

Shire of Trayning

Local Laws

A local law is a statutory instrument made by local governments to regulate specific issues within their jurisdiction, addressing community needs and concerns, but it cannot be inconsistent with state or commonwealth laws.



CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995



CEMETERIES
LOCAL LAW 2013

**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

SHIRE OF TRAYNING

CEMETERIES LOCAL LAW 2013

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**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1986**

SHIRE OF TRAYNING

CEMETERIES LOCAL LAW 2013

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 Trayning resolved on [insert date] to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Trayning Cemeteries Local Law 2010*.

1.2 Commencement

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

1.3 Application

This local law applies to each of the Trayning, Kununoppin and Yelbeni Public Cemeteries.

1.4 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 from time to time of the Board;

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

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

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

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

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

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

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

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

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

1.5 Repeal

The following local laws are repealed –

The Municipality of the Shire of Trayning Amendment to the By-laws Relating to Trayning Public Cemetery (Reserve No. 15718); Kununoppin Public Cemetery (Reserve No. 16168); Yelbeni Public Cemetery (Reserve No. 14339) published in the *Government Gazette* of 6 November 1981; and

The Shire of Trayning Local Law Relating to The Trayning, Kununoppin and Yelbeni Public cemeteries published in the *Government Gazette* of 28 September 2001.

PART 2 - ADMINISTRATION

2.1 Powers and functions of CEO

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

PART 3 - APPLICATION FOR FUNERALS

3.1 Application for burial

(1) A person may apply for approval to bury a dead body in the cemetery in the form determined by the Board from time to time.

(2) An application under subclause (1) is to be accompanied by the set fee.

3.2 Applications to be accompanied by certificates etc

All applications referred to in clause 3.1 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 3.3, 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, 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 twenty four hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

PART 4 - FUNERAL DIRECTORS

4.1 Funeral Director's licence expiry

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

4.2 Single funeral permits

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

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 10 mm 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 shall pay the set fee for being late.

5.3 Vehicle entry restricted

- (1) Subject to clause 5.3(2), every funeral procession shall enter by the principal entrance, and no vehicle except the hearse, and official mourning coaches, shall be permitted to enter the cemetery.
- (2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs.

5.4 Vehicle access and speed limitations

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

5.5 Offenders may be expelled

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

5.6 Conduct of funeral by Board

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

- (a) require a written request for it to conduct a funeral to be lodged with it;
- (b) in its absolute discretion, charge any person requesting it to conduct a funeral the set fee for the conduct of that funeral by it;
- (c) where no fee or a reduced fee has been charged by it for the conduct of the funeral, determine the manner in which the funeral shall be conducted;
- (d) specify an area in the cemetery where the dead body is to be buried or the ashes placed;
- (e) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law;
- (f) 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
- Family Grave
- Scattering to the Winds
- Other memorials approved by the Board

(2) Subject to sub-clauses (3) and (4), a person shall not place the ashes of a deceased person in the cemetery.

(3) An authorised officer may place the ashes of a deceased person in a cemetery in accordance with the Board approval provided –

- (a) the person requesting the placement of the ashes has the permission of the Board; and
- (b) the ashes are placed within an area set aside for that purpose by the Board.

(4) An authorised officer may place the ashes of a deceased person within a grave in accordance with the Board approval, provided the person requesting the placement of the ashes has the written permission of the Board and the approval of the holder of the right of burial of the grave.

PART 6 - BURIALS

6.1 Depth of graves

(1) A person shall not bury a coffin within the cemetery so that the distance from the top of the coffin to the original surface of the ground is –

- (a) subject to paragraph (b), less than 750mm, unless that person has the permission of an authorised officer; or
- (b) in any circumstances less than 600mm.

(2) The permission of the authorised officer in sub-clause (1)(a) will only be granted where in the opinion of the authorised officer exceptional circumstances require granting of that permission.

6.2 Mausoleum, etc

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

PART 7 - MEMORIALS AND OTHER WORK

Division 1 - General

7.1 Application for monumental work

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

7.2 Placement of monumental work

Every memorial shall be placed on proper and substantial foundations.

7.3 Removal of rubbish

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

7.4 Operation of work

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

7.5 Removal of sand, soil or loam

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

7.6 Hours of work

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

7.7 Unfinished work

Should any work by masons or others be not completed before 6.00pm on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised officer.

7.8 Use of wood

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

7.9 Plants and trees

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

7.10 Supervision

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

7.11 Australian War Graves

Notwithstanding anything in this 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 outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40 (2) of the Act.

Division 2 - Licensing of Monumental Masons

7.13 Monumental mason's licence

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

7.14 Expiry date, non-transferability

A monumental mason's licence –

- (a) shall, subject to clause 7.17, be valid from the date specified therein until the 30th day of June next following; and
- (b) is not transferable.

7.15 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 7.13 or does so as the employee of a person who holds such a licence; or
- (b) is authorised by the Board to do so.

7.16 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.

7.17 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 in accordance with 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 Schedule 1 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 Schedule 1 is set out in the fourth column of Schedule 1.

(3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in Schedule 2.

(4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in Schedule 3.

Schedule 1 – Prescribed Offences

[cl. 9.2(1)]

Cemeteries Act 1986
Shire of Trayning Cemeteries Local Law 2013

OFFENCES AND 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

Schedule 2 – Infringement Notice

[cl. 9.2(3)]

Cemeteries Act, 1986
Shire of Trayning Cemeteries Local Law 2013

Infringement Notice

TO: _____
(Name)

(Address)

It is alleged that at _____:_____ hours on _____ day
of _____ 20_____ at _____

you committed the offence indicated below by an (x) in breach of clause of the
Shire of Trayning Cemeteries Local Law 2010

(Authorised Person)

Offence

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

Other Offence _____
\$ _____

you may dispose of this matter –

By payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the Shire of Trayning at Railway Street, Trayning between the hours of 9.00am to 4.30pm Monday to Friday.

Please make cheques payable to Shire of Trayning . Payments by mail should be addressed to –

The Chief Executive Officer
Shire of Trayning
PO Box 95, Trayning WA 6488

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

Schedule 3 – Withdrawal of Infringement Notice

[cl. 9.2(4)]

Cemeteries Act, 1986
Shire of Trayning Cemeteries Local Law 2013

Withdrawal of Infringement Notice

Withdrawal of Infringement Notice No. _____

_____ Date ____/____/____

To

(1) _____

Infringement Notice No. _____ dated ____/____/____ for the alleged offence of (2)

Penalty (3) \$ _____ is withdrawn.

(Delete whichever does not apply)

* No further action will be taken.

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

(1) Insert name and address of alleged offender.

(2) Insert short particulars of offence alleged.

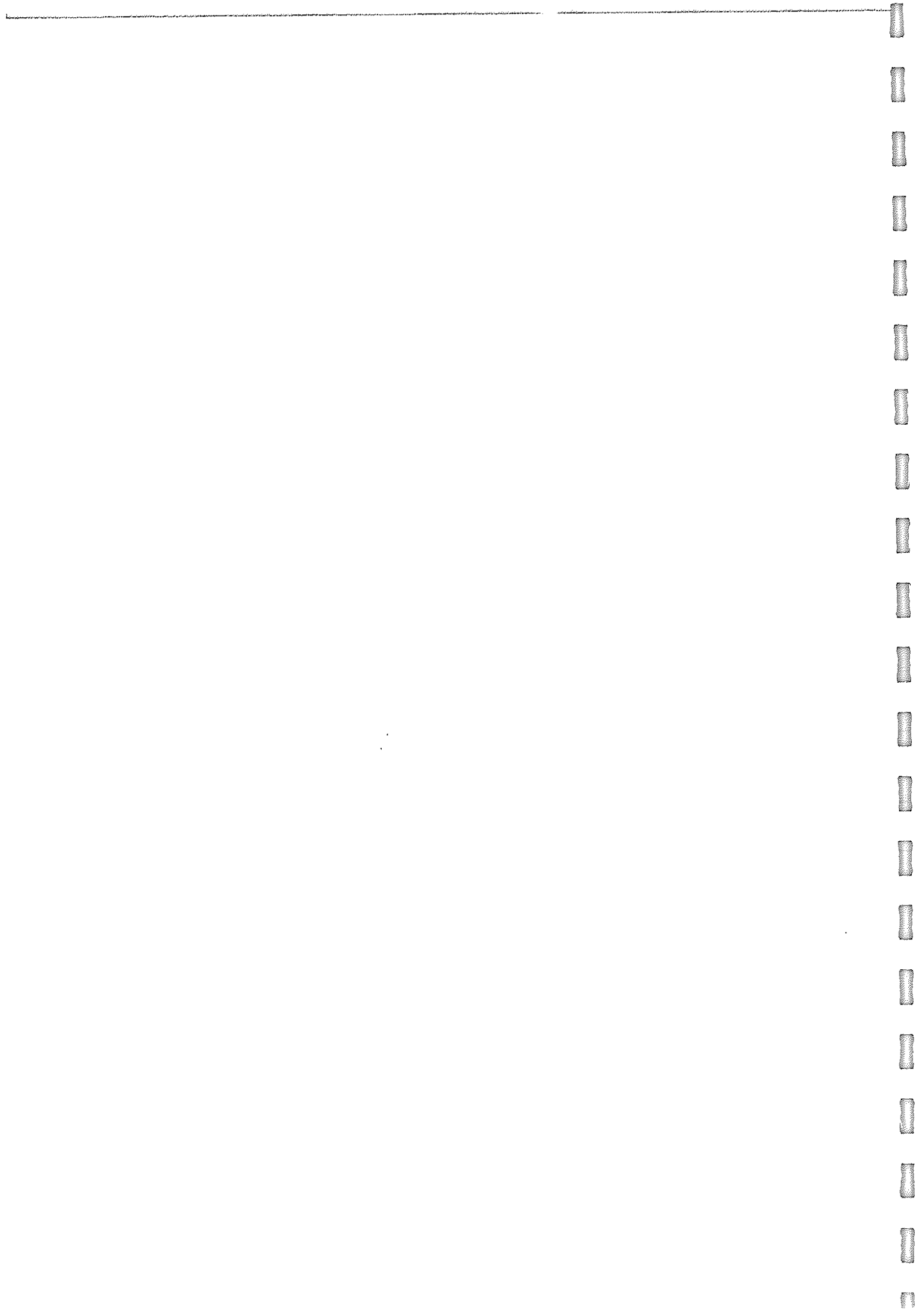
(3) Insert amount of penalty prescribed.

(Authorised Person)

Dated [insert date]

The Common Seal of the Shire of Trayning was affixed by authority of a resolution of the Council in the presence of –

T.R. LAMOND, Shire President
TANIKA MCLENNAN, Chief Executive Officer



LOCAL GOVERNMENT ACT 1995



DOGS LOCAL LAW DOG ACT 1976

**DOG ACT 1976
SHIRE OF TRAYNING
DOGS LOCAL LAW**

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SCHEDULE 3

**DOG ACT 1976
SHIRE OF TRAYNING
DOGS LOCAL LAW**

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

PART 1—PRELIMINARY

Citation

- 1.1 This local law may be cited as the Shire of Trayning Dogs Local Law.

