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SHIRE OF EAST PILBARA

LOCAL GOVERNMENT ACT 1995

PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2011

HEALTH ACT 1911

HEALTH LOCAL LAW 2011

DOG ACT 1976

DOGS LOCAL LAW 2011

BUSH FIRES ACT 1954

BUSH FIRE BRIGADES LOCAL LAW 2011

DIVIDING FENCES ACT 1961

FENCING LOCAL LAW 2011

LOCAL GOVERNMENT ACT 1995

SHIRE OF EAST PILBARA

**PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY
LOCAL LAW 2011**

CONTENTS

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Commencement
- 1.3 Purpose and effect
- 1.4 Application
- 1.5 Interpretation
- 1.6 Meaning of food
- 1.7 Types of licences

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY*Division 1—Determinations*

- 2.1 Determinations as to use of local government property
- 2.2 Procedure for making a determination
- 2.3 Discretion to erect sign
- 2.4 Determination to be complied with
- 2.5 Register of determinations
- 2.6 Amendment or revocation of determination

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

- 2.7 Activities which may be pursued on specified local government property
- 2.8 Activities which may be prohibited on specified local government property
- 2.9 Signs under repealed local law taken to be determination

**PART 3—ACTIVITIES ON LOCAL GOVERNMENT PROPERTY
REQUIRING A LICENCE**

- 3.1 Activities requiring a licence
- 3.2 Licence required to camp outside a facility
- 3.3 Licence required for possession and consumption of liquor

PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY*Division 1—Behaviour and interference with local government property*

- 4.1 Behaviour which interferes with others
- 4.2 Behaviour detrimental to property
- 4.3 Taking or injuring any fauna
- 4.4 Intoxicated persons not to enter local government property
- 4.5 No prohibited drugs

Division 2—Signs

- 4.6 Signs

Division 3—Miscellaneous

- 4.7 Authorised person to be obeyed
- 4.8 Persons may be directed to leave local government property
- 4.9 Disposal of lost property
- 4.10 Liability for damage to local government property
- 4.11 Refusal of entry to local government property

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY*Division 1—Swimming pool areas*

- 5.1 When entry may be refused
- 5.2 Consumption of food or drink may be prohibited

Division 2—Fenced or closed property

- 5.3 No entry to fenced or closed local government property

Division 3—Toilet blocks and change rooms

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

Division 4—Fees for entry onto local government property

- 5.5 No unauthorised entry to function

Division 5—Aerodrome (airports)

- 5.6 Access of animals restricted

PART 6—ACTIVITIES IN THOROUGHFARES*Division 1—General*

- 6.1 General prohibitions
- 6.2 Activities allowed with a licence
- 6.3 No possession and consumption of liquor on thoroughfare

Division 2—Vehicle crossings

- 6.4 Temporary crossings

Division 3—Verge treatments

- 6.5 Removal of redundant crossing
- 6.6 Permissible verge treatments
- 6.7 Only permissible verge treatments to be installed
- 6.8 Obligations of owner or occupier
- 6.9 Notice to owner or occupier
- 6.10 Transitional provision
- 6.11 Power to carry out public works on verge

Division 4—Property numbers

- 6.12 Assignment of numbers

Division 5—Fencing

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

Division 6—Signs erected by the local government

- 6.14 Signs
- 6.15 Transitional

Division 7—Driving on closed thoroughfare

- 6.16 No driving on closed thoroughfare

Division 8—Miscellaneous

- 6.17 Notice to redirect or repair sprinkler
- 6.18 Hazardous plants
- 6.19 Notice to repair damage to thoroughfare
- 6.20 Notice to remove thing unlawfully placed on thoroughfare

PART 7—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS*Division 1—Animals and vehicles*

- 7.1 Leaving animal or vehicle in public place
- 7.2 Prohibitions relating to animals

Division 2—Shopping trolleys

- 7.3 Shopping trolley to be marked
- 7.4 Person not to leave trolley in public place
- 7.5 Retailer to remove abandoned trolley
- 7.6 Retailer taken to own trolley

PART 8—TRADING ON THOROUGHFARES AND LOCAL GOVERNMENT PROPERTY

- 8.1 Offence to trade without a licence

**PART 9—MARKETS ON THOROUGHFARES AND LOCAL
GOVERNMENT PROPERTY**

- 9.1 Offence to conduct a market without a licence

**PART 10—ENTERTAINMENT ON THOROUGHFARES AND LOCAL
GOVERNMENT PROPERTY**

- 10.1 Offence to entertain without a licence

**PART 11—FOOD SALES ON THOROUGHFARES AND LOCAL
GOVERNMENT PROPERTY**

- 11.1 Offence to sell food without a licence

PART 12—LICENSING

- 12.1 Who may apply for a licence
12.2 Application for licence
12.3 Information required for application
12.4 Further information relevant to application
12.5 Additional information required for trading licence application
12.6 Additional information required for market licence application
12.7 Additional information required for entertainment licence application
12.8 Additional information required for food sales licence application
12.9 Power of local government to grant licence
12.10 General restrictions on grant of licence
12.11 Additional restriction on grant of food sales licence
12.12 Conditions applying to certain licence
12.13 Other conditions
12.14 Conditions of every trading licence
12.15 Conditions of every market licence
12.16 Conditions of every entertainment licence
12.17 Conditions of every food sales licence
12.18 Contravention of conditions
12.19 Duration of licence
12.20 Application for renewal of licence
12.21 Restrictions on renewal of licence
12.22 Renewal of licence
12.23 Suspension of licence
12.24 Proposed suspension
12.25 Revocation of suspension
12.26 Cancellation of licence
12.27 Surrender of licence
12.28 Licence not transferable
12.29 Amendment of licence
12.30 Licence document
12.31 Production of licence document for amendment
12.32 Return of licence document if licence no longer in effect
12.33 Advertising

PART 13—OFFENCES AND PENALTIES

- 13.1 Offences
13.2 Infringement and infringement withdrawal notices
13.3 Offence description and modified penalty
13.4 Prosecution for offences
13.5 Offence to fail to comply with notice
13.6 Local government may undertake requirements of notice

PART 14—REPEAL AND TRANSITIONAL PROVISIONS

- 14.1 Repeal
14.2 Application for licence or renewal of licence
14.3 Licences

SCHEDULE 1—CONDITIONS ON EVERY TRADING LICENCE**SCHEDULE 2—CONDITIONS ON EVERY MARKET LICENCE****SCHEDULE 3—CONDITIONS ON EVERY ENTERTAINMENT LICENCE****SCHEDULE 4—CONDITIONS ON EVERY FOOD SALES LICENCE****SCHEDULE 5—MODIFIED PENALTIES**

LOCAL GOVERNMENT ACT 1995

SHIRE OF EAST PILBARA

PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY
LOCAL LAW 2011

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of East Pilbara resolved on 3 February 2012 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law is the *Shire of East Pilbara Public Places and Local Government Property Local Law 2011*.

1.2 Commencement

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

1.3 Purpose and effect

(1) The purpose of this local law is to consolidate and make one local law relating to local government property, activities in thoroughfares and trading in thoroughfares and public places.

(2) The effect of this local law is control the use of local government property and activities and trading in thoroughfares and public places. Some activities are permitted only under a licence or under a determination and some activities are restricted or prohibited. Offences are created for inappropriate behaviour in or on local government property.

1.4 Application

This local law applies throughout the district.

1.5 Interpretation

In this local law, unless the contrary otherwise requires—

Act means the *Local Government Act 1995*;

applicant means a person who applies for a licence;

application means an application for a licence;

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

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

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

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

(a) hall or room;

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

(c) jetty;

building licence means a building licence issued pursuant to section 374(1) of the *Local Government (Miscellaneous Provisions) Act 1960*;

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;

Code means the Code of Practice for the Design, Operation, Management and Maintenance of Aquatic Facilities as published by the Executive Director of Public Health, pursuant to the provisions of section 344A(2) of the *Health Act 1911*;

- commencement day** means the day on which this local law comes into operation;
- commercial activity** means an activity referred to in clause 8.1, clause 9.1, clause 10.1 or clause 11.1;
- 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 pursuant to section 22 of the Health Act;
- registered food business** means premises which are registered as a registered food business under the *Food Act 2008* or which are the subject of a hotel, tavern or small bar licence, a special facility licence or a restaurant licence under the Liquor Act;
- entertain** means conduct any form of theatrical, artistic, musical, audio or visual performance and includes busk;
- entertainment licence** means a licence of the kind referred to in clause 1.7(c);
- food** has the meaning given by clause 1.6;
- food sales licence** means a licence of the kind referred to in clause 1.7(d);
- function** means an event or activity characterised by all or any of the following—
- (a) formal organisation and preparation;
 - (b) its occurrence is generally advertised or notified in writing to particular persons;
 - (c) organised 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 by the *Road Traffic Code 2000*;
- kerb** includes the edge of a carriageway;
- lawn** means any part of a thoroughfare which is planted only with grass, or with a similar plant, but will include any other plant provided that it has been planted by the local government;
- licence** means a licence under this local law;
- licence fee** means the fee payable upon the issue of a licence;
- licence document** means a licence document issued under this local law;
- licensee** means a person who holds a licence;
- liquor** has the same meaning as is given to it in section 3 of the Liquor Act;
- Liquor Act** means the *Liquor Control Act 1988* and includes any regulations made under that act;
- local government** means the Shire of East Pilbara;
- 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*;
- Manager** means the person for the time being employed by the local government to control and manage a facility which is local government property and includes the person’s assistant or deputy;
- market** means a collection of stalls, stands or displays erected for the purpose of selling or hiring goods, wares, merchandise or services or carrying out any other transaction;
- market licence** means a licence of the kind referred to in clause 1.7(b);
- nuisance** includes—
- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
 - (b) an unreasonable interference with the use and enjoyment of a person in her or his ownership or occupation of land; and
 - (c) interference which causes material damage to land or other property on the land affected by the interference;
- owner or occupier** in relation to land does not include the local government;
- permissible verge treatment** means any one of the treatments described in clause 6.6(2), and includes any reticulation pipes and sprinklers;
- person** does not include the local government;
- place** means anywhere at all, and includes anywhere in or on something that is moving or can move;

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

proprietor—

- (a) includes the owner, the occupier and any person having the management or control of any registered food business; or
- (b) the holder of a licence granted under the Liquor Act where the premises in question is the subject of a hotel licence or a limited hotel licence;

public place means any thoroughfare or local government property or any place to which the public have access;

repealed local law means the local laws repealed under clause 14.1;

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

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 by auction;
- (f) supply, or offer, agree or attempt to supply—
 - (i) in circumstances which the supplier derives or would be likely to derive a direct or indirect pecuniary benefit; or
 - (ii) gratuitously, but with a view to gaining or maintaining custom or other commercial advantage; or
- (g) authorise, direct, cause or permit to be done any act referred to in this definition;

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

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

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

thoroughfare 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;

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

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

trading licence means a licence of the kind referred to in clause 1.7(a);

vehicle includes—

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

but excludes—

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

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

1.6 Meaning of food

(1) In this local law, **food** includes—

- (a) any substance or thing of a kind used, or represented as being used, for human consumption (whether it is live, raw, prepared or partly prepared);
- (b) any substance or thing of a kind used, or represented as being for use, as an ingredient or additive in a substance or thing referred to in paragraph (a);
- (c) any substance used in preparing a substance or thing referred to in paragraph (a) (other than a substance used in preparing a living thing) if it comes into direct contact with the substance or thing referred to in that paragraph, such as a processing aid;
- (d) chewing gum or an ingredient or additive in chewing gum, or any substance used in preparing chewing gum; and
- (e) any substance or thing declared to be a food under a declaration in force under the Commonwealth *Food Standards Australia New Zealand Act 1991*, section 6,

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

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

1.7 Types of licences

For the purposes of this local law—

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

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

Division 1—Determinations

2.1 Determinations as to use of local government property

The local government may make a determination in accordance with clause 2.2—

- (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
- (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 in or on specified local government property;
- (c) as to the matters in clause 2.7(2) and 2.8(2); and
- (d) as to any matter ancillary or necessary to give effect to a determination.

2.2 Procedure for making a determination

- (1) The local government is to give local public notice of its intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that—
 - (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
 - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
 - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the local government is to decide to—
 - (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
 - (b) amend the proposed determination, in which case subclause (5) is to apply; or
 - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c), the local government is to—
 - (a) consider those submissions; and
 - (b) decide—
 - (i) whether or not to amend the proposed determination; or
 - (ii) not to continue with the proposed determination.
- (5) If the local government 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 local government 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 are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

2.6 Amendment or revocation of determination

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

*Division 2—Activities which may be pursued or prohibited under a determination***2.7 Activities which may be pursued on specified local government property**

- (1) A determination may provide that specified local government property is set aside as an area on which a person may—
 - (a) bring, ride or drive an animal;
 - (b) take, ride or drive a vehicle, or a particular class of vehicle;
 - (c) fly or use a motorised model aeroplane;
 - (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
 - (e) launch, beach or leave a boat;
 - (f) take or use a boat, or a particular class of boat;
 - (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
 - (h) play or practice—
 - (i) golf or archery; or
 - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
 - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government, may cause injury or damage to a person or property;
 - (i) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and
 - (j) wear no clothing.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular—
 - (a) the days and times during which the activity may be pursued;
 - (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
 - (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;
 - (e) may specify that the activity can be pursued by a class of persons or all persons; and
 - (f) may distinguish between different classes of the activity.

2.8 Activities which may be prohibited on specified local government property

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

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

(3) In this clause *premises* means a building, stadium, or similar structure which is local government property, but not an open space such as a park or a playing field.

2.9 Signs 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 a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
- (d) teach, coach or train, for profit, any person in any facility which is local government property;
- (e) plant any plant or sow any seeds on local government property;
- (f) carry on any trading on local government property unless the trading is conducted—
 - (i) with the consent of a person who holds a 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) unless an employee of the local government in the course of his or her duties or on an area set aside for that purpose—
 - (i) drive or ride or take any vehicle on to local government property; or
 - (ii) park or stop any vehicle on local government property;
- (h) conduct a function on local government property;
- (i) charge any person for entry to local government property, unless the charge is for entry to land or a building by a voluntary non-profit organisation;
- (j) light a fire on local government property except in a facility provided for that purpose;
- (k) parachute, hang glide, abseil or base jump from or onto local government property;
- (l) erect a building or a refuelling site on local government property;
- (m) make any excavation on or erect or remove any fence on local government property;
- (n) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
- (o) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property; or
- (p) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly.

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

(3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

3.2 Licence required to camp outside a facility

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

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

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

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

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

3.3 Licence required for possession and consumption of liquor

- (1) A person on local government property must not consume any liquor or have in his or her possession or under his or her control any liquor, unless—
- (a) that is permitted under the Liquor Act; and
 - (b) a licence has been obtained for that purpose.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

Division 1—Behaviour and interference with local government property

4.1 Behaviour which interferes with others

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

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

4.2 Behaviour detrimental to property

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

(2) In subclause (1) *detrimental to the property* includes—

- (a) removing 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 any fauna

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

(2) In this clause—

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

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

- (a) any class of animal or individual member;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur.

4.4 Intoxicated persons not to enter local government property

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

4.5 No prohibited drugs

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

Division 2—Signs

4.6 Signs

(1) A local government may erect a sign on local government property specifying any conditions of use which applies to that property.

(2) A person must comply with a sign erected under subclause (1).

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

- (a) not to be inconsistent with any provision of this local law or any determination; and
- (b) to be for the purpose of giving notice of the effect of a provision of this local law.

Division 3—Miscellaneous

4.7 Authorised person to be obeyed

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

4.8 Persons may be directed to leave local government property

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

4.9 Disposal of lost property

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

4.10 Liability for damage to local government property

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

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

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

4.11 Refusal of entry to local government property

(1) An authorised person may refuse to allow entry, or suspend admission, to any local government property by any person who he or she believes has behaved in a manner contrary to the provisions of this Part.

(2) This refusal or suspension can be for any period of up to 12 months as decided by that authorised person.

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

Division 1—Swimming pool areas

5.1 When entry may be refused

(1) A Manager or an authorised person can refuse admission to a pool area, any person who—

- (a) in his or her opinion is—
 - (i) under the minimum age of that specified in the Code and who is unaccompanied by a responsible person over the age of that specified in the Code;
 - (ii) under the minimum age of that specified in the Code and who is unaccompanied by a responsible person over the age of that specified in the Code where the responsible person is incapable of, or not providing, adequate supervision of, or care, for that person;
 - (iii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
 - (iv) under the influence of liquor or a prohibited drug; or
- (b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.

(2) If a person referred to in paragraph (a) or (b) of subclause (1) is in a pool area, a Manager or an authorised person must—

- (a) direct the person to leave; and
- (b) if the person refuses or fails to leave, remove the person or arrange for the person to be removed, from the pool area.

5.2 Consumption of food or drink may be prohibited

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

Division 2—Fenced or closed property

5.3 No entry to fenced or closed local government property

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

Division 3—Toilet blocks and change rooms

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

(2) Paragraphs (a) and (b) of subclause (1) do not apply to a child, when accompanied by a parent, guardian or caregiver.

Division 4—Fees for entry onto local government property

5.5 No unauthorised entry to function

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

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

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

*Division 5—Aerodrome (airports)***5.6 Access of animals restricted**

(1) Subject to section 8 of the *Dog Act 1976* and section 66J of the *Equal Opportunity Act 1984*, a person must not bring an animal onto an aerodrome unless—

- (a) the animal is being air freighted from the aerodrome;
- (b) the animal has been air freighted to the aerodrome; or
- (c) the person is authorised to do so by the local government.

(2) A person in charge of an animal must keep the animal under control and must not allow it to wander at large on the aerodrome.

(3) If an animal is at any time on an aerodrome in contravention of subclause (2), in addition to the person specified in that subclause, the owner of the animal at that time commits an offence against subclause (2).

PART 6—ACTIVITIES IN THOROUGHFARES*Division 1—General***6.1 General prohibitions**

A person must not—

- (a) plant, in any thoroughfare, any plant which is greater than .5 metres in height or which creates a sightline hazard;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or 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) damage a thoroughfare tree or remove a thoroughfare tree or part of a thoroughfare tree irrespective of whether the thoroughfare tree was planted by the owner or occupier of the lot abutting the thoroughfare or by the local government, unless—
 - (i) the removal of the thoroughfare tree is authorised by the local government in writing; or
 - (ii) the person is acting under authority of written law;
- (d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (e) unless at the discretion 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; or
- (f) ride any bicycle, skateboard, roller-blades or similar device, 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.

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 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) fell or damage any thoroughfare tree;
- (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 thoroughfare 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.

6.3 No possession and consumption of liquor on thoroughfare

(1) A person must not consume any liquor or have in his or her possession or under his or her 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 licence.

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

Division 2—Vehicle crossings

6.4 Temporary crossings

(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 must obtain a licence for the construction of a temporary crossing to protect the existing carriageway, kerb, drains, footpath, existing materials and thoroughfare 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 taken to be—

- (c) 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
- (d) 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 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 thoroughfare.

Division 3—Verge treatments

6.5 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 him or her 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 must comply with that notice.

6.6 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 his or her land, install a permissible verge treatment.

(2) The permissible verge treatments are—

- (a) the planting and maintenance of 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; or
- (c) the installation of no more than 30 per cent of the area of the verge (excluding any approved footpath and/or vehicle crossing) of an acceptable material, 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).

6.7 Only permissible verge treatments to be installed

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

(2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 6.6.

6.8 Obligations of owner or occupier

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

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

6.9 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 Part.

6.10 Transitional provision

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

(2) A verge treatment which—

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

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

6.11 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) may 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***6.12 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***6.13 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 1.5.

*Division 6—Signs erected by the local government***6.14 Signs**

(1) A local government may erect a sign in a thoroughfare specifying any conditions of use which apply to that thoroughfare.

(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.

6.15 Transitional

Where a sign erected in a thoroughfare 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 6.14 if—

- (a) the sign specifies a condition of use relating to the thoroughfare 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 closed thoroughfare***6.16 No driving on closed thoroughfare**

(1) A person must 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 licence.

(2) In this clause *closed thoroughfare* means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.

*Division 8—Miscellaneous***6.17 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 occupier or both to move or alter the direction of the sprinkler or other watering equipment.

6.18 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 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.

6.19 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.

6.20 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 any other person who may be responsible for the thing being so placed, require the relevant person to remove the thing.

PART 7—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS*Division 1—Animals and vehicles***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 thoroughfare, unless that person does so under a licence or under the authority of a written law.

*Division 2—Shopping trolleys***7.3 Shopping trolley to be marked**

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

7.4 Person not to leave trolley in public place

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

7.5 Retailer to remove abandoned trolley

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

(2) If notice is given under subclause (1) a retailer must remove a shopping trolley within 24 hours of being so advised.

(3) If the shopping trolley is not removed within 24 hours pursuant to subclause (2) or no notice is issued under subclause (1), the shopping trolley may be impounded in accordance with Part 3, Division 3, Subdivision 4 of the Act.

7.6 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 8—TRADING ON THOROUGHFARES AND LOCAL GOVERNMENT PROPERTY**8.1 Offence to trade without a licence**

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

PART 9—MARKETS ON THOROUGHFARES AND LOCAL GOVERNMENT PROPERTY**9.1 Offence to conduct a market without a licence**

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

PART 10—ENTERTAINMENT ON THOROUGHFARES AND LOCAL GOVERNMENT PROPERTY**10.1 Offence to entertain without a licence**

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

PART 11—FOOD SALES ON THOROUGHFARES AND LOCAL GOVERNMENT PROPERTY**11.1 Offence to sell food without a licence**

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

PART 12—LICENSING**12.1 Who may apply for a licence**

An application for a licence may only be made to the local government by an individual.

12.2 Application for licence

An application must be—

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

12.3 Information required for application

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

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

12.4 Further information relevant to application

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

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

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

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

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

12.5 Additional information required for trading licence application

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

- (a) the number of assistants to be employed in the trading at any one time;
- (b) a plan of the proposed location;

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

12.6 Additional information required for market licence application

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

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

12.7 Additional information required for entertainment licence application

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

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

12.8 Additional information required for food sales licence application

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

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

12.9 Power of local government to grant licence

- (1) The local government may grant a licence to a person authorising the person to provide a specified type of commercial activity at a specified public place.
- (2) In subclause (1) *specified* means specified in the licence document.
- (3) A licence cannot be granted in respect of more than one type of commercial activity or in respect of more than one public place.
- (4) A licence cannot be granted to 2 or more persons.
- (5) A person may be granted 2 or more licences whether for the same type of commercial activity or for different types of commercial activity or for different public places.

12.10 General restrictions on grant of licence

- (1) The local government must not grant a licence unless the local government is satisfied that—
 - (a) the provision of the activity to which the application relates would not constitute or give rise to an unacceptable risk to the safety of public;
 - (b) the applicant is capable of carrying on the activity in accordance with this local law and the terms and conditions of the licence;
 - (c) the public place at which the activity is to be provided is suitable for that purpose;
 - (d) a licence or equivalent authority granted or issued to the applicant has not been cancelled in the period of 5 years before the application is made;
 - (e) the applicant is a fit and proper person to carry on the activity;
 - (f) the needs of the public with respect to the activity are not adequately met by existing licences or existing businesses or others in the district;

- (g) the amenity of the locality to which the application relates would not be unduly diminished by reason of the proposed activity or any structure, stall, vehicle, or other thing proposed to be used in connection with the activity;
 - (h) the activity would not have an unreasonable or unacceptable adverse impact on the owner or occupier of any nearby premises whether by reason of the nature of the activity, the duration, hours of operation or regularity of the activity or any structure, stall, vehicle or other thing proposed to be used in connection with the activity;
 - (i) the activity would not damage any part of the thoroughfare or local government property; and
 - (j) the public facilities which may be used as a result of the activity are adequate for that purpose.
- (2) The local government must not grant a licence to an individual applicant if the applicant has been found guilty of an offence under this local law unless the local government is satisfied that there are exceptional reasons for doing so.

12.11 Additional restriction on grant of food sales licence

The local government must not grant a food sales licence unless—

- (a) the applicant is the proprietor of a registered food business which adjoins that part of the thoroughfare or local government property in respect of which the application is made; or
- (b) the application is with respect to local government property and only for the duration of a sporting or community event on that local government property.

12.12 Conditions applying to certain licence

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

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

12.13 Other conditions

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

12.14 Conditions of every trading licence

Every trading licence is taken to be subject to the conditions set out in Schedule 1.

12.15 Conditions of every market licence

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

12.16 Conditions of every entertainment licence

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

12.17 Conditions of every food sales licence

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

12.18 Contravention of conditions

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

12.19 Duration of licence

- (1) A licence has effect for the period specified in the licence document unless—
- (a) it is suspended under clause 12.23; or
 - (b) it is cancelled under clause 12.26; or
 - (c) it is surrendered under clause 12.27.
- (2) The period specified in the licence document must not exceed one year from the day on which the licence is granted or renewed.

12.20 Application for renewal of licence

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

12.21 Restrictions on renewal of licence

The local government must not renew a licence if—

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

12.22 Renewal of licence

If the local government renews a licence the local government may—

- (a) renew it subject to any existing conditions; or
- (b) impose any new conditions; or
- (c) change or remove any existing condition (other than the conditions referred to in clauses 12.12, 12.14, 12.15, 12.16 and 12.17).

12.23 Suspension of licence

(1) The local government may, subject to clause 12.24, by written notice given to the licensee, suspend a licence if there are reasonable grounds for believing that—

- (a) the licensee has contravened a term or condition of a licence; or
- (b) the licensee has contravened a provision of this local law; or
- (c) the continued provision of the activity constitutes or will constitute an unacceptable risk to the safety of the public.

