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SHIRE OF NORTHAM

LOCAL GOVERNMENT ACT 1995

STANDING ORDERS LOCAL LAW 2008

ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES AND
TRADING LOCAL LAW 2008

EXTRACTIVE INDUSTRIES LOCAL LAW 2008

KEEPING AND CONTROL OF CATS LOCAL LAW 2008

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008

OPERATION OF WASTE DISPOSAL FACILITIES LOCAL LAW 2008

REPEAL LOCAL LAW 2008

PARKING AND PARKING FACILITIES LOCAL LAW 2008

CEMETERIES ACT 1986

CEMETERIES LOCAL LAW 2008

DOG ACT 1976

DOGS LOCAL LAW 2008

DIVIDING FENCES ACT 1961

FENCING LOCAL LAW 2008

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAM

STANDING ORDERS LOCAL LAW 2008

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LOCAL GOVERNMENT ACT 1995**SHIRE OF NORTHAM****STANDING ORDERS 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 Northam resolved on the 23rd July 2008, to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

- (1) This local law may be cited as the *Shire of Northam Standing Orders Local Law 2008*.
- (2) In the clauses to follow, this local law is referred to as “these Standing Orders”.

1.2 Definitions

In these Standing Orders unless the context otherwise requires—

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

“**CEO**” means the Chief Executive Officer of the Shire of Northam;

“**Clause**” means a clause of these Standing Orders;

“**Council**” means the Council of the Shire of Northam;

“**Local government**” means the Shire of Northam;

“**Meeting**” includes any Ordinary or Special Meeting of the Council or any other meeting held in accordance with the Act and properly convened as the Act requires;

“**Member**” means the President or a Councillor of the Council or in the case of Committees, a member of the Committee appointed in accordance with the Act;

“**Officer**” is an employed member of the staff of the local government;

“**President**” includes the Deputy President, in the absence of the President and any Member chosen to preside at any meeting of the Council in accordance with the Act;

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

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

“**Simple majority**” is more than 50% of the members present and voting.

1.3 Repeal

The following local laws are repealed—

Shire of Northam Draft Model By-law (Standing Orders) No. 4 published in the *Government Gazette* on 9 August 1974 and as amended and published in the *Government Gazette* on 15 October 1982 and 23 April 1993.

Shire of Northam Local Laws Relating to Standing Orders published in the *Government Gazette* on 1 May 1998.

Town of Northam Local Laws Relating to Standing Orders published in the *Government Gazette* on 16 January 1998.

PART 2—APPLICATION OF STANDING ORDERS**2.1 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.

PART 3—MEETINGS—NOTICE OF BUSINESS**3.1 Notice of meetings—Members to Receive Notice**

Notice of meetings shall be given by the CEO in accordance with the Act.

3.2 Notices of Motion—Ordinary and Extraordinary Business

(1) Members may bring forward business in the form of a written motion, notice of which shall be given in writing or electronically to the CEO, either at the meeting previous to the meeting at which it is intended to move the motion or at any time thereafter, at least two (2) working days before the publication of the Council/Committee Agenda paper.

(2) When a “Notice of Motion” is submitted to the Council/Committee meeting the Council/Committee will only vote on whether the ‘Notice of Motion’ should be progressed to either the next relevant Council or Committee Meeting.

(3) Other business

No other business will be conducted by Council, unless prior to the President opening the meeting, written notice has been given to each member present at the meeting or the meeting has approved, by absolute majority, the introduction of new business.

3.3 Motion to Lapse

A motion shall lapse unless the member who gave notice is present, unless another member is willing to move the motion when it is called.

3.4 Objectionable Business

If the President at any meeting of the Council is of the opinion that any motion or business proposed is of an objectionable nature, the President may, either before or at the time the matter is brought forward, declare that it shall not be considered.

3.5 Business to be Specified on Notice Paper

Any member may move dissent from such a declaration made from the Chair. On the motion being seconded, the motion to dissent shall be put without debate, and in the event of the motion being carried by a simple majority of the members present, the business referred to shall then be considered immediately, but if the motion is lost, the ruling of the President shall stand.

PART 4—RECORDING AND CONFIRMATION OF MINUTES

4.1 Minutes to be kept

Minutes are to be kept of each meeting’s proceedings, confirmed or amended at the next ordinary meeting of the Council or Committee, as the case requires and signed and certified by the person presiding.

PART 5—ORDINARY MEETING—ORDER OF BUSINESS

5.1 Order of Business

The order of business of an ordinary meeting shall be as decided by the President or CEO, unless the Council resolves what the order of business shall be.

5.2 Late Business

In cases of extreme urgency or other special circumstances, late business may, with the consent of the President or at the request of a simple majority of members present be dealt with.

5.3 Public Question Time

In accordance with Section 5.24 of the Act a question time of up to thirty (30) minutes will be held as the first item of business at each ordinary meeting of Council.

5.4 Public Statements

(1) In addition to clause 5.3 members of the public may apply to address the Council on issues listed on the agenda, provided they make application to the CEO, at least twenty-four (24) hours prior to the meeting.

(2) The CEO shall provide a list of members of the public who have applied to address Council, together with the relevant agenda item number, to the President who shall determine the order in which addresses shall take place.

(3) The President may allow or refuse the application by a member of the public to make a public statement.

(4) An address by a member of the public will be limited to five (5) minutes extension of time is permissible only with the agreement of a simple majority of members present.

PART 6—MEETINGS—PUBLIC CONDUCT

6.1 Admission and Removal of the Public

(1) The public is admitted to the Council Chamber on the basis that no expression of dissent or approval, conversation or interruption to the proceedings of the Council shall take place. In the event of any such interruption, the President may use discretion and without a vote of the Council, require those interrupting to withdraw. The person or persons concerned shall immediately withdraw from the Council Chamber. This direction by the President may not be challenged by moving dissent with the ruling and the President’s ruling is final.

(2) Any person, not being a member of Council, who interrupts the orderly conduct of the Council who does not withdraw immediately upon being called by the President to withdraw from the Council Chamber, may, by order of the President, be removed from the Council Chamber.

PART 7—ROLE OF THE PRESIDENT

7.1 Directions by the President

(1) At any meeting of the Council, the President shall have the right to direct attention to any matter of interest or relevance to the business of the Council or propose a change to the order of business.

(2) Any member may move that a change in order of business proposed by the President not be accepted and if carried by a simple majority of members present, the proposed change in order will not take place.

7.2 President to Take Part in Debates

Unless otherwise prohibited by the Act and Regulations, 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.

7.3 Precedence of President

When the President rises during the progress of a debate, any member then speaking, or offering to speak, shall immediately cease and every member shall preserve strict silence so that the President may be heard without interruption. This clause shall not be used by the President to exercise the right provided in Clause 7.2, but should be used to preserve order.

7.4 Dissent with the President's Ruling

Except where expressly denied in these Standing Orders or the Act and Regulations, a member may move a procedural motion to disagree with a ruling given by the President. The President must immediately call for a seconder and put the motion without debate.

PART 8—CONDUCT OF MEMBERS

8.1 Debate—Maintenance of Order—Imputations—Offensive Expressions

(1) No member at a Council or committee meeting or other organised event and members of the public are present must not, either orally or in writing or by other means—

(a) Make a statement that a local government employee is incompetent or dishonest; or

(b) Use offensive or objectionable expressions in reference to a local government employee.

(2) No member may impute motives or use offensive or objectionable expressions in reference to any member or any other person.

PART 9—CONDUCT OF MEMBERS DURING DEBATE

9.1 Members to rise

A member or officer shall stand when speaking during a Council meeting (excluding Committee meetings). This provision will not apply where a member or officer has a disability which prevents that person standing.

9.2 Relevance

Every member shall restrict their remarks to the motion or amendment under discussions, or to an explanation or point of order.

9.3 Limitation of Number of Speeches

No member shall address the Council more than once on any motion or amendment before the Council except the mover of a substantive motion, in reply, or to a point of order, or in explanation.

9.4 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.

9.5 Members Not to Interrupt

No member is to interrupt another member whilst speaking unless—

(a) To raise a point of order;

(b) To call attention to the absence of a quorum; or

(c) To make a personal explanation under clause 16.1.

PART 10—PROCEDURES FOR DEBATE OF MOTIONS

10.1 Motions to be read

A member who intends to submit a substantive motion or amendment to a substantive motion, shall read the text before speaking to it. If a recommendation has been presented in writing and not altered, then the substantive motion may be moved as printed.

10.2 To be seconded

No motion or amendment to a substantive motion shall be in order, or be open to debate until it has been seconded except in Council Committees where clause 17.12 applies.

10.3 Only One Substantive Motion Considered

When a substantive motion is under debate at any meeting or the Council, no further substantive motion shall be accepted.

10.4 Order of Call in Debate

The President will 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) A speaker against the motion;
- (e) The seconder to speak to the motion;
- (f) A speaker for the motion;
- (g) Other speakers against and for the motion, alternating in view, if any;
- (h) Mover takes the right of reply which closes debate.

10.5 Limit of Debate

The President may offer the right of reply and put the motion to the vote, if the President believes sufficient discussion has taken place even though all members may not have spoken.

10.6 Secunder Requesting Right to Speak

A seconder may request the right to speak at a later time in debate, however, the moving of any procedural motion which will close debate, or any amendment to the substantive motion, will automatically deny the seconder the right to speak to the substantive motion.

PART 11—PROCEDURAL MOTIONS**11.1 Permissible Procedural Motions**

In addition to proposing a properly worded amendment to the substantive motion, it is permissible for a member to move the following procedural motions—

- (a) That the question be now put;
- (b) That the Council moves into a Committee of the whole;
- (c) That the ruling of the President (or person chairing the meeting) be disagreed with;
- (d) That the motion lie on the table;
- (e) That the Council meet behind closed doors.

11.2 Reason for Closure to be Stated

A member who moves a procedural motion under clause 11.1(e) shall state the reason for moving the motion and this must relate to a matter contained in Section 5.23(2) of the Act.

11.3 Procedural Motions not Required in Writing

Procedural motions are not required to be presented in writing.

11.4 Procedural Motions—Recording in Minutes

The mover, seconder and result of all procedural motions shall be recorded in the minutes of the meeting.

11.5 Procedural Motions—Majority Required

Any procedural motion shall be carried by the simple majority of members present voting in the affirmative.

11.6 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, once moved, would deny others the right to speak or, if carried, would close the debate on the substantive motion or amendment.

11.7 Procedural Motions—Right of Reply

There shall be no right of reply on any procedural motion.

11.8 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 will not deny the right of reply, to the mover of the substantive motion.

PART 12—EFFECT OF PROCEDURAL MOTIONS**12.1 That the Question be Now Put—Effect of Motion**

- (1) This motion, having been carried during discussion on a substantive motion without amendment, will cause the President to offer the right of reply and then immediately put the question under consideration without further debate.
- (2) This motion, having been carried out during discussion on an amendment, will cause the President to put the amendment to the vote without further debate.
- (3) This motion, having been lost, will allow debate to continue.

12.2 That the Council Move into a Committee of the Whole—Effect of Motion

This motion, having been carried, will allow free and open discussion on the matter before the meeting. There will be no restriction on the number of times each member may speak, provided that normal courtesy and order is maintained. Any decisions made during the time that the Council sits in Committee of the whole must be formally agreed by a substantive motion when the Council moves out of Committee of the whole.

12.3 That the Ruling of the President be Disagreed With—Effect of Motion

(1) This motion, having been carried, will cause the ruling of the President about which this motion was moved, to be reversed and for the meeting to proceed accordingly.

(2) Where the President has given a ruling, in strict accordance with the Act and Regulations, this motion may not be moved.

12.4 That the Motion Lie on the Table—Effect of Motion

(1) This motion having been carried, will cause debate on the substantive motion and any amendment to cease immediately and for the meeting to proceed to the next business.

(2) Any member may raise the motion from the table, by giving appropriate notice of motion for any meeting in the future.

(3) When a motion is raised from the table, the mover of the original substantive motion, or in the absence of the original mover, the person moving this procedural motion, is given the opportunity to reintroduce the matter, after which debate shall continue according to these Standing Orders.

12.5 That the Council Meets Behind Closed Doors—Effect of Motion

(1) This motion, if carried, causes the general public and any officer or employee the Council or committee determines, to leave the room.

(2) While a decision made under this clause is in force the operation of clause 9.3 limiting the number of speeches a member may make, is suspended unless the Council decides otherwise.

(3) 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.

PART 13—DECISION MAKING PROCEDURES**13.1 Order of Amendments**

Any number of amendments may be proposed to a motion, but whenever any amendment is made upon a substantive motion, no second or subsequent amendment shall be moved or considered until the first amendment has been disposed of.

13.2 Substantive Motion

If an amendment to a substantive motion is carried, the motion as amended, shall be submitted as the substantive motion and shall become the question before the Council upon which any member may speak and any further amendment may be moved.

13.3 Repetition of Motions

No motion or amendment shall be proposed which is the same in substance as a motion or amendment which has been resolved during the same sitting of Council.

13.4 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.

13.5 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.

13.6 Limitation of Withdrawal

Where an amendment has been proposed to a substantive motion, the substantive motion shall not be withdrawn, except by consent of a simple majority of members present, until the amendment has been withdrawn or lost.

13.7 Authority for Withdrawal

A motion or amendment to a motion shall not be withdrawn in the absence of any member who proposed it, except with that member's written authority.

13.8 Right of Reply

(1) The mover of a substantive motion shall have the right of reply. After the mover of the substantive motion has commenced the reply, no other member shall speak on the question.

(2) The right of reply must be confined to rebutting arguments raised by previous speakers and no new matter may be introduced.

13.9 Right of Reply Provisions

The right of reply shall be governed by the following provisions—

- (a) If there is no amendment to the substantive motion, the mover may reply at the conclusion of the discussion on the motion;
- (b) If there is an amendment, the mover of the substantive motion shall take the right of reply at the conclusion of the vote on any amendments;
- (c) The mover of the amendment does not have right of reply;
- (d) Once the right of reply has been taken, there can be no further discussion, nor any other amendment and the substantive motion or the substantive motion as amended is immediately put to the vote.

13.10 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.

13.11 Mover of Motion not to Speak on Amendment

On an amendment being moved, any member may speak to the amendment, except the person who moved the substantive motion who is only entitled to a right of reply except, that if the member who moved the substantive motion does choose to speak to the amendment, their right of reply is forfeited.

13.12 Question—When Put

When the debate upon any question is concluded and the right of reply has been exercised, the President shall immediately put the question to the Council, and if so desired by any member, shall again state it.

13.13 Question—Method of Putting

If a decision is not clear or in doubt, the President shall put the question as often as necessary to determine the decision from a show of hands before declaring the question.

PART 14—POINTS OF ORDER**14.1 Points of Order—When to Raise—Procedure**

Upon a matter or order arising during the progress of debate, any member may raise a point of order including interrupting the speaker. A member who is speaking when a point of order is raised, shall immediately cease while the President listens to the point of order.

14.2 Points of Order—Definitions

A difference of opinion or a contradiction of a speaker, shall not be recognised as a point of order, but the following shall be recognised as valid points of order—

- (a) That the discussion is of a question not before the Council;
- (b) The offensive or insulting language is being used; or
- (c) Drawing attention to the violation of any local law or Standing Order of the Council, providing that the member raising the point of order shall state the local law or Standing Order believed to be breached.

14.3 Points of Order—Ruling

The President shall give a decision on any point of order, after the point has been raised by either upholding or rejecting the point of order.

14.4 Points of Order—Ruling Conclusive, Unless Dissent Motion is Moved

The ruling of the President upon any question of order shall be final, unless a simple majority of the members present support a motion of dissent with the ruling.

14.5 Points of Order—Motion Against Ruling Procedure

An objection having been taken to the ruling of the President, the member so objecting may immediately move dissent with the ruling. Should the motion be seconded it shall be put to the vote immediately and the result of the vote, whether in support of the ruling or otherwise, shall determine the action of the Council.

14.6 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 question.

PART 15—ADJOURNMENT OF MEETING**15.1 Meeting may be Adjourned**

The Council may, upon a motion moved and seconded, adjourn any meeting to a later hour of the same day or to any time not more than seven (7) days from the date of adjournment.

15.2 Notice of Adjourned Meeting

When a meeting is adjourned, if time permits, notice of the adjourned meeting shall be forwarded to each member in accordance with the Act.

15.3 Business at Adjourned Meeting

At an adjourned meeting, no additional business shall be discussed except that which was on the original notice paper for that meeting.

15.4 Limit to Moving Adjournment of Council

No member shall be allowed to move or second more than one motion of adjournment during the same sitting of the Council.

15.5 Unopposed Business—Motion for Adjournment of Council

On a motion for adjournment of the Council, the President, before putting the motion, may seek leave of the Council to proceed to the transaction of unopposed business.

