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CITY OF ROCKINGHAM

LOCAL GOVERNMENT ACT 1995

REPEAL LOCAL LAW 2001

ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW 2001

BUSH FIRES ACT 1954

BUSH FIRE CONTROL AND BUSH FIRE BRIGADES LOCAL LAW 2001

BUSH FIRES ACT 1954

CITY OF ROCKINGHAM

**BUSH FIRE CONTROL AND BUSH FIRE BRIGADES
LOCAL LAW 2001**

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BUSH FIRES ACT 1954

CITY OF ROCKINGHAM

**BUSH FIRE CONTROL AND BUSH FIRE BRIGADES
LOCAL LAW 2001**

Under the powers conferred by the *Bush Fires Act 1954* and under all other powers enabling it, the Council of the City of Rockingham resolved on 23 October 2001 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the *City of Rockingham Bush Fire Control and Bush Fire Brigades Local Law 2001*.

1.2 Definitions

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

“**Act**” means the *Bush Fires Act 1954*;

“**authorised officer**” means the Fire Management Officer, the Chief Bush Fire Control Officer, the Deputy Chief Bushfire Control Officer, a Fire Control Officer or the Manager Health Services;

“**Authority**” means the Fire and Emergency Services Authority of Western Australia established by section 4 of the *Fire and Emergency Services Authority of Western Australia Act 1998*;

“**brigade area**” is defined in clause 3.2(1)(b);

“**brigade member**” means a fire fighting member, associate member or a cadet member of a bush fire brigade;

“**brigade officer**” means a person holding a position referred to in clause 3.2(1)(c), whether or not he or she was appointed by the local government or elected at an annual general meeting of a bush fire brigade or otherwise appointed to the position;

“**Bush Fire Advisory Committee**” means the persons appointed to a bush fire advisory committee under and in accordance with section 67 of the Act;

“**bush fire brigade**” is defined in section 7 of the Act;

“**Bush Fire Operating Procedures**” means the Bush Fire Operating Procedures adopted by the local government as amended from time to time;

“**CEO**” means the Chief Executive Officer of the City of Rockingham;

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

“**designated bush fire prone area**” means land which has been declared by appropriate legislation to be likely to be subject to bush fires.

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

“**fire fighting member**” is defined in clause 5.2;

“**firebreak period**” means the time between 30 November of one year and 31 May of the following year inclusive;

“**flammable matter**” includes all forms of vegetation both living and dead, and any other flammable materials or combustible matter;

“**Incident Management Team**” means a person or group of persons appointed by the Officer in Charge of a fire or incident to assist him or her to manage the fire or incident;

“**local government**” means the City of Rockingham;

“**normal brigade activities**” is defined by section 35A of the Act

“**Officer in Charge of a fire or incident**” means the Chief Bushfire Control Officer, Deputy Chief Bushfire Control Officer, brigade officer or a brigade member who takes charge of the operations for controlling and extinguishing a bush fire or for preventing the spread or extension of a bush fire.

“**Regulations**” means Regulations made under the Act; and

“**Rules**” means the Rules Governing the Operation of Bush Fire Brigades set out in the City of Rockingham Policy and Procedures Manual.

(2) In this local law, unless the context otherwise requires, a reference to—

(a) a Captain;

(b) a First Lieutenant;

- (c) a Second Lieutenant;
- (d) any additional Lieutenants;
- (e) an Equipment Officer;
- (f) a Secretary.
- (g) a Treasurer; or
- (h) a Secretary/Treasurer combined,

means a person holding that position in a bush fire brigade.

1.3 Repeal

The City of Rockingham Local Laws relating to the Establishment, Maintenance and Equipment of Bush Fire Brigades published in the *Government Gazette* on 22 June 1990 is repealed.

1.4 Application

This local law applies throughout the district.

PART 2—BUSH FIRE CONTROL

2.1 Firebreaks to be cleared

All owners and occupiers of land within the district of the City of Rockingham shall, prior to the commencement of and during the firebreak period each year, clear all flammable matter, on land owned or occupied by them in accordance with the following requirements—

