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PART VIII

MISCELLANEOUS

HAWKERS AND STALLKEEPERS

655. In By-laws 655 to 667 the terms "hawker", "stall" and "stallholder" have the meanings assigned to them by Sections 217 and 242 of the Act. These definitions are as follows:-

"hawker" means a hawker, pedlar or other person who, with or without any horse or other beast bearing or drawing burden, travels and trades and goes from town to town or to other men's houses or is in any street there soliciting orders for or carrying to sell or exposing for sale any goods, wares or merchandise, but does not include -

- (a) commercial travellers or other persons selling or seeking orders for goods, wares, or merchandise to or from persons who are dealers therein, or selling or seeking orders for books or newspapers;
- (b) sellers of vegetables, fish, fruit, newspapers, brooms, matches, game, poultry, butter, eggs, milk or any victuals;
- (c) persons selling or exposing for sale goods, wares or merchandise in any public market or fair lawfully established, or upon any racecourse, agricultural show ground, or public recreation ground;
- (d) sellers of goods of their own manufacture;
- (e) persons representing a manufacturer whose goods are sold direct to consumers only and not through the medium of a shop.

"stall" means a movable or temporarily fixed stall for the sale of goods, wares, merchandise or services;

"stallholder" means a person in charge of a stall.

656. Any person who desires to hawk any goods, wares or merchandise, or to be a stallholder within the District, shall make an application in writing to the Council for a licence so to do.

657. The Council shall not entertain any application for a hawker's licence (other than an application for a licence by way of renewal of a licence) unless the applicant produces a certificate signed by two Justices of the Peace certifying that the person sought to be licenced is of good character and reputation and is a fit person to exercise the trade of a hawker.

658. The Council may grant a licence to the applicant or may refuse to grant the licence on any of the following grounds:-

- (a) that the applicant has committed a breach of any By-laws 664 to 667;
- (b) that the applicant is not of good character or has been convicted of a criminal offence;
- (c) that the needs of the District or the portion thereof for which the licence is sought are adequately catered for by established shops or by persons to whom licences have been issued.

659. The licence shall state the type of commodities which the licensee is authorised to sell.

660. The licence granted to a hawker by the Council may be in respect of the whole District, or for any portion of the District specified in the licence, and in the case of a licence granted to a stallholder the licence may specify the place where the stall may be situated. The licence may be granted upon the condition that the licensee shall not carry on business within a specified radius of any shop which sells commodities similar to those to be sold by the licensee.

661. A licence granted by the Council shall remain valid until the 31st day of December next after the issue of the licence unless previously revoked.

662. The fees set out hereunder shall be payable to the Council in respect of each licence:-

Hawkers Licence - \$20.00

Stallholders Licence - \$40.00

663. The Council may revoke any licence issued by it on any of the grounds set out in By-law 658 hereof, or on the grounds:-

- (a) that the licensee has committed a breach of the terms or conditions of the licence;
- (b) that the licensee is not conducting his business in a respectable or sober manner;
- (c) in the case of a stallholder have a stall at any place other than that specified in the licence;
- (d) that he has assigned his licence or does not himself carry on the business; or
- (e) that he is not regularly carrying on the business for which the licence was granted.

664. No person shall hawk goods, wares or merchandise, or act as a stallholder:-

- (a) without being licenced by the Council;
- (b) in any part of the District other than that specified in the licence;
- (c) in the case of a stallholder have a stall at any place other than that specified in the licence;
- (d) in respect of commodities of a type not specified in the licence; or
- (e) otherwise than in accordance with any conditions imposed by the Council when granting the licence.

665. No hawker or stallholder shall:-

- (a) sell or offer for sale any commodity excepting between the hours of 7 a.m. and 11.30 p.m.;
- (b) deposit or store any box or basket under his vehicle or on the roadway or footpath;
- (c) shout his wares or make any violent outcry noise or disturbance to the annoyance of the inhabitants or passers by;
- (d) obstruct the free passage of pedestrians or vehicles on any footpath or roadway; or
- (e) act in an offensive manner.

666. A hawker or stallholder shall carry his licence with him and produce it upon demand to any employee of the Council or to a member of the Police Force.

DOGS

Amended: GG's: 69, 31.8.1973; 92, 14.12.1973; 41, 27.6.1975; 58, 14.9.1979; 86, 20.11.1981; 80, 30.8.1985; 116, 26.9.1986; 107; 11.11.1988; 34, 7.4.89; 188, 29.11.96: 122, 25.7.97:

668. In by-laws 668 to 683 unless the context otherwise requires "Act" means the Dog Act 1976. Expressions used in By-laws 669 to 683 have the meanings given to them by the Act.

**668- 682 Amended 92 of 1973; 41 of 1975; 58 of 1979
Revoked and Re-enacted 86 of 1981**

669. For the purposes of sections 31 and 32 of the Act the Council dog exercise areas shall be all those parks and reserves, vested in or under the control and management of Council, situated within the district, except:-

- (a) Road reserves;
- (b) Those portions of Reserve No. 12992 on the Indian Ocean foreshore described in local law 670(f) of these local laws; and
- (c) The Stirling Civic Gardens reserve bounded by Cedric Street, Telford Crescent, the Mitchell Freeway and Drain Reserve Lot No. 16446.
- (d) The Albert James Park, Joondanna, unless leashed and accompanied by an owner or other attendant.

**Revoked and Re-enacted 107 of 1988
Amended 34 of 1989; 188 of 1996, 122 of 1997**

670. A person liable for the control of a dog other than a bona fide guide dog accompanied by a visually impaired person or a person engaged in the training of guide dogs, shall prevent that dog from entering or being in any of the following places:-

- (a) A public building;
- (b) A theatre or picture gardens;
- (c) A house of Worship;
- (d) A school or school ground;
- (e) A shop or other public business premises not being a shop where dogs are sold or treated for illness;
- (f) Any of the beaches specified hereunder:-

Those portions of Reserve Number 12992 on the Indian Ocean foreshore as detailed hereunder:-

- i) Extending northwards from a line 200m due north of and parallel with the southern boundary of the district between the shores of the Indian Ocean and the eastern boundary of that Reserve to the prolongation of a line west of the southern side of Kathleen Street;
- ii) Extending northwards from the prolongation of a line west of the northern side of Bennion Street to the prolongation of a line west of the southern side of Castle Street;
- iii) Extending northwards from the prolongation of a line west of the northern side of Ada Street to the northern boundary of the district.

- (g) A construction, building or demolition site, unless tethered or otherwise constrained within the building site.

Amended 116 of 1986; 27 of 1997

671. A person who permits a dog, the control for which he is liable, to excrete on any street or public place or on any land within the District of the City of Stirling without the consent of the occupier commits an offence unless the excreta is removed forthwith and disposed of either on private land with the occupier's consent or in such other manner as the Council may approve.

672. The occupier of premises within the district shall not unless the premises are licensed as an approved kennel establishment or have been granted exemption pursuant to section 26(3) of the Act keep or permit to be kept on those premises more than two dogs over the age of three months and the young of those dogs under that age.

673. An application for a licence to keep an approved kennel establishment shall be in writing and shall be in or substantially in the following form and shall be supported by evidence that due notice of the proposed use of the land has been given to persons in the locality.

**CITY OF STIRLING
APPLICATION FOR LICENCE OR RENEWAL OF
LICENCE TO KEEP APPROVED KENNEL ESTABLISHMENT**

Pursuant to the Dog Act 1976, and the By-laws of the City of Stirling made thereunder -

I/We (full name)

of

hereby apply for a licence/the renewal of a licence (strike out whichever is not applicable) to keep an approved kennel establishment

at.....

Attached hereto are:-

- (a) a plan of the premises showing the location of the kennels and yards and all other buildings, structures and fences;***
- (b) plans and specifications of the kennels;***
- (c) evidence that due notice of the proposed use of the premises has been given to persons in the locality;***
- (d) a remittance for the fee of \$_____.***

Dated theday of.....19....

