

THE MUNICIPAL CORPORATIONS ACT 1906-1954,  
THE CITY OF PERTH ENDOWMENT LANDS ACT, 1920.

The City of Perth.

**BUILDINGS ON ENDOWMENT LANDS & LIMEKILNS ESTATE.**

**(By-law No. 43)**

IN pursuance of the powers in that behalf contained in Part VII, of the City of Perth Endowment Lands Act, 1920, and the Municipal Corporations Act, 1906-54, the Lord Mayor and Councillors of the City of Perth hereby order that By-law No. 43 be repealed and be re-enacted as follows:—

**BY-LAW No. 43.**  
**Interpretation.**

1. “Brick veneer” means that type of construction in which the outer veneer of the external walls consists of brickwork and which complies in all respects with the by-laws relating to veneer construction in force at the relevant time in the Reserve.

“Building” includes detached garages, sheds, wash-houses, and sanitary conveniences.

“Building surveyor” means the building surveyor or acting building surveyor for the time being of the City of Perth.

“Council” means the Council of the City of Perth.

“Car-port” means an open sided building or a building enclosed on not more than two sides and constructed or suitable for housing motor vehicles, trailers or caravans.

“Reserve” means the Endowment Lands and the Limekilns Estate as described in the Preamble to the City of Perth Endowment Lands Act, 1920.

**Classification of Districts.**

2. Those portions of the Reserve specified in the First Schedule hereto are classified as residential districts.

Subject to Clauses 2A and 2B of this By-law a person shall not use any land or building in any residential district for any purpose other than that of a dwelling house provided that each of the lots specified in the Fourth Schedule may be used for the purpose of a duplex residence.

- 2A. (1) The Council may in its discretion permit, with or without conditions, a person to use a dwelling house in a residential district for the purpose of caring for children during the day for reward.
- (2) Where the Council has given permission enabling a dwelling house to be used for the purpose referred to in subclause (1) of this Clause the person to whom that permission has been given shall:
  - (a) Ensure that no more than five children (including the pre-school children of that person) where all children are over the age of 3 years or four children (including the pre-school children of that person) where any of them is under the age of 3 years are cared for in that house at any one time.

- (b) Comply with such conditions as the Council may think fit to impose in granting permission to use the dwelling house for that purpose.
- 2B. In a residential district the Council may permit land to be developed subject to such conditions as the Council deems fit:–
  - (a) for use for a purpose which is not permitted in that district;
  - (b) notwithstanding that the developments will not comply with the standard or requirement prescribed by this by-law in that district.  
  
if the Council is satisfied by an absolute majority that:–
    - (i) the development would be consistent with the orderly and proper planning of the locality and the preservation of its amenities; and
    - (ii) the use to be made of the land and the non-compliance with the prescribed standard or requirement will not have any adverse effect upon the occupiers or users of the development or the property in or the inhabitants of the locality or the likely future development of the locality.
- 3. Those portions of the Reserve specified in the second schedule hereto are classified as business districts.
- 3A. Those portions of the Reserve specified in the Third Schedule hereto are classified as a district for use for such civic commercial recreational and residential purposes as may be approved of by the Council.
- 3B. The land shown on City of Perth Planning Department Drawing No. 375 being part of the land described in the Third Schedule hereto may be used for the purposes of group housing and the numbers and distances apart of buildings on any lot and the distance of buildings from boundaries shall be as approved by the Council provided that in no case shall any such distances be more than is prescribed by this By-law with respect to dwelling houses and provided further that no building on a lot abutting on Drabble Road or Perina Way shall be erected closer than 25 feet to the street alignment of the street concerned.

