



Consolidated Local Laws 2005

As at October 13, 2023



CONTENTS

PART 1 - CITATION AND APPLICATION OF LOCAL LAWS AND REVOCATION	7
1.1 Citation	7
1.2 Content of Local Laws	7
1.3 Read as a Whole	7
1.4 Application of Local Laws.....	7
1.5 Purpose and Effect	8
1.6 Commencement of Local Laws	8
1.7 Approvals.....	8
1.8 Repeal	8
PART 2 - GENERAL INTERPRETATION AND LICENSING.....	9
Division 1 - Preliminary.....	9
2.1 General Definitions	9
2.2 Interpretation.....	13
Division 2 - Licenses.....	14
2.3 Licenses	14
Division 3 - Licensing.....	15
2.4 Refusal of an Application	15
2.5 Issue of a Licence	15
2.6 Renewal.....	16
2.7 Licence Fees	16
2.8 Conditions of a Licence.....	16
2.9 Cancellation of Licence.....	16
2.10 Suspension of Licensee Rights and Privileges	16
2.11 Development Approval.....	17
2.12 Licence Required.....	17
2.13 Exclusive Rights	17
2.14 Public Liability Insurance and Indemnity	17
Schedule 2.1 (s.2.3 and 2.12).....	18
Schedule 2.2 (s.2.5)	19
PART 3 - RESERVES AND FORESHORES	20
Division 1 - Preliminary.....	20
3.1 Purpose and Intent.....	20
3.2 Definitions.....	20
3.3 Interpretation.....	20
Division 2 - Prohibitions and activities requiring consent.....	21
3.4 Prohibited Activities.....	21
3.5 Activities Requiring Licence	21
3.6 Activities Subject to Signs	22
3.7 Conduct of Functions	22
3.8 Children's Play Areas.....	23
Division 3 - Vehicles	23
3.9 Vehicles	23
PART 4 - CITY PROPERTY, PUBLIC SWIMMING POOLS AND RECREATION FACILITIES	24
Division 1 - Preliminary.....	24
4.1 Definitions.....	24
Division 2 - Hiring of City Property	24
4.2 Licence for Hire Required	24
4.3 Applications	24

4.4	Conflicting Applications	25
4.5	Period of Hire	25
4.6	Cancellation of Licence	25
4.7	Recovery of Costs of Cleaning	25
4.8	Obligations of Licence Holder	25
4.9	Failure to Allow Access	26
4.10	Other Remedies	26
Division 3 -	Entry to City Property	26
4.11	Terms and Conditions of Entry	26
4.12	Breach of Conditions of Entry	26
4.13	Removal of Persons From City Property	26
4.14	Entry to City Property, Public Swimming Pools and Recreation Facilities	27
4.15	Refusal of Admission and Removal from Premises	27
4.16	Persons to comply with directions	27
4.17	Standard of dress	28
PART 5 - BRIDGES, JETTIES AND WEIRS		28
Division 1 -	Preliminary	28
5.1	Definitions	28
Division 2 -	Prohibition	28
5.2	Prohibition	28
PART 6 - TRADING IN PUBLIC PLACES		29
Division 1 -	Preliminary	29
6.1	Purpose	29
6.2	Definitions	29
Division 2 -	Alfresco Dining	30
6.3	Approval Required	30
6.4	Licence Restrictions	31
6.5	Licence Application	31
6.6	Alfresco Dining Licence	31
6.7	Responsibilities of Licensee	31
Division 3 -	Street Markets	32
6.8	Approval Required	32
6.9	Licence Application	32
6.10	Street Market Licence	32
6.11	Responsibilities of Licensee	33
Division 4 -	Street Trading	33
6.12	Approval Required	33
6.13	Licence Application	34
6.14	Street Trading Licence	34
6.15	Responsibilities of Licensee	34
6.16	Exemptions from Requirement to Pay Fee or to Obtain a Licence	36
Division 5 -	Street Entertainment	36
6.17	Approval Required	36
6.18	Licence Restrictions	36
6.19	Licence Application	36
6.20	Street Entertainment Licence	36
6.21	Responsibilities of Licensee	36
Division 6 -	Bonds	38
6.22	Bond for Restoration and Reinstatement	38
6.23	Use by the City of Bond	38
Division 7 -	Miscellaneous	39
6.24	Notice Requiring Works to be Done to Remedy Breach	39
6.25	Notice to Advise Licensee of Planned or Emergency Works	39

Schedule 6.1 (s.6.5)	41
Schedule 6.2 (s.6.6)	42
Schedule 6.3 (s.6.9)	43
Schedule 6.4 (s.6.10)	44
Schedule 6.5 (s.6.13)	45
Schedule 6.6 (s.6.14)	46
Schedule 6.7 (s.6.19)	47
Schedule 6.8 (s.6.20)	48
PART 7 - VERGES AND CROSSINGS	49
Division 1 - Preliminary	49
7.1 Definitions	49
Division 2 - Crossings	51
7.2 Construction of Crossings	51
Division 3 - Verge Treatments	51
7.3 Varieties of Permissible Verge Treatments	51
7.4 Licence to Install a Verge	51
7.5 Rural Zone Verge	51
[PART 8 Deleted: No 79 of 2023]	52
[Schedules 8.1 to 8.5 inclusive Deleted: No 79 of 2023]	52
PART 9 - ADVERTISING SIGNS	52
Division 1 - Preliminary	52
9.1 Application	52
9.2 Definitions	52
Division 2 - Licences	53
9.3 Licence	53
9.4 Period of Licence	53
9.5 Expiry of Licence	53
9.6 Control	53
9.7 Site Specific Signage	54
Division 3 - Signs on vehicles	54
9.8 Signs on Vehicles	54
Division 4 - Property number signs	54
9.9 Property Number Signs	54
Division 5 - Offences	54
9.10 Offence	54
9.11 Infringement Notices and other Notices	55
Schedule 9.1 (s.9.3)	56
Schedule 9.2 (s.9.3)	57
Schedule 9.3 (s.9.12)	58
PART 10 - PREVENTION AND ABATEMENT OF SAND DRIFT	59
Division 1 - Preliminary	59
10.1 Definitions	59
10.2 Interpretation	59
Division 2 - Prohibited activities	59
10.3 Prevention	59
10.4 Notice	59
10.5 Notice Conditions	60
10.6 Offence	60
10.7 Infringement Notices and other Notices	60
Schedule 10.1 (s.10.4)	61

PART 11 - NUISANCE	62
Division 1 - Preliminary	62
11.1 Definitions	62
Division 2 - Burning	62
11.2 Burning Rubbish or Refuse on Private Land	62
11.3 Burning Within a Thoroughfare	62
11.4 Exemptions	63
Division 3 - Builder's rubbish	63
11.5 Rubbish Bins on Building Sites	63
Division 4 - Water drainage on private land	64
11.6 Water Drainage	64
Division 5 - Shopping trolleys	64
11.7 Abandoned Shopping Trolleys	64
Division 6 - Offences	65
11.8 Offence	65
PART 12 – ANIMALS	65
Division 1 - Preliminary	65
12.1 Definitions	65
12.2 Interpretation	67
Division 2 - Dogs	67
12.3 Dog Exercise Areas	67
12.4 Prohibited Areas	67
12.5 Fouling Thoroughfares and Public Places	67
12.6 Fencing Requirements	67
12.7 Limit on number of Dogs	68
Division 3 - Approved Dog Kennel Establishment	69
12.8 Notice of Application for a Kennel Establishment Licence	69
12.9 Application for Kennel Establishment Licence	69
12.10 The City may refuse to determine an Application	70
12.11 Determination of Application	70
12.12 Form of Licence	70
12.13 Duration of Licence	70
12.14 Duties of Licence Holder	71
Division 4 - Horses	71
12.15 Horse Exercise Area	71
12.16 Prohibited Areas	71
12.17 Fouling of Public Places	71
Division 5 - Cats	71
12.18 Identification of Cats	71
12.19 Keeping of cats	72
12.20 Control of cats	73
12.21 Cat prohibited areas	74
Division 6 - Livestock	74
12.22 Livestock Not to Stray	74
12.23 Property to be Fenced	74
12.24 Livestock May be Impounded	75
Schedule 12.1 (s.12.3)	76
Schedule 12.2 (s.12.4)	77
Schedule 12.3 (s.12.9)	78
Schedule 12.4 (s.12.12)	80
Schedule 12.5 (s.12.11 & 14)	81
Schedule 12.6 (s.12.15)	83
Schedule 12.7 (s.12.16)	84

Schedule 12.8 (s.12.19)	85
Schedule 12.9 (s.12.19)	86
Schedule 12.10 (s.12.21)	87
PART 13 - ENFORCEMENT OF LOCAL LAWS	88
Division 1 - Preliminary	88
13.1 General Powers of Authorized Persons	88
Division 2 - Offences	88
13.2 Personal Details.....	88
13.3 Notice may be Served.....	88
13.4 Failure to Comply with Notice	88
13.5 Cost of Carrying Out Works	88
Division 3 - Miscellaneous	89
13.6 Cancellation of a Notice	89
Division 4 - Infringement Notices and Modified Penalties	89
13.7 Penalty.....	89
13.8 Application	90
13.9 Infringement Notice Offences.....	90
13.10 Forms.....	90
Division 5 - General	90
13.11 Unauthorized Signs.....	90
13.12 Liability for Damage to City Property	90
13.13 Conditions	91
Schedule 13.1 (s.13.9)	92
Schedule 13.2 (s.13.10)	93
Schedule 13.3 (s.13.6)	94
PART 14 - OBJECTIONS AND REVIEWS AND MISCELLANEOUS.....	95
14.1 Rights of Objection and Appeal.....	95
Notes.....	96

**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

CITY OF SWAN

CONSOLIDATED LOCAL LAWS 2005

Under the powers conferred by the *Local Government Act 1995* and the *Dog Act 1976* and under all other powers enabling it, the Council of the City of Swan resolved on 19 January 2005 to make the following Local Laws.

PART 1 - CITATION AND APPLICATION OF LOCAL LAWS AND REVOCATION

1.1 Citation

These Local Laws may be cited as the “City of Swan Consolidated Local Laws 2005”.

1.2 Content of Local Laws

These Local Laws incorporate all Local Laws of the City of Swan with the exception of the Local Law relating to Standing Orders and Local Laws made under the *Health Act 1911*.

1.3 Read as a Whole

These Local Laws shall be read as a whole and the treatment of the subject matter in one Part does not exclude the treatment of the same subject matter in another Part.

1.4 Application of Local Laws

(1) General Application

These Local Laws shall apply to the whole of the district of the City of Swan together with any places to which the Governor has given approval for the Local Laws or any part of them to apply as provided in section 3.6 of the 1995 Act.

(2) Application to Adjoining Waters and Reserves

Part 3 of these Local Laws shall apply —

- (a) to rivers, water courses, tidal and non-tidal waters, in the district; and
- (b) to reserves specified by the City from time to time for the purposes of this section subject to subsection (1),

but excluding rivers and waterways under the control of the Swan River Management Trust.

(3) The provisions of this Part shall apply throughout the district to City property unless stated otherwise in a particular provision.

1.5 Purpose and Effect

- (1) The purpose of these Local Laws is to provide for the regulation, control and management of —
 - (a) reserves and foreshores;
 - (b) City property, public swimming pools and recreation facilities;
 - (c) bridges, jetties and weirs;
 - (d) trading in public places (including alfresco dining, street markets, street trading and street entertainment);
 - (e) verges and crossings;
 - (f) parking and parking facilities;
 - (g) advertising signs in thoroughfares;
 - (h) nuisance;
 - (i) animals; and
 - (j) prevention and abatement of sand drift;
- (2) The effect of these Local Laws is to establish where appropriate standards and requirements in regard to the matters referred to in subsection (1), and provide enforcement powers and review rights.

as part of the City's function to provide the good government of persons within its district and in order to enhance the quality of life of its citizens.

[clause 1.5 amended; GG No. 11 of 2010]

1.6 Commencement of Local Laws

These Local Laws shall come into operation on the fourteenth day after the day on which they are published in the *Government Gazette*.

1.7 Approvals

Where an approval is required under these Local Laws any requirement to obtain additional approval under the City of Swan Town Planning Scheme No.9, the 1960 Act or the *Local Government (Miscellaneous Provisions) Act 1960* remains.

1.8 Repeal

The following Local Laws and all amendments to them are repealed on the day that these Local Laws come into operation —

- Local Government Model By-law (Old Refrigerators and Cabinets) No. 8 (Adoption of Draft Model By-law as published in the *Government Gazette* of 1 May 1962) as published in the *Government Gazette*—26 July 1972;

- Local Government Model By-laws (Vehicle Wrecking) No. 17 (Adoption of Model By-laws published in the *Government Gazette* of 12 October 1965) as published in the *Government Gazette*—26 July 1972;
- Local Government Model By-Laws (Caravan Parks and Camping Grounds) No.2 (Adoption of Draft Model By-Laws as published in the *Government Gazette* of 22 February 1974) as published in the *Government Gazette*—27 June 1975;
- Local Government Model By-Laws (Holiday Accommodation) No. 18 (Adoption of Model By-Laws as published in the *Government Gazette* of 22 February 1974) as published in the *Government Gazette*—27 June 1975;
- By-Laws Relating to the Use of Reserves, Beaches, Foreshores and the Use of Amplifiers as published in the *Government Gazette*—24 December 1975;
- By-Law Relating to Thoroughfare Lawns and Gardens as published in the *Government Gazette*—7 August 1981;
- By-Law Relating to Signs, Hoardings and Bill Posting as published in the *Government Gazette*—9 October 1981;
- By-Law Relating to the Keeping of Animals as published in the *Government Gazette*—24 September 1982;
- By-Law Relating to the Keeping of Bees as published in the *Government Gazette*—16 August 1985;
- By-Law Relating to Eating Areas in Public Places as published in the *Government Gazette*—5 February 1988;
- By-Law Relating to Depositing and Removal of Rubbish, Litter and Discarded Materials as published in the *Government Gazette*—23 December 1988;
- By-Law Relating to Parking and Parking Facilities as published in the *Government Gazette*—16 November 1990;
- By-Law Relating to Hawkers, Stallholders and Thoroughfare Traders as published in the *Government Gazette*—10 July 1992; and
- By-Law Relating to Dogs as published in the *Government Gazette*—20 August 1982.

