



HEALTH LOCAL LAW 2024

***HEALTH (MISCELLANEOUS
PROVISIONS) ACT 1911***

HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911
LOCAL GOVERNMENT ACT 1995
SHIRE OF ESPERANCE
HEALTH LOCAL LAW 2024

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HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911

LOCAL GOVERNMENT ACT 1995

SHIRE OF ESPERANCE

HEALTH LOCAL LAW 2024

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Shire of Esperance resolved on _____ to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the Shire of Esperance Health Local Law 2024.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district of the local government.

1.4 Repeal

The following local laws are repealed—

- (1) *The Shire of Esperance Health Local Laws 2002* adopted at a meeting of the Council on 26 February 2002 and published in the *Government Gazette* on 30 April 2002 and amended from time to time.
- (2) The Shire of Esperance By-laws relating to the Keeping of Bees adopted at a meeting of the Council on 15 February 1966 and published in the *Government Gazette* on 22 April 1966.

1.5 Transitional provisions

- (1) An application for, or the renewal of, a licence, permit or other authorisation made under a local law that is in force before the commencement day is to be dealt with and determined as if it were an application under this local law.
- (2) A licence, permit or other authorisation under a repealed local law that is in force before the commencement day is to be regarded on and after that day as a licence under this local law and may be dealt with accordingly.

1.6 Terms used

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

Act means the *Health (Miscellaneous Provisions) Act 1911*;

adequate means satisfactory or fit for purpose or, if there is any doubt, at the discretion of an authorised person;

adequate supply of water means a flow of water of not less than five litres per minute;

apparatus for the treatment of sewage has the same meaning as in section 3 of the Act;

AS or AS/NZS means an Australian Standard or Australian/New Zealand Standard published by Standards Australia, as amended from time to time, and available for viewing free of charge at the Shire of Esperance Administration Centre;

AS 1530.2 means Australian Standard for Methods for fire tests on building materials, components and structures—Test for flammability of materials;

AS 1530.3 means Australian Standard for Methods for fire tests on building materials, components and structures—Simultaneous determination of ignitability, flame propagation, heat release and smoke release;

AS 1668.2 means Australian Standard for the use of ventilation and air conditioning in buildings—Mechanical ventilation in building;

AS 2001.5.4 means Australian Standard for Methods of test for textiles—Dimensional change—Domestic washing and drying procedures for textile testing (ISO 6330:2000, MOD);

AS 2293.1 means Australian Standard for Emergency escape lighting and exit signs for buildings—System design, installation and operation;

AS 3786 means Australian Standard for Smoke alarms using scattered light, transmitted light or ionization;

AS/NZS ISO 717.1 means Australian Standard for Acoustics—Rating of sound insulation in buildings and of building elements—Airborne sound insulation;

authorised person means a person appointed under—

- (a) the provisions of the *Public Health Act 2016* as an authorised person; or
- (b) the *Local Government Act 1995*; and
- (c) includes a person appointed by the local government as an Environmental Health Officer;

bed means a piece of furniture on which to sleep;

bedding includes beds, mattresses, pillows and bed heads as well as bed linen;

bed linen includes sheets, blankets, pillow cases, quilts and doona covers, and mattress covers;

builder means the holder of a building permit issued in respect of building works on a building site or a person in control of a building site;

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

building site means any lot for which a building permit is current or when building construction has commenced

Chief Health Officer means a person appointed to this position under the provisions of the *Public Health Act 2016*;

Council means the Council of the local government;

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

drinking water means drinking water as defined in the Australian Drinking Water Guidelines developed by the National Health and Medical Research Council;

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

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

infectious disease has the meaning given to it by—

- (a) section 3(1) of the Act; and
- (b) includes a notifiable infectious disease;

House means a place of residence, whether temporary or permanent, 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;

land has the meaning given to it by the *Planning and Development Act 2005*;

licence means a licence, permit, registration or approval issued by the local government under this local law;

local government means the Shire of Esperance;

local planning scheme has the meaning given to it by the *Planning and Development Act 2005*;

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

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

NCC means the latest edition of the National Construction Code 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;

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

noise has the meaning given to it by section 3 of the *Environmental Protection Act 1986*;

occupier has the meaning given to it in section 3 of the Act and includes a builder or contractor on land where the context permits;

owner has the meaning given to it in section 3 of the Act;

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

refuse means any waste material including bricks, lime, cement, concrete, rubble, stones, iron, timber, tiles, bags, plastics, ashes, vegetation, timber, wood or metal shavings, sawdust, and waste food, and includes any broken, used, derelict or discarded matter;

sanitary convenience includes urinals, toilets, sinks, baths, wash troughs, apparatus for the treatment of sewage, or other receptacle for the deposit of faecal matter, or refuse, and all similar conveniences;

Schedule means a Schedule to this local law;

set fee means a fee—

- (a) as prescribed by legislation; or
- (b) in any other instance, as fixed by the local government from time to time under sections 6.16 to 6.19 of the *Local Government Act 1995*;

sewage means any kind of sewage, 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 local government;

stormwater means any naturally occurring water that results from rainfall on or around a site, or water flowing onto the site;

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

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

toilet means a toilet bowl, or urinal and includes a room or cubicle in which one or more of these are located;

townsite means the townsites within the district, which are—

- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
- (b) referred to in section 37 of Schedule 9.3 of the *Local Government Act 1995*;

urinal may be—

- (a) an individual stall or wall hung urinal;
- (b) each 600 millimetres length of a continuous urinal trough; or
- (c) a toilet bowl used in place of a urinal;

vectors of disease means those pests as defined in clause 8.1;

vermin includes rats, mice, flies, fleas, mites, lice, cockroaches and any other animal, whether vertebrate or invertebrate, which is known to be a vector of disease or likely to cause damage to human food, habitation or possessions;

window includes 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; and

written notice means a notice issued in accordance with Part 14.

PART 2—SANITATION

Division 1—Sanitary conveniences

2.1 Interpretation

In this Part, unless the context otherwise requires—

event includes a fair, function or festival;

organiser means a person—

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

public sanitary convenience means a sanitary convenience to which the public ordinarily have access;

receptacle for drainage has the same meaning as in the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974* and includes the irrigation effluent disposal area of an aerobic treatment system; and

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

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

2.2 Dwelling house

- (1) A person 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 and ventilation in accordance with the NCC.

2.3 Premises other than a dwelling house

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

- (c) each hand wash basin is provided with—
 - (i) an adequate supply of soap or other hand cleaning substances; and
 - (ii) hand drying facilities, situated adjacent to and visible from the hand wash basin.

2.4 Events

The organiser of an outdoor event shall provide sanitary conveniences in accordance with the recommendations contained within the Department of Health's 'Guidelines for concerts, events and organised gatherings'.

2.5 Toilets

- (1) Toilets on premises shall be maintained in accordance with the following requirements—
 - (a) the door to a toilet, other than an internal door, shall be properly screened to a continuous height of 1.8 metres from the floor;
 - (b) a toilet or its entrance, which is visible from overlooking windows, shall be properly screened;
 - (c) unless otherwise approved by an authorised person, a toilet shall not be directly accessible from a kitchen or a room where food is stored, prepared, served or consumed;
 - (d) the floor of any internal toilet shall be—
 - (i) of concrete or of other approved impervious material of an approved thickness; and
 - (ii) unless otherwise approved graded to a floor waste outlet and proper discharge pipe with flap valve fitted and, where necessary, protected by an approved sump; and
 - (e) the floor of any external toilet shall be—
 - (i) of concrete or of other approved impervious material of an approved thickness; and
 - (ii) graded to the door or alternatively an approved outlet.
- (2) Toilets on premises other than a dwelling house shall be maintained in accordance with the following additional requirements—
 - (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 AS/NZS ISO 717.1; and
 - (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.

2.6 Temporary sanitary conveniences at temporary work sites

A person who undertakes temporary work at any place shall ensure that every temporary sanitary convenience is—

- (a) installed and maintained in accordance with the requirements of the *Health (Temporary Sanitary Conveniences) Regulations 1997*; and

- (b) removed within 48 hours of completion of works.

2.7 Maintenance of sanitary conveniences and fittings

- (1) The occupier of premises shall—
 - (a) keep clean, in good condition and repair; and
 - (b) whenever required by an authorised person, effectively disinfect and clean; all sanitary conveniences and 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.

2.8 Ventilation of toilets

- (1) A toilet in any premises shall be ventilated in accordance with the *Sewerage (Lighting, Ventilation and Construction) Regulations 1971* and the NCC.
- (2) A mechanical ventilation system provided under subclause (1) shall be maintained in good working order and condition.

2.9 Public sanitary conveniences

- (1) A person shall not—
 - (a) foul;
 - (b) damage or vandalise; or
 - (c) write on or otherwise deface a public sanitary convenience or sanitary fittings on the premises in which the public 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.

2.10 Lighting

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

2.11 Installation

Every sanitary convenience shall—

- (a) be installed in accordance with the requirements of—
 - (i) the *Metropolitan Water Supply Sewage and Drainage Act 1909*; and
 - (ii) the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Wastes) Regulations 1974*; and
 - (iii) the *Water Services Act 2012*; and
- (b) have an adequate supply of water.

Division 2—Bathrooms, laundries and kitchens

2.12 Bathrooms

- (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 a ceiling complying with the NCC;
 - (b) complies with the *Health Act (Laundries and Bathrooms) Regulations* and the NCC; and
 - (c) is equipped with—
 - (i) a hand wash basin; and
 - (ii) either a shower in a shower recess or a bath.
- (2) All baths, showers, hand wash basins and similar fittings shall be provided with an adequate supply of hot and cold water.
- (3) The floor of the bathroom shall be properly surfaced with and even fall to a floor waste otherwise approved, suitably trapped and discharging to—
 - (a) the sewer of a licensed water service operator; or
 - (b) an apparatus for the treatment of sewage approved by an authorised person.

2.13 Laundries

- (1) A laundry shall comply with the requirements of the *Health Act (Laundries and Bathrooms) Regulations* and the NCC.
- (2) Where, in any building, a laundry is situated adjacent to a kitchen or a room where food is stored, prepared, served or consumed, the laundry shall be separated from the kitchen by a wall extending from the floor to the roof or ceiling unless otherwise approved.
- (3) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a laundry that—
 - (a) is properly enclosed and roofed;
 - (b) is adequately lined with an impervious material;
 - (c) has a floor of concrete or other approved impervious material of an approved thickness;
 - (d) is properly surfaced, with an even fall to a floor waste unless otherwise approved, suitably trapped and discharging to—
 - (i) the sewer of a licensed water service operator; or
 - (ii) an on-site waste water disposal system of a type approved by an authorised person;
 - (e) is provided with adequate ventilation; and
 - (f) if a laundry is located in a room where food is prepared, it shall have an opening of no more than 810mm wide and shall be provided with a door which when closed, completely fills the opening.

- (4) In the case of a single occupancy dwelling house, the laundry referred to in subclause (1) shall have—
 - (a) a washing machine and either a wash trough or a sink; and
 - (b) a clothes drying facility comprising either—
 - (i) a mechanical clothes dryer; or
 - (ii) not less than 20 metres of clothes line erected externally.
- (5) All wash troughs, sinks and washing machines shall be—
 - (a) in an approved location and connected to an adequate supply of water; and
 - (b) installed to manufacturer's specifications.
- (6) Sole or multiple occupancy units, each being a separate dwelling house, shall have—
 - (a) laundry facilities for the exclusive use of the occupants of each unit; or
 - (b) a separate laundry, with communal laundry facilities for up to four sole occupancy units that do not have their own laundry facilities.

2.14 Kitchens

- (1) In this clause—

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 which complies with the requirements of the NCC and which is equipped with—
 - (a) a cooking facility which is adequate in the opinion of an authorised person; and
 - (a) a sink which is adequate in the opinion of an authorised person and which has 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—
 - (i) the Department of Mines, Industry Regulation and Safety; and
 - (ii) the manufacturer's specifications; and
 - (b) not be installed or used in any room other than a kitchen.
- (5) Mechanical ventilation that is installed in a kitchen, shall be in accordance with AS1668.2 and shall be maintained in good working order and condition.