Signature of applicant.....

Note: Items (a), (b) and (c) may be struck out if the application is for the renewal of a licence and if no change has been made since the previous application.

(End of Form)



674. A licence to keep an approved kennel establishment shall be in or substantially in the following form:-

**CITY OF STIRLING
LICENCE TO KEEP AN APPROVED KENNEL ESTABLISHMENT**

.....*is/are the holder(s) of a licence to keep an approved kennel establishment at*

.....

This licence has the effect for a period of 12 months from the date hereof.

Dated the.....day of..... 19.....

.....
Town Clerk

(End of Form)

675. A kennel for which an approved kennel establishment licence has been granted and which is to be constructed pursuant to these by-laws shall comply with the following specifications:-

- (a) Each kennel shall have a yard appurtenant thereto;
- (b) Each kennel shall have an internal height of not less than 2 metres and width sufficient to permit the dog or dogs to move inside without restriction;
- (c) Each kennel and each yard and every part thereof shall not be at any less distance than 1.5 metres from the side or rear boundaries of the lot;
- (d) Each kennel and each yard and every part thereof shall be kept at a distance not less than 18 metres from any dwelling-house, church, schoolroom, hall, shop or factory, not less than 24 metres from the street to which the lot has a frontage, not less than 7.5 metres from any street adjoining the side or rear of the lot, and not less than 60 metres from a dwelling other than a dwelling on that lot;
- (e) The walls shall be constructed of concrete, brick, stone or wood framing sheeted with asbestos or galvanised iron internally and externally;
- (f) The roof shall be constructed of some impervious material;
- (g) Each yard shall be securely fenced and kept securely with a fence not less than 2 metres in height constructed of galvanised iron, wood or galvanised link mesh;
- (h) All gates shall be provided with efficient catches or means of fastening;
- (i) The upper surface of the floor of each kennel shall be set at least 100 millimetres above the surface of the surrounding ground and shall be constructed of granolithic cement finished to a smooth surface and shall have a fall of not less than 1 in 100 to a drain which shall be properly laid ventilated and trapped. The floor shall have a coved upstand at the junction of the floor and the internal wall surface. In the case of a wooden framed building the bottom plate shall rest on a coved concrete upstand 75 millimetres above the floor level and the internal wall sheeting shall finish a minimum of 25 millimetres below the bottom of the floor plate. All floor washings shall pass through this drain and shall be disposed of in accordance with the health requirements of the Council;
- (j) The floor of any yard which is floored shall be constructed in the same manner as the floor of any kennel and as provided in paragraph (i);

- (k) For each dog kept thereon every kennel shall have not less than 1 square metre of floor space and for each such dog every yard shall have an area of not less than 2.5 square metres;
- (l) Kennels and fences of attached yards shall be finished and maintained in good order to the satisfaction of the Principal Environmental Health Officer.

676. A person shall not erect a kennel unless it complies with these by-laws and unless and until plans and specifications and a location plan showing the proposed site for such kennel and of the yard appurtenant thereto have been approved by the Council.

677. A person shall not conduct an approved kennel establishment unless he or another person resides on the parcel of land upon which the establishment is conducted.

678. A person who conducts an approved kennel establishment shall maintain all kennels and yards and all feeding and drinking vessels used by dogs therein in a clean condition.

679. A person who contravenes or fails to comply with any of these by-laws commits an offence and is liable on conviction to a penalty not exceeding \$100.00.

680. A person who does not contest an allegation that he committed an offence against by-law 670, 671, 672, 684 or 685 may subject to the provisions of these by-laws pay to the Council within the time hereinafter prescribed the modified penalty of \$40.00 and the due payment of a modified penalty is a defence to a charge of the offence in respect of which that modified penalty was paid.

Amended 80 of 1985, 107 of 1988

681. Where the Council is of the opinion that an alleged offence cannot be adequately punished by the payment of the modified penalty the Council may refrain from accepting the modified penalty and may instead take proceedings against the alleged offender.

682. (1) The modified penalty may be imposed and collected by the Council in the way specified in this by-law.

(2) Where an authorised person has reason to believe that a person has committed any offence against one or more of the by-laws referred to in By-law 680 he may serve on that person a notice in the form of Form 7 in the First Schedule of the Dog Act Regulations 1976 (in this by-law called "an infringement notice") informing the person that, if he does not wish to have a complaint of the alleged offence heard and determined by a court, he may pay to the Council, within the time specified, the amount prescribed as the modified penalty.

(3) An infringement notice may be served on an alleged offender personally or by posting it to his address as ascertained from him, at the time of or immediately following the occurrence giving rise to the allegation of the offence, or as recorded by the Council pursuant to the Act.

(4) Where a person who receives an infringement notice fails to pay the prescribed modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed, he is deemed to have declined to have the allegation dealt with by way of a modified penalty.

(5) An alleged offender on whom an infringement notice has been served may, within the time specified in that notice or such further time as may in any particular case be allowed, send or deliver to the Council specified in that notice the amount of the prescribed penalty, with or without a reply as to the circumstances giving rise to the allegation, and the Council may thereupon:-

- (a) appropriate that amount in satisfaction of the penalty and issue an acknowledgement; or
- (b) withdraw the infringement notice and refund the amount so paid.

(6) An infringement notice may, whether or not the prescribed penalty has been paid, be withdrawn by the Council by the sending of a notice in the form of Form 8 in the First Schedule of the Dog Act Regulations, 1976 to the alleged offender at the address specified in the notice or his last known place of residence or business and in that event any amount received by way of modified penalty shall be refunded and any acknowledgement of the receipt of that amount shall for the purposes of any proceedings in respect of the alleged offence be deemed not to have been issued.

683. The Council shall cause adequate records to be kept of all cases in which modified penalties have been imposed and collected under these by-laws.

684. Subject to section 7(3) of the Act, a person who keeps a dog which is not registered with the Act commits an offence.

685. (1) The owner or occupier of premises within the district and on which a dog is kept shall cause the portion of those premises on which the dog is kept to be fenced in a manner and capable of confining the dog to that portion and in accordance with the provisions of this by-law.

(2) The fence used to confine a dog and every part of the fence shall, having regard to the species, age, size and physical condition of the dog, prevent that dog from passing over, under or through the fence.

(3) If there is a gate in the fence the gate shall be:-

(a) fitted with:-

- i) an efficient self-closing mechanism;
- ii) an efficient self-latching mechanism attached to the inside of the gate; and
- iii) a mechanism which enables the gate to be permanently locked;

(b) kept closed at all times except when the dog is not kept on the premises, but nothing in this paragraph prevents a person from opening the gate in order to enter or leave the premises.

(4) In this by-law the term "fence" includes a wall.

KEEPING OF GOATS

Amended: GG: 95, 4.10.1985 (Metrication); 37, 16.4.1987

687. No person shall, except within a Rural Zone, keep a goat unless he shall be a holder of a licence from the Council authorising him so to do.

688. Any person who desires to keep a goat unless within a Rural Zone shall make application in writing to the Council for a licence so to do.

689. The applicant for a licence to keep a goat shall with his application submit:-

- (a) a medical certificate stating that due to medical reasons, goats' milk is required for a member of the family of the applicant or of the occupier of the premises where it is intended to keep the goat;
- (b) plans and specifications of a structure for housing the goat complying with the terms of these by-laws and showing the site of the proposed structure.

690. The Council may grant a licence to the applicant in respect of each goat and shall specify the place at which the goat may be kept.

691. A licence granted by the Council shall remain valid until the 31st day of December next after the issue of the licence, unless previously revoked.

