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SHIRE OF YORK

LOCAL GOVERNMENT ACT 1995

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

**LOCAL GOVERNMENT PROPERTY
LOCAL LAW**

DOG ACT 1976

DOGS LOCAL LAW

HEALTH ACT 1911

HEALTH LOCAL LAWS 2000

LOCAL GOVERNMENT ACT 1995

SHIRE OF YORK

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

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LOCAL GOVERNMENT ACT 1995

SHIRE OF YORK

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

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of York resolved on 21 February 2000 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

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

1.2 Definitions

In this local law unless the context otherwise requires—

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

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

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

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

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

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

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

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

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

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

(a) private land; or

(b) a private thoroughfare serving private land;

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

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

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

“**intersection**” has the meaning given to it in the *Road Traffic Code 1975*;

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

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

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

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

“**local government property**” means anything except a thoroughfare—

(a) which belongs to the local government;

(b) of which the local government is the management body under the *Land Administration Act 1997*; or

(c) which is an “otherwise unvested facility” within section 3.53 of the Act;

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

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

“**permissible verge treatment**” means any one of the 4 treatments described in clause 2.8(2), and includes any reticulation pipes and sprinklers;

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

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

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

"premises" for the purpose of the definition of "public place" in both this clause and clause 6.1, means a building or similar structure, but does not include a carpark or a similar place;

"public place" includes any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include—

- (a) premises on private property from which trading is lawfully conducted under a written law; and
- (b) local government property;

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

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

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

"townsite" means the townsites of York and Greenhills which are—

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

"vehicle" includes—

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

but excludes—

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

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

(1) The following local laws are repealed—

Local Laws Relating to—

Numbering of Houses and Buildings, published in the *Government Gazettes* of 28 April 1960 and 22 June 1961;

Removal and Disposal of Obstructing Animals or Vehicles, published in the *Government Gazettes* of 30 October 1963 and 5 October 1973; and

Trading in Public Places, published in the *Government Gazettes* of 11 September 1987 and 25 November 1988.

(2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.

(3) The Council may resolve that notwithstanding subclause (2) specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

PART 2—ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES

Division 1—General

2.1 General prohibitions

A person shall not—

- (a) plant any plant which exceeds or which may exceed 0.75m in height on a thoroughfare so that the plant is within 6m of an intersection;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless—
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;
- (c) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 2m of a carriageway;
- (d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (e) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare; or
- (g) within a mall, arcade or verandah of a shopping centre, ride any skateboard, rollerblades or similar device.

2.2 Activities allowed with a permit—general

- (1) A person shall not, without a permit—
- (a) dig or otherwise create a trench through or under a kerb or footpath;
 - (b) subject to Division 3 of this Part, throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only during the period of time advertised in connection with that collection by the local government;
 - (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
 - (d) cause any obstruction to a water channel or a water course in a thoroughfare;
 - (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
 - (f) damage a thoroughfare;
 - (g) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose or under a permit issued under clause 5.13;
 - (h) fell any tree onto a thoroughfare;
 - (i) unless installing a permissible verge treatment—
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
 - (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
 - (k) on a public place use anything or do anything so as to create a nuisance;
 - (l) place or cause to be placed on a thoroughfare a bulk rubbish container; or
 - (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

2.3 No possession and consumption of liquor on thoroughfare

- (1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless—
- (a) that is permitted under the *Liquor Licensing Act 1988* or under another written law; or
 - (b) the person is doing so in accordance with a permit.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

Division 2—Verge treatments

Subdivision 1—Preliminary

2.4 Interpretation

In this Division, unless the context otherwise requires—

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

2.5 Application

This Division only applies to the townsite.

Subdivision 2—Permissible verge treatments

2.6 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 her or his land install a permissible verge treatment.
- (2) The permissible verge treatments are—
- (a) the planting and maintenance of a lawn;
 - (b) the planting and maintenance of a garden provided that—
 - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare; and
 - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
 - (c) the installation of an acceptable material; or
 - (d) the installation over no more than one third of the area of the verge (excluding any vehicle crossing) of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

2.7 Only permissible verge treatments to be installed

- (1) A person shall not install or maintain a verge treatment which is not a permissible verge treatment.
- (2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 2.8.

2.8 Obligations of owner or occupier

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

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

2.9 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 Division.

Subdivision 3—Existing verge treatments

2.10 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.

Subdivision 4—Public works

2.11 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) is not liable to replace or restore any—
 - (i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or
 - (ii) sprinklers, pipes or other reticulation equipment.

Division 3—Property numbers

Subdivision 1—Preliminary

2.12 Interpretation

In this Division, unless the context requires otherwise—

“Number” means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare.

Subdivision 2—Assignment and marking of numbers

2.13 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 4—Fencing

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

The following places are specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act—

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

Division 5—Signs erected by the local government

2.15 Signs

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

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

(3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose of giving notice of the effect of a provision of this local law.

2.16 Transitional

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 2.15 if—

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

Division 6—Driving on a closed thoroughfare

2.17 No driving on closed thoroughfare

(1) A person shall not drive or take a vehicle on a closed thoroughfare unless—

- (a) that is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or
- (b) the person has first obtained a permit.

(2) In this clause—

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

PART 3—ADVERTISING SIGNS ON THOROUGHFARES

Division 1—Preliminary

3.1 Interpretation

In this Part, unless the context otherwise requires—

“advertising sign” means a sign used for the purpose of advertisement and includes an “election sign”;

“direction sign” means a sign which indicates the direction of another place, activity or event, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;

“election sign” means a sign or poster which advertises any aspect of a forthcoming Federal, State or Local Government election; and

“portable direction sign” means a portable free standing direction sign; and

“portable sign” means a portable free standing advertising sign.

Division 2—Permit

3.2 Advertising signs and portable direction signs

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

- (a) erect or place an advertising sign on a thoroughfare; or
- (b) post any bill or paint, place or affix any advertisement on a thoroughfare.

(2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which neither exceeds 500mm in height nor 0.5m² in area, provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.

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

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

3.3 Matters to be considered in determining application for permit

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

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

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

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

- (a) the portable sign shall—
 - (i) not exceed 1m in height;
 - (ii) not exceed an area of 1m² on any side;
 - (iii) relate only to the business activity described on the permit;
 - (iv) contain letters not less than 200mm in height;
 - (v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;
 - (vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
 - (vii) be secured in position in accordance with any requirements of the local government;
 - (viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
 - (ix) be maintained in good condition; and
- (b) no more than one portable sign shall be erected in relation to the one building or business.

3.5 Conditions on election sign

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

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

PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS*Division 1—Animals and vehicles***4.1 Leaving animal or vehicle in public place or on local government property**

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

(2) A person will not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.

(3) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

4.2 Prohibitions relating to animals

(1) In subclause (2), “owner” in relation to an animal includes—

- (a) an owner of it;
- (b) a person in possession of it;
- (c) a person who has control of it; and
- (d) a person who ordinarily occupies the premises where the animal is permitted to stay.

(2) An owner of an animal shall not—

- (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
- (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
- (c) train or race the animal on a thoroughfare.

(3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.

PART 5—ROADSIDE CONSERVATION*Division 1—Preliminary***5.1 Interpretation**

In this Part—

“**MRWA**” means Main Roads Western Australia;

“**protected flora**” has the meaning given to it in section 6(1) of the *Wildlife Conservation Act 1950*;

“**rare flora**” has the meaning given to it in section 23F of the *Wildlife Conservation Act 1950*;

“**Roadside Conservation Committee**” means the Roadside Conservation Committee established under the Land Resource Policy Council within the Office of Premier and Cabinet; and

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

5.2 Application

This Part does not apply to the townsite.

*Division 2—Flora roads***5.3 Declaration of flora road**

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

5.4 Construction works on flora roads

Construction and maintenance work carried out by the local government on a flora road is to be in accordance with the “Code of Practice for Roadside Conservation and Road Maintenance” prepared by the Roadside Conservation Committee.

5.5 Signposting of flora roads

The local government may signpost flora roads with the standard MRWA “flora road” sign.

5.6 Driving only on carriageway of flora roads

(1) A person driving or riding a vehicle on a flora road shall only drive or ride the vehicle on the carriageway.

(2) Subclause (1) does not apply where—

- (a) conditions on the thoroughfare do not reasonably permit a vehicle to remain on the carriageway;
- (b) there is no carriageway; or
- (c) an exemption from the application of subclause (1) has been obtained from the local government.

*Division 3—Special environmental areas***5.7 Designation of special environmental areas**

The local government may designate a thoroughfare, or any part of a thoroughfare, as a special environmental area which—

- (a) as protected flora or rare flora; or
- (b) in the opinion of the local government, has environmental, aesthetic or cultural significance.

5.8 Marking of special environmental areas

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

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

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

5.10 Relevant considerations in determining application

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

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

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

A person shall not clear and maintain in a cleared state, the surface of a thoroughfare within 1m of that person's land without first obtaining a permit and any other approvals which may be required under any written law.

5.12 Application for permit

In addition to the requirements of clause 7.1(2), a person making an application for a permit for the purpose of clause 5.11 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.

*Division 6—Fire management***5.13 Permit to burn thoroughfare**

A person shall not burn part of a thoroughfare without first obtaining a permit or unless acting under the authority of any other written law.

5.14 Application for permit

In addition to the requirements of clause 7.1(2), an application for a permit for the purposes of clause 5.13 shall—

- (a) include a sketch plan showing the portions of a thoroughfare which are proposed to be burned; and
- (b) advise of the estimated fire intensity and the measures to be taken to protect upper storey vegetation from the burn.

5.15 When application for permit can be approved

The local government may approve an application for a permit for the purpose of clause 5.13 only if the burning of the particular part of the thoroughfare will—

- (a) reduce a fire hazard and alternative means of reducing that hazard, such as slashing or the use of herbicides, are considered by the local government to be not feasible or more detrimental to native flora and fauna than burning; or
- (b) in the opinion of the local government, be beneficial for the preservation and conservation of native flora and fauna.

5.16 Prohibitions on burning

Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 5.13 is not to be approved by the local government—

- (a) for burning between 31 August and 1 May of the following year where the intensity of the burn could damage native flora and fauna; or
- (b) in any year to any person for any part of a thoroughfare which is on the opposite side of the carriageway to that portion of the thoroughfare for which a permit to burn has been approved in the same year.

*Division 7—Firebreaks***5.17 Permit for firebreaks on thoroughfares**

A person shall not construct a firebreak on a thoroughfare without first obtaining a permit.

5.18 When application for permit cannot be approved

(1) The local government is not to approve an application for a permit for the purpose of clause 5.17 where the thoroughfare is less than 20m wide.

(2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

*Division 8—Commercial wildflower harvesting on thoroughfares***5.19 General prohibition on commercial wildflower harvesting**

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

5.20 Permit for revegetation projects

(1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.

(2) The local government may approve an application for a permit under subclause (1) only where—

- (a) the seed is required for a revegetation project in any part of the district; and
- (b) the thoroughfare, or the relevant part of it, is not a special environmental area.

(3) Unless the local government specifically provides to the contrary on a permit, if the local government approves an application for a permit for the purpose of subclause (1) it is to be taken to be approved subject to the following conditions—

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

PART 6—TRADING IN THOROUGHFARES AND PUBLIC PLACES*Division 1—Stallholders and traders*

Subdivision 1—Preliminary

6.1 Interpretation

In this Division, unless the context otherwise requires—

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

“public place” includes—

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

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

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

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

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

“trader” means a person who carries on trading;

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

“trading” includes—

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

but does not include—

- (d) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder’s permit;
- (e) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from a person who sells those goods or services;
- (f) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; and
- (g) the selling or hiring or the offering for sale or hire of—
 - (i) goods by a person who represents a manufacturer of the goods; or
 - (ii) services by a person who represents a provider of the services,

which are sold directly to consumers and not through a shop.

Subdivision 2—Permits

6.2 Stallholder’s permit

(1) A person shall not conduct a stall on a public place unless that person is—

- (a) the holder of a valid stallholder’s permit; or
- (b) an assistant specified in a valid stallholder’s permit.

(2) Every application for a stallholder’s permit shall—

- (a) state the full name and address of the applicant;
- (b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;
- (c) specify the proposed location of the stall;
- (d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;
- (e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and
- (f) be accompanied by an accurate plan and description of the proposed stall.

6.3 Trader's permit

- (1) A person shall not carry on trading unless that person is—
 - (a) the holder of a valid trader's permit; or
 - (b) an assistant specified in a valid trader's permit.
- (2) Every application for a trader's permit shall—
 - (a) state the full name and address of the applicant;
 - (b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;
 - (c) specify the location or locations in which the applicant proposes to trade;
 - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;
 - (e) specify the proposed goods or services which will be traded; and
 - (f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.
- (3) The conditions subject to which the local government may approve an application for a trader's permit include that the permit holder is permitted to remain at a particular location for as long as there is a customer making a purchase, but if there is no customer making a purchase the permit holder must move on from that location within a reasonable time of the last purchase having been made.

6.4 No permit required to sell newspaper

Notwithstanding any other provision of this local law, a person who sells, or offers for sale, a newspaper is not required to obtain a permit.

6.5 Relevant considerations in determining application for permit

- (1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to—
 - (a) any relevant policies of the local government;
 - (b) the desirability of the proposed activity;
 - (c) the location of the proposed activity;
 - (d) the principles set out in the Competition Principles Agreement; and
 - (e) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds—
 - (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;
 - (b) that the applicant is not a desirable or suitable person to hold a permit;
 - (c) that—
 - (i) the applicant is an undischarged bankrupt or is in liquidation;
 - (ii) the applicant has entered into any composition or arrangement with creditors; or
 - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property; or
 - (d) that the needs of the district, or the part for which the permit is sought, are adequately catered for by established shops or by persons who have valid permits to carry on trading or to conduct a stall; or
 - (e) such other grounds as the local government may consider to be relevant in the circumstances of the case.

6.6 Conditions of permit

- (1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include—
 - (a) the place, the part of the district, or the thoroughfare to which the permit applies;
 - (b) the days and hours during which a permit holder may conduct a stall or trade;
 - (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;
 - (d) the goods or services in respect of which a permit holder may conduct a stall or trade;
 - (e) the number of persons and the names of persons permitted to conduct a stall or trade;
 - (f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;
 - (g) whether and under what terms the permit is transferable;
 - (h) any prohibitions or restrictions concerning the—
 - (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;
 - (ii) the use of amplifiers, sound equipment and sound instruments;
 - (iii) the use of signs; and
 - (iv) the use of any lighting apparatus or device;

- (i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;
 - (j) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;
 - (k) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;
 - (l) the acquisition by the stallholder or trader of public risk insurance;
 - (m) the period for which the permit is valid; and
 - (n) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.
- (2) Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may at the request of that permit holder authorize another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit shall apply to the nominee as if he or she was the permit holder.

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

(1) In this clause—

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

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

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

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

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

Subdivision 3—Conduct of stallholders and traders

6.8 Conduct of stallholders and traders

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

- (a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting a stall or trading;
- (b) not display a permit unless it is a valid permit; and
- (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *Weights and Measures Act 1915*.