PART 3—HOUSING AND GENERAL

Division 1—Maintenance of dwelling houses

3.1 Dwelling house maintenance

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 a good state of repair, clean and free from obstructions;
- (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 any direction in writing given by an authorised person 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, damp proof course 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—
 - (i) the provisions of the *Metropolitan Water Supply, Sewerage and Drainage Act 1909*;
 - (ii) the NCC with regards to plumbing and relevant associated standards; and
 - (iii) any other legal requirements to which they are subject;
- (m) maintain all electric wiring, gas services and fittings to comply in all respects with the requirements of all relevant public authorities.

Division 2—Ventilation of dwelling houses

3.2 Exemption for short term hostels and recreational campsites

This Division shall not apply to short term hostels or recreational campsites.

3.3 Overcrowding

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

- (a) a room in the dwelling house that is not a habitable room to be used for sleeping purposes;
- (b) a habitable room in the dwelling house to be used for sleeping purposes unless—
 - (i) for every person over the age of 10 years using the room there is at least 14 cubic metres of air space per person; and
 - (ii) for every person between the ages of one and ten years there is at least eight cubic metres of air space per person; or
- (c) any structure classified as Class 10(a) under the NCC, including but not limited to a garage, shed or area under a verandah or patio to be used for sleeping purposes.

3.4 Calculated sufficient space

For the purpose of clause 3.5, in calculating the space required for each person—

- (a) 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;
- (b) a deduction shall be made for the space occupied by furniture, fittings and projections of the walls into a room; and
- (c) the space required includes ceilings measured up to a height of 2,700 millimetres.

3.5 Ventilation

- (1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house unless the dwelling house is properly ventilated.
- (2) For the purpose of subclause (1) a dwelling house shall be deemed to be properly ventilated if it complies with the NCC, including the provision of—
 - (a) natural ventilation; or
 - (b) a mechanical ventilation or air-conditioning system.
- (3) The owner of a dwelling house provided with a mechanical ventilation or air-conditioning system as its only or prime means of ventilation shall ensure that the system is—
 - (a) maintained in good working order and condition; and
 - (b) in use at all times the building is occupied.
- (4) If a dwelling house is not properly ventilated, the owner of the dwelling house may be required by written notice given by an authorised person to undertake remedial actions including but not limited to—
 - (a) providing a different, or additional method of ventilation; or
 - (b) ceasing to use the dwelling house until it is properly ventilated.

3.6 Sub-floor ventilation

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

Division 3—Water supply

3.7 Water supply

- (1) The owner of every dwelling house shall provide a continuous supply of drinking water, reticulated for use and obtained from—
 - (a) a licensed water service operator;
 - (b) an underground bore;
 - (c) a rainwater storage system; or
 - (d) an alternative supply approved by the Chief Health Officer.
- (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 that is not necessarily drinking water but shall comply with the requirements of relevant legislation, codes of practice or guidelines where applicable.

3.8 Rain water tanks

- (1) The owner or occupier of a dwelling house for which part of the drinking water supply is drawn from a rain water tank shall—
 - (a) ensure that it is managed and maintained so as to meet the relevant standards in the Australian Drinking Water Guidelines developed by the National Health and Medical Research Council;
 - (b) maintain in a clean condition—
 - (i) the roof forming the catchment for the tank; and
 - (ii) the guttering and downpipes appurtenant to the roof; and
 - (c) 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.
- (2) The owner or occupier of a dwelling house for which its entire water supply is drawn from a rain water tank or tanks shall ensure that the storage capacity of the tank or tanks is not less than 120,000 litres.

3.9 Bores and wells

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

- (a) at least 30 metres from any soak well or other possible source of pollution unless otherwise approved by the Chief Health Officer; and
- (b) covered with a tight-fitting cover without openings of any sort other than those essential for the insertion of a pump; and
- (c) compliant with the requirements of the *Health Act (Underground Water Supply) Regulations 1959*.

3.10 Pollution

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

Division 4—Second-hand furniture, bedding and clothing

3.11 Prohibition on sale

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

3.12 Prohibition of possession

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

PART 4—LIQUID REFUSE AND WASTE, BUTCHERS' WASTE AND WASTE ENCLOSURES

Division 1—Liquid refuse and liquid waste

4.1 Interpretation

In this division, unless the context otherwise requires—

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

liquid waste means—

- (a) wastewater or any other waste in liquid form from domestic, industrial or commercial activities, other than effluent;
- (b) includes bathroom, kitchen, scullery and laundry wastes, 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
- (c) includes waste from any process or activity, whether useful or useless, that is in liquid form and includes paint, fuel, grease, fat, oil, degreaser, solvent, detergent, chemical, animal waste, food waste, effluent and all discharges of liquid to land, air or water that are not otherwise authorised by a written law but does not include uncontaminated stormwater; and

receptacle for drainage has the same meaning as in the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*.

4.2 Deposit of liquid refuse

- (1) 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.
- (2) Notwithstanding subclause (1), in the case of swimming pool back wash water, discharge is permitted—
 - (a) into soak wells of adequate capacity; or

- (b) onto a road verge for the purpose of watering gardens or vegetation, without discharge onto a road or into a stormwater drain.
- (3) The owner or occupier of land on which a swimming pool is constructed shall ensure that backwash water is not permitted to discharge onto or run-off onto adjacent land or so as to cause a nuisance, or cause damage to any structures situated on adjacent land.

4.3 Disposal of liquid waste

- (1) The owner or occupier of premises shall—
 - (a) provide, by one of the methods prescribed in this clause, for the disposal of all liquid waste produced on the premises; and
 - (b) at all times maintain in good working order and condition any apparatus used for the disposal of liquid waste.
- (2) Liquid waste 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 Chief Health Officer or an authorised person; or
 - (c) collection and disposal at an approved liquid waste disposal site in a manner approved by the Chief Health Officer.

Division 2—Transport of butchers' waste

4.4 Interpretation

In this division, unless the context otherwise requires—

butchers' waste includes animal skeletons and rib cages, from a boning room and the inedible products of an abattoir or a butcher's shop.

4.5 Restriction of vehicles for transport of butchers' waste

- (1) A person shall not use, for the transport of butchers' waste—
 - (a) a vehicle used for the transport of food or drugs; or
 - (b) anything intended to be used for the packing or handling of food or drugs.
- (2) A vehicle used for the transport of butchers' waste shall not be used to transport any other item, substance or material which is not butchers' waste in the same compartment.

4.6 Transport of butchers' waste

- (1) A person shall not transport butchers' waste other than in—
 - (a) a compartment complying with the following specifications—
 - (i) all internal surfaces to be constructed of an approved, smooth, impervious material;
 - (ii) all joints to be sealed and made watertight;

- (iii) the loading doors, if any, to be water-tight and kept closed at all times except when loading or unloading; and
 - (iv) the top to be completely covered by a tarpaulin or other impervious material approved by an authorised person so as to keep the load out of sight of the public; or
 - (b) a container which is water-tight, durable and impervious and which is 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 clause, are—
- (a) maintained in good order and condition; and
 - (b) 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 may be offensive due to—
- (a) the sight of animal skeletons, bones, offal or waste matter;
 - (b) the odour of putrefaction, offal or waste matter; or
 - (c) the presence of blood and particles of flesh or fat dropping onto the surface of the street pavement or ground.

Division 3—Waste receptacle enclosures

4.7 Suitable enclosure for waste receptacles

- (1) For the purposes of this clause, a "suitable enclosure" means an enclosure—
- (a) of sufficient size to accommodate all waste receptacles used on the premises but in any event having a floor area not less than a size approved by an authorised person;
 - (b) constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness approved by an authorised person;
 - (c) having walls not less than 1.8 metres in height and having an access way of not less than 1 metre in width;
 - (d) containing a smooth 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 waste receptacles;
 - (f) provided with a ramp into the enclosure having a gradient no steeper than 1:8 unless otherwise approved by an authorised person; and
 - (g) provided with a tap connected to an adequate supply of water.
- (2) An owner or occupier of premises may be required by direction in writing given by an authorised person to provide a suitable enclosure on the premises for the storage and cleaning of waste receptacles, where the premises—
- (a) consists of more than 3 dwelling houses; or
 - (b) are used for commercial or industrial purposes; or

- (c) are food premises.
- (3) An owner or occupier of premises required to provide a suitable enclosure under this clause shall keep the enclosure thoroughly clean and disinfected.

PART 5—NUISANCES AND GENERAL

Division 1—Nuisances

5.1 Interpretation

In this division, unless the context otherwise requires—

car park means premises, or any part of premises, set aside for parking of 3 or more motor vehicles;

dust means any visible granular or particulate material which has or has the potential to become airborne and includes organic and non-organic matter and sand, but does not include smoke;

fertiliser includes manure;

liquid waste has the same meaning as in clause 4.1; and

public vehicle includes bus, taxi or any other public transport.

5.2 Public vehicles to be kept clean

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

- (a) maintain the vehicle at all times—
 - (i) in a clean condition; and
 - (ii) free from vectors of disease; and
- (b) whenever directed by written notice given by an authorised person, thoroughly clean and disinfect the vehicle as directed.

5.3 Prohibition against spitting

A person shall not spit on a footpath, street or public place.

5.4 Transportation, use and storage of offal, blood or other offensive material

A person shall not transport or store offal or blood, for the purpose of being used as manure, unless it has been sterilised by—

- (a) steam, and properly dried; or
- (b) some other effective method approved by an authorised person.

5.5 Use or storage of fertiliser

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.

5.6 Storage and dispatch of artificial fertiliser

An owner or occupier of premises where artificial 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 dispatched from the premises is handled and loaded in such a manner as to prevent any nuisance arising during transit.

5.7 Storage of fertiliser and compost

- (1) Subject to subclause (2) fertiliser and compost is not to be stored inside a dwelling house in a habitable room, kitchen, laundry, bathroom, living area, passage way or bedroom.
- (2) Fertiliser and compost may be stored—
 - (a) in a non-habitable building such as a shed, garage or storage room which is fully enclosed, well ventilated and separated from the habitable areas of the dwelling house; or
 - (b) in an outside area.
- (3) The owner of occupier of premises where fertiliser or compost is stored or used shall—
 - (a) take reasonable steps to 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 vermin; 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 written notice given by an authorised person.

5.8 Movement of commercial vehicles

- (1) In this clause—

light commercial vehicle—

- (a) means a vehicle with a gross vehicle mass not greater than 4,500 kg, constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a vehicle for the conveyance of passengers; and
- (b) includes any vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose; and

commercial vehicle means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4,500 kg including—

- (a) a utility, van, truck, tractor, bus or earthmoving equipment; and

- (b) a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a).
- (2) A person shall not park a light commercial vehicle or commercial vehicle containing animals in a townsite for a period in excess of one hour, unless—
 - (a) on land zoned as farming, rural residential, rural, special rural, industrial, light industry or general industry; and
 - (b) the vehicle is parked on that land more than 100 metres from any dwelling house.
- (3) A person shall not park a light commercial vehicle or commercial vehicle so as to create or be a nuisance to any person, by reason of the odour emanating from the vehicle where that vehicle contains or has been used for—
 - (a) the carriage of animals;
 - (b) the transport of chemicals; or
 - (c) collection or disposal of any waste.
- (4) If a person parks a light commercial vehicle or commercial vehicle containing animals in a townsite in accordance with subclause (2) or with the approval of an authorised person, then the person does not contravene subclause (3).
- (5) A person shall not start or drive a commercial vehicle on land zoned, approved or used for residential purposes between the hours of midnight and 6.00 am on the following day without first obtaining the written consent of an authorised person.

5.9 Footpaths to be kept clean

An owner or occupier of premises shall take reasonable steps to ensure that any footpath, pavement, area or right of way immediately adjacent to the premises is clear of any rubbish, matter or things coming from or belonging to the premises.

5.10 Disposing of disused refrigerators or similar containers

A person shall not place, leave or dispose of a disused refrigerator, ice chest, ice box, trunk, chest or other similar article having a compartment with a capacity of 0.04 cubic metres or more, on any land unless—

- (a) every door and lid and every lock, catch and hinge attached to a door or lid has been removed;
- (b) rendering every door and lid incapable of being fastened; and
- (c) refrigerant gas has been removed by a qualified person.

5.11 Storage of vehicles, vessels and machinery

- (1) In this clause—

machinery includes disused equipment;

vehicle means any motor vehicle, or part of a motor vehicle in a state of disrepair or in the process of being wrecked whether licensed or not;

vessel means any kind of vessel intended for navigation by water, or part of a vessel in a state of disrepair or in the process of being wrecked whether licensed or not; and

wreck includes the dismantling, breaking up, storage and disposal of vehicles.