692. The fee payable to the Council in respect of each licence is \$5.00 for each goat.

Amended 37 of 1987

693. The person to whom a licence has been issued shall:-

- (a) prevent the goat from being at large in any yard or place unless provision is made to prevent the animal from approaching within 9 metres of any dwelling- house, shop, or place where food is manufactured, stored or exposed for sale.
- (b) provide at the place where the goat is kept a structure for the housing of the goat and the structure shall comply with the following:-
 - i) it shall not be at any less distance than 9 metres from any dwelling-house, shop or place where food is manufactured, stored or exposed for sale;
 - ii) it shall have walls constructed of concrete, brick, stone, wood or galvanised iron; and
 - iii) it shall have a roof to be constructed of some impervious material;
 - iv) there shall be on all sides of the structure between the wall and the roof a continuous clear space of at least 150mm in height;
 - v) the upper surface of the floor shall be raised at least 75mm above the surface of the surrounding ground, and shall be constructed of some impervious material and the floor shall have a fall of one in one hundred to a drain;
 - vi) there shall be provided outside each such structure a receptacle for manure. The receptacle shall be constructed of brick faced with some impervious material and shall be provided with a tight-fitting fly-proof cover.

- c) Maintain the said structure in a clean condition.
- d) Have all manure produced on the premises collected daily and placed in the said receptacle for manure.
- e) Have the said receptacle for manure emptied at least once weekly.

694. A person shall not keep a goat at a place other than that specified in the licence.

POLLUTION OF WATER

695. No person shall pollute, obstruct, injure or damage any water course, water channel, pool, well, dam, tank, reservoir or other waters without the written authority of the Council.

OFFENSIVE WATERS FROM FACTORIES

696. No person shall permit poisonous or offensive waters from any mine, factory or other work or undertaking to flow outside the limits of any land occupied or owned by him, unless into a drain approved by the Council.

697. No person shall permit poisonous or offensive waters to flow from any mine, factory or other work or undertaking on to land owned or occupied by him unless the land is sufficiently fenced to prevent persons from entering upon the said land.

OFFENSIVE NOISES OR ODOURS FOR ADVERTISEMENT PURPOSES

698. No person shall for advertisement purposes in a street way, footpath or other public place or in private property:-

- (a) make any noise; or
- (b) cause an obnoxious odour,

which by reason of its nature intensity or persistence causes a nuisance, annoyance or distress to any person or is offensive to any person.

ITINERANT PHOTOGRAPHERS

Amended: GG: 95, 4.10.1985 (Metrication)

699. No persons shall take or offer to take photographs for sale on any public place or on any property vested in or under the care control or management of the Council without the appropriate licence from the Council.

700. A person wishing to operate as or carry on the business of an itinerant photographer shall make application to the Council for a licence to do so.

701. The Council may grant a licence to an itinerant photographer and such licence shall specify the place or places at which the business may be carried on.

702. No itinerant photographer shall:-

- (a) obstruct or cause any obstruction in, or
- (b) cause any nuisance or annoyance,

to the users of any public place or on any property under the care control or management of the Council.

703. No person shall operate as or carry on the business of an itinerant photographer within 15 metres of any building, tent, article of playground equipment, or other structure on any public place or any property under the care control or management of the Council.

CARAVANS

Amended: GG: 64, 19.7.1985; 95, 4.10.1985 (Metrication)

704. In By-laws 704 to 729, unless the context otherwise requires:-

"caravan" means a vehicle designed, or fitted, or being capable of use, as a habitation or for dwelling or sleeping purposes;

"owner" when used in reference to a caravan, includes the licensee or person in charge of the caravan;

"owner of caravan park" shall include the owner, lessee or manager of a caravan park.

705. A person shall not, except during the hours of day-light, park a caravan or allow it to be stationary on any street.

706. (1) An owner of a caravan shall not park it or allow it be stationary on any land other than a street, unless:-

- (a) the caravan is not used as a dwelling or for sleeping purposes; or
- (b) the caravan is on land, either:-
 - i) set aside by the Council as a caravan park; or
 - ii) set aside by the owner thereof as a caravan park and registered as such with the Council; or
- (c) it is parked on the same land as a dwelling and is used with the consent of Council in conjunction with the facilities of dwelling for occupations by one or more members of the family of the occupier of that dwelling.

(2) The Council shall not consent to the use of a caravan under paragraph (c) of sub-Clause (1) of this by-law for a period of more than six months at any one time, but the Council may give its consent more than once, and may permit more than one caravan to be used by an owner if that permission is authorised by an absolute majority of the Council.

707. A person wishing to register a caravan park shall before commencing the construction of the park make written application to the Council, setting out the full particulars of the proposal, specifying the land on which the caravan park is to be conducted and submitting a plan for the retention of the Council showing the full details of the caravan park, the sites for parking of the caravans, all roads and buildings and the caravan storage area (if any).

708. (1) Subject to the provisions of By-law 727 and 728 the Council shall not register any land as a caravan park unless that land is at least 4000 square metres in area and has or provision is made for it to have:-

- (a) grasses planted wherever practicable and some trees;
- (b) any portions set aside for the standing of caravans and towing vehicles paved grassed or treated to the satisfaction of the Council;
- (c) an entrance road and interior roads of a width of not less than 6 metres and so

- sealed as to prevent dust arising therefrom;
- (d) set aside for the parking of each caravan, together with its towing vehicle, an area of at least 56 square metres being not less than 6 metres in width or 9 metres in length provided that ten per cent (10%) of the total number of caravan parking sites shall have an area of at least 72.5 square metres being not less than 7.9 metres in width or 9 metres in length;
 - (e) a clear space of not less than 2.3 metres, separating any portion of a caravan, or annexe used in conjunction therewith, or any site, from the boundary of any adjoining site and from any building on the land;
 - (f) no portion of a caravan parking site or of any building nearer to a street than the building line, or where there is no building line nearer than 9 metres;
 - (g) no portion of a caravan parking site nearer to a side or the rear boundary of the land than 6 metres, where the land abuts a Residential Zone, or nearer than 3 metres, where the land does not so abut;
 - (h) every caravan parking site clearly delineated and bearing a distinguishing mark or number;
 - (i) accommodation for a caretaker, either on the land, or with the consent of the Council in close proximity thereto;
 - (j) no building erected thereon, other than:-
 - i) a residence and ancillary building, in conformity with paragraph (i) of this clause;
 - ii) building for sanitary ablutionary and laundry facilities in conformity with the Caravan and Camp Regulations 1970;
 - iii) any buildings such as a restaurant, cafe, cafeteria or recreation room, approved by the Council, for the use of occupiers of the caravan sites;
 - (k) an adequate supply of potable water;
 - (l) stormwater drains in accordance with the relevant by-laws;
 - (m) the name and address of the person registered with the Council as the owner of the caravan park exhibited at the entrance;
 - (n) fire extinguishers to the satisfaction of the Fire Brigades Board.

(2) Electric power and lighting points shall be installed in accordance with the Electricity Act Regulations 1947, to which every parked caravan may be connected.

709. The owner of a caravan park shall have a paved crossing place constructed from the road to the entrance of the caravan park.

710. (1) A person shall not establish, carry on or conduct a caravan park, or on any land owned by him permit a caravan park to be conducted, unless that land is registered with the Council as a caravan park.

(2) Every registration of a caravan park shall be for the period ending on the 31st day of December next after the date of registration except where the registration is made in the month of November or December when it shall be valid until the 31st day of December in the year next following unless previously cancelled.

(3) The annual fee payable to the Council on the registration of a caravan park shall be twenty dollars.

711. A person shall not establish, carry on or conduct a caravan park on any land under his control, except in conformity with the provisions of these by-laws and unless there are provided on that land the amenities specified in By-law 708, and in the Caravan and Camp Regulations 1970.

712. The owner of a caravan park shall maintain the area of the caravan park in a clean condition and shall keep all improvements thereon and all equipment required by these by-laws in good order and condition.

713. A person shall not use a caravan park for any purpose other than for the parking, using or storing of caravans and towing vehicles used therewith, or for the construction and occupation of buildings authorised by By-law 708.

