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LOCAL GOVERNMENT ACT 1995

CITY OF ALBANY

**LOCAL LAW RELATING TO
THE FORMER PERTH**

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Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Albany resolved on 16th October 2001 to make the following local law.

PART 1

PRELIMINARY

1.1 Governor's Consent

In accordance with section 3.6 of the *Local Government Act 1995* the Governor of Western Australia granted his consent to these Local Laws.

1.2 Citation and Application

This Local Law may be cited as the *City of Albany Local Law relating to the former Perth* and shall apply within the ship zone.

1.3 Commencement

This Local Law will come into operation on the fourteenth day after the day on which it is published in the *Government Gazette*.

1.4 Interpretation

In this Local Law, unless the context requires otherwise—

‘**Act**’ means the *Local Government Act 1995* (WA), as amended;

‘**animal**’ means any living thing that is not a human being or plant and includes—

- (a) any class of animal or individual member of a class of animals;
- (b) the eggs or larvae of an animal;
- (c) the carcass, skin, plumage, scales or fur of an animal; or
- (d) any part of the animal; and
- (e) for the sake of clarity, coral;

‘**applicant**’ means a person who applies for a permit;

‘**authorised mooring installer**’ means the local government or an agent or servant of the local government on behalf of the local government, or a person engaged by the local government to install a mooring in the ship zone;

‘**authorised person**’ means any person authorised by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this Local Law;

‘**authorised prescription**’ means a document written, issued or authorised by a medical practitioner or dentist in the lawful practice of their profession, for the use, sale or supply of a prohibited drug;

‘**CEO**’ means the Chief Executive Officer of the local government;

‘**commercial mooring**’ means a mooring located within the ship zone that is designated under clause 5.1(2) to be a commercial mooring;

‘**commercial mooring permit**’ means a permit issued under Part 5 of this Local Law permitting a person who has a valid commercial permit to moor or fasten the commercial vessel the subject of the permit to a commercial mooring;

‘**commercial mooring permit holder**’ means a holder of a permit validly issued under clause 5.7 of this Local Law;

‘**commercial permit**’ means a permit issued under Part 3 of this Local Law permitting a person to operate a commercial vessel to and from, and within, the ship zone and for passengers of that vessel to dive in the ship zone in accordance with these Local Laws;

‘**commercial vessel**’ means a vessel which is not used solely for pleasure or recreation and the use of which is made, allowed or authorised in the course of any business or in connection with any commercial transaction and, includes any Government vessel other than one that belongs to an arm of the Defence Forces, but does not include a hire vessel;

‘**Council**’ means the council of the local government;

‘**district**’ means the district of the local government;

- 'exclusive use commercial mooring permit'** means a permit issued under clause 5.9(1) of this Local Law providing a commercial mooring permit holder with the exclusive use of a particular commercial mooring in the ship zone;
- 'fish'** means—
- (a) searching for animals;
 - (b) attempting to take animals;
 - (c) taking animals; or
 - (d) engaging in any other activity that can reasonably be expected to result in the taking of animals;
- 'former Perth'** means a decommissioned naval ship which is now the property of the local government and which has been sunk in King George Sound, Albany to form an artificial reef;
- 'Government vessel'** has the meaning given to it by section 3 of the *Western Australian Marine Act 1982* (WA);
- 'hire vessel'** means a vessel held predominantly for hire to the public for recreational or sports activities (whether or not for payment or reward) and does not include a pleasure vessel or commercial vessel;
- 'hire vessel permit'** means a permit issued under Part 3 of this Local Law permitting an owner of the vessel to hire the vessel to members of the public (whether or not for payment or reward) to enter the ship zone and dive in the ship zone in accordance with these Local Laws;
- 'International Code Flag A'** means the flag illustrated in Schedule 2 to this Local Law being a swallowed tailed flag having 2 vertical halves, the inner half being white and the outer half blue, indicating 'diver below';
- 'liquor'** has the meaning given to it by section 3 of the *Liquor Licensing Act 1988* (WA);
- 'local government'** means the City of Albany;
- 'local government property'** means any land or interest in land or chattel, except a thoroughfare—
- (a) which belongs to the local government;
 - (b) of which the local government is the management body under the *Land Administration Act 1997* (WA); or
 - (c) which is an 'otherwise unvested facility' within section 3.53 of the Act;
- 'mooring'** means any gear (including an anchor or stake) set out in a permanent manner to which a vessel or other floating structure may be secured by a chain, cable, wire or rope;
- 'permit'** means a permit issued under this Local Law;
- 'permit holder'** means a person who holds a valid permit;
- 'person'** or any word or expression descriptive of a person includes an individual, a public body, company or association or body of persons corporate or incorporate, but does not include the local government;
- 'plant'** means any plant, including any wildflower, palm, shrub, tree, fern, creeper, vine or algae in the terrestrial or marine environment;
- 'pleasure vessel'** means a vessel held wholly for the purpose of recreational or sporting activities and not for hire or reward, and does not include a vessel for which a fee is charged to transport persons to or from the ship zone or to dive in the ship zone;
- 'pleasure vessel permit'** means a permit issued under Part 3 of this Local Law permitting passengers of that pleasure vessel to dive in the ship zone in accordance with these Local Laws;
- 'prohibited drug'** has the same meaning given to it by section 3 of the *Misuse of Drugs Act 1981* (WA);
- 'prohibited vessel area'** means the portion of the ship zone which has as its—
- (i) centre, a point on the surface of the water vertically above the centre of the former Perth; and
 - (ii) perimeter, a line joining each mooring in the ship zone to the next adjacent mooring;
- 'recreational mooring'** means a mooring located within the ship zone that is designated under clause 5.1(2) to be a recreational mooring;
- 'ship zone'** means that area of the sea bed on which the former Perth is resting and extending out for 250 metres in all directions from the former Perth including the water column and air space surrounding and above the former Perth and the water column and airspace surrounding and above the area of seabed 250 metres in all directions from the former Perth, and in relation to diving and fishing includes the former Perth;
- 'sign'** includes a notice, flag, mark, structure or device on which may be shown words, numbers, expressions, colours or symbols;
- 'take'** or **'taking'** includes catch, capture, damage, entrap, enclose, injure, gather, remove, poison, stun, kill or destroy animals by any means;
- 'valid commercial mooring permit'** means a permit granted under clause 5.7 of this Local Law for which the expiry date as specified in clause 5.8(1) has not passed and any payment required under clause 5.8(2) has been paid;

