

LOCAL GOVERNMENT ACT 1995

SHIRE OF MORAWA

AMENITY LOCAL LAW 2018

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LOCAL GOVERNMENT ACT 1995

SHIRE OF MORAWA

AMENITY LOCAL LAW 2018

Under the powers conferred the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Morawa resolved on 20 September 2018 to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Morawa Amenity Local Law 2018*.

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

The *Shire of Morawa Health Local Laws 2004* published in the *Government Gazette* on 14 September 2004 are amended as follows –

- (a) Part 4, Division 2, clauses 4.17 and 4.17A are deleted;
- (b) Part 5, Division 1, clauses 5.2 to 5.5 inclusive and clauses 5.7 to 5.9 inclusive are deleted;
- (c) Part 5, Division 3 is deleted;
- (d) Part 5, Division 4 is deleted;
- (e) Part 5, Division 5 is deleted;
- (f) Part 5, Division 6 is deleted; and
- (g) Part 6, Division 7 is deleted.

1.5 Transitional provisions

- (1) An application for, or the renewal of, a licence, permit or other authorisation made under a local law that is in force before the commencement day is to be dealt with and determined as if it were an application under this local law.
- (2) A licence, permit or other authorisation under a repealed local law that is in force before the commencement day is to be regarded on and after that day as a licence under this local law and may be dealt with accordingly.

1.6 Definitions

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

Act means the *Local Government Act 1995*;

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

animal includes cats, dogs, rabbits and ferrets or the like;

authorised person means a person appointed by the local government to perform any of the functions of 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;

birds includes poultry;

builder means the holder of a building permit 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 *National Construction Code* published by, or on behalf of, the Australian Building Codes Board;

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

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

Class in relation to a building, means the Class of building as defined by the Building Code;

Code of Practice – Pigeon Keeping means the document entitled *A Code of Practice –for Pigeon Keeping and Racing in Western Australia* published 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 currently a development or subdivision approval in place, and upon which construction work, earthworks, clearing of scrub, trees or overgrowth or any other site works are taking or have taken place pursuant to or in relation to that approval;

district means the district of the local government;

disused means, in relation to any thing whatsoever, that the thing –

- (a) is not in use for the purpose for which it was designed or appears to have been designed or intended; or
- (b) has been stored or left stationary on land in the district for more than 1 month;

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

food has the meaning given in section 9 of the *Food Act 2008*;

horse means a stallion, mare, gelding, Shetland pony, pony, colt or foal, and includes an ass, mule, donkey and any beast of whatever description used for burden or draught or for carrying persons;

land includes any building or structure on the land;

liquid waste means waste from any process or activity 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 means any –

- (a) horse, cow, sheep, goat, pig, buffalo, deer or other ungulate; or
- (b) camel, llama, alpaca or other animal of the Camelidae family;

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

local government means the Shire of Morawa;

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*;

machinery includes disused equipment;

manure receptacle means a receptacle of sufficient capacity to receive all manure produced in one week on land 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 which meets the standard and height for a miniature horse as described by the Miniature Horse Association of Australia Inc;

miniature pig means a pig that does not exceed 650 millimetres in height as an adult and weighs less than 55 kilograms;

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 by 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 has the meaning given to it in section 1.4 of the Act, and includes a person 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 includes a builder or contractor;

owner has the meaning given to it in section 1.4 of the Act;

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

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 Parks and Wildlife;

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;

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

residential building means any building of Classes 1, 2, 3 or 4 as defined by the Building Code;

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

Schedule means a schedule to this local law;

set fee means a fee determined by the local government in accordance with sections 6.16 to 6.19 of the Act;

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

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

thoroughfare means any highway, thoroughfare or land used for vehicular or pedestrian traffic, and includes all the land lying between property lines, including the verge and footpath;

truck means a motor vehicle having a tare weight in excess of 3000 kilograms;

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

vehicle means any motor vehicle, or part of a motor vehicle in a state of disrepair or in the process of being wrecked whether licensed or not;

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;

vessel means any kind of vessel intended for navigation by water, or part of a vessel in a state of disrepair or in the process of being wrecked whether licenced or not;

wreck includes the dismantling, breaking up, storage and disposal of vehicles; and

zoned in relation to land means the zoning as determined by any local planning scheme.

