

CONSOLIDATED LOCAL LAW

CITY OF MANDURAH

ANIMALS, ENVIRONMENT AND NUISANCE LOCAL LAW 2010

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ANIMALS, ENVIRONMENT AND NUISANCE AMENDMENT LOCAL LAW 2019

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PLEASE NOTE: This version of the Animals, Environment and Nuisance Local Law 2010 combines the:

- Principle Local Law:
 - City of Mandurah Animals, Environment and Nuisance Local Law 2010;
- Amendment:
 - City of Mandurah Animals, Environment and Nuisance Amendment Local Law 2019
 - City of Mandurah Animals, Environment and Nuisance Amendment Local Law 2020

LOCAL GOVERNMENT ACT 1995

HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911
BIOSECURITY AND AGRICULTURE MANAGEMENT ACT 2007

CITY OF MANDURAH

**ANIMALS, ENVIRONMENT AND
NUISANCE LOCAL LAW 2010**

LOCAL GOVERNMENT ACT 1995

CITY OF MANDURAH

**ANIMALS, ENVIRONMENT AND NUISANCE AMENDMENT LOCAL LAW 2010
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LOCAL GOVERNMENT ACT 1995
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CITY OF MANDURAH

ANIMALS ENVIRONMENT AND NUISANCE AMENDMENT LOCAL LAW 2010

Under the powers conferred by the *Health (Miscellaneous Provisions) Act 1911*, *Biosecurity and Agricultural Management Act 2007*, *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Mandurah resolved on 22 February 2011 and subsequently amended on 28 May 2019 and 24 March 2020 to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Mandurah Animals, Environment and Nuisance Local Law 2010*.

1.2 Definitions

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

Act means the *Local Government Act 1995*;

affiliated person means a person who is a member of a poultry or pigeon club incorporated under the *Associations Incorporation Act 1987*;

amusement means anything usually conducted for amusement at a fair, a carnival or a show, whether conducted at a fair, a carnival or a show or elsewhere;

approved animal means any farm animal which is the subject of a permit;

AS/NZS 3500 means the standard called “Plumbing and Drainage” published by the Standard Association of Australia;

authorised person means a person authorised by the Council, under section 9.10 of the Act to perform all or any of the functions conferred on an authorised person under this local law;

aviary bird means any bird, other than poultry or pigeons, kept or usually kept in an aviary or cage;

bee hive means a hive standing alone or any 2 or more hives standing in a group;

birds includes poultry;

builder means the holder of a building licence issued in respect of building works on a building site or a person in control of a building site;

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

building permit is a permit granted under section 20 of the *Building Act 2011*;

building site means any lot for which a building licence is current;

Chief Executive Officer means the Chief Executive Officer of the local government;

City means the City of Mandurah;

Class 6 building means a Class 6 building as defined by the Building Code;

Class 9 building means a Class 9 building as defined by the Building Code;

Code of Practice—Pigeon keeping means the document entitled *A Code of Practice—May 1994—Pigeon Keeping and Pigeon Racing* published in May 1994 by the Pigeon Racing Federation of WA (Incorporated) and the Independent Racing Pigeon Federation (Incorporated), as amended from time to time;

cow includes an ox, calf or bull;

development has the meaning given to it in the Planning and Development Act 2005;

development approval means a development approval under a local planning scheme;

development site includes any lot or lots for which there is current a development or subdivision approval, and any lot or lots upon which, construction work, earthworks, clearing of scrub, trees or overgrowth or any other site works are taking or have taken place, whether or not such works are subject to a development or subdivision approval;

district means the district of the local government;

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

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

farm animal includes a horse, cow, sheep, goat, pig or other ungulate;

food business has the same meaning given in the *Food Act 2008*;

horse includes an ass, mule, donkey or pony;

land includes any building or structure on the land;

liquid waste means waste from any process or activity, whether useful or useless, that is in liquid form and includes paint, fuel, grease, fat, oil, degreaser solvent, detergent, chemical, animal waste, food waste, effluent and all discharges of liquid to land, air

or water that are not otherwise authorised by a written law but does not include uncontaminated stormwater;

livestock includes cattle, sheep, pigs, goats and horses;

livestock vehicle means a vehicle that contains livestock or previously has been used for the carriage of livestock;

local government means the City of Mandurah;

local planning scheme has the meaning given to it by the *Planning and Development Act 2005*;

lot has the meaning given to it by the *Planning and Development Act 2005*;

