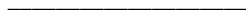


HEALTH ACT 1911



**CITY OF SWAN  
HEALTH LOCAL LAW 2002**



HEALTH ACT 1911

**CITY OF SWAN HEALTH LOCAL LAW 2002**

ARRANGEMENT

**PART 1 - PRELIMINARY**

Clause

- 1.1 Citation
- 1.2 Commencement
- 1.3 Content and Intent
- 1.4 Repeal
- 1.5 Application
- 1.6 Interpretation

**PART 2—SANITATION**

*Division 1—Interpretation*

- 2.1 Interpretation

*Division 2—Toilets*

- 2.2 Dwelling house
- 2.3 Premises other than a dwelling house
- 2.4 Outdoor festivals
- 2.5 Temporary facilities
- 2.6 Maintenance of toilets and fittings
- 2.7 Public toilets
- 2.8 Lighting
- 2.9 Installation

*Division 3—Bathrooms, Laundries and kitchens*

- 2.10 Bathrooms
- 2.11 Laundries
- 2.12 Kitchens

**PART 3-HOUSING AND GENERAL**

*Division 1-Maintenance of Houses*

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

*Division 2-Ventilation of Houses*

- 3.4 Exemption for short term hostels
- 3.5 Overcrowding
- 3.6 Calculate sufficient space
- 3.7 Ventilation
- 3.8 Sub-floor ventilation

*Division 3-Water Supply*

- 3.9 Water supply to a house
- 3.10 Rain water tanks
- 3.11 Use of water from well
- 3.12 Water pollution
- 3.13 Suppliers of drinking water to comply with Code

*Division 4-Secondhand Furniture, Bedding and Clothing*

- 3.14 Prohibition of sale
- 3.15 Prohibition of possession

**PART 4-WASTE FOOD AND RUBBISH**

*Division 1-Liquid Refuse*

- 4.1 Interpretation
- 4.2 Deposit of liquid wastes
- 4.3 Disposal of liquid wastes
- 4.4 Disposal of liquid wastes from small scale mechanical equipment wash down bays

*Division 2-Disposal of Rubbish*

- 4.6 Interpretation
- 4.7 Prescribed area - section 112A of the Act
- 4.8 Receptacles
- 4.9 Exemption
- 4.10 Use of receptacles
- 4.11 Damage to receptacles
- 4.12 Use of other containers
- 4.13 Suitable enclosure
- 4.14 Deposit of rubbish at refuse disposal site
- 4.15 Deposit of rubbish on site
- 4.16 Removal of rubbish from disposal site
- 4.17 Removal of rubbish from verges or public receptacles

*Division 3 - Transport of Animal By-products*

- 4.18 Interpretation
- 4.19 Restriction of vehicles
- 4.20 Transport of animals by-products

**PART 5-NUISANCES**

- 5.1 Interpretation
- 5.2 Footpaths etc, to be kept clean
- 5.3 escape of smoke etc.
- 5.4 Transportation, use and storage of offal or blood
- 5.5 use or storage of fertiliser
- 5.6 storage and despatch of artificial fertiliser

**PART 6-PEST CONTROL**

*Division 1-Flies*

- 6.1 Interpretation
- 6.2 Fly breeding matter not to be left on premises unless covered or treated
- 6.3 Measures to be taken by an occupier
- 6.4 Officer may give notice directing measures to be taken

*Division 2-Mosquitoes*

- 6.5 Interpretation
- 6.6 Measures to be taken to prevent mosquito breeding
- 6.7 Measures to be taken by an owner or occupier
- 6.8 Measures to be taken by occupier
- 6.9 Drains, channels and apparatus for treatment of sewage
- 6.10 Drainage of land

*Division 3-Rodents*

- 6.11 Interpretation
- 6.12 Measures to be taken to eradicate rodents
- 6.13 Waste food etc. to be kept in rodent proof receptacles
- 6.14 restrictions on materials affording harbourage for rodents

*Division 4-Cockroaches*

- 6.15 Interpretation
- 6.16 Measures to be taken to eradicate cockroaches

*Division 5-Anthropod vectors of Disease*

- 6.17 Interpretation
- 6.18 Responsibility of the owner or occupier

**PART 7-DISPOSAL OF USED CONDOMS AND NEEDLES TO CONTROL SPREAD OF INFECTIOUS DISEASES**

- 7.1 Disposal of used condoms
- 7.2 Disposal of used needles

**PART 8-LODGING HOUSES**

*Division 1-Interpretation*

- 8.1 Interpretation

*Division 2-Registration*

- 8.2 Lodging-house not to be kept unless registered
- 8.3 Application for registration
- 8.4 Determination of application
- 8.5 Renewal of registration
- 8.6 Notification upon sale or transfer
- 8.7 revocation of registration

*Division 3-Construction and Use Requirements*

- 8.8 General construction requirements
- 8.9 sanitary conveniences
- 8.10 Laundry
- 8.11 Kitchen
- 8.12 Cooking facilities
- 8.13 Dining room
- 8.14 Lounge room
- 8.15 Fire prevention and control
- 8.16 Obstruction of passages and stairways
- 8.17 Operation of doorways and doors
- 8.18 Restriction on use of rooms for sleeping
- 8.19 Sleeping accommodation short term hostels
- 8.20 Furnishing etc. of sleeping apartments
- 8.21 Ventilation
- 8.22 Numbers to be placed on doors

*Division 4-Management and Care*

- 8.23 Keeper or manager to reside in the lodging-house
- 8.24 Register of lodgers
- 8.25 Certificate in respect of sleeping accommodation
- 8.26 Duplicate keys and inspection
- 8.27 Room occupancy
- 8.28 Maintenance of a room by a lodger or resident
- 8.29 Cleaning and maintenance requirements
- 8.30 Responsibilities of lodgers and residents

8.31 Approval for storage of food

## **PART9-OFFENSIVE TRADES**

### *Division 1-General*

- 9.1 Interpretation
- 9.2 Occupier includes-employee)
- 9.3 Consent to establish an offensive trade
- 9.4 Notice of Application

### *Division 2-Registration of Premises for Offensive Trade*

- 9.5 Registration of premises
- 9.6 Certificate of registration
- 9.7 Change of occupier
- 9.8 Alterations to premises

### *Division 3-General Duties of an Occupier*

- 9.9 Interpretation
- 9.10 Cleanliness
- 9.11 Rodents and other vectors of disease
- 9.12 Toilets and wash basins
- 9.13 Painting of surfaces etc.
- 9.14 Effluvia, vapours or gases
- 9.15 Offensive material
- 9.16 Storage of materials
- 9.17 Specified offensive trades
- 9.18 Directions
- 9.19 Other duties of occupier

## **PART 10-OFFENCES AND FEES**

- 10.1 Offences
- 10.2 Fees
- 10.3 City may execute work and recover costs

## **SCHEDULE OF FORMS**

### Schedule Number

- 1 APPLICATION FOR REGISTRATION OF A LODGING-HOUSE
- 2 CERTIFICATE OF REGISTRATON OF A LODGING-HOUSE
- 3 NOTICE OF CHANGE OF OWNER OF A LODGING-HOUSE
- 4 REGISTER OF LODGERS
- 5 CERTIFICATE OF SLEEPING ACCOMMODATION
- 6 APPLICATION FOR CONSENT TO ESTABLISH AN OFFENSIVE TRADE
- 7 APPLICATION FOR REGISTRATION OF PREMISES FOR OFFENSIVE TRADE
- 8 CERTIFICATE OF REGISTRATION OF PREMISES FOR OFFENSIVE TRADE



# HEALTH ACT 1911

## CITY OF SWAN HEALTH LOCAL LAW 2002

Under the powers conferred by section 342 of the Health Act 1911 and in accordance with subdivision 2 of Division 2 of Part 3 of the Local Government Act 1995, the Council of the City of Swan resolved on 6<sup>th</sup> February 2002, to make the following local law.

### PART 1 - PRELIMINARY

#### Citation

1.1 This local law may be cited as "*City of Swan Health Local Law 2002*".

#### Commencement

1.2 This local law comes into operation on the date of its publication in the Government Gazette.

#### Content and Intent

- 1.3 (1) The purpose of this local law is to provide for the regulation, control and management of day to day environmental health matters within the district to enable people to live in a safe and healthy environment.
- (2) The effect of this local law is to establish various health standards and requirements which people living, visiting and working within the district must observe.

#### Repeal

- 1.4 (1) The Health Local Laws adopted by the Municipality of Guildford and published in the *Government Gazette* on 31 May 1918, and amended from time to time, are repealed.
- (2) The Health Local Laws adopted by the Municipality of Guildford and published in the *Government Gazette* on 31 October 1941, and amended from time to time, are repealed.
- (3) The Health Local Laws adopted by the Municipality of Guildford and published in the *Government Gazette* on 14 December 1946 and amended from time to time, are repealed.



- (4) The Health Local Laws adopted by the Municipality of Guilford and published in the *Government Gazette* on 22 June 1951 and amended from time to time, are repealed.
- (5) The Health Local Laws adopted by the Municipality of Guildford on 18 October 1956 and published in the *Government Gazette* on 21 January 1957 and amended from time to time, are repealed.
- (6) The Health Local Laws adopted by the Municipality of Midland Junction on 13 May 1952 and published in the *Government Gazette* on 1 May 1953 and amended from time to time, are repealed.
- (7) The Health Local Laws adopted by the Municipality of Midland Junction on 21 August 1956 and published in the *Government Gazette* on 13 February 1957 and amended from time to time, are repealed.
- (8) The Health Local Laws adopted by the Swan Road District and published in the *Government Gazette* on 9 September 1938 and amended from time to time, are repealed.
- (9) The Health Local Laws adopted by the Swan Road District on 19 October 1956 and published in the *Government Gazette* on 8 March 1957 and amended from time to time, are repealed.
- (10) The Health Local Laws adopted by the Shire of Swan-Guildford on 19 October 1964 and published in the *Government Gazette* on 10 December 1964 and amended from time to time, are repealed.
- (11) The following Parts and clauses of the Health Local Laws adopted by the Shire of Swan on 8 November 1971 and published in the *Government Gazette* on 22 May 1972 and amended from time to time -
  - (a) Part 1, clauses 1 to 25A and 30 to 68;
  - (b) all clauses in Part 2, Part 3, Part 4, Part 5, Part 8, Part 9, Part 10; and
  - (c) Part 7, clauses 1 to 50 and 53 to 72,are repealed.

