

**LOCAL GOVERNMENT ACT 1995**  
**HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911**  
**BIOSECURITY AND AGRICULTURE MANAGEMENT ACT 2007**

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, 24 March 2020 and XX 2024 to make the following local law.

**PART 1 - PRELIMINARY**

**1.1 Title**

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

**1.2 Commencement**

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

**1.3 Application**

This local law applies throughout the district.

**1.4 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V of the *City of Mandurah Consolidated Local Laws* as published in the *Government Gazette* of 13 February 1998, are repealed.

**1.5 Terms Used**

(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 2015*;

**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 local government, 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;

**beekeeper** has the meaning given in Regulation 3 of the Biosecurity and Agriculture Management Regulations 2013;;

**birds** include 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 permit is current;

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

**City** means the City of Mandurah;

**Code of Practice–Pigeon keeping** means the Code of Practice for Pigeon Keeping and Racing in Western Australia as prescribed by the Animal Welfare (General) Regulations 2003, 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 site** means—

- (a) any lot or lots for which there is a current development or subdivision approval; and
- (b) 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*;

**hive** means a movable or fixed structure, container, or object in which a colony of bees is kept;

**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;

**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*;

**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 4.10 of this local law;

**pigeon** includes homing pigeons, racing 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 Biodiversity, Conservation and Attractions;

**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;

**premises** includes—

- (a) land (whether or not vacant);

- (b) the whole or part of a building or structure (whether of a permanent or temporary nature); and
- (c) a vehicle;

**receptacle** means a container for holding or facilitating the removal of refuse;

**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;

**sand drift** means the movement of sand, sediment, or similar materials across, within or along a surface;

**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*;

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

**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]*

## **PART 2 - KEEPING OF ANIMALS**

### *Division 1—Keeping of birds*

#### **2.1 Keeping of poultry and pigeons in a residential zone**

- (1) Subject to the provisions of this Part 2, an owner or occupier of premises in a residential zone shall not keep or permit to be kept more than the following number of pigeons or poultry—

- (a) In the case of poultry, the maximum number specified in the table below according to applicable lot size—

<b>Lot size</b>	<b>Maximum number of poultry</b>
Less than 1,000 m <sup>2</sup>	6 poultry (including a maximum of 2 ducks)
1,001 m <sup>2</sup> and over	12 poultry (including ducks)

- (b) In the case of pigeons, 12 pigeons unless the owner or occupier is an affiliated person in which case the maximum number of pigeons is 100.

#### **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 5 metres from any residential building;
  - (b) no poultry are able to approach within 5 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 enclosure;
  - (d) all enclosures within which poultry are kept are maintained in a clean condition and good repair; and
  - (e) all poultry are contained in an enclosure at all times, except where released for exercise;
  - (f) no poultry are to be kept less than 1 metre from any lot boundary; and
  - (g) all feed for the poultry other than that intended for immediate consumption is stored in vermin-proof containers.

#### **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 or enclosure at all times except when registered homing pigeons or racing pigeons are released for exercise subject to the following conditions—
    - (i) registered homing pigeons or racing pigeons may only be released for exercise between the hours set out in the Code of Practice; and
    - (ii) a person shall not release more than 60 registered homing pigeons or racing pigeons for exercise or training at any one time;
  - (b) all loft structures or enclosures within which pigeons are kept and their immediate surrounds are maintained in a clean condition and good repair;
  - (c) all loft litter—
    - (i) is disposed of by immediate burial or by being bagged and deposited in a household rubbish receptacle; and
    - (ii) does not cause a nuisance;
  - (d) the base floor of any loft or enclosure is constructed of impervious material;
  - (e) all feed for the pigeons other than that intended for immediate consumption is stored in vermin-proof containers;
  - (f) no opening to a pigeon loft or enclosure, including openings for ventilation, is within 5 metres of any residential building, a public street, public building, commercial premises, or food business and is not visible from a public area; and
  - (g) no pigeon loft or enclosure, including openings for ventilation, within 1 metre from any lot boundary.
- (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.