(2) The suspension notice must—

- (a) state the day, or the day and time, on or at which the suspension takes effect;
- (b) state the reasons for the local government's decision to suspend the licence;
- (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 local government's decision to suspend the licence.

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

- (a) the suspension is revoked under clause 12.25;
- (b) the licence is cancelled under clause 12.26 or expired;
- (c) the licence is surrendered under clause 12.27.

12.24 Proposed suspension

(1) If the local government proposes to suspend a licence for the reason mentioned in clause 12.23 (1)(a) or (b), the local government must give written notice to the licensee of the proposed suspension.

(2) The notice must—

- (a) state that the local government 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 local government 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 local government must have regard to any representations made by the licensee within the period referred to in subclause (2)(c).

12.25 Revocation of suspension

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

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

12.26 Cancellation of licence

Grounds for the cancellation of the licence exists if—

- (a) the licence was obtained improperly; or
- (b) the local government can no longer be satisfied as to a matter referred to in clause 12.10 or 12.11 that was relevant to the decision to grant the licence; or
- (c) the licensee has persistently or frequently contravened a term or condition of the licence or a provision of this local law, whether or not the licence is or has been suspended on the grounds of a contravention; or
- (d) there are reasonable grounds for believing that the continued provision of the commercial activity constitutes or would constitute an unacceptable risk to the safety of the public whether or not the licence has been suspended on the grounds of that risk.

12.27 Surrender of licence

A licensee may at any time, by notice in writing to the local government, surrender the licence.

12.28 Licence not transferable

A licence is not transferable.

12.29 Amendment of licence

(1) In this clause “**amend**” includes—

- (a) to impose any new conditions; and
- (b) to change or remove any existing condition (other than a condition referred to in clauses 12.12, 12.14, 12.15, 12.16 or 12.17).

(2) The local government 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 local government’s initiative.

12.30 Licence document

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

12.31 Production of licence document for amendment

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

12.32 Return of licence document if licence no longer in effect

If a licence—

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

the person who has the licence must, as soon as practicable after the expiry, suspension, cancellation or surrender, return the licence document to the local government.

12.33 Advertising

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

PART 13—OFFENCES AND PENALTIES**13.1 Offences**

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

(2) An offence against a clause specified in Schedule 5 is a prescribed offence for the purposes of section 9.16 (1) of the Act.

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

13.2 Infringement and infringement withdrawal notices

For the purpose of this local law—

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

13.3 Offence description and modified penalty

The amount appearing in the final column of Schedule 5 directly opposite an offence described in that Schedule is the modified penalty for that offence.

13.4 Prosecution for offences

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

13.5 Offence to fail to comply with notice

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

13.6 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 13.5, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

PART 14—REPEAL AND TRANSITIONAL PROVISIONS**14.1 Repeal**

The following local laws are repealed—

- (a) the *Shire of East Pilbara Local Government Property Local Law* as published in the *Government Gazette* on 9 August 2000; and
- (b) the *Shire of East Pilbara Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* as published in the *Government Gazette* on 9 August 2000.

14.2 Application for licence or renewal of licence

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

14.3 Licences

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

Schedule 1**CONDITIONS ON EVERY TRADING LICENCE**

[clause 12.14]

(1) The licensee must—

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

(2) The licensee must not—

- (a) engage in or permit any trading in any goods, wares, merchandise or services other than those specified in the licence;
- (b) cause, permit or suffer any nuisance to exist, arise or continue on from the location to which the licence applies;
- (c) cause, permit or store any goods, wares, merchandise on any thoroughfare or local government property, other than on the location to which the licence applies;
- (d) obstruct the free passage of pedestrians on any footpath or pedestrian access way;
- (e) use or display or permit to be used or displayed any advertisement, placard, poster, sign or sign board on or about the location specified in the licence other than price tickets or labels on the permitted place not exceeding a total of .25 metres squared, of the licensed area;
- (f) erect and maintain signs so as to obscure any other signage on or adjacent to the licensed area;
- (g) cry out, shout about or permit any other person to cry out or shout about any goods, wares, merchandise or services in any thoroughfare or local government property;
- (h) use or permit to be used, any loud hailer, microphone, amplifier or other apparatus for making or transmitting sound, on or from the permitted place specified in the licence, unless approved by the local government;
- (i) use or permit to be used, any record, tape, radio, bell, musical instrument or other instrument or device capable of being heard beyond the boundaries of the permitted place specified in the licence, unless approved by the local government;
- (j) use or permit to be used, any flashing or intermittent lighting apparatus or device on or from the permitted place specified in the licence; or
- (k) use or permit to be used, any apparatus or device including flap or shelf where the dimensions of the stall area are increased beyond that specified in the licence.

Schedule 2
CONDITIONS ON EVERY MARKET LICENCE

[clause 12.15]

- (1) Prior to commencing operations of the market, the licensee must—
- (a) obtain approval from the local government and the Western Australian Police Service for the closure of public thoroughfares to vehicular traffic, where the market is to be held and during the hours of operation of the market;
 - (b) lodge a copy of the approved plans of the market with the Fire and Rescue Service of WA;
 - (c) ensure adequate refuse collection arrangements have been made to the satisfaction of the local government;
 - (d) where appropriate, have the necessary local government approval in accordance with the *Health (Public Building) Regulations 1992*, including a maximum occupation certificate and electrical compliance certificate; and
 - (e) obtain approval from the local government in relation to entertainment aspects of the market.
- (2) During the operation of the market, including setting up and dismantling times, the licensee must—
- (a) maintain pedestrian access through and beyond the market area;
 - (b) maintain access to adjacent building entries;
 - (c) retain access to areas the subject of approved food sales licences;
 - (d) maintain adequate access for emergency vehicles through the thoroughfares of the licensed area;
 - (e) stabilise all structures and furniture provided and used in the operation of the market at all times and removal of such structures and furniture when not in use;
 - (f) maintain noise levels from any associated music announcements, and the like, in accordance with any licence condition, so as not to cause a nuisance;
 - (g) maintain the area of the market clean and free from rubbish; and
 - (h) provide separate sanitary facilities for food stall staff.
- (3) At the conclusion of each market, the licensee must ensure that all structures and equipment used in the operation of the market are removed and the area returned to the condition it was before the commencement of the market and to the satisfaction of the local government.

Schedule 3
CONDITIONS ON EVERY ENTERTAINMENT LICENCE

[clause 12.16]

- (1) The licensee must not permit the entertainment to extend beyond the specified portion of the thoroughfare or local government property approved in the licence.
- (2) The licensee must ensure that the entertainment—
- (a) does not prevent or impede pedestrian flow or access to and along footpaths, entries or exits to shops and other buildings;
 - (b) does not prevent or impede vehicular flow or access to and along any thoroughfare, entry or exit to any service delivery area;
 - (c) does not cause a nuisance to any other entertainment or activity approved by the local government;
 - (d) unless otherwise approved, does not include any person under the age of 14 years—
 - (i) during school hours, on school days; or
 - (ii) between 7pm and 6am;
 - (e) does not include, involve or permit—
 - (i) anything that is offensive or obscene;
 - (ii) any motorised machinery that omits a loud noise in its operation or is not suitable in the location;
 - (iii) any other activity, object or matter whatsoever that endangers the safety of the public or the performance; or
 - (iv) cruelty to any animal;
 - (f) does not include any amplification unless specifically approved and endorsed on the licence and in any event will not be permitted in any location between Monday to Saturday, 10pm to 7am and Sundays between 10pm and 9am; and
 - (g) complies at all times with the *Environmental Protection (Noise) Regulations 1997*.
- (3) The licensee must—
- (a) use the allocated space and location to perform during the days and times specified in the licence or vacate the location;

- (b) produce the licence when requested to do so by an authorised person;
 - (c) ensure a valid licence number is visibly displayed during each performance;
 - (d) comply at all times with the direction of an authorised person; and
 - (e) must not perform at the same site for longer than 2 hours and must not return to the same site unless 2 hours after the previous performance of that day, unless otherwise approved.
- (4) A licensee must not—
- (a) reserve or attempt to reserve a location or leave equipment at a location for performances unless immediately before, during and immediately after a performance;
 - (b) sell any goods or services without written approval or licence issued for that purpose; or
 - (c) perform in any one location for more than 30 minutes unless specifically authorised by endorsement on the licence, or the performance is by a pavement or visual artist.
- (5) A licensee who is performing pavement or visual art—
- (a) must not use spray paint, crayons, textas or indelible materials; and
 - (b) must return the location, including the pavement surface, to its former condition.

Schedule 4

CONDITIONS ON EVERY FOOD SALES LICENCE

[clause 12.17]

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

Schedule 5

MODIFIED PENALTIES

[clause 13.1(2)]

Clause	Description	Modified Penalty \$
2.4	Failure to comply with determination	100
3.2	Failure to obtain licence to camp outside a facility	100
3.3(1)	Failure to obtain licence for liquor	200
4.2	Behaviour detrimental to property	300
4.3	Taking or injuring any fauna	200
4.4	Under influence of liquor or prohibited drug	200
4.6(2)	Failure to comply with sign on local government property	100
5.3	Unauthorised entry to fenced or closed local government property	200
5.4	Gender not specified using entry of toilet block or change room	100
5.5	Unauthorised entry to function on local government property	200
6.1(a)	Plant creating a sightline hazard	100
6.1(b)	Damaging lawn or garden	200
6.1(c)	Remove or damage a thoroughfare tree	300
6.1(d)	Placing hazardous substance on footpath	100

Clause	Description	Modified Penalty \$
6.1(e)	Damaging or interfering with signpost or structure on thoroughfare	300
6.1(f)	Riding a bicycle, skateboard, roller-blades or similar device, playing or participating in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare.	100
6.2(1)(a)	Digging a trench through a kerb or footpath without a licence	100
6.2(1)(b)	Throwing or placing anything on a verge without a licence	200
6.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a licence	100
6.2(1)(d)	Causing obstruction to water channel on thoroughfare without a licence	200
6.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a licence	200
6.2(1)(f)	Damage a thoroughfare without a licence	300
6.2(1)(g)	Felling or damaging any thoroughfare tree without a licence	200
6.2(1)(h)	Felling tree onto thoroughfare without a licence	200
6.2(1)(i)	Installing pipes or stone on thoroughfare without a licence	100
6.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a licence	300
6.2(1)(k)	Creating a nuisance on a thoroughfare without a licence	200
6.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a licence	200
6.2(1)(m)	Interfering with anything on a thoroughfare without a licence	200
6.4	Failure to obtain licence for temporary crossing	200
6.5	Failure to comply with notice to remove crossing and reinstate kerb	300
6.7	Installation of verge treatment other than permissible verge treatment	200
6.8	Failure to maintain permissible verge treatment or placement of obstruction on verge	100
6.9	Failure to comply with notice to rectify default	300
6.14	Failure to comply with sign on public place	200
6.16	Driving or taking a vehicle on a closed thoroughfare	300
7.1(1)	Animal or vehicle obstructing a public place or local government property	200
7.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	200
7.2(2)(b)	Animal on public place with infectious disease	300
7.2(2)(c)	Training or racing animal on thoroughfare in built-up area	200
7.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	100
7.4	Person leaving shopping trolley in public place other than trolley bay	100
7.5(2)	Failure to remove shopping trolley upon being advised of location	200
8.1	Trading in a thoroughfare or local government property without a licence	100
9.1	Set up or conduct market without a licence	100
10.1	Set up or entertain without a licence	100
11.1	Set up or conduct food sales without a licence	100
12.18	Failing to comply with conditions of a licence	100

Dated: 3 February 2012.

The Common Seal of the Shire of East Pilbara was affixed by the authority of a resolution of the local government in the presence of—

LYNNE CRAIGIE, Shire President.
ALLEN COOPER, Chief Executive Officer.

**HEALTH ACT 1911
LOCAL GOVERNMENT ACT 1995**

SHIRE OF EAST PILBARA

HEALTH LOCAL LAW 2011

CONTENTS

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Commencement
- 1.3 Purpose and effect
- 1.4 Application
- 1.5 Interpretation
- 1.6 Repeal

PART 2—SANITATION

Division 1—Sanitary conveniences

- 2.1 Interpretation
- 2.2 Dwelling house
- 2.3 Premises other than a dwelling house
- 2.4 Outdoor event
- 2.5 Toilets
- 2.6 Temporary works
- 2.7 Maintenance of sanitary conveniences and fittings
- 2.8 Ventilation of toilets
- 2.9 Public sanitary conveniences
- 2.10 Lighting
- 2.11 Installation

Division 2—Bathroom, laundries and kitchens

- 2.12 Bathrooms
- 2.13 Laundries
- 2.14 Washing or keeping of clothes in kitchens
- 2.15 Kitchens

PART 3—HOUSING AND GENERAL

Division 1—Maintenance of houses

- 3.1 Dwelling house maintenance
- 3.2 Maintenance of guttering and downpipes and disposal of rainwater

Division 2—Ventilation of dwelling houses

- 3.3 Exemption for a short term hostel or recreational campsite
- 3.4 Overcrowding
- 3.5 Calculating sufficient space
- 3.6 Ventilation

Division 3—Water supply

- 3.7 Water supply
- 3.8 Rain water tanks
- 3.9 Wells
- 3.10 Pollution

Division 4—Second-hand furniture, bedding and clothing

- 3.11 Prohibition of sale
- 3.12 Prohibition of possession

Division 5—Morgues

- 3.13 Requirement for licence
- 3.14 Application for licence
- 3.15 Decision on application for licence
- 3.16 Inspection of morgues
- 3.17 Cancellation of a licence

PART 4—WASTE FOOD AND REFUSE*Division 1—Liquid refuse*

- 4.1 Interpretation
- 4.2 Deposit of liquid refuse
- 4.3 Disposal of liquid waste
- 4.4 Approval for septic tank pumpouts and removal of liquid waste
- 4.5 Application for approval
- 4.6 Provision of quarterly reports

Division 2—Transport of butchers' waste

- 4.7 Interpretation
- 4.8 Restriction of vehicles
- 4.9 Transport of butchers' waste

PART 5—NUISANCES

- 5.1 Interpretation
- 5.2 Footpaths etc. to be kept clean
- 5.3 Escape of smoke etc.
- 5.4 Public vehicles to be kept clean
- 5.5 Prohibition against spitting
- 5.6 Transportation, use and storage of offal, blood, or other offensive matter
- 5.7 Use or storage of fertiliser
- 5.8 Storage and dispatch of artificial fertiliser
- 5.9 Storage of fertiliser in a dwelling house

PART 6—KEEPING ANIMALS*Division 1—General provisions*

- 6.1 Interpretation
- 6.2 Cleanliness
- 6.3 Vehicles used for transporting of animals and birds

Division 2—Limit on number of animals kept

- 6.4 Limit on numbers
- 6.5 Animal enclosures
- 6.6 Cats
- 6.7 Slaughter of animals
- 6.8 Disposal of dead animals

Division 3—Keeping of large animals

- 6.9 Interpretation
- 6.10 Conditions for keeping of an animal
- 6.11 Stables
- 6.12 Manure receptacle

Division 4—Keeping of poultry and pigeons and miscellaneous birds

- 6.13 Interpretation
- 6.14 Limitation on numbers of poultry and pigeons
- 6.15 Conditions on keeping poultry
- 6.16 Roosters, geese, turkeys, peafowl's and gamebirds
- 6.17 Pigeons or doves
- 6.18 Removal of non-conforming structure or enclosure
- 6.19 Restrictions on pigeon nesting or perching
- 6.20 Restrictions on feeding wild birds

Division 5—Feedlots

- 6.21 Interpretation
- 6.22 Premises to be approved
- 6.23 Site conditions

Division 6—Piggeries

- 6.24 Interpretation
- 6.25 Premises to be approved
- 6.26 Site conditions
- 6.27 Prevention of nuisances

PART 7—PEST CONTROL*Division 1—Flies*

- 7.1 Interpretation
- 7.2 Fly breeding matter
- 7.3 Measures to be taken
- 7.4 Environmental Health Officer may give notice directing measures to be taken
- 7.5 Local government may execute work and recover costs

Division 2—Mosquitoes

- 7.6 Interpretation
- 7.7 Premises to be kept free of mosquito breeding matter
- 7.8 Measures to be taken by an owner or occupier
- 7.9 Measures to be taken by occupier
- 7.10 Removal of undergrowth or vegetation
- 7.11 Filling in excavations etc.
- 7.12 Drains, channels and septic tanks
- 7.13 Drainage of land

Division 3—Rodents

- 7.14 Interpretation
- 7.15 Measures to be taken to eradicate rodents
- 7.16 Food and wastes to be kept in rodent proof receptacles
- 7.17 Restrictions on the keeping of rodents
- 7.18 Food premises etc. to be cleaned after use
- 7.19 Restrictions on materials affording harbourage for rodents

Division 4—Cockroaches

- 7.20 Interpretation
- 7.21 Measures to be taken to eradicate cockroaches

Division 5—Argentine ants

- 7.22 Interpretation
- 7.23 Measures to be taken to keep premises free from Argentine Ants

Division 6—European wasps

- 7.24 Interpretation
- 7.25 Measures to be taken to keep premises free from European Wasp nests

Division 7—Bee keeping

- 7.26 Interpretation
- 7.27 Restrictions on keeping of bees in hives

Division 8—Arthropod vectors of disease

- 7.28 Interpretation
- 7.29 Responsibility of the owner or occupier

PART 8—INFECTIOUS DISEASES*Division 1—General provisions*

- 8.1 Purpose of exercise of powers
- 8.2 Environmental Health Officer may visit and inspect
- 8.3 Requirements on owner or occupier to clean, disinfect and/or disinfest
- 8.4 Environmental Health Officer may disinfect or disinfest premises
- 8.5 Insanitary dwelling houses, premises and things
- 8.6 Medical Officer may authorise disinfecting
- 8.7 Persons in contact with an infectious disease sufferer
- 8.8 Declaration of infected dwelling house or premises
- 8.9 Destruction of infected animals
- 8.10 Disposal of a body
- 8.11 Local government may carry out work and recover costs

Division 2—Disposal of used condoms and needles

- 8.12 Disposal of used condoms
- 8.13 Disposal of used needles

PART 9—LODGING HOUSES*Division 1—Registration*

- 9.1 Interpretation
- 9.2 Lodging house not to be kept unless registered
- 9.3 Application for registration
- 9.4 Approval of application
- 9.5 Renewal of registration
- 9.6 Notification on sale or transfer
- 9.7 Revocation of registration

Division 2—Construction and use requirements

- 9.8 General construction requirements
- 9.9 Kitchen
- 9.10 Cooking facilities
- 9.11 Dining room
- 9.12 Lounge room
- 9.13 Sanitary conveniences
- 9.14 Laundry
- 9.15 Fire prevention and control
- 9.16 Obstruction of passages and stairways
- 9.17 Fitting of locks
- 9.18 Restriction on use of rooms for sleeping
- 9.19 Sleeping accommodation, short term hostels and recreational campsites
- 9.20 Furnishing etc. of sleeping apartments
- 9.21 Ventilation
- 9.22 Numbers to be placed on doors

Division 3—Management and care

- 9.23 Keeper or manager to reside in the lodging house
- 9.24 Register of lodgers
- 9.25 Keeper report
- 9.26 Certificate in respect of sleeping accommodation
- 9.27 Duplicate keys and inspection
- 9.28 Room occupancy
- 9.29 Maintenance of a room by a lodger or resident
- 9.30 Cleaning and maintenance requirements
- 9.31 Responsibilities of lodgers and residents
- 9.32 Approval for storage of food

PART 10—OFFENSIVE TRADES*Division 1—General*

- 10.1 Interpretation

Division 2—Consent and registration

- 10.2 Interpretation
- 10.3 Consent to establish an offensive trade
- 10.4 Notice of intention to apply
- 10.5 Decision on application for consent
- 10.6 Registration of premises
- 10.7 Decision on application for registration
- 10.8 Change of occupier
- 10.9 Alterations to premises

Division 3—General duties of an occupier

- 10.10 Interpretation
- 10.11 Cleanliness
- 10.12 Rats and other vectors of disease
- 10.13 Sanitary conveniences and hand wash basins
- 10.14 Painting of walls etc.
- 10.15 Effluvia, vapours, gases or dust
- 10.16 Offensive material
- 10.17 Storage of materials
- 10.18 Specified offensive trades
- 10.19 Directions by an Environmental Health Officer
- 10.20 Other duties of occupier

Division 4—Fat rendering establishments

- 10.21 Interpretation
- 10.22 Exhaust ventilation
- 10.23 Covering of apparatus
- 10.24 Rendering of walls

Division 5—Fish premises

- 10.25 Interpretation
- 10.26 Fish preparation room
- 10.27 Disposal of waste
- 10.28 Fish containers

Division 6—Flock factories

- 10.29 Interpretation
- 10.30 New and used material
- 10.31 Collection and removal of dust
- 10.32 Unclean rags
- 10.33 Bedding and upholstery

Division 7—Laundries, dry cleaning establishments and dye works

- 10.34 Interpretation
- 10.35 Receiving depot
- 10.36 Reception room
- 10.37 Walls and floors
- 10.38 Laundry floor
- 10.39 Escape of dust
- 10.40 Precautions against combustion
- 10.41 Trolleys
- 10.42 Sleeping on premises

PART 11—OFFENCES AND PENALTIES

- 11.1 Offences
- 11.2 Penalties
- 11.3 Other enforcement actions

SCHEDULE 1—REQUIRED BUFFER DISTANCES FOR FEEDLOTS**SCHEDULE 2—REQUIRED BUFFER DISTANCES FOR PIGGERIES****SCHEDULE 3—REQUIRED BUFFER DISTANCES FOR INTENSIVE PIGGERIES****SCHEDULE 4—APPLICATION FOR REGISTRATION OF A LODGING HOUSE****SCHEDULE 5—CERTIFICATE OF REGISTRATION OF A LODGING HOUSE****SCHEDULE 6—NOTICE OF CHANGE OF OWNER OF A LODGING HOUSE****SCHEDULE 7—REQUIRED COOKING FACILITIES****SCHEDULE 8—REGISTER OF LODGERS****SCHEDULE 9—LIST OF LODGERS****SCHEDULE 10—CERTIFICATE OF SLEEPING ACCOMMODATION FOR A LODGING HOUSE****SCHEDULE 11—APPLICATION FOR LICENCE OF A MORGUE****SCHEDULE 12—CERTIFICATE OF LICENCE OF A MORGUE****SCHEDULE 13—APPLICATION FOR CONSENT TO ESTABLISH AN OFFENSIVE TRADE****SCHEDULE 14—APPLICATION FOR REGISTRATION OF PREMISES FOR OFFENSIVE TRADE****SCHEDULE 15—CERTIFICATE OF REGISTRATION OF PREMISES FOR OFFENSIVE TRADE**

**HEALTH ACT 1911
LOCAL GOVERNMENT ACT 1995**

SHIRE OF EAST PILBARA

HEALTH LOCAL LAW 2011

Under the powers conferred by section 342 of the *Health Act 1911* and in accordance with subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of East Pilbara resolved on 3 February 2012 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law is the *Shire of East Pilbara Health Local Law 2011*.

1.2 Commencement

This local law commences on the day that it is published in the *Government Gazette*.

1.3 Purpose and effect

(1) The purpose of this local law is to provide for proper sanitary and health requirements for people living in the district of the local government, and to maintain appropriate public health standards.

(2) The effect of this local law is to establish the requirements for proper sanitary and health requirements, and the maintenance of public health standards, for people living and operating a business within the district.

1.4 Application

This local law applies throughout the district.

1.5 Interpretation

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

adequate supply of water means a flow of water of not less than .076 litres per second;

approved means approved by the local government;

AS or ***AS/NZS*** means an Australian Standard or Australian/New Zealand Standard published by Standards Australia;

AS/NZS ISO 717.1:2004 means the standard published by Standards Australia as AS/NZS ISO 717.1:2004 and called “Acoustics—Rating of sound insulation in buildings and of building elements—Airborne sound insulation”, as amended from time to time;

AS 1530.2:1993 means the standard published by Standards Australia as AS 1530.2:1993 and called “Methods for fire tests on building materials, components and structures—Tests for flammability of materials”, as amended from time to time;

AS/NZS 1530.3:1999 means the standard published by Standards Australia as AS/NZS 1530.3:1999 and called “Methods for fire tests on building materials, components and structures—Simultaneous determination of ignitability, flame propagation, heat release and smoke release”, as amended from time to time;

AS 1668.2-2002 means the standard published by Standards Australia as AS 1668.2-2002 and called “The use of ventilation and air conditioners in buildings—Ventilation design for indoor air contaminant control”, as amended from time to time;

AS/NZS 3350.2.9:1999 means the standard published by Standards Australia as AS/NZS 3350.2.9:1999 and called “Safety of household and similar electrical appliances—Particular requirements—Grills, toasters and similar portable cooking appliances”, as amended from time to time;

AS/NZS 3666.2:2011 means the standard published by Standards Australia as AS/NZS 3666.2:2011 and called “Air handling and water systems of buildings—Microbial control—Operation and maintenance”, as amended from time to time;

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

CEO means the Chief Executive Officer of the local government;

Council means the Council of the local government;

district means—

- (a) the district of the local government under the Local Government Act;
- (b) any area placed under the jurisdiction of the local government under section 22 of the Health Act; and
- (c) any river, harbour or other water deemed to be within the district of the local government under section 25 of the Health Act;

District Planning Scheme means the local planning scheme, or each of the local planning schemes, made by the local government and in force from time to time under the *Planning and Development Act 2005*;

dwelling house means a place of residence containing at least one sleeping room and includes a room or outbuilding separate from, but ancillary to, the building in which the sleeping room is located;

employee means an employee of the local government;

Environmental Health Officer means an Environmental Health Officer appointed by the local government under the Health Act and includes an Acting or Assistant Environmental Health Officer;

Food Standards Code means the Australia New Zealand Food Standards Code as defined in the *Food Standards Australia New Zealand Act 1991*;

habitable room means a room used for normal domestic activities; and

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

Health Act means the *Health Act 1911*;

hot water means water at a temperature of at least 65 degrees Celsius;

local government means the Shire of East Pilbara;

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

Medical Officer means a medical officer appointed by the local government under section 27 of the Health Act;

morgue means a place for the temporary reception and keeping of the bodies of the dead awaiting burial or cremation;

nuisance has the meaning given to it in section 182 of the Health Act;

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

sanitary convenience has the meaning given to it in section 3(1) of the Health Act;

sewage has the meaning given to it in section 3(1) of the Health Act;

sewer has the meaning given to it in section 3(1) of the Health Act;

street has the meaning given to it in section 3(1) of the Health Act;

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

townsite means the townsites within the district which are—

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

water means drinking water within the meaning of the Australian Drinking Water Guidelines as published by the National Health and Medical Research Council in 2004 and as amended from time to time; and

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

(2) Where in this local law, a duty or liability is imposed on an owner or occupier, or on an owner and occupier, the duty or liability is deemed to be imposed jointly and severally on each of the owner or occupier.

