

# **LOCAL GOVERNMENT ACT 1995**

## **SHIRE OF HARVEY**

### **MISCELLANEOUS PROVISIONS LOCAL LAW 2008**

*(As gazetted on 23 June 2000 and reviewed in 2008)*

# **LOCAL GOVERNMENT ACT 1995**

## **SHIRE OF HARVEY**

### **MISCELLANEOUS PROVISIONS LOCAL LAW**

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# LOCAL GOVERNMENT ACT 1995

## SHIRE OF HARVEY

### MISCELLANEOUS PROVISIONS LOCAL LAW

Under the powers of the *Local Government Act 1995* and by all other powers, the Council of the Shire of Harvey resolved on the 23rd day of May 2000 to make the following local law.

#### PART 1—PRELIMINARY

##### 1.1 Citation

This local law may be cited as the Shire of Harvey Miscellaneous Provisions Local Law.

##### 1.2 Definitions

In this local law unless the context otherwise requires—

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

“**commercial wrecking**” means the activity of wrecking of vehicles or machinery for the purpose of conducting a business by offering vehicles, machinery or parts thereof for purchase, trade, sale or gain;

“**district**” means the district of the Shire of Harvey.

“**land**” means land in the district and includes houses, buildings, works, and structures, in or upon the land;

“**local government**” means the Shire of Harvey;

“**nuisance**” means—

(a) any activity, thing, condition, circumstance or state of affairs caused or contributed to by one person which is injurious or dangerous to the health of another person of normal susceptibility, or which has a disturbing effect on the state of reasonable physical, mental or social well-being of another person;

(b) any thing a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place; or

(c) any thing a person does on public or private land which unreasonably detracts from or interferes with the enjoyment or value of land owned by another person, provided that any thing done in accordance with the law or a legal right or which is consistent with the standard of behaviour in the relevant locality shall not be unreasonable for the purpose of this local law.

“**person**” means any person, company, employer and includes the owner, occupier and licensee;

“**planning approval**” means an approval given under a relevant town planning scheme operating in the district from time to time;

“**public place**” means any place to which the public has access;

“**reserve**” includes parklands, reserves, foreshores and other lands included in the district and set apart for the use and enjoyment of the public and includes parks and other lands acquired for public purposes and vested in or under the care, control and management of the local government;

“**town planning scheme**” means any town planning scheme for the time being applying zoning or classification to land with the district;

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

“**wreck**” includes the dismantling, breaking up, storage and disposal of vehicles and wrecking and wrecked have a corresponding meaning.

### **1.3 Application**

This local law applies throughout the district.

## **PART 2—REPEAL OF EXISTING LOCAL LAWS**

### **2.1 Repeal**

The following local laws are repealed—

- (a) *Old Refrigerators and Cabinets* published in the *Government Gazette* on 19 December 1962.
- (b) *Vehicle Wrecking* published in the *Government Gazette* on 9 May 1966.
- (c) *Holiday Accommodation* published in the *Government Gazette* on 31 October 1975.
- (d) *Sick Leave* published in the *Government Gazette* on 11 June 1969.

## **PART 3—OLD REFRIGERATORS AND CABINETS**

### **3.1 Old Refrigerators and Cabinets**

A person shall not place in or about any reserve or public place, including a place set aside for the disposal of rubbish and refuse, any refrigerator, ice chest, ice box, furniture, trunk or other thing that has in it a compartment of a capacity of 0.04 cubic metres or more, unless, before so placing it, that person removes from the compartment every door, lid, lock or hinge or otherwise renders every such door or lid incapable of being fastened.

## **PART 4—VEHICLE WRECKING**

### **4.1 Commercial Wrecking of Vehicles**

An owner or occupier of land in the district must not undertake, permit or suffer the commercial wrecking of vehicles on that land, without first having obtained planning approval from the local government.

### **4.2 Wrecking and Storage of Vehicles Generally**

A person must not—

- (a) store any vehicle, part or body of a vehicle or machinery, in a state of disrepair;
- (b) allow to remain on any land, a vehicle, part or body of a vehicle or machinery, in a state of disrepair;
- (c) wreck, dismantle or break up any vehicle, part or body of a vehicle or machinery; unless—
  - (i) inside a building; or
  - (ii) within an area enclosed by a fence or wall of not less than 2 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; or
- (d) wreck, dismantle or break up a vehicle so as to cause a nuisance.

### **4.3 Disposal of Vehicles, Parts and Machinery**

- (1) A person must not dispose of a vehicle, parts or body of vehicles or machinery except at a place set aside or approved by the local government for the purpose.
- (2) A person shall not destroy any portion of a vehicle or machinery by fire so as to cause a nuisance to occupiers of adjacent land by smoke or odour.

## PART 5—ENFORCEMENT

### 5.1 Notices may be given

Where a breach of any provision of this local law has occurred, the local government may give notice in writing—

- (a) advising details of the breach of the local law;
- (b) requiring that the breach is to be remedied within the time specified in the notice; and
- (c) advising that if the requirements of the notice are not complied with within the time specified, the local government may do things specified in the notice and recover from the person, as a debt, the costs incurred in so doing.

### 5.2 Offences

- (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) An offence against any provisions of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) Any person who commits an offence under this local law shall be 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.

### 5.3 Infringement and Infringement Withdrawal Notices

For the purposes of this local law—

- (a) the form of the infringement notice referred to in section 9.17 of the Act is form 2 in the First Schedule of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is form 3 in the First Schedule of the *Local Government (Functions and General) Regulations 1996*.

### 5.4 Offence Description and Modified Penalty

The amount appearing in the final column of the First Schedule directly opposite an offence described in the Schedule is the modified penalty for that offence.

#### ***First Schedule*** **PRESCRIBED OFFENCES**

| Clause     | Description                                                                                                   | Modified Penalty |
|------------|---------------------------------------------------------------------------------------------------------------|------------------|
| 3.1        | Failure to remove door, lid, lock, or hinge from refrigerator or cabinet.                                     | \$500            |
| 4.1        | Undertake or permit commercial wrecking of vehicles without planning approval.                                | \$100            |
| 4.2(a)     | Store any vehicle, part or body of vehicle or machinery in state of disrepair.                                | \$100            |
| 4.2(b)     | Allow to remain on land any vehicle, part or body of vehicle or machinery in state of disrepair.              | \$100            |
| 4.2(c)(i)  | Wreck, dismantle or break up any vehicle part or body or machinery not in a building                          | \$100            |
| 4.2(c)(ii) | Wreck, dismantle or break up any vehicle, part or body or machinery not behind fence or screened from street. | \$100            |

|        |                                                                                                               |       |
|--------|---------------------------------------------------------------------------------------------------------------|-------|
| 4.2(d) | Wreck, dismantle or break up a vehicle so as to cause a nuisance.                                             | \$100 |
| 4.3(1) | Dispose of vehicle, parts or body of vehicle or machinery at place not set aside or approved for the purpose. | \$500 |
| 4.3(2) | Destroy portion of vehicle or machinery by fire so as to cause nuisance by smoke or odour.                    | \$100 |
| 5.1    | Failure to comply with requirements of notice.                                                                | \$100 |

Dated this 13th day of June 2000.

The Common Seal of the Shire of Harvey was affixed in the presence of—

Cr J. W. OFFER, Shire President.  
K. J. LEECE, Chief Executive Officer.