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CITY OF ROCKINGHAM

LOCAL GOVERNMENT ACT 1995

EXTRACTIVE INDUSTRIES LOCAL LAW 2000

FENCING LOCAL LAW 2000

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**SAND DRIFT PREVENTION AND ABATEMENT
LOCAL LAW 2000**

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CITY OF ROCKINGHAM

EXTRACTIVE INDUSTRIES LOCAL LAW 2000

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LOCAL GOVERNMENT ACT 1995

CITY OF ROCKINGHAM

EXTRACTIVE INDUSTRIES LOCAL LAW 2000

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Rockingham resolved on 27 February 2001 to make the following local law.

PART 1—PRELIMINARY**1.1 Definitions**

In this local law, unless the context otherwise requires—

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

“**carry on an extractive industry**” means quarrying and excavating for stone, gravel, sand or other material;

“**CEO**” means the Chief Executive Officer of the local government;

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

“**excavation**” includes quarry;

“**licence**” means a licence issued under this local law;

“**licensee**” means the person named in a licence as the licensee;

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

“**secured sum**” means the sum required to be paid or the amount of a bond, guarantee or other security under clause 5.1;

“**site**” means the land specified by the local government in a licence.

1.2 Application

The provisions of this local law—

- (a) subject to paragraphs (b), (c) and (d)—
 - (i) apply and have force and effect throughout the whole of the district; and
 - (ii) apply to every excavation whether commenced prior to or following the coming into operation of this local law;
- (b) do not apply to the extraction of minerals under the *Mining Act 1978*;
- (c) do not apply to the carrying on of an extractive industry on Crown land; and
- (d) do not affect the validity of any licence issued under the local law repealed by clause 1.3 of this local law if that licence is in force at the date of gazettal of this local law.

1.3 Repeal

The City of Rockingham Local Law Relating to Extractive Industries published in the *Government Gazette* on 11 June 1993, is repealed.

PART 2—LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY**2.1 Extractive Industries Prohibited Without Licence**

A person must not carry on an extractive industry—

- (a) unless the person is the holder of a valid and current licence; and
- (b) otherwise than in accordance with the provisions of this local law and any terms and conditions set out in, or applying in respect of, the licence.

Penalty \$5000 and, for an offence of a continuing nature, a daily penalty not exceeding \$500 for each day or part thereof during which the offence continues.

2.2 Applicant to Advertise Proposal

(1) Unless the local government first approves in writing otherwise, a person seeking the issue of a licence must, before applying to the local government for a licence—

- (a) forward by registered mail a notice in the form determined by the local government from time to time to—
 - (i) the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the granting

- of a licence, advising of the proposed application and specifying that the persons notified may, within twenty-one days from the date of service of the letter, object to or make representations in writing in respect of the issue of a licence by the local government; and
- (ii) every authority or person having control or jurisdiction over any of the things referred to in clause 2.3(1)(a)(vii) and (viii) within 500 metres from the boundaries of the land, or within an area determined by the local government as likely to be affected by the granting of a licence; and
- (b) as soon as practicable after complying with the requirements of paragraph (a)—
- (i) forward a copy of the notice to the CEO; and
 - (ii) publish the notice in a newspaper circulating in the area in which the proposed excavation is located.
- (2) The local government may, within 14 days after receiving a copy of a notice referred to in sub-clause (1), cause to be displayed, or require the proposed applicant to display, in a prominent position on the land one or more notices—
- (a) in the form determined by the local government from time to time;
 - (b) the content, size and construction of which have been approved by the CEO;
 - (c) specifying particulars of the proposed excavation; and
 - (d) inviting objections or comments within 21 days from the placement of the notice.

2.3 Application For Licence

(1) A person seeking the issue of a licence in respect of any land must apply in the form determined by the local government from time to time and must forward the application duly completed and signed by both the applicant and the owner of the land to the CEO together with—

- (a) 3 copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing—
 - (i) the existing and proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;
 - (ii) the land on which the excavation site is to be located;
 - (iii) the external surface dimensions of the land;
 - (iv) the location and depth of the existing and proposed excavation of the land;
 - (v) the location of existing and proposed roads or other means of vehicle access to and egress from the land and to public roads in the vicinity of the land;
 - (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
 - (vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;
 - (viii) the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;
 - (ix) the location and description of existing and proposed fences, gates and warning signs around the land; and
 - (x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;
- (b) 3 copies of a works and excavation programme containing—
 - (i) the nature and estimated duration of the proposed excavation for which the licence is sought;
 - (ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;
 - (iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;
 - (iv) details of the depth and extent of the existing and proposed excavation of the site;
 - (v) an estimate of the depth of and a description of the nature and quantity of the overburden to be removed;
 - (vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
 - (vii) a description of the means of access to the excavation site and the types of roads to be constructed;
 - (viii) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
 - (ix) a description of any proposed buildings, treatment plant, tanks and other improvements;
 - (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
 - (xi) a description of the measures to be taken to minimise dust nuisance, erosion, watercourse siltation and dangers to the general public;
 - (xii) a description of the measures to be taken to comply with the Environmental Protection (Noise) Regulations 1997;
 - (xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;

- (xiv) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation; and
 - (xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby roads or other areas;
 - (c) 3 copies of a rehabilitation and decommissioning programme indicating—
 - (i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
 - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
 - (iii) the method by which topsoil is to be replaced and revegetated;
 - (iv) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
 - (v) how rehabilitated areas are to be maintained and irrigated; and
 - (vi) the programme for the removal of buildings, plant, waste and final site clean up;
 - (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public road or such other land in the vicinity;
 - (e) a certificate from a licensed surveyor certifying the correctness of—
 - (i) the plan referred to in paragraph (a); and
 - (ii) the datum peg and related point referred to in paragraph (d);
 - (f) evidence that the requirements of clause 2.2(1) and (2) have been carried out;
 - (g) copies of all land use planning approvals required under any planning legislation;
 - (h) the consent in writing to the application from the owner of the excavation site;
 - (i) any other information that the local government may require; and
 - (j) the licence application fee specified by the local government from time to time.
- (2) All survey data supplied by an applicant for the purpose of sub clause (1) must comply with Australian Height Datum and Australian Map Grid standards.

PART 3— DETERMINATION OF APPLICATION

3.1 Determination Of Application

- (1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 2.3, and in any event shall refuse an application for a licence where planning approval for an extractive industry use of the land has not first been obtained.
- (2) The local government may, in respect of an application for a licence—
- (a) refuse the application; or
 - (b) approve the application—
 - (i) over the whole or any part of the land in respect of which the application is made; and
 - (ii) on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for a licence, it must—
- (a) determine the licence period, which must not exceed 21 years from the date of issue of the licence; and
 - (b) approve the issue of a licence in the form determined by the local government from time to time.
- (4) Where the local government approves the issue of a licence the CEO, upon receipt by the local government of—
- (a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 31st December next, as determined by the local government from time to time;
 - (b) payment of the secured sum, if any, imposed under clause 5.1; and
 - (c) the documents, if any, required under clause 5.1 and executed to the satisfaction of the CEO,
- shall issue a licence to the applicant.
- (5) Without limiting sub-clause (2), the local government may impose upon a licence conditions in respect of the following matters—
- (a) the orientation of the excavation to reduce visibility from other land;
 - (b) the appropriate siting of access roads, buildings and plant;
 - (c) the stockpiling of material;
 - (d) the hours during which any excavation work may be carried out;
 - (e) the hours during which any processing plant associated with, or located on, the site may be operated;
 - (f) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the local government;
 - (g) the depths below which the licensee must not excavate;
 - (h) distances from adjoining land or roads within which the licensee must not excavate;

- (i) the safety of persons employed at or visiting the excavation site;
- (j) the control of dust and wind-blown material;
- (k) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
- (l) the prevention of the spread of dieback or other disease;
- (m) the drainage of the excavation site and the disposal of water;
- (n) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
- (o) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
- (p) requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation programme;
- (q) requiring the licensee to enter into an agreement with the local government in respect of any condition or conditions imposed under this local law; and
- (r) any other matter for properly regulating the carrying on of an extractive industry.

