

City of Stirling

Health Act 1911

Local Government Act 1995

HEALTH LOCAL LAW 2009

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Health Act 1911

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Health Local Law 2009

Under the powers conferred by section 342 of the *Health Act 1911* and in accordance with subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Stirling resolved on 15 December 2009 to make the following local law.

Part 1 - Preliminary

1.1 Citation

This local law may be cited as the *City of Stirling Health Local Law 2009*.

1.2 Commencement

This local law commences on the day that it is published in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The following local laws are repealed:

- (1) The Perth District Road Board *Model By-laws Series "A"* published in the *Government Gazette* on 9 February 1934 and as amended;
- (2) The Perth District Road Board *Model By-laws Series "A"* published in the *Government Gazette* on 6 July 1945 and as amended;
- (3) The Perth District Road Board *Model By-laws Series "A"* published in the *Government Gazette* on 12 December 1956 and as amended;
- (4) The *Perth Road Board Consolidation of Health By-laws* published in the *Government Gazette* on 30 May 1961 and as amended and published in the *Government Gazette* on 24 May 1962, 6 January 1966 and 4 October 1968, except for clauses 57-60A, 60C-60F, 78-70 and the Third Schedule.
- (5) The *City of Stirling Constitution and General By-Laws* 687-694 relating to Keeping of Goats, published in the *Government Gazette* on 12 May 1971 and as amended and published in the *Government Gazette* on 6 February 1987.

1.5 Definitions

- (1) In this local law -

“adequate supply of water” means a flow of water of not less than 0.076 litres per second;

“approved” means approved by the City or an EHO;

“AS” means Australian Standard published by Standards Australia;

“AS 1530.2: 1993” means the standard published by Standards Australia as AS 1530.2: 1993 and called “Methods for fire tests on building materials, components and structures – Tests for flammability of materials”, as amended from time to time;

“AS/NZS 1530.3: 1999” means the standard published by Standards Australia as AS/NZS 1530.2: 1999 and called “Methods for fire tests on building materials, components and structures – Simultaneous determination of ignitability, flame propagation, heat release and smoke release”, as amended from time to time;

“AS 1668.2 - 2002” means the standard published by Standards Australia as AS 1668.2 - 2002 and called “The use of ventilation and air conditioners in buildings – Ventilation design for indoor air contaminant control” as amended from time to time;

“AS/NZS 3666.2: 2002” means the standard published by Standards Australia as AS/NZS 3666.2: 2002 and called “Air handling and water systems of buildings – Microbial Control – Operation and maintenance” as amended from time to time;

“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 that Code;

“CEO” means the Chief Executive Officer of the City;

“City” means the City of Stirling;

“Council” means the council of the City;

“district” means –

- (a) the district of the City under the *Local Government Act 1995*;
- (b) any area placed under the jurisdiction of the City under section 22 of the Health Act; and
- (c) any river, harbour or other water deemed to be within the district of the City under section 25 of the Health Act;

“District Planning Scheme” means the town planning scheme, or each of the town planning schemes, made by the City and in force from time to time under the *Planning and Development Act 2005*;

“dwelling house” means a place of residence containing at least one sleeping room and includes a room or outbuilding separate from, but ancillary to, the building in which the sleeping room is located;

“**employee**” means an employee of the City;

“**Environmental Health Officer**”, or “**EHO**”, means an Environmental Health Officer appointed by the City under the Health Act;

“**habitable room**” means a room used for normal domestic activities, and

- (a) includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, play-room, family room and sun-room; but
- (b) excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, lobby, photographic dark room, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods;

“**Health Act**” means the *Health Act 1911*;

“**hot water**” means water at a temperature of at least 75 degrees Celsius;

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

“**Medical Officer**” means a medical officer of health appointed by the City under section 27 of the Act;

“**morgue**” means a place for the temporary reception and keeping of the bodies of the dead awaiting burial or cremation;

“**public place**” includes every place to which the public ordinarily have access, whether by payment of a fee or not;

“**sanitary convenience**” has the meaning given to it in section 3(1) of the Health Act;

“*sanitary convenience* includes urinals, water-closets, earth-closets, privies, sinks, baths, wash troughs, apparatus for the treatment of sewage, ash-pits, ash-tubs, or other receptacle for the deposit of ashes, faecal matter, or refuse, and all similar conveniences;”

[Section 3(1) of the *Health Act 1911*]

“**sewage**” has the meaning given to it in section 3(1) of the *Health Act*;

“*sewage* means any kind of sewage, nightsoil, faecal matter or urine, and any waste composed wholly or in part of liquid;”

[Section 3(1) of the *Health Act 1911*]

“**sewer**” has the meaning given to it in section 3(1) of the *Health Act*;

“*sewer* includes sewers and drains of every description, except *drains* to which the word drain as above defined applies, also water channels constructed of stone, brick, concrete, or any other material, the property of a local government;”

[Section 3(1) of the *Health Act 1911*]

“**street**” has the meaning given to it in section 3(1) of the *Health Act*;

“*street*” includes any highway, and any public bridge, and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;”

[Section 3(1) of the *Health Act 1911*]

“**toilet**” means a water closet, earth closet, privy or urinal and includes a room or cubicle in which one or more of these is located;

“**water**” means drinking water within the meaning of the Australian Drinking Water Guidelines as published by the National Health and Medical Research Council in 2004 and as amended from time to time; and

“**window**” means a glass panel, roof light, glass brick, glass louvre, glazed sash, glazed door, or other device which transmits natural light directly from outside a building to the room concerned when in the closed position.

- (2) Where in this local law, a duty or liability is imposed on an “owner or occupier”, or on an “owner and occupier”, the duty or liability is deemed to be imposed jointly and severally on each of the owner or occupier.
- (3) Where under this local law an act is required to be done or forbidden to be done in relation to any premises, the owner or occupier of those premises has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.

Part 2 - Sanitation

Division 1 - Sanitary conveniences

2.1 Definitions

In this Part -

“**event**” includes a fair, festival or function;

“**organiser**” means a person -

- (a) to whom approval has been granted by the City to conduct the event; or
- (b) responsible for the conduct of the event;

“**public sanitary convenience**” means a sanitary convenience to which the public ordinarily have access, whether by payment of a fee or not; and

“**temporary sanitary convenience**” means a sanitary convenience, temporarily placed for use by -

- (a) patrons in conjunction with a event; or
- (b) employees at construction sites or the like.

2.2 Dwelling house

- (1) A person must not use or occupy, or permit to be used or occupied, a dwelling house unless it has at least one toilet.
- (2) A room in which a toilet is located must have adequate lighting.

2.3 Premises other than a dwelling house

- (1) The owner of premises other than a dwelling house must not use or occupy, or permit to be used or occupied, premises other than a dwelling house unless -
 - (a) the premises have sanitary conveniences in accordance with the Building Code and this Part;
 - (b) the toilets required by this local law are situated within a reasonable distance and are easily accessible to the persons for whom they are provided; and
 - (c) the premises have hand wash basins that are -
 - (i) in accordance with the Building Code;
 - (ii) for the use of persons employed or engaged on the premises;
 - (iii) provided with an adequate supply of water supplied by taps located over each basin;
 - (iv) separate from any trough, sink or basin used in connection with any process carried out on the premises; and
 - (v) situated within a reasonable distance of the sanitary conveniences and easily accessible to the person for whom they are provided.
- (2) The occupier of premises other than a dwelling house must ensure that—
 - (a) clean toilet paper is available at all times in each cubicle;
 - (b) a sanitary napkin disposal facility is provided in each toilet set aside for the use of females; and
 - (c) each hand wash basin is provided with -
 - (i) an adequate supply of soap or other hand cleaning substances; and
 - (ii) hand drying facilities, situated adjacent to and visible from the hand wash basin.

2.4 Outdoor events

- (1) The applicant for an outdoor event-
 - (a) at which not more than 30,000 people are expected to attend;
 - (b) with an anticipated duration of more than 8 hours; and

(c) where alcohol may be consumed by the persons attending, must provide toilets in accordance with Table 1.

Table 1

Number of people attending	Male Facilities			Female Facilities	Hand Wash Basins	
	WC's	Urinal Metres	Urinals	WC's	Male	Female
Up to 1000	2	1.5	3	5	1	1
1000-2000	3	3	6	10	2	2
2000-3000	4	4.5	9	15	3	3
3000-4000	5	6	12	20	4	4
4000-5000	6	7.5	15	25	5	5
5000-6000	7	9	18	30	5	6
6000-7000	8	10.5	21	35	6	7
7000-8000	9	12	24	40	7	8
8000-9000	10	13.5	27	45	8	9
9000-10000	11	15	30	50	9	10
10000-11000	12	16.5	33	55	9	11
11000-12000	13	18	36	60	10	12
12000-13000	14	19.5	39	65	11	13
13000-14000	15	21	42	70	12	14
14000-15000	16	22.5	45	75	13	15
15000-16000	17	24	48	80	13	16
16000-17000	18	25.5	51	85	14	17
17000-18000	19	27	54	90	15	18
18000-19000	20	28.5	57	95	16	19
19000-20000	21	30	60	100	17	20
20000-21000	22	31.5	63	105	17	21
21000-22000	23	33	66	110	18	22
22000-23000	24	34.5	69	115	19	23
23000-24000	25	36	72	120	20	24
24000-25000	26	37.5	75	125	21	25
25000-26000	27	39	78	130	21	26
26000-27000	28	40.5	81	135	22	27
27000-28000	29	42	84	140	23	28
28000-29000	30	43.5	87	145	24	29
29000-30000	31	45	90	150	25	30

- (2) The applicant for an outdoor event at which not more than 30,000 people are expected to attend, but-
- (a) with an expected duration of less than 8 hours; or
 - (b) where alcohol will not be or is not permitted to be consumed by persons attending,

must provide toilets in accordance with Table 1, but with the requirements of that Table reduced in accordance with Table 2.

Table 2

Duration of event	Percentage of standards in Table 1 to be applied (%)	
	Alcohol permitted	No alcohol permitted
6-8 hours	80	40
4-6 hours	75	37.5
0-4 hours	70	35

- (3) The applicant for an outdoor event at which more than 30,000 people are expected to attend must provide sanitary conveniences of a number as directed by an EHO .
- (4) In addition to the requirements listed in Tables 1 and 2, the applicant for an outdoor event must provide at least one unisex toilet for the disabled.
- (5) When portable or chemical toilets are used for an outdoor event with an expected duration of more than 4 hours-
- (a) they must be pumped out during the event; and
 - (b) they must be located so that pump-out vehicles can access them.
- (6) The applicant for an outdoor event must ensure that toilets are checked regularly during the outdoor event to ensure that they are clean and that all consumables are readily available to patrons using them.
- (7) In this clause, “WC” means a water closet pan.

2.5 Toilets

- (1) Each toilet on premises must be maintained in accordance with the following requirements -
- (a) the door to a toilet, other than an internal toilet, must be properly screened to a continuous height of 1.8 metres from the floor;
 - (b) a toilet or its entrance which is visible from overlooking windows must be properly screened;
 - (c) the floor of any internal toilet must be -

- (i) of concrete or of other approved impervious material of an approved thickness; and
 - (ii) graded to a floor waste outlet and proper discharge pipe with flap valve fitted and, where necessary, protected by an approved sump; and
- (d) the floor of any external toilet must be -
 - (i) of concrete or of other approved impervious material of an approved thickness; and
 - (ii) graded to the door or alternatively an approved outlet.
- (2) Each toilet on premises other than a dwelling house must be maintained in accordance with the following additional requirements -
 - (a) a toilet for the exclusive use of males must not adjoin any toilet for the exclusive use of females unless the toilets are separated by a wall extending from floor to ceiling and have a Sound Transmission Class of not less than 50 as required by AS/NZS ISO 717.1:2004; and
 - (b) where more than one toilet is provided on the premises, the entrance to each toilet must bear a suitable sign indicating for which sex its use is intended.

