone, or other material from a road or reserve; or
  - (b) erects, without the consent aforesaid, upon a road so as to encroach thereon; or
  - (c) draws, Without the consent aforesaid, across the waterside of a road, or across a drain except over a properly constructed approach or culvert, a dray or other wheeled vehicle; or
  - (d) draws upon any road, timber, stone or other material otherwise than on a wheeled vehicle or suffers such material, when carried principally or in part upon a wheeled vehicle, to drag or trail upon a road, or draws upon a road a whim or timber carriage any portion of which, or any portion of chains attaching thereto, or any portion of other attachment trails or drags upon a road,
- shall be deemed guilty of an offence against these Bylaws, and shall be liable to a penalty not exceeding £5 for every such offence.
90. Any person taking any plough, cultivator, or other implement over or along any road and thereby damaging or marking such road in such a manner which in the opinion of the Board may indirectly cause ultimate damage to the road, shall be liable to a penalty not exceeding £5.
91. Any person who draws upon any road any vehicle the wheel or wheels of which are locked, unless there is placed at the bottom of such vehicle some sufficient protection to prevent damage to such road, shall be liable to a penalty not exceeding £5.

**To protect bridges from fire.**

92. Any person who shall light a fire (except by the order of the Board) or shall place any rushes, bushes, or other inflammable substance under, near, or against any bridge in the district, for the purpose of making a camp or sleeping place, or for any other purpose, shall be liable to a penalty of not less than £1 and not exceeding £20.

**Prevention of trees falling across roads.**

93. No person shall make or leave a fire near any road or track or reserve Without taking proper precautions against such fire spreading.
94. No person shall ringbark or set fire to any standing tree upon or near to any road or track.

**Park Lands, reserves, and Recreation Grounds.**

95. All recreation grounds shall be open to the public daily for recreation purposes, excepting as provided for in these By-laws. The Board shall have the power to grant exclusive right to use and occupy any recreation grounds or reserves placed under its control within the district for holding public sports or amusements to any responsible person or persons, and any person or persons obtaining such right shall be responsible for the proper care of all fences, buildings, and trees, or other improvements upon or enclosing such recreation grounds and reserves, and shall pay the Board a fee to be fixed for admission on such occasions.

96. No horses, cattle, or vehicles shall be allowed on any recreation grounds without the written permission of the Board.
97. All persons using or being upon any recreation ground or reserves shall at all times conduct themselves in a becoming manner, and any person creating any disturbance or annoyance to the public shall be liable to be expelled from such lands by any police constable or officer of the board
98. The Board may, in its discretion, prohibit any games or gymnastics from being played or carried on by any person or persons upon any recreation grounds or reserves on any Sunday, Christmas Day, or Good Friday.
99. No person shall offer for sale, on any reserve, any provisions, refreshments, or other goods of any kind, nor carry on any games, or boxing, or other similar shows, nor use any firearms, except with the express sanction of the Board, and payment of such fee as may be demanded.
100. The Board, or any person duly authorised, may make charges for admission to any reserve, or defined portion thereof, but such charges shall not exceed 2s. for adults, 1s. for children under 15 years, with free entry for children (accompanied) under five years, and for horses and vehicles 1s. each.
101. Such person to whom the use of any reserve is given for picnic sports, races, or other use shall be held responsible for the immediate removal of all rubbish brought thereon, on the occasion of such use, and a deposit not exceeding £5 shall be paid as a guarantee for the due removal of such rubbish. On the removal of such rubbish to the satisfaction of the Board, the deposit shall be returned.
102. No person shall damage or injure any tree, shrub, or plant in recreation grounds or reserves. Any person offending against this By-law shall forfeit and pay, on conviction, a penalty not exceeding £10 for every such offence.
103. The Board may allow to any person liable to pay any rates, within thirty days after notice given him to pay the same, a discount of Five pounds per centum on the amount of the current rate.

#### **Road Board Halls.**

104. Application for the hire of any hall, room, or furniture shall be made to the Secretary not less than 24 hours before the time that such hall, room, or furniture is required. Each application must be accompanied by the scheduled fee as may be prescribed by the Board from time to time. Each application for the hire of hall, room, or furniture must set out clearly the purpose for which such hall, room, or furniture is required during the term of engagement. The Board shall have the right to accept or refuse any application.
105. The Board may at any time, by giving 24 hours' notice, cancel any agreement made for the hiring of any hall, room, or furniture.
106. In the event of two or more applications being made for the hire of any hall, room, or furniture for the same date and hour, the Board may, without considering priority of application, determine to which applicant the hire of such hall, room, or furniture shall be granted.
107. The hirer of any hall, room, or furniture shall be held responsible for any damage to buildings, fittings, furniture, or crockery, and shall pay to the Board the amount of such damages as shall be assessed by the Board.

108. The Board may at any time demand that the hirer shall, prior to the term of engagement, deposit an amount estimated to cover any damage that might occur during the term of such engagement.
109. The hirer shall, as soon as practicable after the term of engagement, and when the use of the hall crockeryware is allowed, deliver all such crockeryware in a clean and sound condition, and any article not accounted for, or in a cracked or broken condition, insist be paid for at current prices.
110. The hirer of any hall, room, or furniture shall comply with the provisions of the Health Act, Entertainments Tax Act, or any other Act in force during the term of engagement. If, in the opinion of the Board, all the necessary actions have not been taken to comply with the provisions of the Acts above mentioned, the Board may at any time, prior to, or during the term of engagement, forbid and prevent the use of such hall or room.
111. In the event of any engagement being stopped under the last preceding By-law, the hirer shall forfeit the full fees payable for the hire of such hall or room as if such engagement had been duly fulfilled.

**Interpretations.**

"Hirer" – The person making application or arrangements for the hire of hall, room, or furniture.  
"Term of engagement" – The time for which hall, room, or furniture has been allotted to the hirer.

**Penalties.**

112. Where any person by those By-laws or any of them, is required to do or perform any act, and such act is not done or remains undone or unperformed, it shall be lawful for the Board to perform the same and charge the cost and expenses against such person, and the amount thereof may be recovered summarily.
113. Every person who does, permits, or suffers any act, matter, or thing contrary to any of these By-laws, or commits or permits any breach or neglect thereof, shall be deemed guilty of an offence against these Bylaws, and, where not otherwise provided, shall be deemed liable to a penalty not exceeding . £20 for every such offence.
114. All penalties or other sums recovered under provisions of these By-laws shall, unless otherwise provided, be paid to the Board, and shall become the property of, and form part of the ordinary income of the district except so much as may be paid to any informer.

**Previous By-laws.**

115. The By-laws approved by His Excellency the Governor and dated 6<sup>th</sup> April, 1906, with Amendments, and Discount By-law dated 2nd November, 1922, are hereby repealed.

Passed by resolution of the Wagin Road Board, at a meeting duly held on the 12<sup>th</sup> day of January, 1923.

Chairman. (Sgd.) C. S. WEST.  
Secretary. (Sgd.) J. BOOTH.

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The Common Seal of the Wagin Road Board was hereby affixed in the presence of, -

[SEAL]

(Sgd.) C. S. WEST,  
Chairman.  
(Sgd.) J. BOOTH,  
Secretary.

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Recommended,

WM. J. GEORGE,  
Minister for Works.

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Approved by His Excellency the Governor in Council this 21st day of March, 1923.

BERNARD PARKER,  
Clerk of the Council.