#### **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;
  - (b) the aviary or cage in which the birds are kept is at least 5 metres from any residential building, public street, public building, commercial premises, or food business and is not visible from a public area;
  - (c) the base floor of the aviary or cage which is to be constructed of smooth, impervious material with a gradient of at least 1 in 50 to the front of the aviary or cage;
  - (d) the aviary or cage is to be kept in clean condition and good repair;

- (e) all feed for the birds other than that intended for immediate consumption is stored in vermin proof containers; and
- (f) effective measures are taken to prevent the attraction or harbourage of vermin.

### **2.5 Roosters, geese, turkeys and peafowl**

Except on land in a rural 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) goose or gander;
- (c) turkey; or
- (d) peacock or peahen.

### **2.6. Nuisance caused by birds**

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

- (a) cause 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.
- (3) A permit shall remain valid unless—
  - (a) otherwise stated in the terms and conditions of the permit; or
  - (b) it is 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 the conditions of a permit issued under this Division 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;
  - (b) after being notified of a variation under subclause 2.10(1), fails to comply with the varied condition;
  - (c) breaches clause 2.11 of this local law; or
  - (d) 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 Requirements for keeping farm animals**

- (1) An owner or occupier of land or premises upon which a farm animal or farm animals are permitted to be kept, shall—
  - (a) ensure that each farm animal is kept in a suitable enclosure that effectively prevents it from escaping;
  - (b) maintain the place or places where the farm animals are kept in clean condition;
  - (c) not permit any farm animal to approach within 5 metres of any residential building; and
  - (d) not permit any farm animal to approach within 15 metres of any food premises, shop, public building or a business or commercial premises.

### **2.12 Nuisance caused by farm animals**

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

- (a) cause 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*

#### **2.13 Keeping of Bees**

A person shall not keep bees or allow bees to be kept on any land except in accordance with the requirements outlined in clause 2.14.

#### **2.14 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 hive shall be—
  - (i) kept at least 10 metres from any thoroughfare, public place or neighbouring building;
  - (ii) kept at least 5 metres from any other boundary of land; and
  - (iii) screened or provided with other such barrier so as to prevent the bees flying low over a thoroughfare, public place or adjoining land;
- (c) no more than 2 hives are to be kept on land of less than 2,000 square metres in area;
- (d) no more than 15 hives are to be kept on land between 2,000 and 20,000 square metres in area; and
- (e) the person keeping the bees shall be registered as a beekeeper if required under the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*.

#### **2.15 Nuisance caused by bees or hives**

A person shall not keep, or allow to be kept, bees or hives, or both, on land so as to endanger the safety of any person or cause a nuisance.

#### **2.16 Notice to remove bees**

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

*[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) A person must not commence or continue, or permit the commencement or continuation of, building works on a building or development site unless—
- (a) an Approved Receptacle is provided and maintained on the building site;
  - (b) all building waste is placed, and kept securely, in the Approved Receptacle;
  - (c) the cover of the Approved Receptacle is kept securely in place at all times except when building waste is being placed in, or removed from, the Approved Receptacle; and
  - (d) the Approved Receptacle is maintained in an effective and operable condition.

- (2) In this clause—

***Approved Receptacle*** means—

- (a) a receptacle with a capacity of at least 4 cubic metres with a suitable cover so as to prevent the escape of building waste;
- (b) a wire enclosure with a capacity of at least 4 cubic metres with a suitable cover so as to prevent the escape of building waste; or
- (c) any other receptacle or container, with a suitable cover so as to prevent the escape of building waste,

that is approved by the local government or an authorised person.

#### **3.2 Control measures**

- (1) From the time of commencement of works on a building site or development site until the time of completion of such works, the owner or occupier of the site shall—
- (a) ensure all refuse on the site is placed securely and contained in the Approved Receptacle and prevented from escaping from the site;
  - (b) keep the site as free as is reasonably practicable from any refuse;
  - (c) keep the street verge, and any other reserve, immediately adjacent to the site free of refuse, dust and sand from the site;
  - (d) prevent dust and sand escaping from the site onto any thoroughfare or adjacent land; and
  - (e) ensure the 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 or when directed by an authorised person, the site and the street verge or thoroughfare immediately adjacent or any adjacent land to it is cleared of all refuse and sand and all receptacles are removed from the site.