15.6 Withdrawal of Motion for Adjournment of Council

A motion or an amendment relating to the adjournment of the Council may be withdrawn by the mover, with the consent of the seconder, except that if any member objects to the withdrawal, the motion must continue to be debated.

PART 16—PERSONAL EXPLANATION**16.1 Personal Explanation**

No member shall speak, except upon the question before the Council, unless it is to make a personal explanation. Any member who is permitted to speak under these circumstances must confine the observations to a succinct statement of what is to be explained in relation to a specific part of the former speech which may have been misunderstood and to the explanation itself. When a member gives an explanation, that member shall make no reference to matters not strictly necessary for that purpose, nor endeavour to strengthen the former position by introducing a new argument or matter, nor reply to other members.

16.2 Personal Explanation—When Heard

A member wishing to make a personal explanation of matters referred to by any member then speaking, shall be entitled to be heard forthwith, if the member then speaking consents at the time, but if the member who is speaking declines to give way, the explanation must be offered at the conclusion of that speech.

16.3 Ruling on Questions of Personal Explanation

The ruling of the President on the admissibility of a personal explanation shall be final, unless a motion of dissent with the ruling is moved before any other business proceeds.

PART 17—COMMITTEES OF 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 members, employees and other persons to be appointed to the committee; or
- (b) The number of 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 Reports of Committees to be Taken as Read

(1) The reports and recommendations of every Committee shall, when presented to the Council, be taken as read.

(2) The confirmation and adoption of recommendations of the Committee shall be moved by—

- (a) The Presiding Member of each Committee;
- (b) or if absent, another member of the Committee;
- (c) or if no member of the Committee is present, a member of the Council nominated by the President.

(3) It shall not be necessary to second the motion for adoption.

17.4 Procedure of Report of Committees

(1) Upon the consideration by the Council of any report or recommendations of a Committee, the President shall, without further motion, put the recommendations, in their numerical order, unless the Council shall otherwise determine.

(2) Each item adopted by the Council shall become a resolution of the Council.

17.5 Withdrawal, Correction and Amendments of Committees

(1) In moving, the adoption of a recommendation of any Committee, the mover may not propose any amendment to any recommendation, except for the correction of a verbal or clerical error.

(2) The Presiding Member of a Committee, may be excused from moving the adoption if the Presiding Member wishes to move an amendment to it. In that case, another member may move the confirmation and adoption of the recommendation.

(3) The Presiding Member or other members of a Committee bringing up a recommendation may move the confirmation and adoption of the recommendation.

17.6 Reports of Committees—Questions

When a recommendation of any Committee of the Council is submitted for confirmation and adoption, any member may direct questions directly relating to the recommendation through the President, to the Presiding Member or any member of the Committee bringing up the recommendation. No argument or speeches are permitted.

17.7 Procedure on Amendments on Reports of the Committees

When an amendment is proposed with reference to the adoption or otherwise of any recommendation of any Committee, the amendment shall be disposed of before the other proceedings of the Committee are considered.

17.8 Non-Related Motions on Reports of Committees

A member may not move any motion on any report or recommendation of any Committee which does not relate to the recommendations presented by the Committee.

17.9 Recommendations of Committees—Inspection of Plans

All plans referred to in the recommendations of the Committee that may require the consideration of the Council, shall lay on the table of the Council Chamber for the inspection of members at the meeting at which the matter is being considered.

17.10 Committee Procedure

Each Committee may, subject to the Act and Regulations, these Standing Orders and any resolution made by the Council, regulate its own procedure.

17.11 Rights and Responsibilities of Members who are not Committee Members

Members who are not members of a Committee may participate in the meeting, only at the invitation of the Presiding Member but they are not entitled to vote.

17.12 Standing Orders to Apply to Committees

These Standing Orders shall apply generally to the proceedings of Committees of the Council except that—

- (a) The requirement for members to speak only once shall not be applied in meetings of Committees;
- (b) The requirement for motions and amendments to be seconded shall not be applied in meetings of Committees;
- (c) The requirement to stand whilst speaking to a motion shall not apply, unless directed to do so by the Presiding Member.

PART 18—ADMINISTRATIVE MATTERS

18.1 Suspension of Standing Orders

- (a) The mover of a motion to suspend any Standing Order or Orders, shall state the Standing Order or Orders to be suspended and the purpose of the suspension;
- (b) A motion to suspend, temporarily, any one or more of the Standing Orders regulating the proceedings and business of the Council, must be seconded, but the motion need not be presented in writing.

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(c).

18.4 Duty of Chief Executive Officer

It is the duty of the CEO to draw the attention of the Council to any breach or likely breach of these Standing Orders, even if it requires interrupting any person speaking, including the President.

PART 19—OFFENCES AND PENALTIES

19.1 Offences and Penalties

Any contravention of this Local Law is an offence punishable in conviction by a penalty not exceeding \$5,000.00.

Dated this 23rd July 2008.

The Common Seal of the Shire of Northam is hereunto affixed by authority of a resolution of Council in the presence of—

Cr S. B. POLLARD, Shire President.

GARY P. BRENNAN, Acting Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAM

**ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES AND
TRADING LOCAL LAW 2008**

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LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAM

ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES AND
TRADING 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 Northam resolved on 23rd July 2008 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the Shire of Northam Activities on Thoroughfares and Public Places and Trading Local Law 2008.

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 2000*;

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

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

“**CEO**” means the chief executive officer of the local government;

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

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

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

(a) private land; or

(b) a private thoroughfare serving private land;

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

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

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

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

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

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

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

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

“**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 *Planning and Development Act 2005*;

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

- “**permissible verge treatment**” means any one of the 4 treatments described in clause 2.8(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;
- “**thoroughfare**” has the meaning given to it in the Act, but does not include a private thoroughfare which is not under the management control of the local government;
- “**town planning scheme**” means a town planning scheme of the local government made under the *Planning and Development Act 2005*;
- “**townsite**” means all townsites within the district which are—
- (a) constituted under section 26(2) of the *Land Administration Act 1997*;
 - (b) referred to in clause 37 of Schedule 9.3 of the Act; or
 - (c) within Spencers Brook or Seabrook;
- “**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.

1.4 Repeal

(1) The following local laws are repealed—

- Shire of Northam By-law Relating to Trading in Public Places published in the *Government Gazette* of 7 July 1989;
- Shire of Northam By-law to Regulate Hawkers published in the *Government Gazette* of 31 May 1960 and as amended and published in the *Government Gazette* of 14 June 1974;
- Shire of Northam By-laws Relating to Road Reserves as published in the *Government Gazette* on 8 May 1987;
- Town of Northam By-laws Relating to Stalls published in the *Government Gazette* of 24 July 1981 and as amended and published in the *Government Gazette* of 4 December 1981 and 3 August 1990;
- Town of Northam By-laws Relating to the Control of Hawkers published in the *Government Gazette* of 23 October 1981 and as amended and published in the *Government Gazette* of 3 August 1990;
- Town of Northam By-laws Relating to Street Trading published in the *Government Gazette* of 17 March 1989;
- Town of Northam By-laws Relating to the Use and Misuse of Streets, Kerbs, Verges, Footpaths and Public Places published in the *Government Gazette* of 4 October 1985 and as amended and published in the *Government Gazette* of 3 August 1990;
- Town of Northam By-laws Relating to Signs, Hoardings and Bill Posting published in the *Government Gazette* of 17 January 1992;

(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 on a thoroughfare—
 - (i) except grass or a similar plant within 6m of an intersection; and
 - (ii) which exceeds or which may exceed 0.75m in height so that the plant is within 6m to 10m 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 1m of a carriageway;
- (d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (e) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare; or
- (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, rollerblades or similar device.

2.2 Activities allowed with a permit—general

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

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) subject to Division 3 of this Part, throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised in connection with that collection by the local government;
- (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
- (d) cause any obstruction to a water channel or a water course in a thoroughfare;
- (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
- (f) damage a thoroughfare;
- (g) light any fire or burn 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, or in order to maintain, 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 Control Act 1988* or under another written law; or
- (b) the person is doing so in accordance with a permit.

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

Division 2—Vehicle crossing

Subdivision 1—Temporary crossings

2.4 Permit required

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

- (a) a crossing does not exist; or

- (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.
- (2) The “person responsible for the works” in subclause (1) is to be taken to be—
 - (a) the 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 Definition

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 townsites.

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 or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare; and
 - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
 - (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 Definition

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 1 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 Definition**

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 0.5m² in area, provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.
- (3) Notwithstanding subclause (1), a person shall not erect or place an advertising sign—
- (a) on a footpath;
 - (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5m;
 - (c) on or within 3m of a carriageway;
 - (d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
 - (e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

3.3 Matters to be considered in determining application for permit

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

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

*Division 3—Conditions on permit***3.4 Conditions on portable sign**

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

- (a) the portable sign shall—
 - (i) not exceed 1m in height;
 - (ii) not exceed an area of 1m² on any side;
 - (iii) relate only to the business activity described on the permit;

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

3.5 Conditions on election sign

If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign—

- (a) being erected at least 30m from any intersection;
- (b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;
- (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access to a place by any person;
- (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
- (e) being maintained in good condition;
- (f) not being erected until the election to which it relates has been officially announced;
- (g) being removed within 24 hours of the close of polls on voting day;
- (h) not being placed within 100m of any works on the thoroughfare;
- (i) being securely installed;
- (j) not being an illuminated sign;
- (k) not incorporating reflective or fluorescent materials; and
- (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

Division 1—Animals and vehicles

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

(1) A person shall not leave an animal or a vehicle, or any part of a vehicle, in a public place or on local government property so that it obstructs the use of any part of that public place or local government property, unless that person has first obtained a permit or is 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 Definition

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 Definition

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, but now located in the Department of Environment and Conservation; 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 “Handbook of Environmental Practice for Road Construction and Road Maintenance Works” (April 2005) 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) has protected flora or rare flora; or
- (b) in the opinion of the local government, has environmental, aesthetic or cultural significance.

5.8 Marking of special environmental areas

The local government is to mark and keep a register of each thoroughfare, or part of a thoroughfare, designated as a special environmental area.

*Division 4—Planting in thoroughfares***5.9 Permit to plant**

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

5.10 Relevant considerations in determining application

In determining an application for a permit for the purpose of clause 5.9, the local government is to have regard to—

- (a) existing vegetation within that part of the thoroughfare in which the planting is to take place; and
- (b) the diversity of species and the prevalence of the species which are to be planted or sown.

*Division 5—Clearance of vegetation***5.11 Permit to clear**

A person shall not clear and maintain in a cleared state, the surface of a thoroughfare within 1.5m 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 subclause 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 subclause 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 20m wide.
- (2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

Division 8—Commercial wildflower harvesting on thoroughfares

5.19 General prohibition on commercial wildflower harvesting

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

5.20 Permit for revegetation projects

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

PART 6—TRADING ON THOROUGHFARES AND PUBLIC PLACES

Division 1—Stallholders and traders

Subdivision 1—Preliminary

6.1 Definition

In this Division, unless the context otherwise requires—

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

“**public place**” includes—

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

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

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

“**stallholder**” means a person in charge of a stall;

“**stallholder’s permit**” means a permit issued to a stallholder;

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

“**trader’s permit**” means a permit issued to a trader; and

“**trading**” includes—

- (a) the selling or hiring of, the offering for sale or hire of or the soliciting of orders for goods or services in a public place;
- (b) displaying goods in any public place for the purpose of—
 - (i) offering them for sale or hire;
 - (ii) inviting offers for their sale or hire;
 - (iii) soliciting orders for them; or
 - (iv) carrying out any other transaction in relation to them; and
- (c) the going from place to place, whether or not public places, and—
 - (i) offering goods or services for sale or hire; or
 - (ii) inviting offers or soliciting orders for the sale or the hire of goods or services,
 but does not include—

- (d) the delivery of pre-ordered goods or services to the purchaser of those goods or services or to the person nominated by the purchaser of those goods or services whether or not payment for those goods or services is accepted on delivery; or the taking of further orders for goods or services from the purchaser of those pre-ordered goods or services or from the person nominated by the purchaser of those pre-ordered goods or services when those orders are taken at the same time as a previous order is being delivered, whether or not payment is made for those goods or services at the time of taking the order;

- (e) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder's permit;
- (f) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from a person who sells those goods or services;
- (g) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; and
- (h) the selling or hiring or the offering for sale or hire of—
 - (i) goods by a person who represents a manufacturer of the goods; or
 - (ii) services by a person who represents a provider of the services,which are only sold directly to consumers and not through a shop.

Subdivision 2—Permits

6.2 Stallholder's permit

- (1) A person shall not conduct a stall on a public place unless that person is—
 - (a) the holder of a valid stallholder's permit; or
 - (b) an assistant specified in a valid stallholder's permit.
- (2) Every application for a stallholder's permit shall—
 - (a) state the full name and address of the applicant;
 - (b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;
 - (c) specify the proposed location of the stall;
 - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;
 - (e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and
 - (f) be accompanied by an accurate plan and description of the proposed stall.

6.3 Trader's permit

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

6.5 Relevant considerations in determining application for permit

- (1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to—
 - (a) any relevant policies of the local government;
 - (b) the desirability of the proposed activity;
 - (c) the location of the proposed activity;
 - (d) the principles set out in the Competition Principles Agreement; and
 - (e) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds—
 - (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;

- (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 authorize another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit shall apply to the nominee as if he or she was the permit holder.

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

(1) In this clause—

“charitable organisation” means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium; and

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

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

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

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

Subdivision 3—Conduct of stallholders and traders

6.8 Conduct of stallholders and traders

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

- (a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting a stall or trading;

- (b) not display a permit unless it is a valid permit; and
 - (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *Trade Measurement Administration Act 2006*.
- (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 Definition

In this Division, unless the context otherwise requires—

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

“**permit**” means a permit issued for the purpose of clause 6.10;

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

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

Subdivision 2—Permits

6.10 Permit required to perform

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

6.11 Variation of permitted area and permitted time

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

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

shown on a permit.

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

6.12 Duration of permit

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

6.13 Cancellation of permit

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

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.

(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 determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government may require an applicant to give local public notice of the application for a permit.
- (5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

7.2 Decision on application for permit

- (1) The local government may—
 - (a) approve an application for a permit unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.
- (3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).
- (5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

Division 2—Conditions

7.3 Conditions which may be imposed on a permit

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

- (a) the payment of a fee;
- (b) the duration and commencement of the permit;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the approval of another application for a permit which may be required by the local government under any written law;
- (f) the area of the district to which the permit applies;
- (g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;
- (h) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government; and
- (i) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder.

7.4 Imposing conditions under a policy

- (1) In this clause—

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

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

PART 8—OBJECTIONS AND APPEALS**8.1 Application of Part 9 Division 1 of Act**

When the local government makes a decision—

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

the provisions of Division 1 of Part 9 of the Act and regulation 33 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 1 in Schedule 1 of the Regulations;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

SCHEDULE 1

PRESCRIBED OFFENCES

Clause	Description	Modified Penalty \$
2.1(a)	Plant of 0.75m in height on thoroughfare within 10m of intersection	125
2.1(b)	Damaging lawn or garden	125
2.1(c)	Plant (except grass) on thoroughfare within 2m of carriageway	125
2.1(d)	Placing hazardous substance on footpath	125
2.1(e)	Damaging or interfering with signpost or structure on thoroughfare	350
2.1(f)	Playing games so as to impede vehicles or persons on thoroughfare	125
2.1(g)	Riding of skateboard or similar device on mall or verandah of shopping centre	125
2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	125
2.2(1)(b)	Throwing or placing anything on a verge without a permit	125
2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	125

Clause	Description	Modified Penalty \$
2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	250
2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	250
2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	350
2.2(1)(h)	Felling tree onto thoroughfare without a permit	125
2.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	125
2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	350
2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	125
2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	125
2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	125
2.3(1)	Consumption or possession of liquor on thoroughfare	125
2.4(1)	Failure to obtain permit for temporary crossing	250
2.5(2)	Failure to comply with notice to remove crossing and reinstate kerb	350
2.9(1)	Installation of verge treatment other than permissible verge treatment	250
2.10	Failure to maintain permissible verge treatment or placement of obstruction on verge	125
2.11	Failure to comply with notice to rectify default	125
2.17(2)	Failure to comply with sign on public place	125
2.19(1)	Driving or taking a vehicle on a closed thoroughfare	350
3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	125
3.2(3)	Erecting or placing of advertising sign in a prohibited area	125
4.1(1)	Animal or vehicle obstructing a public place or local government property	125
4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	125
4.2(2)(b)	Animal on public place with infectious disease	125
4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	125
4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	125
4.5	Person leaving shopping trolley in public place other than trolley bay	125
4.6(2)	Failure to remove shopping trolley upon being advised of location	125
5.6(1)	Driving a vehicle on other than the carriageway of a flora road	250
5.9	Planting in thoroughfare without a permit	250
5.11	Failure to obtain permit to clear a thoroughfare	600
5.13	Burning of thoroughfare without a permit	600
5.17	Construction of firebreak on thoroughfare without a permit	600
5.19	Commercial harvesting of native flora on thoroughfare	600
5.20(1)	Collecting seed from native flora on thoroughfare without a permit	350
6.2(1)	Conducting of stall in public place without a permit	350
6.3(1)	Trading without a permit	350
6.8(1)(a)	Failure of stallholder or trader to display or carry permit	125
6.8(1)(b)	Stallholder or trader not displaying valid permit	125
6.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	125
6.8(2)	Stallholder or trader engaged in prohibited conduct	125
6.10	Performing in a public place without a permit	125
6.11(2)	Failure of performer to move onto another area when directed	125
6.14	Failure of performer to comply with obligations	125
6.16	Establishment or conduct of outdoor eating Facility without a permit	350
6.18	Failure of permit holder of outdoor eating Facility to comply with obligations	125
6.20(1)	Use of equipment of outdoor eating Facility without purchase of food or drink from Facility	60

Clause	Description	Modified Penalty \$
6.20(2)	Failure to leave outdoor eating Facility when requested to do so by permit holder	60
7.5	Failure to comply with a condition of a permit	125
7.9	Failure to produce permit on request of authorized person	125
10.1	Failure to comply with notice given under local law	125

Dated 23rd July 2008.