manure receptacle means a receptacle, of sufficient capacity to receive all manure produced in one week on premises upon which a farm animal or farm animals are kept, constructed of smooth, durable, impervious materials, fitted with a fly proof, hinged cover and with no part of the floor lower than the adjoining ground;

miniature horse means a horse whose maximum adult height does not exceed 870 millimetres and is classified as a miniature by the Miniature Horse Association of Australia;

nuisance means—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

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

permit means a permit issued under these local laws;

permit holder means a person who holds a valid permit;

pest plant means a plant described as a pest plant by clause 4.17 of this local law;

pigeon includes homing pigeons and other domesticated breeds of the species *Columba livia*, but does not include native pigeons or doves whether or not the keeping of such birds is subject to the approval of the Department of Environment and Conservation;

poultry includes fowls, roosters, ducks, peafowls, turkeys, geese, guinea fowls, pheasants and other birds commonly kept for the production of eggs or meat for domestic consumption;

refuse means any waste material including bricks, lime, cement, concrete, rubble, stones, iron, timber, tiles, bags, plastics, ashes, vegetation, timber, wood or metal shavings, sawdust, and waste food, and includes any broken, used, derelict or discarded matter whatsoever;

Regulations means the *Local Government (Functions and General) Regulations 1996*;

residential building has the meaning given to it in the Residential Design Codes of Western Australia as amended;

residential zone includes any area zoned “Residential” and “Urban Development” under a local planning scheme;

rural zone means any area zoned “Rural” or “Rural Residential” under a local planning scheme;

sand means granules or particles of rock, earth, clay, loam, silt and any other granular, particulate or like material, and includes dust and gravel;

stormwater means any naturally occurring water that results from rainfall on or around a site, or water flowing onto the site;

street means any highway or thoroughfare which the public are entitled to use, and includes every part of the highway or thoroughfare, including the verge and other things including bridges and culverts appurtenant to it;

subdivision approval means a subdivision approval under the *Planning and Development Act 2005*;

truck means a motor vehicle having a tare weight in excess of 3,000 kilograms;

unreasonable noise has the meaning given to it by the *Environmental Protection Act 1986*;

vermin includes rats, mice, flies, fleas, mites, lice, cockroaches and any other animal, whether vertebrate or invertebrate, which is known to be a vector of disease or likely to cause damage to human food, habitation or possessions.

- (2) Any other expression used in this local law and not defined herein shall have the meaning given to it in the Act.
- (3) Where in this local law a duty, obligation or liability is imposed on an “owner or occupier” the duty shall be deemed to be imposed jointly and severally on each owner and occupier.
- (4) Where under this local law the local government is authorised to carry out actions or cause to be undertaken works as a consequence of the failure of any person to comply

with the terms of a notice or other conduct, the right to enter land is at all times subject to the provisions of Part 3, Division 3, Subdivision 3 of the Act.

[Clause 1.2 was amended by Government Gazette No.78 of 2019]

1.3 Repeal

Clauses 20, 21, 47A, 50, 56, 62A, 68, 69, 70, 71, 72, 73, 74, 75, 76 and 77 of the *City of Mandurah Health Local Laws* as published in the *Government Gazette* of 23 August 1996 and Part XI and Division 2 of Part V of the *City of Mandurah Consolidated Local Laws* as published in the *Government Gazette* of 13 February 1998, are repealed.

1.4 Application

This local law shall apply throughout the district.

1.5 Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

PART 2 - KEEPING OF ANIMALS

Division 1—Keeping of birds

2.1 Keeping of poultry and pigeons in a residential zone

An owner or occupier of premises in a residential zone shall not keep or permit to be kept on the premises any poultry or pigeons unless in accordance with the requirements outlined in clauses 2.2, 2.3 and 2.4.

2.2 Requirements for keeping of poultry

- (1) A person who keeps poultry or permits poultry to be kept shall ensure that—
 - (a) no poultry shall be kept within 9 metres from any residential building;
 - (b) no poultry are able to approach within 15 metres of a public street, public building, commercial premises or food business;
 - (c) all poultry are to be kept in a properly constructed and securely fastened structure;
 - (d) all structures or enclosures within which poultry are kept are maintained in a clean condition; and
 - (e) all poultry are contained in an enclosure at all times..
- (2) An owner or occupier of premises in a residential zone shall not keep or permit to be kept on the premises—
 - (a) more than 12 poultry; and
 - (b) more than 12 pigeons unless the owner or occupier is an affiliated person in which case the maximum number of pigeons may be increased to 100.
- (3) A person who fails to comply with subclause (1) or (2) commits an offence.