- (2) Any other expression used in this local law and not defined herein shall have the meaning given to it in the Act.

PART 2 - KEEPING OF LIVESTOCK AND BIRDS

2.1 Application of this Part

- (1) This Part does not apply to the keeping of livestock or birds in accordance with the provisions of any local planning scheme applicable to that zone, on land zoned as –
- (a) rural; or
 - (b) urban.
- (2) The keeping of pigs is prohibited, except –
- (a) for premises registered by the local government as an abattoir or a piggery under the provisions of section 191 of the *Health (Miscellaneous Provisions) Act 1911*; or
 - (b) a miniature pig in accordance with this Part.

2.2 Keeping of livestock or birds generally

- (1) An owner or occupier of land shall not keep, or allow to be kept, livestock or birds unless –
 - (a) on land zoned residential or rural residential in accordance with –
 - (i) this local law; or
 - (ii) a permit authorising the keeping of such issued under clause 3.3(1)(b); or
 - (b) on land zoned commercial, industrial or special use unless –
 - (i) a veterinary surgery, clinic or hospital; or
 - (ii) a pet shop operating in compliance with the local planning scheme, from which animals or birds may be offered for sale, or
 - (c) an aviary bird.

2.3 Keeping of a miniature horse

- (1) An owner or occupier of land shall not keep, or allow to be kept, a miniature horse on land zoned –
 - (a) commercial, industrial or special use; or
 - (b) residential or rural residential or special use unless –
 - (i) in accordance with a permit authorising the keeping of a miniature horse issued under clause 3.3(1)(b); and
 - (ii) not more than 1 miniature horse is to be kept per 1,000 square metres of accessible area.
- (2) An owner or occupier of land who keeps a miniature horse shall only keep a sterilised miniature horse, and retain written proof of its sterilisation.

[Clause 2.3 amended by Government Gazette No. 153 of 2019 cl.3]

2.4 Keeping of a miniature pig

- (1) An owner or occupier of land shall not keep, or allow to be kept, a miniature pig on land zoned –
 - (a) commercial, industrial or special use; or
 - (b) residential or rural residential, unless –
 - (i) in accordance with a permit authorising the keeping of a miniature pig issued under clause 3.3(1)(b); and
 - (ii) not more than 1 miniature pig is to be kept per 1,000 square metres of accessible area.
- (2) An owner or occupier of land where a miniature pig is kept shall –
 - (a) only keep a sterilised miniature pig and retain written proof of its sterilisation; and
 - (b) maintain documentary evidence that the miniature pig's veterinary treatment against roundworm and tapeworm is current.

[Clause 2.4 amended by Government Gazette No. 153 of 2019 cl.3]

2.5 Keeping of poultry

- (1) An owner or occupier of land shall not keep or allow to be kept any poultry on land zoned –
 - (a) commercial or industrial; or
 - (b) residential, rural residential or special use –
 - (i) if more than 12 poultry; or
 - (ii) unless in accordance with a permit authorising the keeping of poultry, issued under clause 3.3(1)(b), on land with a minimum area of 1 hectare, any –
 - (I) roosters;
 - (II) geese;
 - (III) turkeys; or
 - (IV) peafowls.
- (2) A person who keeps, or permits to be kept, poultry in accordance with subclause (1)(a)(i) shall ensure that the caged area in which the birds are kept is –
 - (i) a maximum area of 20 square metres;
 - (ii) located at least 1 metre from any lot boundary; and
 - (iii) located at least 5 metres from a residential building on any other lot.

2.6 Keeping of pigeons

- (1) An owner or occupier of land shall not keep or permit to be kept any pigeons on land zoned –
 - (a) commercial; or
 - (b) residential, rural residential, special use or industry, if more than 12 pigeons.
- (2) Notwithstanding subclause (1) an owner or occupier of land who is a member of a poultry or pigeon club incorporated under the *Associations Incorporation Act 1987* may be permitted to keep a maximum number of 100 pigeons.
- (3) An owner or occupier of land who keeps pigeons or permits pigeons to be kept shall ensure that all pigeons are kept in a properly constructed pigeon loft, except where registered homing pigeons are freed for exercise.
- (4) A person approved under subclause (2) 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.