PART 2 - GENERAL INTERPRETATION AND LICENSING

Division 1 - Preliminary

2.1 General Definitions

In these Local Laws, unless the context otherwise requires or it is otherwise stated —

“**1960 Act**” means the *Local Government (Miscellaneous Provisions) Act 1960*;

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

- “Act”** means *Local Government (Miscellaneous Provisions) Act 1960* or the *Local Government Act 1995* as the circumstances and context require;
- “animal”**, except in Part 12, means any animal other than a dog;
- “applicant”** means a person who has applied for the grant of an approval, consent, licence, permit or the like under these Local Laws;
- “approval”** means an approval granted by the Council, the Chief Executive Officer, an authorized officer or an authorized person;
- “approved fee”** means the fee imposed and determined by the City under and in accordance with sections 6.16 to 6.19 of the 1995 Act;
- “approved form”** means the form determined or approved by the City or the CEO;
- “authorized officer”** means in respect of any Part of these Local Laws, the CEO or other officer of the City authorized by the Council or the CEO to administer that Part under section 9.10 of the 1995 Act;
- “authorized person”** means an authorized officer or any other employee or person appointed by the Council or appointed in writing by the CEO as an authorized person under section 9.10 of the 1995 Act for the purpose of all or any provisions of these Local Laws or a member of the Police Service;
- “boat”** means any structure or vessel whether propelled manually or by the wind or power, made or used to float upon or travel under water;
- “building”** means a structure erected or placed on land, and includes a fence erected on land in the district;
- “carriageway”** means a portion of a road that is improved, designed or ordinarily used for vehicular traffic, and includes the shoulders, and areas, including embayments, at the side or centre of the carriageway, used for the stopping or parking of vehicles; and, where a road has 2 or more of those portions divided by a median strip, the expression means each of those portions, separately;
- “cattle”** includes alpacas, asses, bulls, bullocks, calves, camels, colts, cows, deer, emus, fillies, foals, geldings, goats, heifers, horses, kangaroos, lambs, llamas, mares, mules, ostriches, pigs, sheep, stallions, steers, swine, water buffalo or other animals of a like kind;
- “CEO”** means the chief executive officer of the City and includes in the absence of the chief executive officer, the deputy or acting chief executive officer of the City;
- “City”** means the City of Swan;
- “City property”** means anything, whether land or not, that belongs to, or is vested in, or under the care, control or management of, the City;
- “Council”** means the Council of the City;
- “development approval”** means approval under a town planning scheme;

“**district**” means the district of the City and any places to which the Governor has given approval for these Local Laws or any part of them to apply as provided in section 3.6 of the 1995 Act;

“**Dividing Fences Act**” means the *Dividing Fences Act 1961*;

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

“**employee**” means an employee of the City;

“**licence**” means a licence issued under these Local Laws;

“**licensee**” means a person to whom a licence is granted under these Local Laws;

“**litter**” includes —

- (a) all kinds of rubbish, refuse, junk, garbage or scrap; and
- (b) any articles or material abandoned or unwanted by the owner or the person in possession thereof,

but does not include dust, smoke or other like products emitted or produced during the normal operations of any mining, extractive, primary or manufacturing industry;

“**Local Law**” means these Local Laws;

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

“**member of the Police Service**” means a member of the Police Service of Western Australia;

“**Minister**” means the Minister for Local Government and Regional Development;

“**nuisance**” includes —

any activity, thing, condition, circumstance or state of affairs caused or contributed to by one person which is injurious or dangerous to the health of another person of normal susceptibility or which has a disturbing effect on the state of reasonable physical, mental or social well-being of another person;

any thing a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place; or

any thing a person does on public or private land which unreasonably detracts from or interferes with the enjoyment or value of land owned by another person, provided that any thing done in accordance with the law or a legal right or which is consistent with the standard of behaviour in the relevant locality shall not be unreasonable for the purpose of this provision;

“**owner**”, where used in relation to land —

- (a) means a person who is in possession as —

- (i) the holder of an estate of freehold in possession in the land, including an estate or interest under a contract or an arrangement with the Crown or a person, by virtue of which contract or arrangement the land is held or occupied with a right to acquire by purchase or otherwise the fee simple;
 - (ii) a Crown lessee or a lessee or tenant under a lease or tenancy agreement of the land which in the hands of the lessor is not rateable land under the 1995 Act, but which in the hands of the lessee or tenant is by reason of the lease or tenancy rateable land under the 1995 Act or another Act for the purposes of the 1995 Act;
 - (iii) a mortgagee of the land; or
 - (iv) a trustee, executor, administrator, attorney, or agent of a holder, lessee, tenant, or mortgagee, mentioned in this paragraph;
- (b) where there is not a person in possession, means the person who is entitled to possession of the land in any of the capacities mentioned in paragraph (a) of this definition, except that of mortgagee;
- (c) where, under a licence or concession there is a right to take profit of Crown land specified in the licence or concession, means the person having that right;
- (d) where a person is lawfully entitled to occupy land which is vested in the Crown, and which has no other owner according to paragraph (a), (b), or (c) of this definition, means the person so entitled;
- (e) means a person who —
- (i) under the *Mining Act 1978*, holds in respect of the land a mining tenement within the meaning given to that expression by that Act;
 - (ii) in accordance with the *Mining Act 1978* holds, occupies, uses, or enjoys in respect of the land a mining tenement within the meaning given to that expression by the *Mining Act 1904*; or
 - (iii) under the *Petroleum Act 1967* holds in respect of the land a petroleum production licence or a petroleum exploration permit within the meaning given to each of those expressions by that Act;
- or
- (f) where a person is in the unauthorized occupation of Crown land, means the person so in occupation;

“**person**” and words applying to any person or individual includes a body corporate and in the plural a group of persons and a club, association or other body of persons, but excludes the City;

“**prescribed fee**” means a fee determined by the City from time to time;

“**public place**” includes a thoroughfare, way or place which the public are allowed to use, whether the thoroughfare, way or place is or is not on private land set apart for the use and enjoyment of the inhabitants of the district and includes all land vested in or under the care, control or management of the City;

“**reserve**” means Crown land for the time being reserved under section 41 of the *Land Administration Act 1997*;

“**surveyor**” means the building surveyor for the time being appointed by the City under the 1995 Act;

“**thoroughfare**” means a road or other thoroughfare and includes structures or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end;

“**thoroughfare verge**” and “**verge**” means that part of a thoroughfare between land which abuts the thoroughfare and a carriageway, but does not include a footpath or a bicycle path;

“**town planning scheme**” means any town planning scheme for the time being in force made under the *Town Planning and Development Act 1928* applying zoning or classification to land within the district;

“**vehicle**” has the same meaning as that term has in the *Road Traffic Act 1974* , and, in Parts 4 to 11, inclusive and in Part 18 of the *Road traffic Code 2000*, but does not include a wheeled toy or wheeled recreational device and includes —

- (a) a shopping trolley; and
- (b) where the context permits, an animal driven or ridden,

but excludes —

- (c) a wheel-chair or any other device designed for use by a physically disabled person on a footpath; and
- (d) a pram, a stroller or a similar device;

and whether currently licensed or not.

2.2 Interpretation

- (1) The terms and expressions used in these Local Laws but not defined shall have the meanings given to them in the Act, and where a term is defined in both the 1960 Act and the 1995 Act, the meaning given in the 1995 Act shall prevail.
- (2) Subsection (1) does not apply where a provision of these Local Laws has been made under an Act other than the 1995 Act or the 1960 Act, and a term used in

that provision is defined in that Act, in which case, unless the context otherwise requires, that definition shall apply in construing the term.

- (3) A reference to the Council having the power to do something or a reference to the Council forming an opinion prior to the doing of anything shall be deemed to include a reference to any authorized officer or authorized person or any other person or any committee to whom or to which the Council has delegated the power of the doing of the thing, exercising such discretion or forming such opinion.
- (4) A reference to the City having the power to do something or a reference to the City forming an opinion prior to the doing of anything shall be deemed to include a reference to any authorized officer or authorized person or any other person or any committee to whom or to which the City has delegated the power of the doing of the thing, exercising such discretion or forming such opinion.
- (5) A reference to the CEO or any other employee of the City includes a person duly appointed to act or from time to time acting, in the position of that employee.
- (6) In these Local Laws, unless the context otherwise requires, a reference to City property, premises, a foreshore, a reserve or the like includes a reference to any part of, respectively, the City property, premises, foreshore, reserve or the like.
- (7) A reference in these Local Laws to a policy made by the City means any policy adopted by the Council as amended from time to time.
- (8) A reference to a General Rural, Rural, Special Rural, Swan Valley Rural, Landscape, Residential, Special Residential, Resource, Commercial or an Industrial Zone or area is a reference to the zoning of land under a town planning scheme, and where the particular zoning description is not used or defined in a town planning scheme, then the most appropriate zoning description, in the opinion of the City, shall apply.

Division 2 - Licenses

2.3 Licenses

- (1) Where a licence is required under these Local Laws, the application for a licence shall be in writing in the approved form. An application may not be accepted or proceeded with until such time as all sections of the application form have been completed. The City may also require the applicant to provide within a reasonable period such additional information as is deemed necessary to properly assess any application for a licence.
- (2) The City may grant a licence, grant a licence subject to such conditions as it thinks fit or refuse to grant a licence.
- (3) The City may impose a fee on any person for the use of any City property.
- (4) Subject to Part 6 Division 5 of the 1995 Act, the City may impose a fee on an applicant for the assessment and determination of any application for a licence under these Local Laws.
- (5) If the CEO or an authorized officer issues a licence or a licence subject to conditions, and any provisions of these Local Laws or any of the conditions of

the licence are not fulfilled or complied with within the time (if any) stipulated by the CEO or the authorized officer in the licence or stipulated subsequently on reasonable notice to the applicant, the CEO may in addition to any other available remedies, by 21 days written notice revoke the licence.

- (6) When the City makes a decision as to whether it will —
 - (a) grant a licence under these Local Laws; or
 - (b) renew, vary, revoke or cancel a licence that a person has under these Local Laws, the provisions of Division 1 of Part 9 of the Act and Regulation 33 of the Local Government (Functions and General) Regulations 1996 shall apply to that decision.
- (7) A licence may not be transferred.
- (8) Unless stated otherwise within these Local Laws or as a condition imposed on any licence, the period of a licence shall be for a maximum of five years.
- (9) An application for a licence under these Local Laws is deemed to be refused if a determination in respect of that application is not conveyed to the applicant by the City within 60 days of the receipt of the application by the City, or within such further time as is agreed in writing between the applicant and the City.
- (10) Despite an application for a licence being deemed refused, the City may issue a determination in respect of the application at any time after the expiry of the period specified in subsection (9) and that determination is as valid and effective from the date of the determination as if it had been made before the period expired.

Division 3 - Licensing

2.4 Refusal of an Application

The City may, by the CEO or an authorized person refuse an application for a licence, where —

- (a) it does not comply with any licence application requirements under these Local Laws;
- (b) the proposed activity or place of activity is considered by the City to be undesirable; or
- (c) the proposed structure, stall, stand, table or vehicle forming part of the activity is considered by the City to be unsuitable in any respect to the activity or location for which the licence is sought.

2.5 Issue of a Licence

- (1) Where a licence is issued it shall be issued in the form used by the City for that purpose. A licence may include plans and other supporting documentation as required by these Local Laws.

- (2) A licence shall not be valid until such time as any public liability insurance policy, required as a condition of the licence, has been put into effect and a certificate of currency covering the period of the licence has been lodged with the City.

2.6 Renewal

Prior to the expiry of a licence, the licensee may apply for the renewal of a licence without having to resubmit details required at the time of the initial application providing that there is no substantial change to the operation of the activity and any associated facilities.

2.7 Licence Fees

- (1) All licence fees and charges applicable under these Local Laws shall be as determined by the City in accordance with section 6.16 of the 1995 Act.
- (2) A licence shall not become valid until all fees relating to the issue of that licence have been paid to the City.

2.8 Conditions of a Licence

Where a licence has been issued by the City the licensee or any other person shall ensure that no conditions of that licence or any provision of these Local Laws are breached.

2.9 Cancellation of Licence

- (1) The City may revoke any licence if —
 - (a) the licensee breaches any condition of the licence;
 - (b) the licensee is convicted of an offence against the relevant part of these Local Laws;
 - (c) the licensee fails to maintain the required public liability insurance cover indemnifying the City against damages; or
 - (d) the licensee fails to abide by a notice served in accordance with any part of these Local Laws, requiring works to be undertaken or changes to the arrangements or operation of the activity, subject of the licence.
- (2) In the event of a licence being cancelled by reason of any default on the part of the applicant or any other person associated with the licence or if the applicant withdraws the application from the City, the whole or any part of the fee or deposit as may be determined by the City shall be forfeited and any deposit or such portion of any deposit that is not forfeited under this section shall be repaid by the City to the applicant.

2.10 Suspension of Licensee Rights and Privileges

- (1) The rights and privileges granted to a licensee on the issue of a licence terminate where the public liability insurance required as a condition of that licence lapses, is cancelled or is no longer current.
- (2) The rights and privileges granted to a licensee on the issue of a licence may be suspended by the City for the purpose and duration or any works proposed or

done in or adjacent to the area subject of a licence by or on behalf of a Government authority, instrumentality of the Crown or the City without payment or compensation or damage by the City and without refund of whole or part of any licence fee paid.

2.11 Development Approval

Where development approval granted under the City of Swan Town Planning Scheme is in any way inconsistent with the provisions of these Local Laws the approval and any conditions imposed on that approval under the Scheme shall prevail and no further approval shall be required under these Local Laws unless specifically stated otherwise.

2.12 Licence Required

Where a licence is required under these Local Laws to undertake any activity or to do or have any thing then that activity or thing is not licensed or approved until a duly executed licence has been issued in the form used by the City.

2.13 Exclusive Rights

The issue of a licence does not confer exclusive possession or use of any portion of a public place.

2.14 Public Liability Insurance and Indemnity

- (1) Where, as a condition of a licence, a licensee is required to provide public liability insurance indemnifying the City against all actions, suit, claims, damages, losses and expenses made against or incurred by the City arising from any activity, action or thing performed or erected in accordance with the licence the licensee shall —
 - (a) take out a public liability insurance policy in the name of the licensee and the City for a minimum of \$5 million dollars or such other amount as considered appropriate by the City to the risk involved;
 - (b) advise the City if the policy lapses, is cancelled or is no longer in operation; and
 - (c) on the request of an Authorized Person, provide for inspection a certificate of currency for the required insurance policy.
- (2) Where, as a condition of a licence, a licensee is required to provide a public liability insurance in accordance with sub-section 2.14 (1) and that insurance policy is terminated for whatever reason then the licence shall also be terminated simultaneously.

Schedule 2.1 (s.2.3 and 2.12)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

APPLICATION FOR A LICENCE

To:The Chief Executive Officer

I (Full Name)

of (Residential Address)

.....(Occupation)

apply for a licence to / for

.....

under the City of Swan Local Laws.

Details of Purpose of Application

.....

I enclose the fee of \$.....

Dated the Day of

Signature of Applicant

Schedule 2.2 (s.2.5)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

LICENCE

This licence is issued to —

.....(Full Name)

.....(Address)

This licence authorises you to —

.....

at..... (as shown on the attached plan).

in compliance with the conditions attached to this licence and any provision of these Local Laws.

This licence is valid commencing on the date of issue shown below and expires at midnight on
..... or on the sooner cancellation of this licence.

Issued thisday of

Chief Executive Officer.....

PART 3 - RESERVES AND FORESHORES

Division 1 - Preliminary

3.1 Purpose and Intent

The purpose and intent of this part is to ensure that any passive activities undertaken on reserves or foreshores, by residents or visitors to the City, may be undertaken peacefully and enjoyably. Activities on reserves or foreshores that are formally organised or promoted by individuals, organisations or clubs and that are proposed to be held as regular or frequent events or for profit will have their interests respected and preserved under this Part.

3.2 Definitions

In this Part —

“**building**” has the same meaning as is given to the term in section 2.1 but without limiting the generality of the term for the purpose of this Part, includes any permanent or temporary structure including tents, marquees, and stalls;

“**children’s play area**” means any public place or part of a public place, that is within 10 metres of any playing apparatus provided in that public place or part for the use of children under 14 years of age;

“**foreshore**” includes all the land contiguous to the reserves and parks in or under the care, control or management of the City which lies between the low water mark and the high water mark of the Swan River;

“**function**” includes a carnival, show, exhibition, gymkhana, sporting event, or a matter of contest between opposing teams or persons in any organised game;

“**irrigation facility**” means any pipe, pipework, fittings, pumps, water bore, sprinklers, controllers, enclosures or covers or any other attachment or associated facility installed for the purpose of irrigating land with water whether in operation or not;

“**owner**” means the person who is the lawful owner or a person entitled to possession of the particular vehicle, property or chattel;

“**reserve**” means any public reserve or park which is City property but excluding a thoroughfare;

“**specified areas**” means an area of land set aside by City for a particular purpose and designated by a sign or signs.