714. No person shall erect any annexe or structure not fitted to and forming part of the caravan.

715. No person shall in or about any caravan park cause any nuisance or annoyance to the owners or occupiers of land or buildings adjacent or in the vicinity of the caravan park.

716. No person shall park and the owner of the caravan park shall prevent any person from parking more than one caravan and towing vehicle in any one caravan parking site.

717. The owner of a caravan park shall not store or permit to be stored in a caravan storage area more caravans than the number specified upon the registration of the caravan park.

718. No person shall occupy and the owner of the caravan park shall prevent any person from occupying a caravan whilst such caravan is in a caravan storage area.

719. Subject to By-law 727 the owner of a caravan park shall not have caravans owned by him of a greater number than one-half of the total number of caravans parking sites, parked at any one time in caravan parking sites in the caravan park.

720. The owner of a caravan park shall keep in the caravan storage area all unoccupied caravans owned by him.

721. The owner of a caravan park shall not keep or permit to remain on a caravan park, a caravan for more than three months in any one year unless such caravan be stored in the caravan storage area or unless with the consent of the Council.

722. The owner of a caravan park shall not keep or permit to remain in a caravan park any caravan which is not licensed under the Traffic Act, 1919, or in such a condition that it may be licensed under the said Act.

723. A person shall not connect any point installed on a caravan to the electricity supply, unless that caravan is branded by the State Electricity Commission or a competent authority of another State, as complying with the Standard Association of Australia Code No. CC7 - "Electrical Installations in Caravans and Caravan Parks".

724. A person shall not park a caravan or vehicle used for towing that caravan on any part of a caravan park other than a caravan parking site or in the caravan storage area for a period of more than a half hour, at any one time.

725. A person shall not park or permit the parking of a caravan or vehicle used for towing that

caravan on a caravan park except in the caravan storage area if the number of caravan parking sites for which the caravan park is registered are already occupied.

726. A person who parks a caravan or vehicle used for towing that caravan on a caravan park under the authority of these by-laws shall upon the termination of his occupancy of any site in that park forthwith remove that caravan and any annexe attached to it and any vehicle used for towing that caravan from the park.

727. Notwithstanding the provisions of these by-laws the Council may, if authority to do so is given by a resolution passed by an absolute majority of the Council:-

(a) register a caravan park which has been established prior to these by-laws coming into operation if:-

- i) the area of the caravan park is less than 4000 square metres but not less than 2000 square metres; or
- ii) the entrance road and interior roads are less than 6 metres in width but are not less than 3.6 metres in width; or
- iii) portion of a caravan parking site is nearer to a side or rear boundary of the land than 6 metres but not nearer than 3.5 metres, where such land abuts a Residential Zone; or
- iv) portion of a caravan parking site is nearer to a side or rear boundary of the land than 3 metres but not nearer than 1.5 metres where the land abuts any zone other than those mentioned in sub-paragraph (iii) above;

(b) permit the number of caravans owned by the owner of the caravan park to exceed one half of the total number of caravan parking sites available.

728. In granting the registration of a caravan park pursuant to By-law 727, the Council may impose conditions which shall be complied with by the person conducting the caravan park.

729. Where, after a conviction for an offence against any of these by-laws, a caravan park is not conducted in accordance with these by-laws the Council may cancel the registration of the caravan park and until the land be again registered no person shall use or permit the use of the land as a caravan park.

STREET TRADING

Adopted: GG 37, 16.4.1987; Amended: GG Pg 5144, 16.10.92

730. The provisions of by-laws 731 to 744 inclusive shall apply only to that portion of the district specified in the First Schedule hereto.

731. In by-laws 731 to 744 unless the context otherwise requires:-

"authorised officer" includes any ranger, poundkeeper, parking inspector, environmental health officer, beach inspector, impounding officer, foreman, ordinance officer, collector, building inspector or zoning inspector employed by the Council and the Town Clerk or any other person appointed by the Council as an authorised officer for the purposes of these by-laws;

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

"trading" means selling goods, wares, merchandise or services or offering goods, wares, merchandise or services for sale in a street or other public place and includes displaying goods, wares or merchandise for the purpose of offering them for sale, inviting offers for sale, soliciting orders or carrying out any other transaction therein, but does not include the setting up of a stall, or the conducting of business at a stall, under the authority of a licence issued under by-laws made under Section 242 of the Act;

"licence" means a licence issued under by-law 736;

"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.

732. By-laws 731 to 744 inclusive shall not apply to the selling or offering for sale of newspapers.

733. No person shall carry on trading in any street or public place unless that person:-

- (a) is acting in compliance with the requirements, terms and conditions of a current licence issued under by-law 736 and for which all fees and charges have been paid; and
- (b) is the holder of a valid licence issued under by-law 736 or is an assistant specified in a valid licence.

734. An application for a licence shall be in writing and shall:-

- (a) include the full name and address of the applicant;
- (b) specify the proposed number and the names and addresses of assistants to be engaged by the applicant in trading pursuant to the licence;
- (c) specify the location for which the licence is sought;
- (d) be accompanied by an accurate plan and description of any proposed stand, table, structure or vehicle which may be used for trading;
- (e) specify the proposed days and hours of trading;
- (f) specify the proposed goods, wares, merchandise or services in respect of which

trading will be carried on.

735. The Council may refuse to issue a licence if:-

- (a) the applicant has committed a breach of by-law 733, 738, 739 or 740;
- (b) the proposed activity or place of trading is in the opinion of Council undesirable;
- (c) the proposed stand, table, structure or vehicle is in the opinion of Council unsuitable in any respect to the location for which the licence is sought;
- (d) the needs of the district or the portion thereof for which the licence is sought are in the opinion of Council adequately catered for.

736. A licence shall be in the form of the Second Schedule and shall specify:-

- (a) the full name and address of the licensee;
- (b) the dates of issue and the expiration of the licence;
- (c) the place to which the licence applies;
- (d) the number, type, form and construction as the case may be, of any stand, table, structure or vehicle which may be used for trading;
- (e) the particulars of the goods, wares, merchandise or services in respect of which trading may be carried on;
- (f) the number and the full names and addresses of assistants (if any) who may be engaged at any one time in trading pursuant to the licence;
- (g) the days and hours when trading may be carried on;
- (h) any other requirements, terms or conditions that the Council may see fit to impose.

737. (a) The fee payable for the issue of licence is \$20.00;
(b) in addition to the licence fee payable under paragraph (a) of this clause a licensee shall, before the issue of a licence, pay the Council the charge specified in the Third Schedule hereto.

738. No licensee or assistant specified in a licence shall:-

- (a) engage in or permit any trading in any goods, wares, merchandise or services other than those specified in the licence;
- (b) cause or permit or suffer any nuisance to exist, arise or continue on or from the permitted place specified in the licence;
- (c) deposit, place or store any goods, wares or merchandise on any street or other public place other than on the place to which the licence applies;
- (d) create any noise or disturbance to the annoyance of nearby occupants or passers-by;
- (e) obstruct the free passage of pedestrians on any footpath or roadway.

739. A licensee shall not:-

- (a) in trading use or employ or permit to be used or employed at any one time more than the maximum number of assistants specified in the licence; or
- (b) transfer, assign or otherwise dispose of his licence.

740. A licensee shall:-

- (a) personally attend at the place specified in his licence at all times when trading is conducted on or from that place;

- (b) keep the place and any stand, table, structure or vehicle specified in his licence in a clean and safe condition and in good repair;
- (c) keep the place and any stand, table, structure or vehicle specified in his licence free from trade refuse and other refuse and rubbish;
- (d) on demand produce his licence to any authorised officer of the Council or any police officer;
- (e) remove his stand, table, structure or vehicle and all of his goods, wares, merchandise and signs from the place to which the licence applies and leave that place clean and vacant in all respects:-
 - i) at the conclusion of the permitted hours of operation specified in his licence;
 - ii) whenever not trading on the place to which the licence applies.