3.2 Payment Of Annual Licence Fee

On or before 31 December in each year, a licensee must pay to the local government the annual licence fee determined by the local government from time to time.

PART 4—TRANSFER, CANCELLATION AND RENEWAL OF LICENCE

4.1 Transfer Of Licence

- (1) An application for the transfer of a licence must—
 - (a) be made in writing;
 - (b) be signed by the licensee and the proposed transferee of the licence;
 - (c) be accompanied by the current licence;
 - (d) be accompanied by the consent in writing to the transfer from the owner of the excavation site;
 - (e) include any information that the local government may reasonably require; and
 - (f) be forwarded to the CEO together with the fee determined by the local government from time to time.
- (2) Upon receipt of any application for the transfer of a licence, the local government may—
 - (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for the transfer of a licence, the local government shall transfer the licence by an endorsement on the licence in the form determined by the local government from time to time, signed by the CEO.
- (4) Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

4.2 Cancellation Of Licence

- (1) The local government may cancel a licence where the licensee has—
 - (a) been convicted of an offence against—
 - (i) this local law; or
 - (ii) any other law relating to carrying on an extractive industry; or
 - (b) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government;
 - (c) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and the provisions of this local law;
 - (d) failed to pay the annual licence fee under clause 3.2; or
 - (e) failed to have a current public liability insurance policy under clause 7.1(1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 7.1(2).
- (2) Where the local government cancels a licence under this clause—
 - (a) the local government shall advise the licensee in writing of the cancellation;
 - (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice; and
 - (c) the local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

4.3 Renewal Of Licence

- (1) A licensee who wishes to renew a licence must apply in writing to the local government at least 45 days before the date of expiry of the licence and must submit with the application for renewal—
 - (a) the fee determined by the local government from time to time;

- (b) a copy of the current licence;
 - (c) a plan showing the contours of the excavation carried out to the date of that application;
 - (d) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 2.3(1) (b) and (c); and
 - (e) any other things referred to in clauses 2.3 and 3.1.
- (2) The local government may waive any of the requirements specified in clause 4.3 (1) (d) or (e).
- (3) If—
- (a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and
 - (b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application,
- then the applicant shall not be obliged, unless otherwise required by the local government, to submit details of any of the things referred to in clauses 2.3 and 3.1.
- (4) Upon receipt of an application for the renewal of a licence, the local government may—
- (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.

PART 5— SECURED SUM AND APPLICATION THEREOF

5.1 Security For Restoration And Reinstatement

(1) For the purpose of ensuring that an excavation site is properly restored or reinstated, the local government may require that—

- (a) as a condition of a licence; or
- (b) before the issue of a licence,

the licensee must give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government from time to time.

(2) A bond required under sub-clause (1) is to be paid into a fund established by the local government for the purposes of this clause.

5.2 Use By The Local Government Of Secured Sum

(1) If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions either—

- (a) within the time specified in those conditions; or
- (b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions,

then—

- (c) the local government may carry out the required restoration and reinstatement work or so much of that work as remains undone; and
- (d) the licensee must pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause.

(2) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 5.1 towards its costs under this clause.

(3) The liability of a licensee to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 5.1.

PART 6—LIMITATIONS AND PROHIBITIONS

6.1 Limits On Excavation Near Boundary

Subject to any licence conditions imposed by the local government, a licensee shall not, without the written approval of the local government, excavate within—

- (a) 20 metres of the boundary of any land on which the excavation site is located;
- (b) 20 metres of any land affected by a registered grant of easement;
- (c) 40 metres of any road; or
- (d) 40 metres of any watercourse.

Penalty \$2,000

6.2 Prohibitions

A licensee must—

- (a) not remove any trees or shrubs within 40 metres (or such lesser distance as may be allowed, in writing, by the local government) of the boundary of any road reserve on land in respect of which a licence has been granted, except for the purpose of constructing access roads, erecting buildings or installing plant for use in connection with the excavation and then only with the express approval in writing of the local government and subject to any conditions which the local government may impose in accordance with clause 3.1;

- (b) where the local government so requires, securely fence the excavation site to a standard determined by the local government and keep all gateways locked when not actually in use in order to prevent unauthorised entry;
- (c) erect and maintain warning signs along each of the boundaries of the site to which the licence applies so that each sign—
 - (i) is not more than 200 metres apart;
 - (ii) is not less than 1.8 metres high and not less than 1 metre wide; and
 - (iii) bears the words “DANGER EXCAVATIONS KEEP OUT”;
- (d) except where the local government approves otherwise in writing, drain and keep drained to the local government’s satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;
- (e) not store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than with the approval in writing of the local government and the Department of Minerals and Energy;
- (f) not fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (g) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (h) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
- (i) otherwise comply with the conditions imposed by the local government in accordance with clause 3.1.

The penalty for each offence is \$5,000 and, for an offence of a continuing nature, a daily penalty not exceeding \$500 in respect of each day or part thereof during which the offence has continued.

6.3 Blasting

(1) A licensee must not carry out or permit to be carried out any blasting in the course of excavating unless—

- (a) the local government has otherwise given written approval in respect of blasting generally or in the case of each blast;
- (b) subject to sub-clause (2), the blasting takes place only between the hours of 8.00am and 5.00pm, or as determined by the local government, on Mondays to Fridays inclusive;
- (c) the blasting is carried out in strict accordance with the AS2187 SAA Explosives Code, the *Mines Safety and Inspection Act 1994*, the *Environment Protection Act 1986*, and all relevant local laws of the local government; and
- (d) the blasting is in compliance with any other conditions imposed by the local government concerning—
 - (i) the time and duration of blasting;
 - (ii) the purposes for which the blasting may be used;
 - (iii) the methods of detonation and blasting;
 - (iv) the types of explosives to be used; and
 - (v) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.

The penalty for each offence is \$5,000 and, for an offence of a continuing nature, a daily penalty not exceeding \$500 in respect of each day or part thereof during which the offence has continued.

(2) A person must not carry out or permit to be carried out any blasting on a Saturday, Sunday or Public Holiday except with the prior written approval of the local government.

Penalty \$2,000.

PART 7—MISCELLANEOUS PROVISIONS

7.1 Public Liability

(1) A licensee must have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum of not less than \$10,000,000 in respect of any one claim relating to any of the excavation operations.

(2) The licensee shall provide to the local government a copy of the policy taken out under sub-clause (1), within 14 days after the issue of that policy and shall provide to the local government evidence of renewal of the policy within 14 days of each renewal date.

7.2 Mines Safety And Inspection Act And Environmental Protection Act

(1) In any case where the *Mines Safety and Inspection Act 1994* or the *Environmental Protection Act 1986* applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site must—

- (a) comply with all applicable provisions of that Act or those Acts; and
- (b) provide to the local government within 14 days full particulars of any inspection or report made under that Act or those Acts.

(2) In this clause, the *Mines Safety and Inspection Act 1994* and the *Environmental Protection Act 1986* include all subsidiary legislation made under those Acts.

7.3 Notice Of Cessation Of Operations

(1) Where a licensee intends to cease carrying on an extractive industry—

- (a) temporarily for a period in excess of 12 months; or
- (b) permanently,

the licensee must, as well as complying with clause 7.4, give the local government written notice of the cessation not later than 7 days after those operations have ceased.

(2) Where a licensee has given written notice to the local government of the intention to permanently cease carrying on an extractive industry on the site to which the licence applies the licence is deemed to have expired on the date such cessation is so notified.

(3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence pursuant to subclauses (1) and (2) does not entitle the licensee to a refund of any licence fee.