(2) A stallholder or trader shall not—

- (a) attempt to conduct a business within a distance of 300m of any shop or permanent place of business that is open for business and has for sale any goods or services of the kind being offered for sale by the stall holder or trader;
- (b) deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;
- (c) act in an offensive manner;
- (d) use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or
- (e) in the case of a trader, carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading.

PART 7—PERMITS

Division 1—Applying for a permit

7.1 Application for permit

(1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).

(2) An application for a permit under this local law shall—

- (a) be in the form determined by the local government;
- (b) be signed by the applicant;
- (c) provide the information required by the form; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

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

7.2 Decision on application for permit

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

Division 2—Conditions

7.3 Conditions which may be imposed on a permit

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

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

7.4 Imposing conditions under a policy

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

7.5 Compliance with and variation of conditions

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

Division 3—General

7.6 Duration of permit

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

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

7.7 Renewal of permit

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

(2) The provisions of—

- (a) this Part; and
- (b) any other provision of this local law relevant to the permit which is to be renewed, shall apply to an application for the renewal of a permit *mutatis mutandis*.

7.8 Transfer of permit

(1) An application for the transfer of a valid permit is to—

- (a) be made in writing;
- (b) be signed by the permit holder and the proposed transferee of the permit;
- (c) provide such information as the local government may require to enable the application to be determined; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.

(3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by—

- (a) an endorsement on the permit signed by the CEO; or
- (b) issuing to the transferee a permit in the form determined by the local government.

(4) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

7.9 Production of permit

A permit holder is to produce to an authorized person her or his permit immediately upon being required to do so by that authorized person.

7.10 Cancellation of permit

(1) Subject to clause 8.1, a permit may be cancelled by the local government on any one or more of the following grounds—

- (a) the permit holder has not complied with a—
 - (i) condition of the permit; or
 - (ii) provision of any written law which may relate to the activity regulated by the permit; or
- (b) if it is relevant to the activity regulated by the permit—
 - (i) the permit holder has become bankrupt, or gone into liquidation;
 - (ii) the permit holder has entered into any composition or arrangement with creditors; or
 - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the permit holder's undertakings or property.

(2) On the cancellation of a permit the permit holder—

- (a) shall return the permit as soon as practicable to the local government; and
- (b) is to be taken to have forfeited any fees paid in respect of the permit.

PART 8—OBJECTIONS AND APPEALS

8.1 Application of Part 9 Division 1 of Act

When the local government makes a decision—

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

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations apply to that decision.

PART 9—MISCELLANEOUS NOTICES

9.1 Notice to redirect or repair sprinkler

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

9.2 Hazardous plants

(1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.

(2) Subclause (1) does not apply where the plant was planted by the local government.

9.3 Notice to repair damage to thoroughfare

Where any portion of a thoroughfare has been damaged, the local government may by notice to the person who caused the damage order the person to repair or replace that portion of the thoroughfare to the satisfaction of the local government.

9.4 Notice to remove thing unlawfully placed on thoroughfare

Where any thing is placed on a thoroughfare in contravention of this local law, the local government may by notice in writing to the owner or the occupier of the property which abuts on that portion of the thoroughfare where the thing has been placed, or such other person who may be responsible for the thing being so placed, require the relevant person to remove the thing.

PART 10—ENFORCEMENT

Division 1—Notices given under this local law

10.1 Offence to fail to comply with notice

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

10.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 10.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

Division 2—Offences and penalties

Subdivision 1—General

10.3 Offences

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

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

Subdivision 2—Infringement notices and modified penalties

10.4 Prescribed offences

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

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorized person should be satisfied that—

- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

10.5 Forms

Unless otherwise specified, for the purposes of this local law—

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

Schedule 1

PRESCRIBED OFFENCES

Clause	Description	Modified Penalty \$
2.1(a)	Plant of 0.75m in height on thoroughfare within 6m of intersection	100
2.1(b)	Damaging lawn or garden	100
2.1(c)	Plant (except grass) on thoroughfare within 2m of carriageway	100
2.1(d)	Placing hazardous substance on footpath	100
2.1(e)	Damaging or interfering with signpost or structure on thoroughfare	300
2.1(f)	Playing games so as to impede vehicles or persons on thoroughfare	100
2.1(g)	Riding of skateboard or similar device on mall or verandah of shopping centre	100

Clause	Description	Modified Penalty \$
2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	100
2.2(1)(b)	Throwing or placing anything on a verge without a permit	100
2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	100
2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	200
2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	200
2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	300
2.2(1)(h)	Felling tree onto thoroughfare without a permit	100
2.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	100
2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	300
2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	100
2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	100
2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	100
2.3(1)	Consumption or possession of liquor on thoroughfare	100
2.7(1)	Installation of verge treatment other than permissible verge treatment	200
2.8	Failure to maintain permissible verge treatment or placement of obstruction on verge	100
2.9	Failure to comply with notice to rectify default	100
2.15(2)	Failure to comply with sign on public place	100
2.17(1)	Driving or taking a vehicle on a closed thoroughfare	300
3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	100
3.2(3)	Erecting or placing of advertising sign in a prohibited area	100
4.1(1)	Animal or vehicle obstructing a public place or local government property	100
4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	100
4.2(2)(b)	Animal on public place with infectious disease	100
4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	100
4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	100
5.6(1)	Driving a vehicle on other than the carriageway of a flora road	200
5.9	Planting in thoroughfare without a permit	200
5.11	Failure to obtain permit to clear a thoroughfare	500
5.13	Burning of thoroughfare without a permit	500
5.17	Construction of firebreak on thoroughfare without a permit	500
5.19	Commercial harvesting of native flora on thoroughfare	500
5.20(1)	Collecting seed from native flora on thoroughfare without a permit	300
6.2(1)	Conducting of stall in public place without a permit	300
6.3(1)	Trading without a permit	300
6.8(1)(a)	Failure of stallholder or trader to display or carry permit	100
6.8(1)(b)	Stallholder or trader not displaying valid permit	100
6.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	100
6.8(2)	Stallholder or trader engaged in prohibited conduct	100
7.5	Failure to comply with a condition of a permit	100
7.9	Failure to produce permit on request of authorized person	100
10.1	Failure to comply with notice given under local law	100

Dated 21st of August 2000.

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

G. W. MARWICK JP, Shire President.
P. MARSHALL, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF YORK

LOCAL GOVERNMENT PROPERTY LOCAL LAW

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LOCAL GOVERNMENT ACT 1995

SHIRE OF YORK

LOCAL GOVERNMENT PROPERTY LOCAL LAW

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of York resolved on the 21st February 2000 to make the following local law.

PART 1—PRELIMINARY**Citation**

1.1 This local law may be cited as the Shire of York Local Government Property Local Law.

Definitions

1.2 In this local law unless the context otherwise requires—

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

“**applicant**” means a person who applies for a permit under clause 3.2;

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

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

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

(a) hall or room;

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

(c) jetty;

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

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

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

“**date of publication**” means, where local public notice is required to be given of a matter under this local law, the date on which notice of the matter is published in a newspaper circulating generally throughout the district;

“**determination**” means a determination made under clause 2.1;

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

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

(a) formal organisation and preparation;

(b) its occurrence is generally advertised or notified in writing to particular persons;

(c) organisation by or on behalf of a club;

(d) payment of a fee to attend it; and

(e) systematic recurrence in relation to the day, time and place;

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

“**local government**” means the Shire of York

“**local government property**” means anything except a thoroughfare—

(a) which belongs to the local government;

(b) of which the local government is the management body under the *Land Administration Act 1997*; or

(c) which is an “otherwise unvested facility” within section 3.53 of the Act;

“**Manager**” means the person for the time being employed by the local government to control and manage a pool area or other facility which is local government property and includes the person's assistant or deputy;

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

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

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

“**pool area**” means any swimming and wading pools and spas and all buildings, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of or used in connection with such swimming and wading pools and spas which are local government property;

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

- "sign"** includes a notice, flag, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols;
- "trading"** means the selling or hiring, or the offering for sale or hire of goods or services, and includes displaying goods for the purpose of—
- (a) offering them for sale or hire;
 - (b) inviting offers for their sale or hire;
 - (c) soliciting orders for them; or
 - (d) carrying out any other transaction in relation to them; and
- "vehicle"** includes—
- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
 - (b) an animal being ridden or driven,
- but excludes—
- (c) a wheel-chair or any device designed for use, by a physically impaired person on a footpath;
 - (d) a pram, a stroller or a similar device; and
 - (e) a boat.

Interpretation

1.3 In this local law unless the context otherwise requires a reference to local government property includes a reference to any part of that local government property.

Application

- 1.4 (1) This local law applies throughout the district.
- (2) Notwithstanding anything to the contrary in this local law, the local government may—
- (a) hire local government property to any person; or
 - (b) enter into an agreement with any person regarding the use of any local government property.

Repeal

- 1.5 (1) The following local laws are repealed—

Local Laws relating to—

York Memorial Swimming Pool published in the *Government Gazette* of 21 December 1966 as amended in *Government Gazettes* of 2 July 1982 and 5 May 1989;

The Speed of Vehicles Driven on Land which is Vested in or under the Care, Control or Management of the Council of the Shire of York, published in the *Government Gazette* of 10 May 1974, as amended in the *Government Gazette* of 29 September 1989

- (2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.
- (3) The Council may resolve that notwithstanding subclause (2), specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

Division 1—Determinations

Determinations as to use of local government property

- 2.1 (1) The local government may make a determination in accordance with clause 2.2—
- (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
 - (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
 - (c) as to the matters in clauses 2.7(2) and 2.8(2); and
 - (d) as to any matter ancillary or necessary to give effect to a determination.
- (2) The determinations in Schedule 2—
- (a) are to be taken to have been made in accordance with clause 2.2;
 - (b) may be amended or revoked in accordance with clause 2.6; and
 - (c) have effect on the commencement day.

Procedure for making a determination

- 2.2 (1) The local government is to give local public notice of its intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that—
- (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
 - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
 - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.

- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to—
(a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
(b) amend the proposed determination, in which case subclause (5) will apply; or
(c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c) the Council is to—
(a) consider those submissions; and
(b) decide—
(i) whether or not to amend the proposed determination; or
(ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice—
(a) of the effect of the amendments; and
(b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

Discretion to erect sign

2.3 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.

Determination to be complied with

2.4 A person shall comply with a determination.

Register of determinations

2.5 (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.

Amendment or revocation of a determination

2.6 (1) The Council may amend or revoke a determination.

(2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.

(3) If the Council revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

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

Activities which may be pursued on specified local government property

2.7 (1) A determination may provide that specified local government property is set aside as an area on which a person may—

- (a) bring, ride or drive an animal;
- (b) take, ride or drive a vehicle, or a particular class of vehicle;
- (c) fly or use a motorised model aeroplane;
- (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
- (e) launch, beach or leave a boat;
- (f) take or use a boat, or a particular class of boat;
- (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
- (h) play or practice—
 - (i) golf or archery;
 - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
 - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
- (i) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and
- (j) wear no clothing.

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

- (a) the days and times during which the activity may be pursued;

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

Activities which may be prohibited on specified local government property

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

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

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

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

(3) In this clause—

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

Division 3—Transitional

Signs taken to be determinations

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

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

PART 3—PERMITS

Division 1—Preliminary

Application of Part

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

Division 2—Applying for a permit

Application for permit

3.2 (1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).

(2) An application for a permit under this local law shall—

- (a) be in the form determined by the local government;
- (b) be signed by the applicant;
- (c) provide the information required by the form; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

(4) The local government may require an applicant to give local public notice of the application for a permit.

(5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

Decision on application for permit

3.3 (1) The local government may—

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

(2) If the local government approves an application for a permit, it is to issue to the applicant, a permit in the form determined by the local government.

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

Division 3—Conditions

Conditions which may be imposed on a permit

3.4 (1) Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to—

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

(2) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued—

- (a) when fees and charges are to be paid;
- (b) payment of a bond against possible damage or cleaning expenses or both;
- (c) restrictions on the erection of material or external decorations;
- (d) rules about the use of furniture, plant and effects;
- (e) limitations on the number of persons who may attend any function in or on local government property;
- (f) the duration of the hire;
- (g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;
- (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Licensing Act 1988*;
- (i) whether or not the hire is for the exclusive use of the local government property;
- (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
- (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

Imposing conditions under a policy

3.5 (1) In this clause—

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

(2) Under clause 3.3(1)(a) the local government may approve an application subject to conditions by reference to a policy.

(3) The local government shall give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 3.3(2).

(4) An application for a permit shall be deemed not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.

(5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy shall be deemed to be information within section 5.94(u)(i) of the Act.

Compliance with and variation of conditions

3.6 (1) Where an application for a permit has been approved subject to conditions, the permit holder shall comply with each of those conditions.

(2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

Division 4—General

Agreement for building

3.7 Where a person applies for a permit to erect a building on local government property the local government may enter into an agreement with the permit holder in respect of the ownership of the materials in the building.

Duration of permit

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

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 3.12.

Renewal of permit

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

(2) The provisions of this Part shall apply to an application for the renewal of a permit *mutatis mutandis*.

Transfer of permit

3.10 (1) An application for the transfer of a valid permit is to—

- (a) be made in writing;
- (b) be signed by the permit holder and the proposed transferee of the permit;
- (c) provide such information as the local government may require to enable the application to be determined; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.

(3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by an endorsement on the permit signed by the CEO.

(4) Where the local government approves the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

Production of permit

3.11 A permit holder is to produce to an authorized person her or his permit immediately upon being required to do so by that authorized person.

Cancellation of permit

3.12 (1) Subject to clause 9.1, a permit may be cancelled by the local government if the permit holder has not complied with a—

- (a) condition of the permit; or
- (b) determination or a provision of any written law which may relate to the activity regulated by the permit.

(2) On the cancellation of a permit the permit holder—

- (a) shall return the permit as soon as practicable to the CEO; and
- (b) is to be taken to have forfeited any fees paid in respect of the permit.

Division 5—When a permit is required

Activities needing a permit

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

- (a) subject to subclause 3, hire local government property;
- (b) advertise anything by any means on local government property;
- (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
- (d) teach, coach or train, for profit, any person in a pool area or an indoor recreation facility which is local government property;
- (e) plant any plant or sow any seeds on local government property;
- (f) carry on any trading on local government property unless the trading is conducted—
 - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
 - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;

- (g) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose—
 - (i) drive or ride or take any vehicle on to local government property; or
 - (ii) park or stand any vehicle on local government property;
 - (h) conduct a function on local government property ;
 - (i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
 - (j) light a fire on local government property except in a facility provided for that purpose;
 - (k) parachute, hang glide, abseil or base jump from or on to local government property;
 - (l) erect a building or a refuelling site on local government property;
 - (m) make any excavation on or erect or remove any fence on local government property;
 - (n) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person; or
 - (o) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

Permit required to camp outside a facility

3.14 (1) In this clause—

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

- (2) This clause does not apply to a facility operated by the local government.
- (3) A person shall not without a permit—
 - (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or
 - (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.
- (4) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

Permit required for possession and consumption of liquor

3.15 (1) A person, on local government property, shall not consume any liquor or have in her or his possession or under her or his control any liquor, unless—

- (a) that is permitted under the *Liquor Licensing Act 1988*; and
- (b) a permit has been obtained for that purpose.