741. A licence is valid for the period between the date of issue and the date of expiration specified in the licence, which period shall not exceed twelve (12) months, or until its revocation.

742. The Council may revoke a licence if:-

- (a) the licensee or assistant specified in a licence commits an offence against by-law 733, 738, 739 or 740; or
- (b) the Council or a Crown agency, instrumentality or department requires access to the place to which a licence applies for the purpose of carrying out works on, over or under that place.

743. Where a licence is revoked the Council shall if requested provide the licensee with written reasons for the revocation and shall refund the charge having first deducted the charge applicable to the period from the issuing of the licence to the revocation thereof.

744. Any person who contravenes or fails to comply with any provision of by-law 733, 738, 739 or 740 commits an offence and is liable on conviction to:-

- (a) a maximum penalty of One Thousand Dollars (\$1,000.00) or imprisonment for six (6) months;
- (b) a maximum daily penalty during the breach of Fifty Dollars (\$50.00) per day.

STREET TRADING BY-LAWS

FIRST SCHEDULE

ALL THAT PORTION OF THE DISTRICT BOUNDED BY THE EASTERN ALIGNMENT OF WEST COAST HIGHWAY, WEST COAST DRIVE AND THE NORTHERN, WESTERN AND SOUTHERN BOUNDARIES OF THE DISTRICT.

(First Schedule Amended GG Pg 5144 - 16/10/92)

STREET TRADING BY-LAWS

SECOND SCHEDULE

LOCAL GOVERNMENT ACT

THE MUNICIPALITY OF THE CITY OF STIRLING BY-LAW RELATING TO TRADING IN STREETS AND PUBLIC PLACES.

LICENCE

1. **Full name and address of licensee** _____

2. **Date of issue of licence** _____

3. **Date of expiration of licence** _____

4. **REQUIREMENTS, TERMS AND CONDITIONS**

(a) **Place to which licence applies** _____

(b) **Description of stand structure or vehicle to be used by the licensee**

(c) **Particulars of the goods, wares, merchandise or services in respect of which trading may be carried on**

(d) **Full name and address of assistants who may be engaged at any one time in trading**

(e) **The permitted days and hours when trading may be carried on**

(f) **Other requirements terms or conditions applicable to this licence**

TOWN CLERK

STREET TRADING BY-LAWS

THIRD SCHEDULE

CHARGES

Charges will be assessed in accordance with the table below:

Per Day	Per Week	Per Month	Per Annum
\$10.00	\$50.00	\$150.00	\$1800.00

(Third Schedule amended GG Pg 5144 - 16/10/92)

CARRYING OF GRAFFITI IMPLEMENTS AND PARAPHERNALIA

Adopted GG 106, 29.05.98:

761. Definitions

In clauses 761 to 763, unless the contrary intention appears:

'authorised person' means a person authorised under section 9.16 of the Act to issue infringement notices under clause 763.

'Implement' means a spray paint can, felt pen, crayon or other article capable of being used to deface property.

'infringement notice' means an infringement notice issued under clause 763.

'Night' means between the hours of 6pm and 7am.

762. Possession of Implements

- (1) Any person who is found having in her or his possession at Night, without lawful excuse, the proof of which lies on that person, any Implement commits an offence.
- (2) The penalty for an offence under subclause (1) is a fine of not more than \$750 and not less than:
 - (a) in the case of first offence, \$200; or
 - (b) in the case of a second offence or subsequent offence, \$400.
- (3) The modified penalty for an offence against subclause (1) is \$75.

763. Infringement Notices

- (1) An offence against clause 762(1) is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) An infringement notice given by an authorised person shall be in or to the effect of Form 1 set out below.

Form 1
CITY OF STIRLING
Local Government Act 1995
Local Laws Relating to the Carrying of Graffiti Implements

INFRINGEMENT NOTICE

Serial No.....

Date...../...../.....

To (1)

of (2)

It is alleged that on

...../...../.....at(3).....

at (4)

you committed the offence of possessing at night a graffiti implement contrary to clause 762(1) of the Local Laws of the City of Stirling.

The modified penalty for the offence is \$.....

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty must be paid within a period of 28 days after the giving of this notice. The modified penalty may be paid by either posting this form together with the amount of the modified penalty to the Chief Executive Officer of the City of Stirling, Administrative Centre, Civic Place, Stirling, or by paying the amount of the modified penalty to an authorised person at the City of Stirling Administrative Centre, Civic Place, Stirling, between the hours of 8.45am to 4pm Monday to Friday.

Name and Title of authorised person giving the notice.....

Signature

- (1) Name of alleged offender
- (2) Address of alleged offender
- (3) Time at which offence allegedly committed
- (4) Place at which offence allegedly committed.

(3) A notice withdrawing an infringement notice under Section 9.20 of the Act shall be in or to the effect of Form 2 Below.

Form 2
CITY OF STIRLING
Local Government Act 1995
Local Laws Relating to the Carrying of Graffiti Implements

NOTICE OF WITHDRAWAL OF INFRINGEMENT NOTICE

Serial No.....

Date...../...../.....

To: (1).....

of: (2)

Infringement Notice No.....dated...../...../..... for the alleged offence of possessing at night a graffiti implement has been withdrawn.

The modified penalty of \$.....

- has been paid and a refund is enclosed.
- has not been paid and should not be paid.

(Delete as appropriate)

Name and title of authorised person giving the notice

Signature:

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

(2) Address of alleged offender.

Dated: 1998

The Common Seal of the City of Stirling
was affixed by authority of a resolution
of the Council in the presence of:

.....

Mayor

.....

Chief Executive Officer

KEEPING AND CONTROL OF CATS LOCAL LAW 1999

Under the powers conferred by the Local Government Act 1995 and under all other powers, the Council of the City of Stirling resolved on 6 July 1999 to make the following local law.

PART 1 - PRELIMINARY

Citation

1.1 This local law may be cited as the City of Stirling Keeping and Control of Cats Local Law 1999.

Objects

1.2 The objects of this local law are to –

- (a) control the number of cats kept on premises; and
- (b) protect native fauna,

particularly in relation to Cat Prohibited Areas and Fauna Protection Buffer Zones.

Definitions

1.3 In this local law unless the context otherwise requires -

"Act" means the Local Government Act 1995;

"applicant" means the occupier of premises who makes an application for a permit under clause 3.3;

"authorised person" means a person authorised by the City under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

"Cat Prohibited Area" means the land –

- (a) designated as such under clause 4.1; or
- (b) described in Schedule 1;

"cattery" means any premises where 4 or more cats are kept, boarded, trained or bred;

"CEO" means the chief executive officer of the City;

"City" means the City of Stirling;

"Council" means the council of the City;

"district" means the district of the City;

"Fauna Protection Buffer Zone" means the land extending 200m from the boundary of a Cat Prohibited Area and includes all of each of the properties through which the 200m limit passes.

"identified cat" means a cat which is identified under clause 2.2;

"keeper" in relation to a cat means each of the following persons –

- (a) the owner of the cat;
- (b) a person by whom the cat is ordinarily kept;
- (c) a person who has or appears to have immediate custody or control of the cat;
- (d) a person who keeps the cat, or has the cat in her or his possession for the time being;
- (e) a person who occupies any premises in which the cat is ordinarily kept or ordinarily permitted to live; or
- (f) the permit holder of a permit which relates to the cat;

"permit" means a permit issued by the City under this local law;

"permit holder" means a person who holds a valid permit under clause 3.6;

"premises" includes -

- (a) any land and any improvements used for any purpose; and
- (b) any part of any building in separate ownership or separate occupation, or any unit, flat, town house, duplex or apartment;

"Register" is defined in clause 5.1(1); and

"RSPCA" means the Royal Society for the Prevention of Cruelty to Animals (Inc) of Western Australia.

Note: *The Interpretation Act 1984* contains various provisions which assist in the interpretation of this local law. For instance, in the absence of anything to the contrary, section 44(1) of that Act has the effect that a term used in this local law has the same meaning as is given to the term in the *Local Government Act 1995*.