### **3.3 Unauthorised storage of materials**

- (1) All construction materials shall be stored on the building site or development site and not on a street verge, thoroughfare or other local government property unless written approval has been given by the local government or authorised person to store construction material on the street verge, thoroughfare or other local government property.
- (2) An application for approval under subclause (1) shall be—
  - (a) in writing; and
  - (b) where the materials are proposed to be stored on a street verge abutting private land, shall be accompanied by the written approval of the owner of such land.

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

#### *Division 2—Prevention of dust, sand or sand drift and liquid waste*

### **3.4 Prohibited Activities**

- (1) An owner and or occupier of land shall take effective measures to—
  - (a) stabilise dust and sand on any land or verge adjoining such land;
  - (b) contain all liquid waste on the land; and
  - (c) ensure no dust, sand or sand drift, 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 or an authorised person is satisfied that—
  - (a) an owner or occupier has not complied with subclause (1); or
  - (b) the dust, sand or liquid waste has been released or escaped from the owner's or occupier's land,the local government or authorised person 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);
  - (ii) clean up and properly dispose of any released or escaped dust, sand or liquid waste;
  - (iii) clean up and make good any damage resulting from the released or escaped dust, sand or liquid waste including any damage to adjoining or other affected properties; or
  - (iv) take effective measures to stop or prevent any further release or escape of dust, sand or liquid waste from the land.
- (3) The requirements set out in a notice issued under subclause (2) shall be complied with—
  - (a) within 48 hours of service of the notice where no other time is specified;
  - (b) within such other period as is specified in the notice; or

- (c) immediately, if the notice so specifies.
- (4) Where the local government or an authorised person is satisfied that dust, sand, 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 or an authorised person may serve a notice on—
  - (a) the owner and or occupier of the land; or
  - (b) 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.
- (5) Where the local government or an authorised person is satisfied that dust, sand, 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 or an authorised person 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.

### **3.5 Escape from loads being transported**

- (1) A person must not drive a vehicle carrying a load from a dust or sand generating development site, or a building site, unless effective measures have been taken to ensure that the load, or any part of it, cannot escape from the vehicle.
- (2) In this clause—  
*load* includes any material or other thing used in connection with the load; and  
*vehicle* has the meaning given to it in the *Road Traffic Code 2000*.

### **3.6 Disposal of liquid waste**

- (1) The owner or occupier of premises shall—
  - (a) provide one or more of the methods prescribed in this clause, for the disposal of all liquid waste produced on the premises; and
  - (b) at all times maintain in good working order and condition any apparatus used for the disposal of liquid waste.
- (2) Liquid waste shall be disposed of by one or more of the following methods—
  - (a) discharging it into the sewerage system of a licensed water service operator in a manner approved by the licensed water service operator;
  - (b) discharging it into an apparatus for the treatment of sewage and disposal of effluent and liquid waste approved by the Chief Health Officer or the local government; or
  - (c) collection and disposal at an approved liquid waste disposal site in a manner approved by the Chief Health Officer.
- (3) In this clause—

**Chief Health Officer** has the meaning given in the Public Health Act 2016 section 4(1);  
and

**licensed water service operator** means a water service operator licensed under a written law to provide and/or operate water services.

*Division 3 – Burning of materials*

**3.7 Burning of cleared vegetation prohibited**

- (1) An owner or occupier of land shall ensure that no vegetation or other material is burnt on the land.
- (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*

**3.8 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 the local government or an authorised person is satisfied is likely to—
  - (a) give the lot an untidy appearance and does not conform with the general appearance of other land in that particular part of the district; or
  - (b) adversely affect the health and safety of the inhabitants of that property or adjoining property.
- (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.