7.4 Works To Be Carried Out On Cessation Of Operations

Where the carrying on of an extractive industry on a site permanently ceases or the licence applicable to the site expires or is cancelled, whichever first occurs, the licensee must, as well as complying with the provisions of clause 7.3—

- (a) restore and reinstate the excavated site in accordance with the proposals approved by the local government or in such other manner as the local government may subsequently agree in writing with the licensee;
- (b) ensure that any face permitted to remain upon the excavation site is left safe with all loose materials removed and where the excavation site is—
 - (i) sand, the sides are sloped to a batter of not more than 1:3 (vertical:horizontal); and
 - (ii) limestone or material other than sand, the sides are sloped to a batter which, in the opinion of the local government, would enable the site to be left in a stable condition;
- (c) ensure that the agreed floor level of the excavation is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning programme approved by the local government;
- (d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;
- (e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;
- (f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and
- (g) break up, scarify, cover with topsoil and plant with grass, trees and shrubs all parts of the site where buildings, plant and equipment were erected or installed and all areas of the site which were used for stockpiling unless otherwise specified under this local law.

The penalty for each offence is \$5,000 and, for an offence of a continuing nature, a daily penalty not exceeding \$500 in respect of each day or part thereof during which the offence has continued.

PART 8—OBJECTIONS AND APPEALS

8.1 Objections and Appeals

When the local government makes a decision as to whether it will—

- (a) grant a person a licence under this local law; or
- (b) renew, vary, transfer, or cancel a licence that a person has been issued with under this local law,

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Local Government (Functions and General) Regulations 1996 shall apply to that decision.

Dated 6 March 2001.

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

C. S. ELLIOTT, Mayor.
G. G. HOLLAND, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

CITY OF ROCKINGHAM

FENCING LOCAL LAW 2000

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LOCAL GOVERNMENT ACT 1995

CITY OF ROCKINGHAM

FENCING LOCAL LAW 2000

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the City of Rockingham resolved on 27 February 2001 to make the following local law.

PART 1—PRELIMINARY**1. Citation**

This local law may be cited as the City of Rockingham Fencing Local Law 2000.

2. Repeal

The City of Rockingham Fencing Local Law published in the *Government Gazette* on 18 December 1998 is repealed.

3. Application of Local Law

This local law applies throughout the district.

4. Interpretation

In this local law, unless the context requires otherwise—

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

“**AS**” means an Australian Standard published by the Standards Association of Australia;

“**boundary fence**” has the meaning given to it for the purposes of the Act;

“**Building Surveyor**” means a Building Surveyor of the local government;

“**CEO**” means the Chief Executive Officer of the local government;

“**Commercial Lot**” means any lot that is not zoned under a town planning scheme as either a Residential, Rural or Special Rural lot.

“**dangerous**” in relation to any fence means—

- (a) an electrified fence other than a fence in respect of which a licence under Part 6 of this local law has been issued and is current;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which, in the opinion of the Building Surveyor, is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

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

“**dividing fence**” has the meaning given to it in and for the purposes of the Act;

“**electrified fence**” means a fence carrying or designed to carry an electric charge;

“**fence**” means any structure, including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

“**frontage**” means the boundary line between a lot and the thoroughfare upon which that lot abuts;

“**height**” in relation to a fence means the vertical distance between—

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point, or at the top of a retaining wall where a retaining wall is situated below the fence;

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

“**lot**” has the meaning given to it in and for the purposes of the *Town Planning and Development Act 1928*;

“**notice of breach**” means a notice referred to in clause 15(1);

“**Residential Lot**” means a lot that may be used for residential purposes permitted under a town planning scheme.

“**retaining wall**” means any structure which prevents the lateral movement of soil in order to allow ground levels of different elevations to exist adjacent to one another;

“**Rural Lot**” means a lot that may be used for rural activities permitted under a town planning scheme.

“**Schedule**” means a Schedule to this local law;

“**setback area**” has the meaning given to it for the purposes of a town planning scheme;

“**Special Rural Lot**” means a lot that may be used for special rural activities permitted under a town planning scheme.

“**sufficient fence**” means a fence described in clause 6; and

“**town planning scheme**” means a town planning scheme of the local government made under the *Town Planning and Development Act 1928*.

5. Licence Fees and Charges

All licence fees and charges applicable under this local law shall be as determined by the local government from time to time in accordance with section 6.16 of the *Local Government Act 1995*.

PART 2—SUFFICIENT FENCES

6. Sufficient Fences

(1) Unless by agreement between the owners of adjoining properties, a person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.

(2) Subject to sub-clauses (3) and (4), a sufficient fence—

- (a) on a Residential Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 1;
- (b) on a Commercial Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Schedule 2; and
- (c) on either a Rural or Special Rural Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 3.

(3) Where a fence is erected on or near the boundary between—

- (a) a Residential Lot and a Commercial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 1; and
- (b) a Residential Lot and either a Rural or Special Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 1.

PART 3—GENERAL

7. Fences Within Front Setback Areas

(1) A person shall not, without the prior written consent of the Building Surveyor, erect a free-standing fence greater than 1000mm in height, within the front set-back area of a Residential Lot within the district.

(2) The Building Surveyor may approve the erection of a fence of a height greater than 1000mm in the front setback area of a Residential Lot only if the fence on each side of the driveway into the Lot across the front boundary is to be angled into the Lot for a distance of not less than 1500mm along the frontage to a distance of not less than 1500mm from the frontage in order to provide appropriately splayed lines of vision for a motorist using the driveway for access to a thoroughfare.

(3) The provision of sub-clause (2) shall not apply to a fence of open construction that has no part of the fence obscuring the lines of vision of a motorist using the driveway for access to a thoroughfare.

8. Fences on a Rural Lot

A person shall not, without the prior written consent of the Building Surveyor, erect on a Rural Lot a fence of a height exceeding 1500mm within 7.5m of any thoroughfare.

9. Maintenance of Fences

(1) The owner of a lot on which a fence is erected shall maintain the fence in good condition and so as to prevent it from becoming dangerous, dilapidated, or unsightly.

(2) Where the owner of a lot to which sub-clause 9(1) applies does not occupy the lot, the occupier of the lot shall be subject to the provisions of sub-clause 9(1).

(3) All fence repairs are to be carried out in accordance with the Act.

10. General Discretion of the Local Government

(1) Notwithstanding clause 6, the local government may give its written consent to the erection or repair of a fence which does not comply with the requirements of this local law.

(2) In determining whether to grant the consent referred to in sub-clause 10(1), the local government may consider, in addition to any other matter that it is authorised to consider, whether the erection or retention of the fence would have an adverse effect on—

- (a) the safe or convenient use of any land; or
- (b) the safety or convenience of any person; or
- (c) the orderly and proper planning of the district.

PART 4—FENCING MATERIALS**11. Fencing Materials**

(1) A person may construct a fence on a Residential Lot or a Commercial Lot from brick, stone, concrete, wrought iron, tubular steel framed, link mesh, timber, plastic coated or galvanised link mesh, corrugated fibre reinforced cement sheeting, colour bonded metal or other material approved by the Building Surveyor.

(2) Where the Building Surveyor approves the use of pre-used materials in the construction of a fence under sub-clause (1), that approval shall be conditional on the applicant for approval painting or treating the pre-used material as directed by the Building Surveyor.

12. Barbed Wire and Broken Glass Fences

(1) This clause does not apply to a fence constructed wholly or partly of razor wire.

(2) An owner or occupier of a Residential Lot shall not erect or affix to any fence on the lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of the Building Surveyor has been obtained.

(3) An owner or occupier of a Commercial Lot shall not erect or affix on any fence bounding the lot any barbed wire or other materials with spiked or jagged projections unless the wire or materials are carried on posts not less than 1950mm from the ground level.

(4) If the posts which carry the barbed wire or other materials referred to in sub-clause (3) are angled towards the outside of the lot bounded by the fence, the face of the fence must be set back from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach on adjoining land.

(5) An owner or occupier of a lot shall not affix to or allow to remain as part of any internal or external fence or wall on the lot any broken glass or similar hazardous material.

(6) An owner or occupier of a Rural Lot or Special Rural Lot shall not place or affix barbed wire upon a fence on that Lot where the fence is adjacent to a thoroughfare or other public place unless the barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.