Application

1.4 This local law applies throughout the district.

PART 2 - IDENTIFYING CATS

Keeper of a cat may identify it

2.1 A keeper of a cat may identify the cat under clause 2.2.

When a cat is identified

2.2 A cat is identified if –

- (a) the cat has a collar around its neck and the collar, or a tag securely attached to the collar, is marked with the current address or telephone number of a keeper of the cat; or
- (b) the cat has –
 - (i) a microchip implanted in its body containing, or containing information that may be used to obtain, the name of a keeper of the cat and a current address or telephone number of the keeper; or
 - (ii) the letter “M” tattooed on the inside of either of its ears.

No marking of “M” without microchip

2.3 (1) A person shall not –

- (a) tattoo or cause to be tattooed, the letter “M” on the inside of a cat’s ear; or
- (b) mark the inside of a cat’s ear, or cause the inside of a cat’s ear to be marked, in a manner likely to be mistaken for the letter “M”,
- (c) unless the cat has a microchip implanted in its body containing the information referred to in subclause (2)

(2) A microchip referred to in subclause (1) shall -

- (a) contain; or
- (b) contain information that may be used to obtain,

the name of a keeper of the cat and a current address or telephone number of the keeper.

No interference with identification

2.4 A person, other than a keeper of the cat or a person acting with a keeper’s authority, shall not without reasonable excuse interfere with or remove the means by which a cat is identified under clause 2.2.

Address of keeper

2.5 For the purpose of giving a notice to a keeper of an identified cat, the keeper’s address is to be taken to be that ascertained from the cat’s collar or tag or on or obtained from the microchip.

PART 3 – PERMITS FOR KEEPING CATS

Interpretation

3.1 In this Part, and for the purposes of applying the definition of “cattery” in clause 1.3 –
“cat” does not include a cat less than 3 months old.

Cats for which permit is required

3.2 (1) A person shall not –
(a) unless subclause (2) or (3) applies, keep 3 or more cats on any premises; or
(b) use any premises as a cattery,

except in accordance with a valid permit in relation to those premises.

(2) A person shall not keep more than 1 cat on any premises in a Fauna Protection Buffer Zone except in accordance with a valid permit in relation to those premises.

(3) A permit is not required under subclause (1)(a) or (2) if the premises concerned are-
(a) a refuge of the RSPCA or of any other animal welfare organisation;
(b) an animal pound which has been approved by the City;
(c) a veterinary surgery; or
(d) the subject of an exemption granted by the City.

Application for permit

3.3 An application for a permit under clause 3.2 shall be -
(a) made by an occupier of premises in relation to those premises;
(b) in a form approved by the City;
(c) accompanied by any fee imposed and determined by the City under and in accordance with sections 6.16 to 6.19 of the Act; and
(d) accompanied by the consent in writing of the owner of the premises, where the occupier is not the owner of the premises to which the application relates.

Refusal to determine application

3.4 The City may refuse to determine an application for a permit if it is not made in accordance with clause 3.3.

Factors relevant to determination of application

3.5 In determining an application for a permit the City may have regard to -
(a) the physical suitability of the premises for the proposed use;
(b) the suitability of the zoning of the premises for the proposed use;
(c) the structural suitability of any enclosure in which any cat is to be kept;

- (d) the likelihood of a cat causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land;
- (e) the proximity of the premises to a Cat Prohibited Area or a Fauna Protection Buffer Zone;
- (f) the likely effect on the amenity of the surrounding area of the proposed use;
- (g) the likely effect on the local environment including any pollution or other environmental damage which may be caused by the proposed use; and
- (h) such other factors which the City may consider to be relevant in the circumstances of the particular case.

Decision on application

3.6 (1) The City may -

- (a) approve an application for a permit subject to the conditions referred to in clause 3.7; or
- (b) refuse to approve an application for a permit.

(2) If the City approves an application under subclause (1)(a), then it shall issue to the applicant a permit in the form determined by the City.

(3) If the City refuses to approve an application under subclause (1)(b), then it is to advise the applicant accordingly in writing.

Conditions

3.7 (1) Every permit is issued subject to the following conditions –

- (a) each cat kept on the premises to which the permit relates shall be an identified cat;
- (b) each cat may be required to be contained on the premises unless under the control of a person; and
- (c) the premises shall be maintained in good order and in a clean and sanitary condition.

(2) In addition to the conditions referred to in subclause (1), every permit to keep 3 or more cats on premises or to keep more than one cat in a Fauna Protection Buffer Zone is issued subject to the following conditions -

- (a) adequate space shall be provided on the premises for the exercise of the cats; and
- (b) the permit holder shall not substitute or replace any cat once that cat-
 - (i) dies; or
 - (ii) is permanently removed from the premises,

without first obtaining the consent of the City.

(3) In addition to the conditions referred to in subclause (1), every permit to use premises as a cattery is issued subject to the following conditions -

- (a) any enclosure for the cats shall be structurally sound, have impervious flooring, be well lit and ventilated;
- (b) the premises shall have a feed room, wash area, isolation cages and maternity section;
- (c) materials used in structures are to be of a type approved by the City;
- (d) the internal surfaces of walls are, where possible, to be smooth, free from cracks, crevices and other defects;
- (e) all fixtures, fittings and appliances are to be capable of being easily cleaned, resistant to corrosion and constructed to prevent the harbourage of vermin;
- (f) washing basins and running hot and cold water shall be available;
- (g) the maximum number of cats to be kept on the premises;
- (h) the permit holder shall keep an entry book recording in respect of each cat the-
 - (i) date of admission;
 - (ii) date of departure;
 - (iii) breed, age, colour and sex; and
 - (iv) name and residential address of a keeper;
- (i) the permit holder shall produce the entry book for inspection on the request of an authorized person; and
- (j) enclosures shall be thoroughly cleaned each day and disinfected at least once a week.

(4) In addition to the conditions subject to which a permit is to be issued under this clause, a permit may be issued subject to such other conditions as the City considers appropriate, with such conditions being set in accordance with the objects of the local law.

Amended 225 of 2001

No contravention of condition

3.8 Subject to a defence under clause 10.4, a keeper shall not contravene a condition of a permit.

Amended 225 of 2001

Notice to keep cat on premises

3.9 (1) A person may give a complaint in the form of a declaration made under section 106 of the Evidence Act 1906 to the City –

- (a) alleging that at a particular date he or she saw a cat outside of premises where the cat is ordinarily kept or is ordinarily permitted to live;
- (b) alleging that the cat was not under the control of any person;
- (c) giving a description of the cat;
- (d) stating how he or she knows that the cat is ordinarily kept or is ordinarily permitted to live at the premises;
- (e) stating whether any other person saw the cat outside of the premises and, if so, giving details of that person; and
- (f) giving such other details as the City may require.

(2) Where the City receives a complaint under subclause (1), then the City shall give a permit holder, and may give any other keeper of the cat a notice to keep the cat on the premises except where it is under the control of a keeper, if -

- (a) the cat is the subject of a permit;
- (b) the premises are the subject of the same permit; and
- (c) 2 or more complaints are received from 2 or more occupiers of different premises.

Amended 225 of 2001

(3) If a keeper of a cat is given a notice under subclause (2), then every keeper of the cat is to be taken to have been given the notice.

(4) Subject to a defence under clause 10.4, where a notice has been given to a keeper of a cat under subclause (2), if the cat is outside of the premises at any time subsequent to the issuing of the notice and is not under the control of a keeper, then every keeper of the cat at that time commits an offence.

Amended 225 of 2001

Note: A statutory declaration may be made before a Justice of the Peace or by virtue of the *Declarations and Attestations Act 1913*, before the persons listed in the Schedule to that Act, including the CEO and the Deputy CEO of the City, a Councillor of the City, a teacher, a solicitor, a police officer, a medical practitioner, a pharmaceutical chemist and a real estate agent.