[Clause 2.6 amended by Government Gazette No. 153 of 2019 cl.3]

2.7 Keeping of aviary birds

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 –
 - (i) a maximum area of 20 square metres;
 - (ii) located at least 1 metre from any lot boundary; and
 - (iii) located 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 minimum 2% gradient to the front of the aviary or cage;
- (c) the aviary or cage is kept in clean condition and good repair at all times;
- (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 -
 - (i) the attraction or harbourage of vermin; or
 - (ii) the emission of odours.

[Clause 2.7 amended by Government Gazette No. 153 of 2019 cl.3]

2.8 Livestock not to stray

- (1) The owner or person in charge of livestock shall not allow livestock to stray or to be at large in a street, public place or upon private property without the consent of the property owner.
- (2) The provisions of Part XX of the *Local Government (Miscellaneous Provisions) Act 1960* apply.

2.9 Impounding and destruction of livestock

- (1) An authorised person or a member of the police force may impound livestock found straying in contravention of clause 2.8.
- (2) Livestock being impounded shall be placed in the pound or secured on private property with the consent of the owner.
- (3) The provisions of Part XX of the *Local Government (Miscellaneous Provisions) Act 1960* apply.

2.10 Nuisance caused by livestock or birds

- (1) An owner or occupier of land shall not keep any livestock or birds which –
 - (a) are or create a nuisance; or
 - (b) emit an unreasonable or constant noise.
- (2) An authorised person may order an owner or occupier of land to take reasonable steps to prevent or abate any nuisance.
- (3) An authorised person may order an owner or occupier of land on which pigeons are, or are in the habit of nesting or perching, to take reasonable steps to prevent them from continuing to do so.

PART 3 - APPLICATIONS FOR KEEPING OF LIVESTOCK AND BIRDS

3.1 Application for permit to keep livestock or birds

An application for a permit required by Part 2 of this local law shall include –

- (a) a plan of the property, at a scale not less than 1:200, with dimensions clearly marked, showing where it is proposed that the livestock or birds are to be kept and the distance of that location from any –
 - (i) residential building;
 - (ii) Class 5 building;
 - (iii) Class 6 building; or
 - (iv) Class 9 building;
- (b) a sketch plan, at a scale of 1:100, indicating the nature of the shelter or housing to be provided for the livestock or birds;
- (c) a details for the management of manure which addresses –
 - (i) control of flies and other vermin;
 - (ii) disease prevention; and
 - (iii) prevention of nuisance odours; and
- (d) the set fee for the application.

3.2 Requirements to keep livestock or birds

- (1) A permit shall not be granted pursuant to clause 3.3 unless –
 - (a) the land or portion of land for which the permit is sought is of such dimensions and configuration as will permit the livestock or birds to be confined in a minimum accessible area of –
 - (i) 150 square metres for livestock;
 - (ii) 100 square metres for birds other than poultry, pigeons or aviary birds;
 - (b) the land or portion of the land is fenced –
 - (i) in a manner capable of confining the livestock or birds, to that portion where they are to be kept; and
 - (ii) notwithstanding subclause (1)(b)(i), the minimum fencing requirements are as defined by the Shire of Morawa Fencing Local Law in force at the time of approval;
 - (c) the land for which the approval is sought has a minimum area of 1 hectare in the case of a horse (other than a miniature horse) or cow; and
 - (d) the livestock or birds are prevented from reaching within 15 metres of any –
 - (i) residential building;
 - (ii) Class 5 building;
 - (iii) Class 6 building; or
 - (iv) Class 9 building.
- (2) An owner or occupier of land upon which livestock or birds are kept, may apply in writing to the local government to vary the requirements of subclause (1)(a) or (b).