PART 5—ELECTRIFIED AND RAZOR WIRE FENCES**13. Requirements for a Licence**

(1) An owner or occupier of a lot, other than a Rural Lot or Special Rural Lot, shall not—

- (a) have and use an electrified fence on that lot without first obtaining a licence under sub-clause (2); or
- (b) construct a fence wholly or partly of razor wire on that lot without first obtaining a licence under sub-clause (3).

(2) A licence to have and use an electrified fence shall not be issued—

- (a) in respect of a lot which is or which abuts a Residential Lot;
- (b) unless the fence complies with AS/NZS 3016:1994, (as amended); and
- (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.

(3) A licence to have a fence constructed wholly or partly of razor wire shall not be issued—

- (a) if the fence is within 3m of the boundary of the lot;
- (b) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above the ground level.

(4) An application for a licence referred to in either sub-clause (2) or (3) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the prior written consent of the owner.

(5) An application for a licence referred to in sub-clauses (2) or (3) may be—

- (a) approved by the local government;
- (b) approved by the local government subject to such conditions as it thinks fit; or
- (c) refused by the local government.

14. Transfer of a Licence

A licence granted pursuant to clause 13 shall transfer with the land to any new occupier or owner of the lot.

15. Cancellation of a Licence

Subject to Division 1 Part 9 of the *Local Government Act 1995*, the local government may cancel a licence issued under this Part if—

- (a) the fence no longer satisfies the requirements specified in clause 13(2) or 13(3) as the case may be; or
- (b) the licence holder breaches any condition upon which the licence has been issued.

PART 6—NOTICES OF BREACH**16. Notices of Breach**

(1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner or occupier of that lot ('notice of breach').

- (2) A notice of breach shall—
- (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state that the owner or occupier of the lot is required to remedy the breach within 28 days from the giving of the notice.
- (3) Should an owner or occupier fail to comply with a notice of breach, the local government may by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner or occupier of the lot, as the case may be, in a court of competent jurisdiction.

PART 7—OFFENCES

17. Offences and Penalties

(1) An owner or occupier who fails to comply with a notice of breach commits an offence and is liable upon conviction to a maximum penalty of \$5000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

(2) A person who fails to comply with or who contravenes any provision of these Local Laws commits an offence and is liable to a maximum penalty of \$5000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

18. Modified Penalties

(1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16 (1) of the *Local Government Act 1995*.

(2) Unless otherwise specified, the amount of the modified penalty for an offence against any provision of this local law is \$100.

19. Form of Notices

For the purposes of this local law—

- (a) the form of the infringement notice referred to in section 9.17 of the *Local Government Act 1995* is to be in or substantially in the form of Form 2 of Schedule 1 of the Local Government (Functions and General) Regulations 1996;

PART 8—OBJECTION AND APPEAL

20. Objection and Appeal

Where the local government exercises a discretion pursuant to this local law, an affected person has a right of objection and appeal under Part 9 of the *Local Government Act 1995*.

Clause 6(2)(a)

Schedule 1

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

Each of the following is a "sufficient fence" on a Residential Lot—

1. any type of professionally manufactured timber fence, erected in accordance with the manufacturer's specifications;
2. any corrugated fibre reinforced pressed cement sheet fence, erected in accordance with the manufacturer's specifications;
3. any type of masonry or brick fence that is constructed in accordance with relevant Australian Standards, finished plumb, true and level and appropriately jointed, cleaned and of good general appearance;
4. a steel sheet colorbond fence, erected in accordance with the manufacturer's specifications.
5. dense brushwood erected in accordance with the manufacturer's specifications.

Clause 6(2)(b)

Schedule 2

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT

Each of the following is a "sufficient fence" on a Commercial Lot—

1. a fence constructed of PVC coated—
 - (a) rail-less link;
 - (b) chain; or
 - (c) steel mesh;
2. the rail-less link, chain or mesh is to be to a height of 1800mm on top of which are to be three strands of barbed wire carrying the fence to a height of 2400mm;

3. the fence is to be supported by steel galvanised pipe posts each—
 - (a) 2700mm in length;
 - (b) having a nominal bore of 40mm and an outside diameter of 48mm;
 - (c) spaced at 4000mm centres; and
 - (d) sunk 600mm into the ground and encased in concrete having a minimum diameter of 150mm;
4. the centre and bottom steel cable wire is to be 3.15mm in diameter and double twisted;
5. terminal posts are to be braced in the line of the fence with diagonal pipe braces having a nominal bore of 50mm and an outside diameter of 60mm.

Clause 6(2)(c)

Schedule 3

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT AND A SPECIAL RURAL LOT

The following is a "sufficient fence" on a Rural Lot and a Special Rural Lot—

1. posts are to be—
 - (a) Either—
 - (i) standard iron star pickets; or
 - (ii) timber posts that are—
 - sawn, split or round;
 - treated effectively against termites and with an adequate fungicide; and
 - cut not less than 1800mm long x 100mm diameter at the small end if round or 125mm x 75mm if split or sawn;
 - (b) set 600mm in the ground and 1200mm out of the ground;
 - (c) spaced 3500mm apart;
 - (d) bored with 5 suitably spaced holes of 5mm diameter to be threaded with 5 plain high tensile steel galvanised wires each of which is to be 2.5mm in diameter.
2. Strainer posts are to be—
 - (a) either—
 - (i) cut from timber being not less than 150mm in diameter at the small end; or
 - (ii) tubular steel having a nominal bore of 80mm and an outside diameter of 88mm;
 - (b) 2300mm long;
 - (c) sunk in the ground a minimum of 1000mm and, where the strainer posts are of tubular steel, encased in concrete having a minimum diameter of 300mm;
 - (d) strutted or braced;
 - (e) wrapped with plain high tensile steel galvanised wire and strained tightly;
 - (f) set at all corners, gateways and fence line angles but not exceeding 200m apart.

Where the fence fronts a road, any barbed wire is to be affixed to the inside of the posts.

3. A rural electric fence for the retention of animals.

Dated 6 March 2001.

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

C. S. ELLIOTT, Mayor.
G. G. HOLLAND, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

CITY OF ROCKINGHAM

STREET VERANDAHS LOCAL LAW 2000

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*Schedule 1***APPLICATION FOR A STREET VERANDAH LICENCE***Schedule 2***STREET VERANDAH LICENCE**

LOCAL GOVERNMENT ACT 1995

CITY OF ROCKINGHAM

STREET VERANDAHS LOCAL LAW 2000

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the City of Rockingham resolved on 27 February 2001 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the City of Rockingham Street Verandahs Local Law 2000.

1.2 Repeal

The City of Rockingham Street Verandahs Local Law published in the *Government Gazette* on 18 December 1998 is repealed.

1.3 Definitions

In this local law, unless the context otherwise requires—

“**licence**” means a licence issued under this local law;

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

“**Surveyor**” means the Principal Building Surveyor or Acting Principal Building Surveyor of the local government;

“**verandah**” means any structure with a roof, of which any part extends over a street, way, footpath or other public place and includes an awning, blind, sunscreen or things whatsoever.

PART 2—GENERAL**2.1 Requirement for a licence**

A person shall not erect, alter, add to or maintain a verandah, and the owner or occupier of any premises shall not permit a verandah to remain on or attached to those premises—

- (a) unless a licence in respect of that verandah has been issued by the local government; and
- (b) if that verandah does not comply with any provision of this local law.

2.2 Application for licence

(a) An application for a licence is to be in the form set out in Schedule 1 and is to be forwarded to the Surveyor together with—

- (i) two copies of drawings comprising a site plan, plan, elevation and section of the verandah or proposed verandah;
- (ii) a specification showing in detail the construction or proposed construction of the verandah;
- (iii) a specification of the manner in which the verandah has been secured, or in which it is proposed to be secured, to the building;
- (iv) any other information that the Surveyor considers necessary such as, a structural engineer's calculation or plan for the structural stability of the verandah or proposed verandah; and
- (v) payment of the application fee as determined by the local government from time to time.