- (2) The owner or occupier of land in a townsite shall not—

- (a) store, or allow to remain, in public view on any lot more than one vehicle, vessel or machinery (whether licensed or not) in a state of disrepair;
 - (b) store, or allow to remain, in public view on any lot any vehicle, vessel or machinery in a state of disrepair for a period in excess of one month;
 - (c) store, or allow to remain, in public view on any lot any vehicle, vessel or machinery parts (including tyres);
 - (d) wreck, dismantle or break up any vehicle, part or body of a vehicle, vessel or machinery except where performed—
 - (i) inside a building; or
 - (ii) within an area enclosed by a fence or wall of not less than 1.8 metres in height and of such a nature as to screen all vehicles, parts or bodies of vehicles, vessels or machinery from the street and from adjoining properties; or
 - (e) wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance.
- (3) Subclause (2)(a) to (d) does not apply where—
- (a) where the approval of an authorised person has been obtained; or
 - (b) on land that is zoned appropriately.

Division 2—Slaughter and disposal of dead animals

5.12 Slaughter of animals

- (1) Subject to subclause (2) a person, shall not slaughter any animal within the district.
- (2) Subclause (1) does not apply to—
 - (a) euthanasia of animals by veterinarians or other duly authorised persons;
 - (b) persons who slaughter stock for their own consumption and who are exempted under Regulation 20 (2) of the *Food Regulations 2009*;
 - (c) slaughter of animals for the purposes of pet meat and game meat operations in accordance with Part 5 of the *Food Regulations 2009*;
 - (d) slaughter of animals for human consumption in abattoirs, operating in accordance with clause 11.37; and
 - (e) slaughter of animals for vermin control.

5.13 Disposal of dead animals

- (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 without delay 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 without delay remove the carcass and arrange for its disposal at an approved disposal site.

- (4) The requirements of subclauses (1), (2) and (3) shall not limit the practice by farmers, pastoralists and the like of disposing of carcasses on rural land in a manner that is not likely to pollute or be dangerous or injurious to health.

Division 3—Feedlots

5.14 Interpretation

In this division, unless the context otherwise requires—

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

animal includes cattle, sheep, goats, deer and the like; and

sensitive land use means land use sensitive to emissions from industry and infrastructure, and includes—

- (a) dwellings;
- (b) hospitals, nursing homes, aged care facilities and the like;
- (c) hotels, motels, hostels, caravan parks and the like;
- (d) schools, child care facilities and the like;
- (e) shopping centres;
- (f) playgrounds, public buildings and the like; and
- (g) commercial and industrial land uses including dairies, which require a high level of amenity or are sensitive to particular emissions.

5.15 Premises to be approved

- (1) No premises shall be used as a feedlot unless approved with or without conditions by an authorised person.
- (2) In addition to clause 13.1 an application for approval under subclause (1) shall be accompanied by-
 - (a) scaled floor and site plans and specifications of the proposed feedlot;
 - (b) details of the approximate number of animals to be kept;
 - (c) details of the drainage and effluent disposal system to be installed; and
 - (d) details of the method by which cleanliness of the feedlot shall be maintained.
- (3) Notwithstanding subclause (1), a feedlot with more than 500 animals is to be registered under the *Environmental Protection Regulations 1987*—
 - (a) Schedule 1, Part 1 (Category 1); or
 - (b) Schedule 1, Part 2 (Category 68).

5.16 Buffer distances for feedlots

- (1) Feedlots are to be sited so that every portion of the feedlot complies with the following minimum separation distances—

	1	2	3	4
	Feedlots and facilities for			
	more than 5000 animals	500-4999 animals	100-499 animals	less than 100 animals
Townsite boundaries	5000m	3000m	2000m	1000m
Sensitive land uses	1000m	1000m	1000m	1000m
Surface water supply catchments	Not permitted	Not permitted	Not permitted	Not permitted
Water courses, lakes or wetlands	300m	300m	300m	300m
Bores, wells, soaks for drinking water supply	300m	300m	300m	300m
Stock irrigation supply	200m	200m	100m	100m
Public roads, recreation areas	100m	100m	100m	100m
Neighbouring rural property boundaries	50m	50m	50m	50m

- (2) Sites unable to satisfy the separation requirements may be approved with or without conditions on application to the Council.

5.17 Site requirements

- (1) The owner or occupier of an approved feedlot shall ensure that—
- the premises are sited in an area where the land slope is no greater than 1:20 but no less than 1:100;
 - the premises are sited on sandy loam soils rather than coarse sand;
 - the premises have a minimum groundwater clearance of 3 metres;
 - drainage diverts all uncontaminated stormwater from the general waste stream;
 - stock numbers per pen do not cause dust and effluvia to become a nuisance; and
 - the premises have 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—
- reducing the stocking rate immediately to a level that does not cause the discharge of dust;
 - stabilisation of the soil surface to a level that does not cause the discharge of dust; or
 - provision of adequate windbreaks to effectively prevent the discharge of dust.

5.18 Management of beef cattle feedlots

Beef cattle feedlots are to be operated and managed in accordance with the Guidelines for the Environmental Management of Beef Cattle Feedlots in Western Australia (2002).

Division 4—Piggeries

5.19 Interpretation

In this Division, unless the context otherwise requires—

intensive piggery means premises on which pigs are fed, watered and housed in pens;

other piggery means a piggery other than an intensive piggery;

piggery has the meaning given to it by section 3(1) of the Act; and includes any portion of premises to which pigs have access; and

sensitive land use has the meaning given to it in clause 5.14.

5.20 Premises to be approved

- (1) Premises shall not be used as a piggery unless approved with or without conditions by an authorised person.
- (2) An application for registration of a piggery shall be made in accordance with clause 13.1.
- (3) In addition to clause 13.1 an application for approval under subclause (1) shall be accompanied by—
 - (a) scaled floor and site plans and specifications of the proposed piggery;
 - (b) details of the approximate number of pigs to be kept;
 - (c) details of the drainage and effluent disposal system to be installed; and
 - (d) details of the method by which cleanliness of the piggery shall be maintained.
- (4) Notwithstanding subclause (1), an intensive piggery is to be registered under the *Environmental Protection Regulations 1987*—
 - (a) Schedule 1, Part 1 (Category 2); or
 - (b) Schedule 1, Part 2 (Category 69).

5.21 Buffer distances for piggeries

- (1) Subject to subclause (2), no premises shall be approved as a piggery with or without conditions by an authorised person unless every portion of such piggery complies with the following minimum separation distances –

1	2	3	4	5	6
Piggeries and facilities for more than 5000 pigs	500 - 4999 pigs	50-499 pigs	less than 50 pigs	Land used to dispose of raw or partly treated waste	Land used to dispose of effectively treated waste

Townsite boundaries	5000m	3000m	2000m	500m	1000m	200m
Sensitive land use including Isolated residences	1000m	1000m	1000m	1000m	1000m	50m
Surface water supply catchments	Not permitted	Not permitted	Not permitted	Not permitted	Not permitted	Not permitted
Water courses, lakes or wetlands	300m	300m	300m	300m	300m	100m
Bores, wells, soaks for drinking water supply	300m	300m	300m	300m	300m	100m
Stock irrigation supply	300m	300m	300m	300m	300m	100m
Public roads, recreation areas	200m	150m	100m	50m	100m	20m
Neighbouring rural property boundaries	50m	50m	50m	50m	300m	20m

- (2) Sites unable to satisfy the separation requirements may be approved with or without conditions on application to the Council.

5.22 Site requirements

- (1) The owner or occupier of premises shall take effective measures to prevent the discharge of dust, offensive fumes and effluent becoming a nuisance which may involve—
- (a) reducing the stock rate immediately to a level that does not cause the discharge of dust, odour or effluent; or
 - (b) stabilisation of the soil surface to a level that does not cause the discharge of dust, odour or effluent; or
 - (c) provision of adequate windbreaks to effectively prevent the discharge of dust.

5.23 Sties, enclosures or sheds

- (1) The occupier of every piggery shall provide either—
- (a) sties and enclosures;
 - (b) enclosures; or
 - (c) sheds;
- within which pigs shall be kept.
- (2) Where sties and enclosures are provided—

- (a) the floor of every sty shall be properly paved with impervious materials, and every such floor shall have sufficient fall to a surface gutter, which shall—
 - (i) be constructed of similar materials;
 - (ii) be not less than 300 millimetres wide and 75 millimetres deep in the centre of its width;
 - (iii) extend the whole length of the sty; and
 - (iv) have sufficient fall so that it shall discharge all liquids falling upon the floor or upon the gutter into an impervious sump of sufficient capacity to receive at least one day's drainage; and
 - (b) the area of every enclosure appurtenant to a sty or group of sties shall be not less than 3 times the area of the sty or group of sties to which it is appurtenant.
- (3) Where enclosures only are provided, then the fences of such enclosures shall be—
- (a) movable; and
 - (b) moved and re-erected to enclose a new site whenever—
 - (i) the ground within a site is becoming offensive; or
 - (ii) the occupier is directed by written notice to do so by an authorised person.
- (4) Where one or more sheds are provided, then the floor of every shed shall—
- (a) comply with subclause (2)(a);
 - (b) be maintained in a structurally sound and clean condition free of infestation with flies and other vectors of disease; and
 - (c) be effectively drained and effluent waste removed so as to prevent a nuisance occurring.

5.24 Management of piggeries

Unless otherwise provided for under this local law, piggeries are to be operated and managed in accordance with the—

- (a) National Environmental Guidelines for Indoor Piggeries (2018); or
- (b) National Environmental Guidelines for Rotational Outdoor Piggeries (2013).

5.25 Feed

The occupier of any piggery shall not—

- (a) receive, or allow to be received on such premises, any carcass or part of a carcass of a diseased animal;
- (b) feed the pigs upon the flesh or offal of diseased animals;
- (c) receive or suffer or permit to be received on the premises, putrid matter for any purpose; and
- (d) receive or suffer or permit to be received on the premises, any kitchen, slaughterhouse or butcher's wastes or other putrescible pig feed.

5.26 Fencing

The occupier of every piggery shall securely fence all the enclosures.

5.27 Water supply

The occupier of every piggery shall provide a sufficient and constant supply of clean water, which shall be properly protected against pollution and always available for cleansing purposes.

5.28 Feeding troughs

- (1) The occupier of every piggery shall—
 - (a) where sties and enclosures are provided under the provisions of clause 5.23(2), provide feeding troughs in every sty, situated near to the drainage gutter or positioned to be accessible to the pigs in two or more sties or enclosures;
 - (b) where enclosures are provided under the provisions of clause 5.23(3), provide feeding troughs in every such enclosure;
 - (c) cause all feeding troughs, other than those provided in connection with movable enclosures, to be fixed upon a cement or concrete floor extending 1.2 metres in all directions from such trough, and designed to permit ready drainage; and
 - (d) not permit pigs to be fed other than at the feeding troughs provided in accordance with this clause.
- (2) Notwithstanding the provisions of subclause (1), where pigs are kept continually confined in fully enclosed pens, floor feeding with pellets or dry meal shall be permitted, in which case feeding troughs are not required to be provided.

5.29 Slaughtering

The occupier of any piggery shall not permit any slaughtering of animals on the premises.

Division 5—Bee keeping

5.30 Interpretation

In this Division, unless the context otherwise requires—

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

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

5.31 Limitation on numbers of bee hives

- (1) A person shall not keep or permit the keeping of bees unless—
 - (a) on land having an area greater than 1000 square metres; or
 - (b) approval to do so has been given by an authorised person.
- (2) Subject to subclause (3), a person shall not keep or permit the keeping of bees in more than two hives on land within a townsite.
- (3) An authorised person may, upon written application, consent to a person keeping bees in more than two hives on a lot, with or without conditions.

5.32 Restrictions on keeping of bees

A person shall not keep bees or bee hives or permits bees or bee hives to be kept on a lot unless -

- (a) an adequate and permanent supply of water is provided on the lot which is within 10 metres to the beehives;
- (b) the hive is kept—
 - (i) at least 10 metres from any footpath, street, private street or public place;
 - (ii) at least 9 metres from, any building on any other lot;
 - (iii) at least 5 metres from the boundary of the lot;
- (c) the person is registered unless exempted as a beekeeper with the Department of Primary Industries and Regional Development (*Biosecurity and Agricultural Management Act 2007* and subsidiary legislation and regulations);
- (d) Beekeepers should adopt the WA Apiarists' Society best management guidelines for urban beekeepers.