**3.9 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 which the local government or an authorised person is satisfied is likely to—
  - (a) give the lot an untidy appearance and does not conform with the general appearance of other land in that particular part of the district; or
  - (b) adversely affect the health and safety of the inhabitants of that property or adjoining property
- (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.

### **3.10 Storage of vehicles, vessels and machinery**

- (1) 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);
  - (d) wreck, dismantle or break up any vehicle, part or body of a vehicle, vessel or machinery; or
  - (e) wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance.
- (2) Subclause (1) shall not apply if the vehicle, part or body of a vehicle, vessel or machinery is inside a building or within an area enclosed by a fence or wall not less than 1.8 metres in height and of such a nature as to screen all vehicles, parts or bodies of vehicles or machinery from the street and from adjoining properties.

### **3.11 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 lawful authority and 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.

### **3.12 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) can 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 or an authorised person may by notice in writing direct the owner or occupier to take such actions as the local government or an 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 or an authorised person is satisfied is 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, vegetation 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 or an authorised person.

- (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 take all reasonable steps not to 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 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.

#### **4.8 Disposal of swimming pool backwash**

- (1) The owner or occupier of land on which a swimming pool is constructed shall ensure that all backwash 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) 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*

##### **4.9 Restrictions on feeding of birds**

- (1) A person shall not feed or provide food to any wild or uncaged bird that is not permitted to be kept by them under this local law or another written law, so as to cause a nuisance.
- (2) Where an authorised person is satisfied 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*

##### **4.10 Description of Pest Plants**

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

##### **4.11 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 or an authorised officer 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 3.8(2), 3.9(2), 3.12(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.4.10]

<b>Common Name</b>	<b>Scientific Name</b>
African Daisy	<i>Gazania sp.</i>
Black Flag	<i>Ferraria crispera</i>
Brazilian/Japanese Pepper Tree	<i>Schinus terebinthifolia</i>
Caltrop	<i>Tribulus terrestris</i>
Capeweed	<i>Arctotheca calendula</i>
Castor Oil Plant	<i>Ricinus communis</i>
Century Plant	<i>Agave americana</i>
Dolichos Pea	<i>Dipogon lignosus</i>
Flaxleaf Broom	<i>Genista Linifolia</i>
Flinders Range Wattle	<i>Acacia iteaphylla</i>
Fountain Grass	<i>Pennisetum setaceum</i>
Fumitory	<i>Fumaria capreolata</i>
Geraldton Wax	<i>Chamelaucium uncinatum</i>
Geraldton Carnation	<i>Euphorbia terracina</i>
Golden Crown Beard	<i>Verbicina encelioides</i>
Morning Glory	<i>Ipomoea cairica, I. indica</i>
Pampas Grass	<i>Cortaderia selloana</i>
Pretty Betsy	<i>Centranthus macrosiphon</i>
Sydney Golden Wattle	<i>Acacia longifolia</i>
Spiderwort	<i>Tradescantia sp.</i>
Tree of Heaven	<i>Ailanthus altissima</i>
Veldt Daisy	<i>Osteospermum ecklonis</i>
Vetch	<i>Vicia sativa</i>
Victorian Tea Tree	<i>Leptospermum laevigatum</i>
Watsonia	<i>Watsonia meriana</i>
White Weeping Broom	<i>Retama raetam</i>
Wild Gladiolus	<i>G. Undulatus, G. Caryophyllaceus</i>

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

---

**SCHEDULE 2**

**Biosecurity and Agriculture Management Act 2007**

City of Mandurah

*Animals, Environment and Nuisance Local Law 2010*

**PEST PLANT NOTICE**

[cl.4.11]

