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Local Government Act 1995

ACTIVITIES ON LAND LOCAL LAW 2002

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Perth resolved on 22 January 2002 to make the following local law.

PART 1 - PRELIMINARY

Purpose

- 1.1 This local law has been made by the Council to enable infringement notices to be issued on a failure to comply with a notice issued under section 3.25(1) of the Act and to create further offences relating to land.

Citation

- 1.2 This local law may be cited as the City of Perth Activities on Land Local Law 2001.

Definitions and interpretation

- 1.3 In this local law, unless the context otherwise requires –

"Act" means the Local Government Act 1995;

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

"City" means the City of Perth;

"Council" means the Council of the City;

"footpath" means the paved or made portion of a thoroughfare used or intended for use by pedestrians and cyclists;

"regulations" means Local Government (Functions and General) Regulations 1996; and

"vehicle" includes any car, truck, bus, motor cycle, motor scooter, semi-trailer or caravan and any other form of conveyance, or trailer however ridden, driven or propelled, but does not include a bicycle, pram, wheelchair or similar conveyances.

Application of local law

- 1.4 This local law applies throughout the district.

PART 2 - NOTICES UNDER SECTION 3.25(1) OF THE ACT

Requirement to comply with section 3.25(1) notice

- 2.1 Where the City has given a person a notice under section 3.25 of the Act, the person shall comply with that notice.

PART 3 - OTHER LAND OFFENCES

Prohibited activities

- 3.1 An owner or occupier of land must take effective measures to prevent a nuisance from occurring by -
- (a) stabilizing sand on such land,
 - (b) ensuring sand is not released or escapes from the land whether by means of wind, water or any other cause, in sufficient quantity to cause a nuisance, risk to health, hazard or environmental damage,
 - (c) ensuring vacant unsightly land is enclosed with a fence or other means suitable to prevent the land from being viewed beyond its boundaries,
 - (d) prevent the overgrowth of vegetation, and the accumulation of rubbish and disused material, and ensuring the land remains tidy,
 - (e) ensuring land adjoining a thoroughfare is not overgrown, and that no part of any tree or shrub obstructs or otherwise prejudicially affects a thoroughfare under the control of the City, or,
 - (f) ensuring that any tree on the land does not endanger any person or thing on adjoining land.
- 3.2 (a) Where the City forms the opinion that an owner or occupier has not complied with sub-clause 3.1, the City may serve on the owner or occupier of the land a notice requiring the owner or occupier to –
- (i) comply with sub-clause 3.1;
 - (ii) clean or clear up and make good any damage or other result from the failure to comply with sub-clause 3.1 or the release or escape of sand; or
- (b) The requirements set out in a notice issued under sub-clause 3.2 (a) must be complied with by the time or date specified in the notice.

Water run-off

- 3.3 (1) Subject to the provisions of this clause, where water is running from a paved or made surface on land onto any other land, the City may give a notice to the owner or occupier of the first-mentioned land to take such measures as may be specified in the notice to prevent that from occurring or to minimize that run-off.
- (2) A person who is given a notice under subclause (1) shall comply with that notice, by the time or date specified in the notice.
- (3) Sub-clause (1) does not apply to water which is dripping or running from a building on land onto any other land.
- (4) Subject to sub-clause (5) of this clause, the City may only serve a notice under sub-clause (1), where it has formed the opinion that the water running from the paved or made surface is causing damage or is causing inconvenience to the owner or occupier of any other land.
- (5) No notice may be served by the City under sub-clause (1), where there is constructed on the other land a building and all or part of that building is:
- (i) below the level of the paved or made surface from which the water is running; and
 - (ii) the building or part of that building has not been damp coursed or waterproofed in a manner required by a written law.
- 3.4 When the City makes a decision to give a notice under this part, the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

PART 4 - ENFORCEMENT

Division 1 – Notices

Offence to fail to comply with notice

- 4.1 Wherever the City gives a person a notice referred to in part 3 of this local law requiring the person to do anything, if the person fails to comply with notice, the person commits an offence.

City may undertake requirements of notice

- 4.2 (1) Where a person fails to comply with a notice referred to in clause 4.1, the City may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.
- (2) Sub-clause (1) does not apply to a notice given to a person under section 3.25(1) of the Act.

Division 2 – Offences and penalties

Offences

- 4.3 (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable upon conviction to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

Prescribed offences

- 4.4 (1) An offence against a clause specified in Schedule 1 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 1.

Forms

- 4.5 For the purposes of this local law -
- (a) the form of the infringement notice given under section 9.16(1) of the Act is that of Form 2 in Schedule 1 of the Regulations;
- (b) 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;
- (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

Schedule 1

PRESCRIBED OFFENCES

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
2.1	Failure to comply with a notice under section 3.25(1) of the Act	100
4.1	Failure to comply with notice referred to in local law	100