- (a) land within a townsite or within any other area subdivided for residential purposes firebreaks not less than two (2) metres wide and three (3) metres high, and thereafter the owner or occupier of that land shall maintain the firebreaks clear of all flammable material immediately inside all external boundaries of the land up to and including the expiry date of the firebreak period in the following year;
- (b) rural or semi rural land within the district of the City of Rockingham—
 - (i) firebreaks of a minimum width of 3 metres and a height of 4 metres are to be cleared immediately inside all external boundaries of the land.
 - (ii) firebreaks of a minimum width of 5 metres and a height of 4 metres immediately surrounding all buildings situated on the land.
 - (iii) firebreaks no less than 5 metres in width and 4 metres in height are to be cleared surrounding all haystacks and any place where flammable liquids and gas products are kept on the land.
 - (iv) in addition to (i), (ii) and (iii) above where the area of land exceeds 10 hectares, the local government may require firebreaks no less than 5 metres in width and 4 metres in height to be cleared to ensure that no area of land within firebreaks exceeds 10 hectares in area.
 - (v) in addition to the above the local government may, by notice in writing, require an owner or occupier to act as and when specified in the notice with respect to anything which is upon land and which in the opinion of the local government is or is likely to be conducive to the outbreak of a bush fire or the spread or extension of a bush fire.
- (c) All firebreaks must be cleared on or before the commencement of the firebreak period in any year and thereafter maintained clear of flammable matter up to and including the expiry date of the firebreak period in the following year.

2.2 Methods of Clearing Land

(1) In the rural and special rural areas of the district, the practice of controlled protective burning of all types of vegetation, in accordance with the requirement of the *Bush Fire Act 1954* is permitted, subject to the following conditions—

- (a) Burning is only permitted in special rural areas in order to reduce fuel loads associated with the accumulation of leaf litter, fallen trees and branches, etc. Every care must be taken not to damage mature standing vegetation as this could be construed as clearing, which is prohibited without written permission from the local government or its authorised officer having first been obtained;
- (b) Burning of cleared vegetation is prohibited without written permission of the local government or its authorised officer having first been obtained.
- (c) Importing of cleared vegetation for burning is prohibited without the written permission of the local government having first been obtained.

(2) In the urban areas of the district (which include residential, special residential, commercial and industrial land) the following conditions apply—

- (a) burning of rubbish and refuse is prohibited (includes incineration);
- (b) burning of cleared vegetation is prohibited;
- (c) the practice of protective burning of vacant land is prohibited without the written permission of the local government or its authorised officer having first been obtained. An application to burn must include reasons why fuel reduction cannot be achieved by mowing, slashing, ploughing or other means.

2.3 Variation in Fire Protection Methods

If for any reason the owner or occupier considers it impractical to clear firebreaks or comply with other fire protection measures in accordance with this local law, the owner or occupier may apply in

writing to the local government no later than 4 November in any year for a variation. If permission is not granted in writing by the local government or its duly authorised Officer, the owner or occupier must comply with the requirements of this local law. A variation granted by the local government shall only remain in force until 31 May next, immediately following the date of grant of the variation.

2.4 Designated Bush Fire Prone Area

For the purposes of Australian Standard 3959-1999, Construction of Buildings in Bush Fire Prone Areas, and the Building Code of Australia, the area bounded by East Dixon Road in the north to Ennis Avenue then south along Ennis Avenue, east along the south eastern boundary of the district, then north along the eastern boundary of the district to Mundijong Road then north northwest to Millar Road and following the northern boundary along Millar Road, along Mandurah Road, to Dixon Road east to Ennis Avenue is deemed to be a bushfire prone area.

2.5 Powers of the local government

Where an owner or occupier of land fails or neglects to comply with any requirement of this local law within the time specified in this local law, the local government may by its officers with such servants, workers and contractors, vehicles and machinery as the officers deem necessary enter upon land and do all such things as are necessary to ensure compliance with this local law and may recover the costs and expenses of doing so in a Court of Competent Jurisdiction from the owner or occupier of the land pursuant to the Act, in addition to any penalty which might be imposed.

2.6 Offences

A person who fails to comply with any provision of this local law commits an offence and shall, upon conviction, be liable to a penalty as prescribed in the Bush Fires Act 1954.

PART 3—ESTABLISHMENT OF BUSH FIRE BRIGADES

Division 1—Establishment of a bush fire brigade

3.1 Establishment of a bush fire brigade

(1) The local government may establish a bush fire brigade for the purpose of carrying out normal brigade activities.

(2) A bush fire brigade is established on the date of the local government's decision under subclause (1).

3.2 Name and officers of bush fire brigade

(1) On establishing a bush fire brigade under clause 3.1(1) the local government is to—

- (a) give a name to the bush fire brigade;
- (b) specify the area in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities (the "brigade area"); and
- (c) appoint—
 - (i) a Captain;
 - (ii) a First Lieutenant;
 - (iii) a Second Lieutenant;
 - (iv) additional Lieutenants if the local government considers it necessary;
 - (v) an Equipment Officer;
 - (vi) a Secretary; and
 - (vii) a Treasurer; or
 - (viii) a Secretary/Treasurer combined.