'vessel' means any kind of conveyance used or capable of being used in navigation by water, however propelled or moved, and includes—

- (a) a pleasure vessel;
- (b) a commercial vessel;
- (c) a hire vessel;
- (d) a barge, lighter, floating restaurant, or other floating object; and
- (e) an air-cushion vehicle, or other similar craft, used wholly primarily in navigation by water;

1.5 Meaning of Valid Permit

In this local law, a valid permit in relation to pleasure vessel permits, hire permits, commercial permits, and exclusive use mooring permits, means a permit for which the commencement date (if any) has passed, and the expiry date has not passed.

PART 2—GENERAL

2.1 General Prohibitions

A person shall not within the ship zone—

- (a) establish or attempt to establish any plant;
- (b) take or attempt to take any plant;
- (c) take or attempt to take any animal; or
- (d) introduce or attempt to introduce any animal,

unless that person is specifically authorised under a written law to do so.

Penalty: \$5,000

2.2 Polluting the Ship Zone

(1) A person shall not tip or deposit anything, or permit anything to leak or to be tipped or deposited from a vessel, so as to pollute or be likely to pollute the ship zone.

Penalty: \$3,000, and a daily penalty of \$300

(2) Without limiting the generality of subclause (1), no person shall empty or allow to be emptied, in the ship zone, any sullage tank of a vessel.

Penalty: \$1,000 and a daily penalty of \$200

(3) A person convicted of an offence under this clause shall, where applicable, within 7 days after demand by the local government or authorised person remove or cause to be removed from the ship zone the matter or thing deposited, tipped, thrown, leaked or placed therein.

(4) Where the matter or thing is not so removed within the period of 7 days referred to in subclause (3), the local government may remove it or cause it to be removed and all costs incurred in or about and incidental to such removal shall be deemed to be a debt payable to the local government by the person who received the demand under subclause (3) which may be recovered by the local government as a debt in a court of competent jurisdiction.

2.3 No Fishing

A person shall not fish within the ship zone by any means, including with a—

- (a) standard fishing rod and/or reel or with spear fishing equipment or otherwise; or
- (b) fishing net of any kind.

Penalty: \$2,000, and a daily penalty of \$200

2.4 Behaviour Within the Ship Zone

A person shall not behave within the ship zone in a manner which is likely to or does interfere with the enjoyment of a person who might enter or is within the ship zone.

2.5 Behaviour Detrimental to former Perth

(1) A person shall not, without the written consent of the local government, behave in the ship zone in a manner detrimental to the former Perth.

Penalty: \$5,000, and a daily penalty of \$300

(2) In subclause (1)—

'detrimental to the former Perth' includes—

- (a) removing any thing from the former Perth including a rock, animal, plant, coral or a fitting;
- (b) destroying, defacing or damaging any thing on or in the former Perth, including a plant or a fitting; and
- (c) removing anything which is located within the ship zone.

2.6 Disorderly Persons

(1) No person shall engage in disorderly conduct within the ship zone.

(2) No person shall in the ship zone behave in a violent or offensive manner to the annoyance of others, or write or use any insulting, indecent, obscene, blasphemous, or abusive words, or wilfully interfere with the comfort of any other person.

(3) No person shall commit any nuisance in the ship zone.