## **Application**

1.5 This local law applies throughout the district.

## Interpretation

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

“**Act**” means the *Health Act 1911*;

“**adequate supply of water**” means a flow of water of not less than 0.076 litres per second;

“**AS**” means an Australian Standard as it may from time to time be amended and as published by the Standards Association of Australia, and includes a standard which replaces any standard referred to in this local law;

“**AS 1530.2: 1993**” means the standard published by the Standards Association of Australia as AS 1530.2: 1993 and called “Methods for fire tests on building materials, components and structures – Tests for flammability of materials”;

“**AS 1530.3: 1999**” means the standard published by the Standards Association of Australia as AS 1530.3: 1999 and called “Methods for fire tests on building materials, components and structures – Simultaneous determination of ignitability, flame propagation, heat release and smoke release”;

“**AS 1668.2 – 1991**” means the standard published by Standards Association of Australia as AS 1668.2 – 1991 and called “The use of mechanical ventilation and air-conditioning in buildings – Mechanical ventilation for acceptable indoor-air quality”;

“**AS 3666.2: 1995**” means the standard published by the Standards Association of Australia as AS/NZS 3666.2: 1995 and called “Air-handling and water systems of buildings – Microbial control – Operation and maintenance”;

“**builder**” has the meaning given to it in section 3(1) of the *Building Regulations 1989*;

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

“**Chief Executive Officer**” means the Chief Executive Officer of the City and includes an Acting Chief Executive Officer;

“**City**” means the City of Swan established under the *Local Government Act 1995* for the district of the City;

“**Council**” means the Council of the City;

“**Director of Energy Safety**” means the Director of Energy Safety referred to in the *Electricity Coordination Act 1994*;

“**district**” means the district of the City declared under the *Local Government Act 1995* and includes any area outside of that district placed under the jurisdiction of the City under section 22 of the Act;

“**drinking water**” means drinking water within the meaning of the Australian Drinking Water Guidelines - 1996 as published by the National Health and Medical Research Council and amended and endorsed by the Minister for Health from time to time;

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

“**effluent**” has the meaning given to it in regulation 3 of the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*;

“**Environmental Health Officer**” means an Environmental Health Officer appointed by the City under the Act and includes an Acting or Assistant Environmental Health Officer and the Principal Environmental Health Officer;

“**habitable room**” means a habitable room as defined in the Building Code;

“**hot water**” means water at a temperature of at least 75 degrees Celsius;

“**liquid wastes**” has the meaning given to it in regulation 3 of the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*;

“**Medical Officer**” means the Medical Officer appointed by the City under the Act and includes an Acting Medical Officer so appointed;

“**Principal Environmental Health Officer**” means an Environmental Health Officer appointed by the Chief Executive Officer to the office of Principal Environmental Health Officer and includes an Acting Principal Environmental Health Officer;

“**rubbish**” is defined in clause 4.6 and that definition applies throughout this local law;

“**Scheme**” means an operative town planning scheme of the City made under section 6 of the *Town Planning and Development Act 1928*;

“**toilet**” means a sanitary convenience, water closet, earth closet, privy or urinal and includes a room or cubicle in which one or more of these are located;

“**vectors of disease**” means an arthropod or rodent that transmits, or can transmit, by biological or mechanical means, an infectious agent from a source or reservoir to a person;

**“vehicle”** includes -

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

but excludes -

- (c) a wheel chair being used by a physically impaired person;
- (d) a pram, a stroller or a similar device;
- (e) a bicycle, scooter or skateboard; and
- (f) a boat;

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

**“zone”** means an area of the district zoned under the Scheme.

- (2) In this local law, where a duty or liability is imposed on an "owner or occupier", the duty or liability shall be deemed to be imposed jointly and severally on each of the owner and occupier.
- (3) Where under this local law an act is required to be done or forbidden to be done in relation to any premises, the owner or occupier of those premises has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.
- (4) In this local law, a reference to -

**“approved”** means a thing which is -

- (a) referred to in a policy maintained by the Principal Environmental Health Officer or the Council as approved, which policy may be amended by the Principal Environmental Health Officer or the Council, as the case may be, from time to time; or
  - (b) approved in writing by the Council or the Principal Environmental Health Officer on an application made for that purpose.
- (5) Where a person is directed or required to carry out or refrain from doing an act under this local law by the City, the Principal Environmental Health Officer, an Environmental Health Officer or an authorised person, that direction or requirement may be given or expressed in writing or verbally (the “notice”), and is to be taken to have been given or expressed at the time the person -

- (a) is served with a written notice; or
  - (b) is spoken to, if a verbal notice.
- (6) A person who receives a notice shall comply with the direction or requirement in the notice within the time specified in the notice, or if no time is specified, within a reasonable time.

## **PART 2 - SANITATION**

### *Division 1 - Interpretation*

#### **Interpretation**

2.1 In this Part, unless the context otherwise requires -

**“festival”** includes a fair, function or event;

**“applicant”** means a person -

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

**“public toilet”** means a toilet to which the public ordinarily have access, whether by payment of a fee or not; and

**“temporary toilet”** means a toilet, temporarily placed for use by -

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

### *Division 2 - Toilets*

#### **Dwelling house**

- 2.2 (1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house unless it has at least one operating toilet connected to the public sewer or an approved effluent disposal system.
- (2) A room in which a toilet is located shall have adequate lighting.

#### **Premises other than a dwelling house**

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

- (a) the premises have toilets in accordance with the Building Code and this Part;
  - (b) the toilets required by paragraph (a) are situated within a reasonable distance and are easily accessible to the persons for whom they are provided; and
  - (c) the premises have hand wash basins -
    - (i) in accordance with the Building Code;
    - (ii) for the use of persons employed or engaged on the premises;
    - (iii) provided with an adequate supply of water supplied by taps located over each basin;
    - (iv) separate from any trough, sink or basin used in connection with any other process carried out on the premises; and
    - (v) situated within a reasonable distance of the toilets and easily accessible to the person for whom they are provided.
- (2) The occupier of premises other than a dwelling house shall ensure that -
- (a) clean toilet paper is available at all times in each room or cubicle containing a toilet;
  - (b) a sanitary napkin disposal facility is provided and maintained in each room or cubicle containing a toilet provided for use by females; and
  - (c) each hand wash basin is provided with -
    - (i) an adequate supply of soap or other hand cleaning substances; and
    - (ii) hand drying facilities, situated adjacent to and visible from the hand basin.

### **Outdoor festivals**

- 2.4 (1) The applicant for an outdoor festival -
- (a) at which not more than 30,000 people are expected to attend;
  - (b) with an anticipated duration of more than 8 hours; and
  - (c) where alcohol may be consumed by the persons attending,
- shall provide toilets in accordance with Table 1.

**Table 1**

Number of people attending	Male Facilities			Female Facilities WC's	Hand Basins	
	WC's	Urinal Metres	Urinals		Male	Female
Upto 1000	2	1.5	3	5	1	1
1000 - 2000	3	3	6	10	2	2
2000 - 3000	4	4.5	9	15	3	3
3000 - 4000	5	6	12	20	4	4
4000 - 5000	6	7.5	15	25	5	5
5000 - 6000	7	9	18	30	5	6
6000 - 7000	8	10.5	21	35	6	7
7000 - 8000	9	12	24	40	7	8
8000 - 9000	10	13.5	27	45	8	9
9000 - 10000	11	15	30	50	9	10
10000 – 11000	12	16.5	33	55	9	11
11000 – 12000	13	18	36	60	10	12
12000 – 13000	14	19.5	39	65	11	13
13000 – 14000	15	21	42	70	12	14
14000 – 15000	16	22.5	45	75	13	15
15000 – 16000	17	24	48	80	13	16
16000 – 17000	18	25.5	51	85	14	17
17000 – 18000	19	27	54	90	15	18
18000 – 19000	20	28.5	57	95	16	19
19000 – 20000	21	30	60	100	17	20
20000 – 21000	22	31.5	63	105	17	21
21000 – 22000	23	33	66	110	18	22
22000 – 23000	24	34.5	69	115	19	23
23000 – 24000	25	36	72	120	20	24
24000 – 25000	26	37.5	75	125	21	25
25000 – 26000	27	39	78	130	21	26
26000 – 27000	28	40.5	81	135	22	27
27000 – 28000	29	42	84	140	23	28
28000 – 29000	30	43.5	87	145	24	29
29000 – 30000	31	45	90	150	25	30

- (2) The applicant for an outdoor festival at which not more than 30,000 people are expected to attend, but -
- (a) with an expected duration of less than 8 hours; or
  - (b) where alcohol will not be or is not permitted to be consumed by persons attending,

shall provide toilets in accordance with Table 1, but with the requirements of that Table reduced in accordance with Table 2.

**Table 2**

Duration of event	Percentage of standards in Table 1 to be applied (%)	
	Alcohol permitted	No alcohol permitted
6-8 hours	80	40
4-6 hours	75	37.5
0-4 hours	70	35

- (3) The applicant for an outdoor festival at which more than 30,000 people are expected to attend shall provide sanitary conveniences of a number as directed by the Principal Environmental Health Officer.
- (4) At least one unisex toilet for the disabled shall be required at each outdoor festival.
- (5) (i) When portable or chemical toilets are used for an outdoor festival with an expected duration of more than four hours -
  - (a) they must be pumped out during the festival; and
  - (b) they must be located so that pump-out vehicles can access them.
- (6) The applicant must ensure that toilets are checked regularly during an outdoor festival to ensure that they are clean and that all consumables are readily available to patrons using them.
- (7) In this clause, “WC” means a water closet pan.

### **Temporary works**

2.5 A person who undertakes temporary works at any place shall ensure every temporary toilet is installed and maintained in accordance with the *Health (Temporary Sanitary Conveniences) Regulations 1997*.

### **Maintenance of toilets and fittings**

- 2.6 (1) The occupier of premises shall -
  - (a) keep clean, in good condition and repair; and



- (b) whenever required by an Environmental Health Officer, effectively disinfect and clean,

all toilets including sanitary fittings in or on the premises.

- (2) The owner of premises shall -

- (a) keep or cause to be kept in good repair; and

- (b) maintain an adequate supply of water to,

all toilets including sanitary fittings in or on the premises.

### **Public toilets**

- 2.7 (1) A person shall not -

- (a) foul;

- (b) damage or vandalise; or

- (c) write on or otherwise deface,

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

- (2) A person shall not live or sleep in a public toilet or use it for a purpose other than that for which it is intended.

### **Lighting**

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

### **Installation**

- 2.9 (1) Every toilet shall be installed in accordance with the requirements of the *Metropolitan Water Supply Sewerage and Drainage Act 1909*, the *Health (Treatment of Sewage and Disposal of Effluent and Liquid) Waste Regulations 1974*, and shall have an adequate supply of water.

- (2) Every toilet, temporary toilet and plumbing fixture shall be connected into the public sewer or treated by a method approved by the Executive Director, Public Health.

