

LOCAL GOVERNMENT ACT 1995

Shire of York

LOCAL GOVERNMENT PROPERTY AMENDMENT LOCAL LAW 2011

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of York resolved on 16 May 2011 to make the following local law.

1. Citation

This local law is cited as the *Shire of York Local Government Property Amendment Local Law 2011*.

2. Commencement

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

3. Principal Local Law

In this Local Law, the *Shire of York Local Government Property Local Law* published in the *Government Gazette* on 17 January 2001 is referred to as the principal Local Law. The principal local law is amended.

4. Part 1 Clause 1.2 amended

- (1) Delete the definitions “**boat**” and “**Regulations**”.
- (2) Insert, in the appropriate alphabetical order the following –

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

“**closely related adult**” means a parent, grandparent, brother, sister, uncle or aunt;

“**costs**” of the local government include its administrative costs;

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

“**Health Act**” means the *Health Act 1911*, as amended;

Local public notice” has the same meaning as in section 1.7 of the Act;

“**nuisance**” means-

- (a) any thing, condition, circumstance, or state of affairs which is injurious or dangerous to the health of a reasonable person, or which has a disturbing effect on the state of reasonable physical, mental or social well-being of a person.
 - (b) any thing a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place; and
 - (c) any thing a person does on public or private land which detracts from or interferes with the enjoyment or value of lands owned by another person;
- (3) Amend the definition “**vehicle**”–
 - (a) Delete paragraph (e);
 - (b) In paragraph (c), insert “and” after the semicolon; and
 - (c) In paragraph (d) delete “; and” and substitute “.”.

5. Part 1 Clause 1.4 amended

Delete subclause (2).

6. Part 1 New Clause 1.6

In the appropriate alphabetical order, insert –

1.6 Overriding power to hire or agree

Despite anything to the contrary in this local law, the local government may –

- (a) hire local government property to any person; or
- (b) enter into an agreement with any person regarding the use of any local government property.

7. Part 2 Clause 2.7(1) amended

Delete paragraphs (e), (f) and (j).

8. Part 2 Clause 2.8 amended

- (1) In subclause (1)-
 - (a) delete paragraphs (e) and (h); and
 - (b) insert new paragraph (g)–
 - (g) bring, ride or drive an animal.

- (2) Delete subclause (3).

9. Part 3 Clause 3.2(5) amended

After “(2)”, insert-

or where the requirements of subclause (3) or (4) have not been satisfied.

10. Part 3 Clause 3.3 amended

After subclause (3) insert–

- (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 permit holder.

11. Part 3 Clause 3.6 amended

- (1) Delete “and variation of” from the clause heading.
- (2) In subclause (1) delete the number “(1)”.
- (3) Delete subclause (2).

12. Part 3 Clause 3.9 amended

In subclause (2), delete “mutatis mutandis” and substitute “as though it were an application for a permit”.

13. Part 3 Clause 3.12(1) amended

Delete “9” and substitute “7”.

14. Part 3 Clause 3.13(1) amended

Insert, in the appropriate alphabetical order, new paragraphs (p), (q) and (r)–

- (p) deposit or store any thing on local government property;
- (q) conduct or take part in any gambling game, context or bet, or offer to bet, publicly; or
- (r) erect, install, operate or use any broadcasting, public address system, loud speaker or other device for the amplification of sound on local government property.

15. Part 4 Clause 4.1 amended

- (1) In paragraph (a) insert “interferes with or” before “is”.
- (2) Delete paragraph “(b)” and insert-
 - (b) causes or is likely to cause a disturbance to nearby residents; or
 - (c) creates a nuisance.

16. Clause 4.4 amended

- (1) Designate existing paragraph as “(1)”.
- (2) Insert-
 - (2) a person found in contravention of subclause (1) may be removed from local government property by an authorised person or a member of the Police service.

17. Part 4 New Clause 4.6

- (1) Insert, in the appropriate alphabetical order–

4.6 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.
- (3) A decision made under this clause is a decision to which clause 7.1 applies.