(b) An application for a licence is to be signed by—

- (i) the applicant; and
- (ii) where the applicant is not the owner of the building to which the verandah is or is proposed to be attached—the owner.

2.3 Issue of licence

(a) The local government may refuse to consider an application for a licence which does not comply with any of the requirements of clause 2.2.

(b) The local government may, in respect of an application for a licence—

- (i) refuse the application; or
- (ii) approve the application on such terms and conditions, as it sees fit.

(c) Where the local government approves an application for a licence it must issue to the applicant a licence in the form of Schedule 2.

(d) A licence issued under this local law expires if the construction of the verandah to which it applies has not been—

- (i) substantially commenced within 12 months of the date of the issue of the licence; or
- (ii) completed within 30 days of the commencement of construction.

2.4 Types of verandahs permitted

A verandah is to—

- (a) be of a fixed, structurally suspended cantilever form unless otherwise permitted by the local government;
- (b) have a fascia which finishes no closer than 300mm from a vertical projection of the face of the street kerb;
- (c) incorporate guttering and downpipes so as to prevent water collected by the verandah from falling or being deposited onto a pavement or street unless otherwise approved by the local government;
- (d) be finished plumb, true and level both vertically and horizontally; and
- (e) be constructed in accordance with the current Building Code of Australia.

2.5 Verandah ends

(a) If a proposed verandah is to abut an existing verandah, it may be required to be constructed so as to prevent rain falling between the two verandahs.

(b) If the end of a verandah abuts the end of a right of way, street or public place, the fascia may be required to be returned along that end to the satisfaction of the Surveyor.

2.6 Height above pavement

Unless otherwise approved by the local government—

- (a) subject to paragraph (b), the lower level of a verandah at any point is to be 2700mm minimum above the pavement immediately below;
- (b) if a proposed verandah is to be constructed adjacent to an existing verandah, the proposed verandah may be required to be the same height as the existing verandah;
- (c) a verandah is to be stepped to conform with the grade of the pavement; and
- (d) any steps constructed under paragraph (c) are to be equal.

2.7 When a verandah may be constructed

(a) The local government may prescribe—

- (i) as a condition of the licence; or
- (ii) by written notice to the owner or occupier of the premises to which the verandah is to be attached, the days and/or hours during which the verandah may be constructed.
- (iii) a licence be procured, where required by the Surveyor, pursuant to the current Building Regulations, to enclose the pavement around the permitted place of work for the construction of the verandah.

(b) A person must not construct, or cause or permit to be constructed, a verandah outside any days or hours prescribed by the local government under sub-clause (a)(ii).

2.8 Maintenance

(a) An owner or occupier of a building to which a verandah is attached is to keep the verandah clean, painted, watertight and in good repair.

(b) The Surveyor may give written notice to the owner or occupier of a building to which a verandah is attached to clean, paint or repair the verandah if in his or her opinion such cleaning, painting or repairing is required.

(c) The Surveyor may give written notice at anytime for the verandah to be structurally checked by a practising structural engineer at the owners or occupiers cost.

(d) An owner or occupier of a building to which a verandah is attached who receives a notice under sub-clause (b) and/or (c) is to carry out the specified cleaning, painting, repairs or structural check within 60 days of receiving the notice.

2.9 Blinds and sunscreens

(a) In this clause—

“**blind**” includes a roller type blind; and

“**sunscreen**” includes a sheet metal or synthetic material sunsreen.

(b) A blind or sunsreen under or near a verandah is—

- (i) to be hung from or near the outer edge of the verandah;
- (ii) to be parallel but not closer than 300mm from a vertical projection of the face of the street kerb;
- (iii) not to hang lower than 2400mm above the level of the pavement at its lowest point when closed;
- (iv) to be rigidly fixed in position, by an approved method, when down;
- (v) not to display any form of advertising, unless approved by the local government; and
- (vi) to be maintained in a proper state of repair to the satisfaction of the Surveyor.

(c) Unless authorised in a licence by the local government a blind or sunsreen must not be placed or hung on the side of a verandah.

PART 3—MISCELLANEOUS

3.1 Alterations to an existing verandah

Any alteration or addition to an existing verandah is to be made and maintained in accordance with the provisions of this local law.

3.2 Advertising

Any sign, advertisement or artificial lighting borne by a verandah is to be in accordance with the local government's requirements relating to signs.

3.3 Penalties

A person who fails to comply with any provision of this local law commits an offence and on conviction is liable to a penalty of not more than \$1,000 and a daily penalty of not more than \$50 for each day or part thereof that the offence continues.

Clause 2.2(a)

Schedule 1

APPLICATION FOR A STREET VERANDAH LICENCE

To the Principal Building Surveyor
City of Rockingham

I, (Applicant's Full Name)
of (Residential Address)
..... (Postal Address)
..... (Occupation)
..... (Telephone Number)

apply for a licence under the City of Rockingham Street Verandahs Local Law 2000.

Details of Verandah or Proposed Verandah

1. Location Address
2. Building to which verandah is, or is to be, attached
3. Dimensions—
 - (a) area
 - (b) length
 - (c) width
 - (d) height above pavement
 - (e) distance setback from edge of kerb
4. Estimated cost of construction
5. Details of owner(s) of the building to which the verandah is to be attached and/or the builder (delete whichever is not applicable)—
 - (a) Owners(s)

..... (Name)
..... (Address)
..... (Telephone)
..... (Signature(s) of Owners(s))
 - (b) Builder

..... (Name)
..... (Address)
..... (Telephone)
..... (Signature of Builder)

Attached are—

1. Two copies of drawings comprising a site plan, plan, elevation and section of the verandah or proposed verandah.
2. A specification showing in detail the construction or proposed construction of the verandah.
3. A specification of the manner in which the verandah has been secured, or in which it is proposed to be secured to the building.
4. Any other information that the Surveyor considers necessary such as, for example, a structural engineer's calculation or plan for the structural stability of the verandah or proposed verandah.

I enclose the application fee.

Dated this day of 20

.....
(Signature of Applicant)

Schedule 2
STREET VERANDAH LICENCE

This licence is issued to—

..... (Full Name)
of (Residential Address)
(the "licensee").

This licence authorises the licensee to construct and/or retain the verandah or proposed verandah which was the subject of Street Verandah Licence Application No. in accordance with the approved drawings, specifications and other information and subject to the provisions of the City of Rockingham Street Verandahs Local Law 2000 and the following terms and conditions—

This licence lapses if the construction of the verandah has not been—

- (a) substantially commenced within 12 months of the date of issue of the licence; or
- (b) completed within 30 days of the commencement of construction.

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

Issued this day of20....

.....
Principal Building Surveyor

If in the course of constructing or altering the verandah the applicant will be carrying out excavation near and/or depositing building material on a street, he or she is required to obtain a licence for excavation near and the deposit of building material on a street pursuant to Section 377 of the *Local Government (Miscellaneous Provisions) Act 1960* and Regulation 25 of the building Regulations 1989. The licence is in Form 6 of the First Schedule to the Building Regulations 1989.

Dated 6 March 2001.

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

C. S. ELLIOTT, Mayor.
G. G. HOLLAND, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

CITY OF ROCKINGHAM

SAND DRIFT PREVENTION AND ABATEMENT LOCAL LAW 2000

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Schedule 1

INFRINGEMENT NOTICE

LOCAL GOVERNMENT ACT 1995

CITY OF ROCKINGHAM

SAND DRIFT PREVENTION AND ABATEMENT LOCAL LAW 2000

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the City of Rockingham resolved on 27 February 2001 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the City of Rockingham Sand Drift Prevention and Abatement Local Law 2000.

1.2 Repeal

The City of Rockingham Prevention and Abatement of Sand Drift Local Law published in the *Government Gazette* on 25 September 1998 is repealed.