Repeal

- 1.2 The Local Laws Relating to Keeping of Dogs, and Dogs, published in the Government

Gazettes of 27 March 1981 and 22 July 1988 respectively, are repealed.

Definitions

1.3 In this local law unless the context otherwise requires—

"Act" means the *Dog Act 1976*;

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

"CEO" means the Chief Executive Officer of the local government;

"local government" means the Shire of Trayning;

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

"Regulations" means the *Dog Regulations 1976*;

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

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

Application

1.4 This local law applies throughout the district.

PART 2—IMPOUNDING OF DOGS

Charges and costs

2.1 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.

Attendance of pound keeper at pound

2.2 The pound keeper is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are determined by the CEO.

Release of impounded dog

2.3 (1) A claim for the release of a dog seized and impounded is to be made to the pound keeper or in the absence of the pound keeper, to the CEO.

(2) The pound keeper is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper, satisfactory evidence—

(a) of her or his ownership of the dog or of her or his authority to take delivery of it; or

(b) that he or she is the person identified as the owner on a microchip implanted in the dog.

No breaking into or destruction of pound

2.4 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

Dogs to be confined

3.1 (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.

(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.

Notification

4.15 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.

Inspection of kennel

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

PART 5—DOGS IN PUBLIC PLACES

Places where dogs are prohibited absolutely

5.1 (1) Dogs are prohibited absolutely from entering or being in any of the following places—

(a) where so indicated by a sign, a public building;

(b) 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.

(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.

Places which are dog exercise areas

5.2 (1) Subject to clause 5.1 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, the following are dog exercise areas—

(a) Reserves 14415 and 2829 Moore Street, Trayning;

(b) Kununoppin townsite Reserve 13252 Lot 125; and

(c) Trayning Townsite Reserve 15291 Trayning Recreation Ground within the Trotting Track

(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

Offence to excrete

6.1 (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

Interpretation

7.1 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).

Modified penalties

7.2 (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.

Issue of infringement notice

7.3 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.

Failure to pay modified penalty

7.4 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.

Payment of modified penalty

7.5 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.

Withdrawal of infringement notice

7.6 (1) Whether or not the modified penalty has been paid, an authorized person may withdraw an infringement notice by sending a notice in the form of Form 8 of the First Schedule of the Regulations.

(2) A person authorized to issue an infringement notice under clause 7.3 cannot sign or send a notice of withdrawal.

Service

7.7 An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.

SCHEDULE 1

(clause 4.2)

Local laws relating to dogs

APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

I/we (full name)
of (postal address)
(telephone number)
(facsimile number)
(E-mail address)
Apply for a licence for an approved kennel establishment at (address of premises)

For (number and breed of dogs)

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

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

Attached are—

(a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;

(b) plans and specifications of the kennel establishment;

(c) copy of notice of proposed use to appear in newspaper;

(d) copy of notice of proposed use to be given to adjoining premises;

(e) written evidence that a person will reside—

(i) at the premises; or

(ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and

(f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

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

Signature of applicant

Date

* delete where inapplicable.

Note: a licence if issued will have effect for a period of 12 months—section 27.5 of the Dog Act.

OFFICE USE ONLY

Application fee paid on [insert date].

SCHEDULE 2

(clause 4.8(1))

CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

An application for a licence for an approved kennel establishment may be approved subject to the following conditions—

(a) each kennel, unless it is fully enclosed, must have a yard attached to it;

(b) each kennel and each yard must be at a distance of not less than—

(i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;

(ii) 10m from any dwelling; and

(iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;

(c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;

(d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;

(e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;

(f) the upper surface of the kennel floor must be—

(i) at least 100mm above the surface of the surrounding ground;

(ii) smooth so as to facilitate cleaning;

(iii) rigid;

(iv) durable;

(v) slip resistant;

(vi) resistant to corrosion;

(vii) non-toxic;

(viii) impervious;

(ix) free from cracks, crevices and other defects; and

(x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;

(g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;

(h) the kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;

(i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;

(j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of—

(i) 2m; or

(ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;

(k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;

(l) all external surfaces of each kennel must be kept in good condition;

- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorized person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside—
 - (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

SCHEDULE 3

(clause 7.2)

OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES

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

Dated this 21st day of March, 2001.

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

T. R. LAMOND, President.
G. M. PEDDIE, Chief Executive Officer.

**Dog Act 1976
Local Government Act 1995**

Shire of Trayning Dogs Amendment Local Law 2015

Under the powers conferred by the *Dog Act 1976* and the *Local Government Act 1995*, and all other powers enabling it, the Council of the Shire of Trayning resolved on 11 February 2015 to make the following local law:

1. Citation

This local law is cited as the *Shire of Trayning Dogs Amendment Local Law 2015*.

2. Commencement

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

3. Dogs Local Law amended

The *Shire of Trayning Dogs Local Law* published in the *Government Gazette* on 28 September 2001 is referred to as the principal local law. The principle local law is amended as follows.

4. 'Authorized' replaced

'authorized' is replaced with 'authorised' wherever it appears.

5. Clause 1.3 amended

Clause 1.3 is amended as follows:

- (a) The definition of 'Regulations' is deleted and replaced with:
"Regulations" means the *Dog Regulations 2013*;
- (b) The definition of 'town planning scheme' is deleted and replaced with:
"local planning scheme" means a local 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;
- (c) The following definitions are inserted in alphabetical order:
"district" means the district of the local government;
"Schedule" means a Schedule to this local law;

6. Clause 2.4 deleted

Clause 2.4 is deleted.

7. Clause 3.1(c) replaced

Clause 3.1(c) is deleted and replaced with the following:

- (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures that the dog remains confined) and is fitted with a proper latch or other means of fastening it;

8. Clauses 5.1 and 5.2 amended

Clauses 5.1 and 5.2 are deleted and replaced with the following:

- 5.1 Places where dogs are prohibited absolutely**
Designation of places where dogs are prohibited absolutely is dealt with in the Act.

- 5.2 Places which are dog exercise areas**
Designation of places which are dog exercise areas is dealt with in the Act.

9. Clauses 4.4 and 4.7 amended

In clauses 4.4 and 4.7, 'town' is replaced with 'local' in both places where it appears.

10. Clause 6.1 (2) amended

In clause 6.1(2), the amount of \$200 is deleted and replaced with \$400.

11. Clause 7.3 replaced

Clause 7.3 is deleted and replaced with the following:

7.3 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 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

12. Schedule 3 replaced


Schedule 3 is deleted and replaced with the following:

SCHEDULE 3
(clause 7.2)

Offences in respect of which modified penalty applies

Offence	Nature of offence	Modified penalty \$	Dangerous Dog Modified Penalty \$
3.1	Failing to provide means for effectively confining a dog	50	200
4.9	Failing to comply with the conditions of a licence	100	200
6.1(2)	Dog excreting in prohibited place	40	

The Common Seal of the Shire of Trayning was affixed by authority of a resolution of the Council in the presence of –


.....
Cr F Tarr, President


.....
T McLennan, Chief Executive Officer



LOCAL GOVERNMENT ACT 1995



PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2015

Local Government Act 1995

Shire of Trayning

Public Places and Local Government Property Local Law 2015

Under the powers conferred on it by the *Local Government Act 1995* and under all other enabling powers, the Council of the Shire of Trayning resolved on 17 December 2015 to make this local law.

Part 1 - Preliminary

1.1 Title

This is the *Shire of Trayning Public Places and Local Government Property Local Law 2015*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal and transitional provisions

(1) The following local laws are repealed –

- (a) The *Shire of Trayning Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*, published in the *Government Gazette* on 28 September 2001; and
- (b) The *Shire of Trayning Local Government Property Local Law* published in the *Government Gazette* on 28 September 2001.

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

(3) A licence, permit or other authorisation under a repealed local law that is in force before the commencement day is to be regarded on and after that day as a licence under this local law and may be dealt with accordingly.

1.5 Definitions

In this local law -

Act means the *Local Government Act 1995*;

applicant means a person who applies for a licence;

application means an application for a licence;

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

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 any –

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

building permit means a permit granted under section 20 of the *Building Act 2011*

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

CEO means the chief executive officer of the local government;

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

Council means the council of the local government;

determination means a determination made under clause 2.1;

district means the district of the local government and includes any area placed under the jurisdiction of the local government under section 22 of the Health Act;

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

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

food has the meaning given by the *Food Act 2008* ;

function means an event or activity characterised by all or any of the following –

- (a) formal organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;

- (c) organisation by or on behalf of a club;
- (d) payment of a fee to attend it; and
- (e) systematic recurrence in relation to the day, time and place;

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

Health Act means the *Health Act 1911*;

hire includes offer to hire and expose for hire;

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;

licence means a licence issued by the local government under this local law;

licence document means a licence document issued under this local law;

licensed premises has the same meaning as is given to it in section 3 of the Liquor Control Act;

licensee means a person who holds a licence;

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

Liquor Control Act means the *Liquor Control Act 1988*;

local government means the Shire of Trayning;

local government property means anything except a street –

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

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

manager means the person for the time being employed or engaged by the local government to control and manage a facility which is local government property, and includes the person's assistant or deputy;

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

nuisance means any activity, thing, condition, circumstance or state of affairs caused or contributed to by a person which –

- (a) is injurious or dangerous to the health of another person of normal susceptibility; or
- (b) which has a disturbing effect on the state of reasonable physical, mental or social well being of another person;

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

permissible verge treatment means any one of the 4 treatments described in clause 6.3(2), and includes any reticulation pipes and sprinklers;

person does not include the local government;

prohibited drug is given its meaning under section 4 of the *Misuse of Drugs Act 1981*

proprietor –

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

public place means –

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

repealed local law means a local law repealed under clause 1.4;

Schedule means a schedule to this local law

sell includes –

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

- (g) authorise, direct, cause or permit to be done any act referred to in this definition;

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

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

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

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

trading means selling or hiring goods or services and includes the setting up of a stall and conducting business at a stall;

vehicle includes –

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

- (b) an animal being ridden or driven,

but excludes –

- (c) a wheel-chair or any device designed for use, by a physically impaired person on a footpath; and

- (d) a pram, stroller or similar device.

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

1.6 Interpretation

In this local law, a reference to local government property includes a reference to any part of local government property.

1.7 Overriding power to hire and agree

Despite anything to the contrary in this local law, the CEO or an authorised person, on behalf of 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.

1.8 Agreement for building

Where a person applies for a licence to erect a building on local government property an authorised person, on behalf of the local government, may enter

into an agreement with the licensee in respect of the ownership of the materials in the building.