2.3 Requirements for keeping of pigeons

- (1) A person who keeps pigeons or permits pigeons to be kept shall ensure that—
 - (a) all pigeons are kept in a properly constructed pigeon loft, except where registered homing pigeons are freed for exercise;
 - (b) all structures or enclosures within which pigeons are kept are maintained in a clean condition;
 - (c) no opening to a pigeon loft, including openings for ventilation, is within 9 metres of any residential building;
 - (d) no opening to a pigeon loft, including openings for ventilation, is within 15 metres of a public street, public building, commercial premises or food business.
- (2) An affiliated person who keeps pigeons, or permits pigeons to be kept, shall do so in accordance with the Code of Practice—Pigeon Keeping, subject to the provisions of this local law.
- (3) A person who fails to comply with subclause (1) or (2) commits an offence.

2.4 Requirements for keeping of aviary birds

- (1) A person who keeps, or permits to be kept, aviary birds shall ensure that—
 - (a) the aviary or cage in which the birds are kept is located at least 1 metre from any lot boundary and at least 5 metres from a residential building on any other lot;
 - (b) there is a floor beneath the roofed area of the aviary or cage which is constructed of smooth, impervious material with a gradient of at least 1 in 50 to the front of the aviary or cage;
 - (c) the aviary or cage is kept in clean condition and good repair;
 - (d) all feed for the birds other than that intended for immediate consumption is stored in vermin proof containers; and
 - (e) effective measures are taken to prevent the attraction or harbourage of vermin.
- (2) A person who fails to comply with subclause (1) commits an offence.

2.5 Roosters, geese, turkeys and peafowl

Except on land in a rural or rural residential zone or with the prior written permission of the local government, an owner or occupier of premises shall not keep any of the following—

- (a) rooster;
- (b) a goose or gander;
- (c) a turkey; or
- (d) a peacock or peahen.

2.6. Nuisance caused by birds

An owner or occupier of land shall not keep any bird or birds which—

- (a) are or create a nuisance; or

- (b) emit an unreasonable noise.

[Division 1 was deleted and replace fully by Government Gazette No.78 of 2019]

Division 2—Keeping of farm animals

2.7 Keeping of farm animals

- (1) An owner or occupier of land shall not keep, or allow to be kept, any farm animal unless—
 - (a) in accordance with a valid permit authorising the keeping of such a farm animal issued in relation to the land; or
 - (b) in a rural zone and in accordance with the provisions of any local planning scheme applicable to that zone.
- (2) An owner or occupier shall not keep more than one pig other than on premises registered as a piggery pursuant to the provisions of the *Health (Miscellaneous Provisions) Act 1911*, except with the express written approval of the local government.

2.8 Application for a permit to keep farm animals

An application for a permit to keep farm animals shall be in the form approved by the local government.

2.9 Determination of application to keep farm animals

- (1) The local government may—
 - (a) refuse to determine an application for a permit which does not comply with clause 2.8;
 - (b) approve an application for a permit subject to such conditions as it considers appropriate; or
 - (c) refuse to approve an application for a permit.
- (2) Where an application for a permit is approved subject to conditions, the permit holder shall comply with those conditions or cause compliance with those conditions.
- (3) A permit is valid for one year from the date on which it is issued unless it is—
 - (a) otherwise stated in the terms and conditions of the permit; or
 - (b) cancelled under clause 2.10(2).

2.10 Variation or cancellation of permit to keep farm animals and conditions of permit

- (1) The local government may vary permit conditions by giving written notice to the permit holder and the varied condition takes effect 7 days after that notice is given.
- (2) The local government may cancel a permit in the event the permit holder—
 - (a) fails to comply with any condition of the permit; or
 - (b) fails to comply with a notice of breach issued under clause 6.1.

[Clause 2.10 amended by Government Gazette No. 50 of 2020]

2.11 Nuisance caused by farm animals

An owner or occupier of land shall not keep any farm animal or farm animals which—

- (a) are or create a nuisance; or
- (b) emit an unreasonable noise.

[Division 2 was deleted and replace fully by Government Gazette No.78 of 2019]

Division 3—Keeping of Bees

2.12 Keeping of Bees

A person shall not keep bees or allow bees to be kept on land except in accordance with the requirements outlined in clause 2.13.