3.3 Interpretation

Terms and Expressions used in this Part —

- (a) shall have the meanings given in section 3.2 which shall prevail over any other definition; and
- (b) otherwise shall be interpreted in accordance with section 2.1.

Division 2 - Prohibitions and activities requiring consent

3.4 Prohibited Activities

A person shall not, on any reserve or foreshore —

- (a) throw or release any stone, arrow or other missile, whether of the same kind or not, that may endanger other persons or property except where it is permitted in the course of a function being lawfully held;
- (b) climb upon or over under or through any wall, building, tree guard fence or gate designed or installed for the purposes of prohibiting or restricting the entry of persons or vehicles;
- (c) enter by any means any place that has been fenced off or otherwise closed to the public;
- (d) alter, break, cut, damage deface, destroy, disfigure or, mutilate any equipment, building, landscaping, irrigation equipment, tree or other plants, portion of turf, or structure of any kind;
- (e) operate, do or say any thing that causes a nuisance or annoyance to another person in or near the locality;
- (f) destroy, damage, harass, injure, cause harm to, catch, snare or take any domestic animal or poultry, or any other mammal, monotreme, bird or reptile;
- (g) unnecessarily interfere with the conduct of any function whether licensed by the City or not;
- (h) fly or operate, whether remote controlled or not, any mechanically operated model vehicle, model boat or model aeroplane in such a manner as to endanger any person or property or be a nuisance to any other person; or
- (i) unnecessarily enter, any lavatory, dressing shed or building or portion of a building expressly reserved for the use of the opposite sex.

3.5 Activities Requiring Licence

A person shall not, on any reserve or foreshore, without first obtaining a licence from the City —

- (a) sell, expose for sale or invite any offer to buy any goods, wares, food, refreshment, fruit or other merchandise or things (whether of a like kind as the foregoing or not), except in an area set apart for that purpose;
- (b) hire, expose for hire, invite any offer to take on hire any vehicle, boat or other vessel or thing (whether of the like kind as the foregoing or not), except in an area set aside for that purpose by the City;
- (c) organise, hold, conduct or address a public gathering or meeting of persons or take part in a procession or demonstration or carry a placard or notice;
- (d) use or install any power lines, water pipe, irrigation system or drainage system;

- (e) erect a tent or any other temporary cover for the purpose of entertainment or the display of any merchandise;
- (f) make, install, place or display any sign, signboard, hoarding, placard, hand bill, notice, advertisement or document whatsoever;
- (g) subject to provisions of the *Bush Fires Act 1954*, light a fire other than in a fireplace or barbecue facility provided for that purpose or light a portable gas fire;
- (h) plant or sow seeds, shrubs, trees or any plant of any kind or description;
- (i) cut, or remove any soil, turf, sand or vegetation;
- (j) bring on or allow to be brought on any disused material or any vehicle, container, caravan, motor bike or other motorised vehicle whether operated or not;
- (k) land by way of parachute, hang glider or para-sail;
- (l) participate in the activity of archery;
- (m) allow any cattle to enter or remain upon;
- (n) advertise anything; or
- (o) park or stop any vehicle for the predominant or sole purpose of advertising anything.

3.6 Activities Subject to Signs

A person shall not, on any reserve or foreshore where a sign is displayed that prohibits such activities —

- (a) ride, skate on or push a skate board, roller blades, or roller skates or such similar thing and not fitted with an efficient and effective breaking mechanism;
- (b) ride a bicycle;
- (c) play or practice golf or strike a golf ball;
- (d) lead, train, race, exercise or work any animal; or
- (e) enter water from a foreshore or any structure.

3.7 Conduct of Functions

- (1) No person shall hold a function on any reserve or foreshore for or on behalf of any organised sporting club or group, or any association, or any business or company, unless the person doing so has first obtained a licence.
- (2) The Council may grant a licence to a person to hold or organize a function on a foreshore or reserve subject to such conditions, if any, as it may deem fit and may authorise a charge to be made for admission to the function.
- (3) A licence to hold a function on a reserve shall be in the approved form and shall specify —

- (a) the person to whom the licence is granted;
 - (b) the purpose for which the licence is granted;
 - (c) the dates and times during which the function may be held;
 - (d) the charge, if any, which has been authorized by the City for admission to the function;
 - (e) the area or part of the foreshore or reserve where the function may be held;
 - (f) conditions pertinent to the conduct of the function; and
 - (g) that further licenses or permits may be required under the *Liquor Licensing Act 1988* for the supply or consumption of liquor on a reserve or foreshore.
- (4) A person to whom a licence has been granted shall prevent persons under the influence of alcohol or drugs or other persons acting in a riotous or disorderly manner from attending at or remaining at a function.
- (5) Any person to whom a licence has been granted who permits the commission of or commits a breach of any of the terms and conditions of the licence shall be guilty of an offence.
- (6) If the City is satisfied that the person to whom a licence has been granted has committed or permitted or authorized the commission of a breach of any of the terms or conditions of the licence or has committed a breach of any of these Local Laws, it may by notice in writing to such person, cancel the licence.

3.8 Children's Play Areas

No person over the age of thirteen, other than a person supervising a child or children using such children's play area shall enter or remain therein.

Division 3 - Vehicles

3.9 Vehicles

- (1) No person shall park or drive a vehicle upon on any portion of a reserve or foreshore contrary to any sign.
- (2) Every person using a reserve or foreshore shall obey any order or direction given by an Authorized Person.
- (3) The City may grant a licence to allow a person to bring a motorised vehicle upon a foreshore or reserve for a specific purpose and —
 - (a) may apply such conditions as it thinks fit to that grant of licence; and
 - (b) no person shall park or stop or permit to be parked or stopped any vehicle in breach of any such conditions.
- (4) No person shall park a vehicle on any part of a reserve, including any paved areas, for the purposes of conducting a business without first obtaining the written licence of the City for that purpose.

- (5) The prohibition in sub-section 3.9(4) shall not apply to —
- (a) a taxi, hire car or omnibus stopped to set down or pick up passengers on any part of a road within a reserve where there is not a sign prohibiting such stopping of a vehicle; or
 - (b) any vehicle stopped for the purpose of providing minor mechanical repair assistance to a vehicle that is incapable of being driven from a reserve.

PART 4 - CITY PROPERTY, PUBLIC SWIMMING POOLS AND RECREATION FACILITIES

Division 1 - Preliminary

4.1 Definitions

In this Part, unless the context otherwise requires —

“attendant” means an employee of the City performing duties in connection with any premises;

“building” has the same meaning as is given to the term in section 2.1, but without limiting the generality of the term for the purpose of this Part, includes a hall or room or a corridor, stairway or annexe of any hall or room which is City property;

“manager” means the person appointed by the City to direct, control and manage particular premises;

“premises” means each public swimming pool and other recreation facility which is City Property and all buildings, fences, gardens, car parks, structures, car parking areas, accessways, fixtures, fittings, machinery, chattels, furniture and equipment forming part of such a public swimming pool or other recreation facility or used in connection with either of them; and

“recreation facility” includes a spa bath, solarium, sauna, stadium, function room, meeting Room, change-room, community hall, community centre and pavilion.

Division 2 - Hiring of City Property

4.2 Licence for Hire Required

No person shall —

- (a) occupy or use any premises or use or take possession of the furniture, plant, fittings, effects, cutlery, crockery, glassware or other utensils or property of any kind within, on or appurtenant to any premises unless the City has approved the hire of the premises, furniture or other property to that person; or
- (b) for reward or profit, teach, coach or train any person on the premises except with the consent in writing of an authorized person.

4.3 Applications

- (1) Form of Application

Every application for licence to hire under section 4.2 shall be made in the approved form for the purpose at least 24 hours before the time that the premises, furniture or other property are required and shall specify —

- (a) the name and place of abode of the applicant who seeks to hire City property specified in 4.2; and
- (b) the purpose for which the premises, furniture or other property is required.

An application shall be accompanied by a bond or bank guarantee in an amount specified by the City.

(2) **Determination of Application**

The City may approve an application under subsection (1) subject to conditions including those in section 4.8 or may refuse to approve the application.

4.4 Conflicting Applications

In the event of two or more applications being made for the hire of any premises, furniture or other property for the same date and time, the applications shall be determined in the order in which they were received.

4.5 Period of Hire

Premises, furniture or other property shall be hired for the period stipulated in the licence, but if no period is so stipulated the hiring shall be for a period of 4 hours.

4.6 Cancellation of Licence

In the event of the licence to hire being cancelled by reason of any default on the part of the applicant or any other person associated with the hire or if the applicant withdraws the application from the City, the whole or any part of the fee or deposit as may be determined by the City shall be forfeited and any deposit or such portion of any deposit that is not forfeited under this section shall be repaid by the City to the applicant.

4.7 Recovery of Costs of Cleaning

- (1) The City may recover the cost of cleaning or making good any damage to any City property, from an applicant or from a person who caused or contributed to the damage or the need for cleaning.
- (2) The cost of cleaning or making good the damage may be deducted from any bond or deposit paid by the applicant and the whole amount or excess over the amount of the bond or deposit may be recovered by the City in a Court of competent civil jurisdiction.

4.8 Obligations of Licence Holder

The holder of a licence to hire any premises, furniture or other property shall —

- (a) comply with all conditions imposed by the Council on any licence;
- (b) maintain and keep such premises, furniture or other property in good order;

- (c) be solely and entirely responsible for complying with the provisions of this Part;
- (d) be solely responsible for any damage done to the premises, furniture or other property;
- (e) pay such costs as shall be assessed by the City for property damaged during the term of the hire or not accounted for at the expiration of the term of the hire, and such costs shall be paid for at the current replacement cost or the actual cost of whichever is the lesser amount, which shall be deducted from any bond, deposit or bank guarantee imposed as a condition of licence;
- (f) allow the CEO or any Authorized Person seeking to enforce these Local Laws or any other written law or otherwise acting in accordance with any written law and any member of the Police Service free access to the premises;
- (g) if intending as part of the use of the premises to allow the consumption of alcohol on the premises, in addition to the licence required by this section, and any other licence required under any written law, obtain a permit from the City; or
- (h) if intending as part of the use of the premises to allow the sale of alcohol on the premises, in addition to the licence required by this section, obtain any approval required under the *Liquor Licensing Act 1988*.

4.9 Failure to Allow Access

If the holder of the licence fails to allow access to the premises in accordance with the provisions of section 4.8(f), the City may at any time prior to or during the term of hire forbid and prevent the use or continued use of the premises in addition to any other action the City may take for the breach of this Part, and the City shall not be held responsible to the hirer for any loss or damage incurred as a consequence.

4.10 Other Remedies

In addition to any action taken against the holder of the licence under this Part, a holder in breach of the provisions of this Part may be required by the City to forfeit any fee or bond or any portion thereof being not more than the equivalent of the costs incurred by the City in relation to the hiring of the premises, furniture or other property.

Division 3 - Entry to City Property

4.11 Terms and Conditions of Entry

The City may determine the conditions of entry into any City property and which conditions shall be displayed at a location that is reasonably visible to any person entering that City property.

4.12 Breach of Conditions of Entry

No person shall breach a condition of entry contained in section 4.15.

4.13 Removal of Persons From City Property

A person who has breached any condition of entry contained in section 4.15 may be required to immediately leave the City property by the manager of that City property or

an authorized person. For the purpose of s.82B of the *Police Act 1892* a manager or authorized person is a person in charge of premises.

4.14 Entry to City Property, Public Swimming Pools and Recreation Facilities

- (1) Any premises shall be open for the admission of the public during such hours and periods as the City may from time to time determine.
- (2) The premises or any part of them and any facility or equipment therein may at any time, at the discretion of the manager, be set aside for the use of certain persons to the exclusion of others.
- (3) The City may from time to time and for such periods as it determines, close any premises to the public.

4.15 Refusal of Admission and Removal from Premises

- (1) The City may refuse a person admission to any premises at any time.
- (2) The manager or attendant may temporarily suspend admittance to or remove from the premises or any part of the premises any person if, in his or her opinion, that action is necessary or desirable in the interest of the comfort and convenience of the users generally of the premises and the preservation of the premises or its contents.
- (3) The manager or attendant may refuse admission to or remove or cause to be removed from the premises a person who, in the opinion of the manager or attendant —
 - (a) is a child under the age of 12 years unaccompanied by a responsible person over the age of 15 years;
 - (b) has contravened or failed to comply with any of the provisions of these Local Laws;
 - (c) is by his or her past or present conduct within or about the premises, undesirable;
 - (d) is under or apparently under the influence of alcohol or drugs; or
 - (e) is apparently suffering from an infectious, contagious or offensive disease or skin complaint or wounds or bleeding.
- (4) Any person referred to in subsection (3), when requested by the manager or attendant to withdraw from the premises, shall immediately do so quietly and peaceably.
- (5) If a person is requested or directed to leave any premises or any part of any premises by an authorized person or the manager or an attendant of those premises, and that person fails to comply with such request or directive, that person commits an offence.

4.16 Persons to comply with directions

Every person using particular premises shall obey all reasonable directions of the manager or attendant with regard to such use.

4.17 Standard of dress

If a person appears in public at any premises and in the opinion of the manager or attendant is indecently or insufficiently dressed, the manager or attendant may direct that person to decently or sufficiently dress immediately and the person shall immediately comply with such direction.

PART 5 - BRIDGES, JETTIES AND WEIRS

Division 1 - Preliminary

5.1 Definitions

In this Part unless the context otherwise requires —

“**bridge**” means any bridge within the district;

“**jetty**” means —

any jetty, pier, wharf, quay, grid, slip, landing place, stage, platform (other than a platform that is a vessel for the purposes of the *Western Australian Marine Act 1982*) or similar structure, whether fixed or floating, erected or placed, wholly or in part, in, on or over any waters; and any ramp which is or which may be used for the purpose of launching or landing a vessel;

“**weir**” means a barrier or wall constructed across a watercourse for the purpose of raising the level of the water upstream of the weir.

Division 2 - Prohibition

5.2 Prohibition

- (1) No person shall fish with a rod, line, net or otherwise from any bridge or weir or from any thoroughfare, approaches, buttresses or trestles or other part of the bridge or weir, nor place or use any fishing nets or other fishing gear upon or under the same.
- (2) No person shall fish with a rod, line, net or otherwise from a jetty so as to obstruct or interfere with the free movement of a boat approaching or leaving the jetty or any other person using that jetty.
- (3) No person shall climb on or about the structure of any bridge, jetty or weir or any part of them or walk upon or use any part of them except for the carriageway or footpath.
- (4) No person shall wilfully or negligently damage, deface, destroy, remove, interfere or tamper with any part of a bridge, jetty or weir.
- (5) No person shall unnecessarily enter into the water from any bridge or weir, nor from the carriageway or any part of a bridge or weir.
- (6) No person shall —
 - (a) obstruct any other person on; or

- (b) place anything on
a bridge, jetty or weir so as to cause an obstruction.
- (7) A person being the cause of an obstruction shall remove themselves from a bridge, jetty or weir when requested to do so by an authorized officer.
- (8) A person who fails to remove any thing that is the cause of an obstruction from a bridge, jetty or weir when requested to do so by an authorized officer commits an offence.

PART 6 - TRADING IN PUBLIC PLACES

Division 1- Preliminary

6.1 Purpose

The purpose of this Part is to provide for the regulation, control and management of alfresco dining areas, street markets, trading and street entertainment, in any public place within the district.