### *Division 3 - Bathrooms, Laundries and Kitchens*

#### **Bathrooms**

- 2.10 (1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a bathroom which accords with the requirements of the *Health Act (Laundries and Bathrooms) Regulations 1971* and the Building Code.
- (2) All baths, showers, hand basins and similar fittings shall be provided with an adequate supply of hot and cold water.

#### **Laundries**

- 2.11 (1) A person shall not use or occupy or permit to be used or occupied, a dwelling house without a laundry which accords with the requirements of the *Health Act (Laundries and Bathrooms) Regulations 1971* and the Building Code.
- (2) All laundries shall be provided with an adequate supply of hot and cold water.

#### **Kitchens**

- 2.12 (1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a kitchen equipped with -
- (a) an electric, gas, wood or other approved cooking facility; and
  - (b) a sink which shall have an adequate supply of hot and cold drinking water.
- (2) The occupier of a dwelling house shall ensure that the stove, oven and sink are kept clean, in good order and repair and fit for use.
- (3) A cooking facility shall -
- (a) be installed in accordance with the requirements of the Director of Energy Safety and the manufacturer's specifications; and
  - (b) not be installed or used in any room other than a kitchen.
- (4) The occupier or owner of a dwelling house shall provide a mechanical air exhaust or filtration system in a kitchen in accordance with the Building Code.
- (5) In this clause, a "cooking facility" includes a stove, oven, facility or appliance used for or in connection with the cooking of food.

## **PART 3 - HOUSING AND GENERAL**

### *Division 1 - Maintenance of Houses*

#### **Dwelling house maintenance**

- 3.1 The owner or occupier of a dwelling house shall maintain the dwelling house and any appurtenant buildings, in a sound condition and fit for use and, in particular, shall -
- (a) maintain all roofs, in sound weatherproof condition;
  - (b) maintain any foundations, footings and walls, either external or internal, in a sound condition;
  - (c) replace any missing, broken, decayed or termite-eaten timber or other deteriorated material in any verandah, roof, walls, steps, handrails, floors or their supports with material of sound quality;
  - (d) comply with the directions of an Environmental Health Officer to treat the premises for the purpose of destroying any termites;
  - (e) maintain any brick, stone, mortar or cement work in a sound condition;
  - (f) maintain, repair or replace any flashings or ant caps which are missing or defective;
  - (g) maintain all ventilators in good order and repair;
  - (h) maintain all floors even in surface and free from cracks;
  - (i) maintain all ceilings, internal wall finishes, skirtings, architraves and other fixtures and fittings complete with smooth unbroken surfaces and free of dampness;
  - (j) maintain all doors and windows in good working order and weatherproof condition;
  - (k) retain all natural lighting free from any obstruction which would reduce the natural lighting, below the ratio of 10 per cent of the floor area;
  - (l) maintain all pipes, fittings and fixtures connected with water supply, drainage or sewerage so that they comply in all respects with the provisions of the *Metropolitan Water Supply, Sewerage and Drainage Act 1909*, and any other legal requirements to which they are subject; and

- (m) maintain all electric wiring, gas services and fittings to comply in all respects with the requirements of the Director of Energy Safety and shall provide a current certificate of compliance when so directed by the Principal Environmental Health Officer.

### **Disposal of rainwater**

- 3.2 The owner or occupier of a house shall not use or occupy or permit to be used or occupied, a house unless all rainwater is effectively disposed of in an approved manner that will not be a nuisance or injurious or dangerous to health of any person.

### **Maintenance of guttering and downpipes**

- 3.3 The owner or occupier of a house shall maintain all guttering, downpipes and drains of the premises in a good state of repair, clean and free from obstruction.

## *Division 2 - Ventilation of Houses*

### **Exemption for short term Hostels and Recreational Campsites**

- 3.4 This Division shall not apply to a “short term hostel or recreational campsite” as that term is defined in clause 8.1.

### **Overcrowding**

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

### **Calculating sufficient space**

- 3.6 For the purpose of clause 3.5, in calculating the space required for each person -
  - (a) each room shall be considered separately and sufficient space shall be allowed in each room for the number of persons present in the room at any one time; and

- (b) a deduction shall be made for the space occupied by furniture, fittings and projections of the walls into a room.

### **Ventilation**

- 3.7 (1) A person shall not use or occupy, or permit to be used or occupied, a house unless the house is properly ventilated.
- (2) For the purpose of subclause (1) a house shall be deemed to be properly ventilated if it complies with the Building Code, including the provision of -
- (a) natural ventilation; or
  - (b) a mechanical ventilation or air-conditioning system complying with AS1668.2 – 1991.
- (3) The owner of a house provided with a mechanical ventilation or air-conditioning system shall ensure that the system is maintained in good working condition and in accordance with “AS/NZS 3666.2: 1995”.
- (4) If, in the opinion of the Principal Environmental Health Officer, a house is not properly ventilated, the Principal Environmental Health Officer may by notice require the owner or occupier of the house to -
- (a) provide a different, or additional method of ventilation; or
  - (b) cease using the house until it is properly ventilated.
- (5) The owner or occupier shall comply with a notice under subclause (4) within the period of time stated in that notice, or if no time is stated, within 28 days of the service of the notice.

### **Sub-floor ventilation**

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

## *Division 3 - Water Supply*

### **Water supply to a house**

- 3.9 (1) The owner of a house shall ensure that it is connected with a separate and independent water supply from the mains of a licensed water service operator or other approved water supply.

- (2) The water supply shall at all times deliver an adequate supply of drinking water to each tap in the house unless otherwise approved.
- (3) The water supply to toilets, or for garden use may be from an alternative source, not necessarily drinking water.

### **Rain water tanks**

- 3.10 The owner or occupier of a house for which part of the water supply is drawn from a rain water tank shall -
- (a) maintain in a clean condition -
    - (i) the roof forming the catchment for the tank; and
    - (ii) the guttering and downpipes appurtenant to the roof;
  - (b) ensure that each rain water tank is fitted with a tight fitting cover which shall not be removed at any time except for the purpose of cleaning, repairing or maintaining the tank;
  - (c) at least once in each year, thoroughly clean any tank the water from which is used for human consumption; and
  - (d) when directed by an Environmental Health Officer, empty, clean and disinfect any tank if water from the tank is used for human consumption.

### **Use of water from well**

- 3.11 The owner or occupier of any premises shall not use or permit for human consumption the use of the water of any bore or well unless the bore or well is -
- (a) at least 30 metres from any receptacle for drainage of effluent or other possible source of pollution, unless otherwise approved by the Executive Director, Public Health; and
  - (b) covered with a tight-fitting cover without openings of any sort other than those essential for the insertion of pumping apparatus.

### **Water pollution**

- 3.12 A person shall not deposit or permit to be deposited on or under any land, any sewage, effluent, liquid wastes, offensive matter or any other thing, which may pollute or render unfit for human consumption, water from a bore, well or other above or underground water source.

## **Suppliers of drinking water to comply with Code**

- 3.13 A person carrying, delivering or supplying drinking water shall ensure the drinking water is supplied in accordance with the 'Code of Practice for the Bulk Cartage of Drinking Water,' as published by the Department of Health Western Australia and as amended from time to time or the equivalent Code of Practice in operation at the time.

### *Division 4 - Secondhand Furniture, Bedding and Clothing*

#### **Prohibition of sale**

- 3.14 A person shall not offer for sale or sell any secondhand furniture, bedding or clothing, which is filthy or infested with vectors of disease as determined by an Environmental Health Officer.

#### **Prohibition of possession**

- 3.15 A dealer in secondhand furniture, bedding or clothing shall not have on any premises used for the operation of the business of the dealer, any secondhand furniture, bedding or clothing which is filthy or infested with vectors of disease as determined by an Environmental Health Officer.

## **PART 4 - WASTE FOOD AND RUBBISH**

### *Division 1 - Liquid Refuse*

#### **Interpretation**

- 4.1 In this Division, unless the context otherwise requires -

**“licensed water services operator”** means the licensee of an operating licence to provide a water service granted under section 18 of the *Water Services Coordination Act 1995*;

**“liquid wastes”** means any domestic or trade wastes that are discharged by means of a drain to a receptacle for drainage and includes -

- (a) waste from toilets, swimming pool discharges, all washings from windows, vehicles and carpet cleaning;
- (b) overflow, bleed off, condensate and drainage from air conditioning equipment, including cooling towers and evaporative coolers and other liquid used for cooling purposes; and
- (c) animal washing waste water;

**“small scale premises”** means premises producing less than 540 litres of liquid wastes per day; and

**“wash down”** means to remove soils, greases and lubricants normally associated with mechanical plant by using solvents, degreasers or high pressure equipment.

### **Deposit of liquid wastes**

- 4.2 A person shall not deposit or cause or permit to be deposited liquid wastes -
- (a) on a street;
  - (b) in a stormwater disposal system; or
  - (c) on any land or place other than land or a place approved under this local law or under any other written law for that purpose.

### **Disposal of liquid wastes**

- 4.3 (1) The owner or occupier of premises shall:
- (a) provide, by one of the methods prescribed in this clause, for the disposal of all liquid wastes produced on the premises unless otherwise approved; and
  - (b) at all times maintain in good working order and condition any apparatus used for the disposal of liquid wastes.
- (2) Liquid wastes shall be disposed of by one of the following methods:
- (a) by discharging it into the sewerage system of a licensed water services operator in a manner approved by the licensed water services operator;
  - (b) by discharging it into an apparatus for the treatment of sewage and disposal of effluent and liquid wastes approved by the Executive Director, Public Health or the Principal Environmental Health Officer, as appropriate; or
  - (c) by collection and disposal at an approved liquid wastes disposal site in a manner approved by the Executive Director, Public Health.

### **Disposal of liquid wastes from small scale mechanical equipment wash down bays**

- 4.4 Liquid wastes from small scale mechanical wash down bays in small scale premises shall be:
- (a) discharged to the sewer subject to approval of the licensed water services operator of the sewer; or



- (b) where a sewer is not available:
  - (i) disposed of on-site as approved by the Principal Environmental Health Officer; or
  - (ii) disposed of off-site, in accordance with the requirements of the Department of Environment, Water and Catchment Protection – Division of Waste Management.

### **Level of disposal field**

- 4.5 Where on any premises any liquid wastes *or effluent* are disposed of on-site, the lowest level of the disposal field shall be:
- (a) a minimum of 1.2 metres above the highest known water table unless otherwise approved; or
  - (b) where the premises are subject to requirements in relation to the disposal under a scheme, in accordance with those requirements or paragraph (a), whichever results in the disposal field being the highest from the water table.