Part 2 - Determinations in respect of local government property

2.1 Determinations as to use of local government property

- (1) The local government may make a determination in accordance with clause 2.2 –
 - (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
 - (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
 - (c) as to the matters in clauses 2.7(2) and 2.8(2); and
 - (d) as to any matter ancillary or necessary to give effect to a determination.
- (2) The determinations in Schedule 1 –
 - (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 CEO or an authorised person is to give local public notice of the Council's 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 –
 - (a) to give local public notice that the proposed determination has effect as a determination on and from the date of publication;

- (b) to amend the proposed determination, in which case subclause (5) is to apply; or
 - (c) not to continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c), the Council -
 - (a) is to consider those submissions; and
 - (b) is to decide -
 - (i) whether or not to amend the proposed determination; or;
 - (ii) whether or 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 must 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 apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

2.6 Amendment or revocation of a determination

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

2.7 Activities which may be pursued on specified local government property

- (1) A determination may provide that specified local government property is set aside as an area on which a person may –
 - (a) take, ride or drive a vehicle, or a particular class of vehicle;
 - (b) fly or use a motorised model aeroplane;
 - (c) 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;
 - (d) launch, beach or leave a boat;
 - (e) take or use a boat, or a particular class of boat;
 - (f) play or practise –
 - (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; and
 - (g) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular –
 - (a) the days and times during which the activity may be pursued;
 - (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;

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

2.8 **Activities which may be prohibited on specified local government property**

- (1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property –
 - (a) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
 - (b) taking, riding or driving a vehicle on the property or a particular class of vehicle;
 - (c) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
 - (d) taking or using a boat ,or a particular class of boat;
 - (e) the playing or practice of –
 - (i) golf, archery, pistol shooting or rifle shooting; or
 - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
 - (f) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
 - (g) the traversing of land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.
- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular –
 - (a) the days and times during which the activity is prohibited;
 - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;

- (c) that an activity is prohibited in respect of a class of vehicles, equipment or things, or all vehicles, equipment or things;
- (d) that an activity is prohibited in respect of a class of persons or all persons; and
- (e) may distinguish between different classes of the activity.

2.9 Sign under repealed local law taken to be determination

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

Part 3 - Activities on local government property requiring a licence

3.1 Activities requiring a licence

- (1) A person must not without a licence –
 - (a) subject to subclause (3) hire local government property;
 - (b) advertise anything by any means on local government property;
 - (c) erect, on local government property a structure for public amusement or for any performance, whether for gain or otherwise;
 - (d) teach, coach or train, for profit, any person in any facility which is local government property;
 - (e) plant any plant or sow any seeds on local government property;
 - (f) carry on any trading on local government property unless the trading is conducted –
 - (i) with the consent of a person who holds a licence to conduct a function, and where the trading is carried on under and in accordance with the licence; or
 - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
 - (g) conduct or set up a market on local government property;
 - (h) 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

4.2 Behaviour detrimental to property

- (1) A person must not behave in or on local government property in a way which is or might be detrimental to the property.
- (2) In subclause (1) –
detrimental to the property includes –
 - (a) removing any thing from the local government property including a rock, a plant or a seat provided for the use of any person; and
 - (b) destroying, defacing or damaging any thing on the local government property, including a plant, a seat provided for the use of any person or a building.

4.3 Taking or injuring fauna

- (1) A person must not, take, injure or kill or attempt to take, injure or kill any fauna which is on or above any local government property, unless that person is authorized under a written law to do so.
- (2) In this clause –
animal means any living thing that is not a human being, fly 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 unless it has been shed or discarded by the fauna in a normal or natural manner.

4.4 Flora

- (1) Unless authorised to do so under a written law or with the written approval of the CEO or an authorised person, a person must not –
 - (a) remove, damage or interfere with any flora that is on or above any local government property; or
 - (b) plant or deposit any flora on local government property.
- (2) In this clause –
flora means all vascular plants, seeds and other flora, whether living or dead.

4.5 Animals

- (1) A person must not –

- (a) tether any animal to an object or tree on local government property; or
- (b) permit any animal to enter upon or into any local government property,

unless authorised by a licence.

- (2) In this clause, 'animal' does not include a dog.

4.6 Intoxicated persons not to enter local government property

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

Division 2 - Signs and powers to give directions

4.7 Signs

- (1) The local government may erect a sign on local government property –
 - (a) specifying any conditions of use which apply to that property; and
 - (b) for any other purpose relevant to this local law, including giving notice of a breach of clause 4.4 and substituting a sign for flora that has been removed, damaged or interfered with contrary to clause 4.4.
- (2) A person must comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is –
 - (a) not to be inconsistent with any provision of this local law or any determination; and
 - (b) to be for the purpose of giving notice of the effect of a provision of this local law.

4.8 Authorised person to be obeyed

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

4.9 Refusal of entry and removal

- (1) If the CEO or an authorised person considers that a person has behaved in a manner contrary to the provisions of this Part or reasonably suspects that a person has contravened a provision of a written law, the CEO or authorised person may –
 - (a) refuse to allow that person to enter local government property; and
 - (b) if the person is on local government property, direct the person to leave the local government property.

- (2) A person who has been refused entry or who has been directed to leave under subclause (1) must immediately leave the local government property quickly and peaceably.
- (3) If a person fails to comply with subclause (2), the CEO or an authorised person may remove the person, or arrange for the person to be removed, from the local government property.

4.10 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 CEO or an authorised person:

- (a) If the value of the property reasonably exceeds the amount prescribed by Regulation 30(3) of the *Local Government (Functions and General) Regulations* 1996, using the process section 3.58 of the Act for the sale of the article as if it was property referred to in that section; or
- (b) If otherwise, by donation to a not for profit body registered under the *Associations Incorporations Act 1987*; or
- (c) If the article is of a negligible or little value or likely to be of no interest to a not for profit body, in any manner he or she thinks fit.

Part 5 - Matters relating to particular local government property

Division 1 - Functions and closed property

5.1 No unauthorised entry to functions

- (1) A person must not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorised, except –
 - (a) through the proper entrance for that purpose; and
 - (b) on payment of the fee chargeable for admission at the time.
- (2) The CEO or an authorised person may exempt a person from compliance with subclause (1)(b).

5.2 No entry to fenced or closed local government property

A person must not enter local government property which has been fenced off or closed to the public by a sign or otherwise, unless that person is authorised to do so by the CEO or an authorised person.

Division 2 - Golf courses

5.3 Interpretation

In this Division –

controller means an authorised person who has been appointed to direct, control and manage a golf course;

golf course means that portion of a local government property which set aside by the local government for use as a golf course and includes –

- (a) all tees, fairways, greens, practice tees, practice fairways, practice greens and any driving range; and
- (b) all buildings, structures, fittings, fixtures and equipment on that property.

Note: under these definitions, the provisions of this Division apply to a 'golf course' on 'local government property', whether operated by the Local government or, for example, by a contractor or lessee.

5.4 Observance of special conditions of play

A person must not be present on a golf course except –

- (a) where the person is a player; or
- (b) with the permission of the controller or an authorised person.

5.5 Children under the age of 10 years

A person under the age of 10 years must not enter, play or practise on a golf course unless accompanied by a person of 18 years or older.

Division 3 - Toilet blocks and change rooms

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

- (1) Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by –
 - (a) females - then a person of the male gender must not use that entry of the toilet block or change room;
 - (b) males - then a person of the female gender must not use that entry of the toilet block or change room; or
 - (c) families - then, where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry of the toilet block or change room.
- (2) Paragraphs (a) and (b) of subclause (1) do not apply to a child, when accompanied by a parent, guardian or caregiver, where the child is –
 - (a) under the age of 8 years; or
 - (b) otherwise permitted by an authorised person to use the relevant entry.

5.7 Use of shower or bath facilities

A person may use a shower or bath facility in changerooms only on conditions that –

- (a) the facilities must be used by the person only for the purpose of cleansing, bathing and washing themselves;
- (b) the facilities must not be used for the purpose of laundering of clothing or washing of other articles.

Part 6 - Activities in streets

Division 1 - General

6.1 General prohibitions

A person must not –

- (a) plant, or allow to remain, in a street a plant that by virtue of its height, position or density obstructs a reasonable sight line for a driver of any vehicle negotiating or using the street;
- (b) damage a lawn or a garden, or remove any plant or part of a plant from a lawn or a garden, in a street unless –
 - (i) the person is the owner or the occupier of the lot abutting that portion of the street and the lawn or the garden or the particular plant has not been installed or planted by the local government ; or
 - (ii) the person is acting under the authority of a written law;
- (c) damage, or remove a street tree, or part of a street tree, irrespective of whether it was planted by the owner or occupier of the lot abutting the street or by the local government , unless –
 - (i) the damage to, or removal of, the street tree is authorised by the CEO or an authorised person in writing; or
 - (ii) the person is acting under authority of written law;
- (d) except as permitted by this local law place, or allow to be placed or remain, on a street any thing (except water) that –
 - (i) obstructs the street; or
 - (ii) results in a hazard for any person using the street;
- (e) unless at the direction of the CEO or an authorised person, damage, remove or interfere with any part of a street, or any structure erected on a street, by the local government or a person acting under the authority of a written law; or
- (f) play or participate in any game or sport so as to cause danger to any person or thing or unreasonably impede the movement of vehicles or persons on a street.

6.2 Activities allowed with a licence

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

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) throw, place or deposit 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 street as a street;
- (d) cause any obstruction to a water channel or a water course in a street;
- (e) throw, place or drain offensive, noxious or dangerous fluid onto a street;
- (f) damage a street;
- (g) fell or damage any street tree;
- (h) fell any tree onto a street;
- (i) light any fire or burn any thing on a street other than in a stove or fireplace provided for that purpose;
- (j) 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, on any part of a thoroughfare, any thing such as gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
- (k) provide, erect, install or use in or on any building, structure or land abutting on a street any hoist or other thing for use over the street;
- (l) on a street use anything or do anything so as to create a nuisance;
- (m) place or cause to be placed on a street a bulk rubbish container;
- (n) interfere with the soil of, or anything in, a thoroughfare or take anything from a street;
- (o) carry on any trading on a street;
- (p) conduct or set up a market on a street; or

- (q) conduct an entertainment event on a street.
- (2) The CEO or an authorised person may exempt a person from compliance with subclause (1) on the application of that person.

Division 2 - Permissible verge treatments

6.3 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) A permissible verge treatment is—
 - (a) the planting and maintenance of a lawn;
 - (b) the planting and maintenance of a garden provided that —
 - (i) clear sight visibility is maintained at all times for a person using the abutting street in the vicinity of an intersection or bend in the street or using a driveway on land adjacent to the street for access to or from the street;
 - (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;
 - (iii) it does not include a wall or built structure; and
 - (iv) it is not of a thorny, poisonous or hazardous nature; and
 - (c) the installation of an acceptable material.
- (3) In this clause “acceptable material” means any material specified as acceptable for the purpose of this clause in a policy which has effect under Part 10
- (4) A person must not install or maintain a verge treatment which is not a permissible verge treatment.
- (5) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 6.4.