6.2 Definitions

In this Part unless the context otherwise requires —

“**alfresco dining area**” means an area in which tables, chairs and other structures are provided for the purpose of the supply of food or drink to the public or the consumption of food or drink by the public;

“**Alfresco Dining Licence**” means a licence issued under this Part to set up and conduct an alfresco dining area;

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

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

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

“**food business**” includes premises which are either registered as a restaurant, café or food business or other similar place within the City or the subject of a hotel licence, a limited hotel licence, special facility licence or a restaurant licence granted under the *Liquor Act*, or any premises registered under Part V, Division 3 of the *Health Act 1911*;

“**hire**” includes offer to hire and expose for hire;

“**licence fee**” means the fee payable for the issue of a licence;

“**Liquor Act**” means the *Liquor Licensing Act 1988* and includes any regulations made under that Act;

“**notice**” means a notice issued in accordance with Division 7 of this Part;

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

“**private property**” means any real property, which is in private ownership or subject to a lease or agreement enabling its use for private purposes and includes any building or structure thereon;

“**proprietor**” includes—

the owner, the occupier and any person having the management or control of any food business; or the holder of a licence granted under the Liquor Act where the premises in question is the subject of a hotel licence, a limited hotel licence, special facility licence or a restaurant licence granted under that Act;

“**stall**” means a movable or temporarily fixed structure, stand or table in, on or from which goods, wares, merchandise, produce or services are sold or offered for sale and includes a vehicle;

“**street**” has the same meaning as thoroughfare;

“**street entertainment**” means the conduct in a thoroughfare of any form of theatrical, artistic, musical, audio or visual performance and includes busking;

“**Street Entertainment Licence**” means a licence issued under this Part to engage in street entertainment;

“**street market**” means a collection of stalls, stands or displays erected on within a thoroughfare for the purpose of selling goods, wares, merchandise or services or carrying out any other transaction;

“**Street Market Licence**” means a licence issued under this Part to operate a market in a thoroughfare;

“**Street Trading Licence**” means a licence issued under this Part to carry on trading in a thoroughfare; and

“**street trading**” means selling or hiring goods, wares, merchandise or services in a street or other public place or carrying out any transactions therein and includes the setting up of a stall and conducting business at a stall.

Division 2 - Alfresco Dining

6.3 Approval Required

Subject to having first obtained an Alfresco Dining Licence under these Local Laws a person may set up or conduct an alfresco dining area in a thoroughfare or public place provided that —

- (a) the alfresco dining area is located within a portion of a street or public place adjacent to a food business;
- (b) the person is the proprietor of a food business referred to in paragraph (a);

- (c) the person is the holder of a valid and current Alfresco Dining Licence; and
- (d) it is in accordance with a plan approved as part of a licence and any terms and conditions set out in, or applying in respect of, the licence.

6.4 Licence Restrictions

- (1) An Alfresco Dining Licence may only be issued to the proprietor of a food business for use of the land adjacent to the food business.
- (2) A licensee shall not permit the operation of the alfresco dining area to extend beyond that specified in the plans approved as a part of the licence.

6.5 Licence Application

An application for an Alfresco Dining Licence shall be in the form provided for the purpose and shall be forwarded to the City together with —

- (a) an application fee and licence fee for the first year;
- (b) a plan drawn to an appropriate scale and specifications of the proposed eating area indicating —
 - (i) the location and dimensions of the proposed alfresco dining area and the means by which the alfresco dining area is to be separated from the balance of the street or public place; and
 - (ii) the position of all tables, chairs and other structures proposed to be provided in the alfresco dining area and which of such items, if any, are to be retained within the alfresco dining area at all times;
- (c) a certificate of currency in respect of public liability insurance; and
- (d) any other information the City considers necessary in the circumstances of the case.

6.6 Alfresco Dining Licence

An Alfresco Dining Licence shall —

- (a) be issued in the form of Schedule 6.2; and
- (b) show any other terms and conditions imposed on the licence.

6.7 Responsibilities of Licensee

A licensee shall —

- (a) ensure that the alfresco dining area is kept in a clean and tidy condition at all times;
- (b) ensure a minimum width of 2 metres is kept clear for pedestrian access;
- (c) maintain the chairs, tables and other structures set up on the alfresco dining area in good and serviceable condition at all times;

- (d) display the licence in a conspicuous place in the adjoining food business and whenever requested by an authorized person to do so, shall produce the licence to that officer.

Division 3 - Street Markets

6.8 Approval Required

Subject to having first obtained a Street Market Licence under these Local Laws a person may set up or conduct a street market in a thoroughfare or public place provided that —

- (a) the street market is located within a portion of a street or public place where authorized under the licence;
- (b) the person is the holder of a valid and current Street Market Licence; and
- (c) it is in accordance with a plan or other documents approved as part of a licence and any terms and conditions set out in, or applying in respect of, the licence.

6.9 Licence Application

An application shall be in the form provided and shall be forwarded to the City together with —

- (a) the application and licence fee for the first year;
- (b) a plan or plans to a scale of 1:50 showing —
 - (i) the location and dimensions of the proposed area to be used for the street markets;
 - (ii) the dimensions of the thoroughfare including the footpath and the location and nature of any street furniture, trees, utilities, parking or service bays in the area; and
 - (iii) the position and dimensions of all proposed market stalls; and
- (c) a management plan outlining the operation of the street markets including —
 - (i) the proposed days and times of operation;
 - (ii) the proposed type and form of any advertising devices to be used;
 - (iii) details of how the operational responsibilities of the licensee will be met.

6.10 Street Market Licence

A Street Market Licence shall —

- (a) be issued in the form of Schedule 6.4; and
- (b) show any terms and conditions imposed on the licence.

6.11 Responsibilities of Licensee

- (1) The licensee shall, prior to commencing operations of the street market, obtain relevant licenses and make arrangements as follows —
 - (a) lodge a copy of the approved plans of the street market with the Fire and Rescue Service of WA;
 - (b) ensure adequate refuse collection arrangement have been made to the satisfaction of the City.
- (2) The licensee shall, during the operation of the street market, including setting up and dismantling times —
 - (a) not permit the street market to extend beyond the specified portion of the street or public place detailed in the plans approved and endorsed as part of the licence
 - (b) maintain pedestrian access through and beyond the market area;
 - (c) ensure access to adjacent building entries;
 - (d) ensure access to existing or approved alfresco dining areas associated with adjacent building entries;
 - (e) ensure adequate access for emergency vehicles through the streets of the licence area;
 - (f) stabilise all structures and furniture provided and used in the operation of the markets at all times and remove such structures and furniture when not in use;
 - (g) maintain noise levels from any associated music, announcements and the like, in accordance with any licence condition, so as not to cause a nuisance;
 - (h) maintain the area of the markets clean and free from rubbish; and
 - (i) provide separate sanitary facilities for food stall staff.
- (3) The licensee shall at the conclusion of each street market, ensure that all structures and equipment used in the operation of the street market, are removed and the area returned to the condition it was before the commencement of the street market, and to the satisfaction of the City.

Division 4 - Street Trading

6.12 Approval Required

Subject to having first obtained a Street Trading Licence under these Local Laws a person may set up or conduct street trading in a thoroughfare or public place provided that —

- (a) the street trading is located within a portion of a street or public place where authorized under the licence;

- (b) the person is the holder of a valid and current Street Trading Licence; and
- (c) it is in accordance with a plan or other documents approved as part of a licence and any terms and conditions set out in, or applying in respect of, the licence.

6.13 Licence Application

An application shall be in the form provided and shall be forwarded to the City together with —

- (a) the names of all persons to be employed in the trading at any one time;
- (b) plans of the proposed location, and days and hours of operation;
- (c) details of proposed goods, wares, merchandise or services for which trading will be carried on;
- (d) details of any proposed stall, stand, table, structure or vehicle to be used for trading;
- (e) name and address of the person responsible for complying with any conditions imposed by the licence, where the applicant is a corporation; and
- (f) details of type of sign to be used to display licence name and licence number.

6.14 Street Trading Licence

A Street Trading Licence shall —

- (a) be issued in the form of Schedule 6.6; and
- (b) show any terms and conditions imposed on the licence.

6.15 Responsibilities of Licensee

- (1) The licensee shall —
 - (a) not permit any trading activity to extend beyond the specified portion of the public place detailed in the plans approved as part of the licence;
 - (b) display a sign with letters and numerals not less than 5 cm in height in a conspicuous place in the licensed area indicating the name of the licensee and the licence number;
 - (c) ensure that the licensed area is attended either by the licensee or any assistant at all times when trading is being undertaken;
 - (d) keep any stall, stand, table, structure or vehicle specified in the licence in a clean, safe condition and in good repair;
 - (e) ensure a minimum width of 2 metres is kept clear for pedestrian access on any footpath;
 - (f) keep the location specified in the licence free from refuse and rubbish;

- (g) have the licence available at all operation times and produce the licence to any Authorized Person or any police officer when requested; and
 - (h) remove any stall, merchandise and signs from the location to which the licence applies and leave the location clean and vacant —
 - (i) at the conclusion of the permitted hours of operation specified in the licence; and
 - (ii) whenever the trading is not taking place on the location to which the licence applies.
- (2) The licensee shall not —
- (a) engage in or permit any trading in any goods, wares, merchandise or services other than those specified in the licence;
 - (b) cause, permit or suffer any nuisance to exist, arise or continue on or from the location to which the licence applies;
 - (c) place or store or permit to remain any goods, wares, merchandise on any street or public place other than on the location to which the licence applies;
 - (d) obstruct the free passage of pedestrians on any footpath or pedestrian accessway;
 - (e) erect, place or display or permit to be erected any advertisement, placard, poster, streamer, sign or signboard on or about the location specified in the licence other than price tickets or labels on the permitted place not exceeding a total of one square metre in area per licence;
 - (f) erect, place or display or permit to be erected, placed or displayed more than two advertisement signs showing the traders name and details on or about the location specified in the licence if the stall is located within a Rural Zone and providing that each advertisement sign does not exceed one square metre in area and is constructed from frangible material and is stabilised;
 - (g) erect and maintain any signs in accordance with paragraph (e) so as to obscure any other signage on or adjacent to the licensed area;
 - (h) cry out, shout about or permit any other person to cry out or shout about any goods, wares, merchandise or services in any street or public place;
 - (i) use or permit to be used any loud hailer, microphone, amplifier or other apparatus for making or transmitting sound on or from the permitted place specified in the licence, unless approved by the City;
 - (j) use or permit to be used any record, tape, radio, bell, musical instrument or other instrument or device capable of being heard beyond the boundaries of the permitted place specified in the licence unless approved by the City;
 - (k) use or permit to be used any flashing or intermittent lighting apparatus or device on or from the permitted place specified in the licence; or

- (l) use or permit to be used any apparatus or device including any flap or shelf whereby the dimension of the stall area is increased beyond that specified in the licence.

6.16 Exemptions from Requirement to Pay Fee or to Obtain a Licence

A person may sell food that has been grown on their own land without the need to obtain a licence to do so under this Part providing that that person complies at all times with the provisions of section 6.15.

Division 5 - Street Entertainment

6.17 Approval Required

Subject to having first obtained a Street Entertainment Licence under these Local Laws a person may set up or conduct street entertainment in a thoroughfare or public place provided that —

- (a) the street entertainment is located within a portion of a street or public place where authorized under the licence;
- (b) the person is the holder of a valid and current Street Entertainment Licence; and
- (c) it is in accordance with all documents approved as part of a licence and any terms and conditions set out in, or applying in respect of, the licence.

6.18 Licence Restrictions

A licensee shall not permit the street entertainment to extend beyond the specified portion of the street or public place approved in the licence.

6.19 Licence Application

An application for a Street Entertainment Licence shall be in the form provided for the purpose and shall be forwarded to the City together with —

- (a) the application fee and licence fee for the first year;
- (b) the nature of the proposed street entertainment;
- (c) a list of any musical instrument or amplifier proposed to be used; and
- (d) a list of people performing in the proposed street entertainment.

6.20 Street Entertainment Licence

A Street Entertainment Licence shall —

- (a) be issued in the form of Schedule 6.8; and
- (b) show any other terms and conditions on the licence.

6.21 Responsibilities of Licensee

- (1) The licensee shall ensure that the street entertainment —

- (a) does not prevent or impede pedestrian flow or access to and along footpaths, entry or exit to shops and other buildings;
 - (b) does not prevent or impede vehicular flow or access to and along any street, entry or exit to any service delivery area;
 - (c) does not cause a nuisance to any other street entertainment or activity approved by the City;
 - (d) does not include, involve or permit —
 - (i) anything that is offensive or obscene;
 - (ii) the use of fire;
 - (iii) any weapon or object with sharp edges including knives and swords;
 - (iv) any machinery that emits a loud noise in its operation or is not suitable in the location;
 - (v) any other activity, object or matter whatsoever that endanger the safety of the public or the performer; or
 - (vi) cruelty to an animal;
 - (e) does not include any amplification unless specifically approved and endorsed on the licence and in any event will not be permitted at any location between Monday to Saturday, 10.00pm to 7.00am, and between 10.00pm Saturday and 9.00am Sunday.
- (2) The licensee shall —
- (a) only use the allocated space and location to perform during the days and times specified in the licence;
 - (b) produce the licence when requested to do so by an authorized person;
 - (c) comply at all times with a direction of an authorized person; and
 - (d) move at least 50 metres from the performance location at the completion of the performance and not return to that same location within 2 hours.
- (3) A licensee shall not —
- (a) reserve or attempt to reserve a location or leave equipment at a location used for performances unless immediately before, during and immediately after a performance;
 - (b) sell any goods or services without written licence issued pursuant to a licence;
 - (c) erect or display or permit to be erected or displayed at or near the performance location any sign except —
 - (i) a sign no larger than 0.25 square metres, displaying the name of the street entertainment; or

- (ii) standard business cards;
 - (d) perform in any one location for more than 30 minutes, unless specifically authorized by endorsement on the licence or the performance is by a pavement or visual artist.
- (4) A licensee whose Street Entertainment Licence permits pavement art —
 - (a) may perform at the same site for a maximum of 2 hours but cannot return to the same site until 2 hours after the previous performance of that day;
 - (b) shall use chalk unless on paper or card;
 - (c) shall not use spray paint, crayons, textures or other indelible materials; and
 - (d) shall return the location, including the pavement surface, to its former condition.

Division 6 - Bonds

6.22 Bond for Restoration and Reinstatement

- (1) For the purpose of ensuring that an alfresco dining or street market area is properly restored or reinstated on the expiry of a licence, the City may require that the licensee as a condition of a licence, provide the City with a bond or bank guarantee of a kind and in a form acceptable to the City, in or for a sum determined by the City.
- (2) The City may in its absolute discretion without notice draw down on a bond or make demand under a guarantee where a breach of the licence occurs to make good any City property affected by the breach.

6.23 Use by the City of Bond

- (1) If a licensee fails to carry out or complete the reinstatement works required by the licence conditions or by a notice served by the City, either —
 - (a) within the time specified in those conditions;
 - (b) where no such time has been specified, a reasonable period of time from the expiration of the licence of the outdoor dining facility specified in the licence conditions; or
 - (c) within 14 days or such other time as specified in the notice given by the City to the licensee, then the City may carry out or cause to be carried out the required reinstatement work or so much of that work as remains undone.
- (2) The licensee shall pay to the City on demand all administrative, legal and other costs, estimated or incurred by the City, to reinstate the site or which the City may be required to pay.
- (3) The City may apply the proceeds of any bond or bank guarantee provided by the licensee under section 6.22 to meet costs under this section.

- (4) The liability of a licensee to pay the City's costs under this section is not limited to the amount, if any, secured under section 6.22.