### *Division 2 - Disposal of Rubbish*

### **Interpretation**

- 4.6 In this Division, unless the context otherwise requires –

“**authorised person**” means a person authorised by the City to carry out any of the functions of an authorised person in this Division;

“**building line**” means the line between which and any public place or public reserve a building may not be erected except by or under the authority of a written law;

“**carriage way**” means the paved or made portion of the street designed for use by vehicles;

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

“**collection time**”, where used in connection with any premises, means the time when rubbish is collected and removed from the premises by the City or its contractor;

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

“**domestic waste**” means rubbish generated by or emanating from residential premises;

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

“**receptacle**” means a polyethylene cart fitted with wheels, a handle and a lid and of a capacity of 120 litres or 240 litres supplied by the City or its contractor or other type of receptacle approved *by the City*;

“**refuse disposal site**” means a waste treatment facility or depot licensed under Part V of the *Environmental Protection Act 1986* to store, treat, reuse or dispose of rubbish or refuse;

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

“**street**” includes a highway and a thoroughfare which the public are allowed to use, and includes every part of the highway or thoroughfare, and other things including bridges and culverts, appurtenant to it;

“**street alignment**” means the boundary between the land comprising a street and the land that abuts thereon, but where a new street alignment is prescribed under section 364 of the *Local Government (Miscellaneous Provisions) Act 1960*, means the new street alignment so prescribed; and

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

### **Prescribed area - section 112A of the Act**

4.7 The whole of the district of the City of Swan and any areas as determined by the Council from time to time, are prescribed as the area within which the provisions of section 112A of the Act shall operate and have effect.

### **Receptacles**

- 4.8 (1) An owner or occupier of premises shall -
- (a) at all times keep the lid of the receptacle closed except when depositing rubbish or cleaning the receptacle;
  - (b) except for a reasonable period before and after collection time, keep the receptacle on the premises and located -
    - (i) behind the building line and so as not to be visible from a street or public place; or
    - (ii) in such other position as is approved by an authorised person or an Environmental Health Officer;

- (c) prior to 6.00am on the advised collection day or such other times as determined by the City -
    - (i) place the receptacle -
      - (A) in the street within 1 metre of the carriage way;
      - (B) so that it does not obstruct any footpath, cycle way, right-of-way or carriage way; and
      - (C) facing squarely to the edge of and opening towards the carriage way; or
    - (ii) place the receptacle in such other position as is approved by an authorised person or an Environmental Health Officer;
  - (d) as soon as practicable after the contents of the receptacle have been removed, return the receptacle to its place of storage in compliance with subclause (1)(b),
  - (e) if the receptacle is lost, stolen, damaged or defective, notify the City, verbally or in writing within 2 days of the event;
  - (f) pay to the City any costs associated with the theft of or damage to the receptacle whilst the receptacle is located on private property; and
  - (g) ensure that the premises are provided with an adequate number of receptacles.
- (2) A receptacle supplied by the City or its contractor remains the property of the City or its contractor, as the case may be.

### **Exemption**

- 4.9
- (1) An owner or occupier of premises may apply in writing to the City for an exemption from compliance with the requirements of clauses 4.8(1)(b) or 4.8(1)(c), or both.
  - (2) The City may grant or refuse, with or without conditions, an application for exemption from compliance under subclause (1).
  - (3) An exemption granted under this clause shall state -
    - (a) the premises to which the exemption applies;
    - (b) the period during which the exemption applies; and
    - (c) any conditions imposed by the City.

- (4) An exemption granted under this clause shall cease to apply if and when the person to whom it is granted fails to comply with a condition of the exemption in the opinion of the Principal Environmental Health Officer.

### **Use of receptacles**

4.10 An owner or occupier of premises shall -

- (a) not deposit or permit to be deposited in a receptacle -
- (i) more than 70 kilograms of rubbish;
  - (ii) hot or burning ash;
  - (iii) oil, motor spirit or other flammable liquid;
  - (iv) liquid, liquid paint or other solvent;
  - (v) bricks, concrete, building rubble, earth or other like substances;
  - (vi) drugs, dressings, bandages, swabs or blood samples unless placed in a sealed, impervious and leak proof container;
  - (vii) hospital, medical, veterinary, laboratory or pathological substances containing blood unless placed in a sealed, impervious and leak proof container;
  - (viii) syringes, needles, surgical hardware, broken glass, shards or other sharp objects unless placed in an approved container;
  - (ix) cytotoxics, radioactive substances or dangerous chemicals;
  - (x) sewage, manure, nightsoil, faeces or urine;
  - (xi) any object which is greater in length, width, or breadth than the corresponding dimension of the receptacle or which will not allow the lid of the receptacle to be tightly closed; or
  - (xii) rubbish which is or is likely to become offensive or a nuisance, or give off an offensive or noxious odour, or to attract flies or cause fly breeding unless it is first wrapped in non-absorbent or impervious material or placed in a sealed, impervious container;
- (b) unless authorised by an authorised person or an Environmental Health Officer, not mark or disfigure the receptacle in any manner other than by the placement of a street number or other identifying mark;
- (c) at all times keep the receptacle in a clean condition;

- (d) whenever directed to do so by an authorised person or an Environmental Health Officer, thoroughly clean, disinfect and deodorise the receptacle and apply an approved insecticide to the receptacle;
- (e) take all reasonable steps to prevent -
  - (i) fly breeding and keep the receptacle free of flies, maggots, cockroaches, rodents, spiders and other vectors of disease; and
  - (ii) the emission of offensive and noxious odours from the receptacle;
- (f) ensure that the receptacle does not cause a nuisance to the occupiers of adjoining premises; and
- (g) not use the receptacle for any purpose other than the collection and storage of rubbish.

### **Damage to receptacles**

4.11 A person, other than the City or its contractor, shall not -

- (a) damage, destroy or interfere with a receptacle; or
- (b) except as permitted by this Part, or as approved by an authorised person or an Environmental Health Officer, remove a receptacle from any premises to which it was delivered by the City or its contractor.

### **Use of other containers**

- 4.12 (1) In the case of premises consisting of more than 3 dwellings or units, which are all used for commercial or industrial purposes, an authorised person or an Environmental Health Officer may authorise rubbish to be deposited in a container other than a receptacle which must comply with subclause (3)(b).
- (2) The owner or occupier of premises who is authorised under this clause to deposit rubbish in a container other than a receptacle, shall -
- (a) unless approved by an Environmental Health Officer, not deposit or permit to be deposited in the container anything specified in sub-clauses 4.10(a)(ii) to 4.10(a)(xii) inclusive;
  - (b) take all reasonable steps to prevent fly breeding in, and the emission of offensive or noxious odours from the container;
  - (c) whenever directed by an authorised person or an Environmental Health officer to do so, thoroughly clean, disinfect and deodorise the container and apply an approved insecticide to the container;

- (d) cause the container to be located on the premises in an enclosure constructed and located as approved by an authorised person or an Environmental Health Officer;
  - (e) ensure that the container is not visible from the street but is readily accessible for the purposes of collection; and
  - (f) ensure that the container does not cause a nuisance to an occupier of adjoining premises.
- (3) An owner or occupier shall -
- (a) provide a sufficient number of containers to contain all rubbish which accumulates or may accumulate in or from the premises;
  - (b) ensure that each container on the premises -
    - (i) has a close fitting lid;
    - (ii) is constructed of non-absorbent and non-corrosive material; and
    - (iii) is used only for the temporary deposit of rubbish;
  - (c) keep or cause to be kept each container thoroughly clean and in good condition and repair;
  - (d) place any rubbish in, and only in, a container marked for that purpose;
  - (e) keep the cover on each container except when it is necessary to place something in, or remove something from it; and
  - (f) ensure that the containers are emptied at least weekly or as directed by an authorised person or an Environmental Health Officer.

### **Suitable enclosure**

- 4.13 (1) Where premises used for commercial or industrial purposes have been provided with receptacles, the owner or occupier of the premises shall if required by an authorised person or an Environmental Health Officer-
- (a) provide a suitable enclosure for the storage and cleaning of receptacles on the premises; and
  - (b) install in the enclosure a tap connected to an adequate supply of water.
- (2) An owner or occupier of premises which have a suitable enclosure under this clause shall keep the enclosure thoroughly clean and disinfected.
- (3) For the purposes of this clause, a "**suitable enclosure**" means an enclosure -

- (a) of sufficient size to accommodate all receptacles used on the premises, but in any event having a floor area not less than a size approved by an authorised person or an Environmental Health Officer;
- (b) constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness approved by an authorised person or an Environmental Health Officer;
- (c) having walls not less than 1.5 metres in height and having an access way which is easily accessible to allow for the removal of the receptacles and, of not less than 1 metre in width and fitted with a self closing gate; and
- (d) containing a smooth and impervious floor -
  - (i) of not less than 75 millimetres in thickness; and
  - (ii) which is evenly graded and connected to an approved liquid refuse disposal system in an approved manner.

#### **Deposit of rubbish at refuse disposal site**

- 4.14 (1) A person shall not deposit or cause or permit to be deposited any rubbish in or on any street or on any land other than a refuse disposal site unless otherwise approved.
- (2) A person shall not deposit rubbish in or on a refuse disposal site except -
- (a) at such place on the site as may be directed by the person in charge of the site; or
  - (b) if the person in charge of the site is not in attendance at the site, as may be directed by a notice erected on the site.

#### **Deposit of rubbish on street**

- 4.15 (1) Notwithstanding clause 4.14(1), an owner or occupier of premises may place rubbish in or upon any street, right of way, thoroughfare or lane when expressly invited by an authorised person to do so.
- (2) Where an owner or occupier of premises places or causes to be placed any rubbish in or on any street, right of way, thoroughfare or lane under subclause (1), then the owner or occupier shall ensure that -
- (a) the rubbish is placed immediately adjacent to her or his premises, and so as not to obstruct traffic on the street, right of way, thoroughfare or lane, or the visibility of any user of the street, right of way, thoroughfare or lane;
  - (b) the type of rubbish accords with that specified in the invitation; and

- (c) the rubbish is stacked or contained as specified in the invitation.

### **Removal of rubbish from disposal site**

- 4.16 (1) A person shall not remove any rubbish from a refuse disposal site or refuse recycling site without the written approval of the City.
- (2) A person who obtains approval from the City under subclause (1) shall comply with any conditions imposed by the City and set out in the approval.

### **Removal of rubbish from verges or public receptacles**

- 4.17 (1) A person shall not remove any rubbish that has been placed for collection by the City or its contractor, unless that person is -
- (a) the owner or occupier of the adjoining premises;
  - (b) authorised to do so by the owner or occupier of the adjoining premises;  
or
  - (c) authorised in writing to do so by the City.
- (2) A person shall not, without the approval of the City or the owner of a receptacle, remove any rubbish from a receptacle or other container provided for the use of the general public in a public place.