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

Cr S. B. POLLARD, Shire President.

G. BRENNAN, Acting Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAM

EXTRACTIVE INDUSTRIES LOCAL LAW 2008

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SCHEDULE 1**Prescribed Offences**

LOCAL GOVERNMENT ACT 1995**SHIRE OF NORTHAM****EXTRACTIVE INDUSTRIES LOCAL LAW 2008**

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Northam resolved on 23rd July 2008 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the *Shire of Northam Extractive Industries Local Law 2008*.

1.2 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;

“**Council**” means the Council of the Shire of Northam;

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

“**excavation**” includes quarry;

“**extractive industry**” means quarrying and excavating for any stone, gravel, sands, clay, limestone, loam or other material;

“**infrastructure**” means any building, treatment works, screening device, tank or structure;

“**land**”, unless the context otherwise requires, means the land on which the applicant proposes carrying on the extractive industry to which the licence application relates;

“**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 Northam;

“**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;

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

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 apply to the carrying on of an extractive industry on land by the owner or occupier of that land for use on that land; and

(e) do not affect the validity of any licence issued under the local law repealed by clause 1.4 of this local law if that licence is currently in force at the date of gazettal of this local law.

(2) In subclause (1)(d) land includes adjoining lots or locations in the same occupation or ownership of the owner or occupier referred to in subclause (1)(d).

1.4 Repeal

The following local laws are repealed—

- *Shire of Northam Extractive Industries Local Law 2004* published in the *Government Gazette* of 8 February 2005.
- *Town of Northam Local Government Model By-laws (Extractive Industries) No 9* published in the *Government Gazette* on 12 March 1963 and as amended and published in the *Government Gazette* on 4 August 1965.

PART 2—LICENSING 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) 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 Applicant To Advertise Proposal

(1) Unless the local government first approves otherwise, a person seeking the issue of a licence shall, before applying to the local government for a licence—

- (a) forward by registered mail a notice in the form determined by the local government from time to time to—
 - (i) the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the granting of a licence, advising of the application and specifying that they may, within twenty-one days from the date of service of the letter, object to or make representations in writing in respect of the issue of a licence by the local government;
 - (ii) every authority or person having control or jurisdiction over any of the things referred to in subclause 2.3(1)(a)(vii) and (viii) within 500 metres from the boundaries of the land, or within an area determined by the local government as likely to be affected by the granting of a licence; and
- (b) as soon as practicable after complying with the requirements of paragraph (a)—
 - (i) forward a copy of the notice to the CEO; and
 - (ii) publish the notice in a newspaper circulating in the area in which the proposed excavation is located.

(2) The local government may, within 14 days after receiving a copy of a notice referred to in subclause (1), cause to be displayed, or require the proposed applicant to display, in a prominent position on the land one or more notices—

- (a) in the form determined by the local government from time to time;
- (b) the content, size and construction of which have been approved by the CEO;
- (c) specifying particulars of the proposed excavation; and
- (d) inviting objections or comments within 21 days from the placement of the notice.

2.3 Application For Licence

(1) Subject to subclause (3), a person seeking the issue of a licence in respect of any land shall apply in the form determined by the local government from time to time and must forward the application duly completed and signed by each of the applicant, the owner of the land and any occupier of the land to the CEO together with—

- (a) three copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing—
 - (i) the existing and proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;
 - (ii) the land on which the excavation site is to be located;
 - (iii) the external surface dimensions of the land;
 - (iv) the location and depth of the existing and proposed excavation of the land;
 - (v) the location of existing and proposed thoroughfares or other means of vehicle access to and egress from the land and to public thoroughfares in the vicinity of the land;
 - (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
 - (vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;
 - (viii) the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;
 - (ix) the location and description of existing and proposed fences, gates and warning signs around the land; and

- (x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;
 - (b) three copies of a works and excavation programme containing—
 - (i) the nature and estimated duration of the proposed excavation for which the licence is applied;
 - (ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;
 - (iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;
 - (iv) details of the depth and extent of the existing and proposed excavation of the site;
 - (v) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
 - (vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
 - (vii) a description of the means of access to the excavation site and the types of thoroughfares to be constructed;
 - (viii) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
 - (ix) a description of any proposed buildings, water supply, treatment plant, tanks and other improvements;
 - (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
 - (xi) a description of the measures to be taken to minimise sand drift, dust nuisance, erosion, watercourse siltation and dangers to the general public;
 - (xii) a description of the measures to be taken to comply with the *Environmental Protection (Noise) Regulations 1997*;
 - (xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;
 - (xiv) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation; and
 - (xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby thoroughfares or other areas;
 - (c) three copies of a rehabilitation and decommissioning programme indicating—
 - (i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
 - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
 - (iii) how any face is to be made safe and batters sloped;
 - (iv) the method by which topsoil is to be replaced and revegetated;
 - (v) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
 - (vi) how rehabilitated areas are to be maintained; and
 - (vii) the programme for the removal of buildings, plant, waste and final site clean up;
 - (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public thoroughfare or such other land in the vicinity;
 - (e) a certificate from a licensed surveyor certifying the correctness of—
 - (i) the plan referred to in paragraph (a); and
 - (ii) the datum peg and related point referred to in paragraph (d);
 - (f) evidence that the requirements of subclauses 2.2(1) and (2) have been carried out;
 - (g) copies of all land use planning approvals required under any planning legislation;
 - (h) copies of any environmental approval required under any environmental legislation;
 - (i) copies of any geotechnical information relating to the excavation site;
 - (j) the consent in writing to the application from the owner of the excavation site;
 - (k) the licence application fee specified by the local government from time to time; and
 - (l) any other information that the local government may reasonably require.
- (2) All survey data supplied by an applicant for the purpose of subclause (1) shall comply with Australian Height Datum and Australian Map Grid standards.
- (3) Where in relation to a proposed excavation—
- (a) the surface area is not to exceed 2,000 square metres; and
 - (b) the extracted material is not to exceed 2,000 cubic metres;
- the local government may exempt a person making application for a licence under subclause (1) from supplying any of the data specified in paragraphs (b), (d), (e) and (i) of subclause (1).

PART 3—DETERMINATION OF APPLICATION**3.1 Determination Of Application**

- (1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 2.3, and in any event shall refuse an application for a licence where planning approval for an extractive industry use of the land has not first been obtained.
- (2) 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.
- (3) Where the local government approves an application for a licence, it shall—
- (a) determine the licence period, not exceeding 10 years from the date of issue; and
 - (b) approve the issue of a licence in the form determined by the local government from time to time.
- (4) Where the local government approves the issue of a licence, the CEO upon receipt by the local government of—
- (a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 30 June, determined by the local government from time to time;
 - (b) payment of the secured sum, if any, imposed under clause 5.1;
 - (c) the documents, if any, executed to the satisfaction of the CEO, under clause 5.1; and
 - (d) a copy of the public liability insurance policy required under subclause 7.1(1) shall issue the licence to the applicant.
- (5) Without limiting subclause (2), 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 shall not excavate;
 - (h) distances from adjoining land or thoroughfares 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, declared plants 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.

3.2 Payment Of Annual Licence Fee

On or before 30 June in each year, a licensee shall pay to the local government the annual licence fee determined by the local government from time to time.

PART 4—TRANSFER, CANCELLATION AND RENEWAL OF LICENCE**4.1 Transfer Of Licence**

- (1) An application for the transfer of a licence shall—
 - (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 Chief Executive Officer.
- (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) been convicted of an offence against—
 - (i) this local law; or
 - (ii) any other law relating to carrying on an extractive industry; or
 - (b) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government;
 - (c) 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;
 - (d) failed to pay the annual licence fee under clause 3.2; or
 - (e) failed to have a current public liability insurance policy under subclause 7.1(1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under subclause 7.1(2).
- (2) Where the local government cancels a licence under this clause—
 - (a) the local government 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; and
 - (c) 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 Renewal Of Licence

- (1) A licensee who wishes to renew a licence must apply in writing to the local government at least 45 days before the date of expiry of the licence and shall submit with the application for renewal—
 - (a) the fee determined by the local government from time to time;
 - (b) a copy of the current licence;
 - (c) a plan showing the contours of the excavation carried out to the date of that application;
 - (d) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in subclauses 2.3(1) (b) and (c); and
 - (e) any other things referred to in clauses 2.3 and 3.1.
- (2) The local government may waive any of the requirements specified in subclause 4.3 (1) (d) or (e).
- (3) If—
 - (a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and
 - (b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application,then the applicant shall not be obliged, unless otherwise required by the local government to submit details of any of the things referred to in clauses 2.3 and 3.1.
- (4) Upon receipt of an application for the renewal 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.

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 shall 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) 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 within the time specified in those conditions either—

- (a) within the time specified in those conditions; or
- (b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions, then; subject to the local government giving the licensee 14 days notice of its intention to do so—
- (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 shall 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) 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, OBLIGATIONS OF THE LICENSEE AND PROHIBITIONS**6.1 Limits On Excavation Near Boundary**

Subject to any licence conditions imposed by the local government, a person shall not, without the written approval of the local government, excavate within—

- (a) twenty metres of the boundary of any land on which the excavation site is located;
- (b) twenty metres of any land affected by a registered grant of easement;
- (c) forty metres of any thoroughfare; or
- (d) forty metres of any watercourse.

Penalty \$2,000

6.2 Obligations Of The Licensee

A licensee shall—

- (a) where the local government so requires, securely fence the excavation to a standard determined by the local government and keep the gateways locked when not actually in use in order to prevent unauthorised entry;
- (b) erect and maintain warning signs along each of the boundaries of the area excavated under the licence so that each sign—
 - (i) is not more than 200 metres apart;
 - (ii) is not less than 1.8 metres high and not less than 1 metre wide; and
 - (iii) bears the words "DANGER EXCAVATIONS KEEP OUT";
- (c) except where the local government approves otherwise, drain and keep drained to the local government's satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;
- (d) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (e) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
- (f) otherwise comply with the conditions imposed by the local government in accordance with clause 3.1.

Penalty \$5,000 for each offence, and if an offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

6.3 Prohibitions

A licensee shall not—

- (a) remove any trees or shrubs within 40 metres (or such lesser distance as may be allowed, in writing, by the local government) of the boundary of any thoroughfare on land in respect of

which a licence has been granted, except for the purpose of constructing access thoroughfares, erecting buildings or installing plant for use in connection with the excavation and then only with the express approval of the local government and subject to any conditions which the local government may impose in accordance with clause 3.1;

- (b) store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than with the approval of the local government and the Department of Industry and Resources; or
- (c) fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government.

Penalty \$5,000 for each offence, and if an offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

6.4 Blasting

(1) A person shall 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 \$5,000.00 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

(2) A person shall 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 shall 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 shall—

- (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.

7.3 Notice Of Cessation Of Operations

(1) Where a licensee intends to cease carrying on an extractive industry—

- (a) temporarily for a period in excess of 12 months; or
- (b) permanently,

the licensee shall, as well as complying with clause 7.4, give the local government written notice of the cessation not later than 1 week after those operations have ceased.

(2) Where a licensee has given written notice to the local government of the intention to permanently cease carrying on an extractive industry on the site to which the licence applies the licence is deemed to have expired on the date such cessation is so notified.

(3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

7.4 Works To Be Carried Out On Cessation Of Operations

Where the carrying on of an extractive industry on the site permanently ceases or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee shall, as well as complying with the provisions of clause 7.3—

- (a) restore and reinstate the excavated site in accordance with the proposals approved by the local government or in such other manner as the local government may subsequently agree in writing with the licensee;
- (b) ensure that any face permitted to remain upon the excavation site is left safe with all loose materials removed and where the excavation site is—
 - (i) sand, the sides are sloped to a batter of not more than 1:3 (vertical:horizontal); and
 - (ii) limestone or material other than sand, the sides are sloped to a batter which, in the opinion of the local government, would enable the site to be left in a stable condition;
- (c) ensure that the agreed floor level of the excavation is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning programme approved by the local government;
- (d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;
- (e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;
- (f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and
- (g) break up, scarify, cover with topsoil and plant with grass, trees and shrubs all parts of the site where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this local law.

Penalty \$5,000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

PART 8—OBJECTIONS AND APPEALS

8.1 Objections and Appeals

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

- (a) grant a person a licence under this local law; or
- (b) renew, vary, or cancel a licence that a person has under this local law,

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the *Local Government (Functions and General) Regulations 1996* shall apply to that decision.

PART 9—MODIFIED PENALTIES

9.1 Prescribed Offence

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

9.2 Modified Penalty

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

9.3 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 1

Shire of Northam

EXTRACTIVE INDUSTRIES LOCAL LAW 2008

PRESCRIBED OFFENCES

Clause	Description	Modified Penalty \$
2.1	Carry on extractive industry without licence or in breach of terms and conditions	350
6.1	Excavate near boundary	250

Clause	Description	Modified Penalty \$
6.2(a)	Gateways not kept locked where required	350
6.2(b)	Warning signs not erected or maintained as required	350
6.2(c)	Excavation not drained as required	350
6.3(a)	Remove trees or shrubs near boundary without approval	300
6.3(b)	Store without required approval explosives or explosive devices	350
6.3(c)	Fill or excavate in breach of licence	350
6.4(1)(a)	Blasting without approval of the local government	500
6.4(1)(b)	Blasting outside times authorised	500
6.4(1)(d)	Blasting in breach of conditions imposed by the local government	500
6.4(2)	Blasting without approval on Saturday, Sunday or public holiday	500

Dated 23rd July 2008.

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

Cr S. B. POLLARD, Shire President.

G. BRENNAN, Acting Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAM

KEEPING AND CONTROL OF CATS 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 Northam resolved on 23rd July 2008 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Northam Keeping and Control of Cats Local Law 2008*.

1.2 Objects

The object of this local law is—

- (a) to encourage responsible cat ownership;
- (b) to reduce public and environmental nuisance caused by cats; and
- (c) to promote the effective management of cats.

1.3 Definitions

In this local law—

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

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

“**approved cattery**” means any premises which are the subject of a valid planning approval under a Scheme or which is a non-conforming use that may continue under a Scheme;

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

“**cat**” means any member of the species *felix domesticus* (domestic cat) over the age of three months and includes all domestic, feral and stray cats but does not include any other Feline species, e.g. Lion, Tiger, etc;

“**cattery**” means any premises where more than 4 cats over the age of 3 months are kept, boarded, trained or bred;

“**CEO**” means the Chief Executive Officer of the Shire of Northam;

“**Council**” means the Council of the Shire of Northam;

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

“**identified cat**” means a cat, which is identified under clause 2.2;

“**keeper**” in relation to a cat means each of the following—

- (a) the owner of the cat;
- (b) a person by whom the cat is ordinarily kept;
- (c) a person who has or appears to have immediate custody or control of the cat;
- (d) a person who keeps the cat, or has the cat in her or his possession for the time being; or
- (e) the holder of an exemption issued in relation to the cat.

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

“**nuisance**” means if a cat—

- (a) is injurious or dangerous to the health of any person or domestic or Australian indigenous animal or is in the opinion of an authorised person likely to be injurious or dangerous to the health of any person or domestic or Australia indigenous animal;
- (b) creates a noise which persistently occurs or continues to a degree or extent which in the opinion of an authorised person, and has or could have a disturbing effect on the state of reasonable physical, mental, or social well-being of a person; or
- (c) behaves in a manner that is contrary to a reasonable standard of behaviour expected of an animal in the locality of the premises where the cat is normally resident;

“**permit**” means a permit issued by the local government under clause 3.6;

“**permit holder**” means a person who holds a valid permit under clause 3.6;

“**premises**” includes—

(a) any land and any improvements; and

(b) any part of any building in separate ownership or separate occupation, or any unit, flat, townhouse, duplex or apartment;

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

“**Scheme**” means a town planning scheme of the local government made by it under the *Planning and Development Act 2005*.