Division 7 - Miscellaneous

6.24 Notice Requiring Works to be Done to Remedy Breach

- (1) Where the City requires works to be done —
- (a) to rectify a breach of any condition of a licence; or
 - (b) to change the arrangement or operation of an alfresco dining to maintain public safety, facilitate public works to the footpath or street or protect the amenity of an adjacent premises,
- the City may give notice in writing to the licensee —
- (i) advising details of the breach of the Local Law or works required;
 - (ii) requiring the licensee to remedy the breach or do the works required within the time specified in the notice; and
 - (iii) advising that where the licensee fails to comply with the requirements of the notice within the time specified, the City may do the required works.
- (2) Where the licensee fails to comply with the requirements of the notice, the City may by its employees, agents or contractors carry out all works and do all things necessary to comply with the requirements of the notice.
- (3) The City may recover the expenses incurred in carrying out the works in accordance with section 6.23 —
- (a) as a charge against the secured sum lodged for the purpose in accordance with section 6.22; or
 - (b) from the licensee in a Court of competent jurisdiction.

6.25 Notice to Advise Licensee of Planned or Emergency Works

- (1) The City may give 14 days notice of any planned works to be undertaken by the City that will require closure or part closure of access to an alfresco dining area or street market location licensed in accordance with these Local Law.
- (2) Where the City is to carry out emergency works in an alfresco dining area or street market location, there shall be no specified time for the giving of notice of the works to the licensee, other than that which is considered reasonable under the circumstances.
- (3) A notice referred to in sub sections 6.24(1) and 6.24(2) shall be served in accordance with section 6.24.

- (4) The licensee shall not have any claim for compensation or damages as a result of any disruption to business or loss incurred due to any works, actions or activity whatsoever referred to in sub sections 6.24(1) and 6.24(2) and all rights and privileges by the licence shall be suspended in accordance with sub section 6.25(2).

Schedule 6.1 (s.6.5)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

APPLICATION FOR ALFRESCO DINING LICENCE

To: The Chief Executive Officer

I(Full Name)

of(Residential Address)

.....(Occupation)

apply for a licence to set up and conduct alfresco dining under the City of Swan Local Laws.

I declare that the following details are true and correct —

Details of Proposed Alfresco Dining Area

Name and address of food business

.....

Location of proposed alfresco dining area

.....

Description of premises adjacent to proposed alfresco dining area

.....

Does the food business have a liquor licence?

If not, do you intend to apply for a liquor licence for the food business?

Proposed times of operation

Proposed number of chairs and tables

Proposed number of other structures

Description of tables and chairs including materials and dimensions

Description of other structures including materials and dimensions.....

In making this application for a licence, I agree on the issue of a licence to —

- (a) indemnify the City of Swan and Council against any claim for loss, damage or injury however arising from the operation of the alfresco dining area; and
- (b) not to claim from the City of Swan or the Council or any person acting on their behalf, for any loss, damage or injury however arising from any public work on the public place

I enclose the fee of \$.....

Issued this day of

Signature of Applicant

Schedule 6.2 (s.6.6)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

ALFRESCO DINING LICENCE

This licence is issued to —

.....(Full Name)

.....(Address)

This licence authorises you to set up and conduct an alfresco dining area—

- (a) on those portions of the public place, adjacent to.....
shaded blue on the licence plan attached to and forming part of this licence;
and
- (b) on those portions of the public place, adjacent to.....
shaded red on the licence plan attached to and forming part of this licence;
subject to the consent of the owner or occupier, and their successors or
assigns or the adjacent premises; and
- (c) in compliance with the conditions attached to the licence and the alfresco
dining Local Law and the alfresco dining policy.

This licence is valid commencing on the date of issue shown below and expires at
midnight onor on the sooner cancellation of this licence.

Issued thisday of

Chief Executive Officer.....

Schedule 6.3 (s.6.9)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

APPLICATION FOR STREET MARKET LICENCE

To: The Chief Executive Officer

I(Full Name)

of(Residential Address)

.....(Occupation)

apply for a licence to set up and conduct Street Market under the City of Swan Local Laws.

I declare that the following details are true and correct—

Details of Proposed Street Market Area

Name and address of food business

.....

Location of proposed street market area

.....

Details of proposed street market area

Proposed times of operation

Proposed number of tables and displays.....

Proposed number of other structures

Description of proposed street market name signage to be placed in thoroughfare.....

.....

I enclose the fee of \$.....

Issued thisday of

Signature of Applicant

Schedule 6.4 (s.6.10)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

STREET MARKET LICENCE

This licence is issued to —

.....(Full Name)

.....(Address)

This licence authorises you to set up and conduct a street market —

- (a) on those portions of the public place, adjacent to.....
shaded blue on the licence plan attached to and forming part of this licence;
and
- (b) on those portions of the public place, adjacent to.....
shaded red on the licence plan attached to and forming part of this licence;
subject to the consent of the owner or occupier, and their successors or
assigns or the adjacent premises; and
- (c) in compliance with the conditions attached to the licence and the trading in
public places Local Law and the street trading policy.

This licence is valid commencing on the date of issue shown below and expires at
midnight onor on the sooner cancellation of this licence.

If the owner or occupier or their successors or assigns, of the premises adjacent to the
area referred to in paragraph (b) revokes their consent, the licensee must immediately
cease to use that area for street trading.

Issued thisday of

Chief Executive Officer.....

Schedule 6.5 (s.6.13)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

APPLICATION FOR STREET TRADING LICENCE

To: The Chief Executive Officer

I(Full Name)

of(Residential Address)

.....(Occupation)

apply for a licence to set up and conduct Street Trading under the City of Swan Local Laws.

I declare that the following details are true and correct —

Details of Proposed Street Trading Area

Name and address of food business

.....

Location of proposed street trading area

.....

Description of premises adjacent to proposed street trading area

.....

Details of proposed street trading area

Proposed times of operation

Proposed number of tables and displays.....

Proposed number of other structures

Details of proposed street trading name signage to be placed in thoroughfare

.....

I enclose the fee of \$.....

Issued this day of

Signature of Applicant

Schedule 6.6 (s.6.14)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

STREET TRADING LICENCE

This licence is issued to —

.....(Full Name)

.....(Address)

This licence authorises you to set up and conduct street trading area —

- (a) on those portions of the public place, adjacent to.....
marked on the licence plan attached to and forming part of this licence; and
- (b) in compliance with the conditions attached to the licence and the provisions
of these Local Laws.

This licence is valid commencing on the date of issue shown below and expires at
midnight onor on the sooner cancellation of this licence.

Issued thisday of

Chief Executive Officer.....

Schedule 6.7 (s.6.19)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

APPLICATION FOR STREET ENTERTAINMENT LICENCE

To: The Chief Executive Officer

I(Full Name) of

.....(Residential Address)

.....(Occupation)

apply for a licence to set up and conduct Street Entertainment under the City of Swan Consolidated Local Laws.

I declare that the following details are true and correct—

Details of Proposed Street Entertainment Area

Item No.

Location of proposed street entertainment area

.....

Description of proposed street entertainment

.....

Description of noise levels

Proposed times of operation

Proposed area required (m2)

Proposed number of entertainers

Details of proposed signage to be displayed in thoroughfare

.....

I enclose the fee of \$.....

Issued this day of

Signature of Applicant

Schedule 6.8 (s.6.20)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

STREET ENTERTAINMENT LICENCE

This licence is issued to —

(Full Name)

of (Address)

This licence authorises you to set up and conduct street entertainment —

- (a) on those portions of the public place, adjacent to.....
marked on the licence plan attached to and forming part of this licence; and
- (b) in compliance with the conditions attached to the licence and the provisions of these
Local Laws.

This licence is valid commencing on the date of issue shown below and expires at 6:00pm
onor on the sooner cancellation of this licence.

Issued thisday of

Chief Executive Officer.....

PART 7 - VERGES AND CROSSINGS

Division 1 - Preliminary

7.1 Definitions

In this Part, unless the context otherwise requires —

“**Standard Crossing**” means within —

- (a) A **Residential Zone**, (other than Guildford), a crossing that —
- is constructed of either brick paving or concrete;
 - commences on a straight or if not straight a smooth alignment at the edge of the carriageway pavement and extending to the boundary of the public thoroughfare;
 - is located in a position approved by an authorized officer; and
 - where a single crossing is installed is of a width not greater than three metres and not less than 2.7 metres; or
 - where there are two combined crossings serving adjoining and separately owned properties the combined width is not greater than eight metres and not less than six metres; and
 - in all cases has a finished surface that is flush with the carriageway pavement and any abutting footpaths within the thoroughfare;
- (b) A **Rural Zone**, a crossing that—
- is constructed of either brick paving or concrete or asphalt where the crossing is serving land containing a residence or where a rural industry operates; or
 - is constructed of either asphalt or compacted gravel or stabilised limestone with or without a bituminous sealed surface for serving land that does not contain a residence and is used for rural pursuit or any other purpose;
 - commences on a straight or if not straight a smooth alignment at the edge of the carriageway pavement and extending to the boundary of the public thoroughfare;
 - is located in a position approved by an authorized officer; and
 - where a single crossing is installed is of a width not greater than three metres and not less than 2.7 metres; or
 - where there are two combined crossings serving adjoining and separately owned properties the combined width is not greater than eight metres and not less than six metres; and

- in all cases has a finished surface that is flush with the carriageway pavement and any abutting footpaths within the thoroughfare; and
 - may include a concrete culvert with headwalls to provide uninterrupted stormwater drainage of the thoroughfare. Marker posts are required for any crossover incorporating a culvert;
- (c) An **Industrial or Commercial Zone**, (other than Guildford), a crossing that —
- is constructed of either brick paving, concrete or asphalt;
 - commences on a straight or if not straight a smooth alignment at the edge of the carriageway pavement and extending to the boundary of the public thoroughfare;
 - is located in a position approved by an authorized officer; and
 - where a single crossing is proposed it is of a width not greater than five metres and not less than 3.5 metres; and
 - in all cases has a finished surface that is flush with the carriageway pavement and any abutting footpaths within the thoroughfare;
- (d) **Guildford**, a crossing that —
- is constructed of either brick paving or red/brown coloured concrete or red/brown coloured asphalt;
 - commences on a straight or if not straight a smooth alignment at the edge of the carriageway pavement and extending to the boundary of the public thoroughfare;
 - is located in a position approved by an authorized officer; and
 - where a single crossing is installed is of a width not greater than three metres and not less than 2.7 metres; or
 - where two combined crossings serving adjoining and separately owned properties are installed the combined width shall be not greater than eight metres and not less than six metres; and
 - in all cases shall have a finished surface that is flush with the carriageway pavement and any abutting footpaths within the thoroughfare; or
- (e) **All other zones**, a crossing that —
- is constructed of either brick paving or concrete or asphalt;
 - commences on a straight or if not straight a smooth alignment at the edge of the carriageway pavement and extending to the boundary of the public thoroughfare;
 - is located in a position approved by an authorized officer; and

- where a single crossing is installed is of a width not greater than three metres and not less than 2.7 metres; or
- where two combined crossings serving adjoining and separately owned properties are installed the combined width is not greater than eight metres and not less than six metres; and
- in all cases has a finished surface that is flush with the carriageway pavement and any abutting footpaths within the thoroughfare.

“**permissible verge treatment**” includes any treatment determined under section 7.3 and includes any reticulation pipes and sprinklers.

Division 2 - Crossings

7.2 Construction of Crossings

No person shall construct a crossing other than a standard crossing without a licence.

Division 3 - Verge Treatments

7.3 Varieties of Permissible Verge Treatments

The owner of land abutting a thoroughfare in a residential, commercial or industrial zone may establish a permissible verge treatment on the verge abutting their land by the installation of any one or a combination of any of the following landscaping works —

- (a) growing lawn grass or other ornamental grasses;
- (b) application of mulch;
- (c) planting of ground-covers and low shrubs to a maximum height of 0.5 metres; and
- (d) may also include reticulation.

[clause 7.3 amended; GG No. 11 of 2010]

7.4 Licence to Install a Verge

A person may install or construct any verge treatment within a residential, commercial or industrial zone other than a permissible verge treatment provided that the person doing so has first obtained a licence to do so.

7.5 Rural Zone Verge

No person shall install or construct any verge treatment within a Rural Zone that includes the removal of plants installed by the City or existing native vegetation without a licence.

[PART 8 Deleted: No 79 of 2023]

[Schedules 8.1 to 8.5 inclusive Deleted: No 79 of 2023]

PART 9 - ADVERTISING SIGNS

Division 1 - Preliminary

9.1 Application

This Part applies to the erection, placing and display of portable and other smaller advertising signs within thoroughfares and City property and property number signs.

9.2 Definitions

In this Part unless the context otherwise requires —

“**advertising flag**” means any sign made usually of cloth or plastic in the shape and construction of a flag which is flown from a mast-head, fixed either to or in front of a building or flown in any manner whatsoever but not including bunting;

“**banner**” means any temporary sign in the form of a sign made of a light weight, non rigid material, such as cloth, canvas or similar fabric;

“**bunting**” means two or more small flags, streamers, wind vanes, strips of material, made of plastic or cloth or other light weight non-rigid material, whether triangular or any other shape or the like, connected, in a uniform or regular manner at one end, to a main supporting line;

“**portable sign**” means any sign not permanently attached to the ground or to a building or a structure and which only advertises a product or service available on the land adjacent to or upon which it is placed or displayed and includes, without limiting the generality of the foregoing, an A-frame or sandwich board sign consisting of two sign boards attached to each other at the top by hinges or other means;

“**property number sign**” means a sign displayed to indicate the street number of a property or where a street number has not been determined, a lot number, but in either case shall be a number as assigned by the City;

“**sign**” means anything which in words, numbers or pictorially or by any combination of those means or by any other means presents a visual message or is calculated to attract or is capable of attracting attention to a business, enterprise or use of land, and includes any structure, surface or other thing whatsoever erected, placed or prepared for the purpose of providing a place on or from which a visual message can be presented;

“**sign licence**” means a licence issued under section 9.3; and

“**site specific**” means a sign erected or displayed at the land where the business or enterprise that is advertised on the sign is conducted.

Division 2 - Licences

9.3 Licence

- (1) No person shall —
 - (a) erect place install or display a sign on any part of a thoroughfare; or
 - (b) suffer or permit a sign which the person owns or controls to be erected placed installed or displayed on a part of a thoroughfare;without a licence for that sign first having been issued by the City.
- (2) An application for a licence for a sign on a thoroughfare under subsection (1) shall be in the form of Schedule 9.1 or such other form as the City may determine and be accompanied by the approved fee for that purpose.
- (3) In respect of an application made under subsection (2), the City may refuse to approve the application or may approve the application after having due regard to —
 - (a) the physical character or appearance of the sign;
 - (b) the position of the sign on the thoroughfare;
 - (c) amenity; and
 - (d) safety.
- (4) If the City approves an application under subsection (3), it shall issue to the applicant a licence in the form of Schedule 9.2 or in such other form as may be determined by the City on payment of the approved fee for the issue of the licence.

9.4 Period of Licence

A licence issued by the City for a sign under section 9.3 may be issued for a period of time stipulated in the licence, but if no period is stipulated, shall remain valid for 3 years from the date of issue.

9.5 Expiry of Licence

- (1) No person to whom a licence has been issued under this Division shall allow a sign to remain on a thoroughfare after the licence has expired or after the person has ceased to own or occupy premises in the near vicinity of the sign and to which premises the sign related.
- (2) A licence shall not be taken to have expired if the licensee prior to the date of expiry applies to the City for the renewal of the licence and pays the approved fee for renewal.

9.6 Control

- (1) If a licence is issued for a sign under this Part and the sign is placed on the relevant thoroughfare in accordance with the licence, no further approval or

consent is required from the City in respect of the sign if the City is the sole authority having control and management of the thoroughfare.

- (2) Where a sign licence has been issued for a sign, the licence number shall be located on the face of the sign so as to be easily recognised and clearly read.