6.4 Obligations of owner or occupier

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

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden

or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;

- (b) ensure that clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in a thoroughfare, or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
- (c) not place any obstruction on or around the verge treatment;
- (d) not disturb a footpath on the verge;
- (e) ensure that the verge treatment does not damage or obstruct a drain, manhole, galley, inspection pit, channel, kerb or tree planted by the local government; and
- (f) ensure that any sprinklers or pipes installed to irrigate a verge treatment –
 - (i) do not protrude above the level of the lawn or verge treatment when not in use;
 - (ii) are not used at such times so as to cause unreasonable inconvenience to pedestrians or other persons; and
 - (iii) do not otherwise present a hazard to pedestrians or other persons.

6.5 Transitional provision

- (1) In this clause –

former provisions means the provisions of the repealed local laws which permitted certain types of verge treatments, whether with or without the consent of the local government.

- (2) A verge treatment which –

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

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

6.6 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 3 - Vehicle crossings

6.7 Temporary crossings

- (1) Where it is likely that works on a lot will involve vehicles leaving a street and entering the lot, the person responsible for the works must obtain a licence for the construction of a temporary crossing to protect the existing carriageway, kerb, drains, footpath, existing materials and street trees, where –
 - (a) a crossing does not exist; or
 - (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.
- (2) The ***person responsible for the works*** in subclause (1) is to be taken to be –
 - (a) the builder named on the building permit issued under the *Building Act 2011*, if one has been issued in relation to the works; or
 - (b) the registered proprietor of the lot, if no building permit has been issued under the *Building Act 2011* in relation to the works.
- (3) If the CEO approves an application for a licence for the purpose of subclause (1), the licence is taken to be issued on the condition that until such time as the temporary crossing is removed, the licensee must keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the street.

6.8 Removal of redundant crossing

- (1) Where works on a lot will result in a crossing no longer giving access to a lot, the crossing is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the CEO.
- (2) The CEO may give written notice to the owner or occupier of a lot requiring her or him to –
 - (a) remove any part of or all of a crossing which does not give access to the lot; and
 - (b) reinstate the kerb, drain, footpath, verge and any other part of the street, which may be affected by the removal,

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

Division 4 - Property numbers

6.9 Assignment of numbers

- (1) The CEO or an authorised person may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.
- (2) In this clause, **number** means a number of a lot with or without an alphabetical suffix indicating the address of a lot by reference to a thoroughfare.

Division 5 - Fencing

6.10 Public place – Item 4(1) of Division 1, Schedule 3.1 of Act

Each of the following places is 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 1.5; and
- (b) local government property.

Division 6 - Signs erected by the local government

6.11 Signs

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

6.12 Transitional

Where a sign erected in a street has been erected under a repealed local law then, on and from the commencement day, it is to be taken to be a sign erected under clause 6.11 if –

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

Division 7 - Driving on a closed thoroughfare

6.13 No driving on closed thoroughfare

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

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

Division 8 - Notices

6.14 Notice to redirect or repair sprinkler

Where a lawn or a garden is being watered with a sprinkler which is on the lawn or the garden, in a manner which causes or may cause an inconvenience or obstruction to any person using a street, the CEO or an authorised person may give a written notice to the owner or the occupier of the land abutting the lawn or the garden, requiring the owner or the occupier or both to move or alter the direction of the sprinkler or other watering equipment.

6.15 Notice to remove hazardous plants

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

6.16 Notice to remove any thing unlawfully placed on street

Where any thing is placed on a street in contravention of this local law, the CEO or an authorised person may give a written notice –

- (a) to the owner or the occupier of the property which abuts that portion of the street where the thing has been placed; or
- (b) to any other person who may be responsible for the thing being so placed,

requiring the person to remove the thing.

Note: other provisions relating to notices are set out in Division 1 of Part 10 of this local law.

Part 7 – Activities in public places

Note that –

1. *Parts 2-5 of this local law regulate activities relating to local government property;*
2. *Part 6 regulates activities in streets (defined to include verges and footpaths); and*
3. *Part 7 regulates activities in public places (which, in addition to any street or local government property, is defined to include any place to which the public have access).*

Division 1 - General provisions

7.1 Leaving animal or vehicle in public place

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

7.2 Prohibitions relating to animals

- (1) In subclause (2), **owner** in relation to an animal includes –
 - (a) an owner of it;
 - (b) a person in possession of it;
 - (c) a person who has control of it; and
 - (d) a person who ordinarily occupies the premises where the animal is permitted to stay.
- (2) An owner of an animal must not –
 - (a) allow the animal to enter or remain for any time on any public place except for the use of the public place as a thoroughfare and unless it is led, ridden or driven;
 - (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
 - (c) train or race the animal in a public place.
- (3) An owner of a horse must not lead, ride or drive a horse on a street, unless that person does so under a licence or under the authority of a written law.

- (4) This clause does not apply to a person with a disability where the animal is a guide dog or assistance animal as defined in the Disability Discrimination Act 1992 (Commonwealth) Section 9(2).

Part 8 - Licensing

Division 1 - Applying for a licence

8.1 Application for licence

- (1) Where a person is required to obtain a licence under this local law, that person must apply for the licence in accordance with subclause (2).
- (2) An application for a licence under this local law must -
- (a) be in the form determined by the CEO;
 - (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 by the Council under sections 6.16 to 6.19 of the Act.
- (3) The CEO or an authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for a licence.
- (4) The CEO or an authorised person may require an applicant to give local public notice of the application for a licence.
- (5) The CEO or an authorised person may refuse to consider an application for a licence which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

8.2 Decision on application for licence

- (1) The CEO or an authorised person may -
- (a) approve an application for a licence unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a licence.
- (2) If the CEO or an authorised person approves an application for a licence, he or she is to issue to the applicant a licence in the form determined by the CEO.
- (3) If the CEO or an authorised person refuses to approve an application for a licence, he or she is to give written notice of that refusal to the applicant.
- (4) The CEO or an authorised person may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the licensee.

8.3 General restrictions on grant of licence

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

8.4 Amendment of licence

- (1) In this clause –

amend includes –

 - (a) to impose any new condition; and
 - (b) to change or remove any existing condition.
- (2) The CEO may, by written notice given to the licensee, amend a licence.
- (3) An amendment may be made on application made by the licensee or on the CEO's initiative.
- (4) An amendment will come into effect on the day that written notice is given to the licensee, or some other date as specified in the notice.

Division 2 - Conditions

8.5 Examples of conditions

- (1) Examples of the conditions that the CEO or an authorised person may impose on a licence under clause 8.2(1)(a) or 8.4(2) are conditions relating to –
 - (a) the payment of a fee;
 - (b) compliance with a standard or a policy adopted by the local government;

- (c) the duration and commencement of the licence;
 - (d) the commencement of the licence 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 licence which may be required by the local government under any written law;
 - (g) the area of the district to which the licence applies;
 - (h) where a licence 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 CEO or an authorised person.
- (2) Examples of the type and content of the conditions on which a licence to hire local government property may be issued include –
- (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 CEO or an authorised person to cancel a booking during the course of an annual or seasonal booking, if the CEO or an authorised person 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.

8.6 Imposing conditions under a policy

- (1) In this clause –

policy means a local government policy adopted by the Council under section 2.7 of the Act containing conditions subject to which an application for a licence may be approved under clause 8.2.

- (2) Under clause 8.2(1)(a) the CEO or an authorised person may approve an application subject to conditions by reference to a policy.
- (3) The CEO or an authorised person must give to the licensee a copy of the policy or, at the discretion of the CEO or the authorised person, the part of the policy which is relevant to the application for a licence, with the form of licence referred to in clause 8.2(2).
- (4) An application for a licence is not to be taken to have been approved subject to the conditions contained in a policy until the CEO or an authorised person gives the licensee 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 apply to a policy and, for that purpose, a policy is deemed to be information within section 5.94(u)(i) of the Act.

8.7 Compliance with conditions

Where an application for a licence has been approved subject to conditions, the licensee must comply with each of those conditions, as amended.

Division 3 - Duration of licences

8.8 Duration of licence

A licence 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 licence; or
- (b) suspended or cancelled under this Division.

8.9 Renewal of licence

- (1) A licensee may apply to the CEO for the renewal of a licence.
- (2) An application for renewal must –
 - (a) be in the form determined by the CEO;
 - (b) be signed by the licensee;
 - (c) provide the information required by the form;

- (d) be forwarded to the CEO no later than 28 days before the expiry of the licence, or within a shorter period that the CEO in a particular case permits; and
 - (e) be accompanied by any fee imposed by the Council under section 6.16 to 6.19 of the Act.
- (3) The provisions of this Part that apply to an application for a licence also apply to an application for the renewal of a licence as though it were an application for a licence.

8.10 Transfer of licence

- (1) An application for the transfer of a valid licence is -
 - (a) to be made in writing;
 - (b) to be signed by the licensee and the proposed transferee of the licence;
 - (c) to include such information as the CEO or an authorised person may require to enable the application to be determined; and
 - (d) to be forwarded to the CEO together with any fee imposed by the Council under sections 6.16 to 6.19 of the Act.
- (2) The CEO or an authorised person may approve an application for the transfer of a licence, refuse to approve it or approve it subject to any conditions.
- (3) Where the CEO or an authorised person approves an application for the transfer of a licence, the transfer may be effected by an endorsement on the licence signed by the CEO or the authorised person.
- (4) Where the CEO or an authorised person approves the transfer of a licence, the local government is not required to refund any part of any fee paid by the former licensee.

8.11 Suspension of licence

- (1) The CEO may, subject to clause 8.12, by written notice given to the licensee, suspend a licence if there are reasonable grounds for believing that -
 - (a) the licensee has contravened a term or condition of a licence;
 - (b) the licensee has contravened a provision of this local law; or
 - (c) the continued provision of the activity authorised by the licence constitutes or will constitute an unacceptable risk to the safety of the public.
- (2) The suspension notice must -

- (a) state the day, or the day and time, on or at which the suspension takes effect;
- (b) state the reasons for the CEO's decision to suspend the licence; and
- (c) where appropriate, indicate what steps need to be taken to ensure that there is compliance with the relevant provision, term or condition or that there is no longer a risk as described in subclause (1)(c); and
- (d) inform the licensee that the licensee has a right to apply under the Act for a review of the CEO's decision to suspend the licence.

Note – Part 9 of this local law deals with objection and review rights.

8.12 Proposed suspension

- (1) If the CEO proposes to suspend a licence for the reason mentioned in clause 8.11(1)(a), the CEO must give written notice to the licensee of the proposed suspension.
- (2) The notice must –
 - (a) state that the CEO proposes to suspend the licence;
 - (b) state the reasons for the proposed suspension; and
 - (c) inform the licensee that the licensee is entitled to make representation to the CEO in respect of the proposed suspension within 7 days after the day on which the licensee is given the notice.
- (3) In considering whether to suspend the licence, the CEO must have regard to any representations made by the licensee within the period referred to in subclause (2)(c).

8.13 Revocation of suspension

- (1) The CEO must, by written notice given to the licensee revoke the suspension of a licence if the CEO is satisfied that the steps specified in the suspension notice have been taken.
- (2) The CEO may, by written notice given to the licensee, revoke the suspension of the licence if it is appropriate to do so in the circumstances of a particular case.