#### **Residential Districts – General Regulations.**

- 4. The provisions of this clause shall apply to all land classified as a residential district under this by-law.
  - (1) Subject to paragraph (1A) of this Clause and to Clause 4B of this By-law, no building shall be erected other than a dwelling house, garage and other usual outbuildings appurtenant to a dwelling house.
  - (1A) A duplex residence may be erected on any of the lots specified in the Fourth Schedule.
  - (2) No semi-detached building, residential flat building, or terrace of buildings shall be erected.
  - (3) Not more than one dwelling-house with the usual outbuildings shall be erected on any one lot.
  - (3a) (1) Notwithstanding any other provision of this by-law but subject to the provisions of this subclause the Council may approve of –

- (a) alterations of or additions to a dwelling house which will result in the provision of an additional unit of self contained accommodation on the lot on which the dwelling house is erected;
  - (b) the construction of a dwelling house in which provision is made for an additional unit of self contained accommodation; or
  - (c) the construction of a dwelling house and an additional detached unit of self contained accommodation on the lot on which the dwelling house is to be erected;
- (2) (a) where such unit is constructed so as to form part of the dwelling house direct internal access shall be provided from such accommodation to the dwelling house proper;
- (b) where such unit is not so constructed it shall be connected to the dwelling house proper in a manner which will afford protection in all weather conditions to persons passing between it and the dwelling house. Such connection shall be constructed in such a manner as is, in the opinion of the Council, in reasonable conformity with the buildings it serves to connect. The total area of such unit and such connection shall not exceed four hundred (400) square feet.
- (3) The Council shall not give its approval under this subclause unless –
- (a) it is satisfied that such unit is to be occupied by the parent or parents of the owner of the lot, or his spouse or a relative of such owner or spouse and in the case of any such relative that in all the circumstances of the family it is reasonable to provide such a unit;
  - (b) the owner resides or intends to reside permanently in the dwelling house;
  - (c) a statement, signed by the owner of the dwelling house and each parent or relative of the owner or his spouse for whose occupation such unit is intended, is lodged with the Council to the effect that such unit is intended for use by and will be used by such parent or parents or relative as the case may be and by no other person and for no other purpose.
- (4) Any person who makes either orally or in writing, a false or misleading statement or representation to the Council or any member or officer of the Council for the purposes of or in connection with the seeking or obtaining of approval under this subclause shall be guilty of an offence.
- (5) Any person who, without the written consent of the Council, uses or permits or suffers to be used any such unit by any person other than the person referred to in the statement lodged pursuant to subclause (3) (c) of this clause as the person for whose occupation such unit is intended shall be guilty of an offence.
- (4) No fence, wall or hedge on or within 20 feet of a street alignment shall, without the written permission of the Council, be of a greater height than four feet above the street level and no person shall cause or permit to exist on land under his control any fence wall or hedge in breach hereof.

*[(5) Repealed 28 February 1975]*

- (6) Every dwelling-house shall front the street adjoining the land on which it is erected; provided that if such land shall adjoin two or more streets, such house shall front the street which shall in each particular case be specified by the Council.
- (7)
  - (a) All single storey single occupancy dwelling-houses and all buildings other than dwelling-houses shall be constructed of brick, stone, concrete or similar material, or of brick veneer.
  - (b) All other dwelling-houses shall be constructed of brick, stone, concrete or similar material.
  - (c) Notwithstanding the provisions of this paragraph the Council may at its discretion permit wooden gables to be incorporated in any building.
- (8) All buildings shall be roofed with materials constructed of terracotta, concrete, slate, metal or other incombustible material approved by the Council provided that metal roofs with a pitch of more than 5° shall not be constructed with metal sheeting having a solar reflectivity index exceeding 40% unless approved by the Council.
- (8A) Notwithstanding any other provisions of this by-law one outbuilding of temporary construction for use as a garden shed or similar storage purpose may be erected on each lot provided:—
  - (i) its floor does not exceed 12 square metres and its height does not exceed 2.4 metres;
  - (ii) it has a skillion roof;
  - (iii) the external wall sheeting and roof material does not have a solar reflectivity index greater than 40%;
  - (iv) it is located at the rear of the existing dwelling as follows:—
    - (a) where the lot has a frontage only to one street by projecting a line from along the rear of the existing dwelling and extending to the side boundaries of the lot;
    - (b) where the lot has a frontage to more than one street a further line, in addition to (i) above, shall be projected from along the side of the existing dwelling nearest the street other than the street which such dwelling faces and extended to the rear boundary of the lot.
- (9) No building shall be erected, except in a position approved by the building surveyor.
- (10) The plans and specifications for a dwelling-house shall not be approved by the Council if they are identical with or nearly similar to the plans and specifications for a dwelling-house already approved for erection on an adjoining lot, if such last mentioned approval is still effective.
- (11) No part of any building shall be erected nearer a street than the building line prescribed in respect of the lot on which such building is erected: provided that the Council may waive compliance with this clause in any case where strict compliance is not practicable.