2.6 Temporary works

A person who undertakes temporary work at any place must-

- (a) provide and maintain for the use of persons engaged, whether as employees or as independent contractors or otherwise, one temporary toilet in accordance with the *Health (Temporary Sanitary Conveniences) Regulations 1997*; and
- (b) remove the toilet at the conclusion of the work or at an earlier time in accordance with a direction from an EHO and ensure the site is left clean.

2.7 Maintenance of sanitary conveniences and fittings

- (1) The occupier of premises must -
 - (a) keep clean, in good condition and repair; and
 - (b) whenever required by an EHO, effectively disinfect and clean, all sanitary conveniences including sanitary fittings in or on the premises.
- (2) The owner of premises must -
 - (a) keep or cause to be kept in good repair; and
 - (b) maintain an adequate supply of water to, all sanitary conveniences including sanitary fittings in or on the premises.

2.8 Ventilation of toilets

- (1) A toilet in any premises must be ventilated in accordance with the *Sewerage (Lighting, Ventilation and Construction) Regulations 1971* and the Building Code.
- (2) A mechanical ventilation system provided under subclause (1) must be maintained in good working order and condition.

2.9 Public sanitary conveniences

- (1) A person must not -
 - (a) foul;
 - (b) damage or vandalise; or
 - (c) write on or otherwise deface,

a public sanitary convenience or sanitary fixtures or fittings or the premises in or on which the sanitary convenience is located.
- (2) A person must not live or sleep in or on the premises in which a public sanitary convenience is located or use it for a purpose other than that for which it was intended.

2.10 Lighting

The owner and occupier of premises in which a sanitary convenience or a public sanitary convenience is located must provide and maintain adequate electric lighting for persons using the convenience.

2.11 Installation

- (1) Each sanitary convenience must be installed in accordance with the requirements of the *Metropolitan Water Supply Sewerage and Drainage Act 1909* and must have an adequate supply of water.
- (2) Each temporary sanitary convenience must be installed in accordance with the requirements of the *Health (Temporary Sanitary Conveniences) Regulations 1997*.
- (3) Each toilet and plumbing fixture must be connected into the public sewer, unless otherwise approved by the City.

Division 2 - Bathroom, laundries and kitchens

2.12 Bathrooms

- (1) A person must not use or occupy, or permit to be used or occupied, a dwelling house without a bathroom that -
 - (a) is adequately lined with an impervious material and has an adequate ceiling;
 - (b) complies with the *Health Act (Laundries and Bathrooms) Regulations*; and

- (c) is equipped with -
 - (i) a hand wash basin; and
 - (ii) either a shower in a shower recess or a bath.
- (2) Each bath, shower, hand wash basin and similar fitting must be provided with an adequate supply of hot and cold water.
- (3) The floor of the bathroom must properly surfaced, with an even fall to a floor waste, suitably trapped and discharging to -
 - (a) the sewer of a licensed water service operator; or
 - (b) a proper discharge pipe with flap valve fitted and, where necessary, protected by an approved sump.

2.13 Laundries

- (1) A person must not use or occupy, or permit to be used or occupied, a dwelling house without a laundry that -
 - (a) is properly enclosed and roofed;
 - (b) is adequately lined with an impervious material;
 - (c) has a floor of concrete or other approved impervious material of an approved thickness;
 - (d) is properly surfaced, with an even fall to a floor waste, suitably trapped and discharging to -
 - (i) the sewer of a licensed water service operator; or
 - (ii) a proper discharge pipe with flap valve fitted and, where necessary, protected by an approved sump; and
 - (e) is not a room in which food is stored, prepared, served or consumed.
- (2) A laundry must conform to the provisions of the Building Code.

2.14 Kitchens

- (1) A person must not use or occupy, or permit to be used or occupied, a dwelling house without a kitchen equipped with -
 - (a) an electric or gas stove or other facility or appliance used to cook food;
 - (b) an oven with a capacity of not less than 0.005 cubic metres per person usually accommodated in the dwelling house with a minimum capacity of 0.03 cubic metres; and
 - (c) a sink which must -
 - (i) be at least 380 millimetres long, 300 millimetres wide and 150 millimetres deep; and

- (ii) have an adequate supply of hot and cold water.
- (2) The occupier of a dwelling house must ensure that the stove, oven and sink are kept clean, in good order and repair and fit for use.
- (3) A cooking facility must -
 - (a) be installed in accordance with the requirements of Energy Safety; and
 - (b) not be installed or used in any room other than a kitchen.
- (4) Where mechanical extraction is provided in a kitchen, the exhaust air must be -
 - (a) carried to the outside air as directly as practicable; and
 - (b) ducted throughout.
- (5) In this clause, a “**cooking facility**” includes a stove, oven, facility or appliance used for or in connection with the cooking of food.

Part 3 - Housing and general

Division 1 - Maintenance of dwelling houses

3.1 Dwelling house maintenance

The owner or occupier of a dwelling house must maintain the dwelling house and any appurtenant buildings in sound condition and fit for use and, in particular, must -

- (a) maintain all roofs, guttering and downpipes in sound weatherproof condition;
- (b) maintain any footings, foundations and walls, either external or internal, in a sound condition;
- (c) replace any missing, broken, decayed or termite-eaten timber or other deteriorated material in any veranda, roof, walls, steps, handrails, floors or their supports with material of sound quality;
- (d) comply with the directions of an EHO to treat the premises for the purpose of destroying any termites;
- (e) maintain any brick, stone, mortar or cement work in a sound condition;
- (f) maintain, repair or replace any flashings or ant caps, which are missing or defective;
- (g) maintain all ventilators in good order and repair;
- (h) maintain all floors even in surface and free from cracks;
- (i) maintain all ceilings, internal wall finishes, skirtings, architraves and other fixtures and fittings complete and with smooth unbroken surfaces;

- (j) maintain all doors and windows in good working order and weatherproof condition;
- (k) retain all natural lighting free from any obstruction which would reduce the natural lighting below the ratio of 10% of the floor area;
- (l) maintain all pipes, fittings and fixtures connected with water supply, drainage or sewerage so that they comply with the provisions of the *Metropolitan Water Supply, Sewerage and Drainage Act 1909* and any other legal requirements to which they are subject; and
- (m) maintain all electric wiring, gas services and fittings to comply in with the requirements of Energy Safety.

3.2 Maintenance of guttering and downpipes and disposal of rainwater

The owner or occupier of a dwelling house must -

- (a) maintain all guttering, downpipes and drains on the premises in a good state of repair, clean and free from obstruction; and
- (b) not permit any rainwater from the premises to discharge onto or over a footpath, street or other property, and ensure stormwater is disposed of directly into an appropriate water tank, drain or soak-well or directly onto a paved surface provided the surface has an adequate fall away from any building structure.

Division 2 - Ventilation of dwelling houses

3.3 Exemption for a short term hostel or recreational campsite

This Division does not apply to a short term hostel or recreational campsite referred to in Part 8.

3.4 Overcrowding

The owner or occupier of a dwelling house must not permit -

- (a) a room in the dwelling house that is not a habitable room to be used for sleeping purposes;
- (b) a habitable room in the dwelling house to be used for sleeping purposes unless -
 - (i) for every person over the age of 10 years using the room there is at least 14 cubic metres of air space per person; and
 - (ii) for every person between the ages of 1 and 10 years there is at least 8 cubic metres of air space per person; or
- (c) any garage or shed to be used for sleeping purposes.

3.5 Calculating sufficient space

For the purposes of clause 3.4, in calculating the space required for each person -

- (a) each room is to be considered separately and sufficient space is to be allowed in each room for the number of persons present in the room at any one time; and
- (b) a deduction is to be made for the space occupied by furniture, fittings and projections of the walls into a room.

3.6 Ventilation

- (1) A person must not use or occupy, or permit to be used or occupied, a dwelling house unless the dwelling house is properly ventilated.
- (2) For the purposes of subclause (1) a dwelling house is to be deemed to be properly ventilated if it complies with the Building Code, including the provision of -
 - (a) natural ventilation; or
 - (b) a mechanical ventilation or air-conditioning system complying with AS1668.2 - 2002.
- (3) The owner of a dwelling house provided with a mechanical ventilation or air-conditioning system must ensure that the system is -
 - (a) maintained in good working condition and in accordance with AS/NZS 3666: 2002; and
 - (b) in use at all times the dwelling house is occupied if it is a dwelling house without approved natural ventilation.
- (4) If, in the opinion of an EHO, a dwelling house is not properly ventilated, the EHO may by notice require the owner of the dwelling house to -
 - (a) provide a different, or additional method of ventilation; or
 - (b) cease using the dwelling house until it is properly ventilated.
- (5) The owner must comply with a notice made under subclause (4).

Division 3 - Water supply

3.7 Water supply

- (1) The owner of a dwelling house must ensure that it is connected with a separate and independent water supply from the mains of a licensed water service operator or a water supply to the satisfaction of an EHO.
- (2) The water supply must at all times deliver an adequate supply of drinking water to each tap in the dwelling house or on the site on which the dwelling house is located.

3.8 Rain water tanks

The owner or occupier of a dwelling house for which part of the water supply is drawn from a rain water tank must -

- (a) maintain in a clean condition -

- (i) the roof forming the catchment for the tank; and
 - (ii) the guttering and downpipes appurtenant to the roof;
- (b) ensure that each rain water tank is fitted with a tight-fitting mosquito proof cover which must not be removed at any time except for the purpose of cleaning, repairing or maintaining the tank;
 - (c) at least once in each year, thoroughly clean any tank the water from which is used for human consumption; and
 - (d) when directed by an EHO, empty, clean and disinfect any tank on the premises, the water from which is used for human consumption.

3.9 Wells

The owner or occupier of any premises must not use, or permit for human consumption the use of, the water of any bore or well unless the bore or well is—

- (a) at least 30 metres from any soak well or other possible source of pollution unless otherwise approved by the Executive Director, Public Health; and
- (b) covered with a tight-fitting cover without openings of any sort other than those essential for the insertion of a pump.

3.10 Pollution

A person must not deposit on or under any land, any sewage, offensive matter or any other thing, which may pollute or render unfit for human consumption, water from a well or other underground source.

Division 4 - Second-hand furniture, bedding and clothing

3.11 Prohibition on sale

A person must not offer for sale or sell any second-hand furniture, bedding or clothing, which is filthy or infested with vectors of disease.

3.12 Prohibition of possession

A dealer in second-hand furniture, bedding or clothing must not have on any premises used for the operation of the business any second-hand furniture, bedding or clothing which is filthy or infested with vectors of disease.

Division 5 - Morgues

3.13 Requirement for licence

A person, other than the State, must not own or operate a morgue unless it is licensed by the City under this Division.

3.14 Application for licence

- (1) A person who is required to obtain a licence under this Division must apply for the licence in accordance with subclause (2).