2.7 Prohibited Drugs

(1) A person shall not enter or remain in the ship zone whilst under the influence of a prohibited drug, except where that person has consumed the prohibited drug in accordance with subclause (2)(a) or (b) and the consumption of that drug does not affect that person's ability to comply with these Local Laws.

Penalty: \$2,000

(2) A person shall not take a prohibited drug into, or consume or use or possess a prohibited drug, in the ship zone, except when that person—

(a) is authorised by or under the *Misuse of Drugs Act 1981* (WA), or by or under the *Poisons Act 1964* (WA), to do so and does so in accordance with that authority; or

(b) on and in accordance with an authorised prescription.

Penalty: \$3,000

2.8 Signs

(1) The local government may erect signs within the ship zone or on the shore line or on a jetty or any other place within the local government's district specifying any conditions of use which apply to the ship zone.

(2) A person shall comply with the conditions of use specified on a sign erected under subclause (1).

(3) A condition of use specified on a sign erected under subclause (1) is—

(a) not to be inconsistent with any provision of this Local Law or any determination; and

(b) to be for the purpose of giving notice to members of the public of the effect of a provision of this Local Law.

(4) The conditions of use of the ship zone specified on a sign erected in accordance with subclause (1) are not necessarily exhaustive and it is not a defence to an offence under this Local Law that a sign was not erected giving notice or full notice of a provision of this Local Law.

2.9 Interference With or Damaging Property

No person shall do, attempt to do, assist or aid in doing, or cause or procure to be done, any of the following things within or from the ship zone—

(1) move or in any way interfere with any signs, signals, points or stop blocks, or show any signal whatsoever likely to mislead; or

(2) remove property of any kind, or permit any of such property to be unlawfully in that person's possession,

except with the written authority of the local government.

Penalty: \$1,000

PART 3—PERMITS

3.1 Requirement for Permit

(1) Subject to the provisions of this Local Law, a person shall not—

(a) enter the ship zone by any means except on a vessel; and

(b) dive within the ship zone unless that person does so in accordance with these Local Laws from—

(i) a commercial vessel to which a valid commercial permit relates; or

(ii) a pleasure vessel to which a valid pleasure vessel permit relates; or

(iii) a hire vessel to which a valid hire vessel permit relates.

Penalty: \$1,000 and a daily penalty of \$100

3.2 Pleasure Vessel Permit

(1) Subject to the provisions of this Local Law, an owner, person in charge or control, or passenger, of a pleasure vessel shall not dive in the ship zone unless the owner of that pleasure vessel has applied for and obtained a pleasure vessel permit for that vessel and the permit is valid.

Penalty: \$2,000 and a daily penalty of \$200

(2) An owner, person in charge or control, or passenger, of a pleasure vessel to which a valid pleasure vessel permit relates shall not dive in the ship zone unless they comply with the requirements in clause 4.1.

Penalty: \$2,000 and a daily penalty of \$200

(3) The owner and the person in charge or control of a pleasure vessel shall not allow a passenger of that vessel to dive in the ship zone unless that passenger complies with the requirements in clause 4.1 and a valid pleasure vessel permit exists for that vessel.

Penalty: \$2,000 and a daily penalty of \$200

(4) Notwithstanding common ownership, a separate pleasure vessel permit is required for each individual pleasure vessel.

3.3 Application for Pleasure Vessel Permit

(1) Where a person wishes to obtain pleasure vessel permit under this Local Law, that person shall apply for the permit in accordance with subclause (2).

(2) An application for a pleasure vessel permit under this Local Law shall—

- (a) be in the form determined by the local government;
- (b) provide all the information required by the form;
- (c) be signed by the applicant; and
- (d) be forwarded to the CEO, or other person prescribed by the local government, together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a pleasure vessel permit.

(4) The local government may require an applicant to give local public notice of the application for a pleasure vessel permit.

(5) The local government may refuse to consider or approve an application for a pleasure vessel permit which is not in accordance with this clause.

3.4 Commercial Permit

Subject to the provisions of this Local Law, an owner, person in charge or control, or passenger, of a commercial vessel shall not dive in the ship zone unless the owner of that commercial vessel has applied for and obtained a commercial vessel permit for that vessel and the permit is valid.

Penalty: \$2,000 and a daily penalty of \$200

An owner, person in charge or control, or passenger, of a commercial vessel to which a valid commercial vessel permit relates shall not dive in the ship zone unless they comply with the requirements in clause 4.1.

Penalty: \$2,000 and a daily penalty of \$200

The owner and the person in charge or control of a commercial vessel shall not allow a passenger of that vessel to dive in the ship zone unless that passenger complies with the requirements in clause 4.1 and a valid commercial permit exists for that vessel.

Penalty: \$2,000 and a daily penalty of \$200

A commercial permit shall only be issued to an owner of a commercial vessel who holds a valid aquatic eco-tourism licence or to an owner of a commercial vessel who, to the satisfaction of the local government, demonstrates a commitment to the tourism industry.

Notwithstanding common ownership, a separate commercial vessel permit is required for each individual commercial vessel.