### *Division 3 - Transport of Animal By-products*

#### **Interpretation**

- 4.18 In this Division, unless the context otherwise requires -

**“animal by-products”** includes animal skeletons and rib cages from a boning room and the inedible products of an abattoir, knackery or similar premises.

#### **Restriction of vehicles**

- 4.19 A person shall not use, for the transport of animal by-products -
- (a) a vehicle used for the transport of food or drugs; or
  - (b) anything intended to be used for the packing or handling of food or drugs.



## **Transport of animal by-products**

- 4.20 (1) A person shall not transport animal by-products otherwise than in -
- (a) a compartment complying with the following specifications -
    - (i) the floor and 4 walls to be made of sheet metal or other approved material and the walls to be not less than 910 millimetres high;
    - (ii) all joints to be welded, soldered or brazed or otherwise made water-tight;
    - (iii) the loading doors, if any, to be water-tight and kept closed at all times except when loading or unloading; and
    - (iv) the top to be completely covered by a tarpaulin or approved sheet material, carried over, and secured to the outside of the walls at least 300 millimetres from the top so as to keep the load out of sight of the public; or
  - (b) an approved water-tight metal container fitted with a lid which can be tightly closed.
- (2) A person shall not transport any animal by-products in a vehicle unless the vehicle and its fittings, including the compartment or container referred to in this clause, are -
- (a) maintained in good order and condition; and
  - (b) thoroughly cleaned at the conclusion of each day's work.
- (3) A person shall not load, transport, or unload animal by-products in a manner that is or may be offensive due to -
- (a) the sight of animal skeletons, bones, offal or waste matter;
  - (b) the odour of putrefaction, offal or waste matter; or
  - (c) the presence of blood and particles of flesh or fat dropping onto the surface of the street pavement or ground.

## **PART 5 - NUISANCES**

### **Interpretation**

5.1 In this Division, unless the context otherwise requires -

“**artificial fertiliser**” means inorganic fertiliser and does not include manure; and

“**fertiliser**” includes manure.

### **Footpaths etc, to be kept clean**

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

### **Escape of smoke etc.**

5.3 (1) Subject to subclause (2), an owner or occupier of premises shall not cause or permit the escape of smoke, dust, fumes, offensive or foul odours or liquid wastes from the premises in such quantity or of such a nature as to cause or to be a nuisance to any person.

(2) Subclause (1) does not apply to smoke from the chimney of a private dwelling house.

### **Transportation, use and storage of offal or blood**

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

### **Use or storage of fertiliser**

5.5 (1) An owner or occupier of premises shall not use or keep for the purpose of use as fertiliser, any -

(a) pig manure;

(b) human faeces; or

(c) urine.

(2) The owner or occupier of premises where fertiliser or compost is stored or used shall -

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

### **Storage and despatch of artificial fertiliser**

- 5.6 An owner or occupier of premises where artificial fertiliser is stored in bulk for sale shall -
- (a) keep all artificial fertiliser in a building -
    - (i) of which the walls, floors and ceilings or undersides of the roof are constructed of durable and non absorbent materials; and
    - (ii) free from damp and properly ventilated;
  - (b) take proper precautions to prevent the emission of dust or offensive effluvia from the building; and
  - (c) ensure that all artificial fertiliser despatched from the premises is packed in such a manner as to prevent any nuisance to any person arising during transit.

## **PART 6 - PEST CONTROL**

### *Division 1 – Flies*

#### **Interpretation**

- 6.1 In this Division, unless the context otherwise requires -

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

#### **Fly breeding matter not to be left on premises unless covered or treated**

- 6.2 An owner or occupier of premises shall not place, throw or leave, or permit or cause to be placed, thrown or left in, on or about the premises any matter or thing which is

liable to attract or be a breeding place for flies, unless that matter or thing is covered, protected, treated or dealt with in such a manner as to effectively prevent it from attracting or being a breeding place for flies, or it is an approved fly trap.

### **Measures to be taken by an occupier**

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

### **Officer may give notice directing measures to be taken**

- 6.4 Where in the opinion of an Environmental Health Officer flies are prevalent or are breeding on any premises, he or she may give to the owner or occupier of the premises notice in writing directing, within the time specified in the notice, such measures as in the opinion of the Environmental Health Officer are necessary to -
- (a) control the prevalence;
  - (b) effect the eradication; or
  - (c) effectively prevent the breeding,
- of flies.

## Division 2 – Mosquitoes

### Interpretation

6.5 In this Division, unless the context otherwise requires -

“mosquitoes” means any of the two-winged insects constituting the family Diptera Culicidae commonly known as mosquitoes.

### Measures to be taken to prevent mosquito breeding

6.6 An owner or occupier of premises shall keep the premises free of -

(a) rubbish; and

(b) water,

that is liable to become the breeding place of mosquitoes.

### Measures to be taken by an owner or occupier

6.7 An owner or occupier of premises -

(a) where there is a fountain, pool, pond, swimming pool, spa, excavation or container of any kind which retains water suitable for the breeding of mosquitoes, shall keep the water treated with an approved larvicide or undertake other control measures as directed by an Environmental Health Officer; and

(b) where there is a water tank, well, cistern, vat or barrel, shall -

(i) keep it protected with a mosquito-proof cover; and

(ii) screen all openings, other than the *delivery exit*, with wire mesh having openings no larger than 1.2 millimetres in area.

### Measures to be taken by occupier

6.8 An occupier of premises where water is kept in a horse trough, poultry drinking vessel or similar container shall -

(a) frequently change the water; and

(b) keep the water clean and free from vegetable matter and slime.

## **Drains, channels and apparatus for the treatment of sewage**

6.9 An owner or occupier of land shall -

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

## **Drainage of land**

6.10 (1) An owner or occupier of land upon which there is water liable to become a breeding place for mosquitoes shall, when directed by an Environmental Health Officer, effectively drain the land and, for that purpose, shall -

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

### *Division 3 – Rodents*

## **Interpretation**

6.11 In this Division, unless the context otherwise requires -

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

### **Measures to be taken to eradicate rodents**

- 6.12 (1) An owner or occupier of premises shall at all times take effective measures to eradicate any rodents in or on the premises.
- (2) Without limiting the generality of subclause (1), an owner or occupier of premises, whenever there are indications of the presence of rodents in, on or about the premises, and while such indications continue, shall -
- (a) take effective measures to keep the premises free from rodents including -
    - (i) protecting food stuffs;
    - (ii) using a rodenticide bait or a properly baited trap; and
    - (iii) preventing rodents having access to water on the premises;
  - (b) inspect daily each rodenticide bait or trap used and, whenever a rodent is found, shall -
    - (i) if it is not already dead, kill it immediately; and
    - (ii) dispose of the carcass in such a manner so as not to create a nuisance; and
  - (c) take whatever measures for the eradication of rodents as an Environmental Health Officer may from time to time direct.

### **Waste food etc. to be kept in rodent proof receptacles**

- 6.13 A person must not store, or allow to be stored, on any premises, any food, refuse or other waste matter unless it is contained in a rodent proof receptacle of compartment.

*(Clause 6.13 amended by No. 183 of 2007)*

### **Restrictions on materials affording harbourage for rodents**

- 6.14 (1) An owner or occupier of premises shall cause -
- (a) any part of the premises; or
  - (b) any material, sewer, pipe or other thing in or on the premises,
- that might afford access or harbourage to rodents to be altered, repaired, protected, removed or otherwise dealt with so as to prevent it being used as access for, or harbourage of, rodents.
- (2) An Environmental Health Officer may direct, orally or in writing, an owner or occupier of premises to take whatever action that, in the opinion of the Officer,

is necessary or desirable to prevent or deter the presence of rodents in or on the premises.

#### *Division 4 – Cockroaches*

##### **Interpretation**

6.15 In this Division, unless the context otherwise requires -

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

##### **Measures to be taken to eradicate cockroaches**

- 6.16 (1) An owner or occupier of premises shall take effective measures to eradicate any cockroaches in or on the premises.
- (2) Without limiting the generality of subclause (1), an owner or occupier of premises, whenever there are any indications of the presence of cockroaches in, on or about the premises, and while such indications continue, shall take effective measures to keep the premises free from cockroaches including -
- (a) washing and storing, immediately after use, cooking and eating utensils;
  - (b) wrapping and depositing in a rubbish receptacle without delay all food scraps, uneaten pet food and garbage;
  - (c) properly treating the premises with an insecticide, taking care not to harm the safety of humans and pets or to contaminate food or cooking or eating utensils; and
  - (d) whenever required by an Environmental Health Officer, treating any area with baits or other methods to eradicate cockroaches.

#### *Division 5 - Arthropod Vectors of Disease*

##### **Interpretation**

6.17 In this Division, unless the context otherwise requires -



**“arthropod vectors of disease”** includes -

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

### **Responsibility of the owner or occupier**

6.18 The owner or occupier of premises shall -

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

## **PART 7 - DISPOSAL OF USED CONDOMS AND NEEDLES TO CONTROL SPREAD OF INFECTIOUS DISEASES**

### **Disposal of used condoms**

- 7.1 (1) An occupier of premises on or from which used condoms are produced shall ensure that the condoms are -
- (a) placed in a sealed, impervious container and disposed of in a sanitary manner; or
  - (b) disposed of in such a manner as may be directed or approved by the Principal Environmental Health Officer.
- (2) A person shall not dispose of a used condom in a public place except in accordance with subclause (1).

### **Disposal of used needles**

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

## **PART 8 - LODGING-HOUSES**

## *Division 1 - Interpretation*

### **Interpretation**

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

“**application**” means an application made under and in accordance with clause 8.3;

“**bed**” means a single sleeping berth only;

“**bunk**” means a sleeping berth in a unit comprised of one or more single sleeping berths arranged vertically over another;

“**certificate of registration**” means the certificate of registration referred to in clause 8.4(b);

“**dormitory**” means a building or room utilised for sleeping purposes at a short term hostel or recreational campsite;

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

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

“**lodging-house**” has the meaning given to it in the Act and includes a recreational campsite, a serviced apartment and a short term hostel;

“**manager**” means the manager referred to in clause 8.2(d)(ii);

“**recreational campsite**” means a lodging house –

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

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

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

“**resident**” means a person, other than a lodger, who resides in a lodging-house;

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

“**short term hostel**” means a lodging-house where the period of occupancy of any lodger is not more than 14 consecutive days, and includes youth hostels and backpacker hostels.

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

### *Division 2 - Registration*

#### **Lodging-house not to be kept unless registered**

8.2 A person shall not keep or cause, suffer or permit to be kept a lodging-house unless -

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

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

#### **Application for registration**

8.3 An application for the registration of a lodging-house shall be -

- (a) in the form prescribed in Schedule 1;
- (b) duly completed and signed by the proposed keeper; and
- (c) accompanied by -
  - (i) the fee prescribed by the City; and
  - (ii) detailed plans and specifications of the lodging-house.