5.33 Bees which cause a nuisance not to be kept

A person shall not keep, permit the keeping or temporarily hold bees or bee hives which cause a nuisance.

PART 6—ENVIRONMENT

Division 1—Unsightly land and disused materials

6.1 Unauthorised storage of materials

- (1) All construction materials shall be located on the building site or development site under construction, unless written approval has been given by an authorised person to store materials on another property (including a road reserve).
- (2) In addition to clause 13.1 an application for approval under subclause (1) shall be accompanied by the written approval of the landowner of the land on which materials are proposed to be stored.

6.2 Removal of refuse and disused materials

The owner or occupier of a lot shall not keep, or permit to remain on the lot, any refuse, rubbish or disused material of whatever nature or kind which in the opinion of an authorised person is likely to give the lot an unsightly appearance and does not conform with the general appearance of other land in that particular part of the district.

6.3 Removal of unsightly overgrowth of vegetation

The owner or occupier of a lot shall not permit to remain on a lot, any unsightly overgrowth of vegetation.

Division 2—Dust, smoke, fumes and odours

6.4 Interpretation

In this division, unless the context otherwise requires—

dust means any visible granular or particulate material which has or has the potential to become airborne and includes organic and non-organic matter and sand, but does not include smoke; and

liquid waste has the same meaning as in clause 4.1.

6.5 Dust management

- (1) An authorised person may require an owner or occupier of land undertaking or intending to undertake any work involving the clearing of land, from which any sand or dust is likely to be released whether by means of wind, water or any other cause, to—
 - (a) submit to an authorised person a Dust Management Plan in accordance with “A guideline for managing the impacts of dust and associated contaminants from land development sites, remediation and other related activities (2011)” as produced by the Department of Water and Environmental Regulation, and amended from time to time; and
 - (b) obtain written approval of the Dust Management Plan from an authorised person before commencement of any work.
- (2) An owner or occupier of land may be required by written notice to take effective measures including but not limited to—
 - (a) stabilise dust on the land;
 - (b) contain all liquid waste on the land;
 - (c) ensure no dust or liquid waste is released or escapes from the land whether by means of wind, water or any other cause; and
 - (d) notify the owners or occupiers of adjoining land in writing at least 48 hours prior to the commencement of any activity that has the potential to cause the release or escape from the land of dust or liquid waste giving details of—
 - (i) the nature of the activity;
 - (ii) the proposed commencement time, frequency, duration time and location of the activity; and
 - (iii) the name of the person responsible for carrying out the activity and how and where that person may be contacted.
- (3) Where an authorised person is of the opinion that dust or liquid waste may be released or escape as a result of an activity which is likely to be carried on from any land, the authorised person may give to the owner or occupier written notice that the activity may only be carried on subject to conditions specified in the notice.

6.6 Burning of cleared vegetation on building or development site prohibited

An owner or occupier of any building site or development site within a townsite shall ensure that no vegetation or other material cleared from the site is burnt on the site unless authorisation in writing is given by an authorised person.

6.7 Burning of rubbish, refuse or other material

- (1) A person shall not on any land having an area of 4,000 square metres or less within a townsite, set fire to rubbish, refuse or other materials unless—
 - (a) the material does not include any plastic, rubber, food scraps, green garden materials or other material likely to cause the generation of smoke or odour in such quantity as to cause a nuisance to other persons;
 - (b) a haze alert has not been issued by the Bureau of Meteorology for the period during which burning is to take place; and

- (c) the burning complies with the *Bush Fires Act 1954*, any annual fire hazard reduction notice issued by an authorised person under that Act and any conditions of approval as determined by an authorised person.
- (2) Subclause (1) shall not apply to any barbeque, solid fuel water heater, space heater or ovens fired with dry paper, dry wood, synthetic char or charcoal type fuel.
- (3) Subclause (1) is subject to any fire danger rating as determined by the Bureau of Meteorology.

6.8 Escape of dust, smoke, fumes or odours

An owner or occupier of land or premises shall not cause or permit the escape of dust, smoke, fumes or odours from the land so as to cause or to be a nuisance to any person.

Division 3—Stormwater management

6.9 Containment and disposal of stormwater

- (1) The owner or occupier of a lot shall ensure that all stormwater received by any building, house, or other structure or any paved or sealed or other surfaced areas including any vehicle access ways on the lot is contained within the lot and is not permitted to discharge onto or run-off onto adjacent land so as to cause a nuisance, or cause damage to any structures situated on adjacent land.
- (2) Subclause (1) shall not prevent the discharge of stormwater from a lot into a local government approved stormwater drain without the approval of the local government.
- (3) The owner or occupier of a lot shall ensure that all stormwater drainage systems on the lot or used by that lot but are located on an adjoining land, are maintained in a good state of repair and free from obstruction.

PART 7—ANIMALS AND BIRDS

Division 1—Keeping of animals and birds

7.1 Cleanliness

An owner or occupier of premises in or on which a dog, cat or other animal or bird is kept shall—

- (a) maintain the premises free from excrement, filth, food waste and all other matters which is or is likely to become offensive or injurious to health or to attract rats or other vermin;
- (b) when so directed by written notice given by an authorised person, clean and disinfect the premises; and
- (c) keep the premises, so far as possible, free from flies or other vermin by spraying with a residual insecticide or other effective means.

7.2 Nuisance caused by animals or birds

An owner or occupier of land shall not keep any animal or bird which—

- (a) is or creates a nuisance; or
- (b) emits an unreasonable or constant noise.

7.3 Animal and bird enclosures

- (1) A person shall not keep or cause or permit to be kept any animals or birds on premises which are not effectively drained or of which the drainage flows to the walls or foundations of any building.
- (2) An authorised person may give written notice to the owner or occupier of premises where animals or birds are kept to pave, grade and drain floors of all structures and the surface of the ground of all enclosures used for the keeping of animals or birds.

7.4 Keeping of fauna

- (1) In this clause—

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

 - (a) any class of animal or individual member;
 - (b) the eggs or larvae; or
 - (c) the carcass, skin, plumage or fur unless it has been shed or discarded by the fauna in a normal or natural manner.
- (2) Notwithstanding the provisions of Division 2 and Division 3 of this Part, a person may keep fauna for the period and under such conditions as may be authorised by the department of the Public Service principally assisting in the administration of the *Conservation and Land Management Act 1984*.

Division 2—Keeping of animals

7.5 Interpretation

In this division, unless the context otherwise requires—

approved animal means a farm animal the subject of an approval by an authorised person;

cow includes an ox, calf or bull;

farm animal includes a horse, cow, pig, sheep, camel, alpaca, llama, deer, goat or other large animal;

horse includes an ass, mule, donkey or pony; and

stable hand room means a room or rooms used for occasional overnight occupation to facilitate husbandry to pregnant or sick animals.

7.6 Requirements for keeping approved animals

- (1) An owner or occupier of premises within a townsite shall not keep a farm animal without approval of an authorised person.
- (2) An owner or occupier of premises who has an approved animal shall ensure the premises has an area of not less than 2,000 square metres for the exclusive use of the approved animal.
- (3) A person who keeps an approved animal or permits an approved animal to be kept shall ensure that—
 - (a) all approved animals are to be kept in a properly constructed and securely fastened structure or enclosure; and

(b) no approved animal is able to encroach within 30 metres of a dwelling house, public building, or premises where people are employed or premises where food is stored, prepared, manufactured or sold.

(4) Subclauses (1) and (2) do not apply to premises used—

(a) for veterinary purposes;

(b) as a pet shop; or

(c) in accordance with clause 7.4(2).

7.7 Limitation on numbers of other animals

(1) The number of cats or dogs permitted to be kept are as determined by the Shire of Esperance—

(a) *Cat Local Law 202* as amended from time to time; and

(b) *Dog Local Law 2023* as amended from time to time.

(2) Without the approval of an authorised person, an owner or occupier of land in a townsite shall not keep more than 20 animals, including dogs and cats.

(3) Notwithstanding subclause (2) an authorised person may require a reduction of the approved number of animals on premises within a townsite, or alternatively prohibit the keeping of animals on particular premises, if unreasonable noise or a nuisance is being caused.

(4) Subclauses (2) and (3) do not apply to premises used—

(a) for veterinary purposes;

(b) as a pet shop; or

(c) in accordance with clause 7.4(2).

7.8 Stables

(1) The owner or occupier of premises within a townsite, who has an approved animal may 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) the floor area of which shall be a minimum of 6 square metres;

(c) have each wall and roof constructed of an approved impervious material;

(d) have on all sides of the building between the wall and the roof a clear opening of at least 150 millimetres in height;

(e) subject to subsection (3), have a floor, the 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 local government.

(2) 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 maybe directed, with a residual insecticide.

7.9 Stable hand Room

The owner or occupier of a premises shall not permit a habitable room, including a stable hand's room, to open directly into a stable area.

7.10 Manure Receptacle

- (1) An owner or occupier of a premises where a large animal or miniature pig is kept shall—
 - (a) Provide in a convenient position, a receptacle for manure, which is constructed of smooth, impervious, durable, easily cleanable materials and, provided with a tightfitting 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 more often as necessary to prevent it becoming offensive or a breeding place for flies or other insects;
 - (d) Keep the receptacle so far as possible free from flies or other insects by spraying with a residual insecticide or other effective means; and
 - (e) Cause all manure produced on the premises to be collected, stored or removed so as to not cause a nuisance or present a hazard.
- (2) This clause shall not apply to any residential zoned land.

Division 3—Keeping of birds

7.11 Interpretation

In this division, unless the context otherwise requires—

poultry includes fowls, peafowls, guinea fowls, turkeys, geese, ducks, chickens, bantams and other domestic fowls;

pigeons are birds that are classified within the family Columbidae and includes doves; and

miscellaneous birds means birds other than poultry and pigeons.

7.12 Commercial poultry establishments

Commercial poultry establishments are to manage operations in accordance with the Environmental Code of Practice for Poultry Farms in Western Australia 2004 produced by the Western Australian Broilers Growers Association and Poultry Farmers Association of Western Australia.

7.13 Limitation on numbers of pigeons, poultry and miscellaneous birds

- (1) Without the approval of an authorised person, an owner or occupier of land in a townsite shall not keep a combined total of more than 12 poultry, pigeons and miscellaneous birds.
- (2) Notwithstanding subclause (1) an authorised person may require a reduction of the approved number of poultry, pigeons, or miscellaneous birds on premises within the district, or alternatively prohibit the keeping of poultry, pigeons, or miscellaneous birds on particular premises, if unreasonable noise or a nuisance is being caused.
- (3) Subclauses (1) and (2) do not apply to premises used—
 - (a) for veterinary purposes;
 - (b) as a pet shop; or
 - (c) in accordance with clause 7.4(2).

7.14 Requirements for keeping poultry

- (1) A person who keeps poultry or permits poultry to be kept on land within a townsite shall ensure that—
 - (a) all poultry is kept in a properly constructed and securely fastened structure or enclosure;
 - (b) the structure or enclosure is in a yard having an otherwise unobstructed area of at least 15 square metres; and
 - (c) no poultry is able to approach within 15 metres of a street other than a right of way unless, in the case of land at the junction of two or more streets, an authorised person has approved a lesser distance.
- (2) A person who keeps poultry or permits poultry to be kept shall ensure no poultry is able to encroach—
 - (i) within 5 metres of any dwelling house on the land; or
 - (ii) within 15 metres of a neighbouring dwelling house, public building, or premises where people are employed or premises where food is stored, prepared, manufactured or sold.

7.15 Roosters, geese, turkeys, peafowl, emu and ostrich

Without the approval of an authorised person, an owner or occupier of premises in a townsite shall not keep on those premises—

- (a) a rooster;
- (b) a goose or gander;
- (c) a turkey;
- (d) a peacock or peahen;
- (e) guinea fowl;
- (f) an emu; or
- (g) an ostrich.

7.16 Requirements for keeping pigeons

- (1) An owner or occupier of land in a townsite shall not keep pigeons without the approval of an authorised person.