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

Division 6—Responsibilities of permit holder

Responsibilities of permit holder

3.16 A holder of a permit shall in respect of local government property to which the permit relates—

- (a) ensure that an authorized person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (b) leave the local government property in a clean and tidy condition after its use;
- (c) report any damage or defacement of the local government property to the local government; and
- (d) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Licensing Act 1988* for that purpose.

PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

Division 1—Behaviour on and interference with local government property

Behaviour which interferes with others

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

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

Behaviour detrimental to property

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

(2) In subclause (1)—

“detrimental to the property” includes—

- (a) removing any thing from the local government property such as a rock, a plant or a seat provided for the use of any person; and
- (b) destroying, defacing or damaging any thing on the local government property, such as a plant, a seat provided for the use of any person or a building.

Taking or injuring any fauna

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

(2) In this clause—

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

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

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

Intoxicated persons not to enter local government property

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

No prohibited drugs

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

Division 2—Signs

Signs

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

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

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

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

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

Division 1—Swimming pool areas

When entry must be refused

5.1 A Manager or an authorized person shall refuse admission to, may direct to leave or shall remove or cause to be removed from a pool area any person who—

- (a) in her or his opinion is—
 - (i) under the age of 6 years and who is unaccompanied by a responsible person over the age of 14 years;
 - (ii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
 - (iii) under the influence of liquor or a prohibited drug; or
- (b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.

Division 2—Fenced or closed property

No entry to fenced or closed local government property

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

Division 3—Toilet blocks and change rooms

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

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

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

*Division 4—Golf course***Interpretation**

5.4 In this Division—

“**controller**” means the person appointed by the local government to direct, control and manage a golf course;

“**golf course**” means that portion of a golf course reserve which is laid out as a golf course and includes all tees, fairways, greens, practice tees, practice fairways, practice greens and any driving range; and

“**golf course reserve**” means the local government property described in Schedule 3 and includes all buildings, structures, fittings, fixtures and equipment on that land.

Observance of special conditions of play

5.5 While on a golf course, every player shall observe and comply with a—

- (a) direction of a controller in respect of any special conditions of play; and
- (b) requirement of any notice erected to direct or control play.

PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY**No unauthorized entry to function**

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

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

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

PART 7—JETTIES AND BRIDGES*Division 1—Preliminary***Interpretation**

7.1 (1) This Part only applies to bridges and jetties which are local government property.

(2) In this Part—

“**jetty**” means any jetty, pier, wharf or landing place which is local government property; and

*Division 2—Consents and fees***Application for consent and application fee**

7.2 (1) Where a person is required to obtain the consent of the local government under this Part, the person is to apply for that consent in the manner required by the local government.

(2) The local government may require an application for consent made under subclause (1) to be accompanied by a fee.

(3) If an application for consent is not made in the manner required by the local government or the fee which is to accompany that application is not paid, the local government may refuse to consider the application for consent.

(4) The local government shall give its decision on an application for consent, in writing to the person who applied for that consent.

(5) Where a fee is referred to in this Part, the fee must be imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

*Division 3—Prohibitions on use of jetty***When use of jetty is prohibited**

7.3 A person shall not land at, use or go on any part of a jetty which is—

- (a) under construction or repair; or
- (b) closed,

unless that person has first obtained the consent of the local government.

*Division 4—Mooring boats to jetties***Method of mooring boat**

7.4 A person in control of a boat shall not moor or make fast the boat to a jetty, or to any part of the jetty, except to such mooring piles, ring bolts or other fastenings as are provided.

*Division 5—When boats may remain at jetty***When boat may remain moored**

- 7.5 A person in control of a boat shall not moor or make fast the boat to a jetty unless—
- the boat is in distress and then only to effect the minimum repairs necessary to enable the boat to be moved elsewhere;
 - the embarking or disembarking of passengers is in progress, and then not for a consecutive period exceeding 2 hours without the prior consent of the local government;
 - the loading or discharging of cargo or other goods is in progress in accordance with Division 7; or
 - where the boat is used at that time for commercial purposes, the person has first paid the fee (if any) for such mooring or making fast to the local government.

Authorized person may order removal of boat

- 7.6 Notwithstanding anything to the contrary in this Part, a person in control of a boat moored or fastened to or alongside a jetty shall remove it immediately upon being directed to do so by an authorized person.

*Division 6—Launching of boats***Restrictions on launching**

- 7.7 A person shall not launch a boat from or over any jetty (other than a boat ramp) unless she or he has first obtained the consent of the local government.

*Division 7—Polluting surrounding area***Polluting surrounding area**

- 7.13 A person shall not tip or deposit anything on to a jetty so as to pollute the surrounding area.

*Division 8—Fishing from jetties and bridges***Limitations on fishing**

- 7.14 A person shall not—
- fish from a jetty or a bridge so as to obstruct or interfere with the free movement of a boat approaching or leaving the jetty or the bridge or so as to unreasonably interfere with the use of the jetty or the bridge by any other person; or
 - hang or spread a fishing net from, on or over any part of a jetty or a bridge.

PART 8—SALEYARDS*Division 1—Preliminary***Interpretation**

- 8.1 In this Part—

“**auction**” has the meaning given to it in the *Auction Sales Act 1973*;
 “**sale**” means a sale by way of auction;
 “**saleyard**” means local government property which is used for the sale of stock;
 “**stock**” has the meaning given to “livestock” in the *Auction Sales Act 1973*; and
 “**stock agent**” means any person appointed by the owner of stock to sell that stock at a saleyard.

*Division 2—Sale of stock***Requirements of auctioneer's licence**

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

Sale times to be approved

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

Order of sales

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

*Division 3—Care of and responsibility for stock***Diseased and injured stock**

- 8.5 (1) A person shall not—

- offer for sale any stock which is diseased, emaciated, injured or suffering from ill health for sale at a saleyard; or
- deliver to any saleyard any stock which is diseased, emaciated, injured or suffering from ill health.

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

Care of stock

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

- (a) ensure that the stock is properly cared for; and
- (b) if the stock is kept yarded for more than 24 hours, provide the stock with adequate food and water.

When purchaser becomes responsible for stock

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

Time limit for removal of stock

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

Removal of unsold stock

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

Removal of dead or maimed stock

8.10 Stock which have died or which have been maimed shall be immediately removed from the saleyard where the stock—

- (a) are unsold, by the stock agent, or if there is no stock agent, the owner; or
- (b) have been sold, by the purchaser.

Division 4—Payment of fees

Payment of yard fees

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

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

Documents may be inspected

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

Division 5—Control of dogs

Only working dogs allowed

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

Diseased dogs prohibited

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

PART 9—OBJECTIONS AND APPEALS

Application of Division 1, Part 9 of the Act

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

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

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations apply to that decision.

PART 10—MISCELLANEOUS

Authorized person to be obeyed

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

Persons may be directed to leave local government property

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

Disposal of lost property

10.3 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.

Liability for damage to local government property

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

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

(2) Unless there is proof to the contrary, a person is to be taken to have damaged local government property within subclause (1) where—

- (a) a vehicle or a boat caused the damage, the person was the person responsible, at the time the damage occurred, for the control of the vehicle or the boat; or
- (b) the damage occurred under a permit, the person is the permit holder in relation to that permit.

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

PART 11—ENFORCEMENT*Division 1—Notices given under this local law***Offence to fail to comply with notice**

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

Local government may undertake requirements of notice

11.2 Where a person fails to comply with a notice referred to in clause 11.1, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

*Division 2—Offences and penalties**Subdivision 1—General***Offences and general penalty**

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

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

*Subdivision 2—Infringement notices and modified penalties***Prescribed offences**

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

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorized person should be satisfied that—

- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

Form of notices

11.5 (1) For the purposes of this local law—

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

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

*Division 3—Evidence in legal proceedings***Evidence of a determination**

- 11.6 (1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.
- (2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.
- (3) Subclause (2) does not make valid a determination that has not been properly made.

Schedule 1
PRESCRIBED OFFENCES

Clause	Description	Modified Penalty \$
2.4	Failure to comply with determination	100
3.6	Failure to comply with conditions of permit	100
3.13(1)	Failure to obtain a permit	100
3.14(3)	Failure to obtain permit to camp outside a facility	100
3.15(1)	Failure to obtain permit for liquor	100
3.16	Failure of permit holder to comply with responsibilities	100
4.2(1)	Behaviour detrimental to property	100
4.4	Under influence of liquor or prohibited drug	100
4.6(2)	Failure to comply with sign on local government property	100
5.5	Unauthorized entry to fenced or closed local government property	100
5.6	Gender not specified using entry of toilet block or change room	100
5.9	Failure to comply with direction of controller or notice on golf course	100
6.1(1)	Unauthorized entry to function on local government property	100
7.3	Unauthorized use of any part of jetty which is closed or under repair or construction	100
7.4	Mooring of boats in unauthorized manner	100
7.5	Unauthorized mooring of a boat to jetty	100
7.6	Failure to remove moored boat on direction of authorized person	100
7.7	Launching of boat from jetty without consent	100
8.2	Selling by way of auction without licence	100
8.8	Failure to remove stock	200
8.10	Failure to immediately remove dead or maimed stock	200
8.11	Failure to give statement or pay fees to local government	200
8.12	Failure to produce documents for inspection by local government	200
8.13	Unauthorized entry of dog into saleyard	100
11.1	Failure to comply with notice	200

Schedule 2
DETERMINATIONS

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

PART 1—PRELIMINARY**Definitions**

- 1.1 In these determinations unless the context otherwise requires—
“local law” means the *Local Government Property Local Law* made by the local government;

Interpretation

- 1.2 Unless the context otherwise requires, where a term is used but not defined in a determination and that term is defined in the local law then the term shall have the meaning given to it in the local law.

Schedule 3
GOLF COURSE RESERVE

Dated 21st of August 2000.

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

G. W. MARWICK JP, Shire President.
P. MARSHALL, Chief Executive Officer.

DOG ACT 1976

SHIRE OF YORK

DOGS LOCAL LAW

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SCHEDULE 1**SCHEDULE 2****SCHEDULE 3**

DOG ACT 1976

SHIRE OF YORK

DOGS LOCAL LAW

Under the powers conferred by the *Dog Act 1976* and under all other powers enabling it, the Council of the Shire of York resolved on 21st February 2000 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

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

1.2 Repeal

The Shire of York Local Laws Relating to Dogs published in the *Government Gazette* on 16 July 1982 is repealed.

1.3 Definitions

In this local law unless the context otherwise requires—

“**Act**” means the *Dog Act 1976*;

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

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

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

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

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

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

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

1.4 Application

This local law applies throughout the district.

PART 2—IMPOUNDING OF DOGS**2.1 Charges and costs**

The following are to be imposed and determined by the local government under sections 6.16-6.19 of the *Local Government Act 1995*—

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of pound keeper at pound

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

2.3 Release of impounded dog

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

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

- (a) of her or his ownership of the dog or of her or his authority to take delivery of it; or
- (b) that he or she is the person identified as the owner on a microchip implanted in the dog.

2.4 No breaking into or destruction of pound

A person who—

- (a) unless he or she is the pound keeper or a person authorized to do so, releases or attempts to release a dog from a pound; or

- (b) destroys, breaks into, damages or in any way interferes with or renders not dog-proof—
(i) any pound; or
(ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog,
commits an offence.

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

PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

3.1 Dogs to be confined

- (1) An occupier of premises on which a dog is kept must—
(a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
(b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
(c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises and is fitted with a proper latch or other means of fastening it;
(d) maintain the fence and all gates and doors in the fence in good order and condition; and
(e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.

(2) Where an occupier fails to comply with subclause (1), he or she commits an offence.

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

3.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been—
(a) licensed under Part 4 as an approved kennel establishment; or
(b) granted an exemption under section 26(3) of the Act.
(2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act—
(a) 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite; or
(b) 4 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a townsite.

PART 4—APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2—

- “**licence**” means a licence to keep an approved kennel establishment on premises;
“**licensee**” means the holder of a licence;
“**premises**”, in addition to the meaning given to it in section 3 of the Act, means the premises described in the application for a licence; and
“**transferee**” means a person who applies for the transfer of a licence to her or him under clause 4.14.

4.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form of that in Schedule 1, and must be lodged with the local government together with—

- (a) plans and specifications of the kennel establishment, including a site plan;
(b) copies of the notices to be given under clause 4.3;
(c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
(d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government; and
(e) the fee for the application for a licence referred to in clause 4.10(1).

4.3 Notice of proposed use

(1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged—

- (a) once in a newspaper circulating in the district; and
(b) to the owners and occupiers of any premises adjoining the premises.

(2) The notices in subclause (1) must specify that—

- (a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
- (b) the application and plans and specifications may be inspected at the offices of the local government.

(3) Where—

- (a) the notices given under subclause (1) do not clearly identify the premises; or
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the local government may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.

4.4 Exemption from notice requirements

Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a—

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements,

under a town planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence.

4.5 When application can be determined

An application for a licence is not to be determined by the local government until—

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 Determination of application

In determining an application for a licence, the local government is to have regard to—

- (a) the matters referred to in clause 4.7;
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.7 Where application cannot be approved

The local government cannot approve an application for a licence where—

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a town planning scheme; or
- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

4.8 Conditions of approval

(1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.

(2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.

4.9 Compliance with conditions of approval

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

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

4.10 Fees

- (1) On lodging an application for a licence, the applicant is to pay a fee to the local government.
- (2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.

(4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16-6.19 of the *Local Government Act 1995*.

4.11 Form of licence

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

4.12 Period of licence

(1) The period of effect of a licence is set out in section 27(5) of the Act.

(2) A licence is to be renewed if the fee referred to in clause 4.10(2) is paid to the local government prior to the expiry of the licence.

(3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

4.13 Variation or cancellation of licence

(1) The local government may vary the conditions of a licence.

(2) The local government may cancel a licence—

- (a) on the request of the licensee;
- (b) following a breach of the Act, the Regulations or this local law; or
- (c) if the licensee is not a fit and proper person.

(3) The date a licence is cancelled is to be, in the case of—

- (a) paragraph (a) of subclause (2), the date requested by the licensee; or
- (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.

(4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.14 Transfer

(1) An application for the transfer of a valid licence from the licensee to another person must be—

- (a) made in the form determined by the local government;
- (b) made by the transferee;
- (c) made with the written consent of the licensee; and
- (d) lodged with the local government together with—
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.10(3).

(2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).

(3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.