#### **Determination of application**

8.4 The City may:

- (a) refuse to approve an application; or
- (b) approve, with or without conditions, an application by issuing to the proposed keeper a certificate of registration in the form of Schedule 2 and the application shall not be taken to be approved until that certificate is issued.

### **Renewal of registration**

8.5 A person who keeps a lodging-house which is registered under this Part shall -

- (a) during the month of June in each year apply to the Council for the renewal of the registration of the lodging-house; and
- (b) pay the fee prescribed by the City at the time of making each application for renewal.

### **Notification upon sale or transfer**

8.6 If the owner of a lodging-house sells or transfers or agrees to sell or transfer the lodging-house to another person, he or she shall, within 14 days of the date of sale, transfer or agreement, give to the Chief Executive Officer, in the form of Schedule 3, written notice of the full name, address and occupation of the person to whom the lodging-house has been, or is to be, sold or transferred.

### **Revocation of registration**

- 8.7 (1) Subject to subclause (3), the City may, at any time, revoke the registration of a lodging-house for any reason which, in the opinion of the Council, justifies the revocation.
- (2) Without limiting the generality of subclause (1), the City may revoke a registration upon any one or more of the following grounds -
- (a) that the lodging-house has not, to the satisfaction of an Environmental Health Officer, been kept free from vectors of disease or in a clean, wholesome and sanitary condition;
  - (b) that the keeper has -
    - (i) been convicted of an offence under this Part or the Act in respect of the lodging-house;
    - (ii) not complied with a requirement of this Part or the Act; or
    - (iii) not complied with a condition of registration;

- (c) that the City, having regard to a report from the Police Service, is satisfied that the keeper or manager is not a fit and proper person; and
  - (d) that, by reason of alterations or additions or neglect to repair and renovate, the condition of the lodging-house is such as to render it, in the opinion of the Principal Environmental Health Officer, unfit to remain registered.
- (3) Before revoking the registration of a lodging-house under this clause, the City shall give notice to the keeper requiring, within a time specified in the notice, to show cause why the registration should not be revoked.
- (4) Whenever the Council revokes the registration of a lodging-house, it shall give the keeper notice of the revocation and the registration shall be revoked as from the date on which the notice is served on the keeper.

### *Division 3 - Construction and Use Requirements*

#### **General construction requirements**

8.8 Subject to this Division, a lodging-house shall be constructed or comply with the Building Code.

#### **Sanitary conveniences**

- 8.9 (1) A keeper shall maintain in good working order and condition and in convenient positions on the premises -
- (a) toilets; and
  - (b) bathrooms, each fitted with a wash hand basin and either a shower or a bath, in accordance with the requirements of the Building Code.
- (2) A bathroom or toilet which is used as a private bathroom or toilet to the exclusion of other lodgers or residents shall not be counted for the purposes of subclause (1).
- (3) Each bath, shower and hand wash basin shall be provided with an adequate supply of hot water and cold water.
- (4) The walls of each shower and bath shall be of an impervious material to a minimum height of 1.8 metres above the floor level.
- (5) Each toilet and bathroom shall -
- (a) be so situated, separated and screened so as to ensure privacy;
  - (b) have a distinct sign displayed in a prominent position denoting the sex for which the toilet or bathroom is provided;

- (c) be provided with adequate electric lighting; and
  - (d) where the toilet is for the use of females, be provided with a sanitary napkin disposal facility.
- (6) Paragraph (b) of subclause (5) does not apply to a serviced apartment.

## **Laundry**

- 8.10 (1) The keeper of a lodging-house shall -
- (a) subject to subclause (2), provide on the premises for the use of each 15 lodgers, a laundry containing one washing machine, one wash trough and one electrical dryer or 30 metres of clothes line unless otherwise approved;
  - (b) at all times maintain each laundry in a proper sanitary condition and in good repair; and
  - (c) provide an adequate supply of hot water and cold water to each wash trough, sink and washing machine.
- (2) The Principal Environmental Health Officer may approve the provision of a reduced number of laundry units if suitable equipment of a commercial type is installed.

## **Kitchen**

- 8.11 The keeper of a lodging-house shall provide in that lodging-house a kitchen which -
- (a) has a minimum floor area of -
    - (i) 0.65 square metres per person, where lodgers prepare their own meals;
    - (ii) 0.35 square metres per person, where meals are provided by the keeper or manager; or
    - (iii) 1 square metre per person, where the kitchen and dining area are combined;but in any case which has a minimum floor area of not less than 16 square metres.
  - (b) has adequate -
    - (i) food storage facilities and cupboards to prevent contamination of food, or cooking or eating utensils, by dirt, dust, flies or other vectors of disease; and

- (ii) refrigerator space for storage of perishable goods;
- (c) complies with the requirements of any written law in respect of food hygiene; and
- (d) has a hand wash basin and a double bowl sink, each provided with an adequate supply of hot and cold drinking water.

### **Cooking facilities**

- 8.12 .(1) The keeper of a lodging-house where lodgers prepare their own meals shall provide a kitchen with adequate cooking facilities as approved by the Principal Environmental Health Officer.
- (2) The keeper of a lodging-house where meals are provided by the keeper or manager shall provide a kitchen with adequate *cooking appliances* as approved by the Principal Environmental Health Officer.

### **Dining room**

- 8.13 The keeper of a lodging-house shall provide in that lodging-house a dining room -
- (a) located in close proximity to, or combined with, the kitchen;
  - (b) the floor area of which shall not be less than the greater of -
    - (i) 0.5 square metres per person; or
    - (ii) 10 square metres; and
  - (c) which shall be -
    - (i) adequately furnished to accommodate, at any one time, at least half of the number of lodgers; and
    - (ii) provided with a suitable floor covering.

### **Lounge room**

- 8.14 The keeper of a lodging-house shall provide in that lodging-house a lounge room –
- (a) with a floor area of-
    - (i) where the lounge is not combined with the dining room, not less than 0.6 square metres per person; or

- (ii) where the lounge room is combined with a dining room, not less than 1.2 square metres per person; and
- (b) which shall be -
  - (i) adequately furnished to accommodate, at any one time, at least half of the number of lodgers; and
  - (ii) provided with a suitable floor covering.

### **Fire prevention and control**

- 8.15 (1) The keeper of a lodging-house shall provide and maintain exit signs and emergency lighting and other fire protection appliances in accordance with the requirements of the Building Code.
- (2) A keeper shall ensure that all buildings comprising the lodging-house are fitted with fire protection equipment as required by the Building Code and approved by the City.

### **Obstruction of passages and stairways**

- 8.16 The keeper shall not cause, suffer or permit furniture, fittings or other things to be placed either temporarily or permanently in or on -
- (a) a stairway, stair landing, fire-escape, window or common passageway of the lodging-house; or
  - (b) part of the lodging-house in common use or intended or adopted for common use,

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

### **Operation of doorways and doors**

- 8.17 The keeper of a lodging-house shall ensure that doorways and doors in a required exit, or forming part of a required exit, comply with the Building Code.

### **Restriction on use of rooms for sleeping**

- 8.18 (1) Subject to subclause (3) and clause 8.31, the keeper shall not use or permit to be used as a sleeping apartment a room in a lodging-house -
- (a) which contains food;
  - (b) which contains or is fitted with a *cooking appliance* or kitchen sink;



- (c) which is used as a kitchen, scullery, store room, dining room, general sitting room or lounge room, or for the preparation or storage of food;
  - (d) which is not reasonably accessible without passing through a sleeping or other room in the private occupation of another person;
  - (e) which, except in the case of a short term hostel or recreational campsite, contains less than 5.5 square metres of clear space for each lodger occupying the room;
  - (f) which is naturally illuminated by windows having a ratio of less than 0.1 square metres of unobstructed glass to every 1 square metre of floor area;
  - (g) which is ventilated at a ratio of less than 0.5 square metres of unobstructed ventilating area to every 10 square metres of floor area;
  - (h) in which the lighting or ventilation referred to in paragraphs (f) and (g) is obstructed or is not in good and efficient order;
  - (i) which is not free from internal dampness;
  - (j) of which any part of the floor is below the level of the adjoining ground; or
  - (k) the floor of which is not fitted with an approved carpet or vinyl floor covering or other floor treatment approved by the Principal Environmental Health Officer.
- (2) For the purposes of this clause, two children under the age of 10 years shall be counted as one lodger.
- (3) Paragraphs (a),(b) and (c) of subclause (1) shall not apply to a serviced apartment.

### **Sleeping Accommodation - Short Term Hostels and Recreational Campsites**

- 8.19 (1) The keeper of a short term hostel or recreational campsite shall provide clear floor space of not less than -
- (a) 4 square metres per person in each dormitory utilising beds; and
  - (b) 2.5 square metres per person in dormitories utilising bunks.
- (2) The calculation of floor space in subclause (1) above shall exclude the area occupied by any large items of furniture, such as wardrobes, but may include the area occupied by beds.

- (3) If under subclause (2), the calculation of floor space includes the area occupied by beds, then a double bed provided for the use of couples, shall have the same floor space requirements as two beds.
- (4) The minimum height of any ceiling in a short term hostel or recreational campsite shall be 2.4 metres in any dormitory utilising beds, and 2.7 metres in any dormitory utilising bunks.
- (5) The minimum floor area requirements in subclause (1) will only apply if there is ventilation, separation distances, fire egress and other safety requirements in accordance with the Building Code, otherwise the floor area requirements shall be as directed by the Principal Environmental Health Officer.
- (6) The keeper of a short term hostel or recreational campsite shall provide -
  - (a) fixed outlet ventilation at a ratio of 0.15 square metres to each 10 square metres of floor area of the dormitories;
  - (b) dormitories with direct ventilation to the open air from a point within 230 millimetres of the ceiling level through a fixed open window or vents, carried as direct to the open air as is practicable; or
  - (c) mechanical ventilation in lieu of fixed ventilation, subject to the approval of the Principal Environmental Health Officer.
- (7) The keeper of short term hostel or recreational campsite shall provide –
  - (a) beds with a minimum width of 800 millimetres and a minimum length of 1.9 metres; and
  - (b) storage space for personal effects, including backpacks, so that cleaning operations are not hindered and access spaces are not obstructed.
- (8) The keeper of a short term hostel or recreational campsite shall -
  - (a) ensure that at all times a minimum distance of 750 millimetres between beds, and a minimum distance of 900 millimetres between bunks is maintained;
  - (b) where bed or bunk heads are placed against the wall on either side of a dormitory, shall provide a passageway of at least 1.35 metres between each row of beds and a passageway of at least 2 metres between each row of bunks;
  - (c) keep the passageway referred to in paragraph (b) clear of obstruction; and
  - (d) ensure all doors, windows and ventilators are kept free of obstruction.
- (9) The keeper shall ensure that materials used in dormitory areas comply with AS 1530.2 - 1993 and AS 1530.3 - 1999 and must resist the spread of fire and limit

the generation of smoke to a degree that maintains a tenable environment during evacuation in accordance with the Building Code.