2.13 Requirements for Beekeeping

The keeping of bees is subject to the following requirements—

- (a) the provision of a sufficient and suitable water supply on the land which is readily accessible by the bees on the land;
- (b) each bee hive shall be—
 - (i) kept at a distance specified by the local government from any thoroughfare, public place or boundary of the land; or
 - (ii) located near a screen or other barrier so as to prevent the bees flying low over a thoroughfare, public place or adjoining land;
- (c) no more than 2 bee hives are to be kept on land of less than 2,000 square metres in area;
- (d) no more than 15 bee hives are to be kept on land between 2,000 and 20,000 square metres in area; and
- (e) all bee hives must be registered under the *Biosecurity and Agriculture Management Act 2007*.

2.14 Nuisance caused by bees or bee hives

A person shall not keep, or allow to be kept, bees or bee hives, or both, on land so as to create a nuisance.

2.15 Notice to remove bees

- (1) Whenever in the opinion of the local government a person has contravened any provision of this local law which relates to the keeping of bees or bee hives, the local government may give the owner or occupier of the land a written notice requiring her or him to remove any bees or bee hives, or both, from the land within the time specified in the notice.

- (2) Where a person fails to comply with a notice given under subclause (1), the local government may dispose of the bees or the bee hives or both in such manner as it sees fit and recover the costs of so doing from the owner or occupier, as the case may be, as a debt due to it.

[Division 3 was deleted and replace fully by Government Gazette No.78 of 2019]

PART 3—BUILDING, DEVELOPMENT AND LAND CARE

Division 1—Litter and refuse on building sites

3.1 Provision of refuse receptacles

- (1) The owner or occupier of a building or development site shall at all times provide and maintain available for use on the site a refuse receptacle, to the satisfaction of an authorised person, of such design as will—
- (a) contain any refuse likely to be produced on the site; and
 - (b) prevent refuse being blown from the receptacle by wind.

3.2 Control of refuse

- (1) From the time of commencement of works on a building site or development site until the time of completion of such work, the owner or occupier of the site shall—
- (a) ensure all refuse on the site is placed and contained in the refuse receptacle and prevented from being blown from the site by wind;
 - (b) keep the site as free as is reasonably practicable from any refuse;
 - (c) maintain the street verge, and any other reserve, immediately adjacent to the site free of refuse from the site; and
 - (d) ensure the refuse receptacle is emptied when full.
- (2) The owner or occupier of a building site or development site shall ensure that, within 2 days of completion of works on the site, the site and the street verge immediately adjacent to it is cleared of all refuse and all refuse receptacles are removed from the site.

3.3 Unauthorised storage of materials

- (1) All construction materials must be located on the lot under construction.
- (2) Written approval must be obtained from the City prior to any proposal to store construction material on any other property (including a road reserve).
- (3) A written request for approval must be accompanied by the written approval of the landowner of the land on which materials are proposed to be stored.;

[Clause 3.3 was amended by Government Gazette No.78 of 2019]

Division 2—Prevention of Dust and Liquid Waste

3.4 Prohibited Activities

- (1) An owner and or occupier of land must take effective measures to—
 - (a) stabilise dust on the land;
 - (b) contain all liquid waste on the land;
 - (c) ensure no dust or liquid waste is released or escapes from the land, whether by means of wind, water or any other cause.
- (2) Where the local government forms the opinion that—
 - (a) an owner or occupier has not complied with subclause (1)(a) or (1)(b); or
 - (b) the dust or liquid waste has been released or escaped from the owner's or occupier's land, the local government may serve on the owner and or occupier of the land a notice requiring the owner and or occupier to do one or more of the following—
 - (i) comply with subclause (1)(a) or (1)(b);
 - (ii) clean up and properly dispose of any released or escaped dust or liquid waste;
 - (iii) clean up and make good any damage resulting from the released or escaped dust or liquid waste;
 - (iv) take effective measures to stop any further release or escape of dust or liquid waste.
 - (c) The requirements set out in a notice issued under subclause (2)(a) must be complied with—
 - (i) within 48 hours of service of the notice where no other time is specified;
 - (ii) within such other period as is specified in the notice; or
 - (iii) immediately, if the notice so specifies.
- (3) Where the local government forms the opinion that dust or liquid waste has escaped or has been released from an activity undertaken on land or as a consequence of the use of equipment on land, the local government may serve a notice on the owner and or occupier of the land and or the operator of the equipment, as the case may be, requiring that the activity or use of the equipment on the land be ceased immediately, for such period as is specified in such notice.
- (4) Where the local government is of the opinion that dust or liquid waste may be released or escape as a result of an activity which is likely to be carried on from any land, the local government may give to the owner and or occupier a notice providing that the activity may only be carried on subject to conditions specified in the notice.