8.14 Period of suspension

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

- (a) the suspension is revoked under clause 8.13;
- (b) the licence is cancelled under clause 8.15 or expires; or

A policy does not bind the CEO in respect of any application for a licence, but the CEO is to have due regard to the provisions of the policy and the objectives which the policy is designed to achieve before making its determination.

10.3 Notice

- (1) If CEO resolves to prepare a policy, the CEO –
 - (a) is to publish a notice of the proposed policy once a week for 2 consecutive weeks in a newspaper circulating in the district, giving details of –
 - (i) where the draft policy may be inspected;
 - (ii) the subject and nature of the draft policy; and
 - (iii) in what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made; and
 - (b) may publish a notice of the proposed policy in any manner and carry out any other consultation that the CEO considers appropriate.
- (2) After the expiry of the period within which submissions may be made, the CEO is to –
 - (a) review the proposed policy in the light of any submissions made; and
 - (b) resolve to adopt the policy with or without modification, or not to proceed with the policy.

10.4 Adoption

- (1) If the CEO decides to adopt the policy the CEO is to publish notice of the policy once in a newspaper circulating in the district.
- (2) A policy has effect on publication of a notice under subclause (1).
- (3) A copy of each policy, as amended from time to time, is to be kept and made available for public inspection during business hours at the offices of the local government.

10.5 Amendment

Clauses 10.1 to 10.4 with any necessary changes, apply to the amendment of a policy.

10.6 Revocation

A policy may be revoked by –

- (a) the adoption by CEO of a new policy made under clauses 10.1 to 10.4 that is expressed to supersede the existing policy; or
- (b) publication of a notice of revocation by the CEO once a week for 2 consecutive weeks in a newspaper circulating in the district.

Part 11 – Enforcement

Division 1 - Notices

11.1 Definition

In this Division –

costs of the local government include its administrative costs.

11.2 Damage to Local government property

If a person unlawfully removes, damages or interferes with local government property or portion of a street, the CEO or an authorised person may give the person a notice requiring that person, within the time specified in the notice, to do any one or more of the following (at the local government's option) –

- (a) reinstate the property to the state it was in before the removal, damage or interference;
- (b) replace that property; or
- (c) pay for the costs of reinstatement or replacement.

11.3 Breach of a licence or failure to comply with direction

If a licence holder breaches a condition of the licence, or fails to comply with a direction under this local law, the CEO or an authorised person may give the person a notice.

11.4 Notice requirements

A notice under this Division must –

- (a) be in writing;
- (b) specify the reason for giving the notice, the work or action that is required to be undertaken and the time within which it is to be undertaken; and
- (c) be given to the person referred to in clause 11.2 or 11.3, as the case may be.

11.5 Local government may undertake requirements of notice

- (1) If a person fails to comply with a notice referred to in clause 11.2, the local government may –
 - (a) do the thing specified in the notice, including replace the property, or reinstate the property to the state it was in before the removal, damage or interference; and
 - (b) recover from the person, as a debt, the costs of doing so.
- (2) If a person fails to comply with a notice referred to in clause 11.3, the local government may –

SCHEDULE 1 - DETERMINATIONS

(Clause 2.1)

The following determinations are to be taken to have been made by the local government under clause 2.1.

Part 1 - Preliminary

1.1 Definition

In these determinations –

local law means the *Public Places and Local Government Property Local Law 2015* made by the local government.

1.2 Interpretation

Where a term is used but not defined in a determination and that term is defined in this local law then the term is to have the meaning given to it in this local law.

Part 2 - Application

2.1 Vehicles on local government property

- (1) Unless authorised by a licence or determination, a person must not take or cause a vehicle to be taken onto or driven on local government property unless –
 - (a) subject to subclause (3), the local government property is clearly designated as a road, access way, or car park;
 - (b) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government, who is engaged in –
 - (i) providing a service or making a delivery in connection with the local government property; or
 - (ii) maintaining the local government property;
 - (c) the person is driving an emergency vehicle in the course of his or her duties;
 - (d) the vehicle is –
 - (iii) driven on local government property that has been designated as a golf course;
 - (iv) used in accordance with the conditions set down by the local government or an authorised person; and
 - (v) of a type allowed to be taken onto the golf course by the local government or an authorised person;
 - (e) the vehicle is a motorised wheelchair, and the driver of that vehicle is a person with a disability.

- (2) A person must not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 10 kilometres per hour or as otherwise indicated by a sign, or in such a manner as to cause danger to any person.
- (3) Other than in accordance with paragraphs (b), (c), (d) or (e) of subclause (1), a person must not drive a vehicle on local government property or part of it that is being used for a function for which a licence has been obtained unless permitted to do so by the licence holder or an authorised person.

2.2 Motorised model aeroplanes, toys or ships

A person must not use, launch or fly a motorised model aeroplane, toy, ship, glider or rocket that is propelled by mechanical, hydraulic, combustion or pyrotechnic means on or from local government property except:

- (1) On Reserve 17909 (known as the Trayning BMX track and skate park) and subject to any conditions that the local government may impose from time to time; or
- (2) where a licence or determination specifies a particular local government property.

2.3 Activities prohibited on local government property

- (1) A person must not play or practise archery, pistol or rifle shooting on local government property except on land which is reserved by the local government for that purpose, or as otherwise provided by a determination or licence.
- (2) A person must not play or practise golf on local government property except on Reserve 10539 (known as the Yelbeni Golf Course and Reserve 15574, Reserve 15577 (known as the Trayning Golf Course).
- (3) A person must not, on any local government property, use or ride a bicycle or wheeled recreational device, skateboard, or sand board –
 - (a) inside, or on the curtilage to, a building;
 - (b) on a golf course except to the extent permitted under clause 2.1(1)(d) of these Determinations; or
 - (c) in or on a lakebed or waterway.

SCHEDULE 2 - PRESCRIBED OFFENCES


(Clause 10.8)


Clause	Description	Modified Penalty \$
2.4	Failure to comply with a determination	100
3.1	Undertaking activity on local government property without a licence	100
3.2	Camping on local government property or erecting an unauthorised structure	100
3.3	Failure to obtain licence for liquor	100
4.1	Behaviour interfering with others	100
4.2	Behaviour detrimental to local government property	100
4.3	Taking or injuring fauna without authorisation	200
4.4	Removing, damaging or depositing flora without authorisation	200
4.5	Animal on local government property without a licence	100
4.6	Under influence of liquor or prohibited drug on local government property	100
4.8	Failure to comply with sign	100
4.9	Failure to comply with direction of authorised person	100
5.1, 5.2	Unauthorised entry to event, closed or fenced local government property	100
6.1(a), 6.4(b)	Planting or allowing plant or verge treatment in street to become a sightline hazard	100
6.1(b)	Damaging a street lawn or garden	100
6.1(c)	Damaging or removing whole or part of a street tree without authorisation	200
6.1(d)	Obstruction of street	100
6.1(e)	Damaging, removing or interfering with street, part of street, sign or structure in a street without authorisation	100
6.1(f)	Playing games in street so as to impede vehicles or persons	100
6.2	Carry on or undertake prohibited activity in street or damage local government property in a street without authorisation	200
6.3(4)	Install verge treatment that is not a permissible treatment	100
6.4(a), 6.4(d) 6.4(e)	Failure to keep permissible verge treatment in good and tidy condition, obstruct a street, footpath, drain, or driveway	100

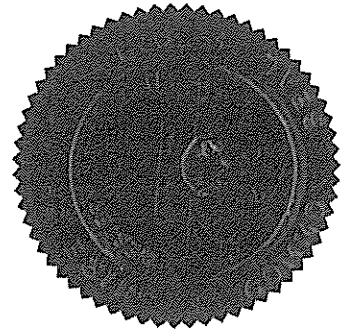
Clause	Description	Modified Penalty \$
6.4(c)	Placing an obstruction on or around a verge treatment	100
6.4(f)	Failure to ensure sprinklers or reticulation pipes do not protrude above level of verge treatment when not in use, not used at such times as to cause inconvenience to pedestrians, or otherwise present a hazard	100
6.7	Failure to obtain licence for a temporary crossing	100
6.8	Failure to remove redundant crossing or reinstate kerb, drain, footpath, verge or street	100
6.11	Failure to comply with condition of use of a street indicated by a sign	100
7.1(1)	Animal or vehicle obstructing public place without authorisation	100
7.2(2)	Animal in public place when not led, ridden or driven	100
8.7	Failure to comply with licence condition	100
8.18	Failure to comply with licence condition in relation to local government property	150
8.17, 8.19, 8.20	Failure to produce licence for inspection, amendment or to return licence when no longer in effect	100
11.6	Failure to comply with notice	300

This local law was made at the meeting of the Council of the Shire of Trayning on 20 May 2015.

The Common Seal of the)
Shire of Trayning was affixed in)
the presence of)


.....
Cr F Tarr
President


.....
T McLennan
Chief Executive Officer



Local Government Act 1995

Shire of Trayning Local Government Property and Public Places Amendment Local Law 2015

Under the powers conferred by the *Local Government Act 1995*, and all other powers enabling it, the Council of the Shire of Trayning resolved on 20 May 2015 to make the following local law:

1. Citation

This local law is cited as the Shire of Trayning *Local Government Property and Public Places Amendment Local Law 2015*.

2. Commencement

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

3. Clause 6.3(3) of Shire of Trayning Local Government property and Public Places Local Law 2015 amended

Clause 6.3(3) of the *Shire of Trayning Local Government Property and Public Places Local Law 2015* published in the *Government Gazette* on 12 February 2015 is deleted and a new clause inserted as follows:

- (3) In this clause "acceptable material" means any material specified as acceptable for the purpose of this clause in a policy which has effect under Part 10.

4. Part 10 Added

A new Part 10 is added to the *Shire of Trayning Local Government Property and Public Places Local Law 2015* published in the *Government Gazette* on 12 February 2015 as follows:

Part 10 – POLICIES

10.1 Making policies

The CEO may prepare a policy in respect of any matter related to this local law and so as to apply –

- (a) generally or for a particular class or classes of matters; and
- (b) throughout the district or in one or more parts of the district, and may amend or add to or rescind the policy.

10.2 Due regard to be had to policy

A policy does not bind the CEO in respect of any application for a licence, but the CEO is to have due regard to the provisions of the policy and the objectives which the policy is designed to achieve before making its determination.

10.3 Notice

- (1) If CEO resolves to prepare a policy, the CEO –

- (a) is to publish a notice of the proposed policy once a week for 2 consecutive weeks in a newspaper circulating in the district, giving details of –
 - (i) where the draft policy may be inspected;
 - (ii) the subject and nature of the draft policy; and
 - (iii) in what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made; and
- (b) may publish a notice of the proposed policy in any manner and carry out any other consultation that the CEO considers appropriate.

- (2) After the expiry of the period within which submissions may be made, the CEO is to –
- (a) review the proposed policy in the light of any submissions made; and
 - (b) resolve to adopt the policy with or without modification, or not to proceed with the policy.