(3) Where under this local law an act is required to be done or forbidden to be done in relation to any premises, the owner or occupier of those premises has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.

1.6 Repeal

The *Shire of East Pilbara Health Local Laws 1999*, published in the *Government Gazette* on 1 February 2000 is repealed.

PART 2—SANITATION*Division 1—Sanitary conveniences***2.1 Interpretation**

In this Part, unless the contrary otherwise requires—

event includes a fair, festival or function;

organiser means a person—

- (a) to whom approval has been granted by the local government to conduct the event; or
- (b) responsible for the conduct of the event;

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

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

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

2.2 Dwelling house

(1) A person must not use or occupy, or permit to be used or occupied, a dwelling house unless it has at least one toilet.

(2) A room in which a toilet is located shall have adequate lighting.

2.3 Premises other than a dwelling house

(1) The owner of premises, other than a dwelling house, must not use or occupy, or permit to be used or occupied, premises other than a dwelling house unless—

- (a) the premises have sanitary conveniences in accordance with the Building Code and this Part;
- (b) the toilets required by this local law are situated within a reasonable distance and are easily accessible to the persons for whom they are provided; and
- (c) the premises have hand wash basins—
 - (i) in accordance with the Building Code;
 - (ii) for the use of persons employed or engaged on the premises;
 - (iii) provided with an adequate supply of water supplied by taps located over each hand wash basin;
 - (iv) separate from any trough, sink or basin used in connection with any process carried out on the premises; and
 - (v) situated within a reasonable distance of the sanitary conveniences and easily accessible to the person for whom they are provided.

(2) The occupier of premises, other than a dwelling house, must ensure that—

- (a) clean toilet paper is available at all times in each cubicle;
- (b) a sanitary napkin disposal facility is provided in each toilet set aside for the use of females; and
- (c) each hand wash basin is provided with—
 - (i) an adequate supply of soap or other hand cleaning substances; and
 - (ii) hand drying facilities, situated adjacent to and visible from the hand wash basin.

2.4 Outdoor event

(1) The organiser of an outdoor event must provide sanitary conveniences in accordance with the recommendations contained within the Department of Health Guidelines for public buildings and mass gatherings.

(2) Where, under subclause (1) the number of sanitary conveniences to be provided is not a whole number, that number shall be rounded up to the next higher whole number;

(3) The Environmental Health Officer may vary the requirements of subclause (1) upon the written request of the organiser.

2.5 Toilets

(1) Each toilet on premises must be maintained in accordance with the following requirements—

- (a) the door to a toilet, other than an internal toilet, must be properly screened to a continuous height of 1.8 metres from the floors;
- (b) a toilet or its entrance which is visible from overlooking windows must be properly screened;
- (c) the floor of any internal toilet must be—
 - (i) of concrete or of other approved impervious material of an approved thickness; and
 - (ii) graded to a floor waste outlet and proper discharge pipe with flap valve fitted and, where necessary, protected by an approved sump; and
- (d) the floor of any external toilet must be—
 - (i) of concrete or of other approved impervious material of an approved thickness; and
 - (ii) graded to the door or alternatively an approved outlet.

(2) Each toilet on premises other than a dwelling house must be maintained in accordance with the following additional requirements—

- (a) a toilet for the exclusive use of males must not adjoin any toilet for the exclusive use of females unless the toilets are separated by a wall extending from floor to ceiling and have a Sound Transmission Class of not less than 50 as required by AS/NZS ISO 717.1:2004; and;
- (b) where more than one toilet is provided on the premises, the entrance to each toilet must bear a suitable sign indicating for which sex its use is intended.

2.6 Temporary works

A person who undertakes temporary work at any place must—

- (a) provide and maintain for the use of persons engaged, whether as employees or as independent contractors or otherwise, temporary sanitary conveniences in accordance with the *Health (Temporary Sanitary Conveniences) Regulations 1997*; and
- (b) remove the temporary sanitary conveniences at the conclusion of the work or at an earlier time in accordance with a direction from an Environmental Health Officer and ensure the site is left clean.

2.7 Maintenance of sanitary conveniences and fittings

(1) The occupier of premises must—

- (a) keep clean, in good condition and repair; and
- (b) whenever required by an Environmental Health Officer, effectively disinfect and clean,

all sanitary conveniences including sanitary fittings in or on the premises.

(2) The owner of premises must—

- (a) keep or cause to be kept in good repair; and
- (b) maintain an adequate supply of water to,

all sanitary conveniences including sanitary fittings in or on the premises.

2.8 Ventilation of toilets

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

(2) A mechanical ventilation system provided under subclause (1) must be maintained in good working order and condition.

2.9 Public sanitary conveniences

(1) A person must not—

- (a) foul;
- (b) damage or vandalise; or
- (c) write on or otherwise deface,

a public sanitary convenience or sanitary fixtures or fittings or the premises in or on which the sanitary convenience is located.

(2) A person must not live or sleep in or on the premises in which a public sanitary convenience is located or use it for a purpose other than that for which it was intended.

2.10 Lighting

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

2.11 Installation

(1) Each sanitary convenience must be installed in accordance with the requirements of the *Country Areas Water Supply Act 1947* and the *Country Towns Sewerage Act 1948* and must have an adequate supply of water.

(2) Each temporary sanitary convenience must be installed in accordance with the requirements of the *Health (Temporary Sanitary Conveniences) Regulations 1997*.

(3) Each toilet and plumbing fixture must be connected into the public sewer, unless otherwise approved by the local government.

Division 2—Bathroom, laundries and kitchens

2.12 Bathrooms

(1) A person must not use or occupy, or permit to be used or occupied, a dwelling house without a bathroom that—

- (a) is adequately lined with an impervious material and has a ceiling that complies with the requirements of the Building Code;
- (b) complies with the *Health Act (Laundries and Bathrooms) Regulations 1971*; and
- (c) is equipped with—
 - (i) a hand wash basin; and
 - (ii) either a shower in a shower recess or a bath.

(2) Each bath, shower, hand wash basin and similar fitting shall be provided with an adequate supply of hot and cold water.

(3) The floor of the bathroom must be properly surfaced, with an even fall to a floor waste, suitably trapped and discharging to—

- (a) the sewer of a licensed water service operator; or
- (b) a proper discharge pipe with flap valve fitted and, where necessary, protected by an approved sump.

2.13 Laundries

(1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a laundry that—

- (a) is properly enclosed and roofed;
- (b) is adequately lined with an impervious material;
- (c) has a floor of concrete or other approved impervious material of an approved thickness;
- (d) is properly surfaced, with an even fall to a floor waste, suitably trapped and discharging to—
 - (i) the sewer of a licensed water service operator; or
 - (ii) a proper discharge pipe with flap valve fitted and, where necessary, protected by an approved sump;
- (e) is not a room in which food is stored, prepared, served or consumed; and
- (f) is provided with adequate ventilation.

(2) The laundry referred to in subclause (1) must conform to the provisions of the Building Code and the *Health Act (Laundries and Bathrooms) Regulations 1971*.

2.14 Washing or keeping of clothes in kitchens

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

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

2.15 Kitchens

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

(2) A person must not use or occupy, or permit to be used or occupied, a dwelling house without a kitchen equipped with cooking facilities and a sink supplied with hot and cold water, which are adequate in the opinion of an Environmental Health Officer.

(3) The occupier of a dwelling house must ensure that the cooking facilities and sink are kept clean, in good order and repair and fit for use.

(4) A cooking facility must—

- (a) be installed in accordance with AS/NZS 3350.2.9:1999 and the manufacturers specifications; and
- (b) not be installed or used in any room other than a kitchen.

(5) Where mechanical extraction is provided in a kitchen, the exhaust air must be—

- (a) carried to the outside air as directly as practicable; and
- (b) ducted throughout.

(6) Mechanical ventilation must be maintained in good working order and condition.

PART 3—HOUSING AND GENERAL

Division 1—Maintenance of houses

3.1 Dwelling house maintenance

The owner or occupier of a dwelling house must maintain the dwelling house and any appurtenant buildings in sound condition and fit for use and, in particular, must—

- (a) maintain all roofs, guttering and downpipes in sound weatherproof condition;
- (b) maintain any footings, foundations and walls, either external or internal, in a sound condition;
- (c) replace any missing, broken, decayed or termite-eaten timber or other deteriorated material in any veranda, roof, walls, steps, handrails, floors or their supports with material of sound quality;
- (d) comply with the directions of an Environmental Health Officer to treat the premises for the purpose of destroying any termites;
- (e) maintain any brick, stone, mortar or cement work in a sound condition;
- (f) maintain, repair or replace any flashings or ant caps which are missing or defective;
- (g) maintain all ventilators in good order and repair;
- (h) maintain all floors even and level in surface and free from cracks and gaps;
- (i) maintain all ceilings, internal wall finishes, skirtings, architraves and other fixtures and fittings complete and with smooth unbroken surfaces;

- (j) maintain all doors and windows in good working order and weatherproof condition;
- (k) retain all natural lighting free from any obstruction which would reduce the natural lighting, below the ratio of 10 per cent of the floor area;
- (l) maintain all pipes, fittings and fixtures connected with water supply, drainage or sewerage so that they comply in all respects with the provisions of the *Country Areas Water Supply Act 1947* and *Country Towns Sewerage Act 1948* and any other legal requirements to which they are subject; and
- (m) maintain all electric wiring, gas services and fittings to comply in all respects with the requirements of Energy Safety.

3.2 Maintenance of guttering and downpipes and disposal of rainwater

The owner or occupier of a dwelling house must—

- (a) maintain all guttering, downpipes and drains on the premises in a good state of repair, clean and free from obstructions; and
- (b) not permit any rainwater from the premises to discharge onto or over a footpath, street or other property, and ensure stormwater is disposed of directly into an appropriate water tank, drain or soak-well or directly onto a paved surface provided the surface has an adequate fall away from any building structure.

Division 2—Ventilation of dwelling houses

3.3 Exemption for a short term hostel or recreational campsite

This Division does not apply to a short term hostel or recreational campsite referred to in Part 9.

3.4 Overcrowding

The owner or occupier of a dwelling house must not permit—

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

3.5 Calculating sufficient space

For the purposes of clause 3.4, in calculating the space required for each person—

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

3.6 Ventilation

- (1) A person must not use or occupy, or permit to be used or occupied, a dwelling house unless the house is properly ventilated.
- (2) For the purposes of subclause (1) a dwelling house is to be deemed to be properly ventilated if it complies with the Building Code, including the provision of—
 - (a) natural ventilation; or
 - (b) a mechanical ventilation or air-conditioning system complying with AS1668.2-2002.
- (3) The owner of a dwelling house provided with a mechanical ventilation or an air-conditioning system must ensure that the system is—
 - (a) maintained in good working condition and in accordance with AS/NZS 3666:2002; and
 - (b) in use at all times the dwelling house is occupied, if it is a dwelling house without approved natural ventilation.
- (4) If, in the opinion of an Environmental Health Officer, a dwelling house is not properly ventilated, the Environmental Health Officer may by notice require the owner of the dwelling house to—
 - (a) provide a different, or additional method of ventilation; or
 - (b) cease using the dwelling house until it is properly ventilated.
- (5) The owner must comply with a notice made under subclause (4).

Division 3—Water supply

3.7 Water supply

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

3.8 Rain water tanks

The owner or occupier of a dwelling house for which part of the water supply is drawn from a rain water tank must—

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

3.9 Wells

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

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

3.10 Pollution

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

Division 4—Second-hand furniture, bedding and clothing

3.11 Prohibition of sale

A person must not offer for sale or sell any second-hand furniture, bedding or clothing which is filthy or infested with vectors of disease.

3.12 Prohibition of possession

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

Division 5—Morgues

3.13 Requirement for licence

A person other than the State, must not own or operate a morgue unless it is licensed by the local government under this Division.

3.14 Application for licence

(1) A person who is required to obtain a licence under this Division must apply for the licence in accordance with subclause (2).

(2) An application for a licence must be—

- (a) made in writing in the form prescribed in Schedule 11; and
- (b) forwarded to the CEO together with—
 - (i) the fee as fixed from time to time by resolution of the local government under section 344C of the Health Act; and
 - (ii) a floor plan and specifications of the morgue which must include the following details—
 - the use of each room;
 - the structural finish of each wall, floor and ceiling;
 - the position and type of each fitting and fixture; and
 - all ventilation inlets and outlets.

(3) Before determining an application for a licence, the local government may require an applicant—

- (a) to provide additional information reasonably related to the application; and
- (b) to give local public notice of the application.

(4) The local government may refuse to consider an application for a licence which is not in accordance with subclause (2) or where the requirements of subclause (3) have not been satisfied.

3.15 Decision on application for licence

(1) The local government 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) A licence is not to be granted by the local government in respect of any premises unless—

- (a) provision has been made for the keeping of bodies of the dead at a temperature not exceeding zero degrees Celsius;

- (b) the walls are constructed of stone or brickwork or other approved material;
- (c) the interior surface of all walls is covered with glazed tiles or is rendered impervious so as to be non-absorbent and washable;
- (d) all floors are constructed of some impervious material, having a fall to an outlet discharging over a trapped gully;
- (e) the premises are adequately ventilated by direct communication with the outside air; and
- (f) the premises comply with the zoning and development provisions of the District Planning Scheme.

(3) If the local government approves an application for a licence, it is to issue to the applicant a Certificate of Licence in the form prescribed in Schedule 12.

(4) If the local government refuses to approve an application for a licence, it is to give written notice of that refusal to the applicant.

(5) The local government may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the licence holder.

3.16 Inspection of morgues

An Environmental Health Officer may conduct an annual inspection of a morgue.

3.17 Cancellation of a licence

(1) Subject to subclause (3), the local government may, at any time, cancel the licence of a morgue for any reason which, in the opinion of the local government, justifies the cancellation.

(2) Without limiting the generality of subclause (1), the local government may cancel a licence on any one or more of the following grounds—

- (a) that the morgue has not, to the satisfaction of the local government, been kept free from vectors of disease or in a clean, wholesome and sanitary condition;
- (b) that the owner or occupier of the morgue has—
 - (i) been convicted of an offence against this local law, or any other written law, in respect of a morgue;
 - (ii) not complied with a requirement of this Part; or
 - (iii) not complied with a condition of the licence;
- (c) that the local government, having regard to a report from the Police Service, is satisfied that the owner or occupier is not a fit and proper person; or
- (d) that, by reason of alterations or additions or neglect to repair and renovate, the condition of the morgue is such as to render it, in the opinion of the local government, unfit to remain licensed.

(3) Before cancelling the licence for a morgue under this clause, the local government must give notice to the owner or occupier requiring him or her, within a time specified in the notice, to show cause why the licence should not be cancelled.

(4) If the local government cancels the licence for a morgue, it must give the owner or occupier notice of the cancellation and the licence is to be revoked as from the date on which the notice is served on the owner or occupier.

PART 4—WASTE FOOD AND REFUSE

Division 1—Liquid refuse

4.1 Interpretation

In this Division, unless the context otherwise requires—

approved carrier means a carrier approved by the local government;

carrier means a provider of services for the removal of liquid waste from septic tanks;

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

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

4.2 Deposit of liquid refuse

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

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

4.3 Disposal of liquid waste

(1) The owner or occupier of premises must—

- (a) provide, by one of the methods prescribed in this clause, for the disposal of all liquid waste produced on the premises; and

- (b) at all times maintain in good working order and condition any apparatus used for the disposal of liquid waste.
- (2) Liquid waste must be disposed of by one of the following methods—
 - (a) discharging it into the sewerage system of a licensed water service operator in a manner approved by the licensed water service operator;
 - (b) discharging it into an apparatus for the treatment of sewage and disposal of effluent and liquid waste approved by the Executive Director of Public Health or the local government; or
 - (c) collection and disposal at an approved liquid waste disposal site in a manner approved by the local government.

4.4 Approval for septic tank pumpouts and removal of liquid waste

A person must not collect, remove or dispose of the contents of a septic tank, the pumpouts from holding tanks or an apparatus for the treatment of sewage and other liquid wastes unless he or she is an approved carrier.

4.5 Application for approval

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

4.6 Provision of quarterly reports

The approved carrier may be required to provide quarterly reports to the local government containing accurate details of—

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

Division 2—Transport of butchers' waste

4.7 Interpretation

In this Division, unless the context otherwise requires, **butchers' waste** includes animal skeletons, rib cages from a boning room and the inedible products of an abattoir.

4.8 Restriction of vehicles

A person must not use, for the transport of butchers' waste—

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

4.9 Transport of butchers' waste

- (1) A person must not transport butchers' waste other than in—
 - (a) a compartment complying with the following specifications—
 - (i) all internal surfaces to be constructed of an approved, smooth, impervious material not less than 910 millimetres high;
 - (ii) all joints to be sealed and made water-tight;
 - (iii) the loading doors, if any, to be water-tight and kept closed at all times except when loading; and
 - (iv) the top to be completely covered by a tarpaulin or other impervious material approved by the local government, carried over, and secured to the outside of the walls at least 300 millimetres from the top so as to keep the load out of sight of the public; or
 - (b) a sealed container fitted with a lid which can be tightly closed.
- (2) A person must not transport any butchers' waste in a vehicle unless the vehicle and its fittings, including the compartment or container referred to in this clause, are—
 - (a) maintained in good order and condition; and
 - (b) thoroughly cleaned at the conclusion of each day's work.

(3) A person must not load, transport, or unload butchers' waste in a manner that is or maybe offensive due to—

- (a) the sight of animal skeletons, bones, offal or waste matter;
- (b) the odour of putrefaction, offal or waste matter; or
- (c) the presence of blood and particles of flesh or fat dropping onto the surface of the street pavement or ground.

PART 5—NUISANCES

5.1 Interpretation

In this Part, unless the context otherwise requires—

fertiliser includes manure; and

public vehicle means a vehicle used by a public or private corporation that provides a service to the public.

5.2 Footpaths etc. to be kept clean

An owner or occupier of premises must keep any footpath, pavement, area or right of way immediately adjacent to the premises clean and clear from refuse and other obstacles which—

- (a) are or have been in the possession or control of the owner or occupier; and
- (b) the owner or occupier has caused or allowed to be on the footpath, pavement, area or right of way.

5.3 Escape of smoke etc.

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

5.4 Public vehicles to be kept clean

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

- (a) maintain the vehicle at all times—
 - (i) in a clean condition; and
 - (ii) free from vectors of disease; and
- (b) whenever directed to do so by an Environmental Health Officer, thoroughly clean and disinfect the vehicle as directed.

5.5 Prohibition against spitting

A person must not spit—

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

5.6 Transportation, use and storage of offal, blood, or other offensive matter

(1) A person must not transport or store offal or blood, for the purpose of being used as manure, unless it has been sterilised by steam and properly dried.

(2) No person shall remove any offensive matter unless such offensive matter is carried in sealed containers to prevent the escape of any of the contents, or the emission of any offensive odour.

(3) Every person using any sealed containers or vehicle for the removal of offensive matter must keep such container or vehicle in a thoroughly clean condition and in good repair.

5.7 Use or storage of fertiliser

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

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

5.8 Storage and dispatch of artificial fertiliser

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

- (a) keep all artificial fertiliser in a building—
 - (i) of which the walls, floors and ceilings or undersides of the roof are constructed of durable and non-absorbent materials finished internally with a smooth surface; and
 - (ii) free from damp and properly ventilated;
- (b) take adequate measures to prevent the emission of dust or offensive effluvia from the building; and
- (c) ensure that all artificial fertiliser dispatched from the premises is handled and loaded in such a manner as to prevent any nuisance arising during transit.

5.9 Storage of fertiliser in a dwelling house

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

- (a) prevent the escape of odours, dust or particles of fertiliser or compost;

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

PART 6—KEEPING ANIMALS

Division 1—General provisions

6.1 Interpretation

In this Division, unless the context otherwise requires—

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

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

6.2 Cleanliness

An owner or occupier of premises in or on which an animal or bird is kept must—

- (a) keep the premises free from excrement, filth, food waste and all other matter which is, or is likely to become, a nuisance, injurious or dangerous to health or to attract rats or other vectors of disease;
- (b) dispose of excrement, filth, food waste or other matter in an approved manner;
- (c) when so directed by an Environmental Health Officer, clean and disinfect the premises; and
- (d) keep the premises, so far as possible, free from flies or other vectors of disease by spraying with a residual insecticide or other effective means.

6.3 Vehicles used for transporting of animals and birds

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

Division 2—Limit on number of animals kept

6.4 Limit on numbers

A person must not keep animals, or permit animals to remain on any property in such numbers that they are, or are likely to be, a nuisance, injurious or dangerous to health.

6.5 Animal enclosures

- (1) A person must not keep or cause or permit to be kept any animals or birds in an enclosure that is not effectively drained or where the drainage flows to the walls or foundations of any building.
- (2) The owner or occupier of premises where animals or birds are kept must, when directed by the Environmental Health Officer, pave, grade and drain the floors of all structures and the surface of the ground of all enclosures used for the keeping of animals or birds
- (3) The owner or occupier of premises where a rabbit is kept must ensure that each rabbit is kept in a suitable enclosure that effectively prevents it from escaping.

6.6 Cats

- (1) Subject to subclause (6), a person must not, without an exemption in writing from the local government, keep more than 2 cats over the ages of 3 months on premises on any land within the district.
- (2) An owner or occupier of premises may apply in writing to the local government for exemption from the requirements of subclause (1).
- (3) The local government must not grant an exemption from subclause (1) unless it is satisfied that the number of cats to be kept will not be a nuisance or injurious or dangerous to health.
- (4) An exemption granted under this clause must specify—
 - (a) the owner or occupier to whom the exemption applies;
 - (b) the premises to which the exemption applies; and
 - (c) the maximum number of cats which may be kept on the premises.
- (5) A person who is granted an exemption under subclause (3) may be required by the local government to—
 - (a) provide for each cat kept at or on the premises, a properly constructed shelter with an enclosure complying with the following—
 - (i) each shelter must have a floor area of not less than .5 square metres for each cat over the age of 3 months kept or to be kept therein; and
 - (ii) the area of the enclosure appurtenant to each shelter shall be not less than 3 times the area of the shelter;
 - (b) ensure every shelter and enclosure is situated at a distance of not less than—
 - (i) 2 metres from the boundary of any lot not owned or occupied by the person by whom the cats are kept; and
 - (ii) 10 metres from any dwelling, church, school room, hall or premises in which food is manufactured, packed or prepared for human consumption; and

- (c) keep all shelters, enclosures, yards and grounds in which cats are kept in a clean condition and free from vectors of disease at all times and clean, disinfect or otherwise as directed by an Environmental Health Officer from time to time.

(6) A person may keep more than 2 cats on premises used for veterinary purposes or as a pet shop.

6.7 Slaughter of animals

(1) Subject to subclause (2), a person must not slaughter any animal within the district.

(2) Subclause (1) does not apply to—

- (a) euthanasia of animals by veterinarians or other duly authorised persons;
- (b) slaughter of animals for the purposes of pet meat and game meat operations;
- (c) slaughter of animals for human consumption in abattoirs approved by the local government;
- (d) farming or grazing property occupiers preparing meat for their own consumption; and
- (e) slaughter of animals at a knackerery approved and licensed by the local government.

6.8 Disposal of dead animals

(1) An owner or operator of a veterinary practice where dead animals are kept for more than 12 hours, must refrigerate the carcass prior to its removal and disposal, at an approved disposal site.

(2) An owner or occupier of premises, other than a veterinary practice, on which there is a dead animal must immediately remove the carcass for its disposal at an approved disposal site.

(3) An owner, or a person having the care, of any animal that dies or is killed in a public or private place must immediately remove the carcass and arrange for its disposal at an approved disposal site.

(4) The requirements of subclauses (2) and (3) shall not limit the practice of farmers, pastoralists and the like of disposing carcasses on rural land in a manner that is not likely to pollute or be dangerous or injurious to health.

Division 3—Keeping of large animals

6.9 Interpretation

In this Division, unless the context otherwise requires—

approved animal includes a horse, cow or large animal the subject of an approval by the local government under clause 6.10;

cow includes an ox, calf, or bull;

horse includes an ass, mule, donkey or pony;

large animal includes a sheep, cow, alpaca, horse, deer, camel, llama, emu, ostrich, kangaroo, including miniature species of the same animal, but does not include a pig; and

stable means any building in which a horse is stabled or kept and includes any shed, loose box, stall, or shelter used for the keeping, stabling, feeding, watering, grooming, sheltering, shoeing or veterinary treatment of horses.

6.10 Conditions for keeping of an animal

(1) An owner or occupier of premises, within a townsite must not keep a horse, cow or large animal on those premises without approval of the local government.