3.3 Determination of application to keep livestock or birds

- (1) Subject to clause 3.1, the local government may –
 - (a) refuse to determine an application for a permit which does not comply with clause 3.2;
 - (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) The local government shall take into account the amenity of occupiers of adjoining properties in determining whether to grant approval for the keeping of livestock or birds.
- (3) 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.
- (4) Where the local government approves an application under subclause (1)(b), it is to issue to the applicant a permit in the form approved by the local government from time to time.
- (5) A permit is valid from the date of issue until 30 June following, unless cancelled prior to that date.

3.4 Conditions of approval to keep livestock or birds

- (1) An application approved under clause 3.3(1)(b) to keep livestock or birds may be issued subject to conditions, including –
- (a) all livestock or birds are to be kept confined to the lot;
 - (b) provision of adequate shelter or housing for the livestock or birds;
 - (c) all fencing and gates of the enclosure in which livestock or birds are kept –
 - (i) are capable of confining the livestock or birds at all times;
 - (ii) gates are securely kept fastened; and
 - (iii) maintained in good condition and repair at all times;
 - (d) all structures or enclosures in which livestock or birds are kept is at all times –
 - (i) maintained in clean condition and good repair;
 - (ii) kept free from all matter which is or is likely to become offensive or injurious to health or likely to attract vermin; and
 - (iii) effectively drained and the drainage flows away from the walls or foundations of any building;
 - (e) require that a manure receptacle is provided –
 - (i) within the structure or enclosure where livestock or birds are kept;
 - (ii) all manure produced on the land to be collected daily and placed in the receptacle;
 - (iii) the receptacle to be emptied as often as is necessary to prevent it becoming offensive or a breeding place for vermin, but in any case at least once a week; and
 - (iv) keep the lid of the receptacle closed except when manure is being deposited or removed;
 - (f) when so directed by an authorised person, the owner or occupier of the land shall –
 - (i) clean and disinfect any specified portion of the land; and
 - (ii) spray with a residual chemical or other effective means of controlling any vermin;
 - (g) ensuring the livestock or birds do not cause a nuisance to any neighbour regarding noise, dust, or odour; and
 - (h) any other conditions that the local government considers necessary for the protection of the health and amenity of the neighbourhood.
- (2) Conditions under subclause (1) may be imposed at the time of approval or any time subsequent to the initial approval.

3.5 Variation of permit to keep livestock or birds

The local government may vary the conditions of a permit after it has been issued, and shall give written notice of such variation to the permit holder, where –

- (a) the variation is at the discretion of the local government, no fee is required to be paid; or
- (b) the variation is made by the owner of the livestock or birds, the application is accompanied by the set fee.

3.6 Transfer of permit

The local government may transfer a permit where –

- (a) the application is accompanied by the set fee;
- (b) in relation to land, subject to the current permit holder complying with clauses 3.1, 3.2 and 3.4; or
- (c) in relation to the permit holder, where all conditions imposed under clause 3.4 are confirmed in writing by the proposed permit holder.

3.7 Cancellation of approval to keep livestock or birds

The local government may cancel a permit in the event the permit holder –

- (a) fails to comply with any condition of the approval set under clause 3.4;
- (b) after being notified of a variation under clause 3.5 fails to comply with the varied condition by the date specified in the notice; or
- (c) fails to comply with a notice of breach issued under clause 7.1.

PART 4 - ENVIRONMENT

4.1 Burning of refuse or vegetation on building or development sites

An owner or occupier of any building or development site shall ensure that no vegetation or other material cleared from the site is burnt on the site unless consent in writing is given by an authorised person.

4.2 Unsightly land – removal of unsightly or disused materials

The owner or occupier of a lot shall not keep, or permit to remain on the lot, any unsightly or disused material of whatever nature or kind, which in the opinion of an authorised person, is likely to give the lot an untidy appearance and does not conform with the general appearance of other adjoining land.

4.3 Unsightly land – removal of overgrown vegetation

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 adjoining land.