- (2) An application for a licence must be –
 - (a) made in writing ; and
 - (b) forwarded to the CEO together with –
 - (i) the fee as fixed from time to time by resolution of the Council under section 344C of the Health Act; and
 - (ii) a floor plan and specifications of the morgue which must include the following details –
 - (I) the use of each room;
 - (II) the structural finish of each wall, floor and ceiling;
 - (III) the position and type of each fitting and fixture; and
 - (IV) all ventilation inlets and outlets.
- (3) Before determining an application for a licence, the City may require an applicant –
 - (a) to provide additional information reasonably related to the application; and
 - (b) to give local public notice of the application.
- (4) The City may refuse to consider an application for a licence which is not in accordance with subclause (2) or where the requirements of subclause (3) have not been satisfied.

3.15 Decision on application for licence

- (1) The City may –
 - (a) approve an application for a licence unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a licence.
- (2) A licence is not to be granted by the City in respect of any premises unless –
 - (a) provision has been made for the keeping of the bodies of the dead at a temperature not exceeding zero degrees Celsius;
 - (b) the walls are constructed of stone or brickwork or other approved material;
 - (c) the interior surface of all walls is covered with glazed tiles or is rendered impervious so as to be non-absorbent and washable;
 - (d) all floors are constructed of some impervious material, having a fall to an outlet discharging over a trapped gully;
 - (e) the premises are adequately ventilated by direct communication with the outside air; and

- (f) the premises comply with the zoning and development provisions of the District Planning Scheme.
- (3) If the City approves an application for a licence, it is to issue to the applicant a licence in an approved form.
- (4) If the City refuses to approve an application for a licence, it is to give written notice of that refusal to the applicant.
- (5) The City may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the licence holder.

3.16 Inspection of morgues

An EHO may conduct an annual inspection of a morgue.

3.17 Cancellation of licence

- (1) Subject to subclause (3), the City may, at any time, cancel the licence for a morgue for any reason which, in the opinion of the City, justifies the cancellation.
- (2) For example, the City may cancel a licence on any one or more of the following grounds –
 - (a) that the morgue has not, to the satisfaction of the City, been kept free from vectors of disease or in a clean, wholesome and sanitary condition;
 - (b) that the owner or occupier of the morgue has –
 - (i) been convicted of an offence against this local law, or any other written law, in respect of a morgue;
 - (ii) not complied with a requirement of this Part; or
 - (iii) not complied with a condition of the licence;
 - (c) that the City, having regard to a report from the Police Service, is satisfied that the owner or occupier is not a fit and proper person; or
 - (d) that, by reason of alterations or additions or neglect to repair and renovate, the condition of the morgue is such as to render it, in the opinion of the City, unfit to remain licensed.
- (3) Before cancelling the licence for a morgue under this clause, the City must give notice to the owner or occupier requiring him or her, within a time specified in the notice, to show cause why the licence should not be cancelled.
- (4) If the City cancels the licence for a morgue, it must give the owner or occupier notice of the cancellation and the licence is to be revoked as from the date on which the notice is served on the owner or occupier.

Part 4 - Nuisances

4.1 Definition

In this Division –

“**fertiliser**” includes manure.

4.2 Footpaths etc, to be kept clean

An owner or occupier of premises must keep any footpath, pavement, area or right of way immediately adjacent to the premises clean and clear from refuse and other obstacles which –

- (a) are or have been in the possession or control of the owner or occupier; and
- (b) the owner or occupier has caused or allowed to be on the footpath, pavement, area or right of way.

4.3 Escape of smoke etc.

An owner or occupier of premises must not cause or permit the escape of smoke, dust, fumes, offensive or foul odours, liquid waste or liquid refuse from the premises in a quantity or of a nature as to cause or to be a nuisance.

4.4 Public vehicles to be kept clean

The owner or person in control of a public vehicle must -

- (a) maintain the vehicle at all times -
 - (i) in a clean condition; and
 - (ii) free from vectors of disease; and
- (b) whenever directed to do so by an EHO, thoroughly clean and disinfect the vehicle as directed.

4.5 Prohibition against spitting

A person must not spit -

- (a) on a footpath, street or public place; or
- (b) in a train, bus or other public transport.

4.6 Transportation, use and storage of offal or blood

A person must not transport or store offal or blood, for the purpose of being used as manure, unless it has been sterilised by steam and properly dried.

4.7 Use or storage of fertiliser

An owner or occupier of premises must not use, or keep for the purpose of use, as fertiliser any -

- (a) pig manure;
- (b) human faeces; or
- (c) urine.

4.8 Storage and dispatch of artificial fertiliser

An owner or occupier of premises where artificial fertiliser is stored in bulk for sale must -

- (a) keep all artificial fertiliser in a building -
 - (i) of which the walls, floors and ceilings or undersides of the roof are constructed of durable and non-absorbent materials finished internally with a smooth surface; and
 - (ii) free from damp and properly ventilated;
- (b) take proper precautions to prevent the emission of dust or offensive effluvia from the building; and
- (c) ensure that all artificial fertiliser dispatched from the premises is packed in a manner that prevents any nuisance arising during transit.

4.9 Storage of fertiliser in a dwelling house

The owner or occupier of a dwelling house where fertiliser or compost is stored or used must -

- (a) prevent the escape of odours, dust or particles of fertiliser or compost;
- (b) treat the fertiliser or compost in a manner that effectively prevents it attracting or being a breeding place for flies or other vectors of disease; and
- (c) store only those amounts of fertiliser or compost -
 - (i) that can readily be used within a reasonable period; or
 - (ii) as may be directed by the City.

Note: Under the Health Act 1911, the City has extensive powers to deal with nuisances, including the powers set out in section 184 of the Health Act 1911.

Part 5 - Keeping animals

Division 1 – General provisions

5.1 Definition

In this Division –

“**animal**” includes a bird.

5.2 Cleanliness

An owner or occupier of premises in or on which an animal is kept must-

- (a) keep the premises free from excrement, filth, food waste and all other matter which is, or is likely to be, a nuisance, injurious or dangerous to health or to attract rats or other vectors of disease;
- (b) dispose of excrement, filth, food waste or other matter in an approved manner;
- (c) when directed by an EHO, clean and disinfect the premises; and
- (d) keep the premises, so far as possible, free from flies or other vectors of disease by spraying with a residual insecticide or other effective means.

Division 2 – Limit on number of animals kept

5.3 Limit on numbers

A person must not keep animals, or permit animals to remain, on any property in such numbers that they are, or are likely to be, a nuisance, injurious or dangerous to health.

5.4 Animal enclosures

- (1) A person must not keep or cause or permit to be kept an animal in an enclosure that is not effectively drained or where the drainage flows to the walls or foundations of any building.
- (2) The owner or occupier of premises where an animal is kept must, when directed by the EHO, pave, grade and drain the floors of all structures and the surface of the ground of each enclosure used for the keeping of an animal .
- (3) The owner or occupier of premises where a rabbit is kept must ensure that each rabbit is kept in a suitable enclosure that effectively prevents it from escaping.

5.5 Slaughter of animals

- (1) A person must not slaughter an animal within the district.
- (2) Subclause (1) does not apply to –
 - (a) euthanasia of an animal by a veterinarian or other duly authorised person; and
 - (b) the slaughter of an animal at premises approved for that purpose.

5.6 Disposal of dead animals

- (1) An owner or occupier of premises on which there is a dead animal must immediately remove the carcass and arrange for its disposal at an approved disposal site.
- (2) An owner, or a person having the care, of any animal that dies or is killed in a public or private place must immediately remove the carcass and arrange for its disposal at an approved disposal site.

Division 3 - Keeping of large animals

5.7 Definitions

In this Division -

“**cow**” includes an ox, calf or bull;

“**horse**” includes an ass, mule, donkey or pony; and

“**large animal**” includes a sheep, cow, goat, alpaca, horse, deer, camel, llama, emu, ostrich, kangaroo, including miniature species of the same animal, but does not include a pig.

[Clause 5.7 amended by Government Gazette No. 64 of 2011]

5.8 Large animals

- (1) A person must not keep a large animal:
 - (a) on any residential land within the district; or
 - (b) on any other land except where prior approval has been given for the keeping of an animal of that type, and subject to any conditions included in that approval.
- (2) An owner or occupier of premises where prior approval has been given for the keeping of a large animal must not permit a large animal to approach within 10 metres of a habitable room in a dwelling house.
- (3) The owner or occupier of premises must not keep or permit a pig to be kept on the premises.

Division 4 - Keeping of poultry and pigeons and miscellaneous birds

5.9 Definition

In this Division –

“**poultry**” includes a duck and any other domestic fowls.

5.10 Limitation on numbers of poultry and pigeons

- (1) An owner or occupier of land that is zoned residential (except where it has been developed for grouped housing) must not keep -
 - (a) more than 6 poultry; or
 - (b) more than 30 pigeons unless the owner or occupier is a member of a properly constituted pigeon club in which case the maximum number of pigeons may be increased to 75.
- (2) An owner or occupier of any other land (that does not come within subclause (1)) must not, unless authorised to do so under a written law, keep or permit to be kept on that land any poultry or pigeons.

5.11 Conditions on keeping poultry

A person who keeps poultry, or permits poultry to be kept, must ensure that -

- (a) no poultry is able to approach within 10 metres of a habitable room in a dwelling house, a public building or premises where people are employed or where food is stored, prepared, manufactured or sold;
- (b) no poultry is able to approach within 10 metres of a street other than a right of way;
- (c) all poultry is kept in a properly constructed and securely fastened structure or enclosure provided with a floor consisting of concrete, brick paving or any other suitable impervious surface;
- (d) a structure or enclosure in which poultry is kept is situated no closer than 1.0m to any property boundary; and
- (e) each enclosure or cage within which poultry are kept is maintained at all times in a clean condition.

5.12 Pigeons

A person who keeps pigeons, or permits pigeons to be kept, must ensure that -

- (a) no pigeon is able to approach within 10 metres of a habitable room in a dwelling, a public building or premises where people are employed or where food is stored, prepared, manufactured or sold;
- (b) except where registered homing pigeons are freed for exercise, pigeons are to be kept at all times in a properly constructed cage, enclosure or loft;
- (c) no pigeon is able to approach within 10 metres of a street other than a right of way;
- (d) each cage, enclosure or loft in which pigeons are kept is maintained at all times in a clean condition; and
- (e) each cage, enclosure or loft in which a pigeon is kept is situated no closer than 1.0m to any property boundary.

5.13 Removal of non-conforming structure or enclosure

- (1) If a structure or enclosure is used for the keeping of poultry or of pigeons contrary to clause 5.11 or 5.12, an EHO may direct the owner or occupier to remove it.
- (2) An owner or occupier must comply with a direction from the EHO made under this clause.

5.14 Restrictions on pigeon and dove nesting or perching

- (1) An EHO may order an owner or occupier of premises in or on which pigeons or doves are, or are in the habit of, nesting or perching to take adequate steps to prevent them continuing to do so.

(2) An owner or occupier must comply with an order made under this clause.

5.15 Roosters, geese, turkeys and peafowls

An owner or occupier of premises must not keep, or permit to be kept, a rooster, goose, turkey or peafowl on the premises.

5.16 Restrictions on feeding wild birds

A person must not feed a pigeon, dove, seagull, ibis, raven or other wild bird, so as to cause a nuisance or be injurious or dangerous to health.