1.3 Definitions

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

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

“**district**” means the district of the City of Rockingham and includes any area placed under the jurisdiction of the local government pursuant to any Act or Regulation;

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

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

“**person**” includes a public body, company or association or other body of persons whether corporate or unincorporate;

“**sand**” means any granular material consisting of small eroded fragments of rocks finer than gravel whether or not forming part of a beach, desert or bed of any river and includes dust and organic matter;

“**rural land**” means land of a surface area exceeding one hectare and which is used for rural purposes.

(b) Where in this local law a duty, obligation or liability is imposed on an “owner or occupier of land or premises”, the duty shall be deemed to be imposed jointly and severally on each of the owner and occupier in relation to the land or premises.

(c) Where under this local law an act is required to be done or forbidden to be done in relation to any land or premises, the owner or occupier of the land or premises has the duty of causing to be done the act so required to be done, or of preventing from being done the act forbidden to be done.

(d) Where this local law refers to the giving of a notice, other than the giving of an infringement notice, no particular form is prescribed and it will be sufficient that the notice be in writing giving sufficient details to enable the owner or occupier to know the offence committed and the measures required to be taken or conditions to be complied with, as the case may be.

1.4 Application

This local law applies to all land in the district except rural land.

PART 2—PROHIBITED ACTIVITIES**2.1 Prohibited Activities**

Where any sand is released or escapes from land or premises, whether by means of wind, water or any other cause, the owner or occupier of the land or premises commits an offence.

PART 3—SERVING OF NOTICES**3.1 Serving of Notice to Clean up and Make Good Damage etc**

The local government may serve on an owner or occupier of any land or premises in the district from which any sand has been released or has escaped a notice requiring the owner or occupier to clean up

and make good any damage or unsightly effects resulting from that release or escape, and where the notice specifies a time or date, the requirements set out in the notice must be completed by the time or date specified.

3.2 Serving of Notice Specifying Conditions

Where the local government is of the opinion that as a result of an activity being carried or likely to be carried on from any land or premises sand may be released or may escape, the local government may cause to be given to the owner or occupier a notice providing that the activity can only be carried on subject to conditions and specifying the conditions.

3.3 Failure to Comply with Notice

Where an owner or occupier—

- (a) fails to comply with a notice issued pursuant to clause 3.1; or
- (b) fails to comply with any conditions pursuant to clause 3.2

the local government may undertake or cause to be undertaken the work specified in the notice.

3.4 Local Government may Undertake Work

(a) Where the local government pursuant to clause 3.3 undertakes or causes to be undertaken any work or carries out or causes to be carried out any conditions, it may cause to be given to the owner or occupier of the land or premises written notice of the amount expended by the local government in carrying out that work.

(b) The amount specified in the notice given under clause 3.4(a) must be paid to the local government within 14 days of the service of that notice.

(c) If the amount specified is not paid to the local government within 14 days from the service of the notice given under clause 3.4(a), the local government may recover it as well as the costs of proceedings, and interest thereon, in a court of competent jurisdiction.

3.5 Cancellation of Notices

(a) Where a notice is served on the owner or occupier of any land or premises and the owner or occupier satisfies the local government within 14 days from the date of the giving of the notice that—

- (i) it was not responsible for the conduct in respect of which the notice was given pursuant to clause 3.1 or the activity in respect of which conditions were imposed pursuant to clause 3.2 as the case may be; and
- (ii) it took all reasonable precautions to prevent the conduct or all reasonable steps to comply with, or cause the conditions to be complied with, as the case may be; and
- (iii) where another person was responsible for the conduct, it identifies the person responsible for the conduct sufficiently to enable the notice to be issued to that person;

the local government may cancel the notice.

(b) Without derogating from the generality of sub clause 3.5(a), an owner or occupier will be deemed to be responsible for the conduct or compliance with conditions within the meaning of sub clause 3.5(a) if;

- (i) in the case of conduct, the conduct took place with the owner or occupier's knowledge; consent or approval; or
- (ii) in the case of conditions, the owner or occupier was aware of the activity in respect of which the conditions were imposed.

(c) If the local government decides to cancel the notice it may within 28 days from the date of cancellation cause a notice ("the second notice") to be issued to any person identified by the person to whom the notice was originally given as being responsible for the conduct in respect of which the notice was issued.

(d) Where the second notice is issued pursuant to clause 3.5(c) the provisions of Part 3 shall apply to the second notice on and from the date of service of the notice.

PART 4—LOCAL GOVERNMENT MAY ENTER LAND OR PREMISES

4.1 Local Government may Enter Land or Premises

(a) The local government may lawfully enter upon any land or premises for the purpose of giving effect to, or carrying out, any provision of this local law.

(b) A person must not prevent or impede a duly authorised officer or employee of the local government from carrying out his or her duties under this local law.

PART 5—OFFENCES

5.1 (a) A person who—

- (i) contravenes clause 2.1;
- (ii) fails to comply with a notice served under clause 3.1;
- (iii) carries on an activity without complying with a notice issued under clause 3.2; or
- (iv) contravenes clause 4.1 of this local law

commits an offence, in respect of which the local government may issue an infringement notice.

(b) A person who commits an offence under sub clause 5.1(a) is liable to—

- (i) a penalty which is not more than \$2,000 and not less than;
 - (a) in the case of a first such offence, \$200;
 - (b) in the case of a second such offence, \$400; and
 - (c) in the case of a third or subsequent such offence, \$1,000, and

(ii) if the offence is of a continuing nature, a daily penalty not exceeding a fine of \$200 in respect of each day or part of a day for which the offence continues.

5.2 (a) An offence against any provision of this local law is a prescribed offence for the purposes of Section 9.16(1) of the Act.

(b) The amount of the modified penalty for an offence against any provision of this local law is \$200.

PART 6—INFRINGEMENT NOTICES

6.1 An infringement notice in respect of an offence prescribed in this local law may be given under section 9.16 of the Act and shall be in the form or to the effect of Schedule 1 provided that no error or misdescription will invalidate the notice if its meaning is otherwise clear.

Schedule 1

INFRINGEMENT NOTICE

Serial No.

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

City of Rockingham

To: (1)

(2)

It is alleged that on or about (3)

at (4)

you committed the following offence (5)—

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

contrary to local law clause (6) of the Sand Drift Prevention and Abatement Local Law 2000.

The modified penalty for the offence is \$200.

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 to (7) an authorised person at (8) within a period of 28 days after the giving of this notice.

Name and title of authorised person giving notice (9)—

Signature

- (1) Name of owner or occupier
- (2) Address of owner or occupier
- (3) Date when offence committed. If the offence relates to a failure to take remedial action within the time specified in a notice it will be sufficient if the final time for compliance is specified.
- (4) Specify land or premises
- (5) Give details of the offence. If insufficient space provide details by way of an annexure
- (6) Insert relevant clause
- (7) Specify the authorised person to whom the penalty must be paid
- (8) Specify the address to whom the payment is to be sent or where payment is to be made
- (9) The authorised person for the purpose of (9) must be a different person from the person authorised for the purposes of (7).

Dated 6 March 2001.

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

C. S. ELLIOTT, Mayor.
G. G. HOLLAND, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

CITY OF ROCKINGHAM

CEMETERIES LOCAL LAW 2000

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WITHDRAWAL OF INFRINGEMENT NOTICE

CEMETERIES ACT 1986

CITY OF ROCKINGHAM

CEMETERIES LOCAL LAW 2000

Under the powers conferred by the *Cemeteries Act 1986* and under all other powers enabling it, the Council of the City of Rockingham resolved on 27 February 2001 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the City of Rockingham Cemeteries Local Law 2000.

1.2 Repeal

The City of Rockingham Local Law for the Management of the Rockingham Public Cemetery published in the *Government Gazette* on 20 February 1948 as amended is repealed.

1.3 Interpretation

In this local law unless the context otherwise requires—

“**Act**” means the *Cemeteries Act 1986*.