(4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.15 Notification

The local government is to give written notice to—

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

4.16 Inspection of kennel

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

PART 5—DOGS IN PUBLIC PLACES

5.1 Places where dogs are prohibited absolutely

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

- (a) where so indicated by a sign, a public building;
- (b) a theatre or picture gardens;

- (c) all premises or vehicles classified as food premises or food vehicles under the *Health (Food Hygiene) Regulations 1993*;
 - (d) a public swimming pool.
- (2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.

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

PART 6—MISCELLANEOUS

6.1 Offence to excrete

- (1) A dog must not excrete on—
 - (a) any thoroughfare or other public place; or
 - (b) any land which is not a public place without the consent of the occupier.
- (2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

Penalty: \$200.

- (3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

PART 7—ENFORCEMENT

7.1 Interpretation

In this Part—

- “**infringement notice**” means the notice referred to in clause 7.3; and
- “**notice of withdrawal**” means the notice referred to in clause 7.6(1).

7.2 Modified penalties

- (1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.
- (2) The amount appearing in the third column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if—
 - (a) the dog is not a dangerous dog; or
 - (b) the dog is a dangerous dog, but an amount does not appear in the fourth column directly opposite that offence.
- (3) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

7.3 Issue of infringement notice

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

7.4 Failure to pay modified penalty

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

7.5 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

7.6 Withdrawal of infringement notice

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

7.7 Service

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

Schedule 1

(clause 4.2)

*Local laws relating to Dogs***APPLICATION FOR A LICENCE FOR AN APPROVED
KENNEL ESTABLISHMENT**

I/we (full name)

of (postal address)

(telephone number)

(facsimile number)

(E-mail address)

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

For (number and breed of dogs)

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

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

Attached are—

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

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

Signature of applicant

Date

* delete where inapplicable.

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

OFFICE USE ONLYApplication fee paid on *{insert date}*.

Schedule 2

(clause 4.8(1))

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

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

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than—
 - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be—
 - (i) at least 100mm above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
- (h) the kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of—
 - (i) 2m; or
 - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorized person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside—
 - (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

Schedule 3

(clause 7.2)

OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES

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

Dated this 21st day of August 2000.

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

G. W. MARWICK JP, Shire President.
P. MARSHALL, Chief Executive Officer.

HEALTH ACT 1911

SHIRE OF YORK

HEALTH LOCAL LAWS 2000

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HEALTH ACT 1911

SHIRE OF YORK

HEALTH LOCAL LAWS 2000

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

PART 1—PRELIMINARY**Citation**

1.1 These Local-Laws may be cited as the “*Shire of York Health Local Laws 2000*”.

Repeal

- 1.2 (1) The Health Local Laws adopted by the Shire of York and published in the *Government Gazette* on the 18 November 1921, and amended from time to time, are repealed;
- (2) The Health Local Laws adopted by the Shire of York and published in the *Government Gazette* on the 8 May 1936, and amended from time to time, are repealed;
- (3) The Health Local Laws adopted by the Shire of York and published in the *Government Gazette* on the 16 November 1945, and amended from time to time, are repealed;
- (4) The Health Local Laws adopted by the Shire of York and published in the *Government Gazette* on the 4 August 1950, and amended from time to time, are repealed;
- (5) The Health Local Laws adopted by the Shire of York on 24 September 1956 and published in the *Government Gazette* on the 12 December 1956, and amended from time to time, are repealed;
- (6) The Health Local Laws adopted by the Shire of York on 10 February 1964 and published in the *Government Gazette* on the 29 April 1964, and amended from time to time, are repealed; and
- (7) The Health Local Laws adopted by the Shire of York on 3 June 1965 and published in the *Government Gazette* on the 21 July 1965, and amended from time to time, are repealed.

Interpretation

- 1.3 (1) In these Local-Laws, unless the context otherwise requires—

- “**Act**” means *Health Act 1911* and includes subsidiary legislation made under the *Health Act 1911*;
- “**adequate supply of water**” means a flow of water of not less than 0.076 litres per second;
- “**approved**” means approved by the Council of the Shire of York;
- “**AS**” means Australian Standard published by the Standards Association of Australia;
- “**Building Code**” means the latest edition of the Building Code of Australia published from time to time by, or on behalf of, the Australian Building Codes Board, as amended from time to time, but not including explanatory information published with that Code;
- “**Chief Executive Officer**” means the Chief Executive Officer of the Shire of York and includes an Acting Chief Executive Officer;
- “**Council**” means the Council of the Shire of York;
- “**district**” means the district of the Shire of York and includes any area placed under the jurisdiction of the Council pursuant to Section 22 of the Act;
- “**dwelling house**” means a place of residence or house containing at least one sleeping room and includes a room or outbuilding separate from, but ancillary to, the building in which the sleeping room is located;
- “**Environmental Health Officer**” means an Environmental Health Officer appointed by the Council under the Act and includes an Acting or Assistant Environmental Health Officer;
- “**habitable room**” means a room used for normal domestic activities; and
- 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
 - excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, lobby photographic dark room, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods;
- “**hot water**” means water at a temperature of at least 75 degrees Celsius;
- “**Medical Officer**” means the Medical Officer appointed by the Council under the Act and includes an Acting Medical Officer so appointed;
- “**Principal Environmental Health Officer**” means an Environmental Health Officer appointed by the Council to the office of Principal Environmental Health Officer and includes an Acting Principal Environmental Health Officer;

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

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

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

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

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

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

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

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

(2) Where in these Local-Laws, a duty or liability is imposed on an "owner or occupier", the duty or liability shall be deemed to be imposed jointly and severally on each of the owner or occupier.

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

PART 2—SANITATION

Division 1—Sanitary Conveniences

Interpretation

2.1.1 In this Part, unless the context otherwise requires—

"festival" includes a fair, function or event;

"organiser" means a person—

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

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

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

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

"urinal" may be—

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

Dwelling House

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

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

Premises other than a Dwelling House

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

- (a) the premises have sanitary conveniences in accordance with the Building Code and this Part;
- (b) the toilets required by this section are situated within 90m and are easily accessible to the persons for whom they are provided; and
- (c) the premises have hand wash basins—
 - (i) in accordance with the Building Code;
 - (ii) 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 basin;
 - (iv) separate from any trough, sink or basin used in connection with any process carried out on the premises; and
 - (v) situated within or adjacent to the sanitary conveniences and easily accessible to the person for whom they are provided.

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

Outdoor Festivals

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

- (a) for the first 250 males—
 - (i) one water closet for each 150;
 - (ii) one urinal stall for each 50; and
 - (iii) one hand wash basin for each 50;
- (b) for additional males—
 - (i) one water closet for each 200;
 - (ii) one urinal stall for each 100; and
 - (iii) one hand wash basin for each 200;
- (c) for the first 250 females—
 - (i) one water closet for each 40; and
 - (ii) one wash hand basin for each 50;
- (d) for additional females—
 - (i) one water closet for each 100; and
 - (ii) one wash hand basin for each 200.

(2) Where, under subsection (1), the number of a particular sanitary convenience to be provided is not a whole number, that number shall be rounded up to the next higher whole number.

(3) The organiser of an outdoor festival at which more than 20,000 people are expected to attend shall provide sanitary conveniences of a number as directed by the Principal Environmental Health Officer.

Toilets

2.1.5 Toilets on premises other than a dwelling house shall be maintained in accordance with the following additional requirements—

- (a) a toilet for the exclusive use of males shall not adjoin any toilet for the exclusive use of females unless the toilets are separated by a wall extending from floor to ceiling and of sufficient density to have a Sound Transmission Class of not less than 50 as required by AS1276;
- (b) where more than one toilet is provided on the premises, the entrance to each toilet shall bear a suitable sign indicating for which sex its use is intended.

Temporary Works

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

Maintenance of Sanitary Conveniences and Fittings

2.1.7 (1) The occupier of premises shall—

- (a) keep clean, in good condition and repair; and
- (b) whenever required by an Environmental Health Officer, effectively disinfect and clean, all sanitary conveniences including sanitary fittings in or on the premises.

(2) The owner of premises shall—

- (a) keep or cause to be kept in good repair; and
- (b) maintain an adequate supply of water to, all sanitary conveniences including sanitary fittings in or on the premises.

Ventilation of Toilets

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

Public Sanitary Conveniences

2.1.9 (1) A person shall not—

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

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

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

Lighting

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

Installation

2.1.11 Every sanitary convenience shall be installed in accordance with the requirements of the *Country Areas Water Supply Act 1947* and shall have an adequate supply of water.

Division 2—Bathroom, Laundries and Kitchens

Bathrooms

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

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

(2) All baths, showers, hand basins and similar fittings shall be provided with an adequate supply of hot and cold water.

Laundries

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

- (a) is properly enclosed and roofed;
- (b) is adequately lined with an impervious material;
- (c) has a minimum floor area of 3 square metres and the minimum width of the room shall be not less than 1.5 metres;
- (d) is not a room in which food is stored, prepared, served or consumed; and
- (e) is provided with adequate ventilation.

(2) In the case of a single occupancy dwelling, the laundry referred to in subsection (1) shall have—

- (a) either—
 - (i) two wash troughs; or
 - (ii) a washing machine and a wash trough; and
- (b) a clothes-drying facility comprising either a mechanical clothes dryer or not less than 20 metres of clothesline erected externally.

(3) All wash troughs, sinks and washing machines shall be—

- (a) in a laundry and connected to an adequate supply of hot and cold water; and
- (b) installed to Manufacturers' specifications,

and all wash troughs shall have a capacity of at least 36 litres.

(4) Sole or multiple units, each being a separate dwelling, shall have—

- (a) laundry facilities, in accordance with the Building Code, for the exclusive use of the occupants of each unit; or
- (b) a separate laundry with communal laundry facilities in accordance with the Building Code, for up to 4 sole occupancy units that do not have their own laundry facilities.

(5) Where, in any building, a laundry is situated adjacent to a kitchen or a room where food is stored or consumed, the laundry shall be separated from the kitchen by a wall extending from the floor to the roof or ceiling.

(6) Where there is an opening between a laundry and a kitchen or other room where food is stored or consumed, the opening shall—

- (a) not be more than 1220 millimetres wide; and
- (b) have a door which when closed shall completely fill the opening.

Washing or Keeping of Clothes in Kitchens

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

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

Kitchens

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

(2) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a kitchen equipped with—

- (a) an electric, gas, wood, other fuel burning stove or microwave oven; and

- (b) a sink which shall—
 - (i) be at least 380 millimetres long, 300 millimetres wide and 150 millimetres deep; and
 - (ii) have an adequate supply of hot and cold water.
- (3) The occupier of a dwelling house shall ensure that the stove, oven and sink are kept clean, in good order and repair and fit for use.
- (4) A cooking facility shall—
 - (a) be installed in accordance with the requirements of the Office of Energy 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 shall be—
 - (a) carried to the outside air as directly as practicable; and
 - (b) boxed throughout.
- (6) Mechanical ventilation shall be maintained in good working order and condition.

PART 3—HOUSING AND GENERAL

Division 1—Maintenance of Houses

Dwelling House Maintenance

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

- (a) maintain all roofs, guttering and downpipes in sound weatherproof condition;
- (b) maintain any footings, foundations and walls, either external or internal, in a sound condition;
- (c) replace any missing, broken, decayed or termite-eaten timber or other deteriorated material in any verandah, roof, walls, steps, handrails, floors or their supports with material of sound quality;
- (d) comply with the directions of an Environmental Health Officer to treat the premises for the purpose of destroying any termites;
- (e) maintain any brick, stone, mortar or cement work in a sound condition;
- (f) maintain, repair or replace any flashings or ant caps, which are missing or defective;
- (g) maintain all ventilators in good order and repair;
- (h) maintain all floors even and level in surface and free from cracks and gaps;
- (i) maintain all ceilings, internal wall finishes, skirtings, architraves and other fixtures and fittings complete and with smooth unbroken surfaces;
- (j) maintain all doors and windows in good working order and weatherproof condition;
- (k) retain all natural lighting free from any obstruction which would reduce the natural lighting below the ratio of 10% of the floor area;
- (l) maintain all pipes, fittings and fixtures connected with water supply, drainage or sewerage so that they comply in all respects with the provisions of the *Country Areas Water Supply By-laws 1947* and any other legal requirements to which they are subject; and
- (m) maintain all electric wiring, gas services and fittings to comply in all respects with the requirements of the Office of Energy.

Maintenance of Guttering and Downpipes and Disposal of Rainwater

3.1.2 The owner or occupier of a house shall—

- (a) maintain all guttering, downpipes and drains on the premises in a good state of repair, clean and free from obstructions; and
- (b) not permit any rainwater from the premises to discharge onto or over a footpath, street or other property without the approval of the Council.

Division 2—Ventilation of Houses

Exemption for Short Term Hostels and Recreational Campsites

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

Overcrowding

3.2.2 The owner or occupier of a house shall not permit—

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

Calculated Sufficient Space

- 3.2.3 For the purpose of Section 3.2.2, in calculating the space required for each person—
- each room shall be considered separately and sufficient space shall be allowed in each room for the number of persons present in the room at any one time; and
 - a deduction shall be made for the space occupied by furniture, fittings and projections of the walls into a room.

Ventilation

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

Sub-Floor Ventilation

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

Division 3—Water Supply

Water Supply

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

Rain Water Tanks

- 3.3.2 The owner or occupier of a house where part of the water supply is drawn from a rain water tank shall—
- maintain in a clean condition—
 - the roof forming the catchment for the tank; and
 - the guttering and downpipes appurtenant to the roof;
 - ensure that each rain water tank is fitted with a tight-fitting mosquito proof cover which shall not be removed at any time except for the purpose of cleaning, repairing or maintaining the tank;
 - annually clean any tank, which is used to store water for human consumption;
 - when directed by an Environmental Health Officer, empty, clean and disinfect any tank upon the premises, used to store water for human consumption.

Wells

- 3.3.3 The owner or occupier of any premises shall not use or permit for human consumption the use of the water from any bore or well unless the bore or well is—
- at least 30 metres from any soak or other possible source of pollution unless otherwise approved by the Executive Director of Public Health; and
 - covered with a tight-fitting cover without openings of any sort other than those essential for the insertion of a pump.

Pollution

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

Division 4—Secondhand Furniture, Bedding and Clothing

Prohibition of Sale

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

Prohibition of Possession

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

*Division 5—Morgues***Application and Licensing of Morgues**

3.5.1 (1) All morgues, other than those of any public hospital or any Council or police morgue, shall be licensed annually in accordance with the requirements of this Division.

- (2) An application for a licence of a morgue shall be—
- (a) made by the applicant;
 - (b) made in the form prescribed in schedule (7); and
 - (c) forwarded to the Chief Executive Officer with the fee as fixed from time to time by Council under Section 344C of the Act.
- (3) A licence shall—
- (a) be in the form prescribed in Schedule (8); and
 - (b) expire on 30 June next and after the date of its issue.
- (4) A licence shall not be granted in respect of any premises unless—
- (a) provision has been made for the keeping of the bodies of the dead at a temperature not exceeding zero degrees Celsius;
 - (b) the walls are constructed of stone or brickwork or other approved material;
 - (c) the interior surface of all walls is covered with glazed tiles or is rendered impervious so as to be non-absorbent and washable;
 - (d) all floors are constructed of an approved impervious material, having a fall to an outlet discharging over a trapped gully; and
 - (e) the premises are adequately ventilated by direct communication with the outside air.