Division 3 – Burning of materials

3.5 Burning of cleared vegetation prohibited

- (1) An owner or occupier shall ensure that no vegetation or other material is burnt on the site.
- (2) Subclause (1) does not apply where a fire permit has been issued by the local government under the *Bush Fires Act 1954*.

[Division 3 was deleted and replaced fully by Government Gazette No.78 of 2019]

Division 4—Unsightly land and disused materials

3.6 Removal of refuse and disused materials

- (1) The owner or occupier of a lot shall not keep, or permit to remain on the lot, any refuse, rubbish or disused material of whatsoever nature or kind which in the opinion of the local government or an authorised person is likely to give the lot an untidy appearance and does not conform with the general appearance of other land in that particular part of the district.
- (2) The local government or an authorised person may give notice in writing to the owner or occupier of a lot requiring the removal of refuse, rubbish or disused material from the lot within the time specified in the notice.

3.7 Removal of unsightly overgrowth of vegetation

- (1) The owner or occupier of a lot shall not permit to remain on a lot any unsightly overgrowth of vegetation that gives the lot an untidy appearance and does not conform with the general appearance of other land in that particular part of the district.
- (2) The local government or an authorised person may give notice in writing to the owner or occupier of a lot requiring the removal of the overgrowth of vegetation within the time specified in the notice.

3.8 Storage of vehicles, vessels and machinery

The owner or occupier of a lot shall not—

- (a) store, or allow to remain, in public view on any lot more than 1 vehicle, vessel or machinery (whether licensed or not) in a state of disrepair;
- (b) store, or allow to remain, in public view on any lot any vehicle, vessel or machinery in a state of disrepair for a period in excess of 1 month;
- (c) store, or allow to remain, in public view on any lot vehicle, vessel or machinery parts (including tyres); or
- (d) wreck, dismantle or break up any vehicle, part or body of a vehicle, vessel or machinery; unless—
 - (i) inside a building; or

- (ii) within an area enclosed by a fence or wall of not less than 1.8 metres in height and of such a nature as to screen all vehicles, parts or bodies of vehicles, vessels or machinery from the street and from adjoining properties,
- (e) wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance.

3.9 Disposing of disused refrigerators or similar containers

A person shall not place, leave or dispose of a disused refrigerator, ice-chest, ice-box, trunk, chest or other similar article having a compartment which has a capacity of 0.04 cubic metres or more on any land without first—

- (a) removing every door and lid and every lock, catch and hinge attached to a door or lid; or
- (b) rendering every door and lid incapable of being fastened; and
- (c) removing any refrigerants as per requirements of the Environment Protection (Ozone Protection) Policy 2000.

Division 5—Hazardous materials

3.10 Hazardous trees

- (1) Where a tree on a lot endangers any person or thing on adjoining land, the local government may give a notice to the owner or the occupier of the lot to remove, cut, move or otherwise deal with that tree so as to make the tree safe.
- (2) Where a tree on a lot presents a serious and immediate danger to any person or thing, the local government may take any remedial action it considers appropriate in order to make the tree safe without having given the owner or occupier notice pursuant to subclause (1).
- (3) The local government reserves its right to recover any costs incurred by the local government for remedial action taken in terms of subclause (2).
- (4) Where the local government exercises its right of remedial action under subclause (2) the local government shall use its best endeavors to minimise any damage to the property but to the fullest extent possible at law, shall not be liable to the owner for its acts.

3.11 Cyclonic activities

- (1) Where in any circumstance there is likely to be a danger to the public or damage to property which may result from cyclonic activity, the local government may give a notice to the owner or the occupier of a lot specifying measures to prevent or minimise the danger or damage.

- (2) Where a circumstance represents serious and immediate danger to the public or property, the local government or an authorised person may take any remedial action it considers appropriate to prevent or minimize the danger or hazard without having given the owner or occupier notice pursuant to subclause (1).
- (3) Any costs incurred by the local government for remedial action taken in terms of subclause (2) cannot be recovered by the local government.

PART 4—NUISANCES AND DANGEROUS THINGS

Division 1—Light

4.1 Use of exterior lights

An owner or occupier of land on which floodlights or other exterior lights are erected or used shall not allow the floodlights or other exterior lights to shine directly onto any other premises.

4.2 Emission or reflection of light

An owner or occupier of land shall ensure that—

- (1) artificial light is not emitted or reflected from anything on the land so as to illuminate premises outside that land to more than 50 lux; and
- (2) natural light is not reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare.