(2) When considering the appointment of persons to the positions in subclause (1)(c), the local government is to have regard to the qualifications and experience which may be required to fill each position.

(3) A person appointed to a position pursuant to subclause (1)(c) is to be taken to be a brigade member.

(4) The appointments referred to in subclause (1)(c) expire at the completion of the first annual general meeting of the bush fire brigade. An election is to be held at that meeting by the members of the Brigade for appointments expiring at the next Annual General Meeting.

(5) If a position referred to in subclause (1)(c) becomes vacant prior to the completion of the first annual general meeting, then the Brigade members are to vote for a replacement member to fill the position.

Division 2—Command at a fire

3.3 Ranks within the bush fire brigade

(1) Where under the Act and Bush Fire Operating Procedures members of the bush fire brigade have command of a fire, unless a bushfire control officer is in attendance at the fire, the Captain has full control over other persons fighting the fire, and is to issue instructions as to the methods to be adopted by the firefighters. In the absence of the Captain, the first Lieutenant, and in the absence of the first, the second Lieutenant and so on, in the order of seniority determined, is to exercise all the powers and duties of the Captain.

(2) Where a bushfire control officer is in attendance at a fire which the members of the bush fire brigade have command of under the Act and the Bush Fire Operating Procedures, the most senior bushfire control officer has full control over other persons fighting the fire and is to issue instructions as to the methods to be adopted by the fire fighters.

(3) At any fire or incident, an Incident Management Team may be established to assist the Officer in Charge of a fire or incident.

Division 3—Application of Rules to a bush fire brigade

3.4 Rules

(1) The Rules govern the operation of a bush fire brigade.

(2) A bush fire brigade and each brigade member is to comply with the Rules.

3.5 Variation of Rules

(1) The local government may vary the Rules in their application to all bush fire brigades in the district or in respect of a particular bush fire brigade.

(2) The Rules, as varied, have effect on and from the date of a decision under subclause (1).

(3) The local government is to notify a bush fire brigade of any variation to the Rules as soon as practicable after making a decision under subclause (1).

Division 4—Transitional

3.6 Existing Bush Fire Brigades

(1) Where a local government has established a bush fire brigade prior to the commencement date, then on and from the commencement day—

(a) the bush fire brigade is to be taken to be a bush fire brigade established under and in accordance with this local law;

(b) the provisions of this local law apply to the bush fire brigade save for clause 3.2; and

(c) any rules governing the operation of the bush fire brigade are to be taken to have been repealed and substituted with the Rules.

(2) In this clause—

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

Division 5—Dissolution of bush fire brigade

3.7 Dissolution of bush fire brigade

In accordance with section 41(3) of the Act, the local government may cancel the registration of a bush fire brigade if it is of the opinion that the bush fire brigade is not complying with the Act, this local law, the Bush Fire Operating Procedures or the Rules, or is not achieving the objectives for which it was established.

3.8 New arrangement after dissolution

If a local government cancels the registration of a bush fire brigade, alternative fire control arrangements are to be made in respect of the brigade area.

PART 4—ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES

Division 1—Local government responsibility

4.1 Local government responsible for structure

The Council is to ensure that there is an appropriate structure through which the organisation of bush fire brigades is maintained.

4.2 Officers to be supplied with Act

The local government is to supply each brigade officer with a copy of the Act, the Regulations, the Bush Fire Operating Procedures, this local law and any other written laws which may be relevant to the performance of the brigade officers' functions, and any amendments which are made thereto from time to time.

Division 2—Chief Bush Fire Control Officer

4.3 Managerial role of Chief Bush Fire Control Officer

Subject to any directions by the local government the Chief Bush Fire Control Officer has primary managerial responsibility for the organisation and maintenance of bush fire brigades in the district.

4.4 Chief Bush Fire Control Officer may attend meetings

The Chief Bush Fire Control Officer or her or his nominee (who is to be a bush fire control officer) may attend as a non-voting representative of the local government at any meeting of a bush fire brigade.

4.5 Duties of Chief Bush Fire Control Officer

The duties of the Chief Bush Fire Control Officer include—

- (a) provide leadership to volunteer bush fire brigades in the district;
- (b) monitor bush fire brigades' resourcing, equipment (including protective clothing) and training levels and report thereon with recommendations at least once a year to the local government;
- (c) liaise with the local government concerning fire prevention / suppression matters generally and any directions to be issued by the local government to bush fire control officers (including those who issue permits to burn) bush fire brigades or brigade officers;
- (d) ensure that all bush fire brigades in the district are registered with the local government and that lists of brigade members are maintained.

Division 3—Annual general meetings of bush fire brigades

4.6 Holding of annual general meeting

A bush fire brigade is to hold its annual general meeting during the month of March each year.