4.4 Prevention of dust and liquid waste nuisance

- (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; and
 - (c) ensure no dust or liquid waste is released or escapes from the land, by means of wind, water or any other cause.
- (2) A notice issued under clause 7.1 may require the owner and or occupier to do one or more of the following –
 - (a) comply with subclause (1);
 - (b) clean up and properly dispose of any released or escaped dust or liquid waste;
 - (c) clean up and make good any damage resulting from the released or escaped dust or liquid waste; and
 - (d) take effective measures to stop any further release or escape of dust or liquid waste.
- (3) Where an authorised person 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 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.

4.5 Dust management

- (1) This clause does not apply to land zoned as rural or urban.
- (2) The local government may require an owner or occupier of land who intends to undertake any activity, from which any soil, sand or dust is likely to be released whether by means of wind, water or any other cause, to –
 - (a) submit to an authorised person a Dust Management Plan in accordance with the Department of Environmental Regulation document “*A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities*” (March 2011), or any updated version of this document; and
 - (b) obtain written approval of the Dust Management Plan from an authorised person before commencement of any work.
- (3) A notice issued under clause 7.1 may require an owner or occupier of land undertaking work involving the clearing of land, from which soil, sand and dust is being released by means of wind, water or any other cause, to –
 - (a) submit to an authorised person a Dust Management Plan in accordance with the Department of Environmental Regulation document “*A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities*” (March 2011), or any updated version of this document; and
 - (b) obtain written approval of the Dust Management Plan from an authorised person before continuing any work.

4.6 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 one 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 one month;
- (c) store, or allow to remain, in public view on any lot any vehicle, vessel or machinery parts (including tyres);
- (d) wreck, dismantle or break up any vehicle, part or body of a vehicle, vessel or machinery except where performed –
 - (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; or
- (e) wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance.

4.7 Sea containers

- (1) This clause does not apply where approval to place or deposit a sea container has been given under the local planning scheme.
- (2) An owner or occupier of land or premises shall not deposit or place a sea container on land –
 - (a) unless the land is zoned as rural, commercial, industrial or urban; or
 - (b) on any other land, without the prior approval of the local government.
- (3) Subclause (2) does not apply where the sea container is used for the temporary storage of materials or equipment during the construction or other works on site.
- (4) A sea container used in accordance with subclause (3) –
 - (a) shall not be on the land for more than 6 consecutive months nor for more than 6 months within any 12 month period, without the approval of the local government; and
 - (b) shall be removed within five working days of –
 - (i) completion of works,
 - (ii) expiry of 6 consecutive months; or
 - (iii) such other time as approved by the local government.
- (5) An application made for approval under subclause (2)(b) shall be accompanied by the set fee.

[Clause 4.7 amended by Government Gazette No. 153 of 2019 cl.3]

PART 5 - NUISANCES AND DANGEROUS THINGS

5.1 Emission or reflection of light

- (1) An owner or occupier of land shall ensure that –
 - (a) floodlights or other exterior lights are erected or used shall not allow the floodlights or other exterior lights to shine directly onto any other land;
 - (b) artificial light is not emitted or reflected from anything on the land so as to illuminate land outside that land to more than 50 lux; and
 - (c) natural light is not reflected from anything on the land so as to create or cause a nuisance to the occupier of any other land or to an owner or occupier of land lawfully using a thoroughfare.
- (2) A notice issued under clause 7.1 may require the owner and or occupier to do one or more of the following –
 - (a) use floodlights or other exterior lights only during the hours specified in the notice;
 - (b) the direction in which the lights shine be altered as specified in the notice;
 - (c) any reflective surfaces be painted or otherwise treated so as to abate the nuisance; or
 - (d) any combination of these measures that an authorised person believes to be appropriate to the circumstances.

5.2 Escape of smoke, fumes or odours

An owner or occupier of land or premises shall take all practicable steps to prevent the escape of smoke, fumes or odours from the land so as to cause a nuisance to any person.