9.7 Site Specific Signage

Unless otherwise specified in these Local Laws or as a condition of a licence all signs shall be site specific.

Division 3 - Signs on vehicles

9.8 Signs on Vehicles

No person shall park any vehicle including a trailer within a thoroughfare for the purpose of advertising anything without having first obtained a licence under this Part.

Division 4 - Property number signs

9.9 Property Number Signs

- (1) The owner of a lot shall display and maintain a property number sign upon a conspicuous place on the front of the building or on the fence or gate adjoining a thoroughfare or on a notice on the lot where a dwelling or any other buildings exists on the lot.
- (2) Each particular number on a sign referred to in subsection (1) shall be a minimum of 50 millimetres high and a maximum 150 millimetres high in a Residential Zone and a minimum of 150 millimetres high and a maximum of 300 millimetres high in all other zones unless approved otherwise in writing by the City.
- (3) The property number sign is to be positioned on the lot so that it is clearly visible from the thoroughfare fronting the lot.
- (4) The owner of a lot shall not display nor permit to be displayed on a lot any other numbers that may cause confusion or be in conflict with the property number sign.
- (5) A lot number may also be displayed on properties within a Rural Zone.
- (6) The City may assign a number to each building or lot in a thoroughfare, and may, from time to time, assign another number to a building or lot instead of that previously assigned.
- (7) An owner who does not display a number assigned by the City commits an offence.

Division 5 - Offences

9.10 Offence

- (1) Any person who is guilty of an offence against this Part is liable to —

- (a) a penalty not exceeding \$500.00, and not less than \$100.00 (subject to sub-clause (2) below); and
 - (b) a further penalty of \$20.00 in respect of each day or part of a day during which the offence has continued.
- (2) The modified penalty for —
- (a) erecting or placing a sign on any part of a thoroughfare; or
 - (b) suffering or permitting a sign which the person owns or controls to be erected or placed on a part of a thoroughfare
- without a licence for that sign first having been issued by the City shall be \$100.00 in respect of each sign.

9.11 Infringement Notices and other Notices

- (a) For the purposes of this Part, the form of the infringement notice given under section 9.16(1) of the 1995 Act is that of Schedule 9.3; and
- (b) The form of the notice to withdraw an infringement notice referred to in section 9.20 of the 1995 Act is that of Schedule 13.3.

Schedule 9.1 (s.9.3)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

APPLICATION FOR A LICENCE TO DISPLAY A SIGN ON A THOROUGHFARE

Assessment No.

Date Received

Office use only Application No.

Fee Paid

Yes / No

To: The Chief Executive Officer

I(Full Name)

of (Residential Address)

and (Business Address)

.....(Occupation)

apply for a licence to erect or place and display a sign at

..... (under the City of Swan Local Laws)

Details of Sign

.....

Height *Width*..... *Underside Clearance*.....

Total height of sign.....

I enclose the fee of \$.....

Dated the Day of

Signature of Applicant

Signature of Landowner (where applicable)

Note: If the sign is supported by a separate structure a building licence may be required.

Schedule 9.2 (s.9.3)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

LICENCE FOR SIGN ON THOROUGHFARES

Assessment No.

Office use only: Application No.

LICENCE No.

This licence is issued to —

.....(Full Name)

.....(Address)

This licence authorises you to erect or place and display

.....

at..... (as shown on the attached plan).

In compliance with the conditions attached to this licence and any provision of these Local Laws.

Issued thisday of

Chief Executive Officer.....

This licence is valid for three years only from the date the licence is issued unless otherwise specified.

The erection, placement or display of this sign shall comply with all provisions and standards of Part 9 of the City of Swan Consolidated Local Laws 2005 and any special conditions imposed upon this licence.

The licence number and the name of the owner of the sign shall be clearly inscribed in letters not less than 10mm high on the front of the sign and be visible at all times;

The licensee, shall, on demand by an authorized person, produce this licence for inspection within 24 hours of the time when requested to do so.

Chief Executive Officer

Date

Signature

Schedule 9.3 (s.9.12)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

ADVERTISING SIGNS INFRINGEMENT NOTICE

Serial No.....

Date.....

To: ⁽¹⁾

of: ⁽²⁾

It is alleged that on / / at ⁽³⁾

at ⁽⁴⁾

you displayed a sign within in contravention of the provisions of the City of Swan Consolidated Local Laws—Part 9 Advertising Signs—

Namely ⁽⁵⁾

.....

.....

The modified penalty for the offence is \$ 100.00

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorized person at the offices of the City of Swan, Midland Square, Midland or by posting to PO Box 196 Midland 6936 within a period of 28 days after the giving of this notice.

Name and title of authorized person giving this notice.....

Signature (Chief Executive Officer)

⁽¹⁾ Name of alleged offender

⁽²⁾ Address of alleged offender

⁽³⁾ Time at which offence allegedly committed

⁽⁴⁾ Place at which offence allegedly committed

⁽⁵⁾ Description of the sign being the cause of the offence.

PART 10 - PREVENTION AND ABATEMENT OF SAND DRIFT

Division 1 - Preliminary

10.1 Definitions

In this Part, unless the context otherwise requires —

“**occupier**” includes any person who, at the time the notice is served, is in control of any place or part of any place or authorized by the owner, lessee, licensee or any other person empowered to exercise control in relation to a place to perform any work in relation to any place, and without limiting the generality of the foregoing and for the avoidance of doubt includes a builder or contractor;

“**sand**” includes any granular or particulate material consisting of small eroded fragments of rocks finer than gravel, and dust and organic matter.

10.2 Interpretation

- (1) Where in this Part a duty, obligation or liability is imposed on an “owner or occupier” the duty shall be deemed to be imposed jointly and severally on each of the owner and occupier.
- (2) Where, under this Part, an act is required to be done or forbidden to be done in relation to any land, the owner or occupier of the land has the duty of causing to be done the act so required to be done or of preventing from being done the act forbidden to be done.

Division 2 - Prohibited activities

10.3 Prevention

An owner or occupier of land must take effective measures to —

- (a) stabilise sand on such land; and
- (b) ensure no sand is released or escapes from the land whether by means of wind, water or any other cause.

10.4 Notice

- (1) Where —
 - (a) an owner or occupier has not complied with section 10.3(a); or
 - (b) sand is released or escapes from the land whether by means of wind, water or any other cause such as to cause a nuisance, risk to health, a hazard or environmental damage, the City may serve on the owner or occupier of the land a notice requiring the owner or occupier to —
 - (i) comply with sections 10.3(a) or 10.3(b);
 - (ii) clean up and make good any damage resulting from the release or escape; and

- (iii) take effective measures to stop any further release or escape of sand.
- (2) The requirements set out in a notice issued under subsection (1) must be complied with within the time specified in the notice.

10.5 Notice Conditions

Where sand may be released or escape as a result of an activity being carried on or likely to be carried on from any land, the City may give to the owner or occupier of the land a notice providing that the activity can only be carried on subject to the conditions specified in the notice.

10.6 Offence

The modified penalty for failing to take effective measures to —

- (a) stabilise sand on land; or
- (b) ensure no sand is released or escapes from the land whether by means of wind, water or any other cause such as to cause a nuisance, risk to health, or hazard or environmental damage,

shall be \$200.00.

10.7 Infringement Notices and other Notices

For the purposes of this Part —

- (a) the form of the infringement notice given under section 9.16(1) of the 1995 Act is that of Schedule 10.1; and
- (b) the form of the notice to withdraw an infringement notice referred to in section 9.20 of the 1995 Act is that of Schedule 13.3.

Schedule 10.1 (s.10.4)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

PREVENTION AND ABATEMENT OF SAND INFRINGEMENT NOTICE

Serial No.....

Date.....

To: ⁽¹⁾

of: ⁽²⁾

It is alleged that on / / at ⁽³⁾

at ⁽⁴⁾

you committed the following offence in contravention of the provisions of the City of Swan Consolidated Local Laws—Part 10 Prevention and Abatement of Sand Drift—

namely ⁽⁵⁾

.....

.....

The modified penalty for the offence is \$ 200.00

If you do not wish to have a complaint of the alleged offence heard and determined by a court, you may pay the modified penalty within 28 days after this notice is given to you, by posting this form together with the amount of the modified penalty to the Chief Executive Officer of the City of Swan at PO Box 196, Midland or by delivering this form and paying the amount of the modified penalty to an authorized person at the offices of the City of Swan at Midland Square, Midland, WA.

Name and title of authorized person giving this notice ⁽⁶⁾

Signature of authorized person

- (1) Name of owner or occupier.
- (2) Address of owner or occupier
- (3) Date when offence committed. If the offence relates to a failure to take remedial action within the time specified, a notice will be sufficient if the final time for compliance is specified.
- (4) Specify land or premises.
- (5) Give details of the offence. If insufficient space, provide details by way of an annexure.
- (6) The authorized person must be a different person from the person to whom payment must be made.

PART 11 - NUISANCE

Division 1 - Preliminary

11.1 Definitions

For the purpose of this Part—

“**builder**” has the same meaning given to the term in the *Building Regulations 1989*;

“**rubbish**” includes stones, bricks, lime, timber, iron, steel, metal sheeting, fibro sheeting, timber panels, roofing tiles, paving bricks, plastics, guttering, piping, plastic goods or any other building materials of a similar kind broken, discarded from building.

Division 2 - Burning

11.2 Burning Rubbish or Refuse on Private Land

- (1) No person shall, on any land with an area less than 2000m², set fire to or cause to be set on fire, any rubbish, refuse or other material unless a licence has been issued.
- (2) A licence shall only be granted where —
 - (a) the applicant successfully demonstrates that reasonable alternatives do not exist and the potential for pollution is low;
 - (b) the material to be burnt does not include any plastic, rubber, food scraps, green vegetation waste or other materials which may create a nuisance;
and

where a licence has been granted to set on fire any rubbish, refuse or other material, any person responsible for the control of the fire shall ensure that they comply with —

- (i) the *Bush Fires Act 1954*; and
- (ii) all conditions imposed by the City upon the licence,

and ensure that no burning will occur outside the hours of 10.00am and 6.00pm.

- (3) Where a licence has been granted to set on fire any rubbish, refuse or other material, no person shall set on fire any rubbish, refuse or other material on a day when a haze alert has been issued by the Bureau of Meteorology for the time that the burning is to take place.

11.3 Burning Within a Thoroughfare

- (1) No person shall, within any thoroughfare, set fire to or cause to be set on fire any thing, unless —
 - (a) otherwise approved in writing by the CEO or an authorized person; or
 - (b) it is permitted under another law.

- (2) A licence shall only be issued where —
- (a) The applicant successfully demonstrates that reasonable alternatives do not exist and the potential for pollution is low;
 - (b) the material to be burnt does not include any plastic, rubber, food scraps, green garden materials or other materials which may cause a nuisance to other persons; and
 - (c) where a licence has been issued to set on fire any rubbish, refuse or other material, any person responsible for the control of the fire shall ensure that they comply with —
 - (i) *the Bush Fires Act 1954*;
 - (ii) all conditions imposed by the City upon the licence; and
 - (iii) ensure that no burning will occur outside the hours of 10.00am and 6.00pm on any day.
- (3) Where a written licence has been issued to set on fire any rubbish, refuse or other material, no person shall set on fire any rubbish, refuse or other material, on a day when a haze alert has been issued by the Bureau of Meteorology for the time that the burning is to take place.

11.4 Exemptions

The operation of a barbeque, solid fuel heater, water heater, space heater, stove, oven or incinerator fired with dry paper, dry wood, synthetic char or charcoal type fuel is exempted from this Part providing that no nuisance arises from the burning of such materials.

Division 3 - Builder's rubbish

11.5 Rubbish Bins on Building Sites

During all periods of construction on any building site the builder shall ensure that —

- (a) a rubbish disposal bin is provided at the building site and has a capacity sufficient to contain all rubbish or waste materials associated with the building works occurring on the land;
- (b) that the rubbish disposal bin has a cover sufficient to prevent any rubbish or building waste materials from falling or being blown from the bin;
- (c) the building site and including any adjoining verge or public place is kept free of rubbish or offensive matter at all times; and
- (d) upon completion of building works, rubbish or offensive matter and all rubbish disposal bins shall be removed from the land and any adjoining reserve or public place.

Division 4 - Water drainage on private land

11.6 Water Drainage

No person shall allow water (not being storm water), from any land where the land form has been altered, or waste water, including swimming pool waste water, to discharge onto —

- (a) an adjoining lot without the written approval of the adjoining landowner; or
- (b) a thoroughfare or other property under the care control and management of the City without obtaining a prior written approval.

Division 5 - Shopping trolleys

11.7 Abandoned Shopping Trolleys

- (1) In this Division –

retailer means the proprietor of retail premises which provides shopping trolleys for the use of its customers; and

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

- (2) A retailer shall clearly mark its trading name or name on any shopping trolley it makes available for the use of customers and the information must be legible and conspicuously displayed.
- (3) It is an offence for a retailer to fail to clearly mark its trading name or name on any shopping trolley it makes available for the use of customers.
- (4) No person shall leave a shopping trolley in a place other than in an area set aside by the retailer for the storage of shopping trolleys.
- (5) If a shopping trolley is found in a public place, other than an area set aside for the storage of shopping trolleys the local government may notify either verbally or in a written form the retailer whose name is marked on the trolley, of the location of the trolley.
- (6) Notwithstanding the preceding sub-clause, if a shopping trolley is found in a place other than in an area set aside by the retailer for the storage of shopping trolleys then the local government may seize and impound the shopping trolley and give an infringement notice to the retailer and an infringement notice may relate to one or more shopping trolleys.
- (7) A retailer shall pay any fee imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act within the period specified by the local government to claim the shopping trolley, otherwise the local government may dispose of the shopping trolley as it so determines.
- (8) It is an offence for a retailer to fail to claim a shopping trolley referred to in an infringement notice given under subclause (5) within the period stated in the notice.

- (9) The retailer of a shopping trolley impounded or disposed of under this local law will have no cause of action for damages, conversion or otherwise against the local government, an authorised person or other person acting in accordance with a local law.
- (10) In the absence of proof to the contrary the retailer whose name appears on the trolley shall be deemed to be the lawful owner of the trolley, for the purposes of this local law.

[clause 11.7 amended; GG No.131 of 2023]

Division 6 - Offences

11.8 Offence

- (1) Failure to comply with any provision of this Part is an offence.
- (2) Penalty

Any person who is guilty of an offence against this Part is liable to —

- (a) a penalty not exceeding \$500.00, and not less than \$100.00 (subject to paragraph (c) below);
 - (b) a further penalty of \$20.00 in respect of each day or part of a day during which the offence has continued; and
 - (c) notwithstanding paragraphs (a) and (b) above, any person who fails to do anything within the time requested either in writing or orally by an authorized officer may be issued with an infringement notice by an authorized officer subject to the provisions of section 9.16 and section 9.17 of the 1995 Act.
- (3) Modified Penalty

The modified penalty for committing an offence under this Part shall be \$100.00.