1.4 Application

This local law applies throughout the district.

1.5 Repeal

The Shire of Northam Keeping and Control of Cats Local Law 2002 as published in the *Government Gazette* of 10 September 2002 and as amended and published in the *Government Gazette* of 17 March 2006 is repealed.

PART 2—IDENTIFYING CATS

2.1 Keeper of a cat shall identify it

A keeper of a cat shall identify the cat by one of the methods described in clause 2.2.

2.2 When a cat is identified

A cat is identified if—

(a) the cat has a collar around its neck and the collar, or a tag securely attached to the collar, is marked with the current address or telephone number of a keeper of the cat; or

(b) the cat has—

(i) a microchip implanted in its body containing, or containing information that may be used to obtain the name of a keeper of the cat and a current address or telephone number of the keeper; and

(ii) the letter “M” is tattooed on the inside of either of its ears.

2.3 No marking of “M” permitted without microchip

(1) A person shall not—

(a) tattoo, and cause to be tattooed, the letter “M” on the inside of a cat’s ear; or

(b) mark the inside of a cat’s ear, or cause the inside of a cat’s ear to be marked, in a manner likely to be mistaken for the letter “M”,

unless the cat has a microchip implanted in its body containing the information referred to in subclause (2).

(2) A microchip referred to in subclause (1) shall—

(a) contain; or

(b) contain information that can be used to obtain,

the name of a keeper of the cat and a current address or telephone number of the keeper.

2.4 No interference with identification

A person, other than the keeper of a cat or a person acting with the keeper’s authority, shall not without reasonable excuse interfere with or remove the means by which a cat is identified under clause 2.2.

2.5 Address of keeper

For the purpose of giving a notice to a keeper of an identified cat, the keeper’s address is to be taken to be that ascertained from the cat’s collar or tag, or on or obtained from the microchip.

2.6 Clause 2.1 does not apply

Clause 2.1 does not apply to a cat—

(a) kept at any refuge conducted by the RSPCA or any other animal welfare organisation;

(b) kept at an animal pound which has been approved by the local government;

(c) kept at a pet shop;

(d) kept at a veterinary surgery; or

(e) which is less than 3 months old.

PART 3—PERMITS FOR KEEPING CATS

3.1 Interpretation

In this Part, and for the purposes of applying the definition of “cattery” in clause 1.3—

“**cat**” does not include a cat less than 3 months old.

3.2 Cats for which permit is required

- (1) Subject to subclause (2) a person shall not keep 3 or more cats on any premises except in accordance with a valid permit;
- (2) A permit is not required under subclause (1) if the premises concerned are—
 - (a) a refuge of the RSPCA or any other animal welfare organisation;
 - (b) an animal pound which has been approved by the local government;
 - (c) a veterinary surgery;
 - (d) a pet shop;
 - (e) an approved cattery; or
 - (f) a premises with 2 or less cats.

3.3 Application for permit

An application for a permit under clause 3.2 shall be—

- (a) be made by an occupier of premises in relation to those premises;
- (b) in a form approved by the local government, describing and specifying the number of cats to be kept on the premises and stating whether or not those cats are identified under clause 2.1;
- (c) accompanied by the consent in writing of the owner of the premises, where the occupier is not the owner of the premises to which the application relates;

3.4 Refusal to determine application

The local government may refuse to determine an application for a permit if it is not made in accordance with clause 3.3.

3.5 Factors relevant to determination of application

- (1) In determining an application for a permit the local government may have regard to—
 - (a) the physical suitability of the premises for the proposed use;
 - (b) the suitability of the zoning of the premises under any scheme which applies to the premises for the use;
 - (c) the structural suitability of any enclosure in which any cat is to be kept;
 - (d) the likelihood of a cat causing a nuisance, inconvenience or annoyance to the occupiers of adjoining land;
 - (e) the likely effect on the amenity of the surrounding area of the proposed use;
 - (f) the likely effect on the local environment, including any pollution or other environment damage which may be caused by the use;
 - (g) any submissions received under subclause (2) within the time specified in subclause (2); and
 - (h) such other factors which the local government may consider to be relevant in the circumstances of the particular case.
- (2) The local government may require an applicant to—
 - (a) consult with adjoining landowners; and
 - (b) advise the adjoining landowners that they may make submissions to the local government on the application for the permit within 14 days of receiving that advice, before determining the application for the permit.

3.6 Decision on application

- (1) The local government may—
 - (a) approve an application for a permit in which case it shall approve it subject to the conditions in clause 3.7 and may approve it subject to any other conditions it considers fit; or
 - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application under subclause (1)(a) then it shall issue to the applicant a permit in the form determined by the local government.
- (3) If the local government refuses to approve an application under subclause (1)(b), then it is to advise the applicant accordingly in writing.

3.7 Conditions

- (1) Every permit is issued subject to the following conditions—
 - (a) each cat kept on the premises to which the permit relates shall be an identified cat;
 - (b) each cat shall be contained on the premises unless under the control of a person;
 - (c) the premises shall be maintained in good order and in a clean and sanitary condition; and
 - (d) the permit holder shall not substitute or replace any cat once that cat—
 - (i) dies; or
 - (ii) is permanently removed from the premises,

without first obtaining the consent of the local government and if that consent is obtained, the new cat shall be subject to the terms and conditions of the permit.

- (2) In addition to the conditions subject to which a permit is to be issued under this clause, a permit may be issued subject to other conditions, as the local government considers appropriate, with such conditions being set in accordance with the objects of the local law.

3.8 Compliance with conditions of permit

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

3.9 Duration of permit

Unless otherwise specified, in a condition on a permit, a permit commences on the date of issue and is valid unless and until—

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

3.10 Revocation

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

3.11 Permit not transferable

A permit is not transferable either in relation to the permit holder or the premises.

3.12 No contravention of conditions

Subject to a defence under clause 7.4, a keeper shall not contravene a condition of a permit.

PART 4—NUISANCE CATS**4.1 Cat not to be a Nuisance**

- (a) a keeper shall not allow a cat to be or create a nuisance;
- (b) where, in the opinion of an authorised person, or the local government receives signed complaints in the form of the Schedule 1 from two persons each of whom occupy different premises, that a cat is creating a nuisance the local government may give written notice to the keeper of the cat requiring that person to abate the nuisance.
- (c) when a nuisance has occurred and a notice to abate the nuisance is given, the notice remains in force for the period specified by the local government on the notice or until the local government withdraws the notice.
- (d) a person given a notice to abate the nuisance shall comply with the notice within the period specified in the notice.

PART 5—ABANDONMENT OF CATS**5.1 No abandonment**

A person shall not abandon a cat.

5.2 Delivery to an authorised person not abandonment

A person who delivers a cat into the custody of an authorised person is to be taken not to have abandoned the cat.

PART 6—OBJECTIONS AND APPEALS**6.1 Objection and appeal rights**

A person adversely affected by a decision of the local government under Part 3, including a decision to refuse to approve an application for a permit or to revoke a permit, may object to or appeal against the decision under Part 9, Division 1 of the Act and in regulation 33 of the *Local Government (Functions and General) Regulations 1996*.

PART 7—OFFENCES, DEFENCE AND PENALTIES*Division 1—General***7.1 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, on 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.

*Division 2—Infringement notices and modified penalties***7.2 Prescribed offences**

An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 9.16 (1) of the Act. The amount appearing directly opposite each such offence is the modified penalty in relation to that offence.

7.3 Forms

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

Division 3—Defence

7.4 Defence to a charge

It is a defence to a charge of an offence of contravening any clause of this local law if the keeper charged satisfies the court that at the material time some other person (whom he or she shall identify) over the age of 18 years was the keeper of the cat(s).

LOCAL GOVERNMENT ACT 1995

Schedule 1

Shire of Northam

KEEPING AND CONTROL OF CATS LOCAL LAW 2008

FORM 3—NUISANCE FORM

TAKE NOTICE THAT a cat, believed to be a ⁽¹⁾
 has created a nuisance by ⁽²⁾
 the cat is believed to belong to ⁽³⁾
 and is kept at ⁽⁴⁾

.....
 and I ⁽⁵⁾
 of

requests the Council to institute proceedings, if the nuisance does not stop, and undertake—

- (a) to give full information to the Council as to this matter; and
- (b) to appear in Court and give evidence as a witness to the truth of this complaint.

Dated this..... day of 20

.....
 (to be signed by complainant)

- ⁽¹⁾ Insert breed or kind of cat and, where possible, its sex and identifying marks.
- ⁽²⁾ Describe details of the alleged nuisance, including the kind of nuisance and, where possible, the dates and time on or between which the nuisance occurred, and where the cat was at the time of the nuisance.
- ⁽³⁾ State name and address of the person believed to be the owner.
- ⁽⁴⁾ State, if known, where the cat is usually kept.
- ⁽⁵⁾ Insert name and address of complainant.

LOCAL GOVERNMENT ACT 1995

Schedule 2

Shire of Northam

KEEPING AND CONTROL OF CATS LOCAL LAW 2008

MODIFIED PENALTIES

Item No	Clause No	Nature of Offence	Modified Penalty
1	2.1	Failure to identify a cat	\$100
2	2.3	“M” tattooed on cat when no microchip	\$100
3	2.4	Interference with or removal of identification of a cat	\$100
4	3.2(1)	Keeping of 3 or more cats on premises without permit	\$100
5	4.1	Failure to comply with a notice to abate a nuisance.	\$100
6	5.1	Abandonment of a cat	\$250

LOCAL GOVERNMENT ACT 1995

Schedule 3

Shire of Northam

KEEPING AND CONTROL OF CATS LOCAL LAW 2008

ADDITIONAL CONDITIONS APPLICABLE TO PARTICULAR PERMITS

A Permit to keep 3 to 4 cats

Additional conditions

- (1) The written consent to the application for a permit of the adjoining multiple dwellings has been obtained;
- (2) Without the consent of the local government, the permit holder will not substitute or replace any cat once that cat—
 - (a) dies;
 - (b) is permanently removed from the premises.

B Permit to use premises as a cattery

Additional conditions

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

Dated 23rd July 2008.

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

Cr S. B. POLLARD, Shire President.
G. BRENNAN, Acting Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAM

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008

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LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAM

LOCAL GOVERNMENT PROPERTY 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 Northam resolved on 23rd July 2008 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the Shire of Northam Local Government Property Local Law 2008.

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;

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

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

- (a) hall, recreation centre or room;
- (b) corridor, stairway or annexe of any hall, recreation centre or room; and
- (c) pedestrian bridge;

“**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 Shire of Northam;

“**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 Shire of Northam;

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

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

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

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

“**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; and
- (e) a boat.

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—
 - The Shire of Northam By-laws for the Management and use of the Wundowie Community Hall published in the *Government Gazette* of 19 March 1982.
 - The Town of Northam By-laws Relating to Northam Aquatic Centre published in the *Government Gazette* of 20 April 1990.
 - The Town of Northam By-laws Relating to the Control and Management of Halls and Northam Recreation Centre published in the *Government Gazette* of 28 February 1986 and as amended and published in the *Government Gazette* of 12 June 1987, 25 November 1988 and 17 August 1990.
 - The Town of Northam By-laws Relating to the Control and Usage of Pedestrian Bridges over the Avon River within the District of the Municipality of the Town of Northam published in the *Government Gazette* of 14 September 1979 and as amended and published in the *Government Gazette* of 3 August 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—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 subclauses 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 submissions are received in accordance with subclause (2)(c), the Council is to decide to—
- (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
 - (b) amend the proposed determination, in which case subclause (5) will apply; or
 - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c) the Council is to—
- (a) consider those submissions; and
 - (b) decide—
 - (i) whether or not to amend the proposed determination; or
 - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice—
- (a) of the effect of the amendments; and
 - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

2.3 Discretion to erect sign

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

2.4 Determination to be complied with

A person shall comply with a determination.

2.5 Register of determinations

- (1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

2.6 Amendment or revocation of a determination

- (1) The Council may amend or revoke a determination.
- (2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the Council revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

Division 2—Activities which may be pursued or prohibited under a determination

2.7 Activities which may be pursued on specified local government property

- (1) A determination may provide that specified local government property is set aside as an area on which a person may—
- (a) bring, ride or drive an animal;
 - (b) take, ride or drive a vehicle, or a particular class of vehicle;
 - (c) fly or use a motorised model aeroplane;
 - (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
 - (e) launch, beach or leave a boat;

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

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

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

2.8 Activities which may be prohibited on specified local government property

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

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

(2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular—

- (a) the days and times during which the activity is prohibited;
- (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
- (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;
- (d) that an activity is prohibited in respect of a class of persons or all persons; and
- (e) may distinguish between different classes of the activity.

(3) In this clause—

“premises” means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

Division 3—Transitional

2.9 Signs taken to be determinations

(1) Where a sign erected on local government property has been erected under a local law of the local government repealed by this local law, then it is to be taken to be and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 2.1.

(2) Clause 2.5 does not apply to a sign referred to in subclause (1).

PART 3—PERMITS*Division 1—Preliminary***3.1 Application of Part**

This Part does not apply to a person who uses or occupies local government property under a written agreement with the local government to do so.

*Division 2—Applying for a permit***3.2 Application for permit**

- (1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law shall—
 - (a) be in the form determined by the local government;
 - (b) be signed by the applicant;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government may require an applicant to give local public notice of the application for a permit.
- (5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

3.3 Decision on application for permit

- (1) The local government may—
 - (a) approve an application for a permit unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit, it is to issue to the applicant, a permit in the form determined by the local government.
- (3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

*Division 3—Conditions***3.4 Conditions which may be imposed on a permit**

- (1) Without limiting the generality of paragraph 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 paragraph 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued—
 - (a) when fees and charges are to be paid;
 - (b) payment of a bond against possible damage or cleaning expenses or both;
 - (c) restrictions on the erection of material or external decorations;
 - (d) rules about the use of furniture, plant and effects;
 - (e) limitations on the number of persons who may attend any function in or on local government property;
 - (f) the duration of the hire;
 - (g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;
 - (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Control Act 1988*;

- (i) whether or not the hire is for the exclusive use of the local government property;
- (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
- (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

3.5 Imposing conditions under a policy

(1) In this clause—

“**policy**” means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under paragraph 3.3(1)(a).

(2) Under paragraph 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 subclause 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 Chief Executive Officer.

(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 9.1, 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 stop any vehicle on local government property;
 - (h) conduct a function on local government property ;
 - (i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
 - (j) light a fire on local government property except in a facility provided for that purpose;
 - (k) parachute, hang glide, abseil or base jump from or on to local government property;
 - (l) erect a building or a refuelling site on local government property;
 - (m) make any excavation on or erect or remove any fence on local government property;
 - (n) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
 - (o) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property; or
 - (p) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The local government may exempt specified local government property or a class of local government property from the application of paragraph (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 Control Act 1988*; and
 - (b) a permit has been obtained for that purpose.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

*Division 6—Responsibilities of permit holder***3.16 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 Control Act 1988* for that purpose.

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

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

- (a) is likely to interfere with the enjoyment of a person who might use the property; or
- (b) interferes with the enjoyment of a person using the property.

4.2 Behaviour detrimental to property

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

(2) In subclause (1)—

“**detrimental to the property**” includes—

- (a) removing any thing from the local government property such as a rock, a plant or a seat provided for the use of any person; and
- (b) destroying, defacing or damaging any thing on the local government property, such as a plant, 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 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 10 years and who is unaccompanied by a responsible person over the age of 17 years;
 - (ii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition;
 - (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.

5.2 Consumption of food or drink may be prohibited

A person shall not consume any food or drink in an area where consumption is prohibited by a sign.

Division 3—Fenced or closed property

5.3 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 4—Toilet blocks and change rooms

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

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

- (a) females, then a person of the male gender 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.

Division 5—Aerodrome (airport)

5.5 Access of animals restricted

- (1) A person shall not bring an animal on to an aerodrome unless—
 - (a) the person is a person referred to in section 8 of the *Dog Act 1976* acting in accordance with that provision;
 - (b) the animal is being air freighted from the aerodrome;
 - (c) the animal has been air freighted to the aerodrome; or
 - (d) the person is authorized to do so by the local government.
- (2) A person in charge of an animal shall keep the animal under control and shall not allow it to wander at large on the aerodrome.
- (3) If an animal is at any time on an aerodrome in contravention of subclause (2), in addition to the person specified in that subclause, the owner of the animal at that time commits an offence against subclause (2).

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—PEDESTRIAN BRIDGES

Division 1—Preliminary

7.1 Interpretation

- (1) This Part only applies to pedestrian bridges on local government property.
- (2) In this Part—

“pedestrian bridge” means any bridge intended for use by pedestrians only.