Duration of permit

3.10 Unless otherwise specified in a condition on a permit, a permit commences on the date of issue and is valid unless and until it is revoked.

Revocation

3.11 The City may revoke a permit if the permit holder fails to observe any provision of this local law or a condition of a permit.

Permit not transferable

3.12 A permit is not transferable either in relation to the permit holder or the premises.

PART 4 - CAT PROHIBITED AREAS

Designation of Cat Prohibited Area

4.1 (1) The City may designate land as an area on which cats are prohibited from entering or remaining by –

- (a) reviewing the local law including formal public consultation, and
- (b) including the land in Schedule 1.

(2) In designating land for the purpose of subclause (1), the City may have regard to the following matters in relation to the land –

- (a) whether the land is greater than 1 hectare in area;
- (b) the nature of the fauna on the land;
- (c) the nature of the vegetation on the land;
- (d) whether the land has been recognised by any authority as having vegetation or fauna of local, regional or State significance; and
- (e) whether the land is land to which the *Conservation and Land Management Act 1984* applies under section 5 of that Act.

Cat not to be in Cat Prohibited Area

4.2 (1) A cat shall not be in a Cat Prohibited Area.

(2) If a cat is at any time in a Cat Prohibited Area, subject to a defence under clause 10.4, every keeper of the cat at that time commits an offence.

Amended 225 of 2001

PART 5 - REMOVAL AND IMPOUNDING OF CATS

Division 1 - Register of removed and impounded cats

Register

- 5.1 (1) The City is to keep a record of removed and impounded cats (the “Register”).
- (2) The Register is to contain the following information about each impounded cat -
- (a) the breed and sex of the cat;
 - (b) the colour, distinguishing markings and features of the cat;
 - (c) if known, the name and address of its keeper;
 - (d) the date and time of removal;
 - (e) the name of the person who removed the cat;
 - (f) the reason for the removal; and
 - (g) the date of release or disposal.

Application of sections 5.94 and 5.95 of the Act

5.2 The Register is taken to be information under section 5.94(u)(i) of the Act for the purpose of applying sections 5.94 and 5.95 of the Act to the Register.

Note: Sections 5.94 and 5.95 of the Act allow the public to inspect certain documents, but qualify the circumstances in which they may do so and the state in which the documents must be produced. For instance, the Register does not need to be current at the time of inspection.

Division 2 – Destruction of cat container

No destruction of container for cats

5.3 A person shall not destroy, break into, damage, or in any other way interfere with any container used for the purpose of catching, holding or conveying cats.

Division 3 - Effect of payment of impounding expenses

Effect of payment of impounding expenses

5.4 The payment of any costs by a keeper in respect of the removing, impounding and keeping of a cat does not relieve the keeper of any liability to a penalty for an offence against any provision of this local law.

Note: The impounding of animals is dealt with in Part 3, Division 3, Subdivision 4 of *the Local Government Act 1995* and regulation 29 of the *Local Government (Functions and General) Regulations 1996*.

PART 6 - DESTRUCTION OF CATS

Request to destroy cat

- 6.1 (1) A keeper of a cat may request the City to destroy the cat.
- (2) The request under subclause (1) must –
- (a) be in the form determined by the City;
 - (b) be signed by the person making the request; and
 - (c) state -
 - (i) that the person making the request is a keeper of the cat;
 - (ii) the name and residential address of the keeper;
 - (iii) a description of the cat including its breed, colour, sex and age;
 - (iv) the reason for requesting the destruction; and
 - (v) that the person making the request indemnifies the City in respect of any costs or liabilities incurred by the City arising from the destruction of the cat.
- (3) The City is to destroy a cat where a request is made in accordance with subclause (2).

Fee for destruction

- 6.2 The City may charge a keeper a fee imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act for the destruction of a cat under clause 6.1.

PART 7 - ABANDONMENT OF CATS

No abandonment

7.1 A person shall not abandon a cat.

Delivery to an authorised person not abandonment

7.2 A person who delivers a cat into the custody of an authorised person is to be taken not to have abandoned the cat.

PART 8 - EVIDENCE

Averment that person a keeper

8.1 In proceedings for an offence against any provision of this local law an averment in the complaint that at a specified time a person was a keeper of the cat is evidence of that fact in the absence of proof to the contrary.

Cat taken to not be contained on premises

8.2 In proceedings for a breach of clause 3.7(1)(b), where there is evidence that a cat has been outside the relevant premises when it was not under the control of a person, on more than one occasion, then the cat is to be taken to not be contained on the premises.

PART 9 - OBJECTIONS AND APPEALS

Objection and appeal rights

9.1 A person adversely affected by a decision made by the City under Part 3, including a decision to refuse to approve an application for a permit or to revoke a permit, may be entitled to object or appeal against the decision under the Act.

Note: Objection and appeal rights are dealt with in Part 9, Division 1 of the Act and in regulations 33 and 34 of the *Local Government (Functions and General) Regulations 1996*.

PART 10 - OFFENCES, DEFENCE AND PENALTIES

Division 1 - General

Offences

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

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

Amended 225 of 2001

Division 2 – Infringement notices and modified penalties

Prescribed offences

10.2 (1) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 9.16(1) of the Act.

(2) The amount appearing in the fourth column of Schedule 2 adjacent to a clause is the modified penalty payable in respect of an offence against that clause if the offence does not occur in a Fauna Protection Buffer Zone or a Cat Prohibited Area.

(3) The amount appearing in the fifth column of Schedule 2 adjacent to a clause is the modified penalty payable in respect of an offence against that clause if the offence occurs in a Fauna Protection Buffer Zone or a Cat Prohibited Area.

Forms

10.3 (1) An infringement notice given under section 9.16(1) of the Act is to be in the form of Schedule 3.

(2) A notice sent under section 9.20 of the Act withdrawing an infringement notice is to be in the form of Schedule 4.

Note: The issue of infringement notices, their withdrawal and the effect of payment of a modified penalty are dealt with in Subdivision 2 of Division 2 of Part 9 of the *Local Government Act 1995*.

Division 3 – Defence

10.4 It is a defence to a charge of an offence of contravening clause 3.8, 3.9(4), 4.2 if the keeper charged satisfies the court that at the material time some other person (whom he shall identify) over the age of 18 years was the keeper of the cat(s).

Amended 225 of 2001

SCHEDULE 1

Cat Prohibited Areas

1. Star Swamp
2. Carine Open Space
3. Gwelup Open Space
4. Trigg Bushland
5. Herdsman Lake
6. Jackadder Lake
7. Dianella Regional Open Space
8. Hamersley Golf Course
9. Cottonwood Crescent Bushland
10. Mirrabooka Open Space
11. Beach Reserves

[Reserve No's or further identifying details are to be specified.]

SCHEDULE 2

Modified Penalties

ITEM No	CLAUSE No	NATURE OF OFFENCE	MODIFIED PENALTY	MODIFIED PENALTY – within Cat Prohibited Area or Fauna Protection Buffer Zone
			\$	\$
1.	3.2(1)(a)	Failure of an occupier to hold a permit	250.00	500.00
2.	3.2(1)(b)	Use of premises as cattery without permit	250.00	500.00
3.	3.8	Breach of a condition of a permit	250.00	500.00
4.	3.9(4)	Breach of notice to keep a cat on premises	250.00	500.00
5.	4.2	Cat in Cat Prohibited Area		500.00
6.	7.1	Abandonment of cat	250.00	500.00

SCHEDULE 3

**Local Government Act 1995
City of Stirling
Keeping and Control of Cats Local Law 1999**

INFRINGEMENT NOTICE

Serial No.
Date/...../.....

To: (1)

of: (2)

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

at (4)

you committed the following offence –

.....

contrary to clause of the City of Stirling Keeping and Control of Cats Local Law 1999.