- (2) An authorised person may approve the keeping of pigeons, subject to conditions that may include but are not limited to—
- (a) no pigeon is able to approach within 15 metres of a dwelling house, public building or premises where people are employed or where food is stored, prepared, manufactured or sold;
 - (b) except where homing pigeons are freed for exercise, the pigeons are kept in a properly constructed pigeon loft that is in a yard having an otherwise unobstructed area of at least 30 square metres; and
 - (c) pigeons are kept in accordance with the Code of Practice for Pigeon Keeping and Racing in Western Australia.

7.17 Restrictions on pigeon nesting or perching

An authorised person may give written notice to an owner or occupier of a house or other structure in or on which pigeons are, or are in the habit of, nesting or perching so as to create a nuisance to take adequate steps to prevent them continuing to do so.

7.18 Restrictions on feeding wild birds

- (1) A person shall not feed a pigeon, dove, seagull, ibis, raven or other wild bird—
- (a) so as to cause a nuisance or be injurious or dangerous to health; or
 - (b) with a food or substance that is not a natural food of a bird.
- (2) Where an authorised person forms the opinion that a person has not complied with subclause (1) the authorised person may give a person written notice requiring the person to clean up and properly dispose of any feed or waste products specified in the notice.

PART 8—PEST CONTROL

8.1 Interpretation

In this Part, unless the context otherwise requires—

Argentine ant means an ant belonging to the species *Limepithema humile* (formerly *Iridomyrmex humilis*);

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*);

cockroach means any of the various orthopterous insects commonly known as cockroaches;

European wasp means a wasp *Vespula germanica*;

flies means any of the two-winged insects constituting the order Diptera commonly known as flies;

mosquitoes means any of the two-winged insects constituting the family Diptera Culicidae commonly known as mosquitoes; and

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

8.2 Measures to be taken for control of flies

Owners and occupiers of any land within the district that is breeding flies, or that is likely to breed flies, are to comply with the requirements of the Fly Eradication Regulations.

8.3 Measures to be taken to prevent breeding of mosquitoes

- (1) An owner or occupier of premises shall take effective measures to ensure that the premises are kept free from possible mosquito breeding sites and shall—
 - (a) take all reasonable steps to—
 - (i) control the prevalence of mosquitoes;
 - (ii) eradicate mosquitos; and
 - (iii) effectively prevent the breeding of mosquitoes; and
 - (b) assist an authorised person to locate any possible mosquito breeding sites that may be present in or about the premises.
- (2) An owner or occupier of premises shall—
 - (a) where water is kept in a horse trough, poultry drinking container or other receptacle—
 - (i) frequently change the water; and
 - (ii) keep the water clean and free from vegetable matter and slime;
 - (b) where a septic tank is installed shall ensure the fixture is in sound condition at all times, and mesh having openings not larger than 1.2 millimetres covers any vent to the tank;
 - (c) cause all drains and channels in or on the land to be kept in good order and free from obstruction; and
 - (d) where any activity is undertaken on any land which creates an excavation likely to hold water and cause mosquito breeding shall as soon as practicable following the completion of the activity, and taking into consideration the purpose of the excavation, ensure that—
 - (i) the excavation is filled in with clean material and made level with the surrounding surface; or
 - (ii) alternatively treated with an approved pesticide to control mosquito breeding.
- (3) Where it appears to an authorised person that there is, on any premises, undergrowth or vegetation likely to harbour mosquitoes, the owner or occupier of the premises may be required by direction in writing given by an authorised person to cut down and remove within a specified time the undergrowth or vegetation.

8.4 Measures to be taken to eradicate rodents

- (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 owner or occupier of premises who keeps rodents shall—

- (a) at all times ensure that all live rodents are kept in the effective control of a person or in locked cages; and
 - (b) if a rodent escapes, ensure that all reasonable steps are taken to destroy or recapture the rodent.
- (3) A person shall not store, or allow to be stored, on any premises, any food, refuse or other waste matter unless it is contained in a rodent proof receptacle or compartment.

8.5 Measures to be taken to eradicate cockroaches

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

8.6 Measures to be taken to keep premises free from Argentine ants

An owner or occupier of premises shall take effective measures to eradicate any Argentine ants in or on the premises.

8.7 Measures to be taken to keep premises free from European wasp nests

An owner or occupier of premises shall—

- (a) ensure that the premises are kept free from European wasp nests;
- (b) without delay notify the local government of any wasp nest in, on or about the premises that is suspected to be a European wasp nest;
- (c) assist an authorised person, or his or her representative, to trace any nest that may be present in, on or about the premises.

8.8 Measures to be taken to keep premises free from arthropod vectors of disease

The owner or occupier of premises shall keep the premises and any person residing in or on the premises free from any arthropod vectors of disease.

PART 9—INFECTIOUS DISEASES

9.1 Requirements for an owner or occupier to clean, disinfect and disinfest

An authorised person may, by written notice, require 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.

9.2 Authorised person may disinfect or disinfest premises

- (1) Where an authorised person is satisfied that any case of infectious disease has occurred on any premises, the authorised person may give written notice to disinfect or disinfest 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 authorised person or other person to carry out the written notice given under subclause (1).

9.3 Insanitary dwelling houses, premises and things

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

- (2) Where the Council resolves that a dwelling house is insanitary, an authorised person may give written notice to an owner of the dwelling house to destroy or amend the dwelling house.
- (3) Where an authorised person considers that a dwelling house or premises is not being maintained in a sanitary condition or any thing is insanitary, direction in writing may be given requiring—
 - (a) the owner or occupier of the dwelling house or premises to amend any insanitary condition; or
 - (b) the owner or occupier of the insanitary thing to destroy or amend it.

9.4 Persons in contact with an infectious disease sufferer

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

- (a) be removed to isolation in an appropriate place to prevent or minimise the risk of the infection spreading; and
- (b) if so removed, shall remain in that place until the authorised person otherwise directs in writing.

9.5 Declaration of infected dwelling house or premises

- (1) To prevent or check the spread of infectious disease, an authorised person may from time to time declare any dwelling house or premises to be infected.
- (2) A person shall not enter or leave any dwelling house or premises declared to be infected without the written consent of an authorised person.

9.6 Destruction of infected animals

An authorised person, upon being satisfied that an animal is or may be infected or is liable to be infected or to convey infection may, by written notice require—

- (a) that the animal be examined by a registered veterinary officer; and
- (b) all steps taken to enable the condition to be controlled or eradicated; or
- (c) the animal be destroyed and disposed of.

9.7 Disposal of a body

- (1) An occupier of premises in or on which is located the body of a person who has died of an infectious disease shall, subject to subclause (2), cause the body to be buried or disposed of in such manner, within such time and with such precautions as may be directed by written notice given by an authorised person.
- (2) A body shall not be removed from premises where death occurred except to a cemetery or morgue.

9.8 Disposal of used condoms

- (1) An occupier of premises on or from which used condoms are produced shall ensure that the condoms are—
 - (a) placed in a sealed impervious container and disposed of in a sanitary manner; or
 - (b) disposed of in such a manner as may be directed by written notice given by an authorised person.

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

9.9 Disposal of used needles

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 deposited in a refuse receptacle.

PART 10—LODGING HOUSES

Division 1—Registration

10.1 Interpretation

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

accommodation means one or more buildings used for boarding purposes referred to in this Part;

bed and breakfast means a dwelling house used by a resident of the dwelling house to provide short-term accommodation and breakfast on a commercial basis for not more than four adults or one family, and contains not more than two guest bedrooms;

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;

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

holiday accommodation excludes buildings on a caravan park, excludes a lodging house, and means a building where the period of occupancy of any lodger is not more than 3 months in a calendar year and includes a bed and breakfast, chalet, cottage or holiday house;

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

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

lodging house includes a recreational campsite, a serviced apartment and a short term hostel and has the same meaning as defined in Section 3 of the Act;

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

manufacturer's specifications means a data sheet describing the technical characteristics of a product which is published by a manufacturer to help consumers use the product;

recreational campsite means a lodging house, including youth camps, youth education camps, church camps and riding schools but excluding a camp or caravan within the meaning of the *Caravan Parks and Camping Grounds Act 1995*—

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

register of keepers means a register by the local government in which is registered the names and residences of the keepers of all accommodation within its district and the situation of every such accommodation and the number of persons authorised to be resident therein;

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

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

sleeping apartment means a room for lodgers to sleep in.

- (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.

10.2 Accommodation not to be kept unless registered

A person shall not keep, cause or permit to be kept accommodation unless—

- (a) the accommodation is constructed in accordance with the requirements of this Part;
- (b) the accommodation is registered by the local government under clause 10.4(1);
- (c) the names of the persons keeping or proposing to keep, and managing the accommodation is entered in the register of keepers in accordance with section 147 of the Act; and
- (d) in the case of holiday accommodation, when required by an authorised person, a management plan is approved by an authorised person that includes—
 - (i) a code of conduct detailing the expected behaviour and obligations of lodgers, which is also to be displayed within the premises;
 - (ii) details of lodger check-in and check-out procedures;
 - (iii) details of waste management procedures;
 - (iv) a fire and an emergency management plan; and
 - (v) the keeper and manager's mobile telephone numbers.

10.3 Application for registration

In addition to clause 13.1 an application for registration of accommodation shall contain the following details—

- (a) if the applicant is a body corporate, the name and position of the person having principal responsibility for the premises to be registered;
- (b) contact details of the applicant including—

- (i) business, residential and email addresses; and
- (ii) business, residential and mobile telephone numbers;
- (c) if the keeper is not to be resident at the lodging house, proposed arrangements for manager;
- (d) proposed classification as—
 - (i) a lodging house;
 - (ii) a short term hostel;
 - (iii) serviced apartments;
 - (iv) recreational campsite; or
 - (v) other classification;
- (e) type and number of rooms and facilities for private use;
- (f) type, number and area of rooms and facilities for use by lodger;
- (g) type, number and area of sanitary conveniences and facilities for each of male and female lodgers;
- (h) number, areas and details of equipment for laundry facilities;
- (i) if meals are to be provided by the manager;
- (j) be accompanied by detailed scaled floor and site plans and specifications of the lodging house; and
- (k) if development approval is issued for accommodation other than a lodging house, its registration is considered part of the approval.

10.4 Determination of application

- (1) An authorised person may approve, with or without conditions, an application under clause 10.3 by issuing to the applicant a certificate of registration of a lodging house in the form determined by the local government from time to time.
- (2) The certificate of registration is to include—
 - (a) classification as per clause 10.3(d);
 - (b) name of resident manager;
 - (c) name of owner if not resident;
 - (d) number of rooms for lodgers, and the number of lodgers permitted to in each sleeping apartment;
 - (e) number / type of rooms for lodger's use;
 - (f) conditions imposed, if any; and
 - (g) approved number of rooms and approved number of lodgers per room listed according to room.
- (3) The certificate of registration is to be displayed in the reception area accessible by lodgers.
- (4) The licence for a lodging house shall expire on 30 June following the date of its issue.

10.5 Suspension or revocation of registration of a lodging house

In accordance with Part 14, an authorised person may suspend or revoke a registration, including but not limited to the following grounds—

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

Division 2—Construction and use requirements

10.6 General construction requirements

The general construction requirements of accommodation shall comply with the NCC.

10.7 Insect screening

The keeper shall provide and maintain in good working order and condition on the premises windows and external doors that are screened with mesh having openings no larger than 1.2 millimetres.

10.8 Sanitary conveniences

- (1) A keeper of accommodation shall maintain in good working order and condition and in convenient positions on the premises—
 - (a) toilets; and
 - (b) bathrooms, each fitted with shower or a bath (or both) and hand wash basin and in accordance with the requirements of the NCC.
- (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 subclause (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 as 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 lighting.

(6) Subclauses (5)(b) and (c) do not apply to a serviced apartment.

10.9 Laundry unit

(1) A laundry unit shall consist of—

- (a) a washing machine with a capacity of not less than four kilograms of dry clothing;
- (b) either an electric drying cabinet or not less than 30 metres of clothes line;
- (c) one wash trough of not less than 45 litres capacity, connected to both hot and cold water; and
- (d) A hot water system that—
 - (i) is capable of delivering an adequate supply of water at a temperature of at least 65 degrees Celsius for each washing machine and wash trough provided with the communal facilities; and
 - (ii) has a delivery rate of not less than five litres per minute for each washing machine or a higher delivery rate according to the manufacturer's specifications.