Part 6 - Pest control

Division 1 - Flies

6.1 Fly breeding matter

An owner or occupier of premises must not place, throw or leave, or permit or cause to be placed, thrown or left in, on or about the premises any matter or thing which is liable to attract or be a breeding place for flies, unless that matter or thing is covered, protected, treated or dealt with in a manner that effectively prevents it from attracting or being a breeding place for flies.

6.2 Measures to be taken

An owner or occupier of premises must ensure that -

- (a) rubbish receptacles are kept clean and tightly sealed at all times except when refuse is being deposited or emptied;
- (b) food scraps and uneaten pet food are wrapped tightly and deposited in a rubbish receptacle without delay;
- (c) lawn clippings used on gardens as mulch are raked out thinly;
- (d) fertilizers are dug well into the soil;
- (e) compost heaps are kept well covered;
- (f) barbecues are kept clean and free from food scraps;
- (g) anything that is buried and may attract or be a breeding place for flies is covered with at least 100 millimetres of soil; and
- (h) excrement from pets is collected and properly disposed of without delay.

6.3 EHO may give notice directing measures to be taken

If, in the opinion of an EHO, flies are prevalent or are breeding on any premises, the EHO may give to the owner or occupier of the premises a notice in writing directing him or her to take, within the time specified in the notice, measures that in the opinion of the EHO, are necessary to -

- (a) control the prevalence of flies;
- (b) effect the eradication of flies; or
- (c) effectively prevent the breeding of flies.

6.4 City may execute work and recover costs

- (1) If -
 - (a) a person is required under this Division, or directed by a notice given under clause 6.3, to execute any work; and
 - (b) that person fails or neglects to comply with the requirement,
 the City may execute the work and may recover from that person the cost of executing the work, in addition to any penalty for which that person may be liable under this local law.
- (2) The costs and expenses incurred by the City in the execution of a power under subclause (1) may be recovered in a court of competent jurisdiction from the person referred to in subclause (1). .

Division 2 - Mosquitoes

6.5 Premises to be kept free of mosquito breeding matter

An owner or occupier of premises must keep the premises free of -

- (a) refuse; and
- (b) water located so as to be,

liable to become the breeding place of mosquitoes.

6.6 Measures to be taken by an owner or occupier

An owner or occupier of premises -

- (a) where there is a fountain, artificial pool, artificial pond or excavation of any kind which contains water suitable for the breeding of mosquitoes, must take adequate and reasonable measures to prevent mosquitoes breeding; and
- (b) where there is a water tank, well, cistern, vat or barrel, must -
 - (i) keep it protected with a mosquito-proof cover; and
 - (ii) screen all openings, other than the delivery exit, with wire mesh having openings no larger than 1.2 millimetres.

6.7 Measures to be taken by occupier

An occupier of premises where water is kept in a horse trough, poultry drinking vessel or other receptacle must -

- (a) frequently change the water; and

- (b) keep the water clean and free from vegetable matter and slime.

6.8 Removal of undergrowth or vegetation

- (1) Where it appears to an EHO that there is, on any premises, undergrowth or vegetation likely to harbour mosquitoes, the EHO may direct, orally or in writing, the owner or occupier of the premises to cut down and remove within a specified time the undergrowth or vegetation.
- (2) An owner or occupier of premises must comply with a direction from, and within the time allowed by, the EHO under this clause.

6.9 Filling in excavations etc.

Unless written permission to the contrary is obtained from the City, a person who cuts turf or removes soil or other material from any land must forthwith ensure that each excavation is filled in with clean sound material and made level with the surrounding surface so as not to retain water.

6.10 Drains, channels and septic tanks

An owner or occupier of land must -

- (a) cause all drains and channels in or on the land to be kept in good order and free from obstruction; and
- (b) where a septic tank is installed on the land -
 - (i) apply an approved larvicide according to the directions on the container, into the septic tank system, whenever directed to do so by an EHO; and
 - (ii) provide, and keep in sound condition at all times, wire mesh having openings no larger than 1.2 millimetres covering any inlet vent to the tank.

6.11 Drainage of land

An owner or occupier of land on which there is water liable to become a breeding place for mosquitoes must, when required by the City, effectively drain the land and, for that purpose, must -

- (a) make or provide drains on the land;
- (b) remove all irregularities in the surface of the land;
- (c) if necessary, adjust the surface of the land or raise the level of the surface in such a manner that -
 - (i) the water on the land may flow into the drains without obstruction; and
 - (ii) no water remains on any portion of the land other than the drains; and
- (d) keep all drains in good order and free from obstruction.

Division 3 - Rodents

6.12 Definition

In this Division -

“rodents” means those animals belonging to the order *Rodentia* and includes rats and mice but does not include animals kept as pets in an enclosure designed for the purpose of keeping as pets animals of that kind.

6.13 Measures to be taken to eradicate rodents

- (1) An owner or occupier of premises must at all times take reasonable and effective measures to eradicate any rodents in or on the premises.
- (2) An owner or occupier of premises, whenever there are indications of the presence of rodents in, on or about the premises, and while such indications continue, must -
 - (a) take effective measures to keep the premises free from rodents including -
 - (i) protecting stored food stuffs;
 - (ii) removing accumulated refuse or a potential rodent food source;
 - (iii) using a rodenticide bait or a properly baited trap if found to be effective; and
 - (iv) minimising rodent access to water on the premises;
 - (b) inspect daily each rodenticide bait or trap used and, whenever a rodent is found, must -
 - (i) if it is not already dead, kill it immediately; and
 - (ii) dispose of the carcass in such a manner as will not create a nuisance; and
 - (c) take whatever measures for the eradication of rodents as an EHO may from time to time direct.

6.14 Waste food etc. to be kept in rodent proof receptacles

A person must not store, or allow to be stored, on any premises, any food, refuse or other waste matter unless it is contained in a rodent proof receptacle or compartment.

6.15 Restrictions on materials affording harbourage for rodents

- (1) An owner or occupier of premises must cause -
 - (a) any part of the premises; or
 - (b) any material, sewer, pipe or other thing in or on the premises,

that might afford access or harbourage to rodents to be altered, repaired, protected, removed or otherwise dealt with so as to prevent it being used as access for, or harbourage of, rodents.

- (2) An EHO may direct, orally or in writing, an owner or occupier of premises to take whatever action that, in the opinion of the EHO, is necessary or desirable to prevent or deter the presence of rodents in or on the premises.
- (3) An owner or occupier must, within the time specified, comply with a direction given by an EHO under this clause.

Division 4 - Cockroaches

6.16 Measures to be taken to eradicate cockroaches

- (1) An owner or occupier of premises must take effective measures to eradicate any cockroaches in or on the premises.
- (2) For example, an owner or occupier of premises, whenever there are any indications of the presence of cockroaches in, on or about the premises, and while such indications continue, must take effective measures to keep the premises free from cockroaches including -
 - (a) washing and storing, immediately after use, cooking and eating utensils;
 - (b) wrapping and depositing in a rubbish receptacle without delay all food scraps, uneaten pet food and garbage;
 - (c) properly treating the premises with an insecticide, taking care not to harm the safety of humans and pets or to contaminate food or cooking or eating utensils; and
 - (d) whenever required by an EHO, treating any area with baits or other methods to eradicate cockroaches.

Division 5 – Arthropod Vectors of Disease

6.17 Definition

In this Division -

“arthropod vectors of disease” includes -

- (a) fleas (*Siphonaptera*);
- (b) bedbugs (*Cimex lectularius*);
- (c) crab lice (*Phthirus pubis*);
- (d) body lice (*Pediculus humanus var. corporis*); or
- (e) head lice (*Pediculus humanus var. capitis*).

6.18 Responsibility of the owner or occupier

The owner or occupier of premises must -

- (a) keep the premises and any person residing in or on the premises free from any arthropod vectors of disease; and
- (b) comply with the direction of an EHO to treat the premises, or anything on the premises, for the purpose of destroying any arthropod vectors of disease.

Part 7 - Infectious diseases

7.1 Purpose of exercise of powers

The powers under this Part are to be exercised for the purpose of preventing or controlling the spread of an infectious disease.

7.2 EHO may visit and inspect

An EHO may visit and inspect any house, its occupants, fixtures and fittings –

- (a) for the purpose of preventing or controlling the spread of an infectious disease; or
- (b) where the EHO has reason to believe that there has been a breach of the Health Act, any regulation made under the Health Act or this local law relating to infectious diseases.

7.3 Requirements on owner or occupier to clean, disinfect and disinfest

- (1) An EHO may, by notice in writing, direct an owner or occupier of premises, within the time and in the manner specified in the notice, to clean, disinfect and disinfest -
 - (a) the premises; or
 - (b) such things in or on the premises as are specified in the notice, or both, to the satisfaction of the EHO.
- (2) An owner or occupier must comply with a notice given under subclause (1).

7.4 EHO may disinfect or disinfest premises

- (1) If an EHO or a Medical Officer is satisfied that any case of infectious disease has occurred on any premises, the EHO or the Medical Officer may direct an employee or other person to disinfect and disinfest the premises or any part of the premises and anything in or on the premises.
- (2) An owner or occupier of premises must permit, and provide access to enable, an employee or other person to carry out the direction given under subclause (1).
- (3) The City may recover, in a court of competent jurisdiction, the cost of carrying out the work under this clause from the owner or occupier of the premises in or on which the work was carried out.

7.5 Insanitary dwelling houses, premises and things

- (1) An owner or occupier of any dwelling house or premises must maintain the dwelling house or premises free from any insanitary condition or thing.
- (2) If an EHO considers that a dwelling house, building or thing is insanitary, he or she may, by notice in writing -
 - (a) direct an owner of the dwelling house, building or thing, within the time and in the manner specified in the notice, to demolish or otherwise destroy the dwelling house, building or thing; or
 - (b) direct an owner or occupier of the dwelling house, building or thing, within the time and in the manner specified in the notice, to amend, clean or secure the dwelling house, building or thing.
- (3) A person to whom a notice has been given under subclause (2) must comply with the terms of the notice.

7.6 Medical Officer may authorise disinfecting

- (1) Where a Medical Officer considers that a person is or may be infected by an infectious disease, the Medical Officer may direct the person to have his or her body, clothing and effects disinfected at a place and in a manner directed by the Medical Officer.
- (2) A person must comply with a direction of the Medical Officer under this clause.

7.7 Persons in contact with an infectious disease sufferer

If a person in a dwelling house is, or is suspected of, suffering from an infectious disease, an occupant of the dwelling house or a person who enters or leaves the dwelling house -

- (a) must obey such instructions or directions as an EHO or the Medical Officer may issue;
- (b) may be removed, at the direction of an EHO or a Medical Officer to isolation in an appropriate place to prevent or minimise the risk of the infection spreading; and
- (c) if so removed, must remain in that place until a Medical Officer otherwise directs.

7.8 Declaration of infected dwelling house or premises

- (1) To prevent or check the spread of an infectious disease, an EHO or a Medical Officer may from time to time declare any dwelling house or premises to be infected.
- (2) A person must not enter or leave any dwelling house or premises declared to be infected without the written consent of a Medical Officer or an EHO.