PART 4—WASTE FOOD AND REFUSE*Division 1—Liquid Refuse***Interpretation**

4.1.1 In this division, unless the context otherwise requires—

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

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

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

Deposit of Liquid Refuse

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

- (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.

Disposal of Liquid Waste

4.1.3 (1) The owner or occupier of premises shall—

- (a) provide, one of the methods prescribed in this section, for the disposal of all liquid waste produced on the premises; and
- (b) at all times maintain in good working order and condition any apparatus used for the disposal of liquid waste.

(2) Liquid waste shall be disposed of by one of the following methods—

- (a) discharging it into the sewerage system of a licensed water service operator in a manner approved by the licensed water service operator;
- (b) discharging it into an apparatus for the treatment of sewage and disposal of effluent and liquid waste approved by the Executive Director, Public Health or the Council;
- (c) collection and disposal at an approved liquid waste disposal site in a manner approved by the Executive Director Public Health.

Approval for Septic Tank Pump outs and Removal of Liquid Waste

4.1.4 A person shall not—

- (a) unless he or she is an approved carrier;
- (b) without the written approval of the Council; and

(c) except in accordance with any terms and conditions imposed by the Council or the Executive Director, Public Health in connection with the approval under paragraph (b), collect, remove or dispose of the contents of a septic tank, the pump outs from holding tanks or an apparatus for the treatment of sewage and other liquid wastes.

Application for Approval

4.1.5 (1) A carrier may apply in writing to the Council for approval to collect, remove or dispose of the contents of a septic tank, the pump outs from holding tanks or an apparatus for the treatment of sewage.

(2) The Council may grant or refuse an application under this section subject to conditions relating to—

- (a) the time and method of collection, removal or disposal of the contents; or
- (b) the route to be followed by a vehicle used in collection, removal or disposal of the contents; or
- (c) the type of liquid waste that can be collected.

(3) Any conditions imposed by the Council under this section shall be—

- (a) specified in the written approval of the Council; and
- (b) in addition to any conditions imposed by the Executive Director of Public Health or conditions applying under any other law.

(4) The Council may from time to time vary conditions imposed by it under this section by giving written notice of the variation to the person to whom approval was given.

Provision of Quarterly Reports

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

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

Division 2—Disposal of Refuse

Interpretation

4.2.1 In this division, unless the context otherwise requires—

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

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

“**collection time**” where used in connection with any premises, means the time of the day on which rubbish and refuse is collected and removed from the premises by the Council or its contractor;

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

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

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

“**receptacle**” where used in connection with any premises means—

- (a) a polyethylene cart fitted with wheels, a handle and a lid and having a capacity of at least 120 litres; or
- (b) a container provided by the Council or its contractor for the deposit, collection and recycling of specific materials;

and supplied to the premises by the Council or its contractor;

“**refuse disposal site**” means land and any related structures or facilities, set apart by the Council under the Act and any other written law, as a site for the deposit of rubbish or refuse;

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

“**street**” has the same meaning as in the Act;

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

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

Receptacles

4.2.2 An owner or occupier of premises shall—

- (a) ensure the premises are provided with a receptacle for the depositing of rubbish or refuse and maintain the receptacle in a serviceable condition;
- (b) at all times keep the lid of the receptacle closed except when depositing rubbish or refuse or cleaning the receptacle;

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

Exemption

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

Use of Receptacles

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

Ownership of Receptacles

- 4.2.5.1 (1) A receptacle supplied by the Council or its contractor, remains the property of the Council or its contractor, as the case may be;
- (2) The owner or occupier of a premises supplied with a receptacle remains responsible for any rubbish or refuse placed or deposited in the receptacle until such time as it has been removed by Council or its contractor.

Damage to Receptacles

- 4.2.6 (1) A person shall not—
 - (a) damage, destroy or interfere with a receptacle; or
 - (b) except as permitted by these Local-Laws or as authorised by the Council, remove a receptacle from any premises;
- (2) If the receptacle of a premises is damaged, defective, lost or stolen, the owner or occupier of the premises shall notify the Council within 7 days after the event.

Use of Other Containers

4.2.7 (1) In the case of premises consisting of more than 3 dwellings, any premises used for commercial or industrial purposes or food premises, the Principal Environmental Health Officer may authorise rubbish or refuse to be deposited in a container other than a receptacle.

(2) The owner or occupier of premises who is authorised under this Section to deposit rubbish or refuse in a container shall—

- (a) unless approved by the Principal Environmental Health Officer not deposit or permit to be deposited in the container anything specified in Section 4.2.4 (a) (ii) to (xiii);
- (b) take all reasonable steps to prevent fly breeding in, and the emission of offensive or noxious odours from the container;
- (c) whenever directed by an Environmental Health Officer to do so, thoroughly clean, disinfect, deodorise and apply a residual insecticide to the container;
- (d) cause the container to be located on the premises in an enclosure constructed and located as approved by the Principal Environmental Health Officer;
- (e) ensure that the container is not visible from the street but is readily accessible for the purposes of collection; and
- (f) ensure that the container does not cause a nuisance to an occupier of adjoining premises.

(3) An owner or occupier shall—

- (a) ensure that there are a sufficient number of containers provided to contain all rubbish and refuse which accumulates or may accumulate in or from the premises;
- (b) ensure that each container on the premises—
 - (i) has a close fitting lid;
 - (ii) is constructed of non-absorbent and non-corrosive material; and
 - (iii) is clearly marked, for the use of, and is used only for, the temporary deposit of rubbish or refuse;
- (c) keep or cause to be kept each container thoroughly clean and in good condition and repair;
- (d) place any rubbish or refuse in, and only in, a container marked for that purpose;
- (e) keep the cover on each container except when it is necessary to place something in, or remove something from, it; and
- (f) ensure that each container is emptied at least weekly or as directed by the Principal Environmental Health Officer.

Suitable Enclosure

4.2.8 (1) An owner or occupier of premises—

- (a) consisting of more than three (3) dwellings; or
- (b) used for commercial or industrial purposes, or a food premises shall if required by the Council provide a suitable enclosure for the storage and cleaning of receptacles on the premises.

(2) An owner or occupier of premises required to provide a suitable enclosure under this Section shall keep the enclosure thoroughly clean and disinfected.

(3) For the purposes of this Section, a “suitable enclosure” means an enclosure—

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

Building Construction

4.2.9 (1) During all periods of construction on any building site, the builder shall—

- (a) when requested by an environmental health officer, provide and maintain on such site a rubbish disposal bin, being either—
 - (i) a bin of not less than 4 cubic metres in capacity; or
 - (ii) a receptacle or other container approved by the Principal Environmental Health Officer;
- (b) keep such site free of rubbish and offensive matter; and
- (c) maintain the street verge immediately adjacent to such site free of rubbish or offensive matter.

(2) On completion of construction, the builder shall immediately clear the site and the adjacent street verge of all rubbish, waste materials and offensive matter and all rubbish bins provided by the builder.

(3) In subsections (1) and (2), "rubbish" includes all discarded stones, brick, lime, timber, iron, tiles, bags, plastics and any broken, used or discarded matter.

Deposit of Refuse

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

(2) The driver of a vehicle, upon entering a refuse disposal site, shall present or display a current pass issued by the Council, where a pass system is in operation, to the attendant or person in charge of the site and shall not deposit any rubbish or refuse until authorised to do so by that attendant or person in charge.

(3) A person shall not deposit rubbish or refuse in or on a refuse disposal site except—

- (a) at such place on the site as may be directed by the person in charge of the site; or
- (b) if the person in charge is not in attendance at the site, as may be directed by a notice erected on the site.

Removal from Refuse Disposal Site

4.2.11 (1) A person shall not remove any rubbish or refuse from a refuse disposal site without the written approval of the Council.

(2) A person who obtains approval from the Council shall comply with any conditions imposed by the Council and set out in the approval.

Removal of Rubbish from Premises or Receptacle

4.2.12 (1) A person shall not remove any rubbish or refuse from premises unless that person is—

- (a) the owner or occupier of the premises;
- (b) authorised to do so by the owner or occupier of the premises; or
- (c) authorised in writing to do so by the Council.

(2) A person shall not, without the approval of the Council or the owner of a receptacle, remove any rubbish or refuse from the receptacle or other container provided for the use of the general public in a public place.

(3) Where the Council provides—

- (a) a collection service for recyclable material, the occupier of premises shall comply with and observe the directions given by the Council in relation to that collection;
- (b) a collection for bulk material, the occupier of premises shall comply with and observe the directions given by the Council in relation to that collection.

(4) Where additional collection services are provided upon request by the occupier of premises, fees as prescribed by the Council shall be paid.

Burning Rubbish or Refuse

4.2.13 (1) A person shall not set fire to rubbish, either in any incinerator or on the ground except in accordance with the conditions of the Council.

(2) Subject to subsection (3), the burning of rubbish is subject to the following conditions—

- (a) the material to be burnt—
 - (i) does not include any plastic, rubber, food scraps, green garden cuttings and other material which may become offensive when burnt; and
 - (ii) is of such quantity, or of such a nature, as to be unsuitable for removal by the Council's refuse collection service;
- (b) there is no other appropriate means of disposal;
- (c) burning shall not take place—
 - (i) during any period for which an air dispersion alert has been issued by the Bureau of Meteorology; or
 - (ii) where there is no current dispersion alert, outside the hours of 10.00am to 6.00pm;
- (d) an incinerator must meet the standards specified in A.S.1875-1976; and
- (e) an incinerator unit used for fire must be located—
 - (i) at least 3 metres from a fence, building or inflammable matter; and
 - (ii) in such a position so as not to create a nuisance or be offensive to other persons.

(3) Subject to the Fire Rules of the Local Fire Brigade issued by the Fire and Emergency Services Authority of Western Australia, the Council may grant approval to clear by burning fire breaks or vacant blocks of grass, straw, hay, undergrowth, herbage and other similar vegetation.

Rubbish Removal Vehicles

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

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

Method of Removal of Rubbish

- 4.2.15 A person engaged in the removal of rubbish from premises shall—
- convey all rubbish from the receptacles of the occupier of the premises and deposit the rubbish in the portion of the collection vehicle intended to hold the rubbish; and
 - replace the receptacle in the position it was lifted from.

Rubbish Disposal—Prescribed Area

- 4.2.16 The townsite of York is the prescribed area within which the provision of Section 112A of the Act shall operate and have effect.

*Division 3—Transport of Butchers' Waste***Interpretation**

- 4.3.1 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.

Restriction of Vehicles

- 4.3.2 A person shall not use, for the transport of butchers’ waste—
- a vehicle or container not approved by the council; or
 - a vehicle used for the transport of food or drugs; or
 - anything intended to be used for the packing or handling of food or drugs.

Transport of Butchers' Waste

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

PART 5—NUISANCES AND GENERAL*Division 1—Nuisances***Interpretation**

- 5.1.1 In this Division, unless the context otherwise requires—
- “fertiliser” includes manure.

Footpaths etc. to be kept clean

- 5.1.2 An owner or occupier of premises shall maintain any footpath, pavement, area or right of way immediately adjacent to the premises clear of any rubbish, matter or things coming from or belonging to the premises.

Escape of Smoke etc.

- 5.1.3 (1) Subject to subsection (2), an owner or occupier shall not cause or permit the escape of smoke, dust, sand, fumes, offensive or foul odours, liquid waste or liquid refuse from the premises in such quantity or of such nature as to cause or to be a nuisance.
- (2) Subsection (1) does not apply to smoke from the chimney of a private dwelling house.

Public Vehicles to be kept clean

- 5.1.4 The owner or person in control of a public vehicle shall—
- maintain the vehicle at all times—
 - in a clean condition; and
 - free from vectors of disease; and

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

Prohibition against Spitting

5.1.5 A person shall not spit—

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

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

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

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

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

Use or Storage of Fertiliser

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

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

Storage and Dispatch of Artificial Fertiliser

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

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

Storage of Fertiliser in a House

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

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

Vehicles Used for Transporting of Animals and Birds

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

Division 2—Keeping of Animals and Birds

Interpretation

5.2.1 In this division, unless the context otherwise requires—

“animal” includes cats, dogs, rabbits and ferrets; and

“bird” includes galahs, parrots, budgerigars, finches, pigeons and doves.

Cleanliness

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

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

Animal Enclosures

5.2.3 (1) A person shall not keep or cause or permit to be kept any animals or birds on premises, which are not effectively drained.

(2) The owner or occupier of premises, where animals or birds are kept shall, when directed by the Council, pave, grade and drain the floors of all structures and the surface of the ground of all enclosures used for the keeping of animals or birds.

Cats

5.2.4 (1) Subject to subsection (6), a person shall not, without an exemption in writing from the Council, keep more than 2 cats over the ages of 3 months on premises on any land within the District.

(2) An owner or occupier of premises may apply in writing to the Council for exemption from the requirements of subsection (1).

(3) the Council shall not grant an exemption under this Section unless it is satisfied that the number of cats to be kept will not be a nuisance or injurious or dangerous to health.

(4) An exemption granted under this Section shall specify—

- (a) the owner or occupier to whom the exemption applies;
- (b) the premises to which the exemption applies; and
- (c) the maximum number of cats which may be kept on the premises.

(5) A person who is granted an exemption under subsection (3) may be required by Council to—

- (a) provide for each cat kept at or on the premises, a properly constructed shelter with an enclosure complying with the following—
 - (i) each shelter shall have a floor area of not less than 0.5 square metres for each cat over the age of 3 months kept or to be kept therein; and
 - (ii) the area of the enclosure appurtenant to each shelter shall be not less than 3 times the area of the shelter;
- (b) 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;
 - (ii) 10 metres from any dwelling, church, schoolroom, hall or premises in which food is manufactured, packed or prepared for human consumption;
- (c) keep all shelters, enclosures, yards and grounds in which cats are kept in a clean condition and free from vectors of disease at all times and clean, disinfect or otherwise deal with them as directed by an Environmental Health Officer from time to time.

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

Slaughter of Animals

5.2.5 (1) Subject to subsection (2), a person shall not slaughter any animal within the district.

(2) Subsection (1) does not apply to—

- (a) euthanasia of animals by veterinarians or other duly authorised persons;
- (b) slaughter of animals for the purposes of pet meat and game meat operations; and
- (c) slaughter of animals for human consumption in abattoirs approved by the Council.

Disposal of Dead Animals

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

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

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

Division 3—Keeping of Large Animals

Interpretation

5.3.1 In this Division, unless the context otherwise requires—

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

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

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

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

Conditions for keeping of an animal

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

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

- (a) the premises has an area of not less than 0.2 hectares for the exclusive use of the approved animal; and
- (b) the approved animal does not approach within 30 metres of a dwelling.