18. Part 5 Clause 5.1 amended

- (1) In subclause (1) delete “, may direct to leave or shall remove or cause to be removed from”.
- (2) In subclause (1)(a), delete subparagraph (i) and substitute the following –
 - (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; or
 - (ii) under the minimum age of that specified in the Code and who is accompanied by a responsible person over the age of that specified in the Code where the responsible person is incapable or, or not providing, adequate supervision of, or care, for that person;
- (3) Insert new subclause (2)–
 - (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 to leave or fails to leave, remove the person or arrange for the person to be removed, from the pool area.

19. Part 5 New Clause 5.2

Insert in the appropriate numerical order new clause 5.2-

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.

20. Part 5 Clause 5.3 amended

- (1) In subclause (1), insert new paragraph (c)–

(c) families – then where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry of the toilet block or change room.

(2) Insert new subclause (2)–

(2) Paragraphs (a) and (b) of subclause (1) do not apply to a child under the age of 7 years that is accompanied by a closely related adult, or care giver, of the gender specified on the particular entry of the toilet block or change room as the gender that may use that entry of the toilet block or change room.

21. Part 5 New Clause 5.5

Insert in the appropriate numerical order new clause 5.5–

5.5 Use of Shower Facilities

A person may use a shower facility in change rooms on condition that –

- (a) the facilities must be used by the person only for the purposes of cleansing and washing themselves;
- (b) use of the facilities must be restricted to a maximum period of 15 minutes, or such lesser time as required by an attendant; and
- (c) the facilities must not be used for the purposes of laundering or washing any clothing or other articles.

22. Part 5 Division 4 amended

Delete Division 4 and substitute–

Division 4 – 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 shall not bring an animal on to 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 shall keep the animal under control and shall not allow it to wander at large on the aerodrome.

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

23. Part 7 deleted

Delete Part 7.

24. Part 8 deleted

Delete Part 8.

25. Part 9 amended

(1) In the heading, delete “APPEALS” and insert “REVIEW”.

(2) Delete clause 9.1 and insert–

Division 1 of Part 9 of the Act applies to a decision of the local government, under this local law, as to whether it will–

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

26. Clause 10.4 amended

Delete subclause (2).

27. Schedule 1 amended

Delete Schedule 1 and substitute the following –

**Schedule 1 – Prescribed offences
MODIFIED PENALTIES**

[cl. 9.4]

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
2.4	Failure to comply with determination	125
3.6	Failure to comply with conditions of permit	125
3.13(1)	Failure to obtain a permit	125
3.14(3)	Failure to obtain permit to camp outside a facility	125
3.15(1)	Failure to obtain permit for liquor	125
3.16	Failure of permit holder to comply with responsibilities	125
4.2(1)	Behaviour detrimental to property	350
4.4	Under influence of liquor or prohibited drug	125
4.7(2)	Failure to comply with sign on local government property	125
5.3	Unauthorised entry to fenced or closed local government property	125
5.4	Enter toilet block or change room facility of opposite gender	125
6.1(1)	Unauthorised entry to function on local government property	125
9.1	Failure to comply with notice	250
	All other offences not specified	125

28. Schedule2 New Part 2

After Part 1, insert-

PART 2 – APPLICATION

2.1 Animals on local government property

- (1) Unless authorised by a written law, or by a permit, a person must not:
 - (a) tether any animal to:
 - (i) a tree, shrub, tree guard, or
 - (ii) a wall or fence, unless it is an approved tethering point so indicated by a sign; or
 - (b) permit any animal to enter into any local government property.
- (2) Subclause (1) does not apply to a guide dog used for the assistance of visually impaired persons.