7.9 Destruction of infected animals

- (1) An EHO, if satisfied that an animal is or may be infected or is liable to be infected or to convey infection may, by notice in writing, direct that the animal be examined by a registered veterinary officer and all steps taken to enable the condition to be controlled or eradicated or the animal destroyed and disposed of -
 - (a) in the manner and within the time specified in the notice; and
 - (b) by the person in whose possession, or on whose premises, the animal is located.
- (2) A person who has in his or her possession or on premises occupied by him or her, an animal that is the subject of a notice under subclause (1) must comply with the terms of the notice.

7.10 Disposal of a body

- (1) An occupier of premises in or on which is located the body of a person who has died of an infectious disease must, subject to subclause (2), cause the body to be buried or disposed of in such manner, within such time and with such precautions as may be directed by the Medical Officer.
- (2) A body must not be removed from premises where death occurred except to a cemetery or morgue.

7.11 City may carry out work and recover costs

- (1) Where -
 - (a) a person is required under this Part or by a notice given under this Part, to carry out any work; and
 - (b) that person fails or neglects to comply with the requirement,that person commits an offence and the City may carry out the work or arrange for the work to be carried out by another.
- (2) The costs and expenses incurred by the City in the execution of a power under this clause may be recovered in a court of competent jurisdiction from the person referred to in subclause (1)(a).
- (3) The City is not to be liable to pay compensation or damages of any kind to the person referred to in subclause (1)(a) in relation to any action taken by the City under this clause, other than compensation or damages for loss or damage suffered because the City acted negligently or in breach of its duty.

Part 8 - Lodging houses

Division 1 - Registration

8.1 Definitions

- (1) In this Part -

“**bunk**” means one of two beds arranged vertically;

“**Certificate of Registration**” means a certificate of registration of a lodging house issued under clause 8.4;

“**dormitory**” means a building or room used for sleeping purposes at a short term hostel or recreational campsite;

“**keeper**” means a person whose name appears on the register of keepers, in respect of a lodging house, as the keeper of that lodging house;

“**lodger**” means a person who obtains, for hire or reward, board or lodging in a lodging house;

“**lodging house**” has the same meaning as “lodging-house” in the Health Act;

“*lodging-house*” means any building or structure, permanent or otherwise, and any part thereof, in which provision is made for lodging or boarding more than 6 persons, exclusive of the family of the keeper thereof, for hire or reward; but the term does not include —

- (a) premises licensed under a publican’s general licence, limited hotel licence, or wayside-house licence, granted under the *Licensing Act 1911*²;
- (b) residential accommodation for students in a non-government school within the meaning of the *School Education Act 1999*; or
- (c) any building comprising residential flats;”

² The *Licensing Act 1911* was repealed by the *Liquor Act 1970*, which was repealed by the *Liquor Control Act 1988*.

[Section 3(1) of the *Health Act 1911*]

“**manager**” means a person appointed by the keeper in accordance with this Division to reside in, and have the care and management of, a lodging house;

“**recreational campsite**” means a lodging house -

- (a) situated on a campsite principally used for -
 - (i) recreational, sporting, religious, ethnic or educational pursuits; or
 - (ii) conferences or conventions; and
- (b) where the period of occupancy of any lodger is not more than 14 consecutive days,

and includes a youth camp, youth education camp, church camp and riding school.

“**register of lodgers**” means the register kept in accordance with section 157 of the Act and this Part;

“resident” means a person, other than a lodger, who resides in a lodging house;

“serviced apartment” means a lodging house in which each sleeping apartment, or group of sleeping apartments in common occupancy, is provided with its own sanitary conveniences and may have its own cooking facilities;

“short term hostel” means a lodging house where the period of occupancy of any lodger is not more than 14 consecutive days and shall include youth hostels and backpacker hostels; and

“vector of disease” means an arthropod or rodent that transmits or may transmit by biological or mechanical means, an infectious agent from a source or reservoir to a person, and includes fleas, bedbugs, crab lice, body lice and head lice.

- (2) Where in this Part an act is required to be done or forbidden to be done in relation to any lodging house, the keeper of the lodging house has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.

8.2 Lodging house not to be kept unless registered

A person must not keep or cause, suffer or permit to be kept a lodging house unless -

- (a) the lodging house is constructed in accordance with the requirements of this Part;
- (b) the lodging house is registered by the City under clause 8.4;
- (c) the name of the person keeping or proposing to keep the lodging house is entered in the register of keepers; and
- (d) either -
 - (i) the keeper; or
 - (ii) a manager who, with the written approval of an EHO, has been appointed by the keeper to have the care and management of the lodging house,

resides or intends to reside continuously in the lodging house whenever there is one or more lodgers in the lodging house.

8.3 Application for registration

An application for registration of a lodging house must be -

- (a) in writing;
- (b) duly completed and signed by the proposed keeper; and
- (c) accompanied by -

- (i) the fee as fixed from time to time by the City under section 344C of the Health Act; and
- (ii) detailed plans and specifications of the lodging house.

8.4 Approval of application

The CEO may approve, with or without conditions, an application under clause 8.3 by issuing to the applicant, in the approved form, a Certificate of Registration.

8.5 Renewal of registration

A person who keeps a lodging house that is registered under this Part must -

- (a) during the month of December in each year apply to the City for the renewal of the registration of the lodging house; and
- (b) pay the fee as fixed from time to time by the City under section 344C of the Act at the time of making each application for renewal.

8.6 Notification on sale or transfer

If the owner of a lodging house sells or transfers or agrees to sell or transfer the lodging house to another person, the owner must, within 14 days of the date of sale, transfer or agreement, give to the City written notice of the full name, address and occupation of the person to whom the lodging house has been, or is to be, sold or transferred.

8.7 Revocation of registration

- (1) Subject to subclause (3), the City may, at any time, revoke the registration of a lodging house for any reason that, in the opinion of the City, justifies the revocation.
- (2) For example, the City may revoke a registration on any one or more of the following grounds -
 - (a) that the lodging house has not, to the satisfaction of City, been kept free from vectors of disease or in a clean, wholesome and sanitary condition;
 - (b) that the keeper has -
 - (i) been convicted of an offence against this local law in respect of the lodging house;
 - (ii) not complied with a requirement of this Part; or
 - (iii) not complied with a condition of registration.
 - (c) that the City, having regard to a police report, is satisfied that the keeper or manager is not a fit and proper person; and
 - (d) that, by reason of alterations or additions or neglect to repair and renovate, the condition of the lodging house is such as to render it, in the opinion of the City, unfit to remain registered.

- (3) Before revoking the registration of a lodging house under this clause, the City must give notice to the keeper requiring him or her, within a time specified in the notice, to show cause why the registration should not be revoked.
- (4) If the City revokes the registration of a lodging house, the City must give the keeper notice of the revocation and the registration is to be revoked as from the date on which the notice is served on the keeper.

Division 2 - Construction and use requirements

8.8 General construction requirements

A lodging house must comply with the general construction requirements of the Building Code.

8.9 Sanitary conveniences

- (1) In this clause –

“communal toilet” means a room which has more than one toilet with each toilet being divided from the other toilets with a cubicle surrounding it, whether or not the walls of that cubicle extend to the floor or the ceiling or both of the room;

“communal bathroom” means a room which has more than one shower or more than one bath or any combination of more than one shower and one bath, whether or not they are divided by cubicles, designed with the intention that the bathroom may be used by more than one person at any particular time;

“individual toilet” means a room that has walls extending from the floor to the ceiling and contains a single toilet; and

“individual bathroom” means a room which has only one shower, or only one bath, or only one shower and one bath, and is designed to be used by only one person at any particular time.

- (2) A keeper must maintain in good working order and condition and in convenient positions on the premises -
 - (a) one or more communal toilets, or one or more individual toilets, or both; and
 - (b) one or more communal bathrooms, or one or more individual bathrooms, or both, each fitted with a hand wash basin and either a shower or a bath,

in accordance with the requirements of the Building Code.

- (3) A bathroom or toilet that is used as a private bathroom or toilet to the exclusion of other lodgers or residents is not to be counted for the purposes of subclause (2).
- (4) Each bath, shower and hand wash basin must be provided with an adequate supply of hot and cold water.

- (5) The walls of each shower and bath must be of an impervious material to a minimum height of 1.8 metres above the floor level.
- (6) Subject to subclause (8), each communal toilet and communal bathroom must –
 - (a) be so situated, separated and screened as to ensure privacy;
 - (b) be apportioned to each sex;
 - (c) have a distinct sign displayed in a prominent position denoting the sex for which the communal toilet or communal bathroom is provided; and
 - (d) be provided with adequate electric lighting.
- (7) Subject to subclause (8), each individual toilet and individual bathroom must –
 - (a) be so situated, separated and screened so as to ensure privacy;
 - (b) be fitted with a mechanism by which the door may be locked from inside the individual toilet or individual bathroom as approved by an EHO; and
 - (c) be provided with adequate electric lighting.
- (8) Subclauses (6)(a)(b) and (c) and (7)(a) and (b) do not apply to a serviced apartment.

8.10 Laundry

- (1) In this clause -
 - “**laundry unit**” means a group of facilities consisting of -
 - (a) a washing machine with a capacity of not less than 4 kilograms of dry clothing;
 - (b) one wash trough of not less than 36 litres capacity, connected to both hot and cold water; and
 - (c) either an electric drying cabinet or not less than 30 metres of clothes line,
 and for which a hot water system is provided that -
 - (d) is capable of delivering 136 litres of water per hour at a temperature of at least 75°C for each washing machine provided with the communal facilities; and
 - (e) has a delivery rate of not less than 18 litres per minute for each washing machine.
- (2) A keeper must -
 - (a) subject to subclause (3) provide on the premises a laundry unit for each 15 lodgers;

- (b) at all times maintain each laundry in a proper sanitary condition and in good repair;
 - (c) provide an adequate supply of hot and cold water to each wash trough, sink and washing machine; and
 - (d) ensure that the floor area of each laundry is surfaced with an impervious material with an even fall to a floor waste.
- (3) An EHO may approve the provision of a reduced number of laundry units if suitable equipment of a commercial type is installed.

8.11 Kitchen

The keeper of a lodging house must provide in that lodging house a kitchen which -

- (a) has adequate -
 - (i) food storage facilities and cupboards to prevent contamination of food, or cooking or eating utensils, by dirt, dust, flies or other vectors of disease of any kind; and
 - (ii) refrigerator space for storage of perishable goods;
- (b) may be required by the local government to comply with any of the requirements of Standard 3.2.3 of the Food Standards Code.

8.12 Cooking facilities

- (1) The keeper of a lodging house where lodgers prepare their own meals must provide a kitchen with electrical, gas or other stoves and ovens approved by an EHO in accordance with the following table –

No. of Lodgers	Ovens	4 Burner Stoves
1 – 15	1	1
16 - 30	1	2
31 – 45	2	3
46 – 60	2	4
Over 60	2	4+1 for each additional 15 lodgers (or part thereof) over 60

- (2) The keeper of a lodging house where meals are provided by the keeper or manager must provide a kitchen with cooking appliances of a number and type approved by an EHO.

8.13 Dining room

The keeper of a lodging house must provide in that lodging house a dining room -

- (a) located in close proximity to, or combined with, the kitchen;
- (b) the floor area of which must be not less than the greater of -
 - (i) 0.5 square metres per person; or
 - (ii) 10 square metres; and
- (c) which must be -
 - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
 - (ii) provided with a suitable floor covering.