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

<b>Item No.</b>	<b>Clause</b>	<b>Description</b>	<b>Modified Penalty— First Offence</b>	<b>Modified Penalty— Subsequent Offences</b>
1	2.2	Failure to comply with requirements for keeping poultry	\$250	\$500
2	2.3	Failure to comply with requirements for keeping pigeons	\$250	\$500
3	2.4	Failure to comply with requirements for keeping aviary birds	\$250	\$500
4	2.5	Keeping rooster, goose or gander, turkey, peacock, or peahen on premises	\$250	\$500
5	2.6	Keeping birds so as to cause a nuisance	\$250	\$500
6	2.7(1)(a)	Keeping a farm animal without a permit	\$250	\$500
7	2.11	Failure to comply with requirements for keeping farm animals	\$250	\$500
8	2.12	Nuisance caused by farm animal	\$250	\$500
9	2.14	Failure to comply with requirements for beekeeping	\$250	\$500
10	2.15	Nuisance caused by bees or hives	\$250	\$500
11	2.16	Failure to comply with notice to remove bees or hives	\$250	\$500
12	3.1(1)(a)	Failure to provide or maintain an Approved Receptacle on a building site or development site	\$250	\$500
13	3.1(1)(b)	Failure to place, and secure, all building waste in an Approved Receptacle	\$250	\$500
14	3.1(1)(c)	Failure to keep secure cover of Approved Receptacle	\$250	\$500
15	3.1(1)(d)	Failure to maintain Approved Receptacle in an effective and operable condition	\$250	\$500
16	3.2	Failure to control refuse on a building site or development site	\$250	\$500
17	3.3	Unauthorised storage of materials	\$250	\$500
18	3.4	Release or escape of dust, sand or sand draft or liquid waste from land	\$250	\$500
19	3.5	Failure to take reasonable steps to prevent a load or any part of it escaping from a vehicle during transportation	\$250	\$500
20	3.6	Failing to dispose of liquid waste in an approved manner	\$250	\$500

21	3.7	Failing to ensure no vegetation or other material burnt	\$500	\$500
22	3.8(1)(a)	Keeping or allowing to be kept on a lot refuse, rubbish or disused material giving the land an untidy appearance	\$250	\$500
23	3.8(1)(b)	Keeping on a lot refuse, rubbish or disused material likely to adversely affect the health and safety of the inhabitants of that property or adjoining property	\$250	\$500
24	3.9(1)(a)	Keeping or allowing to be kept on a lot unsightly overgrowth of vegetation giving the land an untidy appearance	\$250	\$500
25	3.9(1)(b)	Keeping on a lot unsightly overgrowth of vegetation likely to adversely affect the health and safety of the inhabitants of that property or adjoining property	\$250	\$500
26	3.10 (1)(a)	Store or allow to remain on land more than one vehicle, vessel or machinery in a state of disrepair	\$250	\$500
27	3.10 (1)(b)	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
28	3.10 (1)(c)	Store or allow to remain on land any vehicle, vessel or machinery parts (including tyres)	\$250	\$500
29	3.10 (1)(d)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery	\$250	\$500
30	3.10(1)(e)	Wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance	\$250	\$500
31	3.11	Disposing of disused refrigerator or similar container with door or lid that can be fastened	\$250	\$500
32	4.1	Erection or use of lighting installations other than in accordance with requirements	\$250	\$500
33	4.2	Emitting light more than 50 lux	\$250	\$500
34	4.4	Non-compliant burning of rubbish or other materials	\$250	\$500
35	4.5	Cause or permit the escape of smoke, fumes, odours and other emissions so as to cause a nuisance	\$250	\$500
36	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
37	4.7	Failure to maintain all subsurface stormwater disposal systems in a good state of repair and free from obstruction	\$250	\$500
38	4.8	Discharging swimming pool backwash onto adjacent land	\$250	\$500
39	4.9	Feeding an uncaged or wild bird causing a nuisance	\$250	\$500
40	4.11(2)	Failure to comply with Pest Plant Notice	\$250	\$500
41	6.4(1)(b)	Failure to comply with notice	\$250	\$500

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

Dated this \_\_\_\_\_ of \_\_\_\_\_ 2024.

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

---

RHYS WILLIAMS  
MAYOR

---

CASEY MIHOVLOVICH  
CHIEF EXECUTIVE OFFICER