4.7 Nomination of bush fire control officers to Bush Fire Advisory Committee

At the annual general meeting of a bush fire brigade, one brigade member is to be nominated to the Bush Fire Advisory Committee as the brigade representative, and one member as a 'proxy' representative until the next annual general meeting of the Brigade.

4.8 Minutes to be tabled before the Bush Fire Advisory Committee

(1) The Secretary is to forward a copy of the minutes of the annual general meeting of a bush fire brigade to the Chief Bush Fire Control Officer within one month after the meeting.

(2) The Chief Bush Fire Control Officer is to table the minutes of a bush fire brigade's annual general meeting at the next meeting of the Bush Fire Advisory Committee following their receipt under subclause (1).

Division 4—Bush Fire Advisory Committee

4.9 Functions of Advisory Committee

The Bush Fire Advisory Committee is to have the functions set out in section 67 of the Act and is to include such number of nominees of the bush fire brigades as is determined by the local government.

4.10 Advisory Committee to nominate bush fire control officers

As soon as practicable after the annual general meeting of each bush fire brigade in the district, the Bush Fire Advisory Committee is to nominate to the local government from the persons nominated by each bush fire brigade a person for the position of a bush fire control officer for that brigade's area.

4.11 Local government to have regard to nominees

When considering persons for the position of a bush fire control officer, the local government is to have regard to those persons nominated by the Bush Fire Advisory Committee, but is not bound to appoint the persons nominated.

4.12 Advisory Committee to consider bush fire brigade motions

The Bush Fire Advisory Committee is to make recommendations to the local government on all motions received by the Bush Fire Advisory Committee from bush fire brigades in the district.

PART 5—TYPES OF BUSH FIRE BRIGADE MEMBERSHIP

5.1 Types of membership of bush fire brigade

The membership of a bush fire brigade consists of the following—

- (a) fire fighting members;
- (b) associate members;
- (c) cadet members; and
- (d) honorary life members.

5.2 Fire fighting members

Fire fighting members are those persons being at least 16 years of age who undertake all normal brigade activities.

5.3 Associate members

Associate members are those persons who are willing and able to supply free vehicular transport for fire fighting members or fire fighting equipment, or who are prepared to render other assistance required by the bush fire brigade.

5.4 Cadet members

Cadet members are—

- (a) to be aged 11 to 15 years;
- (b) to be admitted to membership only with the consent of their parent or guardian;

- (c) admitted for the purpose of training and are not to attend or be in attendance at an uncontrolled fire or other emergency incident;
- (d) to be supervised by a fire fighting member when undertaking normal brigade activities as defined by paragraphs (c), (d), (e), (f) and (g) of section 35A of the Act;
- (e) ineligible to vote at bush fire brigade meetings;
- (f) not to be assigned ranks under the Authority's rank structure.

5.5 Honorary life member

- (1.) The bush fire brigade may by a simple majority resolution appoint a person as an honorary life member in recognition of services by that person to the bush fire brigade.
- (2.) No membership fees are to be payable by an honorary life member.

5.6 Notification of membership

No later than 31 May in each year, the bush fire brigade is to report to the Chief Fire Control Officer the name, contact details and type of membership of each brigade member.

PART 6—APPOINTMENT DISMISSAL AND MANAGEMENT OF MEMBERS

6.1 Rules to govern

The appointment, dismissal and management of brigade members by the bush fire brigade are governed by the Rules as set out in the City of Rockingham Policy and Procedures Manual.

PART 7—EQUIPMENT OF BUSH FIRES BRIGADES

7.1 Policies of local government

The local government may make policies under which it—

- (a) provides funding to bush fire brigades in the district for the purchase of protective clothing, equipment and appliances; and
- (b) keeps bush fire brigades informed of opportunities for funding from other bodies.

7.2 Equipment in brigade area

Not later than 31 May in each year, every bush fire brigade in the district is to report to the local government the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the brigade area (or at a station of the bush fire brigade).

7.3 Funding from local government budget

A request to the local government from a bush fire brigade for funding of protective clothing, equipment or appliances needs is to be received by the local government by 31 March in order to be considered in the next following local government budget, and is to be accompanied by the last audited financial statement and a current statement of assets and liabilities of the bush fire brigade.

7.4 Consideration in the local government budget

The local government may approve or refuse an application for funding made under clause 7.3 depending upon the assessment of budget priorities for the year in question.

Dated 29 October 2001.

The Common Seal of the City of Rockingham was affixed by authority of a resolution of the Council in the presence of—

B. W. SAMMELS, Deputy Mayor.
G. G. HOLLAND, Chief Executive Officer.