### **Furnishing etc. of sleeping apartments**

- 8.20 (1) The keeper shall -
- (a) furnish each sleeping apartment with a sufficient number of beds and sufficient bedding of good quality;
  - (b) ensure that each bed -
    - (i) has a bed head, mattress and pillow; and
    - (ii) is provided with, or can be rented, a pillow case, mattress protector, two sheets, a blanket or rug and, from 1 May to 30 September in each year, not less than one additional blanket or rug; and
  - (c) furnish each bedroom so that there are adequate storage facilities for belongings within the room or ensure that adequate storage facilities such as lockers are available for use by the lodgers in a separate room.
- (2) The keeper shall not cause, suffer or permit any tiered beds or bunks to be used in a sleeping apartment other than in a lodging-house used exclusively as a short term hostel or recreational campsite.

### **Ventilation**

8.21 If, in the opinion of an Environmental Health Officer, a kitchen, bathroom, toilet, laundry or habitable room is not adequately or properly ventilated, the Officer may direct the keeper to provide a different or additional method of ventilation.

### **Numbers to be placed on doors**

- 8.22 (1) The keeper shall place room numbers on the outside of the doors of all rooms available to lodgers in the lodging-house.
- (2) The numbers to be placed on the doors under subclause (1) shall be -
- (a) not less than 40 millimetres in height; and
  - (b) permanently fixed either by being painted on the doors or shown by other legible means.

### **Keeper or manager to reside in the lodging-house**

8.23 No keeper of a lodging house shall absent himself from such house, unless he leaves a reputable person in charge thereof.

### **Register of lodgers**

8.24 (1) The keeper shall keep a register of lodgers substantially in the form of Schedule 4.

(2) The register of lodgers shall be -

(a) kept in the lodging-house; and

(b) open to inspection at any time on demand by any member of the Police Service or by an Environmental Health Officer.

(3) Section 157 of the Act also deals with the keeping of a register of lodgers.

### **Certificate in respect of sleeping accommodation**

8.25 (1) An Environmental Health Officer may issue to the keeper a certificate, in respect of each room, which shall be in the form of Schedule 5.

(2) The certificate issued under subclause (1) shall specify the maximum number of persons permitted to occupy each room as a sleeping apartment at any one time.

(3) When required by an Environmental Health Officer, the keeper shall exhibit the certificate issued under this clause in a conspicuous place.

(4) A person shall not cause, suffer or permit a greater number of persons than is specified on a certificate issued under this clause to occupy the room to which it refers.

### **Duplicate keys and inspection**

8.26 Each keeper and manager of a lodging-house shall -

(a) retain possession of a duplicate key to the door of each room; and

(b) when required by an Environmental Health Officer, open the door of any room for the purposes of inspection by the Officer.

### **Room occupancy**

8.27 (1) The keeper shall not -

- (a) cause, suffer or permit more than the maximum number of persons permitted by the certificate of registration issued for the lodging-house to be lodged at any one time in the lodging-house;
  - (b) cause, suffer or permit to be placed or kept in any sleeping apartments -
    - (i) a larger number of beds; or
    - (ii) a larger quantity of bedding,than is required to accommodate and provide for the maximum number of persons permitted to occupy the sleeping apartment at any one time; or
  - (c) use or cause or suffer or permit to be used for sleeping purposes, a room that -
    - (i) has not been certified for that purpose; or
    - (ii) the City or the *Medical Officer* has forbidden to be used as a sleeping apartment.
- (2) For the purpose of this clause, two children under 10 years of age shall be counted as one lodger.

### **Maintenance of a room by a lodger or resident**

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

### **Cleaning and maintenance requirements**

- 8.29 (1) In this clause-
- “**bed linen**” includes sheets, pillow cases and mattress protectors.
- (2) The keeper of a lodging-house shall -

- (a) maintain in a clean, sound and undamaged condition -
  - (i) the floor, walls, ceilings, woodwork and painted surfaces;
  - (ii) the floor coverings and window treatments; and
  - (iii) the toilet seats;
- (b) maintain in a clean condition and in good working order -
  - (i) all fixtures and fittings; and
  - (ii) windows, doors and door furniture;
- (c) ensure that the internal walls of each bathroom and toilet are painted so as to maintain a smooth impervious washable surface;
- (d) whenever there are one or more lodgers in a lodging-house, ensure that the laundry floor is cleaned daily;
- (e) ensure that -
  - (i) all bed linen, towels and house linen in use is washed at least once a week;
  - (ii) within a reasonable time of a bed having been vacated by a lodger or resident, the bed linen is removed and washed;
  - (iii) a person does not occupy a bed which has been used by another person unless the bed has been provided with clean bed linen.
  - (iv) all beds, bedsteads, blankets, rugs, covers, bed linen, towels and house linen are kept clean, in good repair and free from vectors of disease;
  - (v) when any vectors of disease are found in a bed, furniture, room or sleeping apartment, immediate effective action is taken to eradicate the vectors of disease; and
  - (vi) a room which is not free from vectors of disease is not used as a sleeping apartment;
- (f) when so directed by *the Principal* Environmental Health Officer, ensure that -
  - (i) a room, together with its contents, and any other part of the lodging-house, is cleaned and disinfected; and
  - (ii) a bed or other article of furniture is removed from the lodging-house, and properly disposed of;

- (g) ensure that the yard is kept clean at all times;
- (h) provide all bedrooms, passages, common areas, toilets, bathrooms and laundries with adequate lighting; and
- (i) comply with any direction, given by an Environmental Health Officer.

### **Responsibilities of lodgers and residents**

8.30 A lodger or resident shall not -

- (a) use any room available to lodgers -
  - (i) as a shop, store or factory; or
  - (ii) for manufacturing or trading services;
- (b) keep or store in or on the lodging-house any goods or materials which are flammable or offensive; -
- (c) use a shower, bath or hand wash basin other than for ablutionary purposes;
- (d) use a bathroom facility or fitting for laundry purposes;
- (e) use a sink installed in a kitchen or scullery for any purpose other than the washing and cleaning of cooking and eating utensils, other kitchenware and culinary purposes;
- (f) deposit rubbish or waste food other than into a proper rubbish receptacle;
- (g) in a kitchen or other place where food is kept-
  - (i) wash or permit the washing of clothing or bedding; or
  - (ii) keep or permit to be kept any soiled clothing or bedding;
- (h) subject to clause 8.31 -
  - (i) keep, store, prepare or cook food in any sleeping apartment, unless an approved self-contained unit; or
  - (ii) unless sick or invalid and unable to leave a sleeping apartment for that reason, use a sleeping apartment for dining purposes;
- (i) place or keep, in any part of a lodging-house, any luggage, clothing, bedding or furniture, that is infested with vectors of disease;
- (j) store or keep such a quantity of furniture, material or goods within the lodging-house -

- (i) in any kitchen, living or sleeping apartment so as to prevent the cleaning of the floors, walls, fittings or fixtures; or
- (ii) in a sleeping apartment so as to decrease the air space to less than the minimum required by this Part;
- (k) obstruct or prevent the keeper or manager or an Environmental Health Officer from inspecting or examining the room or rooms occupied by the lodger or resident; and
- (l) fix any fastener or change any lock to a door or room without the written approval of the keeper.

*(Clause 8.30(b) amended by No. 180 of 2009)*

### **Approval for storage of food**

- 8.31 (1) The Principal Environmental Health Officer may -
- (a) upon written application from the keeper, approve the storage of food within a refrigerator or sealed container in a sleeping apartment; and
  - (b) withdraw the approval if a nuisance or vector of disease infestation is found to exist in the lodging-house.
- (2) The keeper of a serviced apartment may permit the storage and consumption of food within that apartment if suitable storage and dining facilities are provided.

## **PART 9 - OFFENSIVE TRADES**

### *Division 1 - General*

#### **Interpretation**



9.1 In this Part, unless the context otherwise requires -

“**certificate of registration**” means the certificate of registration referred to in clause 9.5(b);

“**occupier**”, in relation to premises, includes the person registered as the occupier of the premises specified in the certificate of registration; and

“**offensive trade**” has the meaning given to it in section 186 of the Act.

### **Occupier includes employee**

9.2 (Repealed)

*(Clause 9.2 repealed by No. 180 of 2009)*

### **Consent to establish an offensive trade**

- 9.3 (1) A person seeking the consent of the City under section 187 of the Act to establish an offensive trade shall -
- (a) advertise a notice of an intention to apply for consent in accordance with clause 9.4;
  - (b) lodge with the Chief Executive Officer a completed application in the form of Schedule 6 ;
  - (c) provide the Principal Environmental Health Officer with suitable scale plans of the premises showing all fixtures and fittings; and
  - (d) provide the Principal Environmental Health Officer with a management plan detailing how all pollution that may be generated from the premises will be controlled.
- (2) A person who makes a false statement in an application under this clause shall be guilty of an offence.
- (3) No person shall establish any offensive trade unless it is permitted under the provisions of the Scheme applying to the premises where the offensive trade is established.

### **Notice of Application**

9.4 A notice required under clause 9.3(a), shall -

- (a) contain the name and address of the person who intends to make the application;
- (b) contain a description of the nature of the offensive trade;

- (c) contain details of the premises in or upon which it is proposed to carry on the proposed trade; and
- (d) appear in a Perth daily newspaper and a local community newspaper circulating in the district giving 28 days notice before the application under clause 9.3(1)(b) is lodged with the Chief Executive Officer.

### *Division 2 - Registration of Premises for Offensive Trade*

#### **Registration of premises**

9.5 An application for the registration of premises under section 191 of the Act shall be -

- (a) in the form of Schedule 7;
- (b) duly completed and signed by the person proposing to carry on the offensive trade;
- (c) accompanied by the fee prescribed in the *Offensive Trade (Fees) Regulations 1976*; and
- (d) lodged with the Chief Executive Officer.

#### **Certificate of registration**

9.6 The City may:

- (a) refuse to approve an application made under clause 9.5 and shall advise the applicant of that; or
- (b) approve an application made under clause 9.5 whether or not subject to conditions, by issuing to the applicant a certificate of registration in the form of Schedule 8 and the application shall not be taken to be approved until the certificate is issued.

#### **Change of occupier**

9.7 Where there is a change of occupier of premises registered under this Division, the new occupier shall notify the Chief Executive Officer in writing of such change as soon as practicable after that change occurs.