3.5 Application for Commercial Permit

Where a person wishes to obtain a commercial permit under this Local Law, that person shall apply for the permit in accordance with subclause (2).

(2) An application for a commercial permit under this Local Law shall—

- (a) be in the form determined by the local government;
- (b) provide all the information required by the form;
- (c) provide evidence establishing that the applicant complies with the requirement referred to in clause 3.4(4);
- (d) be signed by the applicant; and
- (e) be forwarded to the CEO, or other person prescribed by the local government, together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a commercial permit.

(4) The local government may require an applicant to give local or statewide public notice of the application for a commercial permit.

(5) The local government may refuse to consider or approve an application for a commercial permit which is not in accordance with this clause.

3.6 Hire Vessel

(1) An owner, person in charge or control, or passenger, of a hire vessel shall not dive in the ship zone unless the owner of that hire vessel has applied for and obtained a hire vessel permit for that vessel and the permit is valid.

Penalty: \$2,000 and a daily penalty of \$200

(2) An owner, person in charge or control, or passenger, of a hire vessel to which a valid hire permit relates shall not dive in the ship zone unless they comply with the requirements in clause 4.1.

Penalty: \$2,000 and a daily penalty of \$200

(3) A person in charge or control of a hire vessel to which a valid hire permit relates shall not allow a passenger of that vessel to dive in the ship zone unless that passenger complies with the requirements in clause 4.1 and a valid hire permit exists for that vessel.

Penalty: \$2,000 and a daily penalty of \$200

(4) If a hiree contravenes either subclause (2) or (3) or both and the owner of the hire vessel has prior knowledge of the hiree's intention to contravene subclauses (2) or (3), the owner of the hire vessel is deemed to have also committed an offence under subclause (3) as if they were the person in charge of the vessel at the time of the contravention.

(5) Notwithstanding common ownership, a separate hire permit is required for each individual hire vessel.

3.7 Application for Hire Permit

(1) Where a person wishes to obtain a hire permit under this local law, that person shall apply for a permit in accordance with subclause (2).

(2) An application for a hire permit under this Local Law shall—

- (a) be in a form determined by the local government;
- (b) provide all the information required by the form;
- (c) be signed by the applicant; and
- (d) be forwarded to the CEO, or other person prescribed by the local government, together with any fee imposed and determined by the local government and in accordance with sections 6.16 to 6.19 of the Act.

(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a hire permit.

(4) The local government may require an applicant to give local public notice of the application for a hire permit.

(5) The local government may refuse to consider or approve an application for a hire permit which is not in accordance with this clause.

3.8 Decision on Application for Commercial, Diving and Hire Permits

(1) The local government may in relation to an application for a permit under this Part—

- (a) approve the application unconditionally or subject to any conditions; or
- (b) refuse to approve application.

(2) If the local government approves an application for a permit under this Part, it is to issue to the applicant a permit in the form determined by the local government

(3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant as soon as practicable after the decision is made.

3.9 Compliance With and Variation of Conditions

(1) Where an application for a permit under this Part has been approved subject to conditions, the permit holder shall comply with each of those conditions.

(2) The local government may unilaterally or on application by the permit holder vary the conditions of a permit under this Part, and the permit holder shall comply with those conditions as varied.

3.10 Conditions Which May Be Imposed on a Permit

(1) Without limiting the generality of clause 3.8(1)(a), the local government may approve an application for a permit under this Part subject to conditions relating to –

- (a) in the case of a commercial permit—
 - (i) the collection of a fee from passengers on the commercial vessel to which the commercial permit relates; or
 - (ii) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government;
- (b) in the case of a pleasure vessel permit and hire permit—
 - (i) the number of persons that at any one time can be on the pleasure vessel to which the permit relates; or
 - (ii) the maximum number of trips a permit holder can make per day, week or year; or
- (c) on any permit—
 - (i) the payment of a fee;
 - (ii) compliance with a standard or a policy of the local government adopted by the local government;
 - (iii) the expiry and/or commencement date of the permit;
 - (iv) the commencement of the permit being contingent on the happening of an event;
 - (v) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
 - (vi) the approval of another application for a permit which may be required by the local government under any written law;
 - (vii) the restriction of a permit to a designated area of the ship zone;

- (viii) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage;
- (ix) any other conditions the local government considers it necessary to impose.

3.11 Termination of Permit

The local government may terminate a permit under this Part—

- (a) where the permit holder breaches any condition on the permit or a provision of this Local Law;
- (b) where it considers it desirable in the public interest that the permit should be terminated;
- (c) where the permit holder ceases to own or control the vessel in respect of which the permit was effected; or
- (d) where the permit fee, if any, has not been paid by its due date.

3.12 Change of Particulars

A permit holder of a permit under this Part shall, within 7 days of the following occurring, notify the local government in writing—

- (a) any disposal by the permit holder of the vessel in respect of which the permit relates or any interest therein; or
- (b) any alteration in particulars relevant to the permit holder, including any change of address or telephone number of the permit holder.