8.14 Lounge room

The keeper of a lodging house must provide in that lodging house a lounge room -

- (a) with a floor area of -
 - (i) where the lounge is not combined with the dining room - not less than 0.6 square metres per person; or
 - (ii) where the lounge room is combined with a dining room - not less than 1.2 square metres per person,

but in either case having a minimum of 13 square metres; and
- (b) which must be -
 - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
 - (ii) provided with a suitable floor covering.

8.15 Fire prevention and control

- (1) The keeper of a lodging house must -
 - (a) in each passage in the lodging house provide an emergency light -
 - (i) in the position and pattern approved by an EHO; and
 - (ii) which must be kept separate from the general lighting system and kept illuminated during the hours of darkness;
 - (b) provide an approved fire blanket positioned within 2 metres of the cooking area in each kitchen; and
 - (c) ensure that each exit sign and fire-fighting appliance is clearly visible, accessible and maintained in good working order at all times.
- (2) The keeper of a lodging house must ensure that all buildings comprising the lodging house are fitted with fire protection equipment in accordance with the Building Code.

8.16 Obstruction of passages and stairways

A keeper must not cause, suffer or permit furniture, fittings or other things to be placed either temporarily or permanently in or on -

- (a) a stairway, stair landing, fire-escape, window or common passageway;
or
- (b) part of the lodging house in common use or intended or adapted for common use,

in such a manner as to form an obstruction to the free passage of lodgers, residents or persons in or occupying the lodging house.

8.17 Fitting of locks

A person must not fit, or cause or permit to be fitted, to an exit door a lock or other device which prevents the door being opened from within a lodging house.

8.18 Restriction on use of rooms for sleeping

- (1) Subject to subclause (3) and clause 8.32 and unless otherwise approved by the EHO, a keeper must not use or permit to be used as a sleeping apartment a room in a lodging house -
 - (a) which contains food;
 - (b) which contains or is fitted with a cooking appliance or kitchen sink;
 - (c) which is used as a kitchen, scullery, store room, dining room, general sitting room or lounge room or for the preparation or storage of food;
 - (d) which is not reasonably accessible without passing through a sleeping or other room in the private occupation of another person;
 - (e) which, except in the case of a short term hostel or recreational campsite contains less than 5.5 square metres of clear space for each lodger occupying the room;
 - (f) which is naturally illuminated by windows, which have an area of less than 10% of the floor area of the room;
 - (g) which has an unobstructed ventilating area, which is less than 5% of the floor area of the room;
 - (h) in which the lighting or ventilation referred to in paragraphs (f) and (g) is obstructed or is not in good and efficient order;
 - (i) which is not free from internal dampness; or
 - (j) of which any part of the floor is below the level of the adjoining ground.
- (2) For the purposes of this clause, 2 children under the age of 10 years are to be counted as one lodger.

- (3) Paragraphs (a), (b) and (c) of subclause (1) do not apply to a serviced apartment.

8.19 Sleeping accommodation - short term hostels and recreational campsites

- (1) A keeper of a short term hostel or a recreational campsite must provide clear floor space of not less than -
- (a) 4 square metres per person in each dormitory utilising beds; and
 - (b) 2.5 square metres per person in dormitories utilising bunks.
- (2) For the avoidance of doubt, a double bed provided for the use of a couple is to have the same floor space requirements as 2 single beds.
- (3) The calculation of floor space in subclause (1), is to exclude the area occupied by any large items of furniture, such as wardrobes, but may include the area occupied by beds.
- (4) The minimum height of any ceiling in a short term hostel or recreational campsite is to be 2.4 metres in any dormitory utilising beds and 2.7 metres in any dormitory utilising bunks.
- (5) The keeper of a short term hostel or recreational campsite must provide -
- (a) beds with a minimum size of –
 - (i) in short term hostels – 800 millimetres x 1.9 metres;
 - (ii) in recreational campsites – 750 millimetres x 1.85 metres;and
 - (b) storage space for personal effects, including backpacks, so that cleaning operations are not hindered and access and egress spaces are not obstructed.
- (6) The keeper of a short term hostel or recreational campsite must:
- (a) arrange at all times a distance of 750 millimetres between beds and a distance of 900 millimetres between bunks;
 - (b) ensure that where bed or bunk heads are placed against the wall on either side of a dormitory, there is a passageway of at least 1.35 metres between each row of beds and a passageway of at least 2 metres between each row of bunks;.
 - (c) ensure that the passageway is kept clear of obstruction at all times; and
 - (d) ensure that all doors, windows and ventilators are kept free of obstruction at all times.
- (7) The keeper of a short term hostel or recreational campsite must ensure that -
- (a) materials used in dormitory areas comply with AS 1530.2 - 1993 and AS 1530.3 - 1999 as follows -

- (i) drapes, curtains, blinds and bed covers - a maximum Flammability Index of 6;
 - (ii) upholstery & bedding - a maximum Spread of Flame Index of 6 and a maximum Smoke Developed Index of 5;
 - (iii) floor coverings - a maximum Spread of Flame Index of 7 and a maximum Smoke Developed Index of 5;
- (b) fire retardant coatings used to make a material comply with these indices must be -
- (i) certified by the manufacturer as approved for use with the fabric to achieve the required indices;
 - (ii) certified by the manufacturer to retain its fire retardant effect after a minimum of 5 commercial dry cleaning or laundering operations carried out in accordance with AS 2001.5.4-1987; and
 - (iii) certified by the applicator as having been carried out in accordance with the manufacturer's specification;
- (c) emergency lighting is provided in accordance with the Building Code;
- (d) a lodger or other persons does not smoke in any dormitory, kitchen, dining room or other enclosed public place, within a short term hostel or recreational campsite; and
- (e) all mattresses are fitted with a mattress protector.

8.20 Furnishing etc. of sleeping apartments

- (1) A keeper must -
- (a) furnish each sleeping apartment with a sufficient number of beds and sufficient bedding of good quality;
 - (b) ensure that each bed -
 - (i) has a bed head, mattress and pillow; and
 - (ii) except in the case of short term hostels and recreational campsites, is provided with a pillow case, two sheets, a blanket or rug and, from 1 May to 30 September, not less than one additional blanket or rug;
 - (c) in the case of a short term hostel or recreational campsite, ensure that there is for each bed a pillow case, two sheets and two blankets available for the use of lodgers either free of charge or on payment of a fee;
 - (d) in the case of a short term hostel or recreational campsite, ensure that lodgers use some form of bedding to cover the pillow and mattress;

- (e) except in the case of a short term hostel or recreational campsite, furnish each bedroom so that there are adequate storage facilities for lodgers' belongings within the room; and
 - (f) in the case of short term hostels and recreational campsites ensure that there is a room or rooms provided for the secure storage of lodgers' luggage.
- (2) A keeper must not cause, suffer or permit a bunk to be used in a sleeping apartment other than in a lodging house used exclusively as a short term hostel or recreational campsite.

8.21 Ventilation

- (1) If, in the opinion of an EHO, a kitchen, bathroom, toilet, laundry or habitable room is not adequately or properly ventilated, he or she may direct the keeper to provide a different or additional method of ventilation.
- (2) The keeper must comply with any direction given under subclause (1) within such time as directed.

8.22 Numbers to be placed on doors

- (1) A keeper must place or cause to be placed on the outside of the doors of all rooms available to lodgers in the lodging house, serial numbers so that -
- (a) the number "1" is placed on the outside of the door of the room nearest to the front or main entry door of the lodging house; and
 - (b) the numbers continue in sequence throughout each floor (if there is more than one) of the lodging house.
- (2) The numbers to be placed on the doors under subclause (1) must be -
- (a) not less than 40 millimetres in height;
 - (b) 1.5 metres from the floor; and
 - (c) permanently fixed either by being painted on the doors or shown by other legible means.

Division 3 - Management and care

8.23 Keeper or manager to reside in the lodging house

Whenever there is one or more lodgers in a lodging house, a keeper or manager must -

- (a) reside continuously in the lodging house; and
- (b) not absent himself or herself from the lodging house unless he or she leaves a reputable person in charge.

8.24 Register of lodgers

- (1) A keeper must keep a register of lodgers.
- (2) The register of lodgers must -

- (a) include the details required by the City;
- (b) be kept in the lodging house; and
- (c) be open to inspection at any time on demand by any member of the Police Service or by an EHO.

8.25 Keeper report

A keeper must, whenever required by an EHO, report the name of each lodger who lodged in the lodging house during the preceding day or night.

8.26 Certificate in respect of sleeping accommodation

- (1) An EHO may issue to a keeper a certificate in respect of each room.
- (2) The certificate issued under subclause (1) must –
 - (a) be in the approved form; and
 - (b) specify the maximum number of persons who are permitted to occupy each room as a sleeping apartment at any one time.
- (3) When required by an EHO, a keeper must exhibit the certificate issued under this clause in a conspicuous place in the room to which the certificate refers.
- (4) A person must not cause, suffer or permit a greater number of persons than is specified on a certificate issued under this clause to occupy the room to which it refers.

8.27 Duplicate keys and inspection

Each keeper and manager of a lodging house must -

- (a) retain possession of a duplicate key to the door of each room; and
- (b) when required by an EHO, open the door of any room for the purposes of inspection by the EHO.

8.28 Room occupancy

- (1) A keeper must not -
 - (a) cause, suffer or permit more than the maximum number of persons permitted by the Certificate of Registration of the lodging house to be lodged at any one time in the lodging house;
 - (b) cause, suffer or permit to be placed or kept in any sleeping apartments -
 - (i) a larger number of beds; or
 - (ii) a larger quantity of bedding,
- than is required to accommodate and provide for the maximum number of persons permitted to occupy the sleeping apartment at any one time; and

- (c) use or cause, suffer or permit to be used for sleeping purposes a room that -
 - (i) has not been certified for that purpose; and
 - (ii) an EHO or a Medical Officer has forbidden to be used as a sleeping apartment.
- (2) For the purpose of this clause, 2 children under 10 years of age are to be counted as one lodger.

8.29 Maintenance of a room by a lodger or resident

- (1) A keeper may permit, or contract with, a lodger or resident to service, clean or maintain the room or rooms occupied by the lodger or resident.
- (2) Where permission is given or a contract entered into under subclause (1), the keeper must -
 - (a) inspect each room the subject of the permission or agreement at least once a week; and
 - (b) ensure that each room is being maintained in a clean condition.
- (3) A lodger or resident who contracts with a keeper to service, clean or maintain a room occupied by him or her, must maintain the room in a clean condition.