(2) An owner or occupier of premises who has an approved animal must ensure—

- (a) the premises has an area of not less than .2 hectares for the exclusive use of the approved animal; and
- (b) the approved animal does not approach within 30 metres of a dwelling.

6.11 Stables

(1) The owner or occupier of premises within a townsite, who has an approved animal may provide for its use a stable which must—

- (a) not be situated within 30 metres of a house or other premises;
- (b) have a proper separate stall—
 - (i) for each horse or cow; and
 - (ii) the floor area of which must be a minimum of 6 square metres;
- (c) have each wall and roof constructed of an approved impervious material;
- (d) have on all sides of the building between the wall and the roof a clear opening of at least 150 millimetres in height; and
- (e) have a floor, the surface of which must—
 - (i) be at least 75 millimetres above the surface of the ground;
 - (ii) be constructed of cement, concrete or other similar impervious materials; and
 - (iii) have a fall of 1 in 100 to a drain which must empty into a trapped gully situated outside the stable and must discharge in a manner approved by the local government.

(2) The owner or occupier of any premises on which a stable is located must—

- (a) maintain the stable in a clean condition and when so directed by an Environmental Health Officer, clean, wash and disinfect it;

- (b) keep all parts of the stable so far as possible free from flies or other vectors of disease by spraying with a residual insecticide or other effective means; and
- (c) when so ordered by an Environmental Health Officer, spray the stable or such parts as may be directed, with a residual insecticide.

6.12 Manure receptacle

An owner or occupier of premises on which an approved animal is kept must—

- (a) provide in a position convenient to the stable a receptacle for manure, which is constructed of smooth, impervious, durable, easily cleanable materials and, provided with a tight-fitting cover, and with no part of the receptacle base being lower than the surface of the adjoining ground;
- (b) keep the lid of the receptacle closed except when manure is being deposited or removed;
- (c) cause the receptacle to be emptied at least once a week and as often as may be necessary to prevent it becoming offensive or a breeding place for flies or other vectors of disease;
- (d) keep the receptacle so far as possible free from flies or other vectors of disease by spraying with a residual insecticide or other effective means; and
- (e) cause all manure produced on the premises to be collected, stored or removed so as not to cause a nuisance or present a hazard to health.

Division 4—Keeping of poultry and pigeons and miscellaneous birds

6.13 Interpretation

In this Division, unless the context otherwise requires, *poultry* includes bantams, ducks and other domestic fowls.

6.14 Limitation on numbers of poultry and pigeons

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

6.15 Conditions on keeping poultry

A person who keeps poultry, or permits poultry to be kept, must ensure that—

- (a) no poultry is able to approach within 15 metres of a habitable room of a dwelling house, a public building or premises where people are employed or where food is stored, prepared, manufactured or sold;
- (b) all poultry is kept in a properly constructed and securely fastened structure or enclosure;
- (c) the structure is in a yard having an otherwise unobstructed area of at least 30 square metres;
- (d) no poultry is able to approach within 15 metres of a street other than a right of way unless, in the case of land at the junction of two or more streets, the local government has approved a lesser distance; and
- (e) all enclosures or cages within which poultry are kept must be maintained at all times in a clean condition.

6.16 Roosters, geese, turkeys, peafowl's and gamebirds

(1) An occupier of premises within a townsite must not, without the written approval of the local government, keep or permit to be kept on those premises, any one or more of the following fowl—

- (a) a rooster;
- (b) a goose or gander;
- (c) a turkey;
- (d) a peacock or peahen; or
- (e) a gamebird (includes emus and ostriches).

(2) The local government may upon written application, grant approval with or without conditions to the owner or occupier of premises to keep any one or more birds as specified in subclause (1).

(3) A person who has been granted approval under this clause to keep a bird may keep the bird on the premises only while he or she is the occupier thereof.

(4) The local government may revoke an approval granted under this clause if it is of the opinion that the keeping of the birds specified in the approval is causing a nuisance or is injurious, offensive or dangerous to health.

6.17 Pigeons or doves

A person who keeps, or permits to be kept, pigeons or doves must ensure that—

- (a) none is able to approach within 15 metres of a dwelling house, public building or premises where people are employed or where food is stored, prepared, manufactured or sold; and
- (b) except where registered homing pigeons are freed for exercise, the pigeons or doves are kept in a properly constructed pigeon loft or dove cote that—
 - (i) is in a yard having an otherwise unobstructed area of at least 30 square metres; and
 - (ii) is maintained in such a manner so as not to create a nuisance by the emission of dust, effluvia or odours.

6.18 Removal of non-conforming structure or enclosure

- (1) If a structure or enclosure is used for the keeping of poultry or pigeons or doves contrary to clause 6.15, 6.16 or 6.17, an Environmental Health Officer may direct the owner or occupier to remove it.
- (2) An owner or occupier must comply with a direction from the Environmental Health Officer under this clause.

6.19 Restrictions on pigeon nesting or perching

- (1) An Environmental Health Officer may order an owner or occupier of premises in or on which pigeons or doves are, or are in the habit of, nesting or perching to take adequate steps to prevent them continuing to do so.
- (2) An owner or occupier must comply with an order under this clause.

6.20 Restrictions on feeding wild birds

A person must not feed a pigeon, dove, seagull, ibis, raven or other wild bird, so as to cause a nuisance or be injurious or dangerous to health.

Division 5—Feedlots

6.21 Interpretation

In this Division, unless the context otherwise requires—

animal includes sheep, lambs, goats, deer, cattle and buffalo;

birds includes roosters, hens, geese, turkeys, ducks, poultry, emus and ostriches; and

feedlot means a confined area with watering and feeding facilities where animals or birds are held and fed for the purpose of weight gain.

6.22 Premises to be approved

- (1) No premises shall be used as a feedlot unless approved by the local government.
- (2) Subject to subclause (3), no premises shall be approved as a feedlot by the local government unless every portion of such feedlot complies with the minimum separation distances listed in Schedule 1.
- (3) Sites unable to satisfy the separation requirements may be approved at the discretion of the local government, if the local government is satisfied that approving the feedlot will not give rise to a health nuisance.

6.23 Site conditions

- (1) The owner or occupier of the approved feedlot must ensure the premises—
 - (a) is sited on gently sloping land, no greater than 1:20 but not less than 1:100;
 - (b) is sited on soils composed of sandy loam soils with sufficient infiltration to avoid surface ponding and run-off;
 - (c) has a minimum groundwater clearance of 3 metres;
 - (d) drainage diverts all uncontaminated stormwater from the general waste stream; and
 - (e) has solid and liquid waste disposal arrangements that are not offensive or injurious to health.
- (2) The owner or occupier of the approved feedlot must take effective measures to prevent the discharge of dust which may involve—
 - (a) reducing the stocking rate immediately to a level that does not cause the discharge of dust;
 - (b) stabilisation of the soil surface to a level that does not cause the discharge of dust; or
 - (c) provision of adequate windbreaks to effectively prevent the discharge of dust.

Division 6—Piggeries

6.24 Interpretation

In this Division, unless the context otherwise requires—

intensive piggery means pigs are housed, fed and watered in breeding and growing pens in sheds; and

piggery in relation to premises shall include any portion of premises to which the pigs have access.

6.25 Premises to be approved

- (1) No premises shall be used as a piggery unless approved by the local government.
- (2) Subject to subclause (3), no premises shall be approved as a piggery by the local government unless every portion of such piggery complies with the minimum separation distances listed in Schedule 2; or if it is an intensive piggery, the minimum separation distances listed in Schedule 3.
- (3) Sites unable to satisfy the separation requirements may be approved at the discretion of the local government, if the local government is satisfied that approving the piggery will not give rise to a health nuisance.

6.26 Site conditions

The owner or occupier of premises must take effective measures to prevent the discharge of dust which may involve—

- (a) reducing the stocking rate immediately to a level that does not cause the discharge of dust;

- (b) stabilisation of the soil surface to a level that does not cause the discharge of dust; or
- (c) provision of adequate windbreaks to effectively prevent the discharge of dust.

6.27 Prevention of nuisances

In order to prevent dust, offensive fumes and effluent becoming a nuisance to the health of the inhabitants of the district, an intensive piggery must comply with the minimum separation distances listed in Schedule 3.

PART 7—PEST CONTROL

Division 1—Flies

7.1 Interpretation

In this Division, unless the context otherwise requires, **flies** means any of the two-winged insects constituting the order Diptera commonly known as flies.

7.2 Fly breeding matter

An owner or occupier of premises must not place, throw or leave, or permit or cause to be placed, thrown or left, in, on or about the premises any matter or thing which is liable to attract or be a breeding place for flies, unless that matter or thing is covered, protected, treated or dealt with in such a manner as to effectively prevent it from attracting or being a breeding place for flies.

7.3 Measures to be taken

An owner or occupier of premises must ensure that—

- (a) rubbish receptacles are kept clean and tightly sealed at all times except when refuse is being deposited or emptied;
- (b) food scraps and uneaten pet food are wrapped tightly and deposited in a rubbish receptacle without delay;
- (c) lawn clippings used on gardens as mulch are raked out thinly;
- (d) fertilisers are dug well into the soil;
- (e) compost heaps are kept well covered;
- (f) barbecues are kept clean and free from food scraps;
- (g) anything that is buried and may attract or be a breeding place for flies is covered with at least 100 millimetres of soil; and
- (h) excrement from pets is collected and properly disposed of without delay.

7.4 Environmental Health Officer may give notice directing measures to be taken

If, in the opinion of an Environmental Health Officer, flies are prevalent or are breeding on any premises, the Environmental Health Officer may give to the owner or occupier of the premises notice in writing directing him or her to take, within the time specified in the notice, such measures as in the opinion of the Environmental Health Officer are necessary to—

- (a) control the prevalence of flies;
- (b) effect the eradication of flies; or
- (c) effectively prevent the breeding of flies;

7.5 Local government may execute work and recover costs

(1) Where—

- (a) a person is required under this Division, or directed by a notice given under clause 7.4, to execute any work; and
- (b) that person fails or neglects to comply with the requirement,

the local government may execute the work and may recover from that person the cost of executing the work, in addition to any penalty for which that person may be liable under this local law.

(2) The costs and expenses incurred by the local government in the execution of a power under subclause (1) may be recovered in a court of competent jurisdiction from the person referred to in subclause (1).

(3) The local government shall not be liable to pay compensation or damages of any kind to the person referred to in subclause (1) in relation to any action taken by the local government under this clause, other than compensation or damages for loss or damage suffered because the local government acted negligently or in breach of duty.

Division 2—Mosquitoes

7.6 Interpretation

In this Division, unless the context otherwise requires, **mosquitoes** means any of the two-winged insects constituting the family Diptera Culicidae commonly known as mosquitoes.

7.7 Premises to be kept free of mosquito breeding matter

An owner or occupier of premises must keep the premises free of—

- (a) refuse; and
- (b) water located so as to be, liable to become the breeding place of mosquitoes.

7.8 Measures to be taken by an owner or occupier

An owner or occupier of premises—

- (a) where there is a fountain, artificial pool, artificial pond or excavation of any kind which contains water suitable for the breeding of mosquitoes, must take adequate and reasonable measures to prevent mosquitoes breeding; and
- (b) where there is a water tank, well, cistern, vat or barrel, must—
 - (i) keep it protected with a mosquito-proof cover; and
 - (ii) screen all openings, other than the delivery exit, with wire mesh having openings no larger than 1.2 millimetres.

7.9 Measures to be taken by occupier

An occupier of premises where water is kept in a horse trough, poultry drinking vessel or other receptacle must—

- (a) frequently change the water; and
- (b) keep the water clean and free from vegetable matter and slime.

7.10 Removal of undergrowth or vegetation

(1) Where it appears to an Environmental Health Officer that there is, on any premises, undergrowth or vegetation likely to harbour mosquitoes, the Environmental Health Officer may direct, orally or in writing, the owner or occupier of the premises to cut down and remove within a specified time the undergrowth or vegetation.

(2) An owner or occupier of premises must comply with a direction from, and within the time allowed by, the Environmental Health Officer under this clause.

7.11 Filling in excavations etc.

Unless written permission to the contrary is obtained from the local government, a person who cuts turf or removes soil or other material from any land must ensure that each excavation is filled in with clean sound material and made level with the surrounding surface so as not to retain water.

7.12 Drains, channels and septic tanks

An owner or occupier of land must—

- (a) cause all drains and channels in or on the land to be kept in good order and free from obstruction; and
- (b) where a septic tank is installed on the land—
 - (i) apply an approved larvicide according to the directions on the container, into the septic tank system, whenever directed to do so by an Environmental Health Officer; and
 - (ii) provide, and keep in sound condition at all times, wire mesh having openings no larger than 1.2 millimetres covering any inlet vent to the tank.

7.13 Drainage of land

An owner or occupier of land on which there is water liable to become a breeding place for mosquitoes must, when required by the local government, effectively drain the land and, for that purpose, must—

- (a) make or provide drains on the land;
- (b) remove all irregularities in the surface of the land;
- (c) if necessary, adjust the surface of the land or raise the level of the surface in such a manner that—
 - (i) the water on the land may flow into the drains without obstruction; and
 - (ii) no water remains on any portion of the land other than the drains; and
- (d) keep all drains in good order and free from obstruction.

Division 3—Rodents

7.14 Interpretation

In this Division, unless the context otherwise requires—

contemporary rodenticide bait means the exclusion of Warfain baits due to resistance and inclusion of Bromadiolone or Coumatetralyl or any future Department of Health approved rodenticide; and

rodents means those animals belonging to the order *Rodentia* and includes rats and mice but does not include animals kept as pets in an enclosure designed for the purpose of keeping as pets animals of that kind.

7.15 Measures to be taken to eradicate rodents

(1) An owner or occupier of premises must at all times take effective measures to eradicate any rodents in or on the premises.

(2) An owner or occupier of premises, whenever there are indications of the presence of rodents in, on or about the premises, and while such indications continue, must—

- (a) take effective measures to keep the premises free from rodents including—
 - (i) protecting stored food stuffs;
 - (ii) removing accumulated refuse or a potential rodent food source;

- (iii) using a rodenticide bait or a properly baited trap if found to be effective; and
 - (iv) minimizing rodent access to water on the premises;
 - (b) inspect daily each rodenticide bait or trap used and, whenever a rodent is found, must—
 - (i) if it is not already dead, kill it immediately; and
 - (ii) dispose of the carcass in such a manner as will not create a nuisance; and
 - (c) take whatever measures for the eradication of rodents.
- (3) An owner or occupier must within the time specified comply with any direction given by an Environmental Health Officer under this clause.

7.16 Food and wastes to be kept in rodent proof receptacles

A person must not store or allowed to be stored, on any premises, any food, refuse or waste matter unless it is contained in a rodent proof receptacle or compartment, which is kept effectively protected against access by rodents.

7.17 Restrictions on the keeping of rodents

A person or body which keeps rodents must—

- (a) at all times ensure that all live rodents are kept in the effective control of a person or in locked cages; and
- (b) if a rodent escapes, forthwith comply with the requirements of clause 7.15 and ensure that all reasonable steps are taken to destroy or recapture the rodent.

7.18 Food premises etc. to be cleaned after use

An owner or occupier of a food premises, theatre or place of entertainment, whether indoor or outdoor, must cause the premises to be cleaned immediately after the last occasion on which the premises has been used on that day or, if the use extends after midnight, then immediately after that use.

7.19 Restrictions on materials affording harbourage for rodents

(1) An owner or occupier of premises must cause—

- (a) any part of the premises; or
- (b) any material, sewer, pipe or other thing in or on the premises,

that might afford access or harbourage to rodents to be altered, repaired, protected, removed or otherwise dealt with so as to prevent it being used as access for, or harbourage of, rodents.

(2) An Environmental Health Officer may direct, orally or in writing, an owner or occupier of premises to take whatever action that, in the opinion of the Environmental Health Officer, is necessary or desirable to prevent or deter the presence of rodents in or on the premises.

(3) An owner or occupier must, within the time specified, comply with a direction given by an Environmental Health Officer under this clause.

Division 4—Cockroaches

7.20 Interpretation

In this Division, unless the context otherwise requires, **cockroach** means any of the various orthopterous insects commonly known as cockroaches.

7.21 Measures to be taken to eradicate cockroaches

- (1) An owner or occupier of premises must take effective measures to eradicate any cockroaches in or on the premises.
- (2) An Environmental Health Officer may direct, orally or in writing, an owner or occupier of premises to take whatever action that, in the opinion of the Environmental Health Officer, is necessary or desirable to prevent or deter the presence of cockroaches in or on the premises.
- (3) An owner or occupier must, within the time specified, comply with any direction given by an Environmental Health Officer under this clause.

Division 5—Argentine ants

7.22 Interpretation

In this Division, unless the context otherwise requires, **Argentine Ant** means an ant belonging to the species *Irdomyrmex humilis*, and commonly known as an Argentine Ant.

7.23 Measures to be taken to keep premises free from Argentine Ants

An owner or occupier of premises must ensure that the premises are kept free from Argentine Ant colonies and must—

- (a) take all steps to locate any nests, if Argentine Ants are noticed in, on or about the premises;
- (b) properly treat all nests of Argentine Ants with an approved residual based insecticide; and
- (c) whenever required by an Environmental Health Officer—
 - (i) treat any area or infestation with an insecticide referred to in subclause (b); and
 - (ii) remove any objects, including timber, firewood, compost or pot plants in accordance with a direction from the Environmental Health Officer.

*Division 6—European wasps***7.24 Interpretation**

In this Division, unless the context otherwise requires, **European Wasp** means a wasp *Vespula germanica* and commonly known as a European Wasp.

7.25 Measures to be taken to keep premises free from European Wasp nests

An owner or occupier of premises must ensure that the premises are kept free from European Wasp nests and must—

- (a) follow any direction of an Environmental Health Officer for the purpose of destroying the European Wasps and their nest; and
- (b) assist an Environmental Health Officer to trace any nest that may be present in, on or about the premises.

*Division 7—Bee keeping***7.26 Interpretation**

In this Division, unless the context otherwise requires—

bee hive means a moveable or fixed structure, container or object in which a colony of bees is kept; and

bees means an insect belonging to any of the various hymenopterous insects of the super family Apoidea and commonly known as a bee.

7.27 Restrictions on keeping of bees in hives

- (1) A person must not keep or permit the keeping of bees anywhere within the district unless approval to do so has been given by the local government.
- (2) If, in the opinion of an Environmental Health Officer, the approved bee hives are causing a nuisance, the Environmental Health Officer may direct any bees or approved bee hives to be removed.
- (3) A person must comply with a direction by an Environmental Health Officer within the time specified.

*Division 8—Arthropod vectors of disease***7.28 Interpretation**

In this Division, unless the context otherwise requires, **arthropod vectors of disease** includes—

- (a) fleas (*Siphonaptera*);
- (b) bedbugs (*Cimex lectularius*);
- (c) crab lice (*Phthirus pubis*);
- (d) body lice (*Pediculus humanus var. corporis*); and
- (e) head lice (*Pediculus humanus var. capitis*).

7.29 Responsibility of the owner or occupier

The owner or occupier of premises must—

- (a) keep the premises and any person residing in or on the premises, free from any arthropod vectors of disease; and
- (b) comply with the direction of an Environmental Health Officer to treat the premises, or anything on the premises, for the purpose of destroying any arthropod vectors of disease.

PART 8—INFECTIOUS DISEASES*Division 1—General provisions***8.1 Purpose of exercise of powers**

The powers under this Part are to be exercised for the purpose of preventing or controlling the spread of an infectious disease.

8.2 Environmental Health Officer may visit and inspect

An Environmental Health Officer may visit and inspect any house, its occupants, fixtures and fittings—

- (a) for the purpose of preventing or controlling the spread of an infectious disease; or
- (b) where the Environmental Health Officer has reason to believe that there has been a breach of the Health Act, any regulation made under the Health Act or this local law relating to infectious diseases.

8.3 Requirements on owner or occupier to clean, disinfect and/or disinfect

(1) An Environmental Health Officer may, by notice in writing, direct an owner or occupier of premises, within the time and in the manner specified in the notice, to clean, disinfect and disinfect—

- (a) the premises; or
- (b) such things in or on the premises as are specified in the notice, or both, to the satisfaction of an Environmental Health Officer.

(2) An owner or occupier must comply with a notice given under subclause (1).

8.4 Environmental Health Officer may disinfect or disinfest premises

(1) If an Environmental Health Officer or a Medical Officer is satisfied that any case of infectious disease has occurred on any premises, the Environmental Health Officer or the Medical Officer may direct an employee or other person to disinfect and disinfest the premises or any part of the premises and anything in or on the premises.

(2) An owner or occupier of premises must permit, and provide access to enable, an Environmental Health Officer, other local government officer or other person to carry out the direction given under subclause (1).

(3) The local government may recover, in a court of competent jurisdiction, the cost of carrying out the work under this clause from the owner or occupier of the premises in or on which the work was carried out.

(4) The local government shall not be liable to pay compensation or damages of any kind to the owner or occupier of premises in relation to any action taken by the local government or any of its staff or employees under this clause, other than compensation or damages for loss or damage because the local government or any of its staff acted negligently or in breach of duty.

8.5 Insanitary dwelling houses, premises and things

(1) An owner or occupier of any house or premises must maintain the dwelling house or premises free from any insanitary condition or thing.

(2) If an Environmental Health Officer considers that a dwelling house, building or thing is insanitary, he or she may, by notice in writing—

- (a) direct an owner of the dwelling house, building or thing, within the time and in the manner specified in the notice, to demolish or otherwise destroy the dwelling house, building or thing; or
- (b) direct an owner or occupier of the dwelling house, building or thing, within the time and in the manner specified in the notice, to amend, clean or secure the dwelling house, building or thing.

(3) A person to whom a notice has been given under subclause (2) must comply with the terms of the notice.

8.6 Medical Officer may authorise disinfecting

(1) Where a Medical Officer believes that a person is or may be infected by an infectious disease, the Medical Officer may direct the person to have his or her body, clothing and effects disinfected at a place and in a manner directed by the Medical Officer.

(2) A person must comply with a direction of the Medical Officer under this clause.

8.7 Persons in contact with an infectious disease sufferer

If a person in a dwelling house is, or is suspected of, suffering from an infectious disease, any occupant of the dwelling house or any person who enters or leaves the dwelling house—

- (a) must obey such instructions or directions as an Environmental Health Officer or the Medical Officer may issue;
- (b) may be removed, at the direction of an Environmental Health Officer or a Medical Officer to isolation in an appropriate place to prevent or minimise the risk of the infection spreading; and
- (c) if so removed, must remain in that place until a Medical Officer otherwise directs.

8.8 Declaration of infected dwelling house or premises

(1) To prevent or check the spread of infectious disease, an Environmental Health Officer or a Medical Officer may, from time to time, declare any dwelling house or premises to be infected.

(2) A person must not enter or leave any dwelling house or premises declared to be infected without the written consent of a Medical Officer or an Environmental Health Officer.

8.9 Destruction of infected animals

(1) An Environmental Health Officer, if satisfied that an animal is or may be infected or is liable to be infected or to convey infection may, by notice in writing, direct that the animal be examined by a registered veterinary officer and that all steps be taken to enable the condition to be controlled or eradicated or the animal destroyed and disposed of—

- (a) in the manner and within the time specified in the notice; and
- (b) by the person in whose possession, or upon whose premises, the animal is located.

(2) A person who has in his or her possession, or upon premises occupied by him or her, an animal that is the subject of a notice under subclause (1) must comply with the terms of the notice.

8.10 Disposal of a body

(1) An occupier of premises in or on which is located the body of a person who has died of any infectious disease must, subject to subclause (2), cause the body to be buried or disposed of in such manner, within such time and with such precautions as may be directed by the Medical Officer.

(2) A body must not be removed from premises where death occurred, except to a cemetery or a morgue.

8.11 Local government may carry out work and recover costs

(1) Where—

- (a) a person is required under this Part or by a notice given under this Part, to carry out any work; and
- (b) that person fails or neglects to comply with the requirement,

that person commits an offence and the local government may carry out the work or arrange for the work to be carried out by another.

(2) The costs and expenses incurred by the local government in the execution of a power under this clause may be recovered in a court of competent jurisdiction from the person referred to in subclause (1)(a).

(3) The local government is not liable to pay compensation or damages of any kind to the person referred to in subclause (1)(a) in relation to any action taken by the local government under this clause, other than compensation or damages for loss or damage suffered because the local government acted negligently or in breach of its duty.

Division 2—Disposal of used condoms and needles

8.12 Disposal of used condoms

(1) An occupier of premises on or from which used condoms are produced must ensure that the condoms are—

- (a) placed in a sealed impervious container and disposed of in a sanitary manner; or
- (b) disposed of in such a manner as may be directed by the local government.

(2) A person must not dispose of a used condom in a public place except in accordance with subclause (1).

8.13 Disposal of used needles

A person must not dispose of a used hypodermic syringe or needle in a public place unless it is placed in an impenetrable, leak-proof container and deposited in a refuse receptacle.

