Consolidated Local Law - City of Albany
Sand Drift Prevention and Abatement Local Law 2009

Gazettal Date / Details:	Gazette Date: 12 February 2010, Page No. 636
Review Reference:	OCM 25/09/2018 Resolution CCS087
Version:	14/10/2025

Table of Contents

PART 1—PRELIMINARY 2
1.1 Citation 2
1.2 Commencement 2
1.3 Repeal 2
1.4 Interpretation 2
1.5 Application 3
PART 2—SAND DRIFT CONTROL 3
2.1 Prevention and abatement measures 3
2.2 Local government notice 3
2.3 Notice specifying conditions 3
PART 3—MISCELLANEOUS 3
3.1 Cancellation of notice 3
3.2 Authorised person 3
PART 4—PENALTIES 4
4.1 Offences and penalties 4
4.2 Modified penalties 4
PART 5—INFRINGEMENT NOTICES 4
5.1 Form of notices 4
Version Control 4

LOCAL GOVERNMENT ACT 1995

CITY OF ALBANY

SAND DRIFT PREVENTION AND ABATEMENT LOCAL LAW 2009

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 18 August 2009 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the City of Albany Sand Drift Prevention and Abatement Local Law 2009.

1.2 Commencement

This local law will come into operation on the fourteenth day after the day on which it is published in the Government Gazette.

1.3 Repeal

The City of Albany Prevention and Abatement of Sand Drift Local Law as published in the Government Gazette on 5 December 2000, amended and published in the Government Gazette on 16 December 2005, is repealed.

1.4 Interpretation

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

"**Act**" means the Local Government Act 1995;

"**authorised person**" means a person authorised by the local government under section 9.10 of the Act to perform all or any of the functions of an authorised person under this local law;

"**district**" means the district of the City of Albany and includes any area placed under the jurisdiction of the City pursuant to any Act or Regulations;

"**land**" includes any building or other structures on the land;

"**local government**" means the City of Albany;

"**occupier**" includes any person who, at the time the notice is served, is in control of any place or part of any place or authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to a place to perform any work in relation to any place and without limiting the generality of the foregoing and for the avoidance of doubt includes a builder or contractor;

"**sand**" means any granular or particulate material consisting of small eroded fragments of rocks finer than gravel, and includes dust and organic matter.

(2) Where in this local law a duty, obligation or liability is imposed on an "owner or occupier", the duty, obligation or liability shall be deemed to be imposed jointly and severally on each of the owner and occupier.

(3) Where, under this local law, an act is required to be done or forbidden to be done in relation to any land, the owner or occupier of the land has the duty of causing to be done the act so required to be done, or preventing from being done the act forbidden to be done.

(4) Where this local law refers to the giving of a notice, other than the giving of an infringement notice, no particular form is prescribed and it will be sufficient that the notice be in writing giving sufficient details to enable the owner or occupier to know the offence committed and the measures required to be taken or conditions to be complied with, as the case may be.

1.5 Application

This local law applies to all land in the district.

PART 2—SAND DRIFT CONTROL

2.1 Prevention and abatement measures

An owner or occupier of land must take effective measures to—

(a) stabilise sand on the land; and

(b) ensure no sand is released or escapes from the land whether by means of wind, water or any other cause.

2.2 Local government notice

(1) Where the local government or an authorised person forms the opinion that—

(a) an owner or occupier has not complied with subclause 2.1(a); or

(b) sand is released or has escaped from land onto adjoining or nearby land to cause a nuisance, risk to health, hazard or environmental damage,

the local government or an authorised person may serve on the owner or occupier of the land a notice requiring the owner or occupier to—

(c) comply with subclause 2.1(a) or 2.1(b); or

(d) clean up and make good any damage resulting from the release or escape of sand ; and

(e) take effective measures to stop any further release or escape of sand.

(2) The requirements set out in a notice issued under subclause (1) must be complied with within the time specified in the notice.

2.3 Notice specifying conditions

Where the local government or an authorised person is of the opinion that, as a result of an activity being carried on, or likely to be carried on from any land, sand may be released or escape, the local government or an authorised person may give to the owner or occupier a notice providing that the activity can only be carried on subject to conditions and specifying the conditions.

PART 3—MISCELLANEOUS

3.1 Cancellation of notice

Where a notice is served on the owner or occupier of any land and the owner or occupier satisfies the local government or an authorised person within 14 days from the date of the giving of the notice that—

(a) it was not responsible for the conduct in respect of which the notice was given pursuant to clause 7, or the activity in respect of which conditions were imposed pursuant to clause 8 as the case may be; and

(b) it took all reasonable precautions to prevent the conduct or all reasonable steps to comply with, or cause the conditions to be complied with, as the case may be; and

(c) where another person was responsible for the conduct, it identifies the person responsible for the conduct sufficiently to enable the notice to be issued to that person;

the local government or an authorised person may cancel the notice.

3.2 Authorised person

(1) A person must not prevent or impede a duly authorised officer or employee of the local government from carrying out his or her duties under this local law.

(2) The local government may delegate any of its powers, functions and duties under this local law to an authorised person.

PART 4—PENALTIES

4.1 Offences and penalties

(1) A person who—
  (a) fails to comply with a notice given under clause 2.2;
  (b) carries on an activity without complying with a notice given under clause 2.3; or
  (c) contravenes clause 3.2.

commits an offence, in respect of which the local government may issue an infringement notice.

(2) A person who commits an offence under subclause (1) is liable to—
  (a) a penalty which is not more than $5,000.00 and not less than—
    (i) in the case of a first offence, $500.00;
    (ii) in the case of a second such offence, $2,500.00; and
    (iii) in the case of a third or subsequent such offence, $5,000.00, and
  (b) if the offence is of a continuing nature, a daily penalty not exceeding a fine of $500.00 in respect of each day or part of a day for which the offence continues.

4.2 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 of the modified penalty for an offence against any provision of this local law is $200.00.

PART 5—INFRINGEMENT NOTICES

5.1 Form of notices

(1) The form of the infringement notice referred to in section 9.17 of the Act is Form 2 in the first schedule of the Local Government (Functions and General) Regulations 1996; and

(2) The form of the infringement withdrawal notice referred to in section 9.20 of the Act is Form 3 in the First Schedule of the Local Government (Functions and General) Regulations 1996.

———

Dated: 20 November 2009.

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

PAUL RICHARDS, Chief Executive Officer.

MILTON EVANS JP, Mayor.

———————————

Version Control		
Version	**Version Description**	**Date**
1.0	Gazette Date: 12 February 2010, Page No. 636	12/02/2010
1.2	Document Reference: • Amended to comply with section 5.96A(1)(b) of the Local Government Act 1995, which requires that an up-to-date consolidated version of the local law, to be published on the local government's website.	14/10/2025