

City of Stirling

**LOCAL GOVERNMENT ACT 1995
CITY OF STIRLING
BEE KEEPING LOCAL LAW 2008**

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Local Government Act 1995

City of Stirling

Bee Keeping Local Law 2008

Under the powers conferred on it by the *Local Government Act 1995* and under all other relevant powers, the Council of the City of Stirling resolved on 4 November 2008 to make this local law.

Part 1 - Preliminary

1.1 Citation

This local law may be cited as the *City of Stirling Bee Keeping Local Law 2008*.

1.2 Commencement

This local law commences on the 14th day after the day on which it is published in the *Government Gazette*.

1.3 Application

This local law applies throughout the District.

1.4 Repeal

The City of Stirling Bee Keeping Local Law 2001 as published in the *Government Gazette* on 4 December 2001 is repealed.

1.5 Definitions

In this local law -

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

“**bee**” means an insect belonging to the super family Apoidea (Order: Hymenoptera), commonly known as a bee;

“**bee hive**” means a moveable or fixed structure, container or object, either standing alone or in a group of 2 or more, which contains a bees nest and in which bees are kept;

“**beekeeper**” has the meaning given to it by the *Biosecurity and Agriculture Management Regulations 2013*;

“*beekeeper*” means –

- (a) a person who owns, or has the charge, care or possession of, bees or any hive that contains, or has contained, bees; and
- (b) where a person referred to in paragraph (a) is a body corporate, each of the directors of the body corporate.”

[Regulation 3 of the *Biosecurity and Agriculture Management Regulations 2013*]

“**City**” means the City of Stirling;

“**Council**” means the council of the City;

“**District**” means the district of the City;

“**land**” means land within the District;

“**occupier**” has the meaning given to it in the Act;

“*occupier* where used in relation to land means the person by whom or on whose behalf the land is actually occupied or, if there is no occupier, the person entitled to possession of the land, and includes a person in unauthorised occupation of Crown land and where under a licence or concession there is a right to take profit of Crown land specified in the licence or concession, means the person having that right;”

[Section 1.4 of the *Local Government Act 1995*]

“**owner**” has the meaning given to it in the Act;

“*owner*, where used in relation to land —

(a) means a person who is in possession as —

- (i) the holder of an estate of freehold in possession in the land, including an estate or interest under a contract or an arrangement with the Crown or a person, by virtue of which contract or arrangement the land is held or occupied with a right to acquire by purchase or otherwise the fee simple; or
- (ii) a Crown lessee or a lessee or tenant under a lease or tenancy agreement of the land which in the hands of the lessor is not rateable land under this Act, but which in the hands of the lessee or tenant is by reason of the lease or tenancy rateable land under this or another Act for the purposes of this Act; or
- (iii) a mortgagee of the land; or
- (iv) a trustee, executor, administrator, attorney, or agent of a holder, lessee, tenant, or mortgagee, mentioned in this paragraph;

or

- (b) where there is not a person in possession, means the person who is entitled to possession of the land in any of the capacities mentioned in paragraph (a), except that of mortgagee; or
- (c) where, under a licence or concession there is a right to take profit of Crown land specified in the licence or concession, means the person having that right; or
- (d) where a person is lawfully entitled to occupy land which is vested in the Crown, and which has no other owner according to paragraph (a), (b), or (c), means the person so entitled; or
- (e) means a person who —

- (i) under the *Mining Act 1978*, holds in respect of the land a mining tenement within the meaning given to that expression by that Act; or
- (ii) in accordance with the *Mining Act 1978* holds, occupies, uses, or enjoys in respect of the land a mining tenement within the meaning given to that expression by the *Mining Act 1904*³; or
- (iii) under the *Petroleum and Geothermal Energy Resources Act 1967* holds in respect of the land a permit, drilling reservation, lease or licence within the meaning given to each of those expressions by that Act;

or

- (f) where a person is in the unauthorised occupation of Crown land, means the person so in

“**permit**” means a permit issued under this local law and includes the conditions (if any) to which that permit is subject;

“**permit holder**” means a person who holds a valid permit; and

“**registered beekeeper**” means a person who is registered as a beekeeper under regulation 13(7) of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*.

[Clause 1.5 amended by Government Gazette No. 102 of 2016]

Part 2 - Permit to keep bee hives

2.1 Limit on bee hives

A person who is a registered beekeeper must not keep or permit to be kept on any land 3 or more bee hives -

- (a) without obtaining a permit from the City; and
- (b) except in accordance with a valid permit issued in relation to that land.

[Clause 2.1 amended by Government Gazette No. 102 of 2016]

2.2 Application for a permit

- (1) A registered beekeeper who is an owner or occupier of land may apply to the City for a permit to keep 3 or more bee hives on the land.
- (2) An application for a permit must –
 - (a) be in the form determined by the City;
 - (b) include –
 - (i) a written consent signed by the owner of the land on which the bee hives are to be kept – unless the applicant is the owner of that land;
 - (ii) a certified copy of the details recorded in, or an extract from, the register kept under regulation 16 of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013* relating to the applicant’s registration as a registered beekeeper; and
 - (iii) any further information that may be required by the City; and
 - (c) pay any application fee imposed by the Council under sections 6.16 – 6.19 of the Act.

[Clause 2.2 amended by Government Gazette No. 102 of 2016]

2.3 Determining an application

- (1) The City may refuse to consider an application that does not comply with clause 2.2(2).
- (2) The City may -
 - (a) approve an application, subject to any conditions that it considers to be appropriate; or
 - (b) refuse an application.
- (3) If the City approves an application, it is to issue to the applicant a permit in the form determined by the City.
- (4) The City may vary a condition to which a permit is subject by giving written notice to the permit holder and the varied condition takes effect 7 days after that notice is given.
- (5) A permit holder must comply with each condition to which the permit is subject including any varied condition under subclause (4).
- (6) A permit is valid from the date of issue until it is cancelled under this local law.
- (7) A permit is personal to the permit holder and applies only to the land described in the permit.