PART 9—LODGING HOUSES

Division 1—Registration

9.1 Interpretation

(1) In this Part, unless the context otherwise requires—

bed means a single sleeping berth only. A double bed provided for the use of couples, shall have the same floor space requirements as two single beds;

bunk means a sleeping berth comprising one of two beds arranged vertically;

Certificate of Registration means a certificate of registration of a lodging house issued under clause 9.4;

dormitory means a building or room used for sleeping purposes at a short term hostel or recreational campsite;

keeper means a person whose name appears on the register of keepers, in respect of a lodging house, as the keeper of that lodging house;

lodger means a person who obtains, for hire or reward, board or lodging in a lodging house;

lodging house has the same meaning as is given to that expression in the Health Act;

manager means a person appointed by the keeper in accordance with this Division to reside in, and have the care and management of, a lodging house;

recreational campsite means a lodging-house—

- (a) situated on a campsite principally used for—
 - (i) recreational, sporting, religious, ethnic or educational pursuits; or
 - (ii) conferences or conventions; and

- (b) where the period of occupancy of any lodger is not more than 14 consecutive days, and includes youth camps, youth education camps, church camps and riding schools;

register of lodgers means the register kept in accordance with section 157 of the Health Act and this Part;

resident means a person, other than a lodger, who resides in a lodging house;

serviced apartment means a lodging house in which each sleeping apartment, or group of sleeping apartments in common occupancy, is provided with its own sanitary conveniences and may have its own cooking facilities;

short term hostel means a lodging house where the period of occupancy of any lodger is not more than 14 consecutive days and shall include youth hostels and backpacker hostels; and

vector of disease means an arthropod or rodent that transmits, or may transmit, by biological or mechanical means, an infectious agent from a source or reservoir to a person, and includes fleas, bedbugs, crab lice, body lice and head lice.

(2) Where in this Part an act is required to be done or forbidden to be done in relation to any lodging house, the keeper of the lodging house has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.

9.2 Lodging house not to be kept unless registered

A person must not keep or cause or allow to be kept, a lodging house unless—

- (a) the lodging house is constructed in accordance with the requirements of this Part;
- (b) the lodging house is registered by the local government under clause 9.4;
- (c) the name of the person keeping or proposing to keep the lodging house is entered in the register of keepers; and
- (d) either—
 - (i) the keeper; or
 - (ii) a manager who, with the written approval of an Environmental Health Officer, has been appointed by the keeper to have the care and management of the lodging house,

resides or intends to reside continuously in the lodging house whenever there is one or more lodgers in the lodging house.

9.3 Application for registration

An application for registration of a lodging house must be—

- (a) in the form prescribed in Schedule 4;
- (b) duly completed and signed by the proposed keeper; and
- (c) accompanied by—
 - (i) the fee as fixed from time to time by the local government under Section 344C of the Health Act; and
 - (ii) detailed plans and specifications of the lodging house.

9.4 Approval of application

The CEO or an Environmental Health Officer may approve, with or without conditions, an application under clause 9.3 by issuing to the applicant, a certificate in the form prescribed in Schedule 5.

9.5 Renewal of registration

A person who keeps a lodging house which is registered under this Part must—

- (a) before the 30th of June each year, apply to the local government for the renewal of the registration of the lodging house; and
- (b) pay the fee as fixed from time to time by the local government under Section 344C of the Health Act at the time of making each application for renewal.

9.6 Notification on sale or transfer

If the owner of a lodging house sells or transfers or agrees to sell or transfer the lodging house to another person, the owner must, within 14 days of the date of sale, transfer or by agreement, give to the local government written notice, in the form prescribed in Schedule 6, of the full name, address and occupation of the person to whom the lodging house has been, or is to be sold or transferred.

9.7 Revocation of registration

(1) Subject to subclause (3), the local government may, at any time, revoke the registration of a lodging house for any reason that, in the opinion of the local government, justifies the revocation.

(2) Without limiting the generality of subclause (1), the local government may revoke a registration upon any one or more of the following grounds—

- (a) that the lodging house has not, to the satisfaction of the local government, been kept free from vectors of disease or in a clean, wholesome and sanitary condition;
- (b) that the keeper has—
 - (i) been convicted of an offence against this local law in respect of the lodging house;
 - (ii) not complied with a requirement of this Part; or
 - (iii) not complied with a condition of registration;
- (c) that the local government, having regard to a Police report, is satisfied that the keeper or manager is not a fit and proper person; and
- (d) that, by reason of alterations or additions or neglect to repair and renovate, the condition of the lodging house is such as to render it, in the opinion of the local government, unfit to remain registered.

(3) Before revoking the registration of a lodging house under this clause, the local government must give notice to the keeper requiring him or her, within a time specified in the notice, to show cause why the registration should not be revoked.

(4) If the local government revokes the registration of a lodging house, the local government must give the keeper notice of the revocation and the registration is to be revoked as from the date on which the notice is served on the keeper.

*Division 2—Construction and use requirements***9.8 General construction requirements**

A lodging house must comply with the general construction requirements of the Building Code.

9.9 Kitchen

The keeper of a lodging house must provide in that lodging house a kitchen which—

- (a) has adequate—
 - (i) food storage facilities and cupboards to prevent contamination of food, or cooking or eating utensils, by dirt, dust, flies or other vectors of disease of any kind; and
 - (ii) refrigerator space for storage of perishable goods;
- (b) complies with any of the requirements of Standard 3.2.3 of the Food Standards Code; and
- (c) has a hand wash basin and a double bowl sink or dish washing facility, each provided with an adequate supply of hot and cold water.

9.10 Cooking facilities

(1) The keeper of a lodging house where lodgers prepare their own meals, must provide a kitchen with electrical, gas or other stoves and ovens approved by an Environmental Health Officer in accordance with Schedule 7.

(2) The keeper of a lodging house where meals are provided by the keeper or manager must provide a kitchen with cooking appliances of a number and type approved by an Environmental Health Officer.

9.11 Dining room

The keeper of a lodging house must provide in that lodging house a dining room—

- (a) located in close proximity to, or combined with, the kitchen;
- (b) the floor area of which must be not less than the greater of—
 - (i) .5 square metres per person; or
 - (ii) 10 square metres; and
- (c) which must be—
 - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
 - (ii) provided with a suitable floor covering.

9.12 Lounge room

The keeper of a lodging house must provide in that lodging house a lounge room—

- (a) with a floor area of—
 - (i) where the lounge is not combined with the dining room—not less than .6 square metres per person; or
 - (ii) where the lounge room is combined with a dining room—not less than 1.2 square metres per person,

but in either case having a minimum of 13 square metres; and

- (b) which must be—
 - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
 - (ii) provided with a suitable floor covering.

9.13 Sanitary conveniences

(1) In this clause, unless the context otherwise requires—

communal bathroom means a room which has more than 1 shower or more than 1 bath or any combination of more than 1 shower and 1 bath, whether or not they are divided by cubicles, designed with the intention that the bathroom may be used by more than 1 person at any particular time;

communal toilet means a room which has more than 1 toilet with each toilet being divided from the other toilets with a cubicle surrounding it, whether or not the walls of that cubicle extend to the floor or the ceiling or both of the room;

individual bathroom means a room which has only 1 shower, or only 1 bath, or only 1 shower and 1 bath, and is designed to be used by only 1 person at any particular time; and

individual toilet means a room that has walls extending from the floor to the ceiling and contains a single toilet.

(2) A keeper must maintain in good working order and condition and in convenient positions on the premises—

- (a) one or more communal toilets, or 1 or more individual toilets, or both; and
- (b) one or more communal bathrooms, or 1 or more individual bathrooms, or both, each fitted with a hand wash basin and either a shower or a bath,

in accordance with the requirements of the Building Code.

(3) A bathroom or toilet which is used as a private bathroom or toilet to the exclusion of other lodgers or residents is not to be counted for the purposes of subclause (2).

- (4) Each bath, shower and hand wash basin must be provided with an adequate supply of hot and cold water.
- (5) The walls of each shower and bath must be of an impervious material to a minimum height of 1.8 metres above the floor level.
- (6) Subject to subclause (8), each communal toilet and communal bathroom must—
- (a) be situated, separated and screened as to ensure privacy;
 - (b) be apportioned to each sex;
 - (c) have a distinct sign displayed in a prominent position denoting the sex for which the toilet or bathroom is provided; and
 - (d) be provided with adequate electric lighting.
- (7) Subject to subclause (8), each individual toilet and individual bathroom must—
- (a) be situated, separated and screened so as to ensure privacy;
 - (b) be fitted with a mechanism by which the door may be locked from inside the individual toilet or individual bathroom as approved by an Environmental Health Officer; and
 - (c) be provided with adequate electric lighting.
- (8) Subclauses (6)(a), (b) and (c) and (7)(a) and (b) do not apply to a serviced apartment.

9.14 Laundry

- (1) In this clause, unless the context otherwise requires—
- laundry unit** means a group of facilities consisting of—
- (a) a washing machine with a capacity of not less than 4 kilograms of dry clothing;
 - (b) one wash trough of not less than 36 litres, connected to both hot and cold water; and
 - (c) either an electric drying cabinet or not less than 30 metres of clothes line,
- and for which a hot water system is provided that—
- (d) is capable of delivering 136 litres of water per hour at a temperature of at least 75 degrees Celsius for each washing machine provided with the communal facilities; and
 - (e) has a delivery rate of not less than 18 litres per minute for each washing machine.
- (2) A keeper must—
- (a) subject to subclause (3)—
 - (i) in the case of a recreational campsite, provide on the premises a laundry consisting of at least one 45 litre stainless steel trough; and
 - (ii) in any other case, provide on the premises a laundry unit for each 15 lodgers;
 - (b) at all times maintain each laundry in a proper sanitary condition and in good repair;
 - (c) provide an adequate supply of hot and cold water to each wash trough, sink and washing machine; and
 - (d) ensure that the floor area of each laundry is properly surfaced with an impervious material with an even fall to a floor waste.
- (3) An Environmental Health Officer may approve the provision of a reduced number of laundry units if suitable equipment of a commercial type is installed.

9.15 Fire prevention and control

- (1) A keeper of a lodging house must—
- (a) in each passage of the lodging house provide an emergency light—
 - (i) in such a position and of such a pattern, as approved by an Environmental Health Officer; and
 - (ii) which must be kept separate from the general lighting system and kept illuminated during the hours of darkness;
 - (b) provide an approved fire blanket positioned within 2 metres of the cooking area in each kitchen;
 - (c) ensure that each exit sign and fire fighting appliance is clearly visible, accessible and maintained in good working order at all times; and
 - (d) ensure all fire fighting equipment and fire detection and alarm systems are adequately maintained at all times in such a condition as will enable their proper performance.
- (2) A keeper of a lodging house must ensure that all buildings comprising the lodging house are fitted with fire protection equipment in accordance with the Building Code.

9.16 Obstruction of passages and stairways

A keeper must not cause or allow furniture, fittings or other things to be placed either temporarily or permanently in or on—

- (a) a stairway, stair landing, fire-escape, window or common passageway; or
- (b) part of the lodging house in common use or intended or adapted for common use,

in such a manner as to form an obstruction to the free passage of lodgers, residents or persons in or occupying the lodging house.

9.17 Fitting of locks

A person must not fit, or cause or permit to be fitted, to an exit door a lock or other device which prevents the door being opened from within a lodging house.

9.18 Restriction on use of rooms for sleeping

(1) Subject to subclause (3) and clause 9.32 and unless otherwise approved by the Environmental Health Officer, a keeper must not use, or permit to be used as a sleeping apartment, a room in a lodging house—

- (a) which contains food;
- (b) which contains or is fitted with a cooking appliance or kitchen sink;
- (c) which is used as a kitchen, scullery, store room, dining room, general sitting room, lounge room or for the preparation or storage of food;
- (d) which is not reasonably accessible without passing through a sleeping or other room in the private occupation of another person;
- (e) which, except in the case of a short term hostel or a recreational campsite, contains less than 5.5 square metres of clear space for each lodger occupying the room;
- (f) which is naturally illuminated by windows, which have an area of less than 10 per cent of the floor area of the room;
- (g) which has an unobstructed ventilating area, which is less than 5 per cent of the floor area of the room;
- (h) in which the lighting or ventilation referred to in paragraphs (f) and (g) is obstructed or is not in good and efficient order;
- (i) which is not free from internal dampness;
- (j) of which any part of the floor is below the level of the adjoining ground; or
- (k) the floor of which is not fitted with an approved carpet or vinyl floor covering or other floor treatment approved by an Environmental Health Officer.

(2) For the purpose of this clause, 2 children under the age of 10 years shall be counted as 1 lodger.

(3) Paragraphs (a), (b) and (c) of subclause (1) do not apply to a serviced apartment.

9.19 Sleeping accommodation, short term hostels and recreational campsites

(1) A keeper of a short term hostel or recreational campsite must provide clear floor space of not less than—

- (a) 4 square metres per person in each dormitory utilising beds; and
- (b) 2.5 square metres per person in dormitories utilising bunks.

(2) For the avoidance of doubt, a double bed provided for the use of a couple is to have the same floor space requirements as 2 single beds.

(3) The calculation of floor space in subclause (1) is to exclude the area occupied by any large items of furniture, such as wardrobes, but may include the area occupied by beds.

(4) The minimum height of any ceiling in a short term hostel or recreational campsite is to be 2.4 metres in any dormitory utilising beds and 2.7 metres in any dormitory utilising bunks.

(5) The minimum floor area requirements in subclause (1) will only apply if there is ventilation, separation distances, fire egress and other safety requirements in accordance with the Building Code.

(6) The keeper of any short term hostel or recreational campsite must provide—

- (a) fixed outlet ventilation at a ratio of .15 square metres to each 10 square metres of floor area of the dormitories, and must ensure that dormitories are provided with direct ventilation to the open air from a point within 230 millimetres of the ceiling level through a fixed open window or vents, carried as direct to the open air as practicable; or
- (b) mechanical ventilation in lieu of fixed ventilation, subject to the local government's approval.

(7) The keeper of any short term hostel or recreational campsite must provide—

- (a) beds with a minimum size of—
 - (i) in short term hostels—800 millimetres x 1.9 metres; and
 - (ii) in recreational campsites—750 millimetres x 1.85 metres; and
- (b) storage space for personal effects, including backpacks, so that cleaning operations are not hindered and access spaces are not obstructed.

(8) The keeper of any short term hostel or recreational campsite must—

- (a) maintain at all times a minimum distance of 750 millimetres between beds, and a minimum distance of 900 millimetres between bunks;
- (b) ensure that, where bed or bunk heads are placed against the wall on either side of a dormitory, there is a passageway of at least 1.35 metres between each row of beds and a passageway of at least 2 metres between each row of bunks;
- (c) ensure that the passageway is kept clear of obstructions at all times; and
- (d) ensure all doors, windows and ventilators are kept free of obstruction at all times.

- (9) The keeper of any short term hostel or recreational campsite must ensure that—
- (a) materials used in dormitory areas comply with AS 1530.2-1993 and AS 1530.3:1999 as follows—
 - (i) drapes, curtains, blinds and bed covers— a maximum Flammability Index of 6;
 - (ii) upholstery and bedding— a maximum Spread of Flame Index of 6 and a maximum Smoke Developed Index of 5; and
 - (iii) floor coverings—a maximum Spread of Flame Index of 7 and a maximum Smoke Developed Index of 5;
 - (b) fire retardant coatings used to make a material comply with these indices must be—
 - (i) certified by the manufacturer as approved for use with the fabric to achieve the required indices;
 - (ii) certified by the manufacturer to retain its fire retardant effect after a minimum of 5 commercial dry cleaning or laundering operations carried out in accordance with AS 2001.5.4-1987; and
 - (iii) certified by the applicator as having been carried out in accordance with the manufacturer's specification;
 - (c) emergency lighting is provided in accordance with the Building Code;
 - (d) a lodger or other person does not smoke in any dormitory, kitchen, dining room or other enclosed public place, within a short term hostel or recreational campsite; and
 - (e) all mattresses are fitted with a mattress protector.

9.20 Furnishing etc. of sleeping apartments

The keeper must—

- (a) furnish each sleeping apartment with a sufficient number of beds and sufficient bedding of good quality;
 - (b) ensure that each bed—
 - (i) has a bed head, mattress and pillow; and
 - (ii) except in the case of short term hostels and recreational campsites, is provided with a pillow case, 2 sheets, a blanket or rug and, from 1 May to 30 September, not less than 1 additional blanket or rug;
 - (c) in the case of a short term hostel or recreational campsite, ensure that there is for each bed a pillow case, 2 sheets and 2 blankets available for the use of lodgers either free of charge or on payment of a fee;
 - (d) in the case of a short term hostel or recreational campsite, ensure that lodgers use some form of bedding to cover the pillow and mattress;
 - (e) except in the case of a short term hostel or recreational campsite, furnish each bedroom so that there are adequate storage facilities for lodgers' belongings within the room; and
 - (f) in the case of short term hostels and recreational campsites, ensure that there is a room or rooms provided for the secure storage of lodgers' luggage.
- (2) The keeper shall not cause or allow a bunk to be used in a sleeping apartment other than in a lodging house used exclusively as a short term hostel or recreational campsite.

9.21 Ventilation

- (1) If, in the opinion of an Environmental Health Officer, a kitchen, bathroom, toilet, laundry or habitable room is not adequately or properly ventilated, he or she may direct the keeper to provide a different or additional method of ventilation.
- (2) The keeper must comply with any direction given under subclause (1) within such time as directed.

9.22 Numbers to be placed on doors

- (1) A keeper must place, or cause to be placed, on the outside of the doors of all rooms available to lodgers in the lodging house, serial numbers so that—
 - (a) the number "1" is placed on the outside of the door of the room nearest to the front or main entry door of the lodging house; and
 - (b) the numbers continue in sequence throughout each floor (if there is more than 1) of the lodging house.
- (2) The numbers to be placed on the doors under subclause (1) must be—
 - (a) not less than 40 millimetres in height;
 - (b) 1.5 metres from the floor; and
 - (c) permanently fixed either by being painted on the doors or by other legible means.

Division 3—Management and care

9.23 Keeper or manager to reside in the lodging house

Whenever there is 1 or more lodgers in a lodging house, a keeper or manager must—

- (a) reside continuously in the lodging house; and
- (b) not be absent from the lodging house unless he or she arranges for a reputable person to have the care and management of the lodging house.

9.24 Register of lodgers

- (1) A keeper must keep a register of lodgers in the form prescribed in Schedule 8.
- (2) The register of lodgers must—
 - (a) include the details required by the local government;
 - (b) be kept in the lodging house; and
 - (c) be open to inspection at any time on demand by any member of the Police Service or by an Environmental Health Officer.

9.25 Keeper report

A keeper must, whenever required by an Environmental Health Officer, report to the local government in the form prescribed in Schedule 9, the name of each lodger who lodged in the lodging house during the preceding day or night.

9.26 Certificate in respect of sleeping accommodation

- (1) An Environmental Health Officer may issue to a keeper a certificate, in respect of each room, which shall be in the form prescribed in Schedule 10.
- (2) The certificate issued under subclause (1) must specify the maximum number of persons who are permitted to occupy each room as a sleeping apartment at any one time.
- (3) When required by an Environmental Health Officer, a keeper must exhibit the certificate issued under this clause in a conspicuous place in the room to which the certificate refers.
- (4) A person shall not cause or allow a greater number of persons than is specified on a certificate issued under this clause to occupy the room to which it refers.

9.27 Duplicate keys and inspection

Each keeper and manager of a lodging house must—

- (a) retain possession of a duplicate key to the door of each room; and
- (b) when required by an Environmental Health Officer, open the door of any room for the purpose of inspection by the Environmental Health Officer.

9.28 Room occupancy

- (1) A keeper must not—
 - (a) cause or allow more than the maximum number of persons permitted by the Certificate of Registration of the lodging house to be lodged at any one time in the lodging house;
 - (b) cause or allow to be placed or kept in any sleeping apartments—
 - (i) a larger number of beds; or
 - (ii) a larger quantity of bedding,than is required to accommodate and provide for the maximum number of persons permitted to occupy the sleeping apartment at any one time; and
 - (c) use or cause or allow to be used for sleeping purposes a room that—
 - (i) has not been certified for that purpose; and
 - (ii) an Environmental Health Officer or Medical Officer has forbidden to be used as a sleeping apartment.
- (2) For the purpose of this clause, 2 children under 10 years of age shall be counted as 1 lodger.

9.29 Maintenance of a room by a lodger or resident

- (1) A keeper may permit, or contract with, a lodger or resident to service, clean or maintain the room or rooms occupied by the lodger or resident.
- (2) Where permission is given or a contract entered into under subclause (1), the keeper must—
 - (a) inspect each room the subject of the permission or agreement at least once a week; and
 - (b) ensure that each room is being maintained in a clean and sanitary condition.
- (3) A lodger or resident who contracts with a keeper to service, clean or maintain a room occupied by him or her, must maintain the room in a clean and sanitary condition.

9.30 Cleaning and maintenance requirements

- (1) In this clause, unless the context otherwise requires—

bed linen includes sheets and pillow cases and, in the case of a short term hostel or recreational campsite, mattress protectors.
- (2) A keeper of a lodging house must—
 - (a) maintain in a clean, sound and undamaged condition—
 - (i) the floor, walls, ceilings, woodwork and painted surfaces;
 - (ii) the floor coverings and window treatments; and
 - (iii) the toilet seats;
 - (b) maintain in a clean condition and in good working order—
 - (i) all fixtures and fittings; and
 - (ii) windows, doors and furniture;

- (c) ensure that the internal walls of each bathroom and toilet have a smooth impervious washable surface;
- (d) whenever there is 1 or more lodgers in a lodging house, ensure that the laundry floor is cleaned daily;
- (e) ensure that—
 - (i) all bed linen, towels, and house linen in use is washed at least once a week;
 - (ii) within a reasonable time of a bed having been vacated by a lodger or resident, the bed linen is removed and washed;
 - (iii) a person does not occupy a bed which has been used by another person unless the bed has been provided with clean bed linen;
 - (iv) all beds, bedsteads, blankets, rugs, covers, bed linen, towels and house linen are kept clean, in good repair and free from vectors of disease;
 - (v) when any vectors of disease are found in a bed, furniture, room or sleeping apartment, immediate effective action is taken to eradicate the vectors of disease; and
 - (vi) a room which is not free from vectors of disease is not used as a sleeping apartment;
- (f) when so directed by an Environmental Health Officer, ensure that—
 - (i) a room, together with its contents, and any other part of the lodging house, is cleaned and disinfected; and
 - (ii) a bed or other article of furniture is removed from the lodging house and properly disposed of;
- (g) ensure that the yard is kept clean at all times;
- (h) provide all bedrooms, passages, common areas, toilets, bathrooms and laundries with adequate lighting; and
- (i) comply with any direction, whether orally or in writing, given by an Environmental Health Officer.

9.31 Responsibilities of lodgers and residents

A lodger or resident must not—

- (a) use any room available to lodgers—
 - (i) as a shop, store or factory; or
 - (ii) for manufacturing or trading services;
- (b) keep or store in or on the lodging house any goods or materials which are inflammable or offensive;
- (c) use a bath or hand wash hand basin other than for ablutionary purposes;
- (d) use a bathroom facility or fixture for laundry purposes;
- (e) use a sink installed in a kitchen or scullery for any purpose other than the washing and cleaning of cooking and eating utensils, other kitchenware and culinary purposes;
- (f) deposit rubbish or waste food other than into a proper rubbish receptacle;
- (g) in a kitchen or other place where food is kept—
 - (i) wash or permit the washing of clothing or bedding; or
 - (ii) keep or permit to be kept any soiled clothing or bedding;
- (h) subject to clause 9.32—
 - (i) keep, store, prepare or cook food in any sleeping apartment; or
 - (ii) unless sick or invalid and unable to leave a sleeping apartment for that reason, use a sleeping apartment for dining purposes;
- (i) place or keep, in any part of a lodging house, any luggage, clothing, bedding or furniture, that is infested with vectors of disease;
- (j) store or keep such a quantity of furniture, material or goods within the lodging house—
 - (i) in any kitchen, living or sleeping apartment so as to prevent the cleaning of the floors, walls, fittings or fixtures; or
 - (ii) in a sleeping apartment so as to decrease the air space to less than the minimum required by this Part;
- (k) obstruct or prevent the keeper or manager from inspecting or examining the room or rooms occupied by the lodger or resident; and
- (l) fix any fastener or change any lock to a door or room without the written approval of the keeper.

9.32 Approval for storage of food

(1) An Environmental Health Officer may—

- (a) upon written application from a keeper, approve the storage of food within a refrigerator or sealed container in a sleeping apartment; and
- (b) withdraw the approval if a nuisance or vector of disease infestation is found to exist in the lodging house.

(2) The keeper of a serviced apartment may permit the storage and consumption of food within that apartment if suitable storage and dining facilities are provided.

PART 10—OFFENSIVE TRADES*Division 1—General***10.1 Interpretation**

In this Part, unless the context otherwise requires—

dry cleaning premises means premises on which is carried out the process of dry cleaning using only arklone as the dry cleaning fluid, in a machine operating on a full cycle fully enclosed basis; and

offensive trade means any one or more of the trades, businesses or occupations usually carried on, in or connected with, the following works or establishments—

- (a) fish processing establishments (not including retail fish shops) in which whole fish are cleaned and prepared;
- (b) shellfish and crustacean establishments, not including retail fish shops;
- (c) fish curing premises;
- (d) flock factories;
- (e) laundries, dry cleaning premises and dye works; and
- (f) any offensive trade as defined by section 186 of the Health Act.

*Division 2—Consent and registration***10.2 Interpretation**

In this Division, unless the context otherwise requires—

Certificate of Registration means the certificate of registration of premises for offensive trade, issued under clause 10.6; and

occupier in relation to premises includes the person registered as the occupier of the premises in the Certificate of Registration.

10.3 Consent to establish an offensive trade

(1) A person seeking the consent of the local government under section 187 of the Health Act to establish an offensive trade must—

- (a) advertise notice of his or her intention to apply for consent in accordance with clause 10.4;
- (b) give the CEO copies of the notice advertised under clause 10.3(1)(a), and the details of its advertising under clause 10.4(2); and
- (c) make application in the form prescribed in Schedule 13 and in accordance with District Planning Scheme.

(2) A person who makes a false statement in an application under this clause is guilty of an offence.