(2) A keeper of a lodging house shall, subject to the satisfaction of an authorised person—

- (a) provide on the premises one laundry unit for each 15 lodgers;
- (b) at all times maintain each laundry unit 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 unit is properly surfaced with an even fall to a floor waste.

(3) An authorised person may approve the provision of a reduced number of laundry units if suitable equipment of a commercial type is installed.

10.10 Kitchen

The keeper of a lodging house shall provide in that lodging house a kitchen which complies with the relevant requirements of—

- (a) the *Food Act 2008*;
- (b) the *Food Regulations 2009*; and
- (c) Standards 3.1.1, 3.2.2, and 3.2.3 of the Food Standards Code as determined by an authorised person.

10.11 Cooking facilities

The keeper of accommodation where meals are prepared shall provide a kitchen with cooking appliances of a number and type approved by an authorised person.

10.12 Dining room

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

- (a) is located in close proximity to, or combined with, the kitchen;
- (b) has a floor area of which shall not be less than the greater of—
 - (i) 0.5 square metres per person; or

- (ii) 10 square metres;
- (c) is adequately furnished to accommodate, at any one time, half of the number of lodgers; and
- (d) has a suitable floor covering.

10.13 Lounge room

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

- (a) has a floor area with a minimum of 13 square metres, and—
 - (i) where the lounge room is not combined with a dining room, is not less than 0.6 square metres per person; or
 - (ii) where the lounge room is combined with a dining room, is not less 1.2 metres per person;
- (b) is adequately furnished to accommodate at any one time, half of the number of lodgers; and
- (c) has a suitable floor covering.

10.14 Fire prevention and control

- (1) A keeper shall—
 - (a) ensure smoke alarms complying with AS 3786 are installed on or near the ceiling in every bedroom and in every corridor or hallway associated with a bedroom, or if there is no corridor or hallway, in an area between the bedrooms and the remainder of the building as required by the NCC;
 - (b) ensure smoke alarms are installed on each other storey and are interconnected;
 - (c) ensure that there is installed in each passage or corridor in the lodging house a smoke alarm incorporating evacuation lighting which is activated by the smoke alarm as required by the NCC;
 - (d) provide evacuation lighting if required by the NCC to be kept separate from the general lighting system and kept illuminated during the hours of darkness;
 - (e) provide an approved fire blanket positioned within two metres of the cooking area in each kitchen;
 - (f) if required by the NCC, ensure that illuminated exit signs are installed above exit doorways which comply with AS 2293.1 and which are maintained in good working order at all times; and
 - (g) provide firefighting equipment in accordance with the requirements of the NCC and ensure that the equipment is clearly visible, accessible and maintained in good working order at all times.
- (2) No person shall smoke in any dormitory, kitchen or dining room or other enclosed public place within a lodging house.
- (3) A keeper shall ensure that any items which are likely to cause a fire hazard are not located within bedrooms or dormitories of a lodging house.
- (4) The keeper of a lodging house which is a recreational campsite or short term hostel, but not a serviced apartment, shall ensure that—

- (a) materials used in bedrooms and dormitory area comply with AS 1530.2 and AS 1530.3 as follows—
 - (i) drapes, curtains and blinds—a maximum flammability index of 6;
 - (ii) flammable furniture, upholstery and beds—
 - (A) a maximum spread of flame index of 6; and
 - (B) a maximum smoke developed index of 5; and
 - (iii) floor coverings—
 - (A) a maximum spread of flame index of 7; and
 - (B) a maximum smoke developed index of 5; and
- (b) fire retardant coatings used to make a material comply with these indices shall be—
 - (i) certified by the manufacturer as approved for use with the fabric to achieve the required indices;
 - (ii) certified by the manufacturer to retain its fire retardancy effect after a minimum of five commercial dry cleaning or laundering operations carried out in accordance with AS 2001.5.4; and
 - (iii) certified by the applicator as having been carried out in accordance with the manufacturer's specifications.

10.15 Obstruction of passages and stairways

A keeper of a lodging house shall not place or permit to be placed furniture, fittings or other things in such a manner as to form an obstruction to the free passage of lodgers, residents or persons in or occupying the lodging house, 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.

10.16 Fitting of locks

A person shall not fit, 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.

10.17 Restriction on use of rooms for sleeping

- (1) Subject to subclause (3) and clause 10.31, a keeper of a lodging house 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 five square metres of clear space for each lodger occupying the room;
 - (f) which is not naturally illuminated in accordance with the requirements of the NCC;

- (g) which is not ventilated in accordance with the requirements of the NCC;
 - (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 authorised person.
- (2) For the purposes of this clause, two children under the age of 10 years shall be counted as one lodger.
- (3) Subclauses (1)(a), (b) and (c) shall not apply to a serviced apartment.

10.18 Sleeping accommodation, short term hostels and recreational campsites

- (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; or
 - (b) 2.5 square metres per person in dormitories utilising bunks.
- (2) The calculation of floor space in subclause (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—
- (a) 2.4 metres in any dormitory utilising beds; or
 - (b) 2.7 metres in any dormitory utilising bunks.
- (4) The minimum floor area requirements in subclause (1) will only apply if there is ventilation, separation distances, fire egress and other safety requirements in accordance with the NCC.
- (5) The keeper of any short term hostel or recreational campsite shall provide—
- (a) fixed outlet ventilation at a ratio of 0.15 square metre to each 10 square metres of floor area of the dormitories;
 - (b) each dormitory 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 is practicable; or
 - (c) mechanical ventilation in lieu of fixed ventilation.
- (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; or
 - (ii) in recreational campsites—750 millimetres x 1.85 metres; and
 - (b) storage space for personal effects, including backpacks, so that cleaning operations are not hindered and access spaces are not obstructed.
- (7) The keeper of any short term hostel or recreational campsite shall—

- (a) ensure at all times there is a distance of 750 millimetres between beds and a 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 two metres between each row of bunks and the passageway is kept clear of obstruction at all times;
- (c) ensure all light fittings and other ceiling and wall projections (including ceiling and wall fans) are provided with safety guards or positioned so as not to be a danger to any occupants to the satisfaction of an authorised person; and
- (d) ensure all doors, windows and ventilators are kept free from obstruction.

10.19 Furnishing etc. of sleeping apartments

A keeper of a lodging house shall, unless otherwise approved by an authorised person—

- (a) furnish each sleeping apartment with a sufficient number of beds and sufficient bed linen of good quality;
- (b) ensure that each bed—
 - (i) has a mattress and pillow;
 - (ii) is provided with a pillow case, two sheets, a blanket or rug and, in cold weather, not less than one additional blanket or rug; and
 - (iii) has a mattress and pillow protectors fitted;
- (c) furnish each bedroom so that there are adequate storage facilities for belongings within the room; and
- (d) not cause 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.

10.20 Ventilation

If, in the opinion of an authorised person, a kitchen, bathroom, toilet, laundry or habitable room is not adequately or properly ventilated, the authorised person may give written notice to the keeper to provide a different or additional method of ventilation.

10.21 Room identification

- (1) A keeper shall number each room available to a lodger in a lodging house or provide an alternative means of identification approved by an authorised person.
- (2) The numbering system or alternative means of room identification is to be—
 - (a) legible and easily identified; and
 - (b) placed on or adjacent to each door to a habitable room.

Division 3—Management and care

10.22 Duties of keeper

Whenever there are 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 arrangements for a reputable person to have the care and management of the lodging house have been made.

10.23 Register of lodgers

- (1) A register of lodgers shall be kept in accordance with section 157 of the Act and this clause.
- (2) A keeper shall keep a register of lodgers recording the following details—
 - (a) date of arrival;
 - (b) name;
 - (c) details sufficient to trace and contact each lodger should the need arise;
 - (d) room number; and
 - (e) date of departure.
- (3) The register of lodgers shall be—
 - (a) kept in the lodging house; and
 - (b) open to inspection at any time on demand by a police officer or by an authorised person.
- (4) The register shall be kept for a minimum of 3 years.

10.24 Keeper report

A keeper shall, whenever required by a police officer or an authorised person, provide a report containing the details of clause 10.23(2).

10.25 Certificate in respect of sleeping accommodation

- (1) An authorised person may issue to a keeper a certificate of sleeping accommodation, in respect of each room, which shall be in the form determined by the local government from time to time.
- (2) The certificate issued under subclause (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) The certificate of registration shall be displayed in the reception area accessible by those visiting the premises.
- (4) When required by an authorised person, a keeper shall exhibit the certificate issued under this clause in a conspicuous place in the room to which it refers.
- (5) A person shall not permit or allow to be permitted a greater number of persons than is specified on a certificate issued under this clause to occupy the room to which it refers.

10.26 Duplicate keys and inspection

A keeper and manager of accommodation shall—

- (a) retain possession of a duplicate key to the door of each room; and
- (b) when required by an authorised person, open the door of any room for the purposes of inspection by the authorised person.

10.27 Room occupancy

- (1) A keeper shall not—

- (a) permit or allow to be permitted more than the maximum number of persons permitted by the certificate of registration of a lodging house issued under clause 10.4(1) to be lodged at any one time in the accommodation;
 - (b) place 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 permit to be used for sleeping purposes a room that—
 - (i) has not been certified for that purpose; or
 - (ii) an authorised person has forbidden to be used as a sleeping apartment.
- (2) For the purpose of this clause, two children under 10 years of age shall be counted as one lodger.

10.28 Maintenance of a room by a lodger or resident

- (1) A keeper may permit, or contract with, a lodger or resident to service, clean or maintain the room or rooms occupied by the lodger or resident.
- (2) Where permission is given or a contract entered into under subclause (1), the keeper of a lodging house 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.

10.29 Cleaning and maintenance requirements

A keeper 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 toilets, including toilet seats, cisterns and associated plumbing;
- (b) maintain in a clean condition and in good working order—
 - (i) all fixtures and fittings; and
 - (ii) windows, doors and door furniture;
- (c) ensure that the internal walls of each bathroom and toilet are painted so as to maintain a smooth, impervious washable surface;
- (d) ensure that all floors are kept clean at all times;
- (e) ensure that—
 - (i) all bed linen, towels and house linen in use is washed at least once a week;

- (ii) within a reasonable time of a bed having been vacated by a lodger or resident, the bed linen is removed and washed;
- (iii) a person does not occupy a bed, which has been used by another person, unless the bed has been provided with clean bed linen;
- (iv) all beds, bedsteads, blankets, rugs, covers, bed linen, towels and house linen are kept clean, in good repair and free from vectors of disease;
- (v) when any vectors of disease are found in a bed, furniture, room or sleeping apartment, effective action is taken to eradicate the vectors of disease without delay; and
- (vi) a room, which is not free from vectors of disease, is not used as a sleeping apartment;
- (f) when so directed by written notice given by an authorised person, 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; and
- (h) provide all bedrooms, passages, common areas, toilets, bathrooms and laundries with adequate lighting.

10.30 Responsibilities of lodgers and residents

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 or offensive;
- (c) use a bath or hand wash basin other than for ablutionary purposes;
- (d) use a bathroom facility or fitting 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 or culinary purposes;
- (f) deposit rubbish or waste food other than into a proper rubbish receptacle;
- (g) in a kitchen or other place where food is kept—
 - (i) wash or permit the washing of clothing or bedding; or
 - (ii) keep or permit to be kept any soiled clothing or bedding;
- (h) subject to clause 10.31—
 - (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.

10.31 Approval for storage and consumption of food

- (1) An authorised person may—
 - (a) upon written application from a keeper of a lodging house, approve the storage of food within a refrigerator or sealed container in a sleeping apartment; and
 - (b) withdraw the approval if a nuisance, vector of disease, vermin or 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.

10.32 Infectious disease

A keeper shall without delay after becoming aware that a lodger or resident is suffering from a notifiable infectious disease notify an authorised person.