4.3 Notice may require specified action to prevent emission or reflection of light

(1) Where—

- (a) floodlights or other exterior lights shine directly onto any other premises;
- (b) artificial light is emitted or reflected from anything on the land so as to illuminate premises outside the land to more than 50 lux; or
- (c) natural light is reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare,

the local government may by notice in writing direct the owner or occupier to take such actions as the authorised person considers necessary within the time specified in the notice.

(2) The notice referred to in subclause (1) may direct that—

- (a) floodlights or other exterior lights are used only during the hours specified in the notice;
- (b) the direction in which the lights shine be altered as specified in the notice; or
- (c) any reflective surfaces be painted or otherwise treated so as to abate the nuisance;

or any combination of these measures that the local government believes to be appropriate to the circumstances.

Division 2 – Smoke, fumes, odours and other emissions

4.4 Burning rubbish, refuse or other material

- (1) A person shall not set fire to rubbish, refuse or other materials unless approval has first been obtained by the local government, the burning complies with the *Bush Fires Act 1954*, any annual fire hazard reduction notice issued by the local government under that Act and any conditions of approval as determined by the local government.
- (2) Subclause (1) shall not apply to any barbeque, solid fuel water heater, space heater or ovens fired with dry paper, dry wood, synthetic char or charcoal type fuel.

4.5 Escape of smoke, fumes, odours and other emissions

An owner or occupier of land or premises shall not cause or permit the escape of smoke, fumes or odours from the land or premises in such quantity or of such a nature as to cause or to be a nuisance to any person.

[Division 2 was deleted and replaced fully by Government Gazette No.78 of 2019]

[Division 3 was deleted by Government Gazette No.78 of 2019]

Division 3—Stormwater management

4.6 Containment of stormwater

- (1) Subject to subclause (2), the owner or occupier of a lot shall ensure that all stormwater received by any building, house, other structure or any paved or sealed or other surfaced areas including any vehicle access ways on the lot is contained within the lot and is not permitted to discharge onto or run-off onto adjacent land so as to cause a nuisance, or cause damage to any structures situated on adjacent land.
- (2) Subclause (1) shall not prevent the discharge of stormwater from a lot into a local government approved stormwater drain.

4.7 Guttering and downpipes

- (1) The owner or occupier of a lot shall ensure that each building or house on the lot is provided with adequate guttering and downpipes sufficient to receive, without overflow, all stormwater from the roof of the building or house, in accordance with AS/NZS 3500.
- (2) The owner or occupier of a lot shall ensure that all guttering and downpipes to each building or house on the lot are maintained in a good state of repair and free from obstruction.

4.8 Stormwater disposal systems

- (1) The owner or occupier of a lot shall ensure that all stormwater from the roof of each building or house on the lot, or the overflow from rainwater storage tanks, is discharged

into stormwater drainage system, or discharged by other methods approved by the local government, in accordance with AS/NZS 3500.

- (2) The owner or occupier of a lot shall ensure that all stormwater from paved areas or other surfaced areas including any vehicle access ways of the lot is discharged into a stormwater drainage system of adequate capacity in accordance with AS/NZS 3500.
- (3) The owner or occupier of a lot shall ensure that all stormwater drainage systems on the lot are maintained in a good state of repair and free from obstruction.

4.9 Containment and disposal of swimming pool and other wastewater

- (1) Wastewater and backwash water from swimming pool filtration systems or other water storage systems associated with a swimming pool shall be contained within, and disposed onto or into the lot on which the swimming pool is located.
- (2) The disposal of wastewater and backwash water from a swimming pool filtration system or other water storage system associated with a swimming pool into an approved disposal system or a soakwell system having a minimum capacity of 140 litres, and located a minimum of 1.8 metres away from any building or lot boundary, satisfies the requirement of subclause (1).

[Division 3, 5 and 6 were deleted and remain divisions renumbered by Government Gazette No.78 of 2019]

Division 4—Bird Nuisance

4.10 Restrictions on feeding of birds

- (1) A person shall not feed a bird—
 - (a) so as to cause a nuisance, or
 - (b) with a food or substance that is not a natural food of a bird.
- (2) Where an authorised person forms the opinion that a person has not complied with subclause (1) the authorised person may serve the person a notice requiring the person to clean up and properly dispose of any feed or waste products specified in the notice.

Division 5—Pest Plants

4.11 Description of Pest Plants

Every plant described in Schedule 1 to this local law is a pest plant.

4.12 Serving of Notices

- (1) An authorised person may serve on the owner or occupier of private land within the district a duly completed notice in the form of Schedule 2 to this local law requiring the destruction, eradication or otherwise to control any pest plant on that land.