10.4 Adoption

- (1) If the CEO decides to adopt the policy the CEO is to publish notice of the policy once in a newspaper circulating in the district.
- (2) A policy has effect on publication of a notice under subclause (1).
- (3) A copy of each policy, as amended from time to time, is to be kept and made available for public inspection during business hours at the offices of the local government.

10.5 Amendment

Clauses 10.1 to 10.4 with any necessary changes, apply to the amendment of a policy.

10.6 Revocation


A policy may be revoked by –


- (a) the adoption by CEO of a new policy made under clauses 10.1 to 10.4 that is expressed to supersede the existing policy; or
- (b) publication of a notice of revocation by the CEO once a week for 2 consecutive weeks in a newspaper circulating in the district.

- 5. The remaining Parts and clauses of the local law are renumbered accordingly.
- 6. In Schedule 2, '10.6' is replaced with '11.6' where it appears in the first column.

Dated 20 May 2015

The Common Seal of the Shire of Trayning was affixed by authority of a resolution of the Council in the presence of –


.....
Cr F Tarr, President


.....
T McLennan, Chief Executive Officer



LOCAL GOVERNMENT ACT 1995



STANDING ORDERS LOCAL LAW 2015

LOCAL GOVERNMENT ACT 1995

SHIRE OF TRAYNING

STANDING ORDERS LOCAL LAW 2015

Under the powers conferred by the *Local Government Act 1995*, and under all other powers enabling it, the Council of the Shire of Trayning resolved on 18 March 2015 to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Trayning Standing Orders Local Law 2015*.

1.2 Application

All meetings of the Council or a committee and other matters as prescribed are to be conducted in accordance with the Act, the Regulations and these local laws.

1.3 Commencement

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

1.4 Interpretation

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

Act means the *Local Government Act 1995*;

CEO means the Chief Executive Officer or Acting Chief Executive Officer for the time being of the local government;

committee means a committee of the Council;

Council means the Council of the local government;

employee means an employee of the local government;

local government means the Shire of Trayning;

member means the President or a councillor and includes in the case of a committee, a member of the committee who is not the President or a councillor;

person presiding means the presiding person at a meeting of the Council and when applicable to committee meetings means the presiding member;

presiding member means the presiding member of a committee or the deputy presiding member, or a member of the committee when performing a function of the presiding member in accordance with the Act;

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

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

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

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

1.5 Repeal

The following local laws are repealed –

- (1) *The Municipality of the Shire of Trayning By-law Relating to Standing Orders* published in the *Government Gazette* on 26 July 1972; and
- (2) *The Shire of Trayning Standing Orders Local Law* published in the *Government Gazette* on 7 July 1998.

PART 2 - CALLING MEETINGS

2.1 Calling committee meetings

A meeting of a committee is to be held –

- (1) If called for in a verbal or written request to the CEO by the presiding member of the committee, setting out the date and purpose of the proposed meeting;
- (2) If called for by at least 1/3 of the members of the committee in a notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (3) If so decided by the committee.

PART 3 - BUSINESS OF THE MEETING

3.1 Business to be specified on notice paper

- (1) No business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda, without the approval of the presiding person or a decision of the Council.
- (2) No business is to be transacted at a committee meeting other than that specified in the agenda or given in the notice as the purpose of the meeting, without the approval of the presiding member or a decision of the committee.

3.2 Order of business

(1) Unless otherwise decided by the Council the order of business at any ordinary meeting of the Council is to be as follows -

- (a) Official opening
- (b) Apologies and leave of absence
- (c) Public question time
- (d) Petitions
- (e) Confirmation of minutes
- (f) Announcements by the presiding person without discussion
- (g) Matters for which meeting may be closed
- (h) Reports
- (i) Motions of which previous notice has been given
- (j) Questions by members of which due notice has been given
- (k) Urgent business approved by the presiding person or by decision
- (l) Matters behind closed doors
- (m) Closure

(2) Unless otherwise decided by the members present, the order of business at any special meeting of the Council or at a committee meeting is to be the order in which that business stands in the agenda of the meeting.

(3) Notwithstanding subclauses (1) and (2) in the order of business for any meeting of the Council or a committee, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.

(4) Notwithstanding subclause (1), the CEO may include on the agenda of a Council or committee meeting in an appropriate place within the order of business any matter which must be decided, or which he or she considers is appropriately decided, by that meeting.

3.3 Public question time

- (1) A member of the public who raises a question during question time is to state his or her name and address.
- (2) A question may be taken on notice by the Council or committee for later response.
- (3) When a question is taken on notice under sub-clause (2) a response is to be given to the member of the public in writing by the CEO, and a copy is to be included in the agenda of the next meeting of the Council or committee as the case requires.

3.4 Confirmation of minutes

- (1) When minutes of a meeting are submitted to an ordinary meeting of the Council or committee for confirmation, if a member is dissatisfied with the accuracy of the minutes, then he or she is to -
 - (a) state the item or items with which he or she is dissatisfied; and
 - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (2) Discussion of any minutes, other than discussion as to their accuracy as a record of the proceedings, is not permitted.

3.5 Announcements by the presiding person without discussion

- (1) At any meeting of the Council or a committee the presiding person may announce or raise any matter of interest or relevance to the business of the Council or committee, or propose a change to the order of business.
- (2) Any member may move that a change in order of business proposed by the presiding person not be accepted and if carried by a majority of members present, the proposed change in order is not to take place.

3.6 Matters for which meeting may be closed

For the convenience of members of the public a matter on the agenda of the meeting may be identified to be discussed behind closed doors and that matter is to be deferred for consideration at the end of the meeting.

3.7 Motions of which previous notice has been given

- (1) Unless the Act, Regulations or these Standing Orders otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO.
- (2) A notice of motion under subclause (1) is to be given at least four clear working days before the close of the agenda for the meeting at which the motion is moved.
- (3) A notice of motion is to relate to the good government of persons in the district.
- (4) The CEO -
 - (a) with the concurrence of the President, may exclude from the notice paper any notice of motion deemed to be out of order; or
 - (b) may on his or her own initiative make such amendments to the form but not the substance thereof as will bring the notice of motion into due form; and
 - (c) may under his or her name provide relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.
- (5) No notice of motion is to be out of order because the matter involved is considered to be objectionable.
- (6) A motion of which notice has been given is to lapse unless -
 - (a) the member who gave notice thereof, or some other member authorised by him or her in writing moves the motion when called on; or
 - (b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.
- (7) If a notice of motion is given and lapses in the circumstances referred to in subclause (6)(a), notice of motion in the same terms or the same effect is not to be given again for at least 3 months from the date of such lapse.

3.8 Questions by members of which due notice has been given

- (1) A question on notice is to be given by a member in writing to the CEO at least four clear working days before close of the agenda for the meeting at which it is raised.

- (2) If the question referred to in subclause (1) is in order, the answer is, so far as is practicable, to be included in written form in the agenda of the meeting, or otherwise tabled at that meeting.
- (3) Every question and answer is to be submitted as briefly and concisely as possible and no discussion is to be allowed thereon, unless with the consent of the presiding person.

3.9 Urgent business approved by the presiding person or by resolution

In cases of extreme urgency or other special circumstance, matters may, with the consent of the presiding person, or by resolution of the members present, be raised without notice and decided by the meeting.

3.10 Deputations

- (1) A deputation wishing to be received by the Council or a committee is to apply to the CEO who is to advise the President, or the presiding member as the case may be of the request.
- (2) The President if the request is to attend a Council meeting, or the presiding member of the committee, if the request is to attend a meeting of a committee, may either approve the request, in which event the CEO is to invite the deputation to attend a meeting of the Council or committee as the case may be, or may instruct the CEO to refer the request to the Council or committee to decide by simple majority whether or not to receive the deputation.
- (3) Arrangements for the deputation shall be as agreed by the President or presiding member as the case may be.
- (4) Any matter which is the subject of a deputation to the Council or a committee is not to be decided by the Council or that committee until the deputation has completed its presentation.

PART 4 - PUBLIC ACCESS TO AGENDA MATERIAL

4.1 Confidentiality of information withheld

- (1) Information withheld by the CEO from members of the public under Regulation 14.2, of the Regulations, is to be -
- (a) identified in the agenda of a Council or committee meeting under the item "Matters for which meeting may be closed"; and
 - (b) marked "confidential" in the agenda.
- (2) A member or an employee in receipt of confidential information is not to disclose such information to any person other than a member or employee to the extent necessary for the purpose of carrying out his or her duties.

PART 5 - FINANCIAL INTEREST DISCLOSURES

5.1 Separation of committee recommendations

Where a member has disclosed an interest in a matter at a committee meeting and the matter is contained in the recommendations of the committee to an ordinary meeting of Council or to another committee meeting that will be attended by the member, the recommendation concerned is to be separated on the agenda of that ordinary meeting or other committee meeting, from other recommendations of the committee, to enable the member concerned to declare the interest and leave the room prior to consideration of that matter only.

PART 6 - CONDUCT OF PERSONS AT COUNCIL AND COMMITTEE MEETINGS

6.1 Official titles to be used

- (1) Members are to speak of each other in the Council or committee by their respective titles of President or councillor.
- (2) Members, in speaking of or addressing employees, are to designate them by their respective official titles.

6.2 Members to occupy own seats

- (1) At the first meeting held after each ordinary elections day, the CEO is to allot by random draw, a position at the Council table to each councillor.

- (2) The councillor is to occupy that position when present at meetings of the Council until such time as there is a call by a majority of councillors for a re-allotment of positions.

6.3 Leaving meetings

During the course of a meeting of the Council or a committee no member is to enter or leave the meeting without first advising the presiding person, in order to facilitate the recording in the minutes of the time of entry or departure.

6.4 Recording of particular words in the minutes

If a member specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes, the presiding person is to cause the words used to be taken down and read to the meeting for verification and to then be recorded in the minutes.

6.5 Recording of proceedings

(1) No person is to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council or a committee without the written permission of the Council.

(2) Subclause (1) does not apply if the record is taken by or at the direction of the CEO, with the permission of the Council or committee.

(3) If a person is permitted to record proceedings under this clause, the presiding member is to advise the meeting, immediately before the recording is commenced, that the recording is permitted and the extent of that permission.

6.6 Prevention of disturbance

(1) Any member of the public addressing the Council or a committee is to extend due courtesy and respect to the Council or committee and the processes under which they operate and must take direction from the presiding person whenever called upon to do so.

(2) No person observing a meeting, is to create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.

6.7 Distinguished visitors

If a distinguished visitor is present at a meeting of the Council or a committee, the presiding person may invite such person to sit beside the presiding person or at the Council table.

PART 7 - CONDUCT OF MEMBERS DURING DEBATE

7.1 Members wishing to speak

A member wishing to speak is to indicate by show of hands or other method agreed upon by the Council or committee.

7.2 Priority of speakers

(1) In the event of two or more members wishing to speak at the same time, the presiding member is to decide which member is entitled to be heard first.