Division 2—Control and usage of pedestrian bridges over the Avon River

7.2 Vehicles on pedestrian bridge

A person must not drive, ride or take a vehicle onto or allow the vehicle to remain on any pedestrian bridge without express permission of the local government.

7.3 Animals on pedestrian bridge

A person must not herd, drive, ride, lead or allow any cattle, horse, sheep, dog or other animal to stray or to be at large upon any pedestrian bridge.

7.4 Obstruction of pedestrian bridge

- (1) No person shall place or cause to be placed on any pedestrian bridge any obstruction without permission in writing of the local government.
- (2) No person shall obstruct any representative or employee of the local government in constructing, repairing, adding to or working on or in relation to any pedestrian bridge.

7.5 Rubbish, etc

A person must not throw or place or cause to be thrown or placed at or onto any pedestrian bridge any glass, stone, missile, filth, dirt, rubbish or other matter of similar nature.

7.6 Fires

A person shall not under any pretext whatsoever light, place or keep a fire upon or against any pedestrian bridge.

PART 8—SALEYARDS

Division 1—Preliminary

8.1 Interpretation

In this Part—

“**auction**” has the meaning given to it in the *Auction Sales Act 1973*;

“**sale**” means a sale by way of auction;

“**saleyard**” means local government property which is used for the sale of stock;

“**stock**” has the meaning given to “livestock” in the *Auction Sales Act 1973*; and

“**stock agent**” means any person appointed by the owner of stock to sell that stock at a saleyard.

Division 2—Sale of stock

8.2 Requirements of auctioneer’s licence

A person shall not sell by way of auction any stock at a saleyard unless that person is the holder of an auctioneer’s licence to sell stock under the *Auction Sales Act 1973*.

8.3 Sale times to be approved

Sales are to be conducted at a saleyard only on such days and at such times as may be appointed by a stock agent with the prior approval of the Chief Executive Officer.

8.4 Order of sales

The order in which stock agents conduct sales on any day under clause 8.3 is to be the order agreed to by those stock agents, and in default of agreement, as directed by the CEO or an authorized person.

Division 3—Care of and responsibility for stock

8.5 Diseased and injured stock

(1) A person shall not—

(a) offer for sale any stock which is diseased, emaciated, injured or suffering from ill health for sale at a saleyard; or

(b) deliver to any saleyard any stock which is diseased, emaciated, injured or suffering from ill health.

(2) Where in the opinion of an authorized person stock at a saleyard is diseased, emaciated, injured or suffering from ill health, the authorized person may direct the stock agent of the stock, or if there is no stock agent, the owner or the person apparently in control of that stock, to remove that stock immediately from the saleyard.

8.6 Care of stock

Where the stock is yarded in any saleyard the stock agent (or if there is no stock agent, the owner) shall—

(a) ensure that the stock is properly cared for; and

(b) if the stock is kept yarded for more than 24 hours, provide the stock with adequate food and water.

8.7 When purchaser becomes responsible for stock

The purchaser of any stock yarded in a saleyard is responsible for such stock from the time the contract of sale is entered into.

8.8 Time limit for removal of stock

The purchaser of any stock at a saleyard is to remove such stock from the saleyard by 5.00pm on the day after the day of sale, or by such later time as may be allowed by an authorized person.

8.9 Removal of unsold stock

Where stock yarded in a saleyard remain unsold, the stock agent or, if there is no stock agent, the owner of the stock is responsible for the care and removal of such stock from the saleyard.

8.10 Removal of dead or maimed stock

Stock which have died or which have been maimed shall be as soon as possible be removed from the saleyard where the stock—

(a) are unsold, by the stock agent, or if there is no stock agent, the owner; or

(b) have been sold, by the purchaser.

*Division 4—Payment of fees***8.11 Payment of yard fees**

Where stock is brought into a saleyard for a sale or any other purpose by a stock agent or owner, that stock agent or owner shall—

- (a) within 7 days of bringing the stock into a saleyard, give the local government a written statement signed by the stock agent or owner advising—
 - (i) the total number of stock by class brought into the saleyard; and
 - (ii) the date on which the stock was brought into the saleyard; and
- (b) within 28 days of bringing the stock into a saleyard, pay the local government the applicable yard fees set by the local government.

8.12 Documents may be inspected

The stock agent or owner shall, on demand by the CEO, make available to the CEO for inspection such documents as may be necessary to enable the CEO to verify a statement given under clause 8.11.

*Division 5—Control of dogs***8.13 Only working dogs allowed**

A person shall not bring into a saleyard any dog which will not be used for working with stock in that saleyard on the day which it is brought in.

8.14 Diseased dogs prohibited

A person shall not bring or permit to be brought into a saleyard a dog which is diseased.

PART 9—OBJECTIONS AND APPEALS**9.1 Application of Division 1, Part 9 of the Act**

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

- (a) grant a person a permit or consent under this local law; or
- (b) renew, vary, or cancel a permit or consent that a person has under this local law,

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to that decision.

PART 10—MISCELLANEOUS**10.1 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.

10.2 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.

10.3 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.

10.4 Liability for damage to local government property

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

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

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

PART 11—ENFORCEMENT*Division 1—Notices given under this local law***11.1 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.

11.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 11.1, 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

11.3 Offences and general penalty

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

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

Subdivision 2—Infringement notices and modified penalties

11.4 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.

11.5 Form of notices

(1) For the purposes of this local law—

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

(2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

*Division 3—Evidence in legal proceedings***11.6 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

Shire of Northam

Local Government Property Local Law 2008

PRESCRIBED OFFENCES

Clause	Description	Modified Penalty \$
2.4	Failure to comply with determination	125
3.6	Failure to comply with conditions of permit	125
3.13(1)	Failure to obtain a permit	125
3.14(3)	Failure to obtain permit to camp outside a facility	125
3.15(1)	Failure to obtain permit for liquor	125
3.16	Failure of permit holder to comply with responsibilities	125
4.2(1)	Behaviour detrimental to property	125
4.6(2)	Failure to comply with sign on local government property	125
5.2	Consuming food or drink in prohibited area	125
5.3	Unauthorized entry to fenced or closed local government property	125
5.4	Gender not specified using entry of toilet block or change room	125
5.5(1)	Unauthorized presence of animal on aerodrome	350

Clause	Description	Modified Penalty \$
5.5(2)	Animal wandering at large on aerodrome—person in charge	350
5.5(3)	Animal wandering at large on aerodrome—owner	350
6.1(1)	Unauthorized entry to function on local government property	125
7.2	Unauthorised vehicle on pedestrian bridge	125
7.3	Unauthorised animal on pedestrian bridge	125
7.4	Obstruction of a pedestrian bridge	125
7.5	Throwing or placing rubbish on a pedestrian bridge	125
7.6	Lighting or placing a fire on a pedestrian bridge	250
8.2	Selling by way of auction without licence	125
8.8	Failure to remove stock	250
8.10	Failure to remove dead or maimed stock	250
8.11	Failure to give statement or pay fees to local government	250
8.12	Failure to produce documents for inspection by local government	250
8.13	Unauthorized entry of dog into saleyard	125
11.1	Failure to comply with notice	250

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.

PART 2—DRIVING VEHICLES ON LOCAL GOVERNMENT PROPERTY

Speed of Vehicles on Reserves

2.1 A person shall not drive a vehicle or allow a vehicle to be driven upon a reserve which is local government property at a speed exceeding 20 kilometres an hour, or in such a manner as to cause danger to any person.

PART 3—ACTIVITIES PROHIBITED ON LOCAL GOVERNMENT PROPERTY

Activities prohibited on local government property

3.1 A person is prohibited from pursuing all or any of the following activities on local government property except on land which is reserved to the local government for the purpose, or which is set aside under subclause 2.7(1) for the purpose.

- (a) Play or practice at golf, archery, pistol shooting or rifle shooting.

Dated 23rd July 2008.

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

Cr S. B. POLLARD, Shire President.

G. BRENNAN, Acting Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAM

OPERATION OF WASTE DISPOSAL FACILITIES LOCAL LAW 2008

Under the powers conferred by the *Local Government Act 1995* and of all the powers enabling it, the Council of the Shire of Northam hereby records having resolved on the 23rd July 2008 to make the following local law.

1 This local law may be cited as the *Shire of Northam Operation of Waste Disposal Facilities Local Law 2008*.

2. In this local law, unless the context otherwise require—

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

“**authorised person**” means a person authorised by the local government to carry out duties and functions at or in respect of the facility;

“**CEO**” means the Chief Executive Officer of the Shire of Northam;

“**Council**” means the Council of the Shire of Northam;

“**facility**” means the property and buildings at the Old Quarry Road Waste Disposal Facility, the Inkpen Road Waste Disposal Facility and any other Shire operated Waste Disposal Facility used for the disposal, treatment and recycling of waste material;

“**fauna**” and “**flora**” have the meaning given to them in Section 6 of the *Wildlife Conservation Act 1950*.

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

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

“**toxic, poisonous or prohibited waste**” means and includes all items listed under Schedule 1 of the *Environmental Protection (Controlled Waste) Regulations 2004*; and

“**Waste**” means all manner of material discarded as being no longer required by the person owning or in possession of that material.

3. The *Town of Northam By-laws Relating to the Operation of the Colebatch Road Northam Waste Disposal Facility* as published in the *Government Gazette* on 30 April 1993 are repealed.

4. All persons using or entering upon a facility shall be subject to the provisions of this local law.

5. The drivers of all vehicles entering a facility shall observe the speed limits as depicted on standard signs erected in proximity to the access roadways.

6. All persons using or entering a facility shall act in accordance with any lawful instruction given by an authorised person.

7. In the event of a person contravening any clause of this local law or failing to obey the instructions of an authorised person then, and in addition to any penalty imposed by this local law, an authorised person may request the person to leave the facility and failure to do so shall constitute a contravention of this local law.

8. No person shall place or dispose of waste at a facility other than at a place designated by notice or by an instruction of an authorised person.

9. No person shall remove or carry away from a facility any waste unless authorised to do so by an authorised person.

10. No person shall damage, deface or otherwise cause a loss in value in any building, sign, plant and equipment of the local government situated on a facility.

11. No person shall light any fire within the precincts of a facility unless so authorised by an authorised person for purposes of protection or lessening of a fire hazard.

12. No person shall dig up, remove or otherwise damage native flora and growth at a facility unless so authorised by an authorised person.

13. No person shall trap, chase, worry or otherwise injure or maim any native fauna at a facility unless so authorised by an authorised person.

14. The local government may from time to time set and amend the hours of operation of a facility and such hours will be displayed for public information.

15. The local government may, under and in accordance with sections 6.16 to 6.19 of the Act, from time to time set and amend a scale of fees and charges payable for admission to dispose of or dump waste at a facility and such scale may specify classes and differing classes to which differing fees and charges shall apply.

16. No person shall enter a facility to dispose of or dump waste without paying the appropriate admission fee or charge except in those circumstances where so authorised by the local government.

17. It shall be an offence for any person to enter upon a facility and dump any sewage or waste without paying the appropriate charge.

18. No person shall dispose of or dump at a facility any sewage, toxic, poisonous or prohibited waste that does not comply with the facility operating licence or registration.

19. No person shall dispose of or dump at a facility tyres of any kind, except for the purpose of recycling.

20. Any person who contravenes or fails to comply with any clause of this local law commits an offence and is liable on conviction to a maximum penalty of five thousand dollars (\$5,000.00).

Dated this 23rd July 2008.

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

Cr S. B. POLLARD, Shire President.
G. BRENNAN, Acting Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAM

REPEAL LOCAL LAW 2008

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Northam resolved on 23rd July 2008, to repeal old and obsolete by-laws and local laws of the former districts of the Shire of Northam and Town of Northam as follows.

1 Citation

This local law may be cited as the *Shire of Northam Repeal Local Law 2008*.

2 Operation

This local law will come into operation on the fourteenth day after the day on which it is published in the *Government Gazette*.

3 Repeal

3.1 The local laws of the former district of the Shire of Northam as listed below are hereby repealed—
By-laws—

- Construction, Establishment, Operation and Maintenance of Motels published in the *Government Gazette* on 28 September 1960 and as amended and published in the *Government Gazette* on 14 June 1974 and 20 December 1974;
- Model (Signs, Hoardings and Billposting) No. 13 published in the *Government Gazette* on 25 January 1974 and as amended and published in the *Government Gazette* on 30 May 1975;
- Model (Removal and Disposal of Obstructing Animals or Vehicles) No. 7 published in the *Government Gazette* on 24 May 1974;
- Draft Model (Caravan Parks and Camping Grounds) No. 2 published in the *Government Gazette* on 6 December 1974;
- Draft Model (Petrol Pumps) No. 10 published in the *Government Gazette* on 25 January 1974;
- Draft Model (Holiday Accommodation) No. 18 published in the *Government Gazette* on 24 April 1975; and
- Firebreaks Local Law 2002 published in the *Government Gazette* on 10 September 2002 and as amended and published in the *Government Gazette* on 17 March 2006.

3.2 The local laws of the former district of the Town of Northam as listed below are hereby repealed—
By-laws—

- General No. 1, 3 to 10, 12 to 27, 29 to 34 and 36 to 38 as published in the *Government Gazette* on 20 August 1909 and by-law No. 11 as amended and published in the *Government Gazette* on 22 August 1924;
- No. 40—Discount for prompt payment of rates as published in the *Government Gazette* on 19 October 1917;
- No 45—Vehicles on May Reserve, Bernard Park and the footbridge over the Avon River published in the *Government Gazette* of 18 September 1925;
- No. 53—Public Footbridge (Use thereof) published in the *Government Gazette* on 29 April 1949;
- No. 60—Special Roll for Loan Poll as published in the *Government Gazette* on 9 May 1956;
- Model (Old Refrigerators and Cabinets) No. 8 published in the *Government Gazette* on 7 February 1963;
- Draft Model (Removal and Disposal of Obstructing Animals or Vehicles) No. 7 published in the *Government Gazette* on 13 May 1964 and as amended and published in the *Government Gazette* on 29 October 1993;
- New Street Alignments as published in the *Government Gazette* on 10 June 1965;
- Model (Motels) No. 3 published in the *Government Gazette* on 4 August 1965.
- Health By-laws relating to Stables as published in the *Government Gazette* on 24 May 1974;

- Draft Model (Caravan Parks and Camping Grounds) No. 2 published in the *Government Gazette* on 27 March 1975;
- Model (Vehicle Wrecking) No. 17 published in the *Government Gazette* on 16 September 1977;
- Depositing and Removal of Refuse, Rubbish, Litter and Disused Materials published in the *Government Gazette* on 11 May 1979 and as amended and published in the *Government Gazette* on 14 March 1980 and 3 August 1990;
- Ranger's Fees, Poundage Fees, Sustenance Charges and Trespass Rates as published in the *Government Gazette* on 21 August 1981;
- Payment of Rates as published in the *Government Gazette* on 13 July 1984;
- Erection of Verandahs and Awnings as published in the *Government Gazette* on 20 March 1987; and
- Keeping of Bees as published in the *Government Gazette* on 20 April 1990.

Dated 23rd July 2008.

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

Cr S. B. POLLARD, Shire President.

GARY. P. BRENNAN, Acting Chief Executive Officer.

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LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAM

PARKING AND PARKING FACILITIES 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 Northam resolved on 23rd July 2008 to make the following local law.

PART 1—DEFINITIONS AND OPERATION

1.1 Citation

This local law may be cited as the *Shire of Northam Parking and Parking Facilities Local Law 2008*.