- (2) Where a person served with a notice under subclause (1) of this local law fails to comply with that notice within the time and in the manner specified therein they commit an offence.

PART 5—OBJECTIONS AND APPEALS

5.1 Objections and Appeals

- (1) When the local government makes a decision under this local law as to whether it will—
 - (a) grant a person a permit or authorisation;
 - (b) vary or cancel a permit or authorisation; or
 - (c) give a person a notice;

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations shall apply to that decision.

PART 6—ENFORCEMENT

Division 1—Notice of breach

6.1 Notice of breach

- (1) Where a breach of any provision of this local law has occurred, the local government may give a notice in writing to the person alleged to be responsible for such breach.
- (2) A notice issued pursuant to subclause (1) shall—
 - (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state the manner in which the recipient is required to remedy the breach to the satisfaction of the local government within a time period stipulated in the notice which shall be not less than 14 days from the giving of the notice.
- (3) It is an offence to fail to comply with a notice issued by the local government pursuant to subclause (1).

6.2 Form of notices

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, occupier or other person to whom the notice is issued to know the offence committed and the measures required to be taken or conditions with which compliance is required, as the case may be.

6.3 When local government may undertake work required by notice

- (1) This clause applies only in respect of a notice issued under clauses 3.6(2), 3.7(2), 3.10(1), 3.11(1) and 4.3(1) of this local law.

- (2) Where a person fails to comply with a notice referred to in subclause (1) the local government may, subject to compliance with the requirements of subdivision 3, Division 3 Part 3 of the Act, do anything that it considers necessary to achieve, so far as is practicable, the purpose for which the notice was given.
- (3) The local government may recover the cost of anything it does under subclause (2) as a debt due from the person who failed to comply with the notice

Division 2—Offences and penalties

Subdivision 1—General

6.4 Offences and penalties

- (1) A person who—
 - (a) fails to do anything required or directed to be done under this local law;
 - (b) fails to comply with the requirements of a notice issued under this local law by an authorised person; or
 - (c) does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) 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.
- (3) A person who commits an offence under this local law is liable to a maximum penalty of \$5,000 and a maximum daily penalty of \$500 in respect of each day or part of a day during which the offence has continued.

Subdivision 2—Infringement notices and modified penalties

6.5 Prescribed offences

- (1) An offence against a clause specified in Schedule 3 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 3
 - (a) in the case of a first offence the modified penalty will be that prescribed in column 4 of Schedule 3;
 - (b) in the case of a subsequent offence the modified penalty will be that prescribed in column 5 of Schedule 3.
- (3) An authorised person should be satisfied that—
 - (a) commission of the prescribed offence is a relatively minor matter; and
 - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable,

before giving an infringement notice to a person in respect of the commission of a prescribed offence.

6.6 Form of infringement notices

For the purposes of this local law—

- (1) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
 - (2) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
 - (3) the form of the notice given under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the Regulations.
-

SCHEDULE 1

City of Mandurah

Animals, Environment and Nuisance Local Law 2010

PEST PLANTS

[cl.4.11(1)]

Common Name	Scientific Name
Black Flag	<i>Ferraria crispera</i>
Brazilian/Japanese Pepper Tree	<i>Schinus terebinthifolia</i>
Caltrop	<i>Tribulus terrestris</i>
Castor Oil Plant	<i>Ricinus communis</i>
Flaxleaf Broom	<i>Genista Linifolia</i>
Flinders Range Wattle	<i>Acacia iteaphylla</i>
Fountain Grass	<i>Pennisetum setaceum</i>
Geraldton Carnation	<i>Euphorbia terracina</i>
Wild Gladiolus	<i>G. Undulatus, G. Caryophyllaceus</i>
Madeira Creeper	<i>Anredera cordifolia</i>
Morning Glory	<i>Ipomoea cairica, I. indica</i>
Pampas Grass	<i>Cortaderia selloana</i>
Sydney Golden Wattle	<i>Acacia longifolia</i>
Tree of Heaven	<i>Ailanthus altissima</i>
Victorian Tea Tree	<i>Leptospermum laevigatum</i>
Watsonia	<i>Watsonia meriana</i>
White Weeping Broom	<i>Retama raetam</i>

[Schedule 1, 2, 3 4 were deleted and schedule 1 renumbered by Government Gazette No.78 of 2019]

SCHEDULE 2

Agriculture and Related Resources Protection Act 1976

City of Mandurah

Animals, Environment and Nuisance Local Law 2010

PEST PLANT NOTICE

[cl.4.12]

No.:

To.....