[Clause 2.3 amended by Government Gazette No. 102 of 2016]

2.4 Cancellation of a permit

The City must cancel a permit if -

- (a) the permit holder requests the City to do so;
- (b) the permit holder ceases to be a registered beekeeper;
- (c) 12 continuous months elapse during which the permit holder has not kept any bees on the land to which the permit applies; or
- (d) the permit holder fails to comply with a notice under clause 3.1 within the time specified in the notice or commits any other offence under this local law.

[Clause 2.4 amended by Government Gazette No. 102 of 2016]

2.5 General conditions for keeping bee hives

A person must not keep a bee hive, or permit a bee hive to be kept on any land, unless -

- (a) the bee hive is at least 10 metres from any footpath, street or public place and at least 5 metres from any other boundary of the land; and
- (b) the bee hive is screened or positioned in such a manner as to ensure, as far as practicable, that the bees do not create a nuisance or threat to people in the locality or the public in general.

2.6 Objections and appeals

Division 1 of Part 9 of the Act applies to a decision under this local law to -

- (a) refuse an application for a permit;
- (b) impose or vary a condition on a permit;
- (c) cancel a permit; or
- (d) give a person a notice under clause 3.1.

Note: Division 1 of Part 9 of the Act gives an affected person a right to lodge an objection to, or apply for a review of, a decision. Regulation 33 of the Local Government (Functions and General) Regulations 1996 would also apply to a decision of that type.

Part 3 - Enforcement

3.1 Notice to remove

- (1) If, in the opinion of the City, bees on any land (whether or not the subject of a permit) are likely to endanger the safety of any person or create a serious public nuisance, the City may give to the owner or occupier of that land a written notice requiring the owner or occupier (as the case may be) to remove the bees before the date specified in the notice.
- (2) If, in the opinion of the City, a person has breached a provision of this local law, the City may give to that person a written notice requiring him or her to remedy that breach before the date specified in the notice.

The provisions of clause 11 of Schedule 3.1 and sections 3.25(3)-(6) and 3.26 of the *Local Government Act 1995* apply to a notice given under clause 3.1(1). Clause 11 of Schedule 3.1 enables the City, as one of the things a notice under section 3.25 may require to be done, to 'Remove bees that are likely to endanger the safety of any person or create a serious public nuisance'. Sections 3.25(3)-(6) and 3.26 state -

“3.25 Notices requiring certain things to be done by owner or occupier of land

...

- (3) If the notice is given to an occupier who is not the owner of the land, the owner is to be informed in writing that the notice was given.
- (4) A person who is given a notice under subsection (1) is not prevented from complying with it because of the terms on which the land is held.
- (5) A person who is given a notice under subsection (1) may apply to the State Administrative Tribunal for a review of the decision to give the notice.
- (6) A person who fails to comply with a notice under subsection (1) commits an offence.”

“3.26. Additional powers when notices given

- (1) This section applies when a notice is given under section 3.25(1).
- (2) If the person who is given the notice (“notice recipient”) fails to comply with it, the local government may do anything that it considers necessary to achieve, so far as is practicable, the

purpose for which the notice was given.

- (3) The local government may recover the cost of anything it does under subsection (2) as a debt due from the person who failed to comply with the notice.
- (4) If a notice recipient —
 - (a) incurs expense in complying with any requirement of the notice; or
 - (b) fails to comply with such a requirement and, as a consequence, is fined or has to pay to a local government the cost it incurs in doing anything under subsection (2),
the notice recipient may apply to a court for an order under subsection (6).
- (5) In subsection (4) —
court means a court that would have jurisdiction to hear an action to recover a debt of the amount of the expense, fine or cost sought to be recovered by the notice recipient.
- (6) On an application under subsection (4) the court may order —
 - (a) if the notice recipient is the owner, the occupier; or
 - (b) if the notice recipient is the occupier, the owner,to pay to the notice recipient so much of that expense, fine or cost as the court considers fair and reasonable in the circumstances.
- (7) In determining what is fair and reasonable the court is to have regard to —
 - (a) the type of land involved; and
 - (b) the terms on which the occupier is occupying the land; and
 - (c) any other matter the court considers to be relevant.”

3.2 Offences

- (1) A person who fails to comply with a notice under clause 3.1 or contravenes any provision of this local law commits an offence.
- (2) A person who commits an offence under this local law is to be liable, on conviction, to a penalty not exceeding \$5,000 and, if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

3.3 Modified penalties

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount appearing in the final column of Schedule 1 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

Schedule 1 - Offences and modified penalties

| CLAUSE | DESCRIPTION | MODIFIED PENALTY \$ |
|---------------|--|-------------------------------|
| 2.1 | Keeping of 3 or more bee hives by a registered beekeeper without a permit | 200 |
| 2.3(5) | Failure to comply with a condition of a permit | 200 |
| 2.5(a) | Failure to ensure that a bee hive is at least 10 metres from any footpath, street or public place and at least 5 metres from any other boundary of the land. | 200 |
| 2.5(b) | Failure to ensure that the bee hive is screened or positioned in such a manner as to ensure, as far as practicable, that the bees do not create a nuisance or threat to people in the locality or the public in general. | 200 |
| 3.1 | Failure to comply with a notice | 200 |

[Schedule 1 amended by Government Gazette No. 102 of 2016]

Dated 17 November 2008.

The Common Seal of the City of Stirling was affixed in the presence of -

MAYOR

CEO