1.2 Definitions

In this local law unless the context otherwise requires—

‘**ACROD sticker**’ has the same meaning given to it by the Code;

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

‘**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;

‘**authorized vehicle**’ means a vehicle authorized by the local government, Chief Executive Officer, Authorized Person or by any written law to park on a thoroughfare or parking facility;

‘**bicycle**’ has the meaning given to it by the Code;

‘**bicycle path**’ has the meaning given to it by the Code;

‘**bus**’ has the meaning given to it by the Code;

‘**bus embayment**’ has the meaning given to it by the Code;

‘**bus stop**’ has the meaning given to it by the Code;

‘**bus zone**’ has the meaning given to it by the Code;

‘**caravan**’ means a vehicle that is fitted or designed to allow human habitation and which is drawn by another vehicle, or which is capable of self-propulsion;

‘**carriageway**’ means a portion of thoroughfare that is improved, designed or ordinarily used for vehicular traffic and includes the shoulders, and areas, including embayments, at the side or centre of the carriageway, used for the stopping or parking of vehicles; and where a thoroughfare has two or more of those portions divided by a median strip, the expression means each of those portions, separately;

‘**centre**’ in relation to a carriageway, means a line or a series of lines, marks or other indications—

(i) for a two-way carriageway—placed so as to delineate vehicular traffic travelling in different directions; or

(ii) in the absence of any such lines, marks or other indications—the middle of the main, travelled portion of the carriageway;

‘**children’s crossing**’ has the meaning given to it by the Code;

‘**CEO**’ means the Chief Executive Officer of the Shire of Northam;

‘**Code**’ means the *Road Traffic Code 2000*;

‘**commercial vehicle**’ means a motor vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a motor vehicle for the conveyance of passengers, and includes any motor vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

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

‘**driver**’ means any person driving or in control of a vehicle;

‘**edge line**’ for a carriageway means a line marked along the carriageway at or near the far left or the far right of the carriageway;

‘**emergency vehicle**’ has the meaning given to it by the Code;

- 'footpath'** has the meaning given to it by the Code;
- 'GVM'** (which stands for 'gross vehicle mass') has the meaning given to it by the Code;
- 'Loading Zone'** means a parking stall which is set aside for use by commercial vehicles if there is a sign referable to that stall marked 'Loading Zone';
- 'local government'** means the Shire of Northam;
- 'mail zone'** has the meaning given to it by the Code;
- 'median strip'** has the meaning given to it by the Code;
- 'metered space'** means a section or part of a metered zone that is adjacent to a parking meter and that is marked or defined by painted lines or by metallic studs or similar devices for the purpose of indicating where a vehicle may be parked on payment of a fee or charge;
- 'metered zone'** means any thoroughfare or reserve, or part of any thoroughfare or reserve, in which parking meters regulate the parking of vehicles;
- 'motorcycle'** has the meaning given to it by the Code;
- 'motor vehicle'** means a self-propelled vehicle that is not operated on rails; and the expression includes a trailer, semi-trailer or caravan while attached to a motor vehicle, but does not include a power assisted pedal cycle;
- 'no parking area'** has the meaning given to it by the Code;
- 'no parking sign'** means a sign with the words 'no parking' in red letters on a white background, or the letter 'P' within a red annulus and a red diagonal line across it on a white background;
- 'no stopping area'** has the meaning given to it by the Code;
- 'no stopping sign'** means a sign with the words 'no stopping' or 'no standing' in red letters on a white background or the letter 'S' within a red annulus and a red diagonal line across it on a white background;
- 'occupier'** has the meaning given to it by the Act;
- 'owner'**—
- where used in relation to a vehicle licensed under the Road Traffic Act, means the person in whose name the vehicle has been registered under that Road Traffic Act;
 - where used in relation to any other vehicle, means the person who owns, or is entitled to possession of that vehicle; and
 - where used in relation to land, has the meaning given to it by the Act;
- 'park'**, in relation to a vehicle, means to permit a vehicle, whether attended or not by any person, to remain stationary except for the purpose of—
- avoiding conflict with other traffic; or
 - complying with the provisions of any law; or
 - taking up or setting down persons or goods (*maximum of 2 minutes*);
- 'parking area'** has the meaning given to it by the Code;
- 'parking facilities'** includes land, buildings, shelters, metered zones, metered spaces, parking stalls and other facilities open to the public generally for the parking of vehicles with or without charge and signs, notices and facilities used in connection with the parking of vehicles;
- 'parking meter'** includes the stand on which the meter is erected and a ticket issuing machine;
- 'parking region'** means the area described in Schedule 1;
- 'parking stall'** means a section or part of a thoroughfare or of a parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked, but does not include a metered space;
- 'parking station'** means any land, or structure provided for the purpose of accommodating vehicles with or without charge, but does not include a metered zone or metered space;
- 'pedestrian crossing'** has the meaning given to it by the Code;
- 'public place'** means any place to which the public has access whether or not that place is on private property;
- 'reserve'** means any land—
- which belongs to the local government;
 - of which the local government is the management body under the *Land Administration Act 1997*; or which is an 'otherwise unvested facility' within section 3.53 of the Act;
- 'Road Traffic Act'** means the *Road Traffic Act 1974*;
- 'Schedule'** means a Schedule to this local law;
- 'shared zone'** has the meaning given to it by the Code;
- 'sign'** includes a traffic sign, inscription, road marking, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols, and which is placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking of vehicles;
- 'special purpose vehicle'** has the meaning given to it by the Code;
- 'stop'** in relation to a vehicle means to stop a vehicle and permit it to remain stationary, except for the purposes of avoiding conflict with other traffic or of complying with the provisions of any law;

'symbol' includes any symbol specified by Australian Standard 1742.11-1999 and any symbol specified from time to time by Standards Australia for use in the regulation of parking and any reference to the wording of any sign in this local law shall be also deemed to include a reference to the corresponding symbol;

'taxi' means a taxi within the meaning of the *Taxi Act 1994* or a taxi-car in section 47Z of the *Transport Co-ordination Act 1966*;

'taxi zone' has the meaning given to it by the Code;

'thoroughfare' has the meaning given to it by the Act;

'ticket issuing machine' means a parking meter which issues, as a result of money being inserted in the machine or such other form of payment as may be permitted to be made, a ticket showing the period during which it shall be lawful to remain parked in a metered space to which the machine is referable;

'traffic island' has the meaning given to it by the Code;

'trailer' means any vehicle without motive power of its own, designed for attachment to a motor vehicle for the purpose of being towed, but does not include the rear portion of an articulated vehicle, or a side car;

'vehicle' has the meaning given to it by the Code;

'verge' means the portion of a thoroughfare which lies between the boundary of a carriageway and the adjacent property line but does not include a footpath.

1.3 Repeal

The following local laws are repealed—

- The *Shire of Northam Local Laws Relating to Parking Facilities* published in the *Government Gazette* on 1 May 1998.
- The *Town of Northam Parking Facilities By-law* published in the *Government Gazette* on 5 January 1996.

1.4 Application of Particular Definitions

(1) For the purposes of the application of the definitions 'no parking area' and 'parking area' an arrow inscribed on a traffic sign erected at an angle to the boundary of the carriageway is deemed to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the boundary.

(2) Unless the context otherwise requires, where a term is used, but not defined, in this local law, and that term is defined in the Road Traffic Act or in the Code, then the term shall have the meaning given to it in that Act or the Code.

1.5 Application and pre-existing signs

(1) Subject to subclause (2), this local law applies to the parking region.

(2) This local law does not apply to a parking facility or a parking station that is not occupied by the local government, unless the local government and the owner or occupier of that facility or station have agreed in writing that this local law will apply to that facility or station.

(3) The agreement referred to in subclause (2) may be made on such terms and conditions as the parties may agree.

(4) Where a parking facility or a parking station is identified in Schedule 3, then the facility or station shall be deemed to be a parking station to which this local law applies and it shall not be necessary to prove that it is the subject of an agreement referred to in subclause (2).

(5) A sign that—

- (a) was erected by the local government or the Commissioner of Main Roads prior to the coming into operation of this local law; and
- (b) relates to the parking of vehicles within the parking region, shall be deemed for the purposes of this local law to have been erected by the local government under the authority of this local law.

(6) An inscription or symbol on a sign referred to in subclause (5) operates and has effect according to its tenor, and where the inscription or symbol relates to the stopping of vehicles, it shall be deemed for the purposes of this local law to operate and have effect as if it related to the parking of vehicles.

(7) The provisions of Parts (2), (3), (4) and (5) do not apply to a bicycle parked at a bicycle rail or bicycle rack.

1.6 Classes of vehicles

For the purpose of this local law, vehicles are divided into classes as follows—

- (a) buses;
- (b) commercial vehicles;
- (c) motorcycles and bicycles;
- (d) taxis; and
- (e) all other vehicles.

1.7 Part of thoroughfare to which sign applies

Where under this local law the parking of vehicles in a thoroughfare is controlled by a sign, the sign shall be read as applying to that part of the thoroughfare which—

- (a) lies beyond the sign;

- (b) lies between the sign and the next sign beyond that sign; and
- (c) is on that side of the thoroughfare nearest to the sign.

1.8 Powers of Local Government

The local government may, by resolution, prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with the provisions of this local law.

PART 2—METERED ZONES

2.1 Determination of metered zones

The local government may by resolution constitute, determine and vary and also indicate by signs, metered spaces and metered zones.

In respect of metered spaces and metered zones the local government may by resolution determine, and may indicate by signs—

- (a) permitted times and conditions of parking depending on and varying with the locality;
- (b) classes of vehicles which are permitted to park;
- (c) the amount payable for parking; and
- (d) the manner of parking.

2.2 Parking fee to be paid

Subject to clause 2.5, a person shall not park a vehicle in a metered space unless the appropriate fee as indicated by a sign on the parking meter referable to the space is inserted into the parking meter.

2.3 Limitation on parking in metered space

The payment of a fee under clause 2.2 shall entitle a person to park the vehicle in a metered space for the period shown on the parking meter, but does not authorize the parking of the vehicle during any time when parking in that space may be prohibited in accordance with this local law.

2.4 No parking when meter is expired

Subject to clause 2.5, a person shall not leave or permit a vehicle to remain parked in a metered space during the hours when a fee is payable to park the vehicle in the space when the parking meter referable to that space exhibits the sign 'Expired' or a negative time.

2.5 Suspension of requirement to pay fee

The local government may from time to time by a resolution declare that the provisions of clauses 2.2 and 2.4 shall not apply during the periods and days specified in the resolution.

2.6 Vehicles to be within metered space

Subject to subclause (2)—

- (1) A person shall not park a vehicle in a metered space in a thoroughfare otherwise than parallel to and as close to the kerb as practicable and wholly within the space, provided that where a metered space is set out otherwise than parallel to the kerb the vehicle need only park wholly within the space.
- (2) If a vehicle is too long or too wide to fit completely within a single metered space then the person parking the vehicle shall do so within the minimum number of metered spaces needed to park that vehicle.
- (3) A person shall not park a vehicle partly within and partly outside a metered zone.

2.7 Permitted insertions in parking meters

(1) A person shall not insert into a parking meter anything other than the designations of coin or banknote or such other permitted form of payment indicated by a sign on the parking meter.

(2) The insertion of a coin or banknote into any parking meter or the making of payment in such other form as may be permitted shall be effected only in accordance with the instructions printed on that particular meter.

2.8 Parking ticket to be clearly visible

A driver of a vehicle left parked in a metered zone which is regulated by a ticket issuing machine shall on purchasing a ticket from the machine for a period of parking, place the ticket inside the vehicle in such a position that the ticket is clearly visible to and the expiry time or time for which the ticket remains valid is able to be read by an Authorized Person examining the ticket from outside the vehicle.

2.9 One vehicle per metered space

A person shall not park or attempt to park a vehicle in a metered space in which another vehicle is parking.

2.10 No parking when hood on meter

Notwithstanding any other provision of this local law and notwithstanding any other sign or notice, a person shall not park a vehicle in a metered space if the parking meter referable to such metered space has a hood marked 'No Parking', 'Reserved Parking' or 'Temporary Bus Stand' or equivalent symbols depicting these purposes except with the permission of the local government or an Authorized Person.

PART 3—PARKING STALLS AND PARKING STATIONS

3.1 Determination of parking stalls and parking stations

The local government may by resolution constitute, determine and vary and also indicate by signs—

- (a) parking stalls;
- (b) parking stations;
- (c) permitted time and conditions of parking in parking stalls and parking stations which may vary with the locality;
- (d) permitted classes of vehicles which may park in parking stalls and parking stations;
- (e) permitted classes of persons who may park in specified parking stalls or parking stations; and
- (f) the manner of parking in parking stalls and parking stations.

3.2 Vehicles to be within parking stall on thoroughfare

(1) Subject to subclause (2), (3) and (4), a person shall not park a vehicle in a parking stall in a thoroughfare otherwise than—

- (a) parallel to and as close to the kerb as is practicable;
- (b) wholly within the stall; and
- (c) headed in the direction of the movement of traffic on the side of the thoroughfare in which the stall is situated.

(2) Subject to subclause (3) where a parking stall in a thoroughfare is set out otherwise than parallel to the kerb, then a person must park a vehicle in that stall wholly within it.

(3) If a vehicle is too long or too wide to fit completely within a single parking stall then the person parking the vehicle shall do so within the minimum number of parking stalls needed to park that vehicle.

(4) A person shall not park a vehicle partly within and partly outside a parking area.

3.3 Payment of fee to park in parking station

A person shall not park a vehicle or permit a vehicle to remain parked in any parking station during any period for which a fee is payable unless—

- (a) in the case of a parking station having an Authorized Person on duty, the appropriate fee is paid when demanded; or
- (b) in the case of a parking station equipped with parking meters, the appropriate fee is inserted in the meter or the required payment is made in such other form as may be permitted.

3.4 Suspension of parking station restrictions

The local government may by resolution declare that the provisions of clause 3.3 do not apply during periods on particular days in relation to particular parking stations as specified in such resolution.

3.5 Vehicle not to be removed until fee paid

A person shall not remove a vehicle which has been parked in a parking station until there has been paid the appropriate fee for the period for which the vehicle has been parked.

3.6 Entitlement to receipt

A person paying a fee at a parking station is to be entitled to receive a receipt on demand showing the period of parking covered by such payment.

3.7 Parking ticket to be clearly visible

A driver of a vehicle in a parking station which is equipped with a ticket issuing machine shall on purchasing a ticket from the machine for a period of parking, place the ticket inside the vehicle in such a position that the ticket is clearly visible to and the expiry time or time for which the ticket remains valid is able to be read by an Authorized Person examining the ticket from outside the vehicle.

3.8 Parking prohibitions and restrictions

(1) A person shall not—

- (a) park a vehicle so as to obstruct an entrance to, or an exit from a parking station, or an access way within a parking station;
- (b) except with the permission of the local government or an Authorized Person park a vehicle on any part of a parking station contrary to a sign referable to that part;
- (c) permit a vehicle to park on any part of a parking station, if an Authorized Person directs the driver of such vehicle to move the vehicle; or
- (d) park or attempt to park a vehicle in a parking stall in which another vehicle is parked but this paragraph does not prevent the parking of a motorcycle and a bicycle together in a stall marked 'M/C', if the bicycle is parked in accordance with subclause (2).

(2) No person shall park any bicycle—

- (a) in a parking stall other than in a stall marked 'M/C'; and
- (b) in such stall other than against the kerb.

(3) Notwithstanding the provisions of subclause (1)(b) a driver may park a vehicle in a permissive parking stall or station (except in a parking area for people with disabilities) for twice the length of time allowed, provided that—

- (a) the driver's vehicle displays an ACROD sticker; and

- (b) a person with disabilities to which that ACROD sticker relates is either the driver of or a passenger in the vehicle.

PART 4—PARKING GENERALLY

4.1 Restrictions on parking in particular areas

- (1) Subject to subclause (2), a person shall not park a vehicle in a thoroughfare or part of a thoroughfare, or part of a parking station—
- (a) if by a sign it is set apart for the parking of vehicles of a different class;
 - (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
 - (c) during any period when the parking of vehicles is prohibited by a sign.
- (2) (a) This subclause applies to a driver if—
- (i) the driver's vehicle displays an ACROD sticker; and
 - (ii) a disabled person to which the ACROD sticker relates is either the driver of the vehicle or a passenger in the vehicle.
- (b) The driver may park a vehicle in a thoroughfare or a part of a thoroughfare or part of a parking station, except in a thoroughfare or a part of a thoroughfare or part of a parking station to which a disabled parking sign relates for twice the period indicated on the sign.
- (3) A person shall not park a vehicle—
- (a) in a no parking area;
 - (b) in a parking area, except in accordance with both the signs associated with the parking area and with this local law;
 - (c) in a stall marked 'M/C' unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.
- (4) A person shall not park a motorcycle without a sidecar or a trailer, or a bicycle in a parking stall unless the stall is marked 'M/C'.
- (5) A person shall not, without the prior permission of the local government, the CEO, or an Authorized Person, park a vehicle in an area designated by a sign stating 'Authorized Vehicles Only'.

4.2 Parking vehicle on a carriageway

- (1) A person parking a vehicle on a carriageway other than in a parking stall shall park it—
- (a) in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
 - (b) in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
 - (c) so that at least 3 metres of the width of the carriageway lies between the vehicle and the farther boundary of the carriageway, or any continuous line or median strip, or between the vehicle and a vehicle parked on the farther side of the carriageway;
 - (d) so that the front and the rear of the vehicle respectively is not less than 1 metre from any other vehicle, except a motorcycle without a trailer, or a bicycle parked in accordance with this local law; and
 - (e) so that it does not obstruct any vehicle on the carriageway,
- unless otherwise indicated on a parking regulation sign or markings on the roadway.

- (2) In this clause, 'continuous dividing line' means—

- (a) a single continuous dividing line only;
- (b) a single continuous dividing line to the left or right of a broken dividing line; or
- (c) 2 parallel continuous dividing lines.