(Full name)

of.....

(Address)

You are hereby given notice under the City of Mandurah Animals, Environment and Nuisance Local Law 2010 that you are required to:

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

(specify whether required to destroy, eradicate or otherwise control)

the pest plant:.....

(Common Name)

(Scientific Name)

on.....

(specify the land)

of which you are the Owner/Occupier (delete whichever is not applicable).

This notice may be complied with by:

.....
.....

(specify manner of achieving destruction, eradication or control)

Such measures shall be commenced not later than *(date)*

and shall be completed by *(date)*

Upon failure to comply with this notice within the times specified, the local government may destroy, eradicate or control, as the case may be, any specified pest plant at your expense, and if necessary recover the same in a court of competent jurisdiction.

Date of service of notice

Signature of Authorised Person Date

[Schedule 2 amended by Government Gazette No.78 of 2019]

SCHEDULE 3

City of Mandurah

Animals, Environment and Nuisance Local Law 2010

Prescribed Offences

Item No.	Clause	Description	Modified Penalty— First Offence	Modified Penalty— Subsequent Offences
1	2.2	Failure to comply with requirements for keeping poultry	\$125	\$250
2	2.3	Failure to comply with requirements for keeping pigeons	\$125	\$250
3	2.4	Failure to comply with requirements for keeping aviary birds	\$125	\$250
4	2.7(1)(a)	Keeping a farm animal without a permit	\$250	\$500
5	2.11	Nuisance caused by farm animal	\$250	\$500
6	2.13	Failure to comply with a requirement for beekeeping	\$125	\$250
7	2.14	Nuisance caused by bees or be hives	\$125	\$250
8	2.15	Failure to comply with notice to remove bees or bee hives	\$125	\$250
9	3.1	Failure to provide or maintain a refuse receptacle on a building or development site	\$250	\$500
10	3.2	Failure to control refuse on a building or development site	\$250	\$500
11	3.3	Unauthorised storage of materials	\$250	\$500
12	3.4	Release or escape of dust or liquid waste from land	\$250	\$500
13	3.5	Owner or occupier not to burn on site	\$500	\$500
14	3.8 (1)	Store or allow to remain on land more than one vehicle, vessel or machinery in a state of disrepair	\$250	\$500
15	3.8 (2)	Store or allow to remain on land any vehicle, vessel or machinery in a state of disrepair for a period in excess of 1 month	\$250	\$500
16	3.8 (3)	Store or allow to remain on land any vehicle, vessel or machinery parts (including tyres)	\$250	\$500
17	3.8 (4)(a)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not inside a building	\$250	\$500
18	3.8 (4)(b)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not behind a sufficient fence or wall	\$250	\$500

19	3.8(5)	Wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance	\$250	\$500
20	3.9	Disposing of disused refrigerator or similar container with door/lid that can be fastened without removing the refrigerant, door, lid, lock, catch, hinge and rendering the door/lid incapable of being fastened.	\$250	\$500
21	4.1	Erection or use of lighting installations other than in accordance with requirements	\$250	\$500
22	4.2	Emitting light contravening AS4282	\$250	\$500
23	4.4	Noncompliant burning of rubbish or other materials	\$250	\$500
24	4.5	Cause of permit the escape of smoke, fumes, odours and other emissions so as to cause a nuisance	\$250	\$500
25	4.6	Failure to ensure that all rainwater or storm water received by a lot and any building, house or structure on the lot, is contained within the lot	\$250	\$500
26	4.7	Failure to maintain all guttering and down pipes in a good state of repair and free from obstruction	\$250	\$500
27	4.8	Failure to maintain all subsurface stormwater disposal systems in a good state of repair and free from obstruction	\$250	\$500
28	4.9	Failure to contain or dispose of swimming pool wastewater on the lot on which the swimming pool is located	\$250	\$500
29	4.10(1)(a)	Feeding a bird causing a nuisance	\$250	\$500
30	4.10(1)(b)	Feeding a bird a food/substance that is not a natural food	\$250	\$500
31	4.12(2)	Failure to comply with Pest Plant Notice	\$250	\$500
32	6.4(1)(b)	Failure to comply with notice	\$250	\$500

[Schedule 3 was amended by Government Gazette No.78 of 2019]

Dated: 1 March 2011

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

PATRICIA M. CREEVEY, OAM, Mayor
MARK R. NEWMAN, Chief Executive Officer.