“**ashes**” means so much of the remains of a dead body after the due processes of cremation as may be contained in a standard sized cremation urn;

“**authorised officer**” means an employee of the Board authorised by the Board for the purposes of performing any function or exercising any power conferred upon an authorised officer by this local law;

“**CEO**” means the Chief Executive Officer for the time being, of the Board;

“**funeral director**” means a person holding a current funeral director’s licence;

“**Board**” means the City of Rockingham;

“**monumental mason**” means a person holding a current monumental mason’s licence;

“**personal representative**” means the administrator or executor of an estate of a deceased person;

“**set fee**” refers to fees and charges set by a resolution of the Board and published in the *Government Gazette*, under section 53 of the Act;

“**single funeral permit**” means a permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct at the cemetery a funeral of a person named in the permit.

PART 2—ADMINISTRATION**2.1 Powers and functions of CEO**

Subject to any directions given by the Board, the CEO shall exercise all the powers and functions of the Board in respect of the cemetery.

PART 3—APPLICATION FOR FUNERALS**3.1 Application for burial**

(1) A person may apply for approval to bury a dead body in the cemetery in the form determined by the Board from time to time.

(2) An application under sub-clause (1) is to be accompanied by the set fee.

3.2 Applications to be accompanied by certificates etc

All applications referred to in clause 3.1 shall be accompanied by either a medical certificate of death or a coroner’s order of burial, and a certificate issued under clause 3.3, in respect of the body.

3.3 Certificate of identification

(1) After a dead body is placed in a coffin and prior to a dead body being removed to the cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification in the form determined by the Board from time to time, unless—

(a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed;

or

(b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

(2) Where—

- (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed;
or
 - (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body,
- then the funeral director shall complete a certificate in the form determined by the Board from time to time.

3.4 Minimum notice required

All bookings to hold a funeral shall be made with the Board at least twenty four hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

PART 4—FUNERAL DIRECTORS

4.1 Funeral director's licence expiry

A funeral director's licence shall expire on the 30th day of June in each year.

4.2 Responsibilities of funeral directors

The holder of a funeral director's licence shall be responsible for the compliance by every person purporting to be authorised to direct a funeral within a cemetery pursuant to that licence with—

- (a) all the requirements of—
 - (i) the licence;
 - (ii) this local law; and
 - (iii) the Act; and
- (b) any conditions imposed by the Board in respect of that licence.

4.3 Single funeral permits

Every application for a single funeral permit made under section 20 or 21 of the Act shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.

4.4 Application refusal

The Board may refuse an application for a single funeral permit if, in the opinion of the Board, either the coffin specifications or the details of the vehicle transporting the dead body to the gravesite are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

PART 5—FUNERALS

Division 1—General

5.1 Receipt of an application for a funeral

Upon receipt of a properly completed application form and the satisfaction of all other requirements of this local law, the Board may—

- (a) fix a time for the funeral;
- (b) dig or re-open any grave that is required.

5.2 Fixing times for a funeral

The time fixed for a funeral is at the discretion of the Board but subject to this local law will be as near as possible to the time requested by the applicant.

5.3 Times for funerals

- (1) A person shall not carry out a burial—
 - (a) on Christmas Day;
 - (b) on Good Friday; or
 - (c) at any time other than during the following days and hours—
 - Monday to Thursday—8.00am to 4.00pm
 - Friday—8.00am to 3.30pm
 - Saturday—8.00am to 11.00am

except with the written permission of the Board.

(2) The Board may, by notice displayed at the Board offices, at least one week before a public holiday, close any cemetery on that public holiday and where a cemetery is so closed no funeral may take place within it, except with the written permission of the Board.

5.4 Requirements for funerals and coffins

A person shall not bring a dead body into the cemetery unless—

- (a) the Board has approved an application for the burial of that dead body in accordance with Part 3 of this local law;
- (b) it is enclosed in a coffin which in the opinion of the Board is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin's lid; and
- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 mm in height.

5.5 Funeral processions

The time fixed by the Board for any burial shall be the time at which the funeral procession is to arrive at the cemetery gates, and, if not punctually observed, then the applicant who applied to hold the funeral under clause 3.1 shall pay the set fee for being late.

5.6 Vehicle entry restricted

(1) Subject to clause 5.6(2), every funeral procession shall enter by the principal entrance, and no vehicle except the hearse, and official mourning coaches, shall be permitted to enter the cemetery, without the written permission of the Board.

(2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs.

5.7 Vehicle access and speed limitations

Vehicles shall proceed within the cemetery by the constructed roadway or other areas designated for the use of vehicles and shall not exceed a speed of 25km per hour.

5.8 Offenders may be expelled

A person committing an offence under clause 5.7 may be expelled from the cemetery by the CEO or an authorised officer.

5.9 Conduct of funeral by Board

When conducting a funeral under section 22 of the Act the Board may—

- (a) require a written request for it to conduct a funeral to be lodged with it;
- (b) in its absolute discretion, charge any person requesting it to conduct a funeral the set fee for the conduct of that funeral by it;
- (c) where no fee or a reduced fee has been charged by it for the conduct of the funeral, determine the manner in which the funeral shall be conducted;
- (d) specify an area in the cemetery where the dead body is to be buried;
- (e) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law;
- (f) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

Division 2—Placement of Ashes

5.10 Disposal of ashes

(1) The personal representative of a deceased person whose body has been cremated may apply, in an application under clause 3.1 or otherwise, for permission to dispose of the ashes in the cemetery and upon payment of the set fee the Board may grant permission for the ashes to be disposed of by one of the following methods—

- niche wall
- family grave
- scattering to the winds
- other memorials approved by the Board

(2) Subject to sub-clauses (3) and (4), a person shall not place the ashes of a deceased person in the cemetery.

(3) An authorised officer may place the ashes of a deceased person in a cemetery in accordance with the Board approval provided—

- (a) the person requesting the placement of the ashes has the written permission of the Board; and
- (b) the ashes are placed within an area set aside for that purpose by the Board.

(4) An authorised officer may place the ashes of a deceased person within a grave in accordance with the Board approval, provided the person requesting the placement of the ashes has the written permission of the Board and the approval of the holder of the right of burial of the grave.

PART 6—BURIALS

6.1 Depth of graves

(1) A person shall not bury a coffin within the cemetery so that the distance from the top of the coffin to the original surface of the ground is—

- (a) subject to paragraph (b), less than 750mm, unless that person has the permission of an authorised officer; or
- (b) in any circumstances less than 600mm.

(2) The permission of the authorised officer in sub-clause (1) (a) will only be granted where in the opinion of the authorised officer exceptional circumstances require granting of that permission.

PART 7—MEMORIALS AND OTHER WORK

Division 1—General

7.1 Application for monumental work

A Board may require the written consent of the holder of the right of burial of the grave to accompany an application under section 30 of the Act.

7.2 Placement of monumental work

Every memorial shall be placed on proper and substantial foundations.

7.3 Removal of rubbish

All refuse, rubbish or surplus material remaining after memorial works are completed under a permit issued under section 30 of the Act shall be immediately removed from the cemetery by the person carrying out the same.

7.4 Operation of work

All material required in the erection and completion of any work shall, as far as possible, be prepared before being taken to the cemetery, and all materials required by masons or other workers shall be admitted at such entrance as the CEO or an authorised officer shall direct.

7.5 Removal of sand, soil or loam

No sand, earth or other material shall be taken from any part of the cemetery for use in the erection of any memorial or work except with the written permission of the Board.

7.6 Hours of work

Persons shall not be permitted to carry out memorial or other work on graves within the cemetery other than during the hours of 8.00am and 6.00pm on weekdays, and 8.00am and noon on Saturdays, without the written permission of the Board.

7.7 Unfinished work

Should any work by masons or other workers not be completed before 6.00pm on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised officer.

7.8 Use of wood

No wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave, other than as a temporary marker and with the prior written permission of the Board.

7.9 Plants and trees

No plant, tree or shrub shall be planted—

- (a) on any grave or within the cemetery except such as shall be approved by the CEO; or
- (b) within the lawn section of the cemetery.