4.3 When parallel and right-angled parking apply

Where a traffic sign associated with a parking area is not inscribed with the words 'angle parking' (or with an equivalent symbol depicting this purpose), then unless a sign associated with the parking area indicates, or marks on the carriageway indicate, that vehicles have to park in a different position, where the parking area is—

- (a) adjacent to the boundary of a carriageway, a person parking a vehicle in the parking area shall park it as near as practicable to and parallel with that boundary; and
- (b) at or near the centre of the carriageway, a person parking a vehicle in that parking area shall park it at approximately right angles to the centre of the carriageway.

4.4 When angle parking applies

- (1) This clause does not apply to—
- (a) a passenger vehicle or a commercial vehicle with a mass including any load, of over three tonnes; or
 - (b) a person parking either a motor cycle without a trailer or a bicycle.
- (2) Where a sign associated with a parking area is inscribed with the words 'angle parking' (or with an equivalent symbol depicting this purpose), a person parking a vehicle in the area shall park the

vehicle at an angle of approximately 45 degrees to the centre of the carriageway unless otherwise indicated by the inscription on the parking sign or by marks on the carriageway.

4.5 General prohibitions on parking

- (1) (a) This clause does not apply to a vehicle parked in a parking stall nor to a bicycle in a bicycle rack.
- (b) Subclauses (2)(c), (e) and (g) do not apply to a vehicle which parks in a bus embayment.
- (2) Subject to any law relating to intersections with traffic control signals a person shall not park a vehicle so that any portion of the vehicle is—
- (a) between any other stationary vehicles and the centre of the carriageway;
 - (b) on or adjacent to a median strip;
 - (c) obstructing a right of way, private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway;
 - (d) alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic;
 - (e) on or within 10 metres of any portion of a carriageway bounded by a traffic island;
 - (f) on any footpath or pedestrian crossing;
 - (g) between the boundaries of a carriageway and any double longitudinal line consisting of two continuous lines or between a double longitudinal line consisting of a continuous line and a broken or dotted line and the boundary of a carriageway nearer to the continuous line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;
 - (h) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;
 - (i) within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug;
 - (j) within 3 metres of a public letter pillar box, unless the vehicle is being used for the purposes of collecting postal articles from the pillar box; or
 - (k) within 10 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked,

unless a sign or markings on the carriageway indicate otherwise.

- (3) A person shall not park a vehicle so that any portion of the vehicle is within 10 metres of the departure side of—
- (a) a sign inscribed with the words 'Bus Stop' or 'Hail Bus Here' (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers; or
 - (b) a children's crossing or pedestrian crossing.
- (4) A person shall not park a vehicle so that any portion of the vehicle is within 20 metres of the approach side of—
- (a) a sign inscribed with the words 'Bus Stop' or 'Hail Bus Here' (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers;
 - (b) a children's crossing or pedestrian crossing.
- (5) A person shall not park a vehicle so that any portion of the vehicle is within 20 metres of either the approach side or the departure side of the nearest rail of a railway level crossing.

4.6 Authorized person may order vehicle on thoroughfare to be moved

The driver of a vehicle shall not park that vehicle on any part of a thoroughfare in contravention of this local law after an Authorized Person has directed the driver to move it.

4.7 Authorized person may mark tyres

- (1) An Authorized Person may mark the tyres of a vehicle parked in a parking facility with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties or powers.
- (2) A person shall not remove a mark made by an Authorized Person so that the purpose of the affixing of such a mark is defeated or likely to be defeated.

4.8 No movement of vehicles to avoid time limitation

- (1) Where the parking of vehicles in a parking facility is permitted for a limited time, a person shall not move a vehicle within the parking facility so that the total time of parking exceeds the maximum time allowed for parking in the parking facility.
- (2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person shall not move a vehicle along that thoroughfare so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from the thoroughfare for at least two hours.

4.9 No parking of vehicles exposed for sale and in other circumstances

A person shall not park a vehicle on any portion of a thoroughfare—

- (a) for the purpose of exposing it for sale;
- (b) if that vehicle is not licensed under the Road Traffic Act;

- (c) if that vehicle is a trailer or a caravan unattached to a motor vehicle; or
- (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

4.10 Parking on private land

- (1) In this clause a reference to 'land' does not include land—
- (a) which belongs to the local government;
 - (b) of which the local government is the management body under the *Land Administration Act 1997*;
 - (c) which is an 'otherwise unvested facility' within section 3.53 of the Act;
 - (d) which is the subject of an agreement referred to in subclause 1.5(2); or
 - (e) which is identified in Schedule 3.
- (2) A person shall not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.
- (3) Where the owner or occupier of the land, by a sign referable to that land or otherwise, consents to the parking of vehicles of a specified class or classes on the land for a limited period, a person shall not park a vehicle on the land otherwise than in accordance with the consent.

4.11 Parking on reserves

No person other than an employee of the local government in the course of his or her duties or a person authorized by the local government shall drive or park a vehicle upon or over any portion of a reserve other than upon an area specifically set aside for that purpose.

4.12 Suspension of parking limitations for urgent, essential or official duties

- (1) Where by a sign the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the local government, the CEO or an Authorized Person may, subject to the Code, permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time in order that the person may carry out urgent, essential or official duties.
- (2) Where permission is granted under subclause (1), the local government, the CEO or an Authorized Person may prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates, for the duration of that permission.

PART 5—PARKING AND STOPPING GENERALLY

5.1 No stopping and no parking signs, and yellow edge lines

- (1) No stopping

A driver shall not stop on a length of carriageway, or in an area, to which a 'no stopping' sign applies.

- (2) No parking

A driver shall not stop on a length of carriageway or in an area to which a 'no parking' sign applies, unless the driver is—

- (a) dropping off, or picking up, passengers or goods;
- (b) does not leave the vehicle unattended; and
- (c) completes the dropping off, or picking up, of the passengers or goods within 2 minutes of stopping and drives on.

'unattended', in relation to a vehicle, means that the driver has left the vehicle so that the driver is more than 3 metres from the closest point of the vehicle.

- (3) No stopping on a carriageway with yellow edge lines

A driver shall not stop at the side of a carriageway marked with a continuous yellow edge line.

PART 6—STOPPING IN ZONES FOR PARTICULAR VEHICLES

6.1 Stopping in a loading zone

A person shall not stop a vehicle in a loading zone unless it is—

- (a) a motor vehicle used for commercial or trade purposes engaged in the picking up or setting down of goods; or
- (b) a motor vehicle taking up or setting down passengers,

but, in any event, shall not remain in that loading zone—

- (c) for longer than a time indicated on the 'loading zone' sign; or
- (d) longer than 30 minutes (if no time is indicated on the sign).

6.2 Stopping in a taxi zone or a bus zone

- (1) A driver shall not stop in a taxi zone, unless the driver is driving a taxi.

(2) A driver shall not stop in a bus zone unless the driver is driving a public bus, or a bus of a type that is permitted to stop at the bus zone by information on or with the 'bus zone' sign applying to the bus zone.

6.3 Stopping in a mail zone

A person shall not stop a vehicle in a mail zone.

6.4 Other limitations in zones

A person shall not stop a vehicle in a zone to which a traffic sign applies if stopping the vehicle would be contrary to any limitation in respect to classes of persons or vehicles, or specific activities allowed, as indicated by additional words on a traffic sign that applies to the zone.

PART 7—OTHER PLACES WHERE STOPPING IS RESTRICTED

7.1 Stopping in a shared zone

A driver shall not stop in a shared zone unless—

- (1) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law;
- (2) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under this local law;
- (3) the driver is dropping off, or picking up, passengers or goods; or
- (4) the driver is engaged in door-to-door delivery or collection of goods, or in the collection of waste or garbage.

7.2 Double parking

(1) A driver shall not stop a vehicle so that any portion of the vehicle is between any other stopped vehicle and the centre of the carriageway.

(2) This clause does not apply to—

- (a) a driver stopped in traffic; or
- (b) a driver angle parking on the side of the carriageway or in a median strip parking area, in accordance with this local law.

7.3 Stopping near an obstruction

A driver shall not stop on a carriageway near an obstruction on the carriageway in a position that further obstructs traffic on the carriageway.

7.4 Stopping on a bridge or in a tunnel, etc.

(1) A driver shall not stop a vehicle on a bridge, causeway, ramp or similar structure unless—

- (a) the carriageway is at least as wide on the structure as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
- (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

(2) A driver shall not stop a vehicle in a tunnel or underpass unless—

- (a) the carriageway is at least as wide in the tunnel or underpass as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
- (b) the driver of a motor vehicle stops at a bus stop, or in a bus zone or parking area marked on the carriageway, for the purpose of setting down or taking up passengers.

7.5 Stopping on crests, curves, etc.

(1) Subject to subclause (2), a driver shall not stop a vehicle on, or partly on, a carriageway, in any position where it is not visible to the driver of an overtaking vehicle, from a distance of 50 metres within a built-up area, and from a distance of 150 metres outside a built-up area.

(2) A driver may stop on a crest or curve on a carriageway that is not in a built-up area if the driver stops at a place on the carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

7.6 Stopping near a fire hydrant etc.

(1) A driver shall not stop a vehicle so that any portion of the vehicle is within one metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug, unless—

- (a) the driver is driving a public bus, and the driver stops in a bus zone or at a bus stop and does not leave the bus unattended; or
- (b) the driver is driving a taxi, and the driver stops in a taxi zone and does not leave the taxi unattended.

(2) In this clause a driver leaves the vehicle 'unattended' if the driver leaves the vehicle so the driver is over 3 metres from the closest point of the vehicle.

7.7 Stopping at or near a bus stop

(1) A driver shall not stop a vehicle so that any portion of the vehicle is within 20 metres of the approach side of a bus stop, or within 10m of the departure side of a bus stop, unless—

- (a) the vehicle is a public bus stopped to take up or set down passengers; or
- (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

(2) In this clause—

- (a) distances are measured in the direction in which the driver is driving; and
- (b) a trailer attached to a public bus is deemed to be a part of the public bus.

7.8 Stopping on a path, median strip, or traffic island

The driver of a vehicle (other than a bicycle or an animal) shall not stop so that any portion of the vehicle is on a path, traffic island or median strip, unless the driver stops in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

7.9 Stopping on verge

(1) A person shall not—

- (a) stop a vehicle (other than a bicycle);
- (b) stop a commercial vehicle or bus, or a trailer or caravan unattached to a motor vehicle; or
- (c) stop a vehicle during any period when the stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge,

so that any portion of it is on a verge.

(2) Subclause (1)(a) does not apply to the person if he or she is the owner or occupier of the premises adjacent to that verge, or is a person authorised by the occupier of those premises to stop the vehicle so that any portion of it is on the verge.

(3) Subclause (1)(b) does not apply to a commercial vehicle when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials collected from or delivered to the premises adjacent to the portion of the verge on which the commercial vehicle is parked, provided no obstruction is caused to the passage of any vehicle or person using a carriageway or a path.

7.10 Obstructing access to and from a path, driveway, etc.

(1) A driver shall not stop a vehicle so that any portion of the vehicle is in front of a path, in a position that obstructs access by vehicles or pedestrians to or from that path, unless—

- (a) the driver is dropping off, or picking up, passengers; or
- (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law.

(2) A driver shall not stop a vehicle on or across a driveway or other way of access for vehicles travelling to or from adjacent land, unless—

- (a) the driver is dropping off, or picking up, passengers; or
- (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law.

7.11 Stopping near a letter box

A driver shall not stop a vehicle so that any portion of the vehicle is within 3 metres of a public letter box, unless the driver—

- (a) is dropping off, or picking up, passengers or mail; or
- (b) stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

7.12 Stopping on a carriageway—heavy and long vehicles

(1) A person shall not park a vehicle or any combination of vehicles, that, together with any projection on, or load carried by, the vehicle or combination of vehicles, is 7.5 metres or more in length or exceeds a GVM of 4.5 tonnes—

- (a) on a carriageway in a built-up area, for any period exceeding one hour, unless engaged in the picking up or setting down of goods; or
- (b) on a carriageway outside a built-up area, except on the shoulder of the carriageway, or in a truck bay or other area set aside for the parking of goods vehicles.

(2) Nothing in this clause mitigates the limitations or condition imposed by any other clause or by any local law or traffic sign relating to the parking or stopping of vehicles.

7.13 Stopping on a carriageway with a bicycle parking sign

The driver of a vehicle (other than a bicycle) shall not stop on a length of carriageway to which a 'bicycle parking' sign applies, unless the driver is dropping off, or picking up, passengers.

7.14 Stopping on a carriageway with motor cycle parking sign

The driver of a vehicle shall not stop on a length of carriageway, or in an area, to which a 'motor cycle parking' sign applies, or an area marked 'M/C' unless—

- (a) the vehicle is a motor cycle; or
- (b) the driver is dropping off, or picking up, passengers.

7.15 Stopping in a parking stall for people with disabilities

(1) A driver shall not stop in a parking area for people with disabilities unless—

- (a) the driver's vehicle displays an ACROD sticker; and
- (b) either the driver or the passenger in that vehicle is a person with disabilities.

(2) In this clause a 'parking area for people with disabilities' is a length or area—

- (a) to which a 'permissive parking' sign displaying a people with disabilities symbol applies;
- (b) to which a 'people with disabilities parking' sign applies;
- (c) indicated by a road marking (a 'people with disabilities road marking') that consists of, or includes, a people with disabilities symbol; or

- (d) set aside within a parking region as a 'parking stall for use of a disabled person' under the *Local Government (Parking for Disabled Persons) Regulations 1988*.

PART 8—MISCELLANEOUS

8.1 Removal of notices on vehicle

A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle, shall not remove from the vehicle any notice put on the vehicle by an Authorized Person.

8.2 Unauthorized signs and defacing of signs

A person shall not without the authority of the local government—

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government under this local law;
- (b) remove, deface or misuse a sign or property, set up or exhibited by the local government under this local law or attempt to do any such act; or
- (c) affix a board, sign, placard, notice or other thing to or paint or write upon any part of a sign set up or exhibited by the local government under this local law.

8.3 Signs must be complied with

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this local law.

8.4 General provisions about signs

- (1) A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary presumed to be a sign marked, erected, set up, established or displayed under the authority of this local law.
- (2) The first three letters of any day of the week when used on a sign indicate that day of the week.

8.5 Special purpose and emergency vehicles

Notwithstanding anything to the contrary in this local law, the driver of—

- (1) a special purpose vehicle may, only in the course of his or her duties and when it is expedient and safe to do so, stop, or park the vehicle in any place, at any time; and
- (2) an emergency vehicle may, in the course of his or her duties and when it is expedient and safe to do so or where he or she honestly and reasonably believes that it is expedient and safe to do so, stop, or park the vehicle at any place, at any time.

8.6 Vehicles not to obstruct a public place

- (1) A person shall not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place without the permission of the local government or unless authorized under any written law.
- (2) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

PART 9—PENALTIES

9.1 Offences and penalties

- (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) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) Any person who commits an offence under this local law shall be 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.
- (4) The amount appearing in the final column of Schedule 2 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

9.2 Form of notices

For the purposes of this local law—

- (a) the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (b) the form of the infringement notice referred to in section 9.17 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (c) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

Schedule 1
PARKING AND PARKING FACILITIES LOCAL LAW 2008
PARKING REGION

The parking region is the whole of the district, but excludes the following portions of the district—

- (1) the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;
- (2) prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
- (3) any road which comes under the control of the Commissioner of Main Roads unless the control of parking and parking facilities on that road is carried out subject to the control and direction of the Commissioner of Main Roads or has been delegated by the Commissioner to the local government.