Stables

- 5.3.3 (1) The owner or occupier of premises within a townsite, who has an approved animal shall provide for its use a stable which shall—
- (a) not be situated within 30 metres of a house or other premises;
 - (b) have a proper separate stall—
 - (i) for each horse or cow; and
 - (ii) with walls measuring not less than 3 metres, both horizontally and vertically, unless it has a sand floor provided in accordance with subsection (2);
 - (iii) with a floor area of not less than 11 square metres, unless it has a sand floor provided in accordance with subsection (2);
 - (c) have each wall and roof constructed of an approved impervious material;
 - (d) have a roof that covers the entire floor area of the stall;
 - (e) have on all sides of the building between the wall and the roof a clear opening of at least 150 millimetres in height;
 - (f) subject to subsection (2), have a floor, the upper surface of which shall—
 - (i) be at least 75 millimetre above the surface of the ground;
 - (ii) be constructed of cement, concrete or other similar impervious materials;
 - (iii) have a fall of 1 in 100 to a drain, which shall empty, into a trapped gully situated outside the stable and shall discharge in a manner approved by the Council.
- (2) A stable constructed with a sand floor may be permitted by the Council, subject to the following—
- (i) the site must be well drained with the highest known water table at least 1.5 metres below the sand floor level, which may be achieved artificially;
 - (ii) a 300mm thick bed of crushed limestone shall be laid under the sand of the stable
 - (iii) sand, whether natural or imported, must be clean, coarse and free from dust;
 - (iv) footings to each stable shall be a minimum of 450mm below ground level;
 - (v) the stable design must allow for the access of small earth moving machinery, such as a skid steer loader, into each individual stall, to maintain the correct floor height;
 - (vi) the minimum floor area of each stall shall be not less than 28 square metres and walls shall not be less than 3 metres vertically or 4 metres horizontally;
 - (vii) the roofed area of each stall shall not be less than 50 percent of the floor area of the stall.
- (3) The owner or occupier of any premises on which a stable is located shall—
- (a) maintain the stable in a clean condition and when so directed by an Environmental Health Officer, clean, wash and disinfect it;
 - (b) keep all parts of the stable so far as possible, free from flies or other vectors of disease by spraying with a residual insecticide or other effective means; and
 - (c) when so ordered by an Environmental Health Officer, spray the stable or such parts as may be directed, with a residual insecticide.

Manure Receptacle

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

Division 4—Keeping of Poultry and Pigeons

Interpretation

5.4.1 In this Division, unless the context otherwise requires—

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

Limitation on Numbers of Poultry and Pigeons

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

Conditions for Keeping Poultry in Limited Numbers

5.4.3 A person who keeps poultry or permits poultry to be kept shall ensure that—

- (a) no poultry is able to approach within 9 metres of a dwelling house, public building or premises where people are employed or where food is stored, prepared, manufactured or sold;
- (b) all poultry is kept in a properly constructed and securely fastened structure or enclosure;

- (c) the structure is in a yard having an otherwise unobstructed area of at least 30 square metres;
- (d) no poultry is able to approach within 9 metres of a street other than a right of way unless, in the case of land at the junction of two or more streets, Council has approved a lesser distance;
- (e) no poultry is able to approach within 1.2 metres of any side or rear boundary of the premises; and
- (f) all enclosures or cages within which poultry are kept shall be maintained at all times in a clean condition and shall be disinfected or otherwise dealt with in a way as directed by an Environmental Health Officer.

Roosters, Geese, Turkeys, Peafowl's and Gamebirds

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

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

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

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

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

Pigeons or Doves

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

- (a) none is able to approach within 9 metres of a dwelling, public building or premises where people are employed or where food is stored, prepared, manufactured or sold; and
- (b) except where registered homing pigeons are freed for exercise, the pigeons or doves are kept in a properly constructed pigeon loft or dove cote that—
 - (i) is in a yard having an otherwise unobstructed area of at least 30 square metres; and
 - (ii) does not allow them to approach within 1.2 metres of any side or rear boundary of the premises; and
 - (iii) is maintained in such a manner so as not to create a nuisance by the emission of dust, effluvia or odours.

Removal of Non-Conforming Structure or Enclosure

5.4.6 (1) If a structure or enclosure is used for the keeping of poultry or pigeons or doves contrary to the provision of Section 5.4.3 and 5.4.5, the Council may direct the owner or occupier to remove it.

(2) An owner or occupier shall comply with a direction from the Council under this Section.

Restrictions on Pigeon Nesting or Perching

5.4.7 (1) The Council may order an owner or occupier of a house in or on which pigeons which are, or are in the habit of, nesting or perching to take adequate steps to prevent them continuing to do so.

(2) An owner or occupier shall comply with the Council order under this Section.

Division 5—Feedlots

Interpretation

5.5.1 For the purpose of this division—

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

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

“birds” includes roosters, hens, geese, turkeys, ducks, poultry, emus and ostriches.

Premises to be approved

5.5.2 (1) No premises shall be used as a feedlot unless approved by Council;

(2) Subject to subsection (3), no premises shall be approved as a feedlot by Council unless every portion of such feedlot complies with the minimum separation distances listed in Table 1; and

(3) Sites unable to satisfy the separation requirements may be approved at the discretion of Council, if Council is satisfied that approving the feedlot will not give rise to a health nuisance.

Table 1. Required Buffer Distances for Feedlots

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

Site Conditions

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

*Division 6—Piggeries***Interpretation**

- 5.6.1 For the purpose of this division—
- “intensive piggery” means pigs are housed, fed and watered in breeding and growing pens in sheds;
 - “piggery” in relation to premises shall include any portion of premises to which the pigs have access.

Premises to be Approved

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

Table 2. Required Buffer Distances for Piggeries

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

Site Conditions

- 5.6.3 The owner or occupier of premises shall take effective measures to prevent the discharge of dust, which may involve—
- (a) reducing the stocking rate immediately to a level that does not cause the discharge of dust; or
 - (b) stabilisation of the soil surface to a level that does not cause the discharge of dust; or
 - (c) provision of adequate windbreaks to effectively prevent the discharge of dust.

Prevention of Nuisances

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

Table 3. Required Buffer Distances for Intensive Piggeries

	Townsites Boundaries	Isolated rural dwellings, dairies, industries	Public roads, recreation areas	Neighbouring rural property boundaries	Surface water supply catchments	Water- courses/rural water impoundments	Bore/wells /soaks Drinking water supply	Stock irrigation supply
Piggeries & facilities catering for more than 5000 pigs	5000m	300m	200m	500m	not permitted	300m	300m	100m
500-5000 pigs	3 500m	300m	150m	250m	not permitted	300m	300m	100m
50-500 pigs	2 000m	300m	100m	250m	not permitted	300m	300m	100m
less than 50 pigs	500m	300m	50m	250m	not permitted	200m	300m	100m
Land used to dispose of raw or partly treated wastes	1 000m	300m	100m	300m	not permitted	300m	300m	300m
Land used to dispose of effectively treated wastes	200m	50m	20m	20m	not permitted	100m	100m	100m

*Division 7—Car Parks***Interpretation**

5.7.1 In this Division, unless the context otherwise requires—

“car parks” means premises, or part of premises, set aside for parking of 3 or more vehicles; and
“occupier” means a person having the charge, management or control of a car park.

Ventilation

5.7.2 (1) A person shall not use or occupy, or permit to be used or occupied, a car park unless it is ventilated by either—

- (a) natural ventilation; or
- (b) mechanical means,

in accordance with AS1668.2 Part 2 1991.

(2) If, in the opinion of the Council, a car park is not properly ventilated, the Council may by notice require the occupier within a specified time to—

- (a) provide a different or additional method of ventilation; and
- (b) cease using the car park until it is properly ventilated.

(3) An occupier shall comply with a notice under subsection (2).

Exhaust Air Discharge Points and Exhaust Registers

5.7.3 An owner or occupier shall ensure that—

- (a) all exhaust air that is discharged from a car park shall be discharged—
 - (i) at discharge points—
 - (A) in accordance with AS1668.2 Part 2 1991;
 - and
 - (B) located so that the hourly average exhaust flow rate is not reduced below the minimum requirements of AS1668.2 Part 2 1991;
 - (ii) at a velocity and in a direction so as not to be a danger to health or a nuisance;
- (b) exhaust registers are located as far as possible from the source of supply air;
- (c) in the case of a car park having a floor level below that of the external ground level, at least 50% of the required air is drawn into exhaust registers having their bottom edge located within 100 millimetres of the floor level; and
- (d) any mechanical ventilation system is—
 - (i) maintained in good working condition; and
 - (ii) in operation at all times when the car park is in use.

PART 6—PEST CONTROL*Division 1—Flies***Interpretation**

6.1.1 In this Division, unless the context otherwise requires—

“flies” means any of the two-winged insects constituting the order *Diptera* commonly known as flies.

Fly breeding matter not to be left on Premises unless Covered or Treated

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

Measures to be taken by an Occupier

6.1.3 An owner or occupier of premises shall ensure that—

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

Officer may give Notice directing Measures to be Taken

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

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

of flies.

Council may Execute Work and Recover Costs

6.1.5 (1) Where—

- (a) a person is required under this Division or directed by a notice given under section 6.1.4, to execute any work; and
- (b) that person fails or neglects to comply with the requirement,

the Council may execute the work and may recover from that person the cost of executing the work, in addition to any penalty for which that person may be liable under these Local Laws.

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

(3) The Council shall not be liable to pay compensation or damages of any kind to the person referred to in subsection (1) in relation to any action taken by the Council under this Section.

*Division 2—Mosquitoes***Interpretation**

6.2.1 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.

Measures to be taken to prevent mosquitoes breeding

6.2.2 (1) An owner or occupier of premises shall ensure that the premises are kept free from possible mosquito breeding sites and shall—

- (a) follow any direction of an Environmental Health Officer for the purpose of
 - (i) controlling the prevalence of mosquitoes;
 - (ii) eradication; or
 - (iii) effectively preventing the breeding of mosquitoes.
- (b) assist the Environmental Health Officer to locate any possible mosquito breeding sites that may be present in or about the premises.

(2) An owner or occupier of premises where water is kept in a horse trough, poultry drinking vessel or other receptacle shall—

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

(3) An owner or occupier of premises where a septic tank is installed shall ensure the fixture is in sound condition at all times, and mesh having openings no larger than 1.2mm covers any educt vent to the system.

(4) An owner or occupier of land shall cause all drains and channels in or on the land to be kept in good order and free from obstruction.

Council may Execute and Recover Costs

6.2.3 (1) Where—

- (a) a person is required under this division or directed by a notice given under Section 6.2.2, to execute any work; and
- (b) that person fails or neglects to comply with the requirement,

the Council may execute the work and recover from that person the cost of executing the work, in addition to any penalty for which that person may be liable.

- (2) The costs and expenses incurred by the Council in the execution of a power under Section (1) may be recovered in a court of competent jurisdiction from that person.
- (3) The Council shall not be liable to pay compensation or damages of any kind to the person referred to in Section (1) in relation to any action taken by the Council.

Division 3—Rodents

Interpretation

6.3.1 In this Division, unless the context otherwise requires—

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

Measures to be taken to eradicate Rodents

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

Food and Wastes to be kept in rodent proof Receptacles

- 6.3.3 A person shall not place or cause to be placed in or on any premises, and an owner or occupier of premises shall not permit to remain in or on the premises—
- (a) any food, refuse, or other waste matter which might attract rodents to the premises or which might afford harbourage for rodents; or
 - (b) any food intended for birds or other animals,
- unless it is contained in a rodent proof receptacle or a compartment, which is kept effectively, protected against access by rodents.

Restrictions on the Sale or Keeping of Rats

- 6.3.4 (1) Subject to subsection (2) an owner or occupier of premises shall not, on or from those premises—
- (a) keep or permit to be kept a rat; or
 - (b) sell or offer for sale or permit to be sold or offered for sale a rat.
- (2) Subsection (1) shall not prevent the keeping of rats for the purpose of scientific or medical research on premises owned or occupied by—
- (a) a university or school;
 - (b) a person approved by Council; or
 - (c) a public hospital or a private hospital within the meaning of those expressions in the *Hospitals and Health Services Act 1927*.
- (3) A person or body specified in subsection (2), which keeps rats, shall—
- (a) at all times ensure that all live rats are kept in the effective control of a person or in locked cages; and
 - (b) if a rat escapes, forthwith comply with the requirements of Section 6.3.2 and ensure that all reasonable steps are taken to destroy or recapture the rat.

Food Premises etc. to be cleaned after Use

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

Restrictions on materials affording harbourage for Rodents

- 6.3.6 (1) An owner or occupier of premises shall cause—
- (a) any part of the premise; 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 shall within the time specified comply with any direction given by an Environmental Health Officer under this Section.

Division 4—Cockroaches

Interpretation

6.4.1 In this Division, unless the context otherwise requires—

“cockroach” means any of the various *orthopterous* insects commonly known as cockroaches.

Measures to be taken to eradicate Cockroaches

6.4.2 (1) An owner or occupier of premises shall take effective measures to eradicate any cockroaches in or on the premises.

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

(3) An owner or occupier shall within the time specified comply with any direction given by an Environmental Health Officer under this Section.

*Division 5—Argentine Ants***Interpretation**

6.5.1 In this Division, unless the context otherwise requires—

“**Argentine Ant**” means an ant belonging to the species *Irdomyrmex humilis*.

Measures to be taken to keep premises free from Argentine Ants

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

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

*Division 6—European Wasps***Interpretation**

6.6.1 In this Division, unless the context otherwise requires—

“**European Wasp**” means a wasp *Vespa germanica*.

Measures to be taken to keep premises free from European Wasp Nests

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

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

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

6.7.1 In this Division, unless the context otherwise requires—

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

Restrictions on keeping of Bees in Hives

6.7.2 (1) A person shall not keep or permit the keeping of bees anywhere within the district unless approval to do so has been given by the Council.

(2) If, in the opinion of an Environmental Health Officer, the approved beehives are causing a nuisance, the Council may direct any bees or approved beehives to be removed.

(3) A person shall comply with a direction within the time specified.

*Division 8—Arthropod Vectors of Disease***Interpretation**

6.8.1 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*).

Responsibility of the Owner or Occupier

6.8.2 The owner or occupier of premises shall—

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

PART 7—INFECTIOUS DISEASES*Division 1—General Provisions***Requirements for an owner or occupier to clean, disinfect and disinfest**

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

- (a) the premises; or
 - (b) such things in or on the premises as are specified in the notice, or both, to the satisfaction of an Environmental Health Officer.
- (2) An owner or occupier shall comply with a notice given under subsection (1).

Environmental Health Officer may disinfect or disinfest premises

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

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

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

(4) The Council shall not be liable to pay compensation or damages of any kind to the owner or occupier of premises in relation to any action taken by the Council or any of its staff or employees under this Section.

Insanitary houses, premises and things

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

(2) Where an Environmental Health Officer considers that a house is insanitary, the officer may, by notice in writing, direct an owner of the house, within the time and in the manner specified in the notice, to amend the house.