PART 12 – ANIMALS

[Part 12 heading amended; GG No.11 of 2010]

Division 1 - Preliminary

12.1 Definitions

In this Part, unless the context otherwise requires —

“approved kennel establishment” means an approved kennel establishment referred to in section 27 of the Dog Act;

“areas where dogs are prohibited” means any public place or part of a public place, provided or set apart by the City for public recreation or the playing of organised games and in which the City has ordered that dogs are prohibited and in which or near the boundaries of which, there are conspicuously exhibited by the City at

reasonable intervals notices to the effect that dogs are prohibited in or on that public place or part;

“children’s play area” means any public place or part of a public place, that is within 10 metres of any playing apparatus provided in that public place or part for the use of children under 14 years of age;

“food premises” mean premises where food is stored, kept, prepared, manufactured, processed, cooked or served or otherwise dealt with for subsequent sale to the public either directly or indirectly;

“horse” means a stallion, mare, gelding, Shetland pony, pony, colt, filly, or foal and includes an ass, mule, donkey and any beast of whatever description used for burden or draught or for carrying persons;

“keeper” in relation to a cat means a person over the age of 18 years who —

- (a) is the owner of the cat;
- (b) has the cat in his or her possession or under his or her control; or
- (c) is the occupier of any premises in which the cat is ordinarily kept or ordinarily permitted to live;

“kennel” means any land or building used for the boarding, housing and/or breeding of dogs for remuneration, or offered for sale or purchase;

“livestock” means any horse, cattle, sheep, goat, swine, deer, pig or any other animal so classified by local government;

“permit holder” means a person who holds a permit granted under this Division of the local law;

“person liable for the control of a horse” means each of the following —

- (a) the registered owner of the horse;
- (b) the owner of the horse;
- (c) the occupier of any premises where the horse is ordinarily kept or ordinarily permitted to live; or
- (d) a person who has the horse in his possession or under his control, but does not include —
 - a registered veterinary surgeon or a person acting on his behalf, in the course of his professional practice; or
 - a police officer or other person acting under a statutory duty or power or in the administration of the 1995 Act;

“pound” means a pound established and maintained by the City including a pound established under section 11 of the Dog Act;

“premises” includes any land or building or part of a building;

"public place" for the purposes of this Division includes any place to which the public has access;

"school grounds" means any property occupied or used for a purpose connected with the conduct of a government school or non-government school, other than any property used for a residence or the curtilage of a residence; and

"shopping premises" means a shop or shopping arcade or shopping complex, including any part of it that is used by the public for parking or access to shops;

[clause 12.1 amended; GG No. 160 of 2008]

[clause 12.1 amended; GG No. 11 of 2010]

12.2 Interpretation

In Division 2 and Division 3, unless the context indicates otherwise, where a term is used that is not defined in these Local Laws, but is defined in the Dog Act, then the definition contained in the Dog Act shall apply in construing that term.

Division 2 - Dogs

12.3 Dog Exercise Areas

All reserves located within the district, other than those specified in Schedule 12.1, are specified as dog exercise areas for the purpose of sections 31 and 32 of the Dog Act 1976.

[clause 12.3 deleted and new clause 12.3 inserted; GG No. 11 of 2010]

12.4 Prohibited Areas

- (1) Dogs are prohibited absolutely from entering or being in any of the places referred to in Schedule 12.2.
- (2) If a dog enters or is in a place referred to in Schedule 12.2, every person liable for the control of the dog at that time commits an offence.

12.5 Fouling Thoroughfares and Public Places

Any person liable for the control of a dog which dog excretes on any thoroughfare or public place or on private property within the district without the consent of the occupier, commits an offence unless the excreta is removed immediately and disposed of on private land with the consent of the occupier or in a receptacle provided by the City for that purpose.

12.6 Fencing Requirements

The owner or occupier of premises on which a dog is kept shall cause those premises to be enclosed in a manner capable of confining the dog to those premises, and in particular shall ensure that—

- (a) any fence or wall used to confine the dog shall be of a type, height and construction which, having regard to the species, age, size and physical condition of the dog, prevents the dog from passing over, under or through the fence;

- (b) any gate or door within a fence is kept closed at all times except when the dog is not on the premises, however nothing in this section shall prevent a person from opening the gate in order to immediately enter or leave the premises;
- (c) every gate or door within a fence has fitted a self-closing/self latching and/or permanently locking mechanism and the mechanism and the gate or door is maintained in good order and condition; and
- (d) where no part of the premises consists of open space, yard or garden or there is no open space of which the occupier has exclusive use or occupation, shall ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.

12.7 Limit on number of Dogs

- (1) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Dog Act —
 - (a) 2 dogs over the age of 3 months and the young of those dogs under that age where the premises do not satisfy the requirements of paragraph (b); and
 - (b) 4 dogs over the age of 3 months and the young of those dogs where —
 - (i) the premises are within the general rural zone under a town planning scheme;
 - (ii) the premises are not less than 100 hectares in area; and
 - (iii) the occupiers of premises comply with the provisions of these Local Laws relating to the keeping of the dogs and any other written law relevant to the keeping of the dogs.
- (2) The City may exempt premises from the application of subsection (1)(a) if —
 - (a) the owner or occupier of the premises lodges an application for such an exemption accompanied by any fee imposed in relation to that application and evidence satisfactory to the City that —
 - (i) where the premises are in a residential zone, all owners and occupiers of property within 50 metres of a boundary of the premises;
 - (ii) where the premises are in a rural zone, all owners and occupiers of property within 100 metres of a boundary of the premises; or
 - (iii) where the premises are in a rural zone and the premises abut a residential area, all owners and occupiers of property within 50 metres of a boundary of the premises, —

have been informed in writing of the application to keep additional dogs and that any objection they may want to make must be made in writing and given to the City within 21 days of the application first being given to the City;

- (b) the City has not received any written objection to the application to keep additional dogs within a period of 21 days of the application being given to the City;
 - (c) no dogs are on the premises that are over 3 months of age and that are not the subject of the application; and
 - (d) the owner or occupier has registered all the dogs the subject of the application in accordance with the Dog Act, within 21 days of the application being first given to the City.
- (3) Where an application for exemption has been granted under subsection (2), the exemption will be valid and have effect until any one of the following events occur —
- (a) the applicant vacates the premises;
 - (b) the applicant ceases to be a person liable for the control of any of the dogs the subject of the application;
 - (c) the applicant replaces all or any of the dogs the subject of the application;
 - (d) the City gives written notice of its intention to revoke the entitlement to the applicant, in which case the exemption will cease to have effect 28 days after the notice has been given to the applicant; or
 - (e) the applicant or a person liable for the control of any of the dogs referred to in the application is convicted of an offence under the Dog Act or this Division,
- in which case, subsection (1)(a) will apply to the premises.
- (4) Under section 26(3) of the Dog Act, a grant of an exemption may be revoked or varied at any time by the City.

Division 3 - Approved Dog Kennel Establishment

12.8 Notice of Application for a Kennel Establishment Licence

An applicant for a licence to keep an approved kennel establishment shall —

- (a) publish in a newspaper circulating in the district a notice of his or her intention to submit an application for a licence, specifying that any interested person may within 21 days after the date of the publication of the notice give any written objections or representations in respect of the proposed application to the CEO; and
- (b) forward a written notice which contains the details referred to in paragraph (a) either prior to or immediately after the publication of the notice under paragraph (a), to the owners and occupiers of all land within 200 metres of a boundary of the premises upon which it is proposed to establish the kennel.

12.9 Application for Kennel Establishment Licence

An application for a licence to keep an approved kennel establishment on any premises shall be in the form of Schedule 12.3 and shall be accompanied by —

- (a) evidence that notice of the proposed use of the premises has been given in accordance with section 12.8;
- (b) a plan showing the details and specifications of all kennels and adjacent yards and the distances from the kennels to the boundaries of the premises, and all buildings on the premises;
- (c) a report of a suitably qualified acoustic consultant verifying that the various plant, machinery and operational noise levels will comply with the requirements of the Environmental Protection (Noise) Regulations 1997; and
- (d) such additional information as the City or an authorized person requires.

12.10 The City may refuse to determine an Application

The City may refuse to determine an application for a licence to keep an approved kennel establishment where —

- (a) the applicant has not complied with the requirements of section 12.8;
- (b) where the application does not satisfy the requirements of section 12.9; or
- (c) the use is contrary to a provision of a town planning scheme.

12.11 Determination of Application

In respect of an application for a licence to keep an approved kennel establishment, the City may —

- (a) approve the application subject to any conditions; or
- (b) refuse to approve it where —
 - (i) the applicant has not complied with section 12.8;
 - (ii) the application does not satisfy the requirements of section 12.9;
 - (iii) in view of any written objections or representations given to the City within 21 days after the date of the publication of the notice referred to in section 12.8(a).

12.12 Form of Licence

- (1) Where the City approves an application for a licence to keep an approved kennel establishment, it shall be issued in the form of Schedule 12.4.
- (2) The requirement to obtain development approval for a kennel establishment does not remove the requirement to also obtain a kennel establishment licence under these Local Laws.

12.13 Duration of Licence

- (1) A licence has effect for the period set out in section 27(5) of the Dog Act.
- (2) A licence issued under section 12.11 is to be renewed if the approved fee for the renewal of such a licence is paid to the City prior to the expiry of the licence.

- (3) On the renewal of a licence, the terms and conditions of the licence applying immediately prior to its renewal continue to have effect.

12.14 Duties of Licence Holder

The holder of a licence to keep an approved kennel establishment shall —

- (a) maintain the establishment in a clean, sanitary and tidy condition;
- (b) dispose of all refuse, faeces and food waste daily in a manner approved by the City;
- (c) take all practical measures for the destruction of fleas, flies and other vermin;
- (d) not keep or permit to be kept on the establishment more than the number of dogs specified in the licence or dogs of a breed different to the breed or breeds (if any) specified in the licence; and
- (e) ensure that all kennels are designed and maintained in accordance with the requirements listed in Schedule 12.5.

Division 4 - Horses

12.15 Horse Exercise Area

Horses may be led, ridden or exercised on land described in Schedule 12.6 from sunrise to sunset on any day of the week.

12.16 Prohibited Areas

- (1) Horses are prohibited absolutely from entering or being on any of the places referred to in Schedule 12.7.
- (2) If a horse enters or is on a place referred to in Schedule 12.7, all persons liable for the control of the horse each commit an offence.

12.17 Fouling of Public Places

Within any zone other than within a rural zone, any person liable for the control of a horse which excretes on any public place or on any land within the district without the consent of the occupier of that land commits an offence unless the excreta is removed immediately and disposed of either on private land with consent of the owner or occupier or in such other manner as the City or an authorized person may approve.

Division 5 - Cats

12.18 Identification of Cats

- (1) A keeper of a cat shall identify the cat by one of the methods described in section 12.18(2).
- (2) A cat is identified if —
 - (a) the cat has a collar around its neck and the collar, or a tag securely attached to the collar, is marked with the name, current address and telephone number of a keeper of the cat;

- (b) the cat has a microchip implanted containing information that will provide the name, current address and telephone number of a keeper of the cat; or
 - (c) it is a cat that matches the description given for a cat in any permit issued under this section.
- (3) Section 12.18(1) does not apply to a cat —
- (a) kept at any refuge conducted by the RSPCA or any other approved animal welfare organisation;
 - (b) kept at an animal pound which has been approved by the City;
 - (c) kept at a pet shop;
 - (d) kept at a veterinary surgery;
 - (e) which is less than 3 months old; or
 - (f) where an exemption has been granted by the City in accordance with a policy published by the City.
- (4) A person, other than the keeper of a cat or a person acting with the keeper's authority, shall not interfere with or remove the means by which a cat is identified under section 12.18(1).
- (5) For the purpose of giving a notice to a keeper of an identified cat, the keeper's address is to be taken to be that ascertained from the cat's collar or tag, or on or obtained from the information contained in the microchip.

12.19 Keeping of cats

- (1) A person shall not be a keeper of more than 2 cats on any premises except in accordance with a valid permit in relation to those premises.
- (2) A person shall not be a keeper of more than 6 cats on any premises.
- (3) An application for a permit required under section 12.19(1) —
 - (a) Shall be made by the owner or occupier of the premises to which the permit will relate;
 - (b) Shall be in the form of the Form contained in Schedule 12.8 and accompanied by the application fee for the permit determined by the City from time to time;
 - (c) Is deemed to have not been made until the application fee has been paid in full; and
 - (d) Is to be accompanied by plans of the premises to the specification and satisfaction of the City of the premises to which the application relates.
- (4) In determining an application for a permit the City shall have regard to —
 - (a) The physical suitability of the premises for the proposed use;

- (b) The likelihood of a cat causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land;
 - (c) The likely effect of environmental damage which may be caused by the proposed use;
 - (d) The applicant's infringement history, in respect of the keeping of cats, with the City or any other City; and
 - (e) such other factors which the City may consider to be relevant in the circumstances of the particular case.
- (5) The City may —
- (a) grant or approve a permit subject to any terms or conditions as it thinks fit; or
 - (b) refuse to approve a permit.
- (6) If the City approves an application under subsection (5) of this section, the permit shall be issued to the applicant in the form determined by the Chief Executive Officer.
- (7) The additional conditions contained in Schedule 12.9 of these local laws shall form part of the conditions of any permit issued under this section.
- (8) Unless otherwise specified, a permit commences on the date of issue and is valid unless and until-
- (a) the 30th day of June following the issue of the permit;
 - (b) it is revoked; or
 - (c) the permit holder ceases to reside at the premises to which the permit relates.
- (9) A permit may be revoked by the City if there is a breach of any condition of that permit or if the permit holder is convicted of a breach of any provision of this Division of these local laws.
- (10) A permit shall be personal to the applicant and does not run with the land and is not transferable or assignable to any other person or premises.
- (11) A cat to which a permit relates must be identified in accordance with section 12.18.
- (12) A person shall not contravene a condition of a permit.

12.20 Control of cats

- (1) A cat shall not be in a place that is not a public place unless consent to its being there has been given —
 - (a) by the occupier or a person apparently authorised to consent on behalf of the occupier; or

- (b) if the place is unoccupied, by the owner or a person apparently authorised to consent on behalf of the owner.
- (2) If a cat is at any time in a place in contravention of subsection (1) of this section, the keeper of the cat commits an offence and the cat may be impounded pursuant to section 3.37 of the Act and regulation 29(1a) of the Local Government (Functions and General) Regulations 1996.

12.21 Cat prohibited areas

- (1) The land described in Schedule 12.10 are designated as Cat Prohibited Areas.
- (2) The City may designate further areas as Cat Prohibited Areas but shall not do so without first giving Local Public Notice of its intention to designate a places or area as a Cat Prohibited Area and considering any submission received in response to that Local Public Notice.
- (3) In designating land for the purposes of subsection (2) of this section, the City may have regard to the following matters in relation to the land —
 - (a) that the land should preferably be greater than 1 hectare in area;
 - (b) the nature of the fauna of the land;
 - (c) the nature of the vegetation of the land;
 - (d) whether the land has been recognised by any authority as having vegetation or fauna of local regional or State significance; and
 - (e) whether the land is land to which the *Conservation and Land Management Act 1984* Applies under section 5 of that Act.
- (4) A cat shall not be in a Cat Prohibited Area.
- (5) If a cat is in a Cat prohibited Area in contravention of subsection (4) of this section then the keeper of the cat commits an offence unless the keeper of the cat has first obtained written authorisation from the City and the cat may be impounded pursuant to section 3.37 of the Act and regulation 29(1a) of the Local Government (Functions and General) Regulations 1996.

[Division 5 inserted; GG No.160 of 2008]

Division 6 - Livestock

12.22 Livestock Not to Stray

The owner or person in charge of livestock shall not permit that livestock to stray or be at large in a street, public place or upon private property without the consent of the property owner.

12.23 Property to be Fenced

The owner or occupier of a property on which livestock is kept, shall cause the property or a portion of the property fenced in a manner capable of confining the livestock, to that portion where the livestock kept.

12.24 Livestock May be Impounded

- (1) An authorised person may impound livestock found straying in contravention of clause 12.21.
- (2) Livestock being impounded shall be placed in —
 - (a) a pound established and maintained by the local government; or
 - (b) a secured portion of private property with the consent of the property owner.