(12) All buildings, fences, and other erections shall be wholly completed, in accordance with the approved plans and specifications, within twelve months of the granting of such approval in default of which the Council may withdraw such approval, and it shall be as if such approval had never been granted.

(13) Every dwelling-house shall be connected to a deep sewerage system, or shall be provided with a septic tank appurtenant to that house alone.

No plans for a dwelling-house shall be approved by the Council, unless such plans show that this clause will be complied with.

(14) No advertisement, hoarding, sign, signboard, placard, notice or illuminated sign shall be erected or attached to any building, wall, fence, tree, or post and no person shall permit any such erection or attachment on land under his control: provided that this clause shall not apply to "For Sale" or to "To Let" notices.

(15) No person shall write, stencil, or paint any notice or advertisement on any building, wall, fence, tree or post, and no person shall cause to be done any of the acts hereby prohibited, and no person shall permit to be done any of such acts upon land under his control.

4A. The walls of every car-port erected in the residential or building districts prescribed by this by-law shall consist of brick, stone, concrete or cement blocks and such walls shall cover not more than two-thirds of the area of the side of the car-port which each encloses provided that this clause shall not apply to a wall which is also the wall of a dwelling house.

4B. (1) Notwithstanding any other provision of this By-law, consulting rooms for the use of a doctor, dentist, chiropractor registered under the Chiropractors Act 1964 or a physiotherapist registered under the Physiotherapists Act 1950 may be attached to or provided in any dwelling house designed for use as a single tenancy if:

(a) those rooms are to be used by a person actually occupying the dwelling to which or in which they are attached or provided; and

(b) the approval of the Council has first been obtained but the Council shall not give that approval unless it is of the opinion that the use of those rooms will not interfere with or have any adverse or detrimental effect on the residents or amenities of or the properties in the neighbourhood.

(2) Only a person who actually occupies the dwelling to which or in which consulting rooms are attached or provided pursuant to sub-clause (1) may use those rooms.

#### **Residential Districts – Building Lines.**

5. (1) Within the residential district of Floreat Park as specified in the First Schedule of this by-law a building line is prescribed at a distance of 30 feet from the street alignment of every Lot measured at right angles from the street alignment.

(2) Within the residential districts of City Beach as specified in the First Schedule of this by-law a building line is prescribed at a distance of 25 feet from the street alignment of every Lot measured at right angles from the street alignment.

#### **Business Districts.**

6. The provisions of this clause shall apply to the business districts specified in the second schedule of this by-law.

- (1) Not more than two shops and not more than one residence in addition to such shop, or shops, shall be erected on any one lot.
- (2) Every shop and residence shall be connected to a deep sewerage system, or shall be provided with a septic tank appurtenant to the buildings on that lot alone.

#### **Penalty.**

7. A person shall not erect, alter or add to a building or use or change the use of any land, building or part of a building or permit or suffer any land, building or part of a building to be used or the use of any land, building or part of a building to be changed for any purpose:
  - (a) Other than a purpose permitted by this By-law or approved of by the Council pursuant to this By-law;
  - (b) Unless all approvals, consents or licences required by this By-law have been granted or issued;
  - (c) Unless all conditions imposed upon the grant or issue of any approval, consent or licence required by this by-law have been and continue to be complied with;
  - (d) Unless all standards laid down and all requirements prescribed by this by-law or determined by the Council pursuant to this By-law with respect to that building or that use of that land or building or that part have been and continue to be complied with.
8. Where the Council has granted permission for the development of land under this by-law on a condition which involves the maintenance or continuance of the state or condition of any place, area, matter or thing a person shall not use that land for any purpose while the state or condition of that place, area, matter or thing is not being maintained or continued in accordance with that condition.
9. An officer of the Council authorised in writing by the Town Clerk of the Council may at reasonable times enter and inspect any building or land for the purpose of ascertaining whether or not the provisions of this by-law are being observed.
10. Any person committing a breach of any provision of this By-Law shall be liable to a penalty not exceeding \$200 and a maximum daily penalty during the breach of \$20 per day.