(3) Where an Environmental Health Officer considers that—

- (a) a house or premises is not being maintained in a sanitary condition; or
- (b) any thing is insanitary,

the officer may, by notice in writing, direct, as the case may be—

- (i) the owner or occupier of the house or premises to amend any insanitary condition; or
- (ii) the owner or occupier of the thing to destroy or amend it,

within the time and in the manner specified in the notice.

(4) A person to whom a notice has been given under subsections (2) or (3) shall comply with the terms of the notice.

Medical Officer may Examine Persons

7.1.4 The Medical Officer may enter any house and examine bacteriologically or otherwise any inmate of the house, or any person found thereon at the time, for the purpose of ascertaining whether the inmate or person is suffering from an infectious disease or is a medium for the transmission of an infectious disease, and the person shall submit to an examination and shall permit the medical officer to remove whatever specimens are considered necessary for proper examination.

Medical Officer may authorise disinfecting

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

(2) A person shall comply with any direction of the Medical Officer under this Section.

Persons in contact with an infectious disease sufferer

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

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

Declaration of infected house or premises

7.1.7 (1) To prevent or check the spread of infectious disease, the Council or the Medical Officer may from time to time declare any house or premises to be infected.

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

Destruction of infected animals

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

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

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

Disposal of a body

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

(2) A body shall not be removed from premises where death occurred except to a morgue.

Council may carry out work and recover costs

7.1.10 (1) Where—

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

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

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

(3) The Council shall not be liable to pay compensation or damages of any kind to the person referred to in subsection (1)(a) in relation to any action taken by the Council under this Section.

*Division 2—Disposal of used Condoms and Needles***Disposal of used condoms**

7.2.1 (1) A person shall not dispose of a used condom in a public place.

Disposal of used needles

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

PART 8—LODGING HOUSES*Division 1—Registration***Interpretation**

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

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

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

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

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

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

“lodging house” includes a recreational campsite, a serviced apartment and a short-term hostel.

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

“recreational campsite” means a lodging-house—

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

and

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

“register of lodgers” means the register kept in accordance with Section 157 of the Act and this Part;

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

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

"short term hostel" means a lodging house where the period of occupancy of any lodger is not more than 14 consecutive days and shall include youth hostels and backpacker hostels; and
"vector of disease" means an arthropod or rodent that transmits, by biological or mechanical means, an infectious agent from a source or reservoir to a person, and includes fleas, bedbugs, crab lice, body lice and head lice.

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

Lodging House Not to be Kept Unless Registered

8.1.2 A person shall not keep or cause, suffer or permit to be kept a lodging house unless—
(a) the lodging house is constructed in accordance with the requirements of this Part;
(b) the lodging house is registered by the Council under Section 8.1.4;
(c) the name of the person keeping or proposing to keep the lodging house is entered in the register of keepers; and
(d) either—
(i) the keeper; or
(ii) a manager who, with the written approval of an Environmental Health Officer, has been appointed by the keeper to have the care and management of the lodging house;

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

Application for Registration

8.1.3 An application for registration of a lodging house shall be—
(a) in the form prescribed in Schedule (1);
(b) duly completed and signed by the proposed keeper; and
(c) accompanied by—
(i) the fee as fixed from time to time by Council under Section 344C of the Act; and
(ii) detailed plans and specification of the lodging house.

Approval of Application

8.1.4 The Council may approve, with or without conditions, an application under Section 8.1.3 by issuing to the applicant a certificate in the form prescribed in Schedule (2).

Renewal of Registration

8.1.5 A person who keeps a lodging house, which is registered under this Part, shall—
(a) during the month of June in each year apply to the Council for the renewal of the registration of the lodging house; and
(b) pay the fee as fixed from time to time by Council under Section 344C of the Act at the time of making each application for renewal.

Notification upon Sale or Transfer

8.1.6 If the owner of a lodging house sells or transfers or agrees to sell or transfer the lodging house to another person, he or she shall, within 14 days of the date of sale, transfer or agreement, give to the Council written notice in the form prescribed in Schedule (3) of the full name, address and occupation of the person to whom the lodging house has been, or is to be sold or transferred.

Revocation of Registration

8.1.7 (1) Subject to subsection (3), the Council may, at any time, revoke the registration of a lodging house for any reason, which, in the opinion of the Council, justifies the revocation.
(2) Without limiting the generality of subsection (1), the Council may revoke a registration upon any one or more of the following grounds—
(a) that the lodging house has not, to the satisfaction of Council, been kept free from vectors of disease or in a clean, wholesome and sanitary condition;
(b) that the keeper has—
(i) been convicted of an offence against these local laws in respect of the lodging house;
(ii) not complied with a requirement of this Part; or
(iii) not complied with a condition of registration;
(c) that the Council, having regard to a report from the Police Service, is satisfied that the keeper or manager is not a fit and proper person; and
(d) that, by reason of alterations or additions or neglect to repair and renovate, the condition of the lodging house is such as to render it, in the opinion of an Environmental Health Officer, unfit to remain registered;
(3) Before revoking the registration of a lodging house under this section, the Council shall give notice to the keeper requiring him or her, within a time specified in the notice, to show cause why the registration should not be revoked.
(4) Whenever the Council revokes the registration of a lodging house, it shall give the keeper notice of the revocation and the registration shall be revoked as from the date on which the notice is served on the keeper.

*Division 2—Construction and Use Requirements***General Construction Requirements**

8.2.1 The general construction requirements of a lodging house shall comply with the Building Code and the Act.

Kitchen

8.2.2 A keeper of a lodging house shall provide in that lodging house a kitchen which—

- (a) has adequate—
 - (i) food storage facilities and cupboards to prevent contamination of food, or cooking or eating utensils, by dirt, dust, flies or other vectors of disease of any kind; and
 - (ii) refrigerator space for storage of perishable goods;
- (b) may be required by Council to comply with the requirements of the *Health (Food Hygiene) Regulations 1993*.

Dining Room

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

- (a) located in close proximity to, or combined with, the kitchen;
- (b) the floor area of which shall be 0.5 square metres per person or not less than 10 square metres whichever is the greater; and
- (c) which shall be—
 - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
 - (ii) provided with a suitable floor covering.

Lounge Room

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

- (a) with a floor area of—
 - (i) where the lounge is not combined with the dining room—not less than 0.6 square metres per person; or
 - (ii) where the lounge room is combined with a dining room—not less than 1.2 square metres per person,

but in either case having a minimum of 13 square metres; and
- (b) which shall be—
 - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
 - (ii) provided with a suitable floor covering.

Sanitary Conveniences

8.2.5 (1) A keeper shall maintain in good working order and condition and in convenient positions on the premises—

- (a) toilets; and
- (b) bathrooms, each fitted with a washbasin and a shower or bath in accordance with the requirements of the Building Code.

(2) A bathroom or toilet, which is used as a private bathroom or toilet to the exclusion of other lodgers or residents, shall not be counted for the purposes of subsection (1).

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

(4) The walls of each shower and bath shall be of an impervious material to a minimum height of 1.8 metres above the floor level.

(5) Each toilet and bathroom shall—

- (a) be situated, separated and screened as to ensure privacy;
- (b) be apportioned to each sex;
- (c) have a distinct sign displayed in a prominent position denoting the sex for which the toilet or bathroom is provided; and
- (d) be provided with adequate electric lighting.

(6) paragraphs (b) and (c) of subsection (5) do not apply to a serviced apartment.

Laundry

8.2.6 (1) A keeper shall—

- (a) subject to subsection (2)—
 - (i) in the case of a recreational campsite, provide on the premises a laundry consisting of at least one 45 litre stainless steel trough; and
 - (ii) in any other case, provide on the premises a laundry unit for each 15 lodgers;
- (b) at all times maintain each laundry in a proper sanitary condition and in good repair;
- (c) provide an adequate supply of hot and cold water to each wash trough, sink and washing machine; and
- (d) ensure that the floor area of each laundry is properly surfaced with an even fall to a floor waste.

(2) An Environmental Health Officer may approve the provision of a reduced number of laundry units if suitable equipment of a commercial type is installed.

(3) In this section—

“**laundry unit**” means a group of facilities consisting of—

- (a) a washing machine with a capacity of not less than 4 kilograms of dry clothing;
- (b) one wash trough of not less than 36 litres capacity, connected to both hot and cold water; and
- (c) either an electric drying cabinet or not less than 30 metres of clothes line, and for which a hot water system is provided that—
- (d) is capable of delivering 136 litres of water per hour at a temperature of at least 75°C for each washing machine provided with the communal facilities; and
- (e) has a delivery rate of not less than 18 litres per minute to each washing machine.

Fire Prevention and Control

8.2.7 (1) A keeper shall—

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

(2) A keeper shall ensure that all buildings comprising the lodging house are fitted with fire protection equipment as advised by the Fire and Emergency Services Authority of Western Australian and approved by the Council.

Obstruction of Passages and Stairways

8.2.8 A keeper shall not cause, suffer or permit furniture, fittings or other things to be placed either temporarily or permanently in or on—

- (a) a stairway, stair landing, fire-escape, window or common passageway; or
- (b) part of the lodging house in common use or intended or adapted for common use, in such a manner as to form an obstruction to the free passage of lodgers, residents or persons in or occupying the lodging house.

Fitting of Locks

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

Restriction on use of Rooms for Sleeping

8.2.10 (1) Subject to subsection (3) and Section 8.3.10, a keeper shall not use or permit to be used as a sleeping apartment a room in a lodging house—

- (a) which contains food;
- (b) which contains or is fitted with a cooking appliance or kitchen sink;
- (c) which is used as a kitchen, scullery, store room, dining room, general sitting room, lounge room or for the preparation or storage of food;
- (d) which is not reasonably accessible without passing through a sleeping or other room in the private occupation of another person;
- (e) which, except in the case of a short term hostel or a recreational campsite, contains less than 5.5 square metres of clear space for each lodger occupying the room;
- (f) which is naturally illuminated by windows having a ratio of less than 0.1 square metre of unobstructed glass to every 1.0 square metre of floor area;
- (g) which is ventilated at a ratio of less than 0.5 square metre of unobstructed ventilating area to every 10 square metres of floor area;
- (h) in which the lighting or ventilation referred to in paragraphs (f) and (g) is obstructed or is not in good and efficient order;
- (i) which is not free from internal dampness;
- (j) of which any part of the floor is below the level of the adjoining ground; or
- (k) the floor of which is not fitted with an approved carpet or vinyl floor covering or other floor treatment approved by an Environmental Health Officer.

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

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

Sleeping Accommodation, Short Term Hostels and Recreational Campsites

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

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

(2) The calculation of floor space in subsection (1) shall exclude the area occupied by any large items of furniture, such as wardrobes, but may include the area occupied by beds.

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

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

(5) The keeper of any short term hostel or recreational campsite shall provide—

- (a) fixed outlet ventilation at a ratio of 0.15 square metres to each 10 square metres of floor area of the dormitories, and shall ensure that dormitories are provided with direct ventilation to the open air from a point within 230 millimetres of the ceiling level through a fixed open window or vents, carried as direct to the open air as practicable;
- (b) mechanical ventilation in lieu of fixed ventilation, subject to Council's approval.

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

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

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

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

(8) The keeper of any short term hostel or recreational campsite shall ensure that—

- (a) materials used in dormitory areas comply with AS 1530.2 and AS 1530.3 as follows—

drapes, curtains, blinds and bed covers—maximum Flammability Index of 6;
upholstery and bedding—

- a maximum Spread of Flame Index of 6;
- a maximum Smoke Developed Index of 5; and
- floor coverings—
 - a maximum Spread of Flame Index of 7;
 - a maximum Smoke Developed Index of 5;

Fire retardant coatings used to make a material comply with these indices must be—

- (i) certified by the manufacturer as approved for use with the fabric to achieve the required indices; and
 - (ii) certified by the manufacturer to retain its fire retardative effect after a minimum of 5 commercial dry cleaning or laundering operations carried out in accordance with AS 2001.5.4-1987, Procedure 7A, using ECE reference detergent; and
 - (iii) certified by the applicator as having been carried out in accordance with the manufacturer's specification;
- (b) emergency lighting is provided in accordance with the Building Code;
 - (c) a lodger or other person does not smoke in any dormitory, kitchen, dining room or other enclosed public place, within a short term hostel or recreational campsite;
 - (d) all mattresses in a short term hostel or recreational campsite are fitted with a mattress protector.

Furnishing etc. of Sleeping Apartments

8.2.12 (1) The keeper shall—

- (a) furnish each sleeping apartment with a sufficient number of beds and sufficient bedding of good quality;
- (b) ensure that each bed—
 - (i) has a bed head, mattress and pillow; and
 - (ii) is provided with a pillow case, mattress cover, two sheets, two blankets or equivalent; and
- (c) furnish each bedroom so that there are adequate storage facilities for belongings within the room.

- (2) The keeper shall not cause, suffer or permit any tiered beds or bunks to be used in a sleeping apartment other than in a lodging house used exclusively as a short term hostel or recreational campsite.
- (3) The sheets and blankets required to be provided by subsection (1)(b)(ii), shall be deemed to have been provided by the keeper, where the keeper offers them for hire to the lodgers. In such circumstances, each lodger must either provide his own clean sheets or hire them from the keeper.
- (4) In a short term hostel or recreational campsite, the storage facilities required by subsection (1)(c) may be located in a separate secure storage room or locker room.

Ventilation

8.2.13 (1) If, in the opinion of an Environmental Health Officer, a kitchen, bathroom, toilet, laundry or habitable room is not adequately or properly ventilated, he or she may direct the keeper to provide a different or additional method of ventilation.

(2) The keeper shall comply with any direction given under subsection (1) within such time as directed.

Numbers to be Placed on Doors

8.2.14 (1) A keeper shall, place or cause to be placed on the outside of the doors of all rooms available to lodgers in the lodging house, serial numbers so that—

- (a) the number “1” is placed on the outside of the door of the room nearest to the front or main entry door of the lodging house; and
- (b) the numbers continue in sequence throughout each floor (if there is more than one) of the lodging house.

(2) The numbers to be placed on the doors under subsection (1) shall be—

- (a) not less than 40 millimetres in height;
- (b) 1.5 metres from the floor; and
- (c) permanently fixed either by being painted on the doors or by other legible means.

Division 3—Management and Care

Keeper or Manager to Reside in the Lodging House

8.3.1 Whenever there is one or more lodgers in a lodging house, a keeper or manager shall—

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

Register of Lodgers

8.3.2 (1) A keeper shall keep a register of lodgers in the form prescribed in Schedule (4).

(2) The Register of lodgers shall be—

- (a) kept in the lodging house; and
- (b) open to inspection at any time on demand by any member of the Police Service or by an Environmental Health Officer.

Keeper Report

8.3.3 A keeper shall, whenever required by the Council, report to the Council in the form prescribed in Schedule (5), the name of each lodger who lodged in the lodging house during the preceding day or night.

Certificate in Respect of Sleeping Accommodation

8.3.4 (1) An Environmental Health Officer may issue to a keeper a certificate, in respect of each room, which shall be in the form prescribed in Schedule (6).