[Division 6 inserted; GG No.11 of 2010]

Schedule 12.1 (s.12.3)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

RESERVES WHICH ARE NOT DOG EXERCISE AREAS

Suburb	Location	Reserve No. or Street Location
Ballajura	Emu Lakes	42803 & 40213
Beechboro	Altone Park Lake	45992
Beechboro	Sacramento Park	39757
Guildford	Stirling Square	6447
Midland	Tuohy Gardens	Lot 14200
Stratton/Swan View	Talbot Road Bushland	23953
Viveash	John George Walk Trail	26452
Beechboro	Maguire Park	35514
Noranda	Lightning Swamp Bushland	Lot 3003

[Schedule 12.1 amended; GG No.11 of 2010]

Schedule 12.2 (s.12.4)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

AREAS WHERE DOGS ARE PROHIBITED FROM ENTRY

- (1) Children's play areas;
- (2) Food premises;
- (3) School grounds;
- (4) Recreation areas (where dogs are prohibited by a notice to that effect);
- (5) Shopping premises (where dogs are prohibited by a conspicuously placed notice to that effect).
(This provision does not apply to a dog being taken to or is in a veterinary clinic or pet shop within a shopping centre where the dog has a bona fide presence on that premises or to a dog that is secured within a vehicle in such a way as to prevent the dog escaping from it or attacking a person who is external to that vehicle);
- (6) Wildlife protection areas (where dogs are prohibited by a conspicuously placed notice to that effect); and
- (7) Wandoo Heights Reserve (Millendon/Red Hill).

Schedule 12.3 (s.12.9)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

I/we ⁽¹⁾

of ⁽²⁾

Telephone number.....

Facsimile number.....

E-mail address.....

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

.....

For (number and breed of dogs)

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

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

on and from (insert date).

* (insert name of person)..... will be the person on duty after hours and can be contacted on

Attached are —

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copy of the notice of proposed use which has appeared in newspaper; and
- (d) copy of notice of proposed use which has been given to adjoining premises.

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

Signature of Applicant..... Signature of landowner

Date

* delete where inapplicable.

Note: A licence if issued will —

- (1) Have effect for a period of 12 months; and
- (2) Is personal to the person applying for the licence and does not run with the land.

OFFICE USE ONLY

Application fee paid on *[insert date]*.....

Notes —

- (1) Full name of applicant
- (2) Residential and Postal Address of applicant

Schedule 12.4 (s.12.12)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

LICENCE FOR A KENNEL ESTABLISHMENT

This licence is issued to —

.....(Full Name)

of(Address)

This licence authorises you to establish a kennel at—

.....

(as shown on the attached plan).for (maximum number of) dogs.

in compliance with the conditions attached to this licence and any provision of these Local Laws.

This licence is valid commencing on the date of issue shown below and expires at midnight on or on the sooner cancellation of this licence.

Issued thisday of

Chief Executive Officer.....

The operation of the kennel establishment shall be in accordance with all special conditions imposed upon this licence by the City of Swan and in accordance with the City of Swan Consolidated Local Laws 2005.

The licensee, shall, on demand by an authorized person, produce this licence for inspection within not more than 24 hours of the time when requested either verbally or in writing to do so.

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

Signature of Licensee

Date

* delete where inapplicable.

Note:a licence if issued will have effect for a period of 12 months—section 25.5 of the *Dog Act 1976*.

Schedule 12.5 (s.12.11 & 14)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

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

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than —
 - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the City;
- (d) the minimum floor area for each kennel shall be 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel. The length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be—
 - (i) at least 100mm above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the City.
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the City;

- (h) the kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls or internal walls and must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) the lowest internal height of a kennel from the floor, must be, the lesser of—
 - (i) 2m; or
 - (ii) four times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with new zincalume or new pre-finished colour coated steel sheeting or other durable material approved by the City;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorized person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be provided at the kennel at all times by means of a properly supported standpipe and tap; and
- (r) the licensee must, in accordance with the application for the licence, continue to reside—
 - (i) at the premises; or
 - (ii) in the opinion of the City, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

Schedule 12.6 (s.12.15)

Local Government Act 1995
City of Swan
 CONSOLIDATED LOCAL LAWS 2005

HORSE EXERCISE AREAS

Suburb	Location	Reserve No.
Brigadoon	Falabella Bridle Trail	39987
Brigadoon	Orlov Bridle Trail	39930 & 39987
Brigadoon	Joshua Mews Bushland - firebreak only	39984
Bullsbrook	Bullsbrook Bride Trail - Chittering Road to Jess Road	39263
Bullsbrook	Bullsbrook Bridle Trail - Jess Road Smith Road	39263
Bullsbrook	Clarkson Road Bridle Trail	36901
Bullsbrook	Rhys/Dirk Bridle Trail	Pedestrian Accessway (PAW)
Bullsbrook	Ridgetop Bridle Trail	PAW's
Gidgegannup	Hayes Court Bridle Trail	PAW
Gidgegannup	Showgrounds	Freehold
Gidgegannup	Koorinal Vale bridle Trail (North of Wooroolo Brook)	Crown Right of Way
Gidgegannup	Old Coach Road Bridle Trail	Road Reserve
Gidgegannup	Tilden Park Bridle Trail	PAW's & Res 38320

[Schedule 12.6 amended; GG No.7 of 2023]

Schedule 12.7 (s.12.16)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

PLACES WHERE HORSES ARE PROHIBITED

Suburb	Location	Reserve No.
Brigadoon	Bells Rapids (other than within a designated Bridle trail)	41240 and Lot 1007
Brigadoon	Joshua Mews Bushland (Excluding fire breaks)	39984
Gidgegannup	FR Berry Reserve	26866
Gidgegannup	Gidgegannup Recreation Ground	2145
Gidgegannup	Noble Falls Bushland	2146
Millendon/Red Hill	Wandoo Heights	Lots 303 and 304 Loton Rd
Stratton	Talbot Road Bushland	23953
Viveash	John George Walk Trail	26452
All sportsgrounds, parks or nature reserves, unless specific approval has been granted by the City.		

Schedule 12.8 (s.12.19)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

APPLICATION FOR A PERMIT TO KEEP 3 TO 6 CATS

Applicant Name:

Applicant Address:

Property where cats will be kept:

Please list name, breed and description of each cat —

	NAME	BREED	DESCRIPTION
1
2
3
4
5
6

.....

Applicant Signature

.....

Date

[Schedule 12.8 inserted; GG No.160 of 2008]

Schedule 12.9 (s.12.19)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

ADDITIONAL CONDITIONS FOR A PERMIT TO KEEP 3 TO 6 CATS

- (1) The permit holder shall ensure-
 - (a) cats do not escape the premises;
 - (b) there is adequate space for the exercise of the cats;
 - (c) cats are kept in a secure enclosure between 9pm and 6am.
- (2) Without the consent of the City, the permit holder will not substitute or replace any cat once that cat-
 - (a) dies; or
 - (b) is permanently removed from the premises.

[Schedule 12.9 inserted; GG No.160 of 2008]

Schedule 12.10 (s.12.21)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

CAT prohibited areas

[Schedule 12.10 inserted; GG No.160 of 2008]

PART 13 - ENFORCEMENT OF LOCAL LAWS

Division 1 - Preliminary

13.1 General Powers of Authorized Persons

- (1) A person on City property shall obey any lawful direction of an authorized person relating to the use of the property by the person.
- (2) If an authorized person suspects on reasonable grounds that a person on City property has contravened a provision of any Local Law of the City, the authorized person may direct that person to leave the City property and the person shall do so immediately.

Division 2 - Offences

13.2 Personal Details

- (1) An authorized person or member of the Police Service who finds a person committing or who on reasonable grounds suspects of having committed a breach of any provisions of these Local Law, may demand from the person that person's full name, current address, and telephone number.
- (2) A person who refuses to give his or her full name, current address and telephone number or who states a false name, current address, telephone number on a demand being made, commits an offence.

13.3 Notice may be Served

The Council, the Chief Executive Officer, an authorized officer or an authorized person may serve a notice in accordance with section 9.16 of the 1995 Act on any person who commits an offence under these Local Laws.

13.4 Failure to Comply with Notice

A person who —

- (a) fails to comply with a notice issued under these Local Laws; or
- (b) fails to comply with any conditions specified in a notice issued under these Local Laws commits an offence.

13.5 Cost of Carrying Out Works

- (1) Where the City undertakes or causes to be undertaken any work in respect of section 13.3, it may give to the owner or occupier of the land written notice of the amount expended by the City in carrying out that work.
- (2) The amount specified in the notice must be paid to the City within 28 days of the notice being given to the owner or occupier.
- (3) If the amount specified is not paid to the City within 28 days from the giving of the notice, the City may recover it as well as the costs of proceedings and interest on the amount, in a Court of competent jurisdiction.

Division 3 - Miscellaneous

13.6 Cancellation of a Notice

Where a notice is given to the owner or occupier of any land under these Local Laws and the owner or occupier satisfies the City within 14 days from the date of the giving of the notice that —

- (a) it was not responsible for the conduct in respect of which the notice was given or the activity in respect of which conditions were imposed as the case may be;
- (b) it took all reasonable precautions to prevent the conduct or all reasonable steps to comply with or cause the conditions to be complied with, as the case may be; and
- (c) where another person was responsible for the conduct, it identifies the person responsible for the conduct sufficiently to enable a notice to be issued to that person,

the City may cancel the notice.

Division 4 - Infringement Notices and Modified Penalties

13.7 Penalty

- (1) Any person failing to do anything directed or required to be done under these Local Laws or who does anything forbidden to be done by these Local Laws commits an offence.
- (2) The maximum penalty in respect of —
 - (a) an offence under these Local Laws where they have been made under the 1995 Act or the 1960 Act is \$5,000 and where the offence is of a continuing nature the maximum daily penalty is \$500; and
 - (b) an offence under these Local Laws where they have been made under an Act other than the 1995 Act or the 1960 Act, is the maximum penalty and the maximum daily penalty under that Act which can be specified for a breach of Local Laws made under that Act.
- (3) If no inconsistent penalty is provided by these Local Laws or any other written law, any person who commits a first offence under these Local Laws shall be liable to —
 - (a) a minimum penalty of \$100.00; and
 - (b) in addition, where the offence is of a continuing nature, a minimum daily penalty of \$10.00 per day.

The imposition of any penalty under these Local Laws shall not be inconsistent with or repugnant to any of the provisions of the Act or any other Act in force, which shall prevail in the case of inconsistency or repugnancy.

13.8 Application

- (1) This Division applies only to the provisions of these Local Laws that are made under the 1995 Act and the 1960 Act.
- (2) Where provisions of these Local Laws are made under a written law other than the 1995 Act or the 1960 Act, any infringement notice provisions in that written law shall apply to those provisions.

13.9 Infringement Notice Offences

- (1) Every breach of any of these Local Laws made under the 1995 Act or the 1960 Act is a prescribed offence for the purpose of section 9.16(1) of the Act. An offence against a section specified in Schedule 13.1 is a prescribed offence for the purposes of section 9.16(1) of the 1995 Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the offence in Schedule 13.1 or as specified within the Parts of these Local Laws.
- (3) Where a modified penalty for a prescribed offence is not specified in Schedule 13.1, the modified Penalty shall be \$100.00.

[clause 13.9 amended; GG No. 160 of 2008]

13.10 Forms

Unless otherwise specified, for the purposes of these Local Laws —

- (a) where a vehicle is involved in the commission of an offence, the form of the notice—
 - (i) referred to in section 9.13 of the 1995 Act is that of Schedule 8.3; and
 - (ii) given under section 9.16 of the 1995 Act is that of Schedule 13.2;
- (b) the form of the infringement notice given under section 9.16 of the 1995 Act, where a vehicle is not involved in the commission of the offence, is that of Schedule 13.2; and
- (c) the form of the notice referred to in section 9.20 of the 1995 Act is that of Schedule 13.3.

Division 5 - General

13.11 Unauthorized Signs

No person shall, without the authority of the City or an authorized person, mark, set up or exhibit any sign purporting to be or resembling a sign marked, set up or exhibited by the City for the provision of these Local Laws.

13.12 Liability for Damage to City Property

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

- (2) (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
 - (b) replacing the property.
- (3) On a failure to comply with a notice issued under subsection (1) the City may recover the costs referred to in the notice as a debt due to it in a Court of competent jurisdiction.

13.13 Conditions

If provision is made in these Local Laws for the granting or issuing of any licence, permit, authorisation, registration, approval or consent or the like subject to conditions, the person to whom the same is granted, issued or given and every other person operating under or within the terms of such licence, permit, authorisation, registration, approval or consent or the like shall comply with such conditions and any failure to comply shall be an offence.

Schedule 13.1 (s.13.9)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

INFRINGEMENT NOTICE PENALTIES

Item	Local Law	Nature of Offence	Modified Penalty
-------------	------------------	--------------------------	-------------------------

Schedule 13.2 (s.13.10)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

INFRINGEMENT NOTICE

Serial No.....

Date.....

To: (1)

of: (2)

It is alleged that on...../...../..... at ⁽³⁾

At ⁽⁴⁾

you committed the following offence —

.....
.....
.....

contrary to regulationof the ⁽⁵⁾.....

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorized person at (6) within a period of 28 days after giving of this notice.

Name and title of authorized person giving this notice

Signature

- (1) Name of alleged offender [“owner of (*vehicle identification*)” suffices if notice given with a notice under section 9.13 of the Act]
- (2) Address of alleged offender [not required if notice given with a notice under section 9.13 of the Act]
- (3) Time at which offence allegedly committed
- (4) Place at which offence allegedly committed
- (5) Name of the regulations
- (6) Place where modified penalty may be paid

Schedule 13.3 (s.13.6)

Local Government Act 1995
City of Swan
CONSOLIDATED LOCAL LAWS 2005

WITHDRAWAL OF INFRINGEMENT NOTICE

Serial No.....

Date.....

To: (1)

of: (2)

Infringement Serial No. dated/...../..... for the alleged
offence of

.....
.....

has been withdrawn.

The modified penalty of \$

* has been paid and a refund is enclosed

* has not been paid and should not be paid.

* *Delete as appropriate*

Name and title of authorized person giving this notice.....

Signature

(1) Name of alleged offender to whom infringement notice was given

Address of alleged offender

PART 14 - OBJECTIONS AND REVIEWS AND MISCELLANEOUS

14.1 Rights of Objection and Appeal

- (1) Where any provision is made for the granting, issuing or giving of any permit, permit authorisation, registration, approval or consent or the like under these Local Laws or for the refusal, refusal of renewal or cancellation of the same or for the imposition of conditions or for the issuing of a notice, then the rights of objection and review and the procedures associated with them provided for in Part 9 Division 1 of the 1995 Act shall apply, together with the relevant provisions of the Local Government (Functions and General) Regulations 1996.
- (2) The preceding subsection shall not apply to any of the provisions of these Local Laws made under any Act other than the 1995 Act and the 1960 Act

Dated this 11th day of February 2005.

The Common Seal of the City of Swan was hereunto affixed pursuant to a resolution of Council in the presence of —

C. M. GREGORINI, Mayor.

E. W. T. LUMSDEN, Chief Executive Officer.

Notes




This is a compilation of the City of Swan Consolidated Local Laws 2005 and includes amendments made by other written laws.

Compilation table

Title	Number and year	Commencement
Consolidated Local Laws 2005 Amendment	160 of 2008	September 19, 2008
Consolidated Amendment Local Law 2009	11 of 2010	February 5, 2010
Consolidated Amendment Local Law 2023	7 of 2023	February 11, 2023
Parking Local Law 2023	79 of 2023	July 1, 2023
Consolidated Amendment Local Law (No.2) 2023	131	October 13, 2023



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