PART 11—OFFENSIVE TRADES

Division 1—General

11.1 Interpretation

In this Part, unless the context otherwise requires—

offensive trade means any trades as defined by section 186 of the Act, and includes—

- (a) fish processing premises, fish curing premises and shellfish and crustacean processing;
- (b) knackereries;
- (c) laundries, dry cleaning premises and die works
- (d) any trade as defined by Section 186 of the Act; and

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

11.2 Application to establish an offensive trade

- (1) A person seeking the consent of the local government under section 187 of the Act to establish an offensive trade shall—
 - (a) advertise notice of his or her intention to apply for consent in accordance with clause 11.3; and

- (b) lodge an application with the local government.
- (2) In addition to clause 13.1 an application for registration to establish an offensive trade shall include but is not limited to the addition following details—
 - (a) description of proposed offensive trade;
 - (b) details of operations—
 - (i) days and times of operation;
 - (ii) quantities of materials—received and dispatched;
 - (iii) quantities of waste materials or products; and
 - (iv) arrangements for disposal of waste materials or products;
 - (c) scaled site and floor plans and specifications of the buildings proposed to be erected or used in connection with the proposed offensive trade are attached;
 - (d) details of advertising, notification to adjoining properties; and
 - (e) accompanied by the fee prescribed in the *Health (Offensive Trades Fees) Regulations 1976* as amended from time to time.

11.3 Notice of application

A notice required under subclause 11.2(1)(a) shall—

- (a) contain the name and address of the person who intends to make the application;
- (b) contain a description of the nature of the offensive trade;
- (c) contain details of the premises in or upon which it is proposed to carry on the proposed trade; and
- (d) appear in a local newspaper at least two weeks but not more than one month before the application under clause 11.2(1)(b) is lodged with the local government.

11.4 Registration of premises

Registration of premises for an offensive trade is to be in accordance with section 191 of the Act.

11.5 Certificate of registration of premises for offensive trade

- (1) In addition to clause 13.2(3) a certificate of registration of premises for an offensive trade is to include the—
 - (a) name of business;
 - (b) address of approved offensive trade premises;
 - (c) type of offensive trade;
 - (d) name of owner;
 - (e) name of manager if the manager is not the owner;
 - (f) period of licence;
 - (g) conditions imposed, if any; and
 - (h) approved times of operation.
- (2) The certificate of registration shall be displayed in the reception area accessible by those visiting the premises.

11.6 Transfer of business premises

- (1) Transfer of an offensive trade to alternative premises is subject to clauses 11.2 and 11.4.
- (2) For avoidance of doubt, registration of premises is specific to the premises registered, and is non-transferable.

11.7 Alterations to premises

While any premises remain registered under this Division, a person shall not, without the written permission of an authorised person, make or permit any change or alteration to the premises, other than minor repairs, installations or interior refurbishment.

Division 2—General duties of an occupier

11.8 Interpretation

In this Division, unless the context otherwise requires—

premises means those premises in or upon which an offensive trade is carried on; and

vectors of disease has the meaning given to it in clause 8.1.

11.9 Cleanliness of premises etc.

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, equipment, implements, shelves, counters, tables, benches, bins, cabinets, sinks, drain boards, drains, grease traps, tubs, containers 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;
- (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; and
- (f) The occupier shall –
 - (i) ensure that the premises are kept free from rodents, cockroaches, flies and other vectors of disease; and
 - (ii) 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.

11.10 Sanitary conveniences and hand wash basins

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

11.11 Painting of walls etc.

The occupier shall cause the internal surface of every wall, the underside of every ceiling or roof and all fittings in and on the premises to be cleaned and painted when directed by written notice given by an authorised person.

11.12 Effluvia, odours, gases or dust

The occupier shall—

- (a) 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, odours, dust or gases arising in any process of his or her business or from any material, residue or other substance which may be kept or stored upon the premises; and
- (b) manage and operate the premises such that odours emanating from the premises do not unreasonably interfere with the health, welfare, convenience, comfort or amenity of any person.

11.13 Receptacles for disposal of offensive material

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 in the receptacles without delay;
- (d) cause the contents of the receptacles to be removed from the premises at least once per week or as directed by written notice given by an authorised person; and
- (e) cause all receptacles after being emptied to be cleaned with an efficient disinfectant without delay.

11.14 Storage of materials

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

11.15 Sleeping on premises

A person shall not use or permit any room in premises used for an offensive trade to be used for sleeping purposes.

11.16 Written notice

An authorised person may give to the occupier written notice to prevent or diminish the offensiveness of a trade or to safeguard the public health.

Division 3—Fat rendering establishments

11.17 Interpretation

In this Division, unless the context otherwise requires—

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

11.18 Ventilation

The occupier shall provide and maintain—

- (a) a hood which shall—
 - (i) be of an approved design and construction;
 - (ii) be situated so as to arrest all effluvia, odours and smoke from the process of fat rendering; and
 - (iii) extend a minimum of 150 millimetres beyond the length of each appliance; and
- (b) an exhaust ventilation system—
 - (i) the point of discharge of which shall be at least one metre above the ridge of a pitched roof or three metres above a flat roof and shall not be located within six metres of an adjoining property or any fresh air intake; and
 - (ii) which shall discharge in such manner and in such a position that no nuisance is created.

11.19 Covering of apparatus

External parts of the fat rendering apparatus shall be constructed or covered with smooth, noncorrosive and impervious material, devoid of holes, cracks and crevices.

11.20 Walls to be impervious

The occupier shall cause walls and ceiling within of three metres of the rendering apparatus or equipment to be a smooth, impervious surface to ceiling height, devoid of holes, cracks and crevices.

Division 4—Fish premises

11.21 Interpretation

In this Division, unless the context otherwise requires—

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

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

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

fish premises includes fish processing establishments, fish curing establishments and shellfish and crustacean processing establishments but does not include retail fish shops in which no significant fish processing occurs;

fish transport vehicle includes—

- (a) an appliance attached to, carried in or used in connection with a vehicle; and

- (b) a trailer and a portable box, used or designed to be used for the transport or storage of fish; and

portable box means a box for the transport or storage of fish and includes a fish transport vehicle.

11.22 Fish preparation room

- (1) The occupier of a fish premises which requires a fish processing or preparation room shall ensure that this room complies with the following requirements—
 - (a) the walls shall be a smooth, impervious surface to ceiling height, devoid of holes, cracks and crevices;
 - (b) the floor shall be a smooth, impervious and durable surface;
 - (c) the minimum floor area shall be nine square metres;
 - (d) the room shall be furnished with a hand wash basin connected to a piped supply of hot and cold water; and
 - (e) the room shall be fly-proofed and provided with adequate light and ventilation.
- (2) The occupier shall ensure that all fish are prepared in the fish processing or preparation room and that room shall be used solely for that purpose.
- (3) The occupier of a fish premises shall provide, in or easily accessible from each fish preparation room, cleaning facilities consisting of a double bowl stainless steel wash trough of adequate size to accommodate the equipment and utensils used on the premises, connected to a piped supply of hot and cold water.

11.23 Bench

The occupier of a fish premises shall provide and maintain on the premises a separate stainless steel bench for the handling of fish.

11.24 Disposal of waste

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 clause 11.13 and disposed of in accordance with that clause; or
- (b) kept in a frozen state in an approved enclosure before its removal from the premises.

11.25 Fish containers

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

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

11.26 Cooking of fish

Where cooking of fish is carried out in a fish premises, the occupier shall provide and maintain—

- (a) a hood, which shall be of an approved design and construction in accordance with the requirements of AS 1668.2:2012 and so situated as to capture and remove all effluvia, odours and smoke from the process of cooking; and

- (b) an exhaust ventilation system—
 - (i) the point of discharge of which shall be at least one metre above the ridge of a pitched roof or three metres above a flat roof and shall not be located within six metres of an adjoining property or any fresh air intakes; and
 - (ii) which shall discharge in such manner and in such a position that no nuisance is created.

11.27 Use of an approved portable box

An authorised person may permit an approved portable box to be used for the transport or storage of fish.

11.28 Fish transport vehicle

A person shall not use a fish transport vehicle for the transport or storage of fish unless it is so constructed, equipped and maintained that—

- (a) the frame is made of metal or other approved material;
- (b) all internal surfaces—
 - (i) are made of metal or approved impervious plastic substance, which may include stainless steel, aluminium, galvanised iron, fibreglass, or other material of similar strength and impermeable qualities;
 - (ii) are smoothly finished;
 - (iii) are rigidly secured with a solid backing; and
 - (iv) have floor and vertical angles coved with not less than a 9.5 millimetre radius, but, if all necessary floor joints are effectively sealed, the surface of the floor, or part of it, may be of an approved tread type track material;
- (c) internal horizontal joints made between metal sheeting are lapped from top to bottom and either—
 - (i) continuously welded; or
 - (ii) lapped with a minimum of 40 millimetres cover secured with blind rivets and sealed with a durable, non-absorbent sealing material;
- (d) the vehicle is effectively insulated with a stable insulating material;
- (e) the vehicle has, at the rear or side, doors that are made in the manner provided by paragraphs (a), (b), (c) and (d) of this clause, are close fitting, and have a suitable locking device fitted;
- (f) the vehicle is fitted with shelves and grids, made of impervious material, in such a manner that the shelves and grids may be easily removed;
- (g) any containers used in the vehicle for fish are made of stainless steel, fibreglass or approved impervious plastic; and
- (h) the vehicle is in good repair and condition and is thoroughly clean.

Division 5—Laundries, dry cleaning establishments and dye works

11.29 Interpretation

In this Division, unless the context otherwise requires—

dry cleaning establishment—

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

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

exempt laundromat means 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; and
- (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;

laundry means any place where articles are laundered for the purpose of trade but does not include an exempt laundromat; and

liquid waste has the same meaning as in clause 4.1.

11.30 Receiving depot

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 an authorised person who may at any time withdraw such permission in writing.

11.31 Reception room

- (1) The occupier of a laundry, 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 written notice given by an authorised person to be thoroughly disinfected.
- (2) A person shall not bring or permit food to be brought into the reception room referred to in this clause.

11.32 Walls and floors

The occupier of a laundry, dry cleaning establishment or dye works shall cause—

- (a) the internal surfaces of all walls shall be a smooth, impervious surface to ceiling height;
- (b) the floor to be impervious, constructed of concrete or other material approved by an authorised person and finished to a smooth surface; and
- (c) every floor and wall of any building on the premises to be kept at all times in good order and repair, so as to prevent the absorption of any liquid which may be splashed or spilled or may fall or be deposited on it.

11.33 Laundry floor

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

11.34 Escape of dust

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.

11.35 Precautions against combustion

The occupier of a dry cleaning establishment where volatile liquids are used shall take all proper precautions against combustion and shall comply with any written notice given by an authorised person for that purpose.

11.36 Trolleys

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.

Division 6—Abattoirs

11.37 Construction of abattoirs

An abattoir shall conform to relevant standards as adopted under the *Food Act 2008* section 144(6) and the requirements of the *Food Regulations 2009*.

PART 12—MORGUES

12.1 Approval of morgues

All non-government morgues shall be approved pursuant to the provisions of this Part.

12.2 Application for approval

An application for a morgue under clause 12.1(1) shall include a scaled floor and site plan and specifications of the morgue containing the following details—

- (a) the use of each room;
- (b) the structural finish of each wall, floor and ceiling;
- (c) the position and type of each fitting and fixture; and
- (d) all ventilation inlets and outlets.

12.3 Decision on application for a morgue

- (1) An approval shall not be issued 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 shall be a smooth, impervious surface to ceiling height;
- (d) all floors are constructed of 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.

12.4 Duties of owner or occupier

- (1) The owner or occupier of premises shall at all times maintain in good working order and condition the premises, all fixtures and fittings and any equipment.
- (2) The owner or occupier of premises should adopt Guidelines for the preparation of the deceased for burial or cremation in conjunction with other Funeral Industry guidelines.

PART 13—LICENCING

Division 1—Applying for a licence

13.1 Application for licence

- (1) Where a person is required to obtain a licence under this local law, that person shall apply for the licence in accordance with subclause (2).
- (2) An application for a licence 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;
 - (d) full name, contact details and residential address of owner;
 - (e) where appropriate, if owner is not to be the manager, proposed arrangements for manager;
 - (f) where appropriate, the address of premises to be registered; and
 - (g) be forwarded to the local government together with any set fee.
- (3) An authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for a licence.
- (4) An authorised person may require an applicant to give local public notice of the application for a licence.
- (5) An authorised person may refuse to consider an application for a licence which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

13.2 Decision on application for licence

- (1) An application not complying with the local planning scheme will not be approved.
- (2) An authorised person may—

- (a) approve an application for a licence unconditionally or subject to any conditions;
or
 - (b) refuse to approve an application for a licence.
- (3) If an authorised person approves an application for a licence, the licence is to be issued to the applicant in the form determined by the local government.
- (4) If an authorised person refuses to approve an application for a licence, written advice of that refusal is to be given to the applicant.
- (5) An authorised person may, at any time, amend a condition of approval and the amended condition takes effect when written advice of it is given to the licensee.