(2) The certificate issued under subsection (1) shall specify the maximum number of persons who shall be permitted to occupy each room as a sleeping apartment at any one time.

(3) When required by an Environmental Health Officer, a keeper shall exhibit the certificate issued under this section in a conspicuous place.

(4) A person shall not cause, suffer or permit a greater number of persons than is specified on a certificate issued under this Section to occupy the room to which it refers.

Duplicate Keys and Inspection

8.3.5 Each keeper and manager of a lodging house shall—

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

Room Occupancy

8.3.6 (1) A keeper shall not—

- (a) cause, suffer or permit more than the maximum number of persons permitted by the Certificate of Registration of the lodging house to be lodged at any one time in the lodging house;

- (b) cause, suffer or permit to be placed or kept in any sleeping apartments—
 - (i) a larger number of beds; or
 - (ii) a larger quantity of bedding,

than is required to accommodate and provide for the maximum number of persons permitted to occupy the sleeping apartment at any one time; and

- (c) use or cause, suffer or permit to be used for sleeping purposes a room that—
 - (i) has not been certified for that purpose; and
 - (ii) the Council or Medical Officer has forbidden to be used as a sleeping apartment.

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

Maintenance of a Room by a Lodger or Resident

8.3.7 (1) A keeper may permit, or contract with, a lodger or resident to service, clean or maintain the room or rooms occupied by the lodger or resident.

- (2) Where permission is given or a contract entered into under subsection (1), the keeper shall—
 - (a) inspect each room the subject of the permission or agreement at least once a week; and
 - (b) ensure that each room is being maintained in a clean and sanitary condition.

(3) A lodger or resident who contracts with a keeper to service, clean or maintain a room occupied by him or her, shall maintain the room in a clean and sanitary condition.

Cleaning and Maintenance Requirements

8.3.8 (1) In this Section—

“bed linen” includes sheets, pillowcases, mattress protectors and mattress covers.

(2) A keeper of a lodging house shall—

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

Responsibilities of Lodgers and Residents

8.3.9 A lodger or resident shall not—

- (a) use any room available to lodgers—
 - (i) as a shop, store or factory; or
 - (ii) for manufacturing or trading services;
- (b) keep or store in or on the lodging house any goods or materials which are inflammable, obnoxious or offensive;
- (c) use a bath or wash hand basin other than for ablutionary purposes;

- (d) use a bathroom facility or fixture for laundry purposes;
- (e) use a sink installed in a kitchen or scullery for any purpose other than the washing and cleaning of cooking and eating utensils, other kitchenware and culinary purposes;
- (f) deposit rubbish or waste food other than into a proper rubbish receptacle;
- (g) in a kitchen or other place where food is kept—
 - (i) wash or permit the washing of clothing or bedding; or
 - (ii) keep or permit to be kept any soiled clothing or bedding;
- (h) subject to Section 8.3.10—
 - (i) keep, store, prepare or cook food in any sleeping apartment; or
 - (ii) unless sick or invalid and unable to leave a sleeping apartment for that reason, use a sleeping apartment for dining purposes;
- (i) place or keep, in any part of a lodging house, any luggage, clothing, bedding or furniture, that is infested with vectors of disease;
- (j) store or keep items other than personal effects—
 - (i) in any kitchen, living or sleeping apartment so as to prevent the cleaning of the floors, walls, fittings or fixtures; or
 - (ii) in a sleeping apartment so as to decrease the air space to less than the minimum required by this Part;
- (k) obstruct or prevent the keeper or manager from inspecting or examining the room or rooms occupied by the lodger or resident; and
- (l) fix any fastener or change any lock to a door or room without the written approval of the keeper.

Approval for storage of food

- 8.3.10 (1) An Environmental Health Officer may—
- (a) upon written application from a keeper, approve the storage of food within a refrigerator or sealed container in a sleeping apartment; and
 - (b) withdraw the approval if a nuisance or vector of disease infestation is found to exist in the lodging house.
- (2) The keeper of a serviced apartment may permit the storage and consumption of food within that apartment if suitable storage and dining facilities are provided.

PART 9—OFFENSIVE TRADES

Division 1—General

Interpretation

9.1.1 In this Part, unless the context otherwise requires—

“occupier” in relation to premises includes the person registered as the occupier of the premises specified in the Certificate of Registration;

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

- (a) fish processing premises, fish curing premises and shellfish and crustacean processing establishments;
- (b) laundries, dry cleaning premises and dye works;
- (c) any trade as defined by Section 186 of the Act; and
- (d) any other trade that, unless preventive measures are adopted, may become a nuisance to the health of the inhabitants of the district; and

“premises” includes houses.

Consent to Establish an Offensive Trade

9.1.2 A person seeking the consent of the Council under Section 187 of the Act to establish an offensive trade shall make application in the form prescribed in Schedule (9) and in accordance with Council’s Town Planning Scheme.

False Statement

9.1.3 A person who makes a false statement in an application under Section 9.1.2 shall be guilty of an offence.

Registration of Premises

9.1.4 An application for the registration of premises pursuant to Section 191 of the Act shall be—

- (a) in the form prescribed in Schedule (10);
- (b) accompanied by the fee prescribed in the *Offensive Trade (Fees) Regulations 1976* as amended from time to time; and
- (c) lodged with the Chief Executive Officer.

Certificate of Registration

9.1.5 Upon the registration of premises for the carrying on of an offensive trade, the Council shall issue to the applicant a certificate in the form prescribed in Schedule (11).

Change of Occupier

9.1.6 Where there is a change of occupier of the premises registered pursuant to this Division, the new occupier shall forthwith notify the Chief Executive Officer in writing of such change.

Alterations to Premises

9.1.7 While any premises remain registered under this Division, a person shall not, without the written permission of the Council, make or permit any change or alteration whatever to the premises.

Occupier Includes Employee

9.1.8 Where in any Section contained in this Part; a duty is imposed upon the occupier of premises in or upon which an offensive trade is carried on, the reference to the occupier shall be interpreted to include the employees of the occupier and any employee committing a breach of any provision of this Part shall be liable to the same penalties as if he were the occupier.

*Division 2—General Duties of an Occupier***Interpretation**

9.2.1 In this Division, unless the context otherwise requires—

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

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

Cleanliness

9.2.2 The occupier shall—

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

Rats and Other Vectors of Disease

9.2.3 The occupier shall—

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

Sanitary Conveniences and Wash Basins

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

Painting of Walls etc.

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

Effluvia, Vapours, Gases or Dust

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

Offensive Material

9.2.7 The occupier shall—

- (a) provide on the premises impervious receptacles of sufficient capacity to receive all offensive material and trade refuse produced upon the premises in any one-day;
- (b) keep airtight 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 or at such other intervals as may be approved or directed by an Environmental Health Officer; and
- (e) cause all receptacles after being emptied to be cleaned immediately with an efficient disinfectant.

Storage of Materials

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

Specified Offensive Trade

9.2.9 (1) For the purposes of this Section, "specified offensive trade" means one or more of the offensive trades carried on, in or connected with the following works or premises—

- (a) fish processing premises, fish curing premises, and shellfish and crustacean processing establishments; and
- (b) laundries, dry cleaning premises and dye works.

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

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

Directions

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

(2) The occupier shall comply with any directions given under this Section.

Other Duties of Occupier

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

*Division 3—Fish Premises***Interpretation**

9.3.1 In this Division, unless the context otherwise requires—

"fish premises" may include a fish processing establishment, fish curing establishment and a shellfish and crustacean processing establishment;

Duties of an Occupier

9.3.2 The occupier of a Fish premises shall—

- (a) not suffer or permit any decomposing fish to be kept on the premises where his trade is carried on for a longer period than is reasonably necessary to dispose of them;
- (b) cause all decomposing fish, to be immediately deposited in an impervious receptacle furnished with an airtight cover; and
- (c) cause the brine of pickle to be removed as often as is necessary to prevent it from becoming offensive.

Disposal of Waste

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

- (a) placed in the receptacles referred to in 9.2.7 and disposed of in accordance with that Section; or
- (b) kept in a frozen state in an approved enclosure before its removal from the premises.

Fish Containers

9.3.4 The occupier of a fish premises shall not allow any container used for the transport of fish to—

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

*Division 4—Laundries, Dry Cleaning Establishments and Dye Works***Interpretation**

9.4.1 In this Division, unless the context otherwise requires—

“dry cleaning establishment”—

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

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

“exempt laundromat” means a premises in which—

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

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

“laundry” means any places where articles are laundered for the purpose of trade but does not include an exempt laundromat.

Receiving Depot

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

Reception Room

9.4.3 (1) The occupier of a laundry or dry cleaning establishment or dye works shall—

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

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

Walls and Floors

9.4.4 The occupier of a laundry, dry cleaning establishment or dye works shall cause—

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

Laundry Floor

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

Escape of Dust

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

Precautions Against Combustion

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

Trolleys

9.4.8 The occupier of a dry cleaning establishment shall—

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

Sleeping on Premises

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

PART 10—OFFENCES AND PENALTIES*Division 1—General***Penalties**

- 10.1.1 (1) A person who contravenes a provision of these Local-Laws commits an offence.
- (2) A person who commits an offence under subsection (1) is liable to—
- (a) a penalty which is not more than \$1,000 and not less than—
 - (i) in the case of a first such offence, \$100;
 - (ii) in the case of a second such offence, \$200; and
 - (iii) in the case of a third and subsequent such offence, \$500; and
 - (b) if the offence is a continuing offence, a daily penalty that is not more than \$100 and not less than \$50 for each day during which, the offence continues.
-

Schedule 1

Shire of York

HEALTH ACT 1911

APPLICATION FOR REGISTRATION OF A LODGING HOUSETo: Chief Executive Officer
Shire of YorkI/We,
(Full name of applicant/s)of
.....
(Residential Address of Applicant/s)

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

as a lodging house to be classified as—

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

(Specify which is to apply)

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

DESCRIPTION OF LODGING HOUSE

Number of stories

Rooms for private use

	Number	Area
Laundries/toilets/bathrooms
Bedrooms
Dining Rooms
Kitchens
Sitting Rooms
Other Rooms (Specify)

Rooms for lodgers

	Number	Area
Bedrooms
Dining Rooms
Kitchens
Sitting Rooms
Other Rooms (Specify)

Sanitary conveniences for male lodgers

	Number
Toilets
Urinals
Baths
Showers
Wash hand basins

Sanitary conveniences for female lodgers

	Number
Toilets
Baths
Showers
Wash hand basins

Laundry facilities

	Number
Coppers
Washtroughs
Washing Machines
Drying cabinets or clotheelines

Additional details

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

Application fee of \$..... is attached.

.....
 (Signature of Applicant/s)

 (Date)

Schedule 2

Shire of York

HEALTH ACT 1911

CERTIFICATE OF REGISTRATION OF A LODGING HOUSE

This is to certify that the premises situated at
 are registered as a lodging house and classified as—

- * a lodging house;
- * a short term hostel
- * recreational campsite, or
- * serviced apartments.

until 30 June, on the following conditions—

1. That....., whose name is entered on the register of keepers of the Shire of York, continues to be the keeper of the lodging house;
2. That, appointed by the keeper to be the manager of the lodging house, continues to be the manager of the lodging house;
3. That the certificate of registration is not cancelled or revoked;
4. That the maximum number of rooms to be used as sleeping apartments for lodgers is; and
5. That the maximum number of lodgers on the premises shall not exceed

This certificate of registration is issued subject to the Health Act and the Shire of York Health Local Laws and is not transferable.

Dated.....

..... Environmental Health Officer

Fee Received: \$.....

Schedule 3

Shire of York

HEALTH ACT 1911

NOTICE OF CHANGE OF OWNER OF A LODGING HOUSE

To: Chief Executive Officer
 Shire of York

I/We, (Full name of applicant)

of

..... (Residential address of applicant)

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

..... which are registered in the name of

for the carrying on of the lodging house business.

.....
 (Signature of Applicant/s)

 (Date)

Schedule 4
Shire of York
HEALTH ACT 1911
REGISTER OF LODGERS

Location of Lodging House

Date of Arrival	Name	Previous address	Signature	Room Number	Date of Departure
.....
.....
.....
.....
.....

Schedule 5
Shire of York
HEALTH ACT 1911
LIST OF LODGERS

To: The Chief Executive Officer
Shire of York

The following is the name of every person who resided in the lodging house at

on the day of

(Signed) _____
(Keeper)

Date:

Schedule 6
Shire of York
HEALTH ACT 191

CERTIFICATE OF SLEEPING ACCOMMODATION FOR A LODGING HOUSE

of
.....
.....

The rooms listed below are not to be occupied by more than the number of lodgers or residents indicated below.

ROOM NUMBER: **MAXIMUM OCCUPANCY**

.....

[View Details](#) | [Edit](#) | [Delete](#)

.....

.....

.....

Date:

Environmental Health Officer

Schedule 7

Shire of York

HEALTH ACT 1911

APPLICATION FOR LICENCE OF A MORGUETo: Chief Executive Officer
Shire of York.....
(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

(Signature of Applicant)

Schedule 8

Shire of York

HEALTH ACT 1911

CERTIFICATE OF LICENCE OF A MORGUE

This is to certify the following premises is licensed as a Morgue from the day of until 30th day of June

Address of premises:

Name of Premises:

Dated this day of

Environmental Health Officer

Schedule 9

Shire of York

HEALTH ACT 1911

APPLICATION FOR CONSENT TO ESTABLISH AN OFFENSIVE TRADETo: Chief Executive Officer
Shire of YorkI/We,
(Full Name of Applicant/s)of
(Residential Address of Applicant/s)

apply for consent to establish an offensive trade being

.....
(Description of Offensive Trade)in or upon
(Location of the House or Premises)

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

.....
(Name of Newspaper)on
(Date of Advertisement)

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

.....
(Signature of Applicant/s) (Date)

Schedule 10

Shire of York

HEALTH ACT 1911

APPLICATION FOR REGISTRATION OF PREMISES FOR OFFENSIVE TRADETo: Chief Executive Officer
Shire of YorkI/We,
(Full Name of Applicant/s)of
.....
(Residential Address of Applicant/s)apply for registration, for the year ended
of
(Location of Premises)being premises in or upon which there is (or is to be) carried on an offensive trade, namely
.....
(Description of Offensive Trade)under the business name of
The prescribed registration fee \$..... is attached......
(Signature of Applicant/s)
.....
(Date)***Schedule 11***

Shire of York

HEALTH ACT 1911

CERTIFICATE OF REGISTRATION OF PREMISES FOR OFFENSIVE TRADE

This is to certify that the premises situated at

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

Trade Name

This registration expires on

Dated this day of

.....
Environmental Health Officer
Shire of York

Passed at a meeting of the Council of the Shire of York held on the 17th day of July 2000.

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

G. W. MARWICK JP, Shire President.
PHIL MARSHALL, Chief Executive Officer.

on this 4th day of August 2000.

Consented to—

Dr VIRGINIA McLAUGHLIN, delegate of Executive Director,
Public Health.

dated this 18th day of December 2000.