7.10 Supervision

All workers, whether employed by the Board or by any other person, shall at all times whilst within the boundaries of the cemetery be subject to the supervision of the CEO or an authorised officer and shall obey such directions as the CEO or an authorised officer may give.

7.11 Australian war graves

Notwithstanding anything in this local law to the contrary, the Office of Australian War Graves—

- (a) may place a memorial on a military grave; and
- (b) is not required to pay the set fee for any memorial that is placed upon a military grave.

7.12 Placing of glass domes and vases

A person shall not place glass domes, vases or other grave ornaments—

- (a) outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40 (2) of the Act; or
- (b) on the lawn or ground in an area set aside by the Board as a lawn section.

Division 2—Lawn Section

7.13 Specification of monuments

(1) All monuments in the lawn section of a cemetery shall—

- (a) be made of natural stone; and
- (b) be placed upon a base of natural stone; and
- (c) comply with the following specifications—
 - (i) the overall height of the monument above the original surface of the grave shall not exceed 1.05m;
 - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150mm nor more than 450mm;
 - (iii) the width of the base of the monument shall not exceed 1.20m;
 - (iv) the depth of the base of the monument shall not exceed 300mm; and
- (d) have foundations extending to the bottom of the grave unless concrete beam foundations are provided by the Board.

(2) An admiralty bronze memorial plaque approved by the Board may be attached to a monument erected or being erected in the lawn section of the cemetery.

(3) A person shall not display any trade names or marks upon any monument erected within the lawn section of the cemetery.

7.14 Headstones

In the lawn section of the cemetery, that part of a headstone above its base shall not extend horizontally beyond that base.

*Division 3—Licensing of Monumental Masons***7.15 Monumental mason's licence**

(1) The Board may upon receipt of an application in writing by any person and upon payment of the set fee issue to the applicant a monumental mason's licence.

(2) A licence issued under sub-clause (1) authorises the holder to carry out monumental works within the cemetery subject to the provisions of this local law and such conditions as the Board may specify upon the issue of that licence.

7.16 Expiry date, non-transferability

A monumental mason's licence—

- (a) shall, subject to clause 7.19, be valid from the date specified therein until the 30th day of June next following; and
- (b) is not transferable.

7.17 Carrying out monumental work

A person shall not carry out monumental work within the cemetery unless that person—

- (a) is the holder of a current monumental mason's licence issued pursuant to clause 7.15 or does so as the employee of a person who holds such a licence; or
- (b) is authorised by the Board to do so.

7.18 Responsibilities of the holder of a monumental mason's licence

The holder of a monumental mason's licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within the cemetery pursuant to that licence with all the requirements and conditions of the licence, this local law, the Act and any other written law which may affect the carrying out of monumental works.

7.19 Cancellation of a monumental mason's licence

(1) The Board may by notice in writing to the holder of a monumental mason's licence terminate the licence on any of the following grounds—

- (a) that the holder of the licence has committed a breach of the requirements and conditions of the licence, this local law, the Act or any other written law which may affect the carrying out of monumental works;
- (b) that, in the opinion of the Board, the conduct of the holder of the licence or any person in the employ of that holder in carrying out or attempting to carry out any works within the cemetery, is inappropriate or unbecoming; or
- (c) that the holder of the licence has purported to transfer the licence issued to that holder.

(2) Upon the termination of a monumental mason's licence under this clause no part of any fee paid for the issue of that licence is refundable by the Board.

(3) An aggrieved person whose licence has been terminated under sub-clause (1) may appeal to a Local Court against a decision of the Board under this clause in the manner stated in section 19 (3) of the Act.

PART 8—GENERAL**8.1 Animals**

Subject to clause 8.2, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than with the approval of the CEO or an authorised officer.

8.2 Guide dogs

Clause 8.1 shall not apply to a hearing impaired person or a person who is blind or partially blind and is accompanied by a hearing or guide dog.

8.3 Damaging and removing of objects

Subject to clause 8.4, a person shall not damage, remove or pick any tree, plant, shrub or flower in the cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the written permission of the Board.

8.4 Withered flowers

A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Board for that purpose.

8.5 Littering and vandalism

A person shall not—

- (a) break or cause to be broken any glass, ceramic or other material in or upon the cemetery;
- (b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in or upon the cemetery other than in a receptacle provided for that purpose.

8.6 Advertising

A person shall not carry on or advertise any trade, business or profession within the cemetery without the prior written permission of the Board which consent may be granted subject to such conditions as the Board thinks fit.

8.7 Obeying signs and directions

A person shall obey all signs displayed, marked, placed or erected by the Board within the cemetery and any other lawful direction by the CEO or an authorised officer.

8.8 Removal from the cemetery

Any person failing to comply with any provisions of this local law or behaving in a manner that in the opinion of the Board, the CEO or an authorised officer is inappropriate in the cemetery, may in addition to any penalty provided by this local law, be ordered to leave the cemetery by the Board, the CEO or an authorised officer.

PART 9—OFFENCES AND MODIFIED PENALTIES

9.1 General

A person who commits a breach of any provisions of this local law commits an offence and shall on conviction be liable to a penalty not exceeding \$500.00 and if the offence is a continuing one to a further penalty not exceeding \$20.00 for every day or part of a day during which the offence has continued.

9.2 Modified penalties

- (1) The offences specified in Schedule 1 are offences which may be dealt with under section 63 of the Act.
- (2) The modified penalty payable in respect of an offence specified in Schedule 1 is set out in the fourth column of Schedule 1.
- (3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in the Schedule 2.
- (4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in the Schedule 3.

Schedule 1

CEMETERIES ACT 1986
City of Rockingham
Cemeteries Local Law 2000
MODIFIED PENALTIES

Item No.	Clause	Nature of Offence	Modified Penalty
1	5.6	Unauthorised use—driving of vehicles	\$50.00
2	5.7	Excessive Speed	\$50.00
3	7.3	Placing and removal of rubbish and surplus materials	\$50.00
4	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
5	8.1	Animal at large	\$50.00
6	8.5	Dumping of Rubbish	\$50.00
7	8.6	Unauthorised advertising, and/or trading	\$50.00
8	8.7	Disobeying sign or lawful direction	\$50.00

Schedule 2

CEMETERIES ACT 1986
City of Rockingham
Cemeteries Local Law 2000
INFRINGEMENT NOTICE

TO:
 (Name)

.....
 (Address)

It is alleged that at hours on day
 of 19..... at

.....
 you committed the offence indicated below by an (x) in breach of clause of the Cemeteries Local Law 2000.

 (Authorised Person).

Offence

- Animal at large
- Dumping rubbish
- Excessive speed in vehicle
- Leaving uncompleted works in an untidy or unsafe condition
- Non removal of rubbish
- Unauthorised advertising or trading
- Unauthorised vehicle use
- Disobeying sign or lawful direction

Other Offence

§

You may dispose of this matter—

By payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the City of Rockingham, Civic Boulevard, Rockingham, between the hours of 9.00am to 4.30pm Monday to Friday.

Please make cheques payable to the City of Rockingham. Payments by mail should be addressed to—
 The Chief Executive Officer
 City of Rockingham
 PO Box 2142, Rockingham DC 6967

If the penalty is not paid within the time specified, then a complaint of the alleged offence may be made and heard and determined by a court.

Schedule 3

CEMETERIES ACT 1986
City of Rockingham
Cemeteries Local Law 2000

WITHDRAWAL OF INFRINGEMENT NOTICE

No.

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

To (1)

Infringement Notice No. dated/...../..... for the alleged offence of (2)

Penalty (3) \$..... is withdrawn.

(Delete whichever does not apply)

- * No further action will be taken.
- * It is proposed to institute court proceedings for the alleged offence.

- (1) Insert name and address of alleged offender.
- (2) Insert short particulars of offence alleged.
- (3) Insert amount of penalty prescribed.

.....
(Authorised Person).

Dated 6 March 2001.

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

C. S. ELLIOTT, Mayor.
 G. G. HOLLAND, Chief Executive Officer.