5.3 Burning rubbish, refuse or other material

- (1) This clause does not apply to land zoned –
 - (a) rural; or
 - (b) urban.
- (2) An owner or occupier of land shall not set fire to rubbish, refuse or other material either in an incinerator or on the ground, except in accordance with the conditions of the local government.
- (3) The burning of rubbish, refuse or other material is subject to the following conditions –
 - (a) the person has demonstrated to the satisfaction of an authorised person that reasonable alternatives for the disposal of the rubbish, refuse or other material do not exist and the potential for pollution is low;
 - (b) at least 3 metres from a fence, building or inflammable matter;
 - (c) in such a position so as not to create a nuisance or be offensive to other persons,
 - (d) written approval has first been obtained from the local government;
 - (e) the material does not include any plastic, rubber, food scraps, green garden materials or other material likely to cause the generation of smoke or odour in such quantity as to cause a nuisance to other persons; and
 - (f) the burning complies with the *Bush Fires Act 1954*, any annual fire break and fuel hazard reduction notice issued by the local government under that Act and any conditions of approval as determined by the local government.
- (4) Subclause (2) 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.
- (5) Subclause (2) is subject to declaration of a total fire ban under section 22A of the *Bush Fires Act 1954*.

5.4 Disposal of swimming pool backwash

- (1) The owner or occupier of land on which a swimming pool is constructed shall ensure that all backwash water is contained within the lot or discharged into the sewerage mains and is not permitted to discharge onto or run-off onto adjacent land.
- (2) Subclause (1) shall not prevent the discharge of swimming pool backwash water from a lot into a local government approved stormwater drain or road by a method approved by an authorised person.

5.5 Containment of stormwater

- (1) The owner or occupier of a lot shall ensure that all stormwater received by any building, house, or other structure or any paved or sealed or other surfaced areas including any vehicle access ways on the lot is contained within the lot or discharged into the sewerage mains and is not permitted to discharge onto or run-off onto adjacent land.
- (2) Subclause (1) shall not prevent the discharge of stormwater from a lot into a local government approved stormwater drain or road by a method approved by an authorised person.

5.6 Livestock vehicles

- (1) A person shall not park a vehicle containing livestock for a period in excess of 30 minutes on land or adjacent to land zoned as –
 - (a) commercial;
 - (b) residential; or
 - (c) special use
- (2) A person shall not park a vehicle which contains or has been used for the carriage of livestock so as to create or be a nuisance to any person, by reason of the odour emanating from the vehicle.
- (3) If a person parks a vehicle containing livestock in accordance with subclause (1), then the person does not contravene subclause (2).

- (4) A person shall not wash down a livestock vehicle on land or adjacent to land zoned as –
- (a) commercial;
 - (b) residential; or
 - (c) special use.

5.7 Truck noise on or adjacent to residential land

- (1) This clause does not apply to land zoned as rural, industrial or urban.
- (2) A person shall not start or drive a truck on land or adjacent to land which is zoned, approved or used for residential purposes between the hours of 10:30 pm and 6:30 am on the following day without first obtaining the written consent of the local government.

5.8 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 with a capacity of 0.04 cubic metres or more, on any land unless –

- (a) every door and lid and every lock, catch and hinge attached to a door or lid has been removed; or
- (b) rendering every door and lid incapable of being fastened.

PART 6 - OBJECTIONS AND APPEALS

6.1 Objections and appeals

The provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations shall apply to a decision made by the local government 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.

PART 7 - ENFORCEMENT

7.1 Notice of breach

- (1) Where a breach of any provision of this local law has occurred, an authorised person 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.
- (3) It is an offence to fail to comply with a notice issued by the local government pursuant to subclause (1).

7.2 When local government may undertake work required by notice

- (1) Where an owner or occupier of land fails to comply with a notice referred to in clause 7.1 the local government may, subject to compliance with the requirements of subdivision 3 of Division 3 of 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.
- (2) The local government may recover the cost of anything it does under subclause (1) as a debt due from the person who failed to comply with the notice.

7.3 Offences

A person commits an offence 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.

7.4 General penalty

Any person who commits an offence shall be liable, upon conviction, to a penalty not exceeding \$5,000, and a maximum daily penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

7.5 Modified penalties

- (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 –
 - (a) in the case of a first offence the modified penalty will be that prescribed in column 4 of Schedule 1; and
 - (b) in the case of a subsequent offence the modified penalty will be that prescribed in column 5 of Schedule 1.