10.4 Notice of intention to apply

(1) A notice required under subclause 10.3(1)(a) must—

- (a) contain the name, address and telephone contact details of the person who intends to make the application;
- (b) contain a description of the nature of the offensive trade; and
- (c) contain details of the premises on or on which it is proposed to carry on the proposed trade.

(2) Copies of the notice must be—

- (a) given to each adjacent property owner and tenant, displayed on the premises in or on which it is proposed to carry out the proposed trade and advertised in a newspaper circulating in the district; or
- (b) otherwise advertised as required by the Chief Executive Officer.

10.5 Decision on application for consent

(1) The local government may—

- (a) approve an application for consent unconditionally or subject to any conditions; or
- (b) refuse to approve an application for consent.

(2) If the local government approves an application for consent, it is to give the applicant written notice of its consent.

(3) If the local government refuses to approve an application for consent, it is to give the applicant written notice of that refusal.

(4) The local government may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the owner or occupier of the premises on which the offensive trade is being, or is proposed to be, carried on.

10.6 Registration of premises

An application for the registration, or for the renewal of the registration, of premises pursuant to section 191 of the Health Act must be—

- (a) in the form prescribed in Schedule 14;
- (b) accompanied by the fee prescribed in the *Health (Offensive Trades Fees) Regulations 1976* as amended from time to time; and
- (c) lodged with the Chief Executive Officer.

10.7 Decision on application for registration

(1) The local government may—

- (a) approve an application for the registration, or for the renewal of the registration, of premises for the carrying on of an offensive trade unconditionally or subject to any conditions; or
- (b) refuse to approve an application for the registration of premises for the carrying on of an offensive trade.

(2) If the local government approves an application for the registration, or for the renewal of the registration, of premises for the carrying on of an offensive trade, it is to issue to the applicant a Certificate of Registration which must—

- (a) be in the form prescribed in Schedule 15; and
- (b) include the conditions (if any) on which the application is approved.

(3) If the local government refuses to approve an application for the registration, or for the renewal of the registration, of premises for the carrying on of an offensive trade, it is to give written notice of that refusal to the applicant.

(4) The local government may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the owner or occupier of the premises.

10.8 Change of occupier

If there is a change of occupier of the premises registered pursuant to this Division, the new occupier must forthwith notify the CEO in writing of such change.

10.9 Alterations to premises

While any premises remain registered under this Division, a person must not, without the written permission of the local government, make or permit any change or alteration to the premises.

*Division 3—General duties of an occupier***10.10 Interpretation**

In this Division, unless the context otherwise requires—

occupier means the occupier, or where there is more than one occupier, each of the occupiers of the premises in or upon which an offensive trade is carried on; and

the premises means the premises in or upon which an offensive trade is carried on.

10.11 Cleanliness

The occupier must—

- (a) keep or cause to be kept in a clean and sanitary condition and in a state of good repair the floors, walls and ceilings and all other portions of the premises;
- (b) keep or cause to be kept in a clean and sanitary condition and in a state of good repair all fittings, fixtures, appliances, machinery, implements, shelves, counters, tables, benches, bins, cabinets, sinks, drain boards, drains, grease traps, tubs, vessels and other things used on or in connection with the premises;
- (c) keep the premises free from any unwholesome or offensive odour arising from the premises;
- (d) maintain in a clean and tidy condition all yards, footpaths, passage ways, paved areas, stores or outbuildings used in connection with the premises; and
- (e) clean daily and at all times keep and maintain all sanitary conveniences and all sanitary fittings and grease traps on the premises in a clean and sanitary condition.

10.12 Rats and other vectors of disease

The occupier must—

- (a) take all reasonably practicable measures to ensure that the premises are kept free from rodents, cockroaches, flies and other vectors of disease; and
- (b) provide in and on the premises all effective means and methods for the eradication and prevention of rodents, cockroaches, flies and other vectors of disease.

10.13 Sanitary conveniences and hand wash basins

The occupier must provide on the premises, in an approved position, sufficient sanitary conveniences and hand wash basins, each with an adequate supply of hot and cold water for use by employees and by all other persons lawfully upon the premises.

10.14 Painting of walls etc.

The occupier must cause the internal surface of every wall, the underside of every ceiling or roof and all fittings as may be directed in and on the premises to be cleaned and painted when instructed by an Environmental Health Officer.

10.15 Effluvia, vapours, gases or dust

The occupier must provide, use and maintain in a state of good repair and working order, appliances capable of effectively destroying or of rendering harmless all offensive effluvia, vapours, dust or gases arising in any process of his or her business or from any material, residue or other substance which may be kept or stored upon the premises.

10.16 Offensive material

The occupier must—

- (a) provide on the premises impervious receptacles of sufficient capacity to receive all offensive material and trade refuse produced upon the premises in any one day;
- (b) keep air-tight covers on the receptacles, except when it is necessary to place something in or remove something from them;
- (c) cause all offensive material and trade refuse to be placed immediately in the receptacles;
- (d) cause the contents of the receptacles to be removed from the premises at least once in every working day and at such more frequent intervals as may be directed by the local government or an Environmental Health Officer; and
- (e) cause all receptacles, after being emptied, to be cleaned immediately with an efficient and approved disinfectant.

10.17 Storage of materials

The occupier must cause all material on the premises to be stored so as not to be offensive or injurious to health whether by smell or otherwise and so as to prevent the creation of a nuisance.

10.18 Specified offensive trades

(1) In this clause, *specified offensive trade* means 1 or more of the offensive trades carried on, in or connected with the following works or premises—

- (a) fat rendering premises;
- (b) fish processing, shellfish and crustacean processing premises (not including retail fish shops);
- (c) fish curing premises (not including retail fish shops); and
- (d) laundries, dry cleaning premises and dye works.

(2) Where premises are used for or in relation to a specified offensive trade, the occupier must—

- (a) cause the floor of the premises to—
 - (i) be properly drained and paved with impervious material;
 - (ii) have a smooth surface; and
 - (iii) have a fall to a bucket trap or spoon drain in such a way that all liquids falling on the floor are conducted by the trap or drain to a drain inlet situated inside the building where the floor is situated; and
- (b) cause the angles formed by the walls with any other wall, and by the wall with the floor, to be coved to a radius of not less than 25 millimetres; and
- (c) cause all liquid refuse to be—
 - (i) cooled to a temperature not exceeding 26 degrees Celsius and be in accordance with the *Metropolitan Water Supply, Sewerage and Drainage Board By-Laws 1981* before being discharged into any drain outlet from any part of the premises; and
 - (ii) directed through such screening or purifying treatment as an Environmental Health Officer may from time to time direct.

10.19 Directions by an Environmental Health Officer

(1) An Environmental Health Officer may give to the occupier directions to prevent or diminish the offensiveness of a specified offensive trade or to safeguard the public health.

(2) The occupier must comply with a direction given under this clause.

10.20 Other duties of occupier

In addition to the requirements of this Division, the occupier must comply with all other requirements of this Part that apply to the particular specified offensive trade or trades conducted on the premises.

Division 4—Fat rendering establishments

10.21 Interpretation

In this Division, unless the context otherwise requires—

fat rendering establishment means premises where edible fats including suet, dripping or premier jus are rendered down by any heat processing method; and

occupier means the occupier of any premises on which the trade of fat rendering is carried on.

10.22 Exhaust ventilation

The occupier must provide and maintain—

- (a) a hood which must—
 - (i) be of an approved design and construction;
 - (ii) be situated so as to arrest all effluvia, odours and smoke from the process of fat rendering; and
 - (iii) must extend a minimum of 150 millimetres beyond the length of each appliance; and
- (b) an exhaust ventilation system—
 - (i) the point of discharge of which must be at least 1 metre above the ridge of a pitched roof or 3 metres above a flat roof and must not be located within 6 metres of an adjoining property or any fresh air intake; and

- (ii) which must discharge in such manner and in such a position that no nuisance is created.

10.23 Covering of apparatus

External parts of the fat rendering apparatus must be constructed or covered with a non-corrosive impervious material.

10.24 Rendering of walls

The occupier must cause each wall within a radius of 3 metres of the rendering apparatus or machinery to be rendered with a cement plaster with a steel float finish or other approved finish to a height of 2 metres, devoid of holes, cracks and crevices.

Division 5—Fish premises

10.25 Interpretation

In this Division, unless the context otherwise requires—

appliance includes a utensil, an instrument, a cover, a container or apparatus;

fish means fresh fish, frozen fish, chilled fish and cooked fish, whether cleaned, uncleaned or part cleaned and includes crustaceans and molluscs, but does not include—

- (a) fish which has been cured, preserved, hermetically canned or treated to prevent putrefaction; or
- (b) cleaned fish supplied in cartons or packets by a packer and sold in such cartons or packets if they are at all times kept in a deep freeze refrigeration unit at a temperature not exceeding minus 15 degrees Celsius;

fish curing premises means a place where, for the purpose of sale, fish may be partly cleaned, scaled or cut up for preservation by salting, drying, smoking or other means;

fish processing premises means a place where, for the purpose of trade, fish is cleaned, partly cleaned, scaled or cut up; and;

occupier means the occupier of fish processing premises or fish curing premises.

10.26 Fish preparation room

(1) The fish preparation room of a fish processing premises or fish curing premises must have a self-closing door.

(2) The occupier must ensure that all fish is prepared in the fish preparation room and that room is to be used solely for that purpose.

10.27 Disposal of waste

The occupier must cause all offal and wastes, all rejected and unsaleable fish and any rubbish or refuse which is likely to be offensive or a nuisance to be—

- (a) placed in the receptacles referred to in 10.17 and disposed of in accordance with that clause; or
- (b) kept in a frozen state in an approved enclosure before its removal from the premises.

10.28 Fish containers

The occupier must not allow any box, basket or other container used for the transport of fish to—

- (a) remain on the premises longer than is necessary for it to be emptied; or
- (b) be kept so as to cause a nuisance or to attract flies.

Division 6—Flock factories

10.29 Interpretation

In this Division, unless the context otherwise requires—

flock factory includes any premises or place where flock is produced wholly or partly by tearing up or teasing, wadding, kapok, rags, cotton, lintens, fibre, or other material used or likely to be used for the filling of mattresses, pillows, bedding, upholstery, cushions or substances used in packaging material or the manufacture of underfelt; and

occupier means the occupier of a flock factory.

10.30 New and used material

(1) Subject to subclause (2), the occupier must not use, for the manufacture of flock, any material other than new material.

(2) Material other than new material may be used for the manufacture of flock if, before being used, every part of that material is subjected to moist heat maintained at a temperature of 100 degrees Celsius for a least 20 minutes.

10.31 Collection and removal of dust

The occupier must provide effective means to prevent the escape into the open air of all dust or other material from the premises.

10.32 Unclean rags

A person must not—

- (a) collect, deliver, offer for sale or sell for the manufacture of flock;
- (b) receive, store or deliver for the manufacture of flock; or
- (c) make flock from,

rags which are unclean or which have been taken from any refuse or rubbish or from any receptacle used for the storage or collection of refuse or rubbish.

10.33 Bedding and upholstery

A person must not, for the purpose of sale or in the course of any business, remake, renovate, tease, retease, fill, refill or repair any—

- (a) used bedding; or
- (b) upholstery,

which is unclean, offensive or infested with vectors of disease, unless the—

- (c) material of which the bedding is made; or
- (d) filling material of which the upholstery is made,

has been boiled for 30 minutes or otherwise effectively disinfected and cleaned.

Division 7—Laundries, dry cleaning establishments and dye works

10.34 Interpretation

In this Division, unless the context otherwise requires—

dry cleaning premises—

- (a) means premises where clothes or other articles are cleaned by use of solvents without using water; but
- (b) does not include premises in which perchlorethylene or arklone is used as dry cleaning fluid in a fully enclosed machine operating on a full cycle;

dye works means a place where articles are commercially dyed, but does not include dye works in which provision is made for the discharge of all liquid waste there from, into a public sewer;

exempt laundromat means a premises in which—

- (a) laundering is carried out by members of the public using, on payment of a fee, machines or equipment provided by the owners or occupiers of those premises;
- (b) laundering is not carried out by those owners or occupiers for or on behalf of other persons; and
- (c) provision is made for the discharge of all liquid waste from those premises into a public sewer;

laundromat means a public place with coin operated washing machines, spin dryers or dry cleaning machines; and

laundry means any place where articles are laundered by commercial grade machinery but does not include an exempt laundromat.

10.35 Receiving depot

An owner or occupier of premises must not use or permit the premises to be used as a receiving depot for a laundry, dry cleaning premises or dye works except with the written permission of the local government who may at any time by written notice withdraw such permission.

10.36 Reception room

(1) The occupier of a laundry or dry cleaning premises or dye works must—

- (a) provide a reception room in which all articles brought to the premises for treatment must be received and must not receive or permit to be received any such articles except in that room; and
- (b) cause such articles, as may be directed by an Environmental Health Officer, to be thoroughly disinfected to the satisfaction of the Environmental Health Officer.

(2) A person must not bring or permit food to be brought into the reception room referred to in this clause.

10.37 Walls and floors

The occupier of a laundry, dry cleaning premises or dye works must cause—

- (a) the internal surfaces of all walls to be rendered with a cement plaster with a steel float finish or other approved material to a height of 2 metres and to be devoid of holes and crevices;
- (b) the floor to be impervious, constructed of concrete and finished with a smooth surface; and
- (c) every floor and wall of any building on the premises to be kept at all times in good order and repair, so as to prevent the absorption of any liquid which may be splashed or spilled or may fall or be deposited on it.

10.38 Laundry floor

The occupier of a laundry must provide in front of each washing machine a non-corrosive grating, with a width of at least 910 millimetres, so constructed as to prevent any person from standing in water on the floor.

10.39 Escape of dust

The occupier of a dry cleaning premises must provide effective means to prevent the escape into the open air of all dust or other material from the premises.

10.40 Precautions against combustion

The occupier of a dry cleaning premises where volatile liquids are used must take all proper precautions against combustion and must comply with all directions given by an Environmental Health Officer for that purpose.

10.41 Trolleys

The occupier of a dry cleaning premises must—

- (a) provide trolleys for the use of transporting dirty and clean linen; and
- (b) ensure that each trolley is—
 - (i) clearly designated to indicate the use for which it is intended;
 - (ii) lined internally with a smooth impervious non-absorbent material that is easily cleaned; and
 - (iii) thoroughly cleaned and disinfected on a regular basis.

10.42 Sleeping on premises

A person must not use or permit any room in a laundry, dry cleaning premises or dye works to be used for sleeping purposes.

PART 11—OFFENCES AND PENALTIES**11.1 Offences**

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

11.2 Penalties

A person who commits an offence under clause 11.1 is liable to—

- (a) a penalty which is not more than \$2,500 and not less than—
 - (i) in the case of a first such offence, \$250;
 - (ii) in the case of a second such offence, \$500; and
 - (iii) in the case of a third and subsequent such offence, \$1,250; and
- (b) if the offence is a continuing offence, to a daily penalty which is not more than \$250 and not less than \$125 for each day during which the offence continues.

11.3 Other enforcement actions

(1) In addition to a penalty imposed under clause 11.2, any expense incurred by the local government in consequence of a breach or non-observance of this local law, in the execution of work directed to be executed by any person and not executed by him or her, must be paid by the person committing the breach for failing to execute the work.

(2) On a breach, or successive breaches, by a licensee or a person registered under this local law, the local government may suspend or cancel the licence or registration as the case may be.

*Schedule 1***REQUIRED BUFFER DISTANCES FOR FEEDLOTS**

[clause 6.22(2)]

Buffer	Distances
Townsite boundaries	5,000m
Isolated rural dwellings, dairies and industries	1,000m
Public roads and recreation areas	100m
Neighbouring rural property boundaries	50m
Major water course and water impoundments	300m
Bores, wells or soaks used for drinking, stock or irrigation	300m
Minor water courses	100m

Schedule 2
REQUIRED BUFFER DISTANCES FOR PIGGERIES

[clause 6.25(2)]

Buffer	Distances
Townsite boundaries	5,000m
Isolated rural dwellings, dairies and industries	1,000m
Public road and recreation areas	100m
Neighbouring rural property boundaries	50m
Major water courses and water impoundment	300m
Bores, wells or soak wells used for drinking, stock or irrigation	300m
Minor water courses	100m

Schedule 3
REQUIRED BUFFER DISTANCES FOR INTENSIVE PIGGERIES

[clause 6.25(2) and 6.27]

	Townsite Boundaries	Isolated rural dwellings, dairies, industries	Public roads, recreation areas	Neighbouring rural property boundaries	Surface water supply catchments	Water-courses/ rural water impoundments	Bores/wells soaks Drinking water supply	Stock irrigation supply
Piggeries and facilities for more than 5,000 pigs	5,000m	300m	200m	50m	Not permitted	300m	300m	100m
500-5000 pigs	3,500m	300m	150m	50m	Not permitted	300m	300m	100m
50-499 pigs	2,000m	300m	100m	50m	Not permitted	300m	300m	100m
Less than 50 pigs	500m	300m	50m	50m	Not permitted	200m	300m	100m
Land used for disposing of raw wastes or partly treated wastes	1,000m	300m	100m	300m	Not permitted	300m	300m	300m
Land used to dispose of effectively treated wastes	200m	50m	20m	20m	Not permitted	100m	100m	100m

Schedule 4
APPLICATION FOR REGISTRATION OF A LODGING HOUSE

[clause 9.3(a)]

I/We, _____
(Full name of applicant/s)

Of _____

(Residential Address of Applicant/s)

apply for the registration of premises situated (or to be situated) at:—

as a lodging house to be classified as—

- ♣ a lodging house;
- ♣ a short term hostel
- ♣ recreational campsite
- ♣ serviced apartments

and for my name to be entered in the Register as the keeper of a lodging house.

DESCRIPTION OF LODGING HOUSE

Number of stories _____

Rooms for private use	Number	Area
Laundries/toilets/bathrooms
Bedrooms
Dining Rooms
Kitchens
Sitting Rooms
Other Rooms (Specify)
Rooms for lodgers	Number	Area
Bedrooms
Dining Rooms
Kitchens
Sitting Rooms
Other Rooms (Specify)
Sanitary conveniences for male lodgers	Number	
Toilets	
Urinals	
Baths	
Showers	
Hand Wash basins	
Sanitary conveniences for female lodgers	Number	
Toilets	
Baths	
Showers	
Hand Wash basins	
Laundry facilities	Number	
Washtroughs	
Washing machines	
Drying cabinets or clothes lines	

Additional details

- (a) Lodgers meals will/will not be provided by the manager/keeper/lodgers.
- (b) The keeper will/will not reside continuously on the premises.
- (c) Name and occupation of proposed manager if keeper resides elsewhere—

(d) There will be _____ family members residing on the premises with the manager/keeper.

Application fee of \$ _____ is attached.

(Signature of Applicant/s)

(Date)

Schedule 5

CERTIFICATE OF REGISTRATION OF A LODGING HOUSE

[clause 9.4]

This is to certify that the premises situated at _____

are registered as a lodging house and classified as—

- ♣ a lodging house;
- ♣ a short term hostel
- ♣ recreational campsite
- ♣ serviced apartments

until 30 June _____, on the following conditions—

- (a) That _____, whose name is entered on the register of keepers of the Shire of East Pilbara, continues to be the keeper of the lodging house;
- (b) That _____ appointed by the keeper to be the manager of the lodging house, continues to be the manager of the lodging house;

- (c) That the Certificate of Registration is not cancelled or revoked;
- (d) That the maximum number of rooms to be used as sleeping apartments for lodgers is _____; and
- (e) That the maximum number of lodgers on the premises shall not exceed _____.

This Certificate of Registration is issued subject to the *Health Act 1911* and the *Shire of East Pilbara Health Local Law 2011* and is not transferable.

Dated _____

Environmental Health Officer

Fee Received: \$ _____

Schedule 6

NOTICE OF CHANGE OF OWNER OF A LODGING HOUSE

[clause 9.6]

I/We, _____
(Full name of applicant)

Of _____

(Residential address of applicant)

am/are the new owner/s of premises situated at

which are registered in the name of

for the carrying on of the lodging house business.

(Signature of Applicant/s)

(Date)

Schedule 7

REQUIRED COOKING FACILITIES

[clause 9.10(1)]

No. of Lodgers	Ovens	4 Burner Stoves
1—15	1	1
16—30	1	2
31—45	2	3
46—60	2	4
Over 60	2	4+1 for each additional 15 lodgers over 60

Schedule 11
APPLICATION FOR LICENCE OF A MORGUE

[clause 3.14(2)(a)]

I/We _____
(Full name in block letters)

Of _____
(Residential Address)

apply to licence the premises listed below as a Morgue
Address of premises—

Name of premises—

Dated this _____ day of _____ 20_____.

Signature of Applicant

Date

Schedule 12
CERTIFICATE OF LICENCE OF A MORGUE

[clause 3.15(3)]

This is to certify the following premises is licensed as a Morgue from the _____ day of _____ 20_____ until 30 June_____.

Address of premises—

Name of Premises—

Dated this _____ day of _____ 20_____.

Environmental Health Officer

Schedule 13
APPLICATION FOR CONSENT TO ESTABLISH AN OFFENSIVE TRADE

[clause 10.3(1)(c)]

I/We _____
(Full Name of Applicant/s)

Of _____
(Residential Address of Applicant/s)

apply for consent to establish an offensive trade being

in or upon

Notice of my/our intention to make this application was advertised in—

On _____
(Date of Advertisement)

Plans and specifications of the buildings proposed to be used or erected in connection with the proposed offensive trade are **attached**.

Signature of Applicant/s

Date

Schedule 14

APPLICATION FOR REGISTRATION OF PREMISES FOR OFFENSIVE TRADE

[clause 10.6(a)]

I/We _____
(Full Name of Applicant/s)

Of _____
(Residential Address of Applicant/s)

apply for registration, for the year ended _____

on _____
(Location of Premises)

being premises in or upon which there is (or is to be) carried on an offensive trade, namely:—

(Description of Offensive Trade)

under the business name of

The prescribed registration fee \$ _____ is attached.

Signature of Applicant/s

Date

Schedule 15

CERTIFICATE OF REGISTRATION OF PREMISES FOR OFFENSIVE TRADE

[clause 10.7(2)(a)]

This is to certify that the premises situated at

of which _____ is the occupier;
are registered for the carrying on of the trade of

Trade Name _____

This registration expires on _____

Dated this _____ day of _____ 20_____.

Environmental Health Officer
Shire of East Pilbara

Dated: 3 February 2012.

The Common Seal of the Shire of East Pilbara was affixed by the authority of a resolution of the local government in the presence of—

LYNNE CRAIGIE, Shire President.
ALLEN COOPER, Chief Executive Officer.

Consented to—

Dated:

ANDREW ROBERTSON, A/Executive Director, Public Health.

**DOG ACT 1976
LOCAL GOVERNMENT ACT 1995**

SHIRE OF EAST PILBARA

DOGS LOCAL LAW 2011

CONTENTS

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Purpose and effect
- 1.3 Commencement
- 1.4 Repeal
- 1.5 Interpretation
- 1.6 Application

PART 2—IMPOUNDING OF DOGS

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

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

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

PART 4—APPROVED KENNEL ESTABLISHMENTS

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

PART 5—DOGS IN PUBLIC PLACES

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

PART 6—MISCELLANEOUS

- 6.1 Offence to excrete

PART 7—ENFORCEMENT

- 7.1 Interpretation
- 7.2 Modified penalties
- 7.3 Issue of infringement notice
- 7.4 Failure to pay modified penalty
- 7.5 Payment of modified penalty
- 7.6 Withdrawal of infringement notice
- 7.7 Service

SCHEDULE 1—APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

SCHEDULE 2—CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

SCHEDULE 3—MODIFIED PENALTIES

DOG ACT 1976
LOCAL GOVERNMENT ACT 1995

SHIRE OF EAST PILBARA

DOGS LOCAL LAW 2011

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers enabling it, the Shire of East Pilbara resolved on 3 February 2012 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law is the *Shire of East Pilbara Dogs Local Law 2011*.

1.2 Purpose and effect

(1) The purpose of this local law is to make provisions about the impounding of dogs, to control the number of dogs that can be kept on premises and the manner of keeping those dogs, and to prescribe dog exercise areas and areas in which dogs are totally prohibited.

(2) The effect of this local law is to extend the control powers of the local government under the provisions of the *Dog Act 1976* and other written law.

1.3 Commencement

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

1.4 Repeal

The *Shire of East Pilbara Dogs Local Law* published in the *Government Gazette* on 9 August 2000 is repealed.

1.5 Interpretation

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

Act means the *Dog Act 1976*;

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

CEO means the Chief Executive Officer of the local government;

dangerous dog has the same meaning as given to it in the Act;

district means the district of the local government;

food premises means any premises or vehicle in which a food business, as defined in section 10 of the Food Act 2008, is being carried on;

food transport vehicle has the meaning given to it in the *Food Act 2008*;

kennel means any structure or land used for the boarding or breeding of dogs;

local government means the Shire of East Pilbara;

local planning scheme means a local planning scheme made by the local government under the *Planning and Development Act 2005*, or a town planning scheme which was made under the *Town Planning and Development Act 1928*, which applies throughout the whole or a part of the district;

owner has the same meaning given to it in the Act;

person liable for the control of the dog has the same meaning given to it in the Act;

pound means a pound established under section 11 of the Act;

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

premises has the same meaning given to it in the Act;

public place has the same meaning given to it in the Act;

Regulations means the *Dog Regulations 1976*;

Schedule means a schedule in this local law;

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

townsite means the townsites within the district which are—

- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
- (b) referred to in clause 37 of Schedule 9.3 of the *Local Government Act 1995*.

(2) Reference to any act or local law means that act or local law as amended from time to time and includes all regulations made thereunder.

1.6 Application

This local law applies throughout the district.