13.3 General restrictions on grant of licence

- (1) An authorised person shall not grant a licence if there are reasonable grounds for believing that the provision of the activity to which the application relates would constitute a nuisance or unacceptable risk to the health or safety of the public.
- (2) An authorised person shall not grant a licence unless an authorised person is satisfied that—
- (a) the applicant is capable of carrying on the activity in accordance with this local law and the terms and conditions of the licence;
 - (b) a licence or similar authority granted or issued to the applicant has not been revoked in the period of 5 years before the application is made; and
 - (c) the applicant is a fit and proper person to carry on the activity.

13.4 Examples of conditions

Examples of conditions that an authorised person may impose on a licence under clause 13.2(2)(a) or 13.7(1)(a) include but are not limited to—

- (a) the payment of a set fee;
- (b) compliance with a standard or a policy adopted by the local government;
- (c) restrictions on the erection or use of materials, external signs or decorations;
- (d) the duration and commencement of the licence;
- (e) the commencement of the licence being contingent on the occurrence of an event;
- (f) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (g) the approval of another application for a licence which may be required by the local government under any written law;
- (h) the area of the district to which the licence applies; and
- (i) the obtaining of public risk insurance in an amount and on terms reasonably required by an authorised person.

13.5 Imposing conditions under a policy

- (1) In this clause—

policy means a policy made under section 2.7(2)(b) of the *Local Government Act 1995* containing conditions subject to which an application for a licence may be approved or varied under clauses 13.2(2)(a) or 13.7(1)(a).

- (2) Under clauses 13.2(2)(a) or 13.7(1)(a) an authorised person may approve an application subject to conditions by reference to a policy.
- (3) An authorised person is to give to the licensee a copy of the policy or the part of the policy which is relevant to the application for a licence, with the form of licence referred to in clauses 13.2(3) or 13.7(2).
- (4) An application for a licence is not to be taken to have been approved subject to the conditions contained in a policy until an authorised person gives the licensee a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act apply to a policy and, for that purpose, a policy is deemed to be information within section 5.94(u)(i) of the Act.

13.6 Compliance with conditions

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

13.7 Variation of licence

- (1) An authorised person may, by written advice given to the licensee, vary a licence by—
 - (a) imposing a new condition; or
 - (b) changing or removing any existing condition.
- (2) An amendment may be made on application made by the licensee or at the initiative of an authorised person.
- (3) An amendment will come into effect on the day that written advice is given to the licensee, or other date as specified in the notice.

Division 2—Duration of licences

13.8 Duration of licence

- (1) A licence is valid for one year from the date on which it is issued, unless it is—
 - (a) otherwise stated in this local law or in the licence; or
 - (b) suspended or revoked under this Division.
- (2) Where a licence requires annual approval, a licensee shall pay to the local government the set fee for the annual licence on or before 30 June in each year.

13.9 Renewal of licence

- (1) A licensee may apply to an authorised person for the renewal of a licence.
- (2) An application for renewal shall—
 - (a) be in the form determined by the local government;
 - (b) be signed by the licensee;
 - (c) provide the information required by the form;
 - (d) be forwarded to the local government no later than 28 days before the expiry of the licence, or within a shorter period that an authorised person in a particular case permits; and
 - (e) be accompanied by any set fee.

- (3) The provisions of this Part that apply to an application for a licence also apply to an application for the renewal of a licence as though it were an application for a licence.

13.10 Transfer of licence

- (1) An application for the transfer of a valid licence is—
 - (a) to be made in writing;
 - (b) to be signed by the licensee and the proposed transferee of the licence;
 - (c) to include such information as an authorised person may require to enable the application to be determined;
 - (d) be forwarded to the local government no later than 28 days before the intended of the licence, or within a shorter period that an authorised person in a particular case permits; and
 - (e) to be forwarded to the local government together with any set fee.
- (2) An authorised person may approve an application for the transfer of a licence, refuse to approve it or approve it subject to any conditions.
- (3) Where an authorised person approves an application for the transfer of a licence, the transfer may be effected by an endorsement on the licence signed by an authorised person.
- (4) Where an authorised person approves the transfer of a licence, the local government is not required to refund any part of any set fee paid by the former licensee.

13.11 Surrender of licence

A licensee may surrender the licence at any time by written advice to an authorised person.

Division 3—Responsibilities of licensees and others

13.12 Production of licence

A licensee shall produce to an authorised person his or her licence when required to do so by that authorised person without delay.

13.13 Production of licence document for amendment

If an authorised person amends or renews a licence, the licensee shall, if required by the authorised person, produce the licence document to the authorised person for amendment within the period specified by the authorised person.

13.14 False or misleading statement

A person shall not make a false or misleading statement in connection with an application in respect of a licence under this local law.

PART 14—GIVING OF NOTICE

14.1 Notice to remedy non-compliance

- (1) Where a breach of any provision of this local law has occurred, an authorised person may give written notice to the person alleged to be responsible for such breach.
- (2) A notice issued pursuant to subclause (1) shall—

- (a) specify the provision of this local law which has been breached;
- (b) specify the particulars of the breach;
- (c) specify the manner in which the recipient is required to remedy the breach to the satisfaction of the authorised person; and
- (d) specify the time period within which the work or action is to be undertaken.

14.2 Notice of proposed suspension of licence

- (1) If an authorised person proposes to suspend a licence under clause 14.3(1), the authorised person is to give written notice to the licensee of the proposed suspension.
- (2) The notice shall—
 - (a) state that the authorised person proposes to suspend the licence;
 - (b) state the reasons for the proposed suspension; and
 - (c) inform the licensee that the licensee is entitled to make representation to the authorised person in respect of the proposed suspension within 7 days after the day on which the licensee is given the notice.
- (3) In considering whether to suspend the licence, the authorised person is to have regard to any representations made by the licensee within the period referred to in subclause (2)(c).

14.3 Notice of suspension of licence

- (1) Subject to clause 14.2 an authorised person may by written notice to the licensee, suspend a licence if there are reasonable grounds for believing that—
 - (a) the licensee has contravened a term or condition of a licence;
 - (b) the licensee has contravened a provision of this local law; or
 - (c) the continued provision of the activity authorised by the licence constitutes or will constitute—
 - (i) a nuisance; or
 - (ii) an unacceptable risk to the safety, health or welfare of the public.
- (2) The suspension notice is to—
 - (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach;
 - (c) specify the day, or the day and time, on or at which the suspension takes effect;
 - (d) specify the manner in which the recipient is required to remedy the breach to the satisfaction of an authorised person;
 - (e) specify the time period within which the work or action is to be undertaken; and
 - (f) inform the licensee that the licensee has a right to object or appeal the decision to suspend the licence.
- (3) The suspension of a licence has effect on the day, or the day and time, specified in the suspension notice until one of the following happens—
 - (a) the licence expires;
 - (b) the suspension is cancelled under clause 14.4;

- (c) the licence is revoked under clause 14.6; or
 - (d) the licence is surrendered in accordance with the provisions of this local law.
- (4) Notwithstanding clause 14.2(2)(c) a suspension of a licence under subclause (1)(c) may have immediate effect.

14.4 Notice of cancellation of suspension of licence

The authorised person is to by written notice given to the licensee cancel the suspension of a licence if the authorised person is satisfied that—

- (a) the steps specified in the suspension notice have been taken; or
- (b) it is appropriate to do so in the circumstances of a particular case.

14.5 Notice of proposed revocation of licence

- (1) If an authorised person proposes to revoke a licence under clause 14.6(1), the authorised person is to give written notice to the licensee of the proposed revocation.
- (2) The notice shall—
 - (a) state that the authorised person proposes to revoke the licence;
 - (b) state the reasons for the proposed revocation; and
 - (c) inform the licensee that the licensee is entitled to make representation to the authorised person in respect of the proposed revocation within 7 days after the day on which the licensee is given the notice.
- (3) In considering whether to suspend the licence, the authorised person is to have regard to any representations made by the licensee within the period referred to in subclause (2)(c).

14.6 Notice of revocation of licence

- (1) Subject to clause 14.5 an authorised person may by written notice to the licensee, revoke a licence if there are reasonable grounds for believing that—
 - (a) the licence was obtained improperly;
 - (b) the licensee has persistently or frequently contravened, whether or not the licence is or has been suspended on the grounds of a contravention of—
 - (i) a term or condition of the licence; or
 - (ii) a provision of this local law; or
 - (c) the continued provision of the activity authorised by the licence constitutes or will constitute—
 - (i) a nuisance; or
 - (ii) an unacceptable risk to the safety, health or welfare of the public.
- (2) The notice of revocation shall—
 - (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach;
 - (c) specify the day, or the day and time, on or at which the revocation takes effect; and

- (d) inform the licensee that the licensee has a right to object or appeal the decision to suspend the licence.
- (3) Notwithstanding clause 14.5(2)(c) revocation of a licence under subclause (1)(c) may have immediate effect.

14.7 Local government may undertake requirements of notice

- (1) If a person fails to comply with a written notice referred to in clauses 14.1 or 14.3(2)(d) or (e) the local government may—
 - (a) do or cause to be done, the thing specified in the written notice, including replace the property, or reinstate the property to the state it was in before the removal, damage or interference;
 - (b) execute the work required by the written notice; and
 - (c) recover all costs from the person, as a debt, in addition to any penalty for which that person may be liable under this local law.
- (2) The local government is not liable to pay compensation or damages of any kind to the person referred to in subclause (1) in relation to any action taken by the local government under this clause, other than compensation or damages for loss or damage suffered because the local government acted negligently or in breach of duty.
- (3) This local law is subject to sections 3.25, 3.27 and Schedules 3.1 and 3.2 of the *Local Government Act 1995* and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3, Subdivision 3 of the Act.

PART 15—OBJECTIONS AND APPEALS

15.1 Objections and appeals

Division 1 of Part 9 of the *Local Government Act 1995* applies to a decision under this local law to grant, renew, vary, transfer, suspend or revoke a licence.

PART 16—ENFORCEMENT

16.1 Offences

A person commits an offence who—

- (a) fails to comply with a direction in a written notice issued under this local law by an authorised person; or
- (b) does anything which under this local law that person is prohibited from doing.

16.2 General penalty

- (1) A person who commits an offence under clause 16.1 is liable to a penalty which is not more than \$5,000 and not less than \$1,000.
- (2) If the offence is a continuing offence, a fixed fee of \$250 will be incurred for each day or part of a day during which the offence continues.

16.3 Modified penalties

- (1) An offence against a clause specified in the Schedule is a prescribed offence for the purposes of section 9.16(1) of the *Local Government Act 1995*.

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

16.4 Form of infringement notices

- (1) Where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the *Local Government Act 1995* is that of Form 1 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (2) The form of the infringement notice referred to in section 9.16 of the *Local Government Act 1995* is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (3) The form of the infringement withdrawal given under section 9.20 of the *Local Government Act 1995* is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

SCHEDULE—MODIFIED PENALTIES

[cl.16.3]

Item	Clause No.	Nature of offence	Modified penalty \$
1	2.4	Failure to provide sanitary conveniences in accordance with the relevant Code	500
2	4.3(2)	Unauthorised disposal of liquid waste	500
3	6.5(1)	Failure to provide a dust management plan when required	500
4	7.1(b)	Failure to keep premises clean and disinfected when directed by an authorised person	500
5	7.4(2)	Keeping of fauna without approval of the relevant department	500
6	7.9	Failure to keep a commercial poultry establishment in accordance with the relevant Code	500
7	13.14	Providing false or misleading information	500
8	14.1(1)	Failure to comply with requirements of written notice	500
9	14.3(1)	Failure to comply with requirements of notice of suspension of licence	500
10	14.6(1)	Failure to comply with requirements of notice of revocation of licence	500
11	16.1(a) or (b)	All other offences not specified	200

Dated the _____ 2024.

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

RON CHAMBERS
Shire President

SHANE BURGE
Chief Executive Officer