3.13 Surrender

A permit holder of a permit under this Part may by notice in writing to the local government surrender the permit, but such surrender shall not entitle the permit holder to a refund of any permit fee paid to the local government notwithstanding that the permit period had not expired at the date of surrender.

PART 4—DIVING OPERATIONS

4.1 Diving Requirements

A person shall not dive in the ship zone unless—

- (a) that person holds either a recreational, advanced or open water diver qualification ticket or the equivalent international accreditation; or
- (b) other suitable diving experience for the ship zone demonstrated by that person's diver log book or certification card.

4.2 Master to Display Diving Signals During Diving

(1) The master or person in charge of a vessel that is engaged in diving operations in the ship zone shall, at all times during which the vessel is so engaged, cause to be exhibited on the vessel so as to be clearly visible to all approaching vessels at all times, the International Code Flag 'A' as illustrated in Schedule 2 to this Local Law.

(2) The International Code Flag 'A' referred to in subclause (1) shall be of the following dimensions—

- (a) in the case of a flag displayed on a vessel not exceeding 12 metres in length, a flag of size 6 of the International Flag Code, or, not less than 750 millimetres in length and not less than 600 millimetres in width;
- (b) in the case of a flag displayed on a vessel exceeding 12 metres in length, a flag of size 3 of the International Flag Code, or, not less than 900 millimetres in length and not less than 750 millimetres in width.

(3) The master or person in charge of a vessel that is engaged in diving operations in the ship zone during the hours of darkness shall cause to be displayed on the vessel, in a vertical line where they can best be seen, 3 all round lights (having a visibility of not less than 3.5 kilometres) the highest and lowest of which shall be red and the middle light shall be white.

4.3 Person Shall Display Signal from Buoy

(1) Where a person is engaged in diving operations in the ship zone other than from a vessel, the person shall cause to be displayed from a buoy, so as to be clearly visible to all approaching vessels, the International Code Flag 'A'.

(2) The International Code Flag 'A' referred to in subclause (1) shall be not less than 300 millimetres in length and not less than 200 millimetres in width.

4.4 Precautions When Approaching Diving Operations

(1) Subject to subclause (2), the master or person in charge of a vessel approaching a buoy or another vessel displaying the International Code Flag 'A' shall in the ship zone—

- (a) keep his or her vessel at least 50 metres clear of such buoy or vessel; or
- (b) where it is not possible keep 50 metres clear of such buoy or vessel—
 - (i) proceed at the slowest speed at which his vessel can be safely navigated; and
 - (ii) maintain a proper lookout for persons in the water, whilst passing within 50 metres of the buoy or vessel displaying the flag.

- (2) Notwithstanding subclause (1)—
- (a) an authorised person or other authorised employee of the local government; or
 - (b) an officer of a department principally assisting a Minister to whom administration of the *Conservation and Land Management Act 1984 (WA)*, the *Fish Resources Management Act 1994 (WA)* or the *Wildlife Conservation Act 1950* is committed; or
 - (c) a police officer, or an aboriginal aide appointed under section 38A of the *Police Act 1892 (WA)*, who is the master or person in charge of a vessel may, in the course of his or her duties, approach a buoy or another vessel displaying International Code Flag 'A'.
- (3) The master or person in charge of a vessel under subclause (2) must, while in the vicinity of the vessel or buoy—
- (a) proceed at a safe speed; and
 - (b) maintain a proper lookout for persons in the water.

PART 5—MOORINGS

Division 1—Installation of Mooring

5.1 Moorings

- (1) Except for an authorised mooring installer, no person shall install a mooring in the ship zone.
Penalty: \$1,000, and a daily penalty of \$200
- (2) A mooring in the ship zone shall be designated by the local government as either a recreational mooring or a commercial mooring.
- (3) The designation referred to in subclause (2) may be indicated by sign, colour of the mooring, or any other form deemed appropriate by the local government.

Division 2—Use of Mooring

5.2 Use of Recreational Mooring

Subject to the other requirements in these Local Laws, a person shall not moor or make fast any vessel to a mooring in the ship zone, except for the following vessels which may be moored or fastened to a recreational mooring—

- (a) a pleasure vessel;
- (b) hire vessel; or
- (c) commercial vessel that is not the subject of a commercial mooring permit,

which has the appropriate valid permit under Part 3.

5.3 Permit Required to Moor onto Commercial Mooring

(1) No person shall moor or fasten any vessel or cause or permit any vessel to be so moored or fastened, to a commercial mooring, unless the owner of such vessel holds a valid commercial mooring permit.

Penalty: \$1,000, and a daily penalty of \$200

(2) A commercial mooring permit may only be granted to the holder of a valid commercial permit.

5.4 Mooring Only to Fastenings Provided and As Specified

(1) Subject to the other provisions in these Local Laws, a person in control of a vessel shall not moor or make fast the vessel to any mooring in the ship zone except to such mooring piles, rings bolts or other fastenings as are provided and available for use, and no vessel shall remain alongside a mooring in the ship zone unless so fastened.