Schedule 2
PRESCRIBED OFFENCES
PARKING AND PARKING FACILITIES LOCAL LAW 2008

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
1	2.2	Failure to pay fee for metered space	55
2	2.3	Parking in excess of period shown on metered space	40
3	2.4	Parking when meter has expired	55
4	2.6(1)	Failure to park wholly within metered space	40
5	2.6(3)	Parking outside metered zone	40
6	2.7	Non-permitted insertion in parking meter	55
7	2.8	Failure to display ticket clearly in metered zone	50
8	2.9	Parking or attempting to park a vehicle in a metered space occupied by another vehicle	40
9	2.10	Parking contrary to a meter hood	50
10	3.2	Failure to park wholly within parking stall	60
11	3.2(4)	Failure to park wholly within parking area	60
12	3.3	Failure to pay parking station fee	55
13	3.5	Leaving without paying parking station fee	55
14	3.7	Failure to display ticket clearly in parking station	50
15	3.8(1)(a)	Causing obstruction in parking station	50
16	3.8(1)(b)	Parking contrary to sign in parking station	50
17	3.8(1)(b)	Parking a vehicle in a parking station for the disabled	120
18	3.8(1)(c)	Parking contrary to directions of Authorized Person	60
19	3.8(1)(d)	Parking or attempting to park a vehicle in a parking stall occupied by another vehicle	40
20	4.1(1)(a)	Parking wrong class of vehicle	40
21	4.1(1)(b)	Parking by persons of a different class	45
22	4.1(1)(c)	Parking during prohibited period	45
23	4.1(3)(a)	Parking in no parking area	60
24	4.1(3)(b)	Parking contrary to signs or limitations	60
25	4.1(3)(c)	Parking vehicle in motor cycle only area	60
26	4.1(4)	Parking motor cycle in stall not marked 'M/C'	60
27	4.1(5)	Parking without permission in an area designated for 'Authorised Vehicles Only'	60
28	4.2(1)(a)	Failure to park on the left of two-way carriageway	60
29	4.2(1)(b)	Failure to park on boundary of one-way carriageway	60
30	4.2(1)(a) or 4.2(1)(b)	Parking against the flow of traffic	60
31	4.2(1)(c)	Parking when distance from farther boundary less than 3 metres	45
32	4.2(1)(d)	Parking closer than 1 metre from another vehicle	40

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
33	4.2(1)(e)	Causing obstruction	60
34	4.3(b)	Failure to park at approximate right angle	60
35	4.4(2)	Failure to park at an appropriate angle	60
36	4.5(2)(a) and 7.2	Double parking	60
37	4.5(2)(b)	Parking on or adjacent to a median strip	60
38	4.5(2)(c)	Denying access to private drive or right of way	60
39	4.5(2)(d)	Parking beside excavation or obstruction so as to obstruct traffic	60
40	4.5(2)(e)	Parking within 10 metres of traffic island	60
41	4.5(2)(f)	Parking on footpath/pedestrian crossing	60
42	4.5(2)(g)	Parking contrary to continuous line markings	60
43	4.5(2)(h)	Parking on intersection	60
44	4.5(2)(i)	Parking within 1 metre of fire hydrant or fire plug	60
45	4.5(2)(j)	Parking within 3 metres of public letter box	60
46	4.5(2)(k)	Parking within 10 metres of intersection	60
47	4.5(3)(a) or (b)	Parking vehicle within 10 metres of departure side of bus stop, children's crossing or pedestrian crossing	60
48	4.5(4)(a) or (b)	Parking vehicle within 20 metres of approach side of bus stop, children's crossing or pedestrian crossing	60
49	4.5(5)	Parking vehicle within 20 metres of approach side or departure side of railway level crossing	60
50	4.6	Parking contrary to direction of Authorized Person	60
51	4.7(2)	Removing mark of Authorized Person	60
52	4.8	Moving vehicle to avoid time limitation	60
53	4.9(a)	Parking in thoroughfare for purpose of sale	60
54	4.9(b)	Parking unlicensed vehicle in thoroughfare	60
55	4.9(c)	Parking a trailer/caravan on a thoroughfare	60
56	4.9(d)	Parking in thoroughfare for purpose of repairs	60
57	4.10(1) or (2)	Parking on land that is not a parking facility without consent	60
58	4.10(3)	Parking on land not in accordance with consent	60
59	4.11	Driving or parking on reserve	60
60	5.1(1)	Stopping contrary to a 'no stopping' sign	60
61	5.1(2)	Parking contrary to a 'no parking' sign	60
62	5.1(3)	Stopping within continuous yellow lines	60
63	6.1	Stopping unlawfully in a loading zone	60
64	6.2	Stopping unlawfully in a taxi zone or bus zone	60
65	6.3	Stopping unlawfully in a mail zone	60
66	6.4	Stopping in a zone contrary to a sign	60
67	7.1	Stopping in a shared zone	60
68	7.3	Stopping near an obstruction	60
69	7.4	Stopping on a bridge or tunnel	60
70	7.5	Stopping on crests/curves etc	60
71	7.6	Stopping near fire hydrant	60
72	7.7	Stopping near bus stop	60
73	7.8	Stopping on path, median strip or traffic island	60
74	7.9	Stopping on verge	60
75	7.10	Obstructing path, a driveway etc	60
76	7.11	Stopping near letter box	60
77	7.12	Stopping heavy or long vehicles on carriageway	60
78	7.13	Stopping in bicycle parking area	60

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
79	7.14	Stopping in motorcycle parking area	60
80	7.15	Stopping in disabled parking area	120
81	8.6	Leaving vehicle so as to obstruct a public place	60
82		All other offences not specified	60

Schedule 3

DEEMED PARKING STATIONS

PARKING AND PARKING FACILITIES LOCAL LAW 2008

Dated—

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

Cr S. B. POLLARD, Shire President.

G. BRENNAN, Acting Chief Executive Officer.

**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

SHIRE OF NORTHAM

CEMETERIES LOCAL LAW 2008

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**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

SHIRE OF NORTHAM

CEMETERIES LOCAL LAW 2008

PART 1—PRELIMINARY

Under the powers conferred by the *Cemeteries Act 1986* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Northam resolved on 23rd July 2008 to make the following local law.

1.1 Citation

This local law may be cited as the *Shire of Northam Cemeteries Local Law 2008*.

1.2 Interpretation

In this local law unless the context otherwise requires—

“**Act**” means the *Cemeteries Act 1986*;

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

“**authorised 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 local law;

“**CEO**” means the Chief Executive Officer of the Shire of Northam;

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

“**Board**” means the Shire of Northam;

“**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; and

“**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 *Shire of Northam Local Laws Relating to Northam Cemeteries* as published in the *Government Gazette* of 1 May 1998 are repealed.

PART 2—ADMINISTRATION

2.1 Powers and Functions of Chief Executive Officer.

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 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.

3.3 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.

3.4 Minimum Notice Required

All bookings to hold a funeral shall be made with the Board at least 2 working days 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.

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 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 of that dead body in accordance with Part 3 of this local law;
- (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 10mm in height.

5.2 Funeral Processions

The time fixed by the Board for any burial 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 subclause 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 interment area.

(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 a dead body within cemeteries under the delegation of the Shire of Northam and in conjunction with the *Cemeteries Act 1986*;
- (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 local law;
- (g) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

Division 2—Placement of Ashes

5.7 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 subclauses (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.

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 subclause (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 subclause (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 as per the Board's specifications.

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 Chief Executive Officer.

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 local law 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**

All monuments in the lawn section of the Shire of Northam Cemetery shall only have plaques that are laid level with the lawns surface and in accordance with the Boards specifications of 600 x 400mm.

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.

- (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 subclause (1) authorises the holder to carry out monumental works within the cemetery subject to the provisions of this local law 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;
- (b) is authorised by the Board to do so; or
- (c) has received from the Board permission to do so during a funeral service.

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 local law, 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 local law, 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 the State Administrative Tribunal for a review of the decision of the Board under this clause in the manner stated in section 19(2) 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 local law 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 local law 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 local law 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 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*;

(4) 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

CEMETERIES ACT 1986

Shire of Northam

Cemeteries Local Law 2008

MODIFIED PENALTIES

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

Dated: 23rd July 2008.

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

Cr S. B. Pollard, Shire President.
G. BRENNAN, Acting Chief Executive Officer.

**DOG ACT 1976
LOCAL GOVERNMENT ACT 1995**

SHIRE OF NORTHAM

DOGS LOCAL LAW 2008

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SCHEDULE 1

Application for a licence for an approved kennel establishment

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Conditions of a licence for an approved kennel establishment

SCHEDULE 3

Offences in respect of which modified penalty applies

**DOG ACT 1976
LOCAL GOVERNMENT ACT 1995**

SHIRE OF NORTHAM

DOGS LOCAL LAW 2008

Under the powers conferred by the *Dog Act 1976* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Northam resolved on 23rd July 2008 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Northam Dogs Local Law 2008*.

1.2 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;

“**district**” means the district of the Shire of Northam;

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

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

“**person liable for the control of the dog**” has the meaning given to it by the Act;

“**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;

“**premises**” has the meaning given to it by the Act;

“**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 *Planning and Development Act 2005* which applies throughout the whole or a part of the district.

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The following local laws are repealed—

- The *Shire of Northam By-laws Relating to Dogs* published in the *Government Gazette* on 2 April 1982 and as amended and published in the *Government Gazette* on 7 July 1989.
- The *Town of Northam By-law No. 50—Dogs* published in the *Government Gazette* on 22 May 1942.
- The *Town of Northam By-laws Relating to Dogs* published in the *Government Gazette* on 12 June 1981 and as amended and published in the *Government Gazette* on 2 April 1982, 4 March 1988, 25 November 1988, 28 July 1989 and 12 December 1995.

PART 2—IMPOUNDING OF DOGS

2.1 Charges and costs

The following are to be imposed and determined by the local government under sections 6.16—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 Chief Executive Officer.

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 Chief Executive Officer.
- (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) two 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) two dogs over the age of 3 months and the young of those dogs under that age if the premises is situated outside a townsite, if the subject property is less than 40 hectares, or 4 dogs over the age of 3 months and the young of those dogs under that age if the premises is situated outside a townsite and is greater than 40 hectares in area.

PART 4—APPROVED KENNEL ESTABLISHMENTS

4.1 Definitions

In this Part and in the Schedules to this local law—

“**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 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) Subject to section 8 of the Act and section 66J of the *Equal Opportunity Act 1984*, dogs are prohibited absolutely from entering or being in any of the following places—

- (a) a public building, unless permitted by a sign;
- (b) a theatre or picture gardens;
- (c) all premises or vehicles classified as food premises or food vehicles under the *Health (Food Hygiene) Regulations 1993*;
- (d) a public swimming pool;
- (e) a house of worship; and
- (f) Northam Airfield.

(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) Reserve 33673 lot 401—Wundowie Townsite;
- (b) Victoria Oval being Reserves 3294 and 3996 and lots 189 and 190 Duke Street, Northam;
- (c) Jubilee Oval being Reserve 217;
- (d) Bert Hawke Sporting Complex being Suburban Locations P29, P30, P31, P32, P33, P34, Lot 2 of P37, Lot 100 of P38, Lot 100 of P39, Lot 100 of P40, Lot 100 of P41, Lot 100 of P42, Lot 100 of P43, Lot 100 of P44, and Lot 1 of P44;
- (e) Henry Street Oval being Location N74; and
- (f) Bakers Hill Oval being portion Reserve 4200 being the area occupied by the sports oval.

(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 Definitions

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, the CEO 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)

SHIRE OF NORTHAM

Dogs Local Law 2008

APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

I/we (full name)

of (postal address)

(telephone number)

(facsimile number)

(E-mail address)

Apply for a licence for an approved kennel establishment at (address of premises)

.....

For (number and breed of dogs).....

* (insert name of person)..... will be residing at the premises on and from (insert date)

* (insert name of person)..... will be residing (sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare) at..... (insert address of residence) on and from (insert date).

Attached are—

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) written evidence that a person will reside—
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as, in the keeping of dogs at the proposed kennel establishment.

(Signature of applicant/s)

(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))

SHIRE OF NORTHAM

Dogs Local Law 2008

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 sheeted internally and externally with good quality new zinalume 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)

SHIRE OF NORTHAM

Dogs Local Law 2008

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)	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	100	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	200
6.1(2)	Dog excreting in prohibited place	40	

Dated this 23rd day of July 2008.

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

Cr S. B. Pollard, Shire President.
B. W. Mead, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995
DIVIDING FENCES ACT 1961**

SHIRE OF NORTHAM

FENCING LOCAL LAW 2008

ARRANGEMENT

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- 6.1 Notices of Breach

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FIRST SCHEDULE

Specifications for a Sufficient Fence on a Residential Lot

SECOND SCHEDULE

Specifications for a Sufficient Fence on a Commercial and Industrial Lot

THIRD SCHEDULE

Specifications for a Sufficient Fence on a Rural Lot

**LOCAL GOVERNMENT ACT 1995
DIVIDING FENCES ACT 1961**

SHIRE OF NORTHAM

FENCING LOCAL LAW 2008

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Northam resolved on 23rd July 2008 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Northam Fencing Local Law 2008*.

1.2 Definitions

In this local law, 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;

“**CEO**” means the Chief Executive Officer of the Shire of Northam;

“**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 5 of this local law has been issued and is current;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

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

“**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;

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

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

“**notice of breach**” means a notice referred to in clause 6.1(1);

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

- (a) is or may be permitted under the town planning scheme; and
- (a) 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 this local law;

“**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 2.1; and

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

1.3 Application of Local Laws

This local law applies throughout the district.

1.4 Repeal

The following local laws are repealed—

- The *Shire of Northam By-laws Relating to Fencing* published in the *Government Gazette* of 4 October 1985.
- The *Town of Northam By-laws Relating to Fencing* published in the *Government Gazette* of 25 September 1970 and as amended and published in the *Government Gazette* of 25 October 1985.

1.5 Licence Fees and Charges

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

PART 2—SUFFICIENT FENCES

2.1 Sufficient Fences

(1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence unless all owners of land which adjoins the relevant boundary agree to erect a fence which though different does not fail to comply with the requirements of 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 First 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 local government 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 this local law, 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 local government so requires.

PART 3—GENERAL

3.1 Fences Within Front Setback Areas

(1) A person shall not, without the written consent of the local government, erect a free-standing fence greater than 1200mm in height, within the front set-back area of a Residential Lot within the district.

(2) The local government 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
- (b) that does not adjoin a footpath.

3.2 Fences on a Rural Lot

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

3.3 Maintenance of Fences

An owner or 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.

3.4 General Discretion of the Local Government

(1) Notwithstanding clause 2.1, the local government may consent to the erection or repair of a fence which does not comply with the requirements of this local law.

(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

4.1 Fencing Materials

(1) A person shall construct any fence on a Residential Lot, a Commercial Lot or an Industrial Lot from only those materials specified for a sufficient fence in respect of such lot in the First or Second Schedule or some other material approved by the local government.

(2) Where the local government approves the use of pre-used materials in the construction of a fence under subclause (1), that approval shall be conditional on the applicant for approval painting or treating the pre-used material as directed by the local government.

4.2 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 any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of the local government has been obtained.

(3) An owner or occupier of an Industrial Lot shall not erect or affix on any fence bounding that Lot any barbed wire or other materials with spiked or jagged projections unless the wire or materials are not nearer than 2000mm from the ground level.

(4) If the posts which carry the barbed wire or other materials referred to in subclause (3) are angled towards the outside of the lot bounded by the fence the face of the fence must be set back from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach on adjoining land.

(5) An owner or occupier of a lot shall not affix or allow to remain as part of any fence or wall, whether internal or external, on that lot any broken glass.

(6) An owner or occupier of a Rural Lot shall not 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

5.1 Requirements 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) construct a fence 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.

5.2 Transfer of a Licence

A licence referred to in clause 5.1 shall transfer with the land to any new occupier or owner of the lot.

5.3 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 5.1(2) or 5.1(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

6.1 Notices of Breach

- (1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner of that lot “notice of breach”.
- (2) A notice of breach shall—
- (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state that the owner or occupier of the lot is required to remedy the breach within 28 days from the giving of the notice.

PART 7—OFFENCES

7.1 Offences and Penalties

- (1) An owner 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 this local law 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.

7.2 Modified Penalties

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16 of the *Local Government Act 1995*.
- (2) Unless otherwise specified, the amount of the modified penalty for an offence against any provision of this local law is \$150.

7.3 Form of Notices

For the purposes of this local law—

- (a) the form of the notice referred to in section 9.16 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*.

Clause 2.1(2)(a)

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 fully enclosed timber fence built to manufacturer’s specifications or in accordance with established construction techniques, the height of the fence to be 1800mm except with respect to the front setback area for which there is no minimum height but which is subject to clause 3.1.
- B. A fence constructed of corrugated fibre reinforced pressed cement or steel sheeting erected to manufacturer’s specifications or which otherwise satisfies the following specifications—
 - (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600mm;
 - (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet;
 - (c) the sheets to be lapped and capped with extruded “snap-fit” type capping in accordance with the manufacturers written instructions; and
 - (d) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 3.1.
- 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 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 3.1.
- D. A composite fence 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 3.1, 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;

Clause 2.1(2)(b)

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 normal 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 clause 4.2(3) of this 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 or steel sheeting constructed to the minimum specifications referred to in Item B of the First Schedule.
- 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.
- D. Fences of timber, brick, stone or concrete constructed to the minimum specifications referred to in the First Schedule.

Clause 2.1(2)(c)

Third Schedule

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;
- (c) if timber posts are used, posts are to be 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 placed at not more than 10 metre intervals, set minimum 600mm in the ground and 1200mm above the ground; and
- (d) strainer posts, if timber, shall be not less than 2250mm long and 150mm diameter at the small end (tubular steel to be 50mm in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1000mm in the ground and set at all corners, gateways and fence line angles but not exceeding 200 metres apart.
- (2) An electrified fence having four wires only is a sufficient fence if constructed generally in accordance with (1).

Dated 23rd July 2008.

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

Cr S. B. POLLARD, Shire President.
G. BRENNAN, Acting Chief Executive Officer.