(2) A ruling of the presiding person under subclause (1) is final and will not be open to further discussion or debate, unless a majority of the members support a motion of dissent with the ruling of the presiding person.

7.3 The presiding person to take part in debates

The presiding person may take part in a discussion of any matter before the Council, subject to compliance with this local law.

7.4 Relevance

A member is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.

7.5 Addressing the meeting

The presiding person shall determine any limitation on the number of times a member addresses the meeting and duration of address.

7.6 Members not to speak after conclusion of debate

No member is to speak to any question after it has been put by the presiding person.

7.7 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;
- (c) to make a personal explanation under clause 8.16; or
- (d) to move a motion under clause 9.1(e).

7.8 Re-opening discussion on decisions

No member is to re-open discussion on any decision of the Council or committee, except for the purpose of moving that the decision be revoked or changed.

PART 8 - PROCEDURES FOR DEBATE OF MOTIONS

8.1 Motions to be stated

A member who moves a substantive motion or amendment to a substantive motion is to state the substance of the motion before speaking to it.

8.2 Motions to be supported

No motion or amendment to a substantive motion is open to debate until it has been seconded, or, in the case of a motion to revoke or change the decision made at a Council or a committee meeting, unless the motion has the support required under Regulation 10 of the Regulations.

8.3 Unopposed business

(1) Upon a motion being moved and seconded, the presiding person may ask the meeting if any member opposes it.

(2) If no member signifies opposition to the motion the presiding person may declare the motion in subclause (1) carried without debate and without taking a vote on it.

(3) A motion carried under subclause (2) is to be recorded in the minutes as a unanimous decision of the Council or committee.

(4) If a member signifies opposition to a motion the motion is to be dealt with according to this Part.

(5) This clause does not apply to any motion or decision to revoke or change a decision which has been made at a Council or committee meeting.

8.4 Only one substantive motion considered

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

8.5 Breaking down of complex questions

The presiding person may order a complex question to be broken down and put in the form of several motions, which are to be put in sequence.

8.6 Order of call in debate

The presiding person is to call speakers to a substantive motion in the following order –

- (a) the mover to state the motion;
- (b) a seconder to the motion;
- (c) the mover to speak to the motion;
- (d) the seconder to speak to the motion;
- (e) a speaker against the motion;
- (f) a speaker for the motion;

- (g) other speakers against and for the motion, alternating in view, if any;
- (h) mover takes right of reply which closes debate.

8.7 Limit of debate

The presiding person may offer the right of reply and put the motion to the vote if he or she believes sufficient discussion has taken place even though all members may not have spoken.

8.8 Member may require questions to be read

A member may require the question or matter under discussion to be read at any time during a debate, but not so as to interrupt any other member whilst speaking.

8.9 Consent of seconder 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.

8.10 Order of amendments

Any number of amendments may be proposed to a motion, but when an amendment is moved to a substantive motion, no second or subsequent amendment is to be moved or considered until the first amendment has been withdrawn or lost.

8.11 Amendments must not negate original motion

No amendment to a motion can be moved which negates the original motion or the intent of the original motion.

8.12 Substantive motion

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any member may speak and any further amendment may be moved.

8.13 Withdrawal of motion and amendments

Council or a committee may, without debate, grant leave to withdraw a motion or amendment upon request of the mover of the motion or amendment and with the approval of the seconder provided that there is no voice expressed to the contrary view by any member, in which case discussion on the motion or amendment is to continue.

8.14 Limitation of withdrawal

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

8.15 Personal explanation

No member is to speak at any meeting of the Council or a committee, except upon the matter before the meeting, unless it is to make a personal explanation. Any member who is permitted to speak under these circumstances is to confine the observations to a succinct statement relating to a specific part of the former speech which may have been misunderstood. When a member provides an explanation, no reference is to be made to matters unnecessary for that purpose.

8.16 Personal explanation - When heard

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

8.17 Ruling on questions of personal explanation

The ruling of the presiding person on the admissibility of a personal explanation is final unless a motion of dissent with the ruling is moved before any other business proceeds.

8.18 Right of reply

- (1) The mover of a substantive motion has the right of reply. After the mover of the substantive motion has commenced the reply, no other member is to speak on the question.
- (2) The right of reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

8.19 Right of reply provisions

The right of reply is governed by the following provisions –

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

PART 9 - PROCEDURAL MOTIONS

9.1 Permissible procedural motions

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

- (a) that the Council (or committee) proceed to the next business;
- (b) that the question be deferred until (specify meeting or circumstances);
- (c) that the Council (or committee) now adjourn;
- (d) that the question be now put;
- (e) that the member be no longer heard;
- (f) that the ruling of the presiding person be disagreed with;
- (g) that the Council (or committee) meet behind closed doors, if the meeting or part of the meeting to which the motion relates is a matter in respect of which the meeting may be closed to members of the public under section 5.23 of the Act.

9.2 No debate on procedural motions

- (1) The mover of a motion stated in each of paragraphs (a), (b), (c), (f) and (g) of clause 9.1 may speak to the motion for not more than five minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.
- (2) The mover of a motion stated in each of paragraphs (d) and (e) of clause 9.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

9.3 Procedural motions - Closing debate - Who may move

No member who has moved, seconded, or spoken for or against the substantive motion, or any amendment may move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

9.4 Procedural motions - Right of reply on substantive motion

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

PART 10 - EFFECT OF PROCEDURAL MOTIONS

10.1 Council or committee to proceed to the next business - effect of motion

The motion "that the Council or committee proceed to the next business", if carried, causes the debate to cease immediately and for the Council or committee to move to the next business of the

meeting. No decision will be made on the substantive motion being discussed, nor is there any requirement for the matter to be again raised for consideration.

10.2 Question to be deferred - effect of motion

The motion "that the question be deferred", if carried, causes all debate on the substantive motion or amendment to cease but to continue at a time stated in the motion.

10.3 Council or committee to now adjourn - effect of motion

(1) The motion "that the Council or committee now adjourn", if carried, causes the meeting to stand adjourned until it is re-opened at which time the meeting continues from the point at which it was adjourned, unless the presiding person or a simple majority of members upon vote, determine otherwise.

(2) Where debate on a motion is interrupted by an adjournment under subclause (1) the debate is to be resumed at the next meeting at the point where it was so interrupted.

10.4 Question to be put - effect of motion

(1) The motion "that the question be now put", if carried during discussion of a substantive motion without amendment, causes the presiding person to offer the right of reply and then immediately put the matter under consideration without further debate.

(2) This motion, if carried during discussion of an amendment, causes the presiding person to put the amendment to the vote without further debate.

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

10.5 Member to be no longer heard - effect of motion

The motion "that the member be no longer heard", if carried, causes the presiding person to not allow the speaker against whom the motion has been moved to speak to the current substantive motion or any amendment relating to it, except to exercise the right of reply if the person is the mover of the substantive motion.

10.6 Ruling of the presiding person be disagreed with - effect of motion

The motion "that the ruling of the presiding person be disagreed with", if carried, causes the ruling of the presiding person about which this motion was moved, to have no effect and for the meeting to proceed accordingly.

10.7 Council or committee to meet behind closed doors - effect of motion

(1) Subject to any deferral under clause 3.6 or other decision of the Council or committee, this motion, if carried, causes the general public and any employee the Council or committee determines, to leave the room.

(2) Upon the public again being admitted to the meeting the presiding person, unless the Council or committee decides otherwise, is to cause the motions passed by the Council or committee whilst it was proceeding behind closed doors to be read out including the vote of a member or members to be recorded in the minutes under section 5.21 of the Act.

(3) A member or an employee is not to publish, or make public any of the discussion taking place on a matter discussed behind closed doors, but this prohibition does not extend to the actual decision made as a result of such discussion and other information properly recorded in the minutes.

PART 11 - MAKING DECISIONS

11.1 Question - When put

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

11.2 Question - Method of putting

If a decision of the Council or a committee is unclear or in doubt, the presiding person shall put the motion or amendment as often as necessary to determine the decision from a show of hands or other method agreed upon so that no voter's vote is secret, before declaring the decision.

PART 12 - IMPLEMENTING DECISIONS

12.1 Implementation of a Decision

(1) If a notice of motion to revoke or change a decision of the Council or a committee is received before any action has been taken to implement that decision, then no steps are to be taken to implement or give effect to that decision until such time as the motion of revocation or change has been dealt with, except that -

- (a) if a notice of motion to revoke or change a decision of the Council or a committee is given during the same meeting at which the decision was made, the notice of motion is of no effect unless the number of members required to support the motion under Regulation 10 of the Regulations indicate their support for the notice of motion at that meeting; and
- (b) if a notice of motion to revoke or change a decision of the Council or a committee is received after the closure of the meeting at which the decision was made, implementation of the decision is not to be withheld unless the notice of motion has the support in writing, of the number of members required to support the motion under Regulation 10 of the Regulations.

(2) Implementation of a decision is only to be withheld under sub-clause (1) if the effect of the change proposed in a notice of motion would be that the decision would be revoked or would become substantially different.

(3) The Council or a committee shall not vote on a motion to revoke or change a decision, whether the motion of revocation or change is moved with or without notice, if at the time the motion is moved or notice is given -

- (a) action has been taken to implement the decision; or
- (b) where the decision concerns the issue of an approval or the authorisation of a licence, permit or certificate, and where that approval or authorisation of a licence, permit or certificate has been put into effect by the local government in writing to the applicant or the applicant's agent by an employee authorised to do so,

without having considered a statement of impact prepared by or at the direction of the CEO of the legal and financial consequences of the proposed revocation or change.

PART 13 - PRESERVING ORDER

13.1 The presiding person to preserve order

The presiding person is to preserve order, and may call any member or other person in attendance to order, whenever, in his or her opinion, there is cause for so doing.

13.2 Demand for withdrawal

A member at a meeting of the Council or a committee may be required by the presiding person, or by a decision of the Council or committee, to apologise and unreservedly withdraw any expression which is considered to reflect offensively on another member or an employee, and if the member declines or neglects to do so, the presiding person may refuse to hear the member further upon the matter then under discussion and call upon the next speaker.

13.3 Points of order - When to raise - Procedure

Upon a matter of order arising during the progress of a debate, any member may raise a point of order including interrupting the speaker. Any member who is speaking when a point of order is raised, is to immediately stop speaking and be seated while the presiding person listens to the point of order.

13.4 Points of order - When valid

The following are to be recognised as valid points of order –

- (a) that the discussion is of a matter not before the Council or committee;
- (b) that offensive or insulting language is being used;
- (c) drawing attention to the violation of any written law, or policy of the local government, provided that the member making the point of order states the written law or policy believed to be breached.

13.5 Points of order - Ruling

The presiding person is to give a decision on any point of order which is raised by either upholding or rejecting the point of order.

13.6 Points of order - Ruling conclusive, unless dissent motion is moved

The ruling of the presiding person upon any question of order is final, unless a majority of the members support a motion that the ruling of the presiding person be disagreed with.

13.7 Points of order take precedence

Notwithstanding anything contained in these Standing Orders to the contrary, all points of order take precedence over any other discussion and until decided, suspend the consideration and decision of every other matter.

13.8 Precedence of person presiding

(1) When the presiding person indicates their intention to speak during the progress of a debate, any member then speaking, or offering to speak, is to immediately cease speaking and every member shall preserve strict silence so that the presiding person may be heard without interruption.

(2) Subclause (1) is not to be used by the presiding person to exercise the right provided in clause 7.3, but to preserve order.

13.9 Right of the presiding person to adjourn without explanation to regain order

(1) If a meeting ceases to operate in an orderly manner, the presiding person may use discretion to adjourn the meeting for a period of up to 15 minutes without explanation, for the purpose of regaining order.

(1) Upon resumption, debate is to continue at the point at which the meeting was adjourned.

(2) If, at any one meeting, the presiding person has cause to further adjourn the meeting, such adjournment may be to a later time on the same day or to any other day.

PART 14 - ADJOURNMENT OF MEETING

14.1 Meeting may be adjourned

The Council or a committee may decide to adjourn any meeting to a later time on the same day, or to any other day.

14.2 Unopposed business - Motion for adjournment

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

14.3 Withdrawal of motion for adjournment

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

14.4 Time to which adjourned

The time to which a meeting is adjourned for want of a quorum, by the presiding person to regain order, or by decision of the Council, may be to a specified hour on a particular day or to a time which coincides with the conclusion of another meeting or event on a particular day.

PART 15 - COMMITTEES OF THE COUNCIL

15.1 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.

15.2 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, 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.

15.3 Presentation of committee reports

The report or recommendations of a committee are to be placed before the Council for consideration.

15.4 Reports of committees - Questions

When a recommendation of any committee is submitted for adoption by the Council, any member may direct questions directly relating to the recommendation through the presiding person to the presiding member or to any member of the committee in attendance.

15.5 Permissible motions on recommendation from committee

A recommendation made by or contained in the minutes of a committee may be -

- (a) be adopted by the Council without amendment
- (b) rejected by the Council and replaced by an alternative decision; or
- (b) amended or modified and adopted with such amendment or modification; or
- (c) referred back to the committee for further consideration.

15.6 Standing Orders apply to committees

Where not otherwise specifically provided, these local laws apply generally to the proceedings of committees.

PART 16 - ADMINISTRATIVE MATTERS

16.1 Suspension of Local Law

(1) The Council or a committee may decide, by simple majority vote, to suspend temporarily one or more of the provisions of this local law.

(2) The mover of a motion to suspend temporarily any one or more of the provisions of this local law is to state the clause or clauses to be suspended, and the purpose of the suspension.

16.2 Cases not provided for in Local Law

(1) The presiding person is to decide questions of order, procedure, debate, or otherwise in cases where this local law, or the Act and Regulations are silent.

(2) The decision of the presiding person in these cases is final, except where a motion is moved and carried under clause 9.1(f).

16.3 Enforcement

(1) The presiding person at any Council or committee meeting is authorised to enforce the provisions of this local law during the course of the meeting and to liaise with the CEO where appropriate regarding the appropriate action to be taken for any breach.

(2) No action shall be taken by the local government to institute legal proceedings for an alleged breach of the provisions of this local law unless by resolution of Council.

(3) Council may resolve to deal with any alleged breach of the provisions of this local law through the application of the procedures contained within the *Local Government (Rules of Conduct) Regulations 2007*.

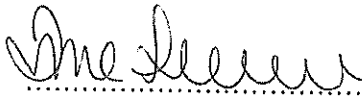
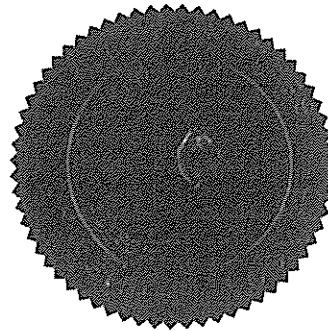
(4) A person who breaches a provision of this local law commits an offence.

Penalty: \$1,000.00

This local law was made at the meeting of the Council of the Shire of Trayning on 18 March 2015

The Common Seal of the)
Shire of Trayning was affixed in)
the presence of)

For
Cr F Tarr
President



T McLennan
Chief Executive Officer

LOCAL GOVERNMENT ACT 1995



ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW 2013

LOCAL GOVERNMENT ACT 1995

SHIRE OF TRAYNING

**ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL
LAW 2013**

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LOCAL GOVERNMENT ACT 1995

SHIRE OF TRAYNING

ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW 2013

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Trayning resolved on [insert date] to make the following local law.

PART 1 – PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Trayning Activities in Thoroughfares and Public Places and Trading Local Law 2013*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Definitions

In this local law unless the context otherwise requires –

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

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

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

“**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 Trayning;

"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;

"park" means to permit a vehicle, whether attended or not, to remain stationary, except for the purpose of –

- (a) avoiding conflict with other traffic;
- (b) complying with the provisions of any law; or
- (c) taking up or setting down persons or goods;

"permissible verge treatment" means any one of the 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 each of the townsites of Kununoppin, Trayning and Yelbeni 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

"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.

1.5 Repeal

The following local laws are repealed –

The Municipality of the Shire of Trayning Local Government Draft Model By-laws Relating to Prevention of Damage to Streets – No 15 published in the *Government Gazette* on 2 April 1968; and

The Shire of Trayning Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law published in the *Government Gazette* on 28 September 2001.

PART 2 – ACTIVITIES IN 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 6 metres of an intersection; and
 - (ii) which exceeds or which may exceed 75 centimetres in height so that the plant is within 6 metres to 10 metres of an intersection;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless –
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;
- (c) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 2 metres 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 2 metres 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 500 millimetres in height nor one half of a square metre in area, provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.

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

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

3.3 Matters to be considered in determining application for permit

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

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

Division 3 – Conditions on permit

3.4 Conditions on portable sign

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

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

3.5 Conditions on election sign

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

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

PART 4 – OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

Division 1 - Animals and vehicles

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

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

- (2) A person will not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.
- (3) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

4.2 Prohibitions relating to animals

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

Division 2 - Shopping trolleys

4.3 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 townsites.

Division 2 - Flora roads

5.3 Declaration of flora road

The local government may declare a thoroughfare which has, in the opinion of the local government, high quality roadside vegetation to be a flora road.

5.4 Construction works on flora roads

Construction and maintenance work carried out by the local government on a flora road is to be in accordance with the “Handbook of Environmental Practice for Road Construction and Road Maintenance Works” (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 1.5 metres 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 20 metres wide.
- (2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

Division 8 – Commercial wildflower harvesting on thoroughfares

5.19 General prohibition on commercial wildflower harvesting

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

5.20 Permit for revegetation projects

- (1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.
- (2) The local government may approve an application for a permit under subclause (1) only where-
 - (a) the seed is required for a revegetation project in any part of the district; and
 - (b) the thoroughfare, or the relevant part of it, is not a special environmental area.
- (3) Unless the local government specifically provides to the contrary on a permit, if the local government approves an application for a permit for the purpose of subclause (1) it is to be taken to be approved subject to the following conditions –

- (a) the collection of the seed is to be carried out so as not to endanger the long time survival of the native flora on the thoroughfare; and
- (b) any licence or approval which may be required under any other written law is to be obtained by the applicant.

PART 6 - TRADING IN THOROUGHFARES AND PUBLIC PLACES

Division 1 - Stallholders and traders

Subdivision 1 - Preliminary

6.1 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 authorised person, the performance otherwise constitutes a nuisance.

6.14 Obligations of permit holder

A permit holder shall not in a public place –

- (a) perform wearing dirty, torn or ragged clothing;

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

Division 3 - Outdoor eating Facilities on public places

6.15 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 authorised person and impounded in accordance with the Act.

6.20 Use of Facility by public

- (1) A person shall not occupy a chair or otherwise use the equipment in a Facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the Facility.
- (2) A person shall leave a Facility when requested to do so by the permit holder.

6.21 Temporary removal of Facility may be requested

- (1) The permit holder for a Facility is to temporarily remove the Facility when requested to do so on reasonable grounds by an authorised person or a member of the Police Service or an emergency service.
- (2) The permit holder may replace the Facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

PART 7 - PERMITS

Division 1 – Applying for a permit

7.1 Application for permit

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

7.2 Decision on application for permit

- (1) The local government may –
 - (a) approve an application for a permit unconditionally or subject to any conditions;
 or

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

Division 2 - Conditions

7.3 Conditions which may be imposed on a permit

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

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

7.4 Imposing conditions under a policy

- (1) In this clause -

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

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

is to be taken to be information within section 5.94(u)(i) of the Act.

7.5 Compliance with and variation of conditions

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

Division 3 - General

7.6 Duration of permit

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

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

7.7 Renewal of permit

- (1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.

- (2) The provisions of –

- (a) this Part; and
- (b) any other provision of this local law relevant to the permit which is to be renewed,

shall apply to an application for the renewal of a permit *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 authorised person her or his permit immediately upon being required to do so by that authorised person.

7.10 Cancellation of permit

- (1) Subject to clause 8.1, a permit may be cancelled by the local government if the permit holder has not complied with a –

- (i) condition of the permit; or
 - (ii) 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 authorised person should be satisfied that –
 - (a) commission of the prescribed offence is a relatively minor matter; and
 - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

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

[cl. 10.4(1)]

OFFENCES AND MODIFIED PENALTIES

Clause	Description of Offence	Modified penalty \$
2.1(a)	Plant in excess of 0.75m in height on thoroughfare within 6m to 10m of an 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
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
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 authorised person	125
10.1	Failure to comply with notice given under local law	125

Dated [insert date]

The Common Seal of the Shire of Trayning was affixed by authority of a resolution of the Council in the presence of –

T.R. LAMOND, Shire President
TANIKA MCLENNAN, Chief Executive Officer

- (a) review the proposed policy in the light of any submissions made; and
- (b) resolve to adopt the policy with or without modification, or not to proceed with the policy.

10.4 Adoption

- (1) If the CEO decides to adopt the policy the CEO is to publish notice of the policy once in a newspaper circulating in the district.
- (2) A policy has effect on publication of a notice under subclause (1).
- (3) A copy of each policy, as amended from time to time, is to be kept and made available for public inspection during business hours at the offices of the local government.

10.5 Amendment

Clauses 10.1 to 10.4 with any necessary changes, apply to the amendment of a policy.

10.6 Revocation

A policy may be revoked by –

- (a) the adoption by CEO of a new policy made under clauses 10.1 to 10.4 that is expressed to supersede the existing policy; or
- (b) publication of a notice of revocation by the CEO once a week for 2 consecutive weeks in a newspaper circulating in the district.

- 6. The remaining Parts and clauses of the local law are renumbered accordingly.
- 7. In Schedule 2, '10.6' is replaced with '11.6' where it appears in the first column.

The Common Seal of the Shire of Trayning was affixed by authority of a resolution of the Council in the presence of –

F Tarr

.....
Cr F Tarr, President

C Watson

.....
C Watson, Acting Chief Executive Officer