(2) A person shall not use a mooring in the ship zone to moor—

- (a) in the case of a commercial mooring, a vessel of larger dimensions than that specified in the commercial mooring permit (if any); or
- (b) in any case, more than one vessel simultaneously except for a period not exceeding 15 minutes to allow vessels to raft while transferring passengers from one vessel to another.

5.5 Removal of Vessel at Direction of Authorised Person

Notwithstanding anything to the contrary in this Part, a person in control of a vessel moored or fastened to anything provided for that purpose in the ship zone shall remove the vessel immediately upon being directed to do so by an authorised person.

5.6 Application for commercial Mooring Permit

(1) Where a person wishes to obtain a commercial mooring permit under this Local Law, that person shall apply for the permit in accordance with subclause (2).

(2) An application for a commercial mooring permit under this Local Law shall –

- (a) be in the form determined by the local government;
- (b) provide the information required by the form;
- (c) provide details of the applicant's commercial permit to which the application relates;
- (d) be signed by the applicant; and

- (e) be forwarded to the CEO or other person prescribed by the local government, together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a commercial mooring permit.
- (4) The local government may require an applicant to give local public notice of the application for a commercial mooring permit.
- (5) The local government may refuse to consider or approve an application for a commercial mooring permit which is not in accordance with this clause.

5.7 Decision on Application for Commercial Mooring Permit

- (1) The local government may in relation to an application for a commercial mooring permit under this Part—
 - (a) approve the application unconditionally or subject to any conditions; or
 - (b) refuse to approve the application.
- (2) If the local government approves an application for a commercial mooring permit, it is to issue to the applicant a commercial mooring permit in the form determined by the local government.
- (3) If the local government refuses to approve an application for a commercial mooring permit, it is to give written notice of that refusal to the applicant as soon as practicable after the decision is made.

5.8 Duration Of, and Charges For, Commercial Mooring Permits

- (1) A commercial mooring permit shall remain in force for five years, expiring on the 30th June from the date of issue or such lesser time as is specified on the permit.
- (2) Payment for a commercial mooring permit shall be made in advance, unless prior to the payment becoming due, the local government approves otherwise.
- (3) Subject to this Local Law, a commercial mooring permit shall not be issued until the fee imposed for a commercial mooring permit has been paid to the local government.

5.9 Permit for Exclusive Use of a Commercial Mooring

- (1) A person who holds a valid commercial mooring permit under this Part may apply in writing (in the approved form, if any) for, and the local government may grant, a permit for the exclusive use of a commercial mooring for the vessel for which the commercial mooring permit has been granted.
- (2) Subject to subclause (3), where a permit for the exclusive use of a commercial mooring is granted for a vessel under subclause (1), no other vessel shall use the commercial mooring while the exclusive use mooring permit is current.
- (3) A person who holds a valid permit may use a mooring for which an exclusive use commercial mooring permit has been granted only if the permit holder has the express prior consent of the exclusive mooring permit holder to do so, and the local government has given its approval subject to whatever conditions the local government considers appropriate.
- (4) Any permit granted under this clause may specify—
 - (a) the time or times that the vessel may moor; or
 - (b) other conditions which the local government considers necessary for good order in or about the ship zone or in the interests of safety of the passengers, vessels or the ship zone or the protection of the former Perth.

5.10 Commercial Mooring Permit Holder's Rights Limited

- (1) For the purpose of this clause, 'commercial mooring permit' includes 'exclusive use commercial mooring permit'.
- (2) Subject to clause 5.9(3), a commercial mooring permit holder shall not assign, sell or otherwise dispose of any rights associated with the commercial mooring permit without first obtaining the approval of the local government in writing.
- (3) Where a commercial mooring permit holder is a body corporate, a change effecting alteration to the beneficial ownership of one half or more of the shares in the body corporate's capital shall be deemed an assignment requiring approval under subclause (1).
- (4) A person who purchases a commercial vessel for which a commercial mooring permit has been granted may apply to the local government for the approval of the transfer of the commercial mooring permit to that person as the new owner of the commercial vessel.
- (5) Any application under subclause (4) must be supported by evidence that—
 - (i) the commercial vessel has been transferred to the applicant; and
 - (ii) the applicant holds or will hold a valid commercial permit.
- (6) An application under subclause (4) cannot be made by the purchaser of a vessel if the prior owner of that vessel has made an application under clause 5.12(2) except if the latter application has been refused.

5.11 Termination of Commercial Mooring Permit

- (1) For the purposes of this clause, 'commercial mooring permit' includes 'exclusive use commercial mooring permit'.

- (2) The local government may terminate a commercial mooring permit—
- (a) where the commercial mooring permit holder breaches any condition on the commercial mooring permit or a provision of this Local Law;
 - (b) where it considers it desirable in the public interest that the commercial mooring permit should be terminated;
 - (c) where the commercial mooring permit holder ceases to own or control the commercial vessel in respect of which the commercial mooring permit was effected; or
 - (d) where the permit fee, if any, has not been paid by its due date.