#### **First Schedule.**

Floreat Park District:

The Lots within the following area, excluding those Lots listed below.

The area, bounded on the east by part Selby Street, thence by the northern boundary of Lot 795 on Diagram 23862, thence by part Pearson Street, Cromarty Road, Alyth Road, part The Boulevard, Elphin Street, part Oceanic Drive, part Alderbury street, the eastern boundaries of Lots 418, 417, 416, 414, 413 411 and 410 on Plan 6091, Lots 176, 175, 173, 172, 170, 135 and 124 on Plan 5889, thence by part Newry Street to Selby Street.

The following Lots in the area are excluded from this Schedule:–

Lot 24 on Land Titles Office Plan 5659.

Lots 34 and 89 on Land Titles Office Plan 5842.

Lot 412 on Land Titles Office Plan 6091.

Lot 371 on Land Titles Office Plan 6184.

The area bounded by part Newry Street, part The Boulevard and part Birkdale Street.

Lot 635 on Land Titles Office Plan 6279.

Lots 36 and 37 on Land Titles Office Diagram 30314 and Lots 38 to 42 inclusive on Land Titles Office Plan 8175 (Floreat Forum).

Lot 1818 on Land Titles Office Plan 7286.

Lot 795 on Land Titles Office Diagram 23862.

Lots 862, 955, 1029, 1057 and 1099 on Land Titles Office Plan 6558.

Lots Part 1752, 1774, 1765 and Part 1776 on Land Titles Office Plan 6135.

Lot 1362 on Land Titles Office Plan 6371.

Lots 1543 and 1563 on Land Titles Office Plan 6559.

#### City Beach – Central District:

The lots within the following area, excluding those Lots listed below:–

The area bounded by Kalinda Drive on the east, thence by part The Boulevard, part Templetonia Crescent, part Dampier Avenue, part Lowanna Way, part Challenger Drive and part Oceanic Drive.

The area also includes Lot 1 on Land Titles Office Diagram 34414 (south of Oceanic Drive).

The following Lots in the area are excluded from this Schedule:–

Lot 157 on Land Titles Office Plan 5153.

Lot 288 on Land Titles Office Plan 7267 and the land contained in Land Titles Office Diagram 18104.

Lot 620 on Land Titles Office Plan 7094.

Lots 611 and 702 on Land Titles Office Diagram 21255 now known as Swan 6321 Res. No. 24779.

Lots 319 to 335 inclusive on Land Titles Office Plan 7257.

#### City Beach – North District:

The Lots within the following area, excluding those Lots listed below:–

The area bounded by part Pandora Drive on the East, thence by Durston Road, part Empire Avenue, part Brompton Road, part Bent Street, Chipping Road and part The Boulevard.

The area also includes Lot 1 on Land Titles Office Diagram 27431 and Lot 2 on Land Titles Office Diagram 32008 (both abutting Brompton Road).

The area bounded on the west by West Coast Highway, on the north by Peasholm Street, on the east by Brompton Road, and on the south by Bent Street.

The following Lots in the area are excluded from this Schedule:—

Lots 157, 159 and 160 on Land Titles Office Plan 7575.

Lots 202 and 235 on Land Titles Office Plan 7715.

Lot 218 (reserve) as included in the area bounded by part Brompton Road, part Bent Street, part Chipping Road and part Empire Avenue, and Lot 221 on Land Titles Office Diagram 37175.

Lot 373 on Land Titles Office Plan 8758 now known as Swan 8351 Reserve No. 29337.

Lots 1, 2 and part 158 on Lands Titles Office Diagram 27723 and 28178.

The area of all that part of Swan Location 1911 being part of the land comprised in Certificate of Title Volume 1008 Folio 655 as is contained within the broken black