PART 2—IMPOUNDING OF DOGS

2.1 Charges and costs

The following are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*—

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of pound keeper at pound

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

2.3 Release of impounded dogs

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

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

- (a) of his or her ownership of the dog or of his or her 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;
- (c) of proof of registration of the dog in accordance with the Act; and
- (d) of payment of the charges and costs imposed by the local government in accordance with clause 2.1.

2.4 No breaking into or destruction of pound

A person who—

- (a) unless he or she is the pound keeper or a person authorised 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 ineffective—
 - (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: \$2,000

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

3.1 Dogs to be confined

(1) In this Part the term **fence** includes a wall.

(2) An owner or occupier of premises within the district on which a dog is kept shall—

- (a) cause the portion of those premises on which the dog is kept to be fenced in a manner capable of confining the dog to that portion;
- (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, prevents the dog at all times from passing over, under or through the fence;
- (c) ensure that every gate or door in the fence is kept closed at all times except when the dog is not kept on the premises, but nothing in this subclause prevents a person from opening a gate in order to enter or leave the premises;
- (d) ensure that every gate or door in the fence is fitted with—
 - (i) a proper latch attached to the gate or door on the side of the fence where the dog is normally kept;
 - (ii) an efficient self closing mechanism; and
 - (iii) a latch or other means which allows the gate to be locked;

- (e) maintain the fence and all gates and doors in the fence or wall in good order and condition; and
- (f) 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.

(3) Where an occupier fails to comply with subclause (2), he or she commits an offence.

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

3.2 Limitation on the number of dogs

(1) This clause does not apply to premises which have been—

- (a) licensed under Part 4 as an approved kennel establishment; or
- (b) granted an exemption under section 26(3) of the Act.

(2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act—

- (a) 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite; or
- (b) 4 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a townsite.

(3) Where an occupier fails to comply with subclause (2) he or she commits an offence.

Penalty: \$1,000 and a daily penalty of \$100.

PART 4—APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2—

adjoining means land or premises which have a common boundary or portion of a boundary with a lot or is separated from that lot by a right-of-way, pedestrian access way, access leg of a battleaxe lot or the equivalent not more than 6 metres in width;

licence means a licence to keep an approved kennel establishment on premises;

licensee means the holder of a licence;

premises, in addition to the meaning given to it in section 3 of the Act, means the premises described in the application for a licence; and

transferee means a person who applies for the transfer of a licence to her or him under clause 4.14 of this local law.

4.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form of that in Schedule 1, and must be lodged with the local government together with—

- (a) a copy of a determination on application for planning approval granting approval for an animal establishment;
- (b) copies of the notices to be given under clause 4.3;
- (c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government; and
- (e) the fee for the application for a licence referred to in clause 4.10(1).

4.3 Notice of proposed use

(1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged—

- (a) once in a newspaper circulating in the district; and
- (b) to the owners and occupiers of any premises adjoining the premises.

(2) The notices in subclause (1) must specify that—

- (a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
- (b) the application and plans and specifications may be inspected at the offices of the local government.

(3) Where—

- (a) the notices given under subclause (1) do not clearly identify the premises; or
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the local government may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.

4.4 Exemption from notice requirements

Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a—

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements,

under a local planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(b) do not apply in respect of the application for a licence.

4.5 When application can be determined

An application for a licence is not to be determined by the local government until—

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 Determination of application

In determining an application for a licence, the local government is to have regard to—

- (a) the matters referred to in clause 4.7;
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.7 Where application cannot be approved

The local government cannot approve an application for a licence where—

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a local planning scheme; or
- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; or
- (c) it does not comply with the conditions required on the application form.

4.8 Conditions of approval

(1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.

(2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.

4.9 Compliance with conditions of approval

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

Penalty: \$1,000 and a daily penalty of \$100.

4.10 Fees

(1) On lodging an application for a licence, the applicant is to pay a fee to the local government.

(2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.

(3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.

(4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

4.11 Form of licence

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

4.12 Period of licence

(1) The period of effect of a licence is set out in section 27(5) of the Act.

(2) A licence is to be renewed if the fee referred to in clause 4.10(2) is paid to the local government prior to the expiry of the licence.

(3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

4.13 Variation or cancellation of licence

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

4.14 Transfer of licence

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

4.15 Notification

The local government is to give written notice to—

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

4.16 Inspection of kennel

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

PART 5—DOGS IN PUBLIC PLACES**5.1 Places where dogs are prohibited absolutely**

- (1) Subject to section 8 of the Act and section 66J of the *Equal Opportunity Act 1984*, dogs are prohibited absolutely from entering or being in any of the following places—
 - (a) a public building, unless permitted by a sign;
 - (b) a theatre or picture gardens;
 - (c) all food premises and food transport vehicles;
 - (d) a public swimming pool;
 - (e) a public toilet block or changing room; and
 - (f) a cemetery, unless otherwise provided for in the local governments local law relating to cemeteries.
- (2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.

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

5.2 Places which are dog exercise areas

- (1) Subject to clause 5.1 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, the following are dog exercise areas—
 - (a) Newman—Reserve 38372, Capricorn Oval, Thulluna Crescent

- (b) Newman—Lot 840 Boorthana Crescent
- (c) Newman—Reserve 38512, Boomerang Oval, Newman Drive
- (d) Nullagine—Reserve 23348, 167 Cooke Street, Nullagine
- (e) Marble Bar—Reserve 29882, 230 General Street, Marble Bar

(2) All dogs that are off an owner's property are required to be on a lead unless they are within a designated exercise area.

(3) Subclause (1) does not apply to—

- (a) an area set aside by a wall or fence as a children's playground, or where there is no wall or fence, an area within 10 metres of the edge of playing equipment or apparatus;
- (b) an area within 10 metres of the edge of a playing field being used for sporting or other activities, as permitted by the local government, during the times of such use; or
- (c) a car park, thoroughfare, access way or right of way.

PART 6—MISCELLANEOUS

6.1 Offence to excrete

(1) A dog must not excrete on—

- (a) any thoroughfare or other public place; or
- (b) any land which is not a public place without the consent of the occupier.

(2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

Penalty: \$500.

(3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

PART 7—ENFORCEMENT

7.1 Interpretation

In this Part, unless the context otherwise requires—

infringement notice means the notice referred to in clause 7.3; and

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

7.2 Modified penalties

(1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.

(2) The amount appearing in the third column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if—

- (a) the dog is not a dangerous dog; or
- (b) the dog is a dangerous dog, but an amount does not appear in the fourth column directly opposite that offence.

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

7.3 Issue of infringement notice

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

7.4 Failure to pay modified penalty

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

7.5 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

7.6 Withdrawal of infringement notice

(1) Subject to subclause (2), and whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 8 of the First Schedule of the Regulations.

(2) The same person who has issued an infringement notice under clause 7.3 cannot sign or send a notice of withdrawal.

7.7 Service

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

Schedule 1**APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT**

[clause 4.2]

I/we (full name).....
 of (postal address).....
 (telephone number).....
 (facsimile number).....
 (E-mail address).....

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

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

* (insert name of person)

will be residing at the premises on and from (insert date)

* (insert name of person)

will be residing (sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare) at

(insert address of residence)

on and from (insert date).

Attached are—

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

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

Signature of applicant

Date

* delete where inapplicable.

Note: a licence if issued will have effect for a period of 12 months—section 27.5 of the *Dog Act 1976*.

OFFICE USE ONLY

Application fee paid on (insert date)

Schedule 2**CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT**

[clause 4.8(1)]

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

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than—
 - (i) 25 metres from the front boundary of the premises and 5 metres from any other boundary of the premises;
 - (ii) 10 metres from any dwelling; and
 - (iii) 25 metres 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 to a height of no less than 2 metres;
 - (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 100 millimetres 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 washing must pass through the drain in item (f)(x) and must be piped to an 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 75 millimetres 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 50 millimetres 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) 2 metres; 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 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 (or other material) approved by the local government;
 - (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected on a daily basis and when so ordered by an authorised person;
 - (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
 - (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
 - (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
 - (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside—
 - (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.
-

Schedule 3
MODIFIED PENALTIES

[clause 7.2(1)]

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	400	
2.4	Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs	400	
3.1	Failing to provide means for effectively confining a dog	200	400
3.2	Exceeding the number of dogs permitted to be kept at a premises	100	
4.9	Failing to comply with the conditions of a licence	100	
5.1(2)	Dog in place from which prohibited absolutely	200	400
6.1(2)	Dog excreting in prohibited place	100	

Dated: 3 February 2012.

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

LYNNE CRAIGIE, Shire President.
ALLEN COOPER, Chief Executive Officer.

BUSH FIRES ACT 1954
LOCAL GOVERNMENT ACT 1995

SHIRE OF EAST PILBARA

BUSH FIRE BRIGADES LOCAL LAW 2011

CONTENTS

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Commencement
- 1.3 Application
- 1.4 Purpose and effect
- 1.5 Interpretation
- 1.6 Repeal

PART 2—ESTABLISHMENT OF BUSH FIRE BRIGADES

Division 1—Establishment of a bush fire brigade

- 2.1 Establishment of a bush fire brigade
- 2.2 Name and officers of bush fire brigade

Division 2—Command at a fire

- 2.3 Ranks within the bush fire brigade

Division 3—Application of Rules to a bush fire brigade

- 2.4 Rules

Division 4—Transitional

- 2.5 Existing bush fire brigades

Division 5—Dissolution of bush fire brigade

- 2.6 Dissolution of bush fire brigade
- 2.7 New arrangement after dissolution

PART 3—ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES

Division 1—Local government responsibility

- 3.1 Local government responsible for structure
- 3.2 Officers to be supplied with Act
- 3.3 Delegation of authority

Division 2—Chief Bush Fire Control Officer

- 3.4 Managerial role of Chief Bush Fire Control Officer
- 3.5 Chief Bush Fire Control Officer may attend meetings
- 3.6 Duties of Chief Bush Fire Control Officer
- 3.7 Delegation of duties

Division 3—Annual general meetings of bush fire brigades

- 3.8 Holding of annual general meeting
- 3.9 Nomination of bush fire control officers to Bush Fire Advisory Committee
- 3.10 Nomination of bush fire control officer to the local government
- 3.11 Minutes to be tabled before the Bush Fire Advisory Committee

Division 4—Bush Fire Advisory Committee

- 3.12 Functions of Advisory Committee
- 3.13 Advisory Committee to nominate bush fire control officers
- 3.14 Local government to have regard to nominees
- 3.15 Advisory Committee to consider bush fire brigade motions

PART 4—TYPES OF BUSH FIRE BRIGADE MEMBERSHIP

- 4.1 Types of membership of bush fire brigades
- 4.2 Fire fighting members
- 4.3 Auxiliary members
- 4.4 Cadet members
- 4.5 Subscription members
- 4.6 Notification of membership

PART 5—APPOINTMENT, DISMISSAL AND MANAGEMENT OF MEMBERS

- 5.1 Rules to govern

PART 6—EQUIPMENT OF BUSH FIRE BRIGADES

- 6.1 Policies of local government
- 6.2 Equipment of brigade area
- 6.3 Funding from local government budget
- 6.4 Consideration in the local government budget

SCHEDULE 1—RULES GOVERNING THE OPERATION OF BUSH FIRE BRIGADES

**BUSH FIRES ACT 1954
LOCAL GOVERNMENT ACT 1995**

SHIRE OF EAST PILBARA

BUSH FIRE BRIGADES LOCAL LAW 2011

Under the powers conferred by the *Bush Fires Act 1954*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of East Pilbara resolved on 3 February 2012 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law is the *Shire of East Pilbara Bush Fire Brigades Local Law 2011*.

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 Purpose and effect

- (1) The purpose of this local law is to make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades.
- (2) The effect of this local law is to align existing local laws with changes in the law and operational practice.

1.5 Interpretation

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

Act means the *Bush Fires Act 1954*;

Authority means the Fire and Emergency Services Authority of Western Australia established by section 4 of the *Fire and Emergency Services Authority of Western Australia Act 1998*;

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

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

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

Bush Fire Advisory Committee means the persons appointed to a bush fire advisory committee under and in accordance with section 67 of the Act;

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

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

CEO means the Chief Executive Officer of the local government;

Council means the Council of the local government;

district means the district of the local government;

local government means the Shire of East Pilbara;

Regulations means the Regulations made under the Act; and

Rules means the Rules governing the operation of bush fire brigades set out in Schedule 1 as varied from time to time.

- (2) In this local law, unless the context otherwise requires, a reference to—
 - (a) a Captain;
 - (b) a First Lieutenant;
 - (c) a Second Lieutenant;

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

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

1.6 Repeal

The *Shire of East Pilbara Local Laws relating to The Establishment, Maintenance and Equipment of Bush Fire Brigades for any part of the Shire of East Pilbara* as published in the *Government Gazette* on 31 March 1998 is hereby repealed.

PART 2—ESTABLISHMENT OF BUSH FIRE BRIGADES

Division 1—Establishment of a bush fire brigade

2.1 Establishment of a bush fire brigade

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

2.2 Name and officers of bush fire brigade

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

Division 2—Command at a fire

2.3 Ranks within the bush fire brigade

- (1) Where under the Act members of the bush fire brigade have command of a fire, unless a bush fire control officer is in attendance at the fire, the Captain has full control over other persons fighting the fire, and is to issue instructions as to the methods to be adopted by the firefighters.
- (2) In the absence of the Captain, the First Lieutenant, and in his or her absence, the Second Lieutenant and so on, in the order of seniority determined, is to exercise all of the powers and duties of the Captain.
- (3) Where a bush fire control officer is in attendance at a fire which the members of the bush fire brigade have command of under the Act, the most senior bush fire control officer has full control over other persons fighting the fire and is to issue instructions as to the methods to be adopted by the fire fighters.

Division 3—Application of Rules to a bush fire brigade

2.4 Rules

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

*Division 4—Transitional***2.5 Existing bush fire brigades**

(1) Where a local government has established a bush fire brigade prior to the commencement date, then on and from the commencement date—

- (a) the bush fire brigade is to be taken to be a bush fire brigade established under and in accordance with this local law;
- (b) the provisions of this local law apply to the bush fire brigade save for clause 2.2; and
- (c) any rules governing the operation of the bush fire brigade are to be taken to have been replaced and substituted with the Rules.

(2) In this clause “**commencement day**” means the day on which this local law comes into operation.

*Division 5—Dissolution of bush fire brigade***2.6 Dissolution of bush fire brigade**

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

2.7 New arrangement after dissolution

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

PART 3—ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES*Division 1—Local government responsibility***3.1 Local government responsible for structure**

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

3.2 Officers to be supplied with Act

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

3.3 Delegation of authority

The Council may delegate authority to the CEO to ensure that this local law is administered.

*Division 2—Chief Bush Fire Control Officer***3.4 Managerial role of Chief Bush Fire Control Officer**

Subject to any directions by the local government, the chief bush fire control officer has primary managerial responsibility for the organisation and maintenance of bush fire brigades.

3.5 Chief Bush Fire Control Officer may attend meetings

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

3.6 Duties of Chief Bush Fire Control Officer

The duties of the chief bush fire control officer include—

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

3.7 Delegation of duties

The chief bush fire control officer may delegate to the deputy chief bush fire control officer, or any other officer, if the chief bush fire control officer is unable or unwilling to perform his or her duties as a chief bush fire control officer and may delegate all or some of the duties to the Deputy.

*Division 3—Annual general meetings of bush fire brigades***3.8 Holding of annual general meeting**

A bush fire brigade is to hold its annual general meeting prior to the first advisory meeting each year.

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

At the annual general meeting of a bush fire brigade, up to 3 brigade members may be nominated to the Bush Fire Advisory Committee to serve as the bush fire control officers for the brigade area until the next general meeting.

3.10 Nomination of bush fire control officer to the local government

If the local government has not established a Bush Fire Advisory Committee, then at the annual general meeting of a bush fire brigade, the bush fire brigade may nominate 1 brigade member to the local government to serve as the bush fire control officer for the brigade area until the next annual general meeting.

3.11 Minutes to be tabled before the Bush Fire Advisory Committee

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

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

- (a) Bush Fire Advisory Committee; or
- (b) Council, if there is no Bush Fire Advisory Committee

following their receipt under subclause (1).

*Division 4—Bush Fire Advisory Committee***3.12 Functions of Advisory Committee**

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

3.13 Advisory Committee to nominate bush fire control officers

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

3.14 Local government to have regard to nominees

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

3.15 Advisory Committee to consider bush fire brigade motions

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

PART 4—TYPES OF BUSH FIRE BRIGADE MEMBERSHIP**4.1 Types of membership of bush fire brigades**

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

- (a) fire fighting members;
- (b) auxiliary members;
- (c) cadet members; and
- (d) subscription members.

4.2 Fire fighting members

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

4.3 Auxiliary members

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

4.4 Cadet members

Cadet members are—

- (a) to be aged 11 to 15 years;
- (b) to be admitted to membership only with the consent of their parent or guardian;
- (c) admitted for the purpose of training and are not to attend or be in attendance at an uncontrolled fire or other emergency incident;
- (d) to be supervised by a fire fighting member when undertaking normal brigade activities as defined by paragraphs (c), (d), (e), (f) and (g) of section 35A of the Act;
- (e) ineligible to vote at bush fire brigade meetings; and
- (f) not to be assigned ranks under the Authority's rank structure.

4.5 Subscription members

Subscription members are those persons, who being interested in forwarding the objects of the brigade, pay an annual subscription to the funds of the brigade at the following rates—

- (a) owner or occupier of land within the brigade area—minimum subscription of \$10; or
- (b) other persons—minimum subscription of \$5.

4.6 Notification of membership

No later than 1 February in each year, the bush fire brigade is to report to the chief bush fire control officer the name, contact details and type of membership of each brigade member.

PART 5—APPOINTMENT, DISMISSAL AND MANAGEMENT OF MEMBERS

5.1 Rules to govern

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

PART 6—EQUIPMENT OF BUSH FIRE BRIGADES

6.1 Policies of local government

The local government may make policies under which it—

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

6.2 Equipment of brigade area

Not later than 1 February in each year, the bush fire brigade is to report to the local government the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the brigade area (or at a station of the bush fire brigade).

6.3 Funding from local government budget

A request to the local government from the bush fire brigade for funding of protective clothing, equipment or appliance needs is to be received by the local government by 1 February in order to be considered in the next ESL grant round and local government budget, and is to be accompanied by the last audited financial statement and a current statement of assets and liabilities of the bush fire brigade.

6.4 Consideration in the local government budget

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

Schedule 1

RULES GOVERNING THE OPERATION OF BUSH FIRE BRIGADES

[clause 5.1]

PART 1—PRELIMINARY

1.1 Interpretation

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

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

absolute majority means a majority of more than 50 per cent of the number of—

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

Committee means the Committee of the bush fire brigade;

local law means the *Shire of East Pilbara Bush Fire Brigades Local Law 2011*; and

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

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

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

PART 2—OBJECTS AND MEMBERSHIP OF BUSH FIRE BRIGADE**2.1 Objects of bush fire brigade**

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

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

2.2 Committee to determine applications

Applications for membership are to be determined by the Committee.

2.3 Conditions of membership

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

- (a) the qualifications required;
- (b) fees payable, if any;
- (c) a requirement to serve a probationary period; and
- (d) procedures to be employed by the Committee prior to approval of an application for membership,

and the Committee is to act within the parameters of any such policy in determining applications for membership.

2.4 Applications for membership

An application for membership is to be in writing and is to be submitted to the Secretary and in the case of—

- (a) an application for fire fighting membership is to be accompanied by a completed form in the form of that in Appendix II;
- (b) an application for auxiliary membership is to be accompanied by a completed form in the form of that in Appendix III;
- (c) an application for cadet membership is to be accompanied by a completed form in the form of that in Appendix IV.

2.5 Decision on application for membership

(1) The Committee may—

- (a) approve an application for membership unconditionally or subject to any conditions; or
- (b) refuse to approve an application for membership.

(2) If the Committee refuses to approve an application for membership, it is to give written reasons for the refusal, as soon as practicable after the decision is made, to the applicant and the advice that the applicant has the right to object to the local government.

2.6 FESA to be notified of registrations

If any application for membership is approved, the Secretary of the bush fire brigade is to supply registration details to the Authority within 14 days of a person being admitted to membership in the form required by the Authority from time to time.

2.7 Termination of membership

(1) Membership of the bush fire brigade terminates if the member—

- (a) dies;
- (b) gives written notice of resignation to the Secretary;
- (c) is, in the opinion of the Committee, permanently incapacitated by mental or physical ill health;
- (d) is dismissed by the Committee; or
- (e) ceases to be a member or is taken to have resigned under subclause (2).

(2) A brigade member whose membership fees are more than 1 year in arrears is to be taken to have resigned from the bush fire brigade.

2.8 Suspension of membership

(1) Membership of the bush fire brigade may be suspended at any time if, in the opinion of the Committee, circumstances warrant suspending the member.

(2) The period of suspension shall be at the discretion of the Committee.

(3) Upon the expiry of the period of suspension the Committee may—

- (a) extend the period of suspension;
- (b) terminate the membership; or
- (c) reinstate the membership.

2.9 Existing liabilities to continue

The resignation or dismissal of a member under clause 2.7 does not affect any liability of the brigade member arising prior to the date of resignation or dismissal.

2.10 Member has right of defence

A brigade member is not to be dismissed under clause 2.7(1)(d) without being given the opportunity to meet with the Committee and answer any charges which might give grounds for dismissal.

2.11 Objection rights

(1) A person whose—

- (a) application for membership is refused under clause 2.5(1)(b);
- (b) membership is terminated under clause 2.7(1)(c), clause 2.7(1)(d) or clause 2.8(3)(b); or
- (c) membership is suspended under clause 2.8(1) or clause 2.8(3)(a),

has the right of objection to the local government.

(2) The local government may dispose of an objection made under subclause (1) by—

- (a) dismissing the objection;
- (b) varying the decision objected to; or
- (c) revoking the decision objected to, with or without—
 - (i) substituting for it another decision; or
 - (ii) referring the matter, with or without directions, for another decision by the Committee.

PART 3—FUNCTIONS OF BRIGADE OFFICERS**3.1 Chain of command during fire fighting activities**

Subject to the Act and the local law, the command procedures to apply during fire fighting activities are as detailed in the local government's Bush Fire Operating Procedures.

3.2 Duties of Captain

(1) Subject to subclause (2), the Captain is to preside at all meetings.

(2) In the absence of the Captain, the meeting may elect another person to preside at the meeting.

3.3 Secretary

(1) The Secretary is to—

- (a) be in attendance at all meetings and keep a correct minute and account of the proceedings of the bush fire brigade in a book which shall be open for inspection by brigade members at any reasonable time;
- (b) answer all correspondence or direct it appropriately, and keep a record of the same;
- (c) prepare and send out all necessary notices of meetings;
- (d) receive membership fees, donations and other monies on behalf of the bush fire brigade, and remit them to the Treasurer upon receipt;
- (e) complete and forward an incident report in the form required by the Authority to the chief bush fire control officer and the Authority within 14 days after attendance by the bush fire brigade at an incident;
- (f) maintain a register of all current brigade members which includes each brigade member's contact details and type of membership; and
- (g) provide no later than 31 May in each year, a report to the chief bush fire control officer detailing the name, contact details and type of membership of each brigade member.

(2) Where a bush fire brigade attends an incident on more than one day, the incident report form is to be completed and forwarded under subclause (1)(e) within 14 days after the last day of attendance.

3.4 Treasurer

The Treasurer is to—

- (a) receive donations and deposits from the Secretary, and deposit all monies to the credit of the bush fire brigade's bank account;
- (b) pay accounts as authorised by the Committee;
- (c) keep a record of all monies received and payments made, maintain the accounts and prepare the balance sheet for each financial year;
- (d) be the custodian of all monies of the bush fire brigade;
- (e) regularly inform the Secretary of the names of those brigade members who have paid their membership fees; and
- (f) report on the financial position at meetings of the bush fire brigade or Committee.

3.5 Equipment Officer

The Equipment Officer is responsible for the custody and maintenance in good order and condition of all protective clothing, equipment and appliances by the local government to the bush fire brigade (or of the bush fire brigade).

3.6 Storage of equipment

(1) The Equipment Officer may store all of the equipment of the bush fire brigade at a place approved by the Captain (the "station").

(2) If there is to be more than one station in the brigade area, the equipment officer is to appoint in respect of each station a person who is responsible for the custody and maintenance in good order and condition of all equipment and appliances at the station, subject to any direction of the Equipment Officer.

3.7 Equipment Officer to report

The equipment officer is to provide, no later than 1 February of each year, a report to the local government and bush fire brigade captain describing the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the bush fire brigade area (or at a station of the bush fire brigade).

PART 4—COMMITTEE

4.1 Management of bush fire brigade

(1) Subject to the provisions of these Rules, the administration and management of the affairs of the bush fire brigade are vested in the Committee.

(2) Without limiting the generality of subclause (1), the Committee is to have the following functions—

- (a) to recommend to the local government amendments to these Rules;
- (b) to draft the annual budget for the bush fire brigade and present it at the annual general meeting of the bush fire brigade;
- (c) to propose a motion for consideration at any meeting of the bush fire brigade;
- (d) to recommend to the local government equipment which needs to be supplied by the local government to the bush fire brigade;
- (e) to invest or place on deposit any of the funds of the bush fire brigade not immediately required to perform the normal brigade activities;
- (f) to delegate to a person, as from time to time thought fit, any functions (being less than the total functions of the Committee) on any conditions it thinks fit;
- (g) to do all things necessary or convenient in order to perform any of its functions and to secure the performance of the normal brigade activities by the bush fire brigade; and
- (h) deal with membership applications, grievances, disputes and disciplinary matters.

4.2 Constitution of Committee

(1) The Committee of the bush fire brigade is to consist of the brigade officers being the Captain, Secretary, Treasurer, Equipment Officer and the Lieutenants of the bush fire brigade.