5.12 Change of Particulars and Notices

(1) The commercial mooring permit holder shall, within 7 days of the following occurring, notify the local government in writing—

- (a) any disposal by the commercial mooring permit holder of the vessel in respect of which the commercial mooring permit relates or any interest therein; or
- (b) any alteration in particulars relevant to the commercial mooring permit holder, including any change of address or telephone number of the commercial mooring permit holder.

(2) The commercial mooring permit holder may upon ceasing to own the vessel the subject of that commercial mooring permit, apply to the local government, providing such information as may be required, for alternation of that commercial mooring permit to a different commercial vessel belonging to the commercial mooring permit holder for which a valid commercial permit exists.

5.13 Surrender

(1) For the purposes of this clause 'commercial mooring permit' includes 'exclusive use commercial mooring permit'.

(2) A commercial mooring permit holder may by notice in writing to the local government surrender a commercial mooring permit, but such surrender shall not entitle the commercial mooring permit holder to a refund of any permit fee paid to the local government notwithstanding that the permit period had not expired at the date of surrender.

5.14 Compliance With and Variation of Conditions

(1) Where an application for a permit under this Part has been approved subject to conditions, the permit holder shall comply with each of those conditions.

(2) The local government may unilaterally or on application by the permit holder vary the conditions of a permit under this Part, and the permit holder shall comply with those conditions as varied.

PART 6—NAVIGATION IN SHIP ZONE

6.1 Aids to Navigation

(1) No person shall interfere with, remove or damage any beacon, buoy or other artificial aid to navigation within the ship zone.

(2) No person shall, except with permission in writing from an authorised person, fasten any vessel to any beacon, buoy, seamark or other aid to navigation within the ship zone.

6.2 Safe Navigation of Vessels

(1) No person shall navigate a vessel in the ship zone in such a manner as to—

- (a) endanger the safety of that or any other vessel or any person; or
- (b) obstruct, impede or otherwise interfere with any other vessel.

Penalty: \$1,000

(2) No person shall navigate a vessel through the prohibited vessel area (notwithstanding that the vessel has a valid permit issued in relation to it), unless specifically authorised by the local government to do so in writing, or an authorised person.

6.3 Nuisance

No vessel shall travel at such a speed or in such a manner in the ship zone as to cause nuisance or damage to any person or to any other vessel whether moored or not or to cause damage to any property.

Penalty: \$1,000

6.4 Speed Limit Within the Ship Zone

Subject to clauses 6.2 and 6.3, a person shall not cause a vessel to travel at a speed exceeding 5 knots in waters of the ship zone or any other speed which the local government specifies by way of signs.

PART 7—MISCELLANEOUS

7.1 Time in ship zone

Except for a commercial vessel for which a valid commercial permit has been granted, no vessel shall remain within the ship zone for a period exceeding 2 hours per day.

7.2 Permit To Be Kept In Possession At All Times

A permit holder must have their valid permit in their possession at all times whilst in the ship zone.

7.3 Vessels Not To Be Left Unattended

(1) No person is to leave a vessel unattended within the ship zone whether moored or not unless that person is expressly authorised to do so by an authorised person or other person prescribed by the local government.

(2) For the purposes of subclause (1) a competent operator of the vessel must remain on board at all times whilst the vessel is within the ship zone.

7.4 Use of Signals and Flares, etc.

A person shall not within or adjacent to the ship zone, except in the case of an emergency, or where a vessel is in distress and requires assistance, use or set off any signal, flare, rocket or other distress signal without having first obtained the written permission of the local government or authorised person.

7.5 Penalty for false declarations, etc.

A person who knowingly—

- (a) makes a false declaration, false statement or false representation; or
- (b) gives false evidence on oath,

in connection with an application or direction under this Local Law commits an offence.

7.6 Authorised person may request name and address

(1) An authorised person may request any person whom the authorised person reasonably believes has contravened these Local laws to give his or her name and address to the authorised person.

(2) A person who fails to comply with a request made under sub-clause (1) or who gives a false name or address when such a request is made commits an offence.

7.7 Authorised Person Can Give Directions and Instructions

An authorised person can give instructions and directions to any person in the ship zone, whether in control of a vessel or not, which instruction or direction must be obeyed.

7.8 Entry of Vessels for Inspection of Diving Licences and Permits

Any authorised person or any police officer may at any hour of the day or night enter upon a vessel and require—

- (a) the owner or person for the time being in charge of the vessel within the ship zone, to produce the appropriate diving licence or permit; or
- (b) persons who have, are or will dive in the ship zone to produce documentation demonstrating that that person has the required experience as set out in clause 4.1 to dive in the ship zone.

7.9 Owner or Operator of Vessel Shall Comply with Directions

The owner of a vessel shall, at all times, comply with any directions given by an authorised person or a police officer.