8.30 Cleaning and maintenance requirements

- (1) A keeper of a lodging house must -
 - (a) maintain in a clean, sound and undamaged condition -
 - (i) the floor, walls, ceilings, woodwork and painted surfaces;
 - (ii) the floor coverings and window treatments; and
 - (iii) the toilet seats;
 - (b) maintain in a clean condition and in good working order -
 - (i) all fixtures and fittings; and
 - (ii) windows, doors and door furniture;
 - (c) ensure that the internal walls of each bathroom and toilet are painted so as to maintain a smooth impervious washable surface;
 - (d) whenever there is one or more lodgers in a lodging house ensure that the laundry floor is cleaned daily;
 - (e) ensure that -
 - (i) all bed linen, towels, and house linen in use are washed at least once a week;

- (ii) within a reasonable time of a bed having been vacated by a lodger or resident, the bed linen is removed and washed;
 - (iii) a person does not occupy a bed that has been used by another person unless the bed has been provided with clean bed linen;
 - (iv) all beds, bedsteads, blankets, rugs, covers, bed linen, towels, house linen and floor coverings are kept clean, in good repair and free from vectors of disease;
 - (v) when any vectors of disease are found in a bed, furniture, floor covering, room or sleeping apartment, immediate effective action is taken to eradicate the vectors of disease; and
 - (vi) a room that is not free from vectors of disease is not used as a sleeping apartment;
- (f) when so directed by the EHO, ensure that -
- (i) a room, together with its contents, and any other part of the lodging house, is cleaned and disinfected; and
 - (ii) a bed or other article of furniture is removed from the lodging house and properly disposed of;
- (g) ensure that the yard is kept clean at all times;
- (h) provide all bedrooms, passages, common areas, toilets, bathrooms and laundries with adequate lighting; and
- (i) comply with any direction, whether orally or in writing, given by an EHO.
- (2) In this clause -
- “bed linen”** includes sheets and pillow cases and, in the case of a short term hostel or recreational campsite, mattress protectors.

8.31 Responsibilities of lodgers and residents

A lodger or resident must not -

- (a) use any room available to lodgers -
 - (i) as a shop, store or factory; or
 - (ii) for manufacturing or trading services;
- (b) keep or store in or on the lodging house any goods or materials which are inflammable or offensive;
- (c) use a bath or hand wash basin other than for ablutionary purposes;
- (d) use a bathroom facility or fitting for laundry purposes;

- (e) use a sink installed in a kitchen or scullery for any purpose other than the washing and cleaning of cooking and eating utensils, other kitchenware and culinary purposes;
- (f) deposit rubbish or waste food other than into a proper rubbish receptacle;
- (g) in a kitchen or other place where food is kept -
 - (i) wash or permit the washing of clothing or bedding; or
 - (ii) keep or permit to be kept any soiled clothing or bedding;
- (h) subject to clause 8.32 -
 - (i) keep, store, prepare or cook food in any sleeping apartment; or
 - (ii) unless sick or invalid and unable to leave a sleeping apartment for that reason, use a sleeping apartment for dining purposes;
- (i) place or keep, in any part of a lodging house, any luggage, clothing, bedding, that is infested with vectors of disease;
- (j) store or keep such a quantity of furniture, material or goods within the lodging house -
 - (i) in any kitchen, living or sleeping apartment so as to prevent the cleaning of the floors, walls, fittings or fixtures; or
 - (ii) in a sleeping apartment so as to decrease the air space to less than the minimum required by this Part;
- (k) obstruct or prevent the keeper or manager from inspecting or examining the room or rooms occupied by the lodger or resident; or
- (l) fix any fastener or change any lock to a door or room without the written approval of the keeper.

8.32 Approval for storage of food

- (1) An EHO may -
 - (a) on written application from a keeper, approve the storage of food within a refrigerator or sealed container in a sleeping apartment; and
 - (b) withdraw the approval if a nuisance or vector of disease infestation is found to exist in the lodging house.
- (2) The keeper of a serviced apartment may permit the storage and consumption of food within that apartment if suitable storage and dining facilities are provided.

Part 9 - Offensive trades

Division 1 - General

9.1 Definitions

In this Part -

“offensive trade” means any one or more of the trades, businesses or occupations usually carried on, in or connected with, the following works or establishments -

- (a) fish processing establishments (not including retail fish shops) in which whole fish are cleaned and prepared;
- (b) shellfish and crustacean processing establishments, not including retail fish shops;
- (c) fish curing premises;
- (d) flock factories;
- (e) laundries, dry cleaning premises and dye works; and
- (f) any offensive trade as defined by section 186 of the Health Act; and

“dry cleaning premises” means premises on which is carried out the process of dry cleaning using only arklone as the dry cleaning fluid, in a machine operating on a full cycle fully enclosed basis.

Note: for the purposes of (f) of the definition of ‘offensive trade’ in clause 9.1 above, other offensive trades, as defined by section 186 of the Health Act 1911, are –

- (a) *abattoirs or slaughter houses (see Schedule 2 of the Health Act 1911);*
- (b) *bone mills or bone manure depots (see Schedule 2 of the Health Act 1911);*
- (c) *cleaning establishments, dye works (see Schedule 2 of the Health Act 1911);*
- (d) *fat rendering establishments (see Schedule 2 of the Health Act 1911);*
- (e) *fellmongeries, tanneries (see Schedule 2 of the Health Act 1911);*
- (f) *fish-curing establishments (see Schedule 2 of the Health Act 1911);*
- (g) *flock factories (see Schedule 2 of the Health Act 1911);*
- (h) *laundries (see Schedule 2 of the Health Act 1911);*
- (i) *manure works (see Schedule 2 of the Health Act 1911);*
- (j) *piggeries (as defined more specifically in Schedule 2 of the Health Act 1911);*
- (k) *places for storing, drying or preserving bones, hides, hoofs or skins (see Schedule 2 of the Health Act 1911);*
- (l) *tripe-boiling establishments (see Schedule 2 of the Health Act 1911);*

- (m) works for boiling down meat, bones, blood or offal (see Schedule 2 of the Health Act 1911);
- (n) laundromats (but with the qualifications set out in the proclamation in the Gazette of 10 March 1967);
- (o) the manufacture of candles from paraffin wax (see the proclamation in the Gazette of 16 February 1968);
- (p) 'poultry farming employing the caged system of poultry housing wherein a series of nesting boxes, cages or similar devices are used to confine laying hens for intensive laying or the rearing and fattening of poultry' (see proclamation in the Gazette of 28 February 1969);
- (q) 'wool scouring ... carried out by the Solvent Extraction Method using hexane and isopropyl alcohol' (see proclamation in Gazette of 13 November 1997); and
- (r) 'rabbit farming under permit issued pursuant to regulation 16 of the Agriculture and Related Resources Protection (Declared Animals) Regulations 1985*, employing the caged system of rabbit housing' (see proclamation in Gazette of 25 August 1989).

* The Agriculture and Related Resources Protection (Declared Animals) Regulations 1985 were repealed by the Biosecurity and Agriculture Management Regulations 2013.

[Section 3(1) of the Health Act 1911]

Division 2 – Consent and registration

9.2 Definitions

In this Division –

“Certificate of Registration” means the certificate of registration of premises for offensive trade, issued under clause 9.7; and

“occupier” in relation to premises includes the person registered as the occupier of the premises in the Certificate of Registration.

9.3 Consent to establish an offensive trade

- (1) A person seeking the consent of the City under section 187 of the Health Act to establish an offensive trade must -
 - (a) advertise notice of his or her intention to apply for consent in accordance with clause 9.4;
 - (b) give the CEO copies of the notice advertised under clause 9.3(1)(a), and the details of its advertising under clause 9.4(2); and
 - (c) lodge with the CEO a written application.
- (2) A person who makes a false statement in an application under this clause is guilty of an offence.

9.4 Notice of intention to apply

- (1) A notice required under subclause 9.3(1)(a) must -

- (a) contain the name, address and telephone contact details of the person who intends to make the application;
 - (b) contain a description of the nature of the offensive trade; and
 - (c) contain details of the premises in or on which it is proposed to carry on the proposed trade.
- (2) Copies of the notice must be –
- (a) given to each adjacent property owner and tenant, displayed on the premises in or on which it is proposed to carry out the proposed trade and advertised in a newspaper circulating in the district; or
 - (b) otherwise advertised as required by the CEO.

9.5 Decision on application for consent

- (1) The City may –
- (a) approve an application for consent unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for consent.
- (2) If the City approves an application for consent, it is to give the applicant written notice of its consent.
- (3) If the City refuses to approve an application for consent, it is to give the applicant written notice of that refusal.
- (4) The City may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the owner or occupier of the premises on which the offensive trade is being, or is proposed to be, carried on.

9.6 Registration of premises

An application for the registration, or for the renewal of the registration, of premises under section 191 of the Health Act must be -

- (a) in writing;
- (b) accompanied by the fee prescribed in the *Health (Offensive Trades Fees) Regulations 1976*; and
- (c) lodged with the CEO.

9.7 Decision on application for registration

- (1) The City may –
- (a) approve an application for the registration, or for the renewal of the registration, of premises for the carrying on of an offensive trade unconditionally or subject to any conditions; or

- (b) refuse to approve an application for the registration of premises for the carrying on of an offensive trade.
- (2) If the City approves an application for the registration, or for the renewal of the registration, of premises for the carrying on of an offensive trade, it is to issue to the applicant a Certificate of Registration which must –
 - (a) be in the approved form; and
 - (b) include the conditions (if any) on which the application is approved.
- (3) If the City refuses to approve an application for the registration, or for the renewal of the registration, of premises for the carrying on of an offensive trade, it is to give written notice of that refusal to the applicant.
- (4) The City may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the owner or occupier of the premises.

9.8 Change of occupier

If there is a change of occupier of the premises registered under this Division, the new occupier must forthwith notify the CEO in writing of the change.

9.9 Alterations to premises

A person must not, without the written permission of the City, make or permit any change or alteration to the premises that are registered under this Division.

Division 3 - General duties of an occupier

9.10 Definitions

In this Division -

“**occupier**” means the occupier, or where there is more than one occupier, each of the occupiers of the premises in or on which an offensive trade is carried on; and

“**premises**” means the premises in or on which an offensive trade is carried on.

9.11 Cleanliness

The occupier must -

- (a) keep or cause to be kept in a clean and sanitary condition and in a state of good repair the floors, walls and ceilings and all other portions of the premises;
- (b) keep or cause to be kept in a clean and sanitary condition and in a state of good repair all fittings, fixtures, appliances, machinery, implements, shelves, counters, tables, benches, bins, cabinets, sinks, drain boards, drains, grease traps, tubs, vessels and other things used on or in connection with the premises;
- (c) keep the premises free from any unwholesome or offensive odour arising from the premises;

- (d) maintain in a clean and tidy condition all yards, footpaths, passage ways, paved areas, stores or outbuildings used in connection with the premises; and
- (e) clean daily and at all times keep and maintain all sanitary conveniences and all sanitary fittings and grease traps on the premises in a clean and sanitary condition.

9.12 Rats and other vectors of disease

The occupier must -

- (a) take all reasonably practicable measures to ensure that the premises are kept free from rodents, cockroaches, flies, and other vectors of disease; and
- (b) provide in and on the premises all effective means and methods for the eradication and prevention of rodents, cockroaches, flies, and other vectors of disease.

9.13 Sanitary conveniences and hand wash basins

The occupier must provide on the premises in an approved position sufficient sanitary conveniences and hand wash basins, each with an adequate supply of hot and cold water for use by employees and by all other persons lawfully on the premises.

9.14 Painting of walls etc.

The occupier must cause the internal surface of every wall, the underside of every ceiling or roof and all fittings as may be directed in and on the premises to be cleaned and painted when directed by an EHO.

9.15 Effluvia, vapours or gases

The occupier must provide, use and maintain in a state of good repair and working order, appliances capable of effectively destroying or of rendering harmless all offensive effluvia, vapours or gases arising in any process of his or her business or from any material, residue or other substance which may be kept or stored on the premises.

