

(Extract from Government Gazette No 220, 17 December 2004)

Local Government Act 1995

CITY OF PERTH

AIR CONDITIONING UNITS LOCAL LAW 2004

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Perth resolved on 7 December 2004 to make the *Air Conditioning Units Local Law 2004*, as set out below.

ARRANGEMENT

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PART 1 – PRELIMINARY

Title

- 1 This local law may be cited as the *Air Conditioning Units Local Law 2004*.

Commencement

- 2 This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

Purpose and Intent

- 3 (1) The purpose of this local law is to provide for the regulation, management and control of the installation of air conditioning units to buildings within the City of Perth.
- (2) The effect of this local law is to control the installation of air conditioning units to a specified standard within the City of Perth.

Repeal

- 4 The following by-law of the City of Perth:-

By-law No. 74 – By-law Relating to Air Conditioning Units as published in the *Government Gazette* – 8 July 1964 and amendments;

is repealed on the day that this local law comes into operation.

Application

5 This local law applies throughout the district.

Definitions

6 In this local law unless the context requires otherwise:-

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

“air conditioning unit” means any, or any part of any, machine, device, equipment or plant which constitutes or is part of any mechanical system of ventilation or air conditioning;

“authorised person” means the CEO and any other person authorised by the City under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

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

“chemicals” includes biocides and other chemicals added to water, other than by a licensed water service operator, to inhibit growth of biological organisms and to reduce corrosion or scaling;

“City” means the local government of the City of Perth;

“licensed water service operator” means a corporation licensed by the government of Western Australia to supply a reticulated supply of potable water;

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

“street” means any highway, thoroughfare or land, otherwise used for vehicular or pedestrian traffic, and includes all the land lying between property lines, including the street verge and footpath.

PART 2 – INSTALLATION

Placement

7 A person must not, unless authorised by the City, allow an air conditioning unit:-

- (a) to project over any street unless water discharged from the air conditioning unit is disposed of into a suitable stormwater drainage system or in the case of water to which chemicals have been added, disposed of into a suitable sewerage system;

- (b) to be installed lower than 2.75 metres above any street;
 - (c) to project more than 300 millimetres over any street less than 10 metres in width; and
 - (d) to project more than 450 millimetres over part of a street more than 10 metres in width.
- 8 A person must not allow an air conditioning unit to be installed under a verandah, balcony or awning, which projects over a street, to exhaust the foul or vitiated air into the street.

PART 3 – OFFENCES AND PENALTIES

Offences

- 9 (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) An offence against a clause specified in the second column of the table in the First Schedule of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.

Modified Penalty

- 10 The amount appearing in the final column of the table in the First Schedule is the modified penalty prescribed for the purposes of section 9.17 of the Act.

Infringement Notices and Withdrawal of Infringement Notices

- 11 An infringement notice served under section 9.16 of the Act in respect of a prescribed offence under this local law shall be in accordance with Form 2 of Schedule 1 of the Local Government (Functions and General) Regulations 1996.
- 12 A notice sent under section 9.20(1) of the Act withdrawing an infringement notice served in respect of an offence alleged to have been committed against this local law shall be in accordance with Form 3 of Schedule 1 of the Local Government (Functions and General) Regulations 1996.
- 13 Unless expressly stated otherwise by the City, a person appointed by the City to be an authorised person for the purposes of this local law is deemed to have also been appointed by the City to be an authorised person for the purposes of sections 9.13 and 9.16 of the Act in relation to offences against this local law.

Notices

- 14 (1) Where a person installs, uses or maintains, or permits to be installed, used or maintained, an air conditioning unit in breach of the provisions of this local law, the City may give to the person a written notice requiring the person to do anything, to the satisfaction of the City, which the City considers is reasonably necessary to cease or remove the breach.
- (2) If a person does not comply with a notice under subclause (1) within:-
- (a) the time specified in the notice; or
 - (b) within 14 days of the dismissal of any appeal or objection against the notice,
- the City or its employees or agents may, in accordance with section 3.28 of the Act, enter the land on which the breach is occurring or has occurred, and give effect to the requisitions in the notice, and the City may, in a court of competent jurisdiction, recover the expenses of doing so from the person on whom the notice has been served.
- (3) A person who fails to comply with a notice given to him or her under subclause (1) commits an offence.

Objections and Appeals

- 15 A decision by the City to give a notice under clause 14 of this local law, or in relation to the type or requisitions to impose on such a notice, is one to which Division 1 of Part 9 of the Act and regulations 33 and 34 of the *Local Government (Functions and General) Regulations 1996* apply, and the person affected by the decision is an affected person for the purposes of Division 1 of Part 9 of the Act.

FIRST SCHEDULE
CITY OF PERTH
AIR CONDITIONING UNITS LOCAL LAW 2004
OFFENCES AND MODIFIED PENALTIES

| Item No | Clause No | Nature of Offence | Modified Penalty \$ |
|----------------|------------------|--|----------------------------|
| 1 | 7(a) | Air conditioning unit not discharging water into a storm water drainage system or in the case of water to which chemicals have been added, disposed of into a suitable sewerage system | 250 |
| 2 | 7(b) | Air conditioning unit being lower than 2.75 metres above any street | 100 |
| 3 | 7(c) | Air conditioning unit projecting more than 300 millimetres over a street less than 10 metres in width | 100 |
| 4 | 7(d) | Air conditioning unit projecting more than 450 millimetres over part of a street more than 10 metres in width | 100 |
| 5 | 8 | Air conditioning unit installed under a verandah, balcony or awning which exhausts the foul or vitiated air into the street | 100 |
| 6 | 14(3) | Failure to comply with notice | 100 |

Dated this 10th day of December 2004.

The Common Seal of the)
City of Perth was)
hereunto affixed in the)
presence of-)

DR. PETER NATTRASS
The Rt Hon the Lord Mayor.

FRANK EDWARDS
Chief Executive Officer.