7.6 Form of infringement notices

For the purposes of this local law –

- (a) 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;
- (b) 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
- (c) 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 – Modified Penalties

[cl.7.5]

Item	Clause No.	Nature of offence	Modified penalty – first offence \$	Modified penalty – subsequent offence \$
1	2.2	Keeping of livestock or birds without approval	100	250
2	2.3(1)	Keeping of a miniature horse other than as approved	100	250
3	2.3(2)	Failure to provide evidence of sterilisation of a miniature horse	100	250
4	2.4(1)	Keeping of a miniature pig other than as approved	100	250
5	2.4(2)	Failure to provide evidence of sterilisation or vaccination of a miniature pig	100	250
6	2.5(1)(a)	Keeping of poultry other than as approved	100	250
7	2.5(1)(b)(i)	Keeping of more than 12 poultry	100	250
8	2.5(1)(b)(ii)	Keeping of a rooster, goose, turkey or peafowl other than as approved	100	250
9	2.6(1)(a)	Keeping of pigeons other than as approved	100	250
10	2.6(1)(b)	Keeping of more than 12 pigeons	100	250
11	2.6(3)	Keeping pigeons in a loft other than as approved	100	250
12	2.7	Keeping of aviary birds other than as approved	100	250

13	2.8(1)	Allowing livestock to stray or be at large	100	250
14	2.10	Livestock or birds creating a nuisance	100	250
15	3.3(3)	Failure to comply with conditions of approval to keep livestock or birds	100	250
16	4.1	Burning cleared vegetation or other material on site	250	500
17	4.2	Failure to remove unsightly or disused material from land	100	250
18	4.3	Failure to remove overgrowth of vegetation from land	100	250
19	4.4(1)	Release or escape of dust or liquid waste from land	100	250
20	4.5(2)	Failure to comply with notice to obtain approval of a Dust Management Plan for clearing of land	100	250
21	4.5(3)	Failure to comply with notice to cease work before obtaining approval of a Dust Management Plan for clearing of land	100	250
22	4.6(a)	Store or allow to remain on land more than one vehicle, vessel or machinery in a state of disrepair	100	250
23	4.6(b)	Store or allow to remain on land any vehicle, vessel or machinery in a state of disrepair for a period in excess of one month	100	250
24	4.6(c)	Store or allow to remain on land any vehicle, vessel or machinery parts (including tyres)	100	250
25	4.6(d)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not inside a building or not behind a sufficient fence or wall	100	250
26	4.6(e)	Wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance	100	250
27	4.7(2)	Placement of a sea container other than as approved	100	250
28	4.7(4)(a)	Placement of a sea container on land for more than six months without approval	100	250
29	4.7(4)(b)	Failure to remove a sea container within five working days	100	250
30	5.1(1)(a)	Erection or use of lighting installations other than in accordance with requirements	100	250
31	5.1(1)(b) or (c)	Emitting or reflecting excessive artificial light, or reflecting natural light that causes nuisance	100	250
32	5.2	Cause of permit the escape of smoke, fumes, odours and other emissions so as to cause a nuisance	100	250
33	5.3(2)	Set fire to rubbish, refuse or other materials other than in an approved manner	100	250
34	5.4(1)	Failure to dispose of backwash water as approved	100	250
35	5.5(1)	Failure to dispose of stormwater as approved	100	250
36	5.6(1)	Parking a livestock vehicle in excess of 30 minutes other than as approved	100	250
37	5.6(4)	Washing a livestock vehicle other than as approved	100	250

38	5.7	Starting or driving a truck on or adjacent to residential land, or adjoining residential land, other than as approved	100	250
39	5.8	Disposing of disused refrigerator or similar container other than as approved	250	500
40	7.1(3)	Failure to comply with notice	100	250
41	7.3	All other offences	100	250

Dated 9 October 2018

The Common Seal of the Shire of Morawa was affixed by authority of a resolution of Council in the presence of –

K.J. CHAPPEL, President

C.P.M. LINNELL, Chief Executive Officer

Notes to this administrative compilation –

1. Original local laws published in the *Government Gazette* on 13 November 2018
2. Amended as published in the *Government Gazette* No. 153 on 25 October 2019