7.10 Hindrance of Authorised Person

A person shall not obstruct, hinder, threaten or interfere with an authorised person or police officer in the performance of their duties under this Local Law.

7.11 Onus on Owner to Identify Person in Charge of Vessel

(1) Any owner of a vessel and any person to whom for the time being the possession or control of a vessel may be entrusted shall, if required by an authorised person, give to the authorised person any information—

- (a) which it is in his or her power to give; and
- (b) which may lead to the identification of any person who was in charge of the vessel when an offence against this Local Law is alleged to have been committed.

Penalty: \$1,000

(2) When an offence against this Local Law is alleged to have been committed and the identity of the person who was in charge of the vessel in respect of which that allegation is made is not known and cannot immediately be ascertained, an authorised person or the CEO may, within a period of 30 days after the date on which the offence is alleged to have been committed, serve on the owner of that vessel a notice containing particulars of that offence and requiring that owner to identify the person who was in charge of that vessel at the time when that offence is alleged to have been committed.

(3) When, under the provisions of subclause (2), notice is served on the owner of a vessel within the period specified in that subsection then, unless within 21 days after the date of the service of the notice that owner—

- (a) informs an authorised person or the CEO of the identity and address of the person who was in charge of the vessel; or
- (b) satisfies an authorised person or the CEO that the vessel had been stolen or unlawfully taken, or was being unlawfully used,

at the time when the offence concerned is alleged to have been committed, that owner is, in the absence of proof to the contrary, deemed to be the person who was in charge of the vessel at the time when that offence is alleged to have been committed.

(4) A notice served under subclause (2) shall contain, *inter alia*, a short statement of the effect of subsection (3).

(5) In this clause—

'the person who was in charge of the vessel' includes the person who was the driver, master, possessor, skipper, owner or user of the vessel or the person causing, permitting or suffering the vessel to be navigated, the case requires.

PART 8—OFFENCES AND PENALTIES

8.1 Offences and Penalties

(1) Any person who fails to do anything required or directed to be done under this Local Law, or who does anything which under this Local Law a person is prohibited from doing, or who contravenes any provision of this Local Law commits an offence.

(2) An offence against any provision of this Local Law is a prescribed offence for the purposes of section 9.16(1) of the Act.

(3) Unless otherwise stated in this Local Law, any person who commits an offence under this Local Law shall be liable, upon conviction, to a penalty not exceeding \$ 500.00, and if the offence is of a continuing nature, to an additional penalty not exceeding \$ 50.00 for each day or part of day during which the offence has continued.

(4) The amount appearing in the final column of the First Schedule directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

8.2 Cancellation or Suspension of Permits

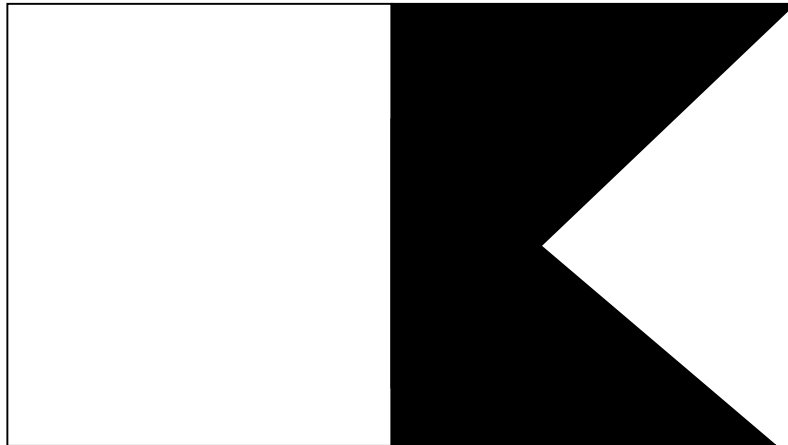
The local government may cancel or suspend any permit granted by the local government under these Local Laws if the permit holder is convicted of an offence under these Local Laws.

LOCAL LAW RELATING TO THE FORMER PERTH

PRESCRIBED OFFENCES

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
1	2.1	Taking or Introducing a Plant or Animal	100
2	2.2	Polluting the ship zone	500
3	2.4	Fishing within the ship zone	200
4	2.5	Behaviour detrimental to former Perth	200
5	2.7	Take, consume or use a prohibited drug	100
6	2.9	Interfere or damage property	100
7	3.1	Requirement for permit	100
8	5.1	Installation of moorings	100
9	5.2	Permit required to moor in ship zone	100
10	7.1	Rubbish in ship zone	100
11	7.11	Owner to identify person in charge of vessel	100

INTERNATIONAL CODE FLAG



Dated this 19th day of October 2001.

The Common Seal of the City of Albany was affixed by authority of a resolution of the Council in the presence of—

ALISON E. GOODE, Mayor.

ANDREW C. HAMMOND, Chief Executive Officer.



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