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty must be paid within a period of 28 days after the giving of this notice. The modified penalty may be paid by either posting this form together with the amount of the modified penalty to the Chief Executive Officer of the City of Stirling at City Administrative Centre, Civic Place, Stirling or by paying the amount of the modified penalty to an authorised person of the City of Stirling at City Administrative Centre, Civic Place, Stirling between the hours of 9am to 4pm Monday to Friday.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver's licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

Name and title of authorised person giving the notice

.....

Signature:

Insert

(1) *Name of alleged offender* (3) *Time at which offence allegedly committed*



(2) *Address of alleged offender*

(4) *Place at which offence allegedly committed*

SCHEDULE 4

**Local Government Act 1995
City of Stirling
Keeping and Control of Cats Local Law 1999**

NOTICE OF WITHDRAWAL OF INFRINGEMENT NOTICE

Serial No.

Date/...../.....

To: (1)

of: (2)

Infringement Notice No..... dated/...../..... for the alleged offence of
..... has been withdrawn.

The modified penalty of \$

- * has been paid and a refund is enclosed.
- * has not been paid and should not be paid.

* Delete as appropriate

Name and title of authorised person giving the notice

.....

Signature :

Insert

- (1) *Name of alleged offender to whom infringement notice was given*
- (2) *Address of alleged offender*

Dated this 31st day of December, 1999.

The Common Seal of the City of Stirling)
was affixed by authority of a resolution)
of the Council in the presence of:)

.....

Mayor

.....

Chief Executive Office



Local Government Act 1995

CITY OF STIRLING

**LOCAL LAW RELATING TO THE PREVENTION AND
ABATEMENT OF DUST AND LIQUID WASTE**

Under the powers conferred upon it by the *Local Government Act 1995*, the Council of the City of Stirling resolved on 21 May 2002 to make the following local law.

PART 1 – DEFINITION AND OPERATION

Operation

1. This Local Law will come into operation on the fourteenth day after the day on which it is published in the *Government Gazette*.

Interpretation

2. (a) In this Local Law –
"Act" means the *Local Government Act 1995*;

"authorised person" means a person authorised by the City under section 9.10 of the Act to perform any of the functions of an authorised person under this Local Law;

"City" means the City of Stirling;

"district" means the district of the City and includes any area placed under the jurisdiction of the City pursuant to any act or regulation;

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

"equipment" means equipment, machinery or vehicles used for or in connection with the development of land;

"land" includes any building or other structure on the land;

"liquid waste" means waste from any process or activity, whether useful or useless, that is in liquid form and includes paint, fuel, grease, fat, oil, degreaser, solvent, detergent, chemical, animal waste, food waste, effluent and all discharges of liquid to land or water that are not otherwise authorised by a written law but does not include uncontaminated stormwater.

"occupier" means any person who is in control of any land or part of any land or authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to land to perform any work in relation to any land and without limiting the generality of the foregoing and for the avoidance of doubt includes a builder or contractor;

"owner" has the same meaning as given to it in the *Local Government Act 1995*;

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

- (b) Where in this Local Law, a duty, obligation or liability is imposed on an owner or occupier the duty, obligation or liability, as the case may be, shall be deemed to be imposed jointly and severally on each of the owner and occupier.
- (c) Where, under this Local Law, an act is required to be done in relation to any land, the owner and occupier of the land shall cause to be done the act so required to be done.
- (d) Where, under this Local Law, an act is forbidden to be done in relation to any land, the owner and occupier of the land shall prevent from being done the act forbidden to be done.
- (e) Where this Local Law refers to the giving of notice no particular form of notice is required

PART 2 – APPLICATION OF LOCAL LAW

- 3. This Local Law applies to all land in the district.

PART 3 – PROHIBITED ACTIVITIES

- 4. An owner and occupier of land must take effective measures to –
 - (a) stabilise dust on the land;
 - (b) contain all liquid waste on the land;
 - (c) ensure no dust or liquid waste is released or escapes from the land whether by means of wind, water or any other cause; and
 - (d) notify the owners or occupiers of adjoining land in writing 48 hours prior to the commencement of any activity that has the potential to cause the release or escape from the land of dust or liquid waste giving details of;
 - (i) the nature of the activity;
 - (ii) the proposed time and location of the activity and
 - (iii) the name of the person responsible for carrying out the activity and how and where that person may be contacted

5. (a) Where the City or an authorised person forms the opinion that:
- (i) an owner or occupier has not complied with sub-section 4(a) or sub-section 4(b); or
 - (ii) dust or liquid waste has been released or escaped from the owner's or occupier's land,

the City or an authorised person may serve on the owner or occupier of the land a notice requiring the owner or occupier to do one or more of the following –

- (i) comply with sub-section 4(a) or sub-section 4(b);
 - (ii) clean up and properly dispose of any released or escaped dust or liquid waste;
 - (iii) clean up and make good any damage resulting from the released or escaped dust or liquid waste;
 - (iv) take effective measures to stop any further release or escape of dust or liquid waste.
- (b) The requirements set out in a notice issued under sub-section 5(a) must be complied with:
- (i) within 48 hours of service of the notice where no other time is specified;
 - (ii) within such other period as is specified in the notice; or
 - (iii) immediately, if the notice so specifies.

6. Where a City or an authorised person forms the opinion that dust or liquid waste has escaped or been released from an activity undertaken on land or as a consequence of the use of equipment on land, the City or authorised person may serve a notice on the owner or occupier of the land or the operator of the equipment, as the case may be, requiring that the activity or use of the equipment on the land be ceased immediately, for such period as is specified in such notice.
7. Where the City or an authorised person is of the opinion that dust or liquid waste may be released or escape as a result of an activity which is likely to be carried on from any land, the City or an authorised person may give to the owner or occupier a notice providing that the activity may only be carried on subject to conditions specified in the notice.

PART 4 – MISCELLANEOUS

8. (a) Where a notice is given to the owner or occupier of any land and the owner or occupier satisfies the City or an authorised person within 48 hours, or by such other period as is specified in the notice from the date of giving of the notice that –
- (i) it was not responsible for the conduct in respect of which the notice was given pursuant to section 5, or the activity in respect of which a notice was given pursuant to section 6, as the case may be; and
 - (ii) it took all reasonable precautions to prevent the conduct or activity, as the case may be; and
 - (iii) where another person was responsible for the conduct or activity, it identifies the person responsible for the conduct or activity sufficiently to enable the notice to be issued to that person;
- the City or an authorised person may revoke the notice.
- (b) Clause 8(a) shall not apply where a notice is issued to which clause 5(b)(iii) applies.
9. (a) The City or an authorised person may lawfully enter upon any land for the purpose of giving effect to, or carrying out, any provision of this Local Law.
- (b) The person must not prevent or obstruct a duly authorised person or employee of the City from carrying out his or her duties under this Local Law.
10. The City may delegate any of its powers, functions and duties under this Local Law to an authorised person.

PART 5 – OFFENCES AND PENALTIES

11. Any person who:
- (a) fails to comply with a notice issued under clause 5, 6 or 7;
 - (b) fails to do anything required or directed to be done under this Local Law;
 - (c) does anything which under this Local Law the person is prohibited from doing; or
 - (d) contravenes any provision of this Local Law, commits an offence.

12. Any person who commits an offence under this Local Law shall be liable to:
- (a) a penalty not exceeding \$5,000.00 and not less than;
 - (i) in the case of a first such offence, \$500.00;
 - (ii) in the case of a second such offence, \$1,500.00; and
 - (iii) in the case of a third or subsequent offence, \$3,000.00, and
 - (b) if the offence is of a continuing nature, an additional penalty not exceeding \$500.00 for each day or part of a day during which the offence has continued.

Dated the Sixth day of June 2002

THE COMMON SEAL of the)
CITY OF STIRLING was)
hereunto affixed by authority of)
a resolution of the Council in the)
presence of:-)

D C VALLELONGA JP
MAYOR

L DELAHAUNTY
CHIEF EXECUTIVE OFFICER