9.16 Offensive material

The occupier must -

- (a) provide on the premises impervious receptacles of sufficient capacity to receive all offensive material and trade refuse produced upon the premises in any one day;
- (b) keep air-tight covers on the receptacles, except when it is necessary to place something in or remove something from them;
- (c) cause all offensive material and trade refuse to be placed immediately in the receptacles;
- (d) cause the contents of the receptacles to be removed from the premises at least once every working day and at more frequent intervals as may be directed by the City or whenever so directed by an EHO; and

- (e) cause all receptacles after being emptied to be cleaned immediately with an efficient and approved disinfectant.

9.17 Storage of materials

The occupier must cause all material on the premises to be stored so as not to be offensive or injurious to health whether by smell or otherwise and so as to prevent the creation of a nuisance.

9.18 Specified offensive trades

- (1) In this clause, “**specified offensive trade**” means one or more of the offensive trades carried on, in or connected with the following works or premises -
 - (a) fat rendering premises;
 - (b) fish processing, shellfish and crustacean processing premises (not including retail fish shops);
 - (c) fish curing premises (not including retail fish shops); and
 - (d) laundries, dry cleaning premises and dye works.
- (2) Where premises are used for or in relation to a specified offensive trade, the occupier must -
 - (a) cause the floor of the premises to -
 - (i) be properly drained and paved with impervious materials;
 - (ii) have a smooth surface; and
 - (iii) have a fall to a bucket trap or spoon drain in such a way that all liquids falling on the floor are conducted by the trap or drain to a drain inlet situated inside the building where the floor is situated; and
 - (b) cause the angles formed by the walls with any other wall, and by the wall with the floor, to be coved to a radius of not less than 25 millimetres; and
 - (c) cause all liquid refuse to be -
 - (i) cooled to a temperature not exceeding 26 degrees Celsius and in accordance with the *Metropolitan Water Supply, Sewerage and Drainage By-laws 1981* before being discharged into any drain outlet from any part of the premises; and
 - (ii) directed through such screening or purifying treatment as an EHO may from time to time direct.

9.19 Directions by an EHO

- (1) An EHO may give to the occupier directions to prevent or diminish the offensiveness of a specified offensive trade or to safeguard the public health.

- (2) The occupier must comply with a direction given under this clause.

9.20 Other duties of occupier

In addition to the requirements of this Division, the occupier must comply with all other requirements of this Part that apply to the particular specified offensive trade carried on by him or her.

Division 4 - Fat rendering establishments

9.21 Definitions

In this Division -

“**fat rendering establishment**” means premises where edible fats including suet, dripping or premier jus are rendered down by any heat processing method; and

“**occupier**” means the occupier of any premises on which the trade of fat rendering is carried on.

9.22 Exhaust ventilation

The occupier must provide and maintain -

- (a) a hood which must -
 - (i) be of an approved design and construction;
 - (ii) be situated so as to arrest all effluvia, odours and smoke from the process of fat rendering; and
 - (iii) must extend a minimum of 150 millimetres beyond the length of each appliance; and
- (b) an exhaust ventilation system -
 - (i) the point of discharge of which must be at least 1 metre above the ridge of a pitched roof or 3 metres above a flat roof and must not be located within 6 metres of an adjoining property or any fresh air intake; and
 - (ii) which must discharge in such manner and in such a position that no nuisance is created.

9.23 Covering of apparatus

External parts of the fat rendering apparatus must be constructed or covered with a non-corrosive impervious material.

9.24 Rendering of walls

The occupier must cause each wall within a radius of 3 metres of the rendering apparatus or machinery to be rendered with a cement plaster with a steel float finish or other approved finish to a height of 2 metres, devoid of holes, cracks, crevices.

Division 5 - Fish premises

9.25 Definitions

In this Division –

“appliance” includes a utensil, an instrument, a cover, a container or apparatus;

“fish” means fresh fish, frozen fish, chilled fish and cooked fish, whether cleaned, uncleaned or part cleaned and includes crustaceans and molluscs, but does not include –

- (a) fish which has been cured, preserved, hermetically canned or treated to prevent putrefaction; or
- (b) cleaned fish supplied in cartons or packets by a packer and sold in such cartons or packets if they are at all times kept in a deep freeze refrigeration unit at a temperature not exceeding minus 15 degrees Celsius;

“fish processing premises” means a place where, for the purpose of trade, fish is cleaned, part cleaned, scaled or cut up;

“fish curing premises” means a place where, for the purpose of sale, fish may be part cleaned, scaled or cut up for preservation by salting, drying, smoking, or other means; and

“occupier” means the occupier of fish processing premises or fish curing premises.

9.26 Fish preparation room

- (1) The fish preparation room of a fish processing premises or fish curing premises must also have a self-closing door.
- (2) The occupier must ensure that all fish are prepared in the fish preparation room and that room is to be used solely for that purpose.

9.27 Disposal of waste

The occupier must cause all offal and wastes, all rejected and unsaleable fish and any rubbish or refuse which is likely to be offensive or a nuisance to be -

- (a) placed in the receptacles referred to in clause 9.16 and disposed of in accordance with that clause; or
- (b) kept in a frozen state in an approved enclosure before its removal from the premises.

9.28 Fish containers

The occupier must not allow any box, basket or other container used for the transport of fish to -

- (a) remain on the premises longer than is necessary for it to be emptied; or
- (b) be kept so as to cause a nuisance or to attract flies.

Division 6 - Flock factories

9.29 Definitions

In this Division -

“flock factory” includes any premises or place where flock is produced wholly or partly by tearing up or teasing, wadding, kapok, rags, cotton, linters, fibre, or other material used or likely to be used for the filling of mattresses, pillows, bedding, upholstery, cushions or substances used in packaging material or the manufacture of underfelt; and

“occupier” means the occupier of a flock factory.

9.30 New and used material

- (1) Subject to subclause (2), the occupier must not use, for the manufacture of flock, any material other than new material.
- (2) Material other than new material may be used for the manufacture of flock if, before being used, every part of that material is subjected to moist heat maintained at a temperature of 100 degrees Celsius for at least 20 minutes.

9.31 Collection and removal of dust

The occupier must provide effective means to prevent the escape into the open air of all dust or other material from the premises.

9.32 Unclean rags

A person must not -

- (a) collect, deliver, offer for sale or sell for the manufacture of flock;
- (b) receive, store or deliver for the manufacture of flock; or
- (c) make flock from,

rags which are unclean or which have been taken from any refuse or rubbish or from any receptacle used for the storage or collection of refuse or rubbish.

9.33 Bedding and upholstery

A person must not, for the purpose of sale or in the course of any business, remake, renovate, tease, retease, fill, refill or repair any -

- (a) used bedding; or
- (b) upholstery,

which is unclean, offensive, or infested with vectors of disease, unless the -

- (c) material of which the bedding is made; or
- (d) filling material of which the upholstery is made,

has been boiled for 30 minutes or otherwise effectively disinfected and cleaned.

Division 7 - Laundries, dry cleaning establishments and dye works

9.34 Definitions

In this Division -

“dry cleaning premises” -

- (a) means premises where clothes or other articles are cleaned by use of solvents without using water; and
- (b) does not include premises in which perchlorethylene or arklone is used as dry cleaning fluid in a machine operating on a full cycle and fully enclosed basis;

“dye works” means a place where articles are commercially dyed but does not include dye works in which provision is made for the discharge of all liquid waste from that place into a public sewer;

“exempt laundromat” means premises in which –

- (a) laundering is carried out by members of the public using, on payment of a fee, machines or equipment provided by the owners or occupiers of those premises;
- (b) laundering is not carried out by those owners or occupiers for or on behalf of other persons; and
- (c) provision is made for the discharge of all liquid waste from those premises into a public sewer; and

“laundry” means any place where articles are laundered by commercial grade machinery but does not include an exempt laundromat.

9.35 Receiving depot

An owner or occupier of premises must not use or permit the premises to be used as a receiving depot for a laundry, dry cleaning premises or dye works except with the written permission of the City which may at any time by written notice withdraw the permission.

9.36 Reception room

- (1) The occupier of a laundry, dry cleaning premises or dye works must -
 - (a) provide a reception room in which all articles brought to the premises for treatment must be received and must not receive or permit to be received any such articles except in that room; and
 - (b) cause such articles as may be directed by an EHO to be thoroughly disinfected to the satisfaction of the EHO.

- (2) A person must not bring or permit food to be brought into the reception room referred to in this clause.

9.37 Walls and floors

The occupier of a laundry, dry cleaning premises or dye works must cause -

- (a) the internal surfaces of all walls to be rendered with a cement plaster with a steel float finish or other approved material to a height of 2 metres and to be devoid of holes and crevices;
- (b) the floor to be impervious, constructed of concrete and finished to a smooth surface; and
- (c) every floor and wall of any building on the premises to be kept at all times in good order and repair, so as to prevent the absorption of any liquid which may be splashed or spilled or may fall or be deposited on it.

9.38 Laundry floor

The occupier of a laundry must provide in front of each washing machine a non-corrosive grating, with a width of at least 910 millimetres, so constructed as to prevent any person from standing in water on the floor.

9.39 Escape of dust

The occupier of a dry cleaning premises must provide effective means to prevent the escape into the open air of all dust or other material from the premises.

9.40 Precautions against combustion

The occupier of a dry cleaning premises where volatile liquids are used must take all proper precautions against combustion and must comply with all directions given by an EHO for that purpose.

9.41 Trolleys

The occupier of a dry cleaning premises must -

- (a) provide trolleys for the use of transporting dirty and clean linen; and
- (b) ensure that each trolley is -
 - (i) clearly designated to indicate the use for which it is intended;
 - (ii) lined internally with a smooth impervious non-absorbent material that is easily cleaned; and
 - (iii) thoroughly cleaned and disinfected on a regular basis.

9.42 Sleeping on premises

A person must not use or permit any room in a laundry, dry cleaning premises or dye works to be used for sleeping purposes.

Part 10 - Enforcement

10.1 Offences

A 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 a person is prohibited from doing, commits an offence.

10.2 Penalties

A person who commits an offence under clause 10.1 is liable -

- (a) to a penalty which is not more than \$2,500 and not less than -
 - (i) in the case of a first such offence, \$250;
 - (ii) in the case of a second such offence, \$500; and
 - (iii) in the case of a third or subsequent such offence, \$1,250; and
- (b) if the offence is a continuing offence, to a daily penalty which is not more than \$250 and not less than \$125.

10.3 Other enforcement actions

- (1) In addition to a penalty imposed under clause 10.2, any expense incurred by the City in consequence of a breach or non-observance of this local law, in the execution of work directed to be executed by any person and not executed by him or her, must be paid by the person committing the breach for failing to execute the work.
- (2) On a breach, or successive breaches, by a licensee or a person registered under this local law, the City may suspend or cancel the licence or registration as the case may be.

Note: The Health Act 1911 gives local governments, EHOs and other employees a wide range of enforcement measures. There are specific enforcement measures, such as those applying to nuisances (see, for example, section 184). There are also general enforcement measures such as –

- (a) *powers of entry (section 349);*
- (b) *power to take possession of a leased land or premises on which expenses are due (section 353);*
- (c) *service of notices, including notices addressed to the ‘owner’ or ‘occupier’ of the relevant premises (section 354); and*
- (d) *provisions enabling money owing to the local government to be a charge against land (section 371).*

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

.....
Mayor

.....
Chief Executive Officer

Dated: 27 January 2010

Consented to by
Executive Director
Public Health

Dated: 3 February 2010