#### **Alterations to premises**

- 9.8 While any premises remain registered under this Division, an owner or occupier of the premises shall not, without the written permission of the City, make or permit any change or alteration whatever to the premises.

### *Division 3 - General Duties of an Occupier*

#### **Interpretation**

- 9.9 In this Division, unless the context otherwise requires -

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

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

#### **Cleanliness**

- 9.10 The occupier shall -

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

#### **Rodents and other vectors of disease**

- 9.11 The occupier shall –

- (a) ensure that the premises are kept free from vectors of disease; and
- (b) provide in and on the premises all effective means and methods for the eradication and prevention of vectors of disease.

### **Toilets and wash basins**

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

### **Painting of surfaces etc.**

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

### **Effluvia, vapours or gases**

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

### **Offensive material**

9.15 The occupier shall -

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

### **Storage of materials**

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

## **Specified offensive trades**

- 9.17 (1) For the purposes of this clause, "*specified offensive trade*" means one or more of the offensive trades carried on, in or connected with the following works or premises -
- (a) fish rendering premises;
  - (b) fish canning, fish curing, fish processing premises, shellfish and crustacean processing establishments; and
  - (c) laundries, dry cleaning premises and dye works.
- (2) Where premises are used for or in relation to a specified offensive trade, the occupier shall -
- (a) cause the floor of the premises to -
    - (i) be properly paved and drained with impervious materials;
    - (ii) have a smooth surface; and
    - (iii) have a fall to a bucket trap or spoon drain in such a way that all liquids falling on the floor shall be conducted by the trap or drain to a drain inlet situated inside the building where the floor is situated;
  - (b) cause the angles formed by the walls with any other wall, and by the wall with the floor, to be coved to a radius of not less than 9.5 millimetres; and
  - (c) cause all liquid refuse to be -
    - (i) cooled to a temperature not exceeding 26 degrees Celsius and in accordance with the *Metropolitan Water Supply, Sewerage and Drainage Board By-laws 1981* before being discharged into any drain outlet from any part of the premises; and
    - (ii) directed through such screening or other treatment as an Environmental Health Officer may from time to time direct.

## **Directions**

- 9.18 (1) An Environmental Health Officer may give to the occupier of premises directions to prevent or diminish the offensiveness of a trade or to safeguard the public health.
- (2) The occupier shall comply with any directions given under subclause (1).

### **Other duties of occupier**

- 9.19 (1) In addition to the requirements of this Division, the occupier of premises shall comply with all other requirements of this Part that apply to the particular offensive trade or trades carried on in the premises.
- (2) Where there is conflict between the requirements of this local law and conditions imposed by another licensing authority, the higher standard shall apply unless otherwise required by the Principal Environmental Health Officer.

## **PART 10 - OFFENCES AND FEES**

### **Offences**

- 10.1 (1) A person who contravenes a provision of these Local-Laws commits an offence.
- (2) A person who commits an offence under sub-clause (1) is liable to -
- (a) a penalty which is not more than \$1,000 and not less than -
    - (i) in the case of a first such offence, \$100;
    - (ii) in the case of a second such offence, \$200; and
    - (iii) in the case of a third such offence, \$500; and
  - (b) if the offence is a continuing offence, a daily penalty that is not more than \$100 and not less than \$50 for each day during which, the offence continues.

### **Fees**

- 10.2 Wherever a fee is prescribed by this local law, that fee shall:
- (a) be fixed from time to time by the City under section 344C of the Act; and
  - (b) except where it is a transfer fee, be pro-rata, calculated on a monthly basis for any period to 30 June each year.

### **City may execute work and recover costs**

- 10.3 (1) Where -
- (a) a person is required or directed under this local law or given a notice under this local law, to execute any work; and
  - (b) that person fails or neglects to comply with the requirement, direction or notice, the City may execute the work and may recover from that person the cost of executing the work, in addition to any penalty for which that person may be liable under this local law.

- (2) The costs and expenses incurred by the City in the execution of a power under subclause (1) may be recovered in a court of competent jurisdiction from the person referred to in subclause (1).
- (3) The local government is not liable to pay compensation or damages of any kind to the person referred to in subclause (1) in relation to any action taken by the local government under this clause, other than compensation or damages for loss or damages suffered because the local government acted negligently or in breach of duty.

*(Clause 10.3(3) amended by No. 183 of 2007)*

Schedule 1  
City of Swan  
Health Local Law 2002

**APPLICATION FOR REGISTRATION OF A LODGING-HOUSE**

To: Chief Executive Officer  
City of Swan

Given Names..... Family Name .....  
Residential Address .....  
..... Post Code .....  
Telephone (Day) ..... Mobile Phone .....  
Facsimile .....

apply for registration of premises situated at (or to be situated) at .....

.....

as a lodging-house to be classified as:

- a lodging-house       a short term hostel       recreational campsite
- serviced apartments      (*specify which is to apply*)

and for my name to be entered in the register as the keeper of the lodging-house.

**DESCRIPTION OF LODGING-HOUSE**

Number of storeys .....

**Rooms for private use**

	Number	Area
Laundries/toilets/bathrooms	.....	.....
Bedrooms	.....	.....
Dining Rooms	.....	.....
Kitchens	.....	.....
Sitting Rooms	.....	.....
Other (specify)	.....	.....



**Rooms for lodgers**

	Number	Area
Bedrooms	.....	.....
Dining Rooms	.....	.....
Kitchens	.....	.....
Sitting Rooms	.....	.....
Other (specify)	.....	.....

**Sanitary Conveniences for male lodgers**

Toilets	.....
Urinals	.....
Baths	.....
Showers	.....
Wash hand basins	.....

**Sanitary Conveniences for female lodgers**

Toilets	.....
Baths	.....
Showers	.....
Wash hand basins	.....

**Laundry Facilities**

Washtroughs	.....
Washing machines	.....
Drying cabinets or clothes line	.....

**Additional details** (delete if not applicable)

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

.....

.....

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

**Fee and Signature**

Application Fee \$

\_\_\_\_\_  
 Signature of Applicant  
 \_\_\_\_/\_\_\_\_/\_\_\_\_ Date

*Please forward your completed form and application fee to Council's Administration Office,  
 Midland Square, Midland, or by mail to PO Box 196, Midland WA 6936*

Office Use Only

Receipt No:

Date:

Schedule 2  
City of Swan  
Health Local Law 2002

**CERTIFICATE OF REGISTRATION OF A LODGING-HOUSE**

THIS is to certify that the premises situated at .....  
.....  
are registered as a Lodging-house and classified as:

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

until 30/6/....., on the following conditions:

1. That ....., whose name is entered on the register of keepers of the City of Swan, continues to be the keeper of the lodging-house.
2. That ....., appointed by the keeper to be the manager of the lodging-house, continues to be the manager of the lodging-house.
3. That the certificate of registration is not sooner cancelled or revoked.
4. That the total number of rooms to be used as sleeping apartments for the lodgers is: .....; and
5. That the maximum number of lodgers accommodated on the premises shall not exceed: .....

This Certificate of Registration is issued subject to the Health Act and the City of Swan Health Local Law and is not transferable.

Dated ...../...../.....

.....  
Principal Environmental Health Officer  
City of Swan

Fee received: \$ .....

Schedule 3  
City of Swan  
Health Local Law 2002

**NOTICE OF CHANGE OF OWNER OF A LODGING-HOUSE**

To: Chief Executive Officer  
City of Swan

Given Names..... Family Name .....  
Residential Address .....  
..... Post Code .....  
Telephone (Day) ..... Mobile Phone .....  
Facsimile .....

am/are the new owners of premises situated at .....  
.....

which are registered in the name of .....  
.....

for the carrying on of the lodging-house business.

Dated.../.../...

.....  
.....  
Signature of Applicant/s

Schedule 4  
City of Swan  
Health Local Law 2002

**REGISTER OF LODGERS**

Location of Lodging-house: .....

.....

---

Date of of Arrival Departure	Name	Previous Address	Signature	Room No.	Date
---------------------------------------	------	------------------	-----------	----------	------

---

.....

.....

.....

.....

.....

.....

.....

.....

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Schedule 5  
City of Swan  
Health Local Law 2002

**CERTIFICATE OF SLEEPING ACCOMMODATION**

To .....  
(Name of Keeper)

of .....  
(Address of Keeper)

For the registered lodging-house situated at: .....  
.....

The rooms listed below are not to be occupied by more than the number of lodgers or residents indicated below.

ROOM NUMBER

MAXIMUM OCCUPANCY

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

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

.....  
Environmental Health Officer

.....  
Date

Schedule 6  
City of Swan  
Health Local Law 2002

**APPLICATION FOR CONSENT TO ESTABLISH AN OFFENSIVE  
TRADE**

To: Chief Executive Officer  
City of Swan

Given Names..... Family Name .....  
Residential Address .....  
..... Post Code .....  
Telephone (Day) ..... Mobile Phone .....  
Facsimile .....

apply for consent to establish an offensive trade being

.....  
*(Description of Offensive Trade)*

in or upon .....  
*(Location of the House or Premises)*

Notice of my/our intention to make this application was advertised in .....  
*(Name of Newspaper)*

.....on.....  
.....  
*(Date of Advertisement)*

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

.....  
Signature of Applicant/s

.....  
Date:

*Please forward your completed form and application fee to Council's Administration Office,  
Midland Square, Midland, or by mail to PO Box 196, Midland WA 6936*

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Schedule 7  
City of Swan  
Health Local Law 2002

**APPLICATION FOR REGISTRATION OF PREMISES FOR  
OFFENSIVE TRADE**

To: Chief Executive Officer  
City of Swan

Given Names..... Family Name .....  
Residential Address .....  
..... Post Code .....  
Telephone (Day) ..... Mobile Phone .....  
Facsimile .....

apply for registration, for the year ended 30 /6 /.....

of .....  
(Location of Premises)

being premises in or upon which there is (or is to be) carried on an offensive trade, namely .....  
.....  
(description of offensive trade)

under the business name of .....

**Fee and Signature**

Application Fee \$

\_\_\_\_\_  
Signature of Applicant

\_\_\_/\_\_\_/\_\_\_ Date

*Please forward your completed form and application fee to Council's Administration Office,  
Midland Square, Midland, or by mail to PO Box 196, Midland WA 6936*

Office Use Only

Receipt No:

Date:

**CERTIFICATE OF REGISTRATION OF PREMISES FOR OFFENSIVE  
TRADE**

This is to certify that the premises situated at .....

.....

of which .....

.....

is the occupier, are registered for the carrying on of the trade of .....

Business Name .....

This registration expires on the 30 /6 /.....

Dated this..... day of (month).....(year).....

.....  
Principal Environmental Health Officer