2.2 Vehicles on local government property

- (1) Unless authorised by a permit, a person must not take or cause a vehicle to be taken onto or drive on local government property unless –
 - (a) subject to subclause (3), the local government property is clearly designated as a road, access way or car park;
 - (b) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government, who is engaged in –
 - (i) providing a service or making a delivery in connection with the local government property; or
 - (ii) maintaining the local government property;
 - (c) the person is driving an emergency vehicle in the course of his or her duties; or

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

2.3 Activities prohibited on local government property

- (1) A person must not play or practise archery, pistol or rifle shooting on local government property except on land which is reserved by the local government for that purpose, or as otherwise provided by a permit.
- (2) A person must not, on any local government property, use or ride a bicycle or wheeled recreational device, or skateboard —
 - (a) inside or on the curtilage to, a building;
 - (b) in a pool area.
- (3) Unless authorised by a permit or by an authorised person, a person must not take a glass container—
 - (a) within 5m of the edge of a swimming pool on local government property;
 - (b) on to a children’s playground; or
 - (c) within any area of local government property where a sign prohibits glass containers.

2.4 Deposit of refuse, rubbish or liquid waste

A person must not, on local government property-

- (1) deposit or discard the waste or rubbish from any animal.
- (2) deposit or discard refuse, rubbish or liquid waste, except in a place or receptacle set aside by the local government for that purpose and subject to any conditions that may be specified on the receptacle or a sign in relation to the type of waste that may be deposited or other conditions.

29. Schedule 3 deleted

Delete Schedule 3.

30. Various references to Liquor Licensing Act amended

Amend the provisions listed in the Table as set out in the Table.

Part	Division	Clause	Delete	Insert
1		1.2	<i>Liquor Licensing Act 1988</i>	<i>“Liquor Control Act 1988”</i>
3		3.4(2)(h)	<i>Liquor Licensing Act 1988</i>	<i>“Liquor Control Act 1988”</i>
3		3.15(1)(a)	<i>Liquor Licensing Act 1988</i>	<i>“Liquor Control Act 1988”</i>
3		3.16(d)	<i>Liquor Licensing Act 1988</i>	<i>“Liquor Control Act 1988”</i>

31. Redesignation of Parts, Divisions and clauses

- (1) In clause 2.7, paragraphs “(g)” to “(i)” are redesignated “(e)” to “(g)”.
- (2) In clause 2.8(1), paragraphs “(f)” to “(g)” are redesignated “(e)” to “(f)”.
- (3) Clause “4.6” is redesignated “4.7”.
- (4) In clause 5.1(a) subparagraphs “(ii)” to “(iii)” are redesignated “(iii)” to “(iv)”.
- (5) Clauses “5.2” to “5.3” are redesignated “5.3” to “5.4”.
- (6) “Part 9” is redesignated “Part 7”.

- (7) Clause "9.1" is redesignated "7.1".
- (8) "Part 10" is redesignated "Part 8".
- (9) Clauses "10.1" to "10.4" are redesignated "8.1" to "8.4".
- (10) In clause 10.4, subclause "(3)" is redesignated "(2)".
- (11) "Part 11" is redesignated "Part 9".
- (12) Clauses "11.1" to "11.6" are redesignated "9.1" to "9.6".

32. Table of Contents amended

The Table of Contents is amended as follows -

- (1) After designation 1.5, insert "1.6 Overriding power to hire or agree".
- (2) Amend designation 3.6 by deleting "and variation of".
- (3) After designation 4.5, insert "4.6 Refusal of entry to local government property".
- (4) Designation "4.6" is redesignated "4.7".
- (5) After designation 5.1 insert "5.2 Consumption of food or drink may be prohibited".
- (6) Designations "5.2" to "5.3" are redesignated "5.3" to "5.4.;
- (7) In Part 5, delete all of Division 4 and substitute-
Division 4 – Aerodrome (airport)
5.6 Access of animals restricted
- (8) Delete all of Part 7.
- (9) Delete all of Part 8.
- (10) Parts "9" to "11" are redesignated "7" to "9".
- (11) Designation "9.1" is redesignated "7.1".
- (12) Designations "10.1" to "10.4" are redesignated "8.1" to "8.4".
- (13) Designations "11.1" to "11.6" are redesignated "9.1" to "9.6".
- (14) Delete "SCHEDULE 3 – GOLF COURSE RESERVE".

Dated: 16 May 2011

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

J P HOOPER, Shire President.

R P HOOPER, Chief Executive Officer.