(2) The brigade officers are to—

- (a) be elected at the annual general meeting of the bush fire brigade;
- (b) hold office until the next annual general meeting; and
- (c) be eligible for re-election at the next annual general meeting.

(3) Any brigade officer may be removed from office by an absolute majority decision of the brigade members present in person or by proxy at a special meeting called for such purpose.

(4) The Committee may appoint a brigade member to fill a vacancy in any office arising from a resolution under subclause (3) or which has arisen for any other reason.

PART 5—MEETINGS OF BUSH FIRE BRIGADE

5.1 Ordinary meetings

(1) Ordinary meetings may be called at any time by the Secretary by giving at least 7 days notice to all brigade members and to the chief bush fire control officer, for the purpose of—

- (a) organising and checking equipment;
- (b) requisitioning new or replacement equipment;
- (c) organising field excursions, training sessions, hazard reduction programs and the preparation of fire-breaks;
- (d) establishing new procedures in respect of any of the normal brigade activities; and
- (e) dealing with any general business.

(2) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.

(3) Business may be conducted at an ordinary meeting of the bush fire brigade notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.

5.2 Special meetings

(1) The Secretary is to call a special meeting when 5 or more brigade members request one in writing.

(2) At least 2 days notice of a special meeting is to be given by the Secretary, to all brigade members and to the chief bush fire control officer.

(3) In a notice given under subclause (2), the Secretary is to specify the business which is to be conducted at the meeting.

(4) No business is to be conducted at a special meeting beyond that specified in a notice given under subclause (2) in relation to that meeting.

5.3 Annual general meeting

- (1) At least 7 days notice of the annual general meeting is to be given by the Secretary to all brigade members and to the chief bush fire control officer.
- (2) At the annual general meeting the bush fire brigade is to—
 - (a) elect the brigade officers from among the brigade members;
 - (b) consider the Captain's report on the year's activities;
 - (c) adopt the annual financial statements;
 - (d) appoint an auditor for the ensuing financial year in accordance with clause 5.6; and
 - (e) deal with any general business.
- (3) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.
- (4) Business may be conducted at an annual general meeting notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.

5.4 Quorum

- (1) The quorum for a meeting of the bush fire brigade is at least 50 per cent of the number of offices (whether vacant or not) of members of the bush fire brigade.
- (2) No business is to be transacted at a meeting of the bush fire brigade unless a quorum of brigade members is present in person or by proxy.

5.5 Voting

Each brigade member is to have one vote, however in the event of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

5.6 Auditor

- (1) At the annual general meeting a person, not being a brigade member, is to be appointed as the auditor of the bush fire brigade for the ensuing financial year.
- (2) The auditor is to audit the accounts of the bush fire brigade not less than 7 days before the annual general meeting and is to certify to their correctness or otherwise and present a report at the annual general meeting.

PART 6—MEETINGS OF COMMITTEE**6.1 Meetings of Committee**

- (1) The Committee is to meet for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit.
- (2) The Captain or Secretary may convene a meeting of the Committee at any time.

6.2 Quorum

No business is to be transacted at a meeting of the Committee unless a quorum of 3 brigade officers are present in person.

6.3 Voting

Each brigade officer is to have 1 vote, however in the case of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

PART 7—GENERAL ADMINISTRATION MATTERS**7.1 Fees**

- (1) The membership fees, if any, for each type of member for the ensuing 12 months are to be determined by the bush fire brigade at the annual general meeting.
- (2) Subject to subclause (3), a member is to pay the membership fees for her or his type of membership on or before 1 February.
- (3) The bush fire brigade may exempt a brigade member, or a class of membership, from the payment of membership fees, for such period and on such conditions as the bush fire brigade may determine.

7.2 Funds

The funds of the bush fire brigade are to be used solely for the purpose of promoting the objects of the bush fire brigade.

7.3 Financial year

The financial year of the bush fire brigade is to commence on 1 July and is to end on 30 June of the following year.

7.4 Banking

- (1) The funds of the bush fire brigade are to be placed in a bank account and are to be drawn on only by cheques signed jointly by any 2 of the Captain, Secretary or Treasurer.
- (2) If the Secretary/Treasurer is a combined position, the Captain and Secretary/Treasurer are to sign the cheques referred to in subclause (1).

7.5 Disclosure of interests

- (1) A brigade member shall disclose to the bush fire brigade or Committee any financial interest (whether direct or indirect) he or she may have in any matter being considered by the bush fire brigade or Committee, as appropriate.
- (2) If a financial interest has been disclosed under subclause (1), then the bush fire brigade or Committee, as appropriate, is to decide, in the absence of the brigade member who disclosed that interest, whether or not the brigade member is to be permitted to vote on that matter.
- (3) Where the bush fire brigade member or Committee, as appropriate, decides under subclause (2), that a brigade member is not to be permitted to vote on a matter, and the brigade member votes on the matter, then her or his vote is to be taken to have no effect and is not to be counted.

7.6 Disagreements

- (1) Any disagreement between brigade members may be referred to either the Captain or to the Committee.
- (2) Where a disagreement in subclause (1) is considered by the Captain or the Committee to be of importance to the interests of the bush fire brigade, then the Captain or the Committee, as the case may be, is to refer the disagreement to the annual general meeting, an ordinary meeting or a special meeting of the bush fire brigade.
- (3) The local government is the final authority on matters affecting the bush fire brigade, and may resolve any disagreement which is not resolved under subclause (1) or (2).

PART 8—NOTICES AND PROXIES**8.1 Notices**

- (1) Notices of meetings of the bush fire brigade are to be in writing and sent by ordinary post to the registered address of each brigade member.
- (2) Notices of meetings of the Committee may be given in writing in accordance with subclause (1) or by such other means as the Committee may decide (by an absolute majority) at a meeting of the Committee.
- (3) Any accidental omission to give notice of a meeting to, or non-receipt by a person entitled to receive such notice, is not to invalidate the meeting the subject of the notice or any resolutions passed at the meeting.
- (4) Where any notice other than a notice of meeting is to be given under these Rules, the notice is to be—
 - (a) in writing;
 - (b) unless otherwise specified, given to or by the Secretary;
 - (c) given by—
 - (i) personal delivery;
 - (ii) post; or
 - (iii) facsimile transmission; and
 - (d) taken to have been received, as the case may be—
 - (i) at the time of personal delivery;
 - (ii) 2 business days after posting; or
 - (iii) on the printing of the sender's transmission report.

8.2 Proxies

- (1) Where under these Rules a brigade member may vote by proxy, in order for the proxy to so vote, the brigade member or the proxy shall give a notice in the form of that appearing at Appendix I, to the Secretary or the person presiding at the meeting before the start of the meeting at which the proxy is to be used.
- (2) A proxy is to be valid for the meeting for which it is given and for any adjournments of that meeting.
- (3) A proxy shall be valid for the number of votes to which the brigade member is entitled.
- (4) If the donor of the proxy does not give any indication of the manner in which the proxy is to vote, the proxy shall be entitled to vote or not vote as he or she thinks fit.
- (5) A proxy shall be entitled to speak on behalf of the donor of the proxy.
- (6) All forms appointing proxies deposited under subclause (1) are to be retained by the Secretary for not less than 28 days after the conclusion of the meeting to which they relate but if there is any objection to the validity of any vote at the meeting, they are to be retained until the determination of that objection.
- (7) The form appointing a proxy shall be in writing and signed by the brigade member appointing the proxy.

Appendix I**PROXY**

[INSERT NAME] BUSH FIRE BRIGADE
 [ANNUAL] [EXTRAORDINARY] GENERAL MEETING
 TO BE HELD ON [DATE]

I, _____,

being a brigade member appoint _____ to be my proxy and vote on my behalf at the meeting of the bush fire brigade to be held on [DATE] and at any adjournment of it. The proxy shall vote as follows—

MOTION FOR / AGAINST / ABSTAIN

1.

If there is no instruction to the proxy as to the way to vote, the proxy shall exercise her or his discretion as to how to vote or whether to vote at all. In respect of any vote taken at the meeting on a matter which does not appear on the agenda, the proxy shall exercise her or his discretion as to the way he or she casts the vote or whether it is cast at all.

Date: _____

Signed: _____

NOTE: to be valid this proxy must be completed and returned to the Secretary of the bush fire brigade (or the presiding member) prior to the commencement of the meeting for which the proxy is valid.

Dated this _____ day of _____ 20_____

Appendix II**APPLICATION FOR MEMBERSHIP—FIRE FIGHTING MEMBER**

I, the undersigned, hereby make application to be enrolled as a fire fighting member of the _____ bush fire brigade.

Applicant's name: _____

Private address: : _____

Business address: _____

Usual occupation: _____

I can be contacted on—

Home phone: _____ Work phone: _____

Mobile: _____ Fax no: _____

CB Radio: _____

If needed, I can provide my own transport to the scene of any outbreak: Yes
 No

I hold a current driver's licence no: _____ Classes: _____

I declare that I am at least 16 years of age and in good health with no known medical conditions which might limit my capacity to fight fires.

I give these undertakings—

- (1) to promote the objects of the bush fire brigade as far as is in my power;
- (2) to be governed by the provisions of the *Bush Fires Act 1954* and the Regulations made under that Act, and the local law and policies of the Shire of East Pilbara relevant to fire control and bush fire brigades; and
- (3) to use my best endeavours to give assistance in fire fighting measures when called upon and on such occasions to obey all orders and instructions issued by duly authorised officers of the bush fire brigade or the local government.

 Applicant's signature

 Date

BUSH FIRE BRIGADE USE ONLY

APPROVED / DECLINED

 Brigade Captain

 Date

Appendix III**APPLICATION FOR MEMBERSHIP—ASSOCIATE MEMBER**

I, the undersigned, hereby make an application to be enrolled as an associate member of the _____ bush fire brigade.

Applicant's name: _____

Private address: : _____

Business address: _____

Usual occupation: _____

I can be contacted on—

Home phone: _____ Work phone: _____

Mobile: _____ Fax no: _____

CB Radio: _____

I am prepared to—

- Offer to transport fire fighting members and/or equipment to the scene of any outbreak when called upon. I have a motor vehicle of the following type available for such purpose
MDL No: _____ Classes: _____
- Offer my services in the following capacity—

I give these undertakings—

- (1) to promote the objects of the bush fire brigade as far as is in my power;
- (2) to be governed by the provisions of the *Bush Fires Act 1954* and the Regulations made under that Act, and the local law and policies of the Shire of East Pilbara relevant to fire control and bush fire brigades; and
- (3) to use my best endeavours to give assistance in fire fighting measures when called upon and on such occasions to obey all orders and instructions issued by duly authorised officers of the bush fire brigade or the local government.

Applicant's signature

Date

BUSH FIRE BRIGADE USE ONLY

APPROVED / DECLINED

Brigade Captain

Date

Appendix IV**APPLICATION FOR MEMBERSHIP—CADET MEMBER**

I, the undersigned, hereby make an application to be enrolled as a cadet member of the _____ bush fire brigade.

Applicant's name: _____

Private address: : _____

Business address: _____

Usual occupation: _____

I can be contacted on—

Home phone: _____ Work phone: _____

Mobile: _____ Fax no: _____

CB Radio: _____

I declare that I am _____ years of age and in good health.

Date of birth: _____

I give these undertakings—

- (1) to promote the objects of the bush fire brigade as far as is in my power;
- (2) to be governed by the provisions of the *Bush Fires Act 1954* and the Regulations made under that Act, and the local law and policies of the Shire of East Pilbara relevant to fire control and bush fire brigades; and
- (3) to use my best endeavours to give assistance in fire fighting measures when called upon and on such occasions to obey all orders and instructions issued by duly authorised officers of the bush fire brigade or the local government.

Applicant's signature

Date

PARENT/GUARDIAN CONSENT—

I _____ being the parent/guardian of the above applicant, consent to him/her being a cadet member of the _____ bush fire brigade, in accordance with the rules applicable to cadet membership.

Parent/Guardian

Date

BUSH FIRE BRIGADE USE ONLY**APPROVED / DECLINED**

Brigade Captain

Date

Dated: 3 February 2012.

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

LYNNE CRAIGIE, Shire President.
ALLEN COOPER, Chief Executive Officer.

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

SHIRE OF EAST PILBARA

FENCING LOCAL LAW 2011

CONTENTS

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Purpose and effect
- 1.3 Commencement
- 1.4 Repeal
- 1.5 Application
- 1.6 Interpretation
- 1.7 Fees and charges

PART 2—FENCES

Division 1—Sufficient fences

- 2.1 Sufficient fences

Division 2—General

- 2.2 Fences within front setback areas
- 2.3 Gates in fences
- 2.4 Depositing fencing material on public place
- 2.5 Fences on a Rural Lot
- 2.6 Maintenance of Fences
- 2.7 Fences across rights-of-way, public access ways or thoroughfares
- 2.8 General discretion of the local government

Division 3—Fencing materials

- 2.9 Pre-used fencing materials
- 2.10 Barbed wire fences and spiked or jagged materials
- 2.11 Electrified and razor wire fences
- 2.12 Prohibited fencing materials

PART 3—APPROVALS

- 3.1 Application for approval
- 3.2 Decision on application for approval
- 3.3 Compliance with approval
- 3.4 Duration of approval

PART 4—MISCELLANEOUS

- 4.1 False or misleading statement

PART 5—NOTICES OF BREACH

- 5.1 Notices of breach

PART 6—OFFENCES

- 6.1 Offences and penalties
- 6.2 Modified penalties
- 6.3 Form of notices

PART 7—OBJECTIONS AND REVIEW

- 7.1 Objections and review

SCHEDULE 1—OFFENCES AND MODIFIED PENALTIES

SCHEDULE 2—SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

**SCHEDULE 3—SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT
OR AN INDUSTRIAL LOT**

**SCHEDULE 4—SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT OR
SPECIAL RURAL LOT**

SCHEDULE 5—LICENCE FOR APPROVED ELECTRIFIED FENCE

SCHEDULE 6—LICENCE FOR APPROVED RAZOR WIRE FENCE

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

SHIRE OF EAST PILBARA

FENCING LOCAL LAW 2011

Under the powers conferred by the *Dividing Fences Act 1961*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of East Pilbara resolved on 3 February 2012 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law is the *Shire of East Pilbara Fencing Local Law 2011*.

1.2 Purpose and effect

(1) The purpose of this local law is to provide for the regulation, control and management of fences within the district.

(2) The effect of this local law is to—

- (a) regulate, manage and control fences; and
- (b) establish the standard of a sufficient fence according to land use.

1.3 Commencement

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

1.4 Repeal

The *Shire of East Pilbara Local Laws Relating to Fencing* published in the *Government Gazette* on 10 November 2000 is repealed.

1.5 Application

This local law applies throughout the district.

1.6 Interpretation

In this local law, unless the context requires otherwise—

Act means the *Dividing Fences Act 1961*;

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

AS means an Australian Standard or Australian/New Zealand Standard published by Standards Australia;

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;

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

Building Surveyor means a Building Surveyor of the local government;

CEO means the Chief Executive Officer of the local government;

Commercial Lot means a lot where a commercial use—

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

dangerous in relation to any fence means—

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

- district** means the district of the local government;
- dividing fence** has the meaning given to it by the Act;
- electrified fence** means a fence carrying or designed to carry an electric charge;
- fence** means any structure used or functioning as a barrier, irrespective of where it is located and includes any gate;
- front boundary** means the boundary line between a lot and the thoroughfare upon which that lot abuts, or in the case of a lot abutting on more than one thoroughfare, the boundary line between the lot and the primary thoroughfare;
- front fence** means a fence erected on the front boundary of a lot or on a line adjacent to the front boundary;
- front setback area** means the area between the building line of a lot and the front boundary of that lot;
- height** in relation to a fence means the vertical distance between—
- (a) the top of the fence at any point; and
 - (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;
- Industrial Lot** means a lot where an industrial use—
- (a) is or may be permitted under the local planning scheme; and
 - (b) is or will be the predominant use of the lot;
- licence** means an electrified fence licence or a razor wire fence licence;
- local government** means the Shire of East Pilbara;
- local government property** means anything except a thoroughfare—
- (a) which belongs to the local government;
 - (b) of which the local government is the management body under the *Land Administration Act 1997*; or
 - (c) which is an “otherwise unvested facility” under section 3.53 of the *Local Government Act 1995*;
- local planning scheme** means a local planning scheme of the local government made under the *Planning and Development Act 2005*;
- lot** has the meaning given to it in and for the purposes of the *Planning and Development Act 2005*;
- non-sacrificial graffiti protection** means a coating applied to a fence which is not removed in the process of removing graffiti;
- notice of breach** means a notice referred to in clause 5.1;
- occupier** has the meaning given to it in the *Local Government Act 1995*;
- owner** has the meaning given to it in the *Local Government Act 1995*;
- Residential Lot** means a lot where a residential use—
- (a) is or may be permitted under the local planning scheme; and
 - (b) is or will be the predominant use of the lot;
- retaining wall** means any structure which prevents the movement of soil or retains soil or structures in order to allow ground levels of different elevations to exist adjacent to one another;
- Rural Lot** means a lot where a rural use—
- (a) is or may be permitted under the local planning scheme; and
 - (b) is or will be the predominant use of the lot;
- Schedule** means a Schedule to this local law;
- Special Rural Lot** means a lot where a special rural use—
- (a) is or may be permitted under the local planning scheme; and
 - (b) is or will be the predominant use of the lot;
- sufficient fence** means a fence that satisfies clause 2.1 and includes a fence of the description and quality agreed upon by the owners of adjoining lots which does not fail to satisfy clause 2.1; and
- thoroughfare** has the meaning given to it by the *Local Government Act 1995*.

1.7 Fees and charges

All fees and charges applicable under this local law shall be determined by the local government from time to time in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*.

PART 2—FENCES

Division 1—Sufficient fences

2.1 Sufficient fences

- (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.

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

Division 2—General

2.2 Fences within front setback areas

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

2.3 Gates in fences

- (1) A person shall not erect a gate in a fence which does not—
- (a) open into the lot; or
 - (b) open by sliding parallel and on the inside of the fence, which it forms part of, when closed.

2.4 Depositing fencing material on public place

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

2.5 Fences on a Rural Lot

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

2.6 Maintenance of fences

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

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

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

2.8 General discretion of the local government

(1) Notwithstanding the provisions of clause 2.1, the local government may approve the erection or repair of a dividing fence which is not a sufficient fence where all of the owners of the lots to be separated by the dividing fence make an application for approval for that purpose.

(2) In determining whether to grant its approval under subclause (1), the local government may consider whether the erection or retention of the fence would have an adverse effect on—

- (a) the safe or convenient use of any land;
- (b) the safety or convenience of any person; or
- (c) the visual amenity of the locality.

*Division 3—Fencing materials***2.9 Pre-used fencing materials**

(1) Notwithstanding clause 2.1, a person shall not construct a fence on a Residential Lot, a Commercial Lot or an Industrial Lot from pre-used materials without the approval of the local government.

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

2.10 Barbed wire fences and spiked or jagged materials

(1) This clause does not apply to a fence constructed wholly or partly of razor wire.

(2) An owner or occupier of a Residential Lot or a Commercial Lot shall not erect, affix or allow to remain on any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of the local government has been obtained.

(3) An owner or occupier of an Industrial Lot shall not erect, affix or allow to remain on any fence bounding that lot any barbed wire or other materials with spiked or jagged projections unless the wire or other materials are carried on posts at an angle of 45 degrees, and unless the bottom row of wire or other materials is set back 150 millimetres from the face of the fence and is not nearer than 2,000 millimetres from the ground level.

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

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

(6) An owner or occupier of a Rural Lot shall not erect, affix or allow to remain any barbed wire upon a fence on that lot where the fence is adjacent to a thoroughfare or other public place unless the barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.

2.11 Electrified and razor wire fences

(1) An owner or occupier of a lot shall not—

- (a) construct or use an electrified fence on that lot without obtaining the approval of the local government in the form prescribed in Schedule 5; or
- (b) construct a fence wholly or partly of razor wire on that lot without obtaining the approval of the local government in the form prescribed in Schedule 6.

(2) The local government shall not approve an application for the purpose of subclause (1)(a)—

- (a) in respect of a lot which is or which abuts a Residential Lot;
- (b) unless the fence complies with “AS/NZS 3016:2002 Electrical installations—Electricity security fences”; and
- (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.

(3) The local government shall not approve an application for the purpose of subclause (1)(b)—

- (a) if the fence is within 3,000 millimetres of the boundary of the lot; or
- (b) where any razor wire used in the construction of the fence is less than 2,000 millimetres or more than 2,400 millimetres above the ground level.

(4) An application for approval for the purpose of subclauses (1)(a) or (1)(b) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

2.12 Prohibited fencing materials

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

PART 3—APPROVALS

3.1 Application for approval

- (1) Where a person is required to obtain the approval of the local government under this local law, that person shall apply for approval in accordance with subclause (2).
- (2) An application for approval under this local law shall—
 - (a) be in the form determined by the local government;
 - (b) be signed by the applicant and the owner of the lot;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for approval.
- (4) The local government may refuse to consider an application for approval which is not in accordance with subclauses (2) and (3).

3.2 Decision on application for approval

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

3.3 Compliance with approval

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

3.4 Duration of approval

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

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

PART 4—MISCELLANEOUS

4.1 False or misleading statement

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

PART 5—NOTICES OF BREACH

5.1 Notices of breach

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

PART 6—OFFENCES

6.1 Offences and penalties

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

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

6.2 Modified penalties

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

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

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

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

6.3 Form of notices

For the purposes of this local law—

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

PART 7—OBJECTIONS AND REVIEW

7.1 Objections and review

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

Schedule 1

OFFENCES AND MODIFIED PENALTIES

[clause 6.2(2)]

Item No	Clause No.	Nature of offence	Modified penalties \$
1	2.1(1)	Erect a fence which is not a sufficient fence	250
2	2.2	Erect a fence greater than 1200mm in height within a front setback area without the written consent of the Building Surveyor	250
3	2.3(a)	Erect a gate in a fence not opening into the lot	200
4	2.3(b)	Erect a gate in a fence not sliding parallel and inside a fence	200
5	2.6	Failure to maintain a fence in good condition to prevent the fence becoming dangerous, dilapidated or unsightly	250
6	2.7	Erect or maintain a fence or obstruction of temporary or permanent nature across a right-of-way, public access way or thoroughfare without approval	250
7	2.9(1)	Construct a dividing fence on a Residential, Commercial or Industrial Lot from pre-used materials without written approval	250
8	2.10(2)	Erect a fence using barbed wire or material with spiked or jagged projections in the fence construction without approval	250
9	2.11(1)	Construct, erect or use razor wire in a fence or electrify a fence without approval	250
10	2.12	Affix, or use, any broken glass in a fence	250
11	3.3	Failure to comply with terms or conditions of approval	250
12	6.1(1)	Failure to comply with notice of breach	250

Schedule 2**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT**

[clause 2.1(2)(a)]

Each of the identified categories in this Schedule is a sufficient fence on a Residential Lot.

Timber fence

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

Corrugated fence

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

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

Brick, stone or concrete fence

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

- (a) a site classification is to be provided by a professional engineer in accordance with AS2870-1996 as amended;
- (b) the footing is to be designed in accordance with AS2870-1996 as amended;
- (c) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar;
- (d) fences to be offset a minimum of 200mm at maximum 3,000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3,000mm centres;
- (e) expansion joints in accordance with the manufacturer's written instructions; and
- (f) the height of the fence to be 1,800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7.

Composite fence

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

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

or

- (2) (a) brick piers of a minimum 345mm x 345mm x 2,700mm centres bonded to the base all; and
- (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified.

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

[clause 2.1(2)(b)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated, is a sufficient fence on a Commercial Lot or an Industrial Lot.

Galvanised or PVC fence and gate

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

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

Other fences

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

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

[clause 2.1(2)(c)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated is a sufficient fence on a Rural Lot or a Special Rural Lot.

Non-electrified fence

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

Electrified fence

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

Schedule 5
LICENCE FOR APPROVED ELECTRIFIED FENCE

[clause 2.11(1)(a)]

This is to certify that (1) _____
of (2) _____
is licensed, subject to the conditions set out below, to have and use an electrified fence on

(address)

from _____ 20 _____ and until this licence is transferred or cancelled.

Dated this _____ day of _____ 20 _____

Chief Executive Officer,
Shire of East Pilbara.

Conditions of Licence—

The holder of the licence must—

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

Transfer by Endorsement

This licence is transferred to (3) _____
of (4) _____

from and including the date of this endorsement.

Dated this _____ day of _____ 20 _____

Chief Executive Officer,
Shire of East Pilbara.

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

Schedule 6
LICENCE FOR APPROVED RAZOR WIRE FENCE

[clause 2.11(1)(b)]

This is to certify that (1) _____
of (2) _____
is licensed, subject to the conditions set out below, to have a fence constructed wholly or partially of razor wire on

(address)

from 20 _____ and until this licence is transferred or cancelled.

Dated this _____ day of _____ 20 _____

Chief Executive Officer,
Shire of East Pilbara.

Conditions of licence—

- (a) display the licence in a prominent position on the land or premises on which the fence has been erected;
- (b) upon the request of a Building Surveyor produce to him or her the licence;

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

Transfer by Endorsement

This licence is transferred to (3) _____

of (4) _____

from and including the date of this endorsement.

Dated this _____ day of _____ 20_____

Chief Executive Officer,
Shire of East Pilbara.

(1) Name

(2) Address

(3) Name

(4) Address

Dated: 3 February 2012.

The Common Seal of the Shire of East Pilbara was affixed by the authority of a resolution of the local government in the presence of—

LYNNE CRAIGIE, Shire President.
ALLEN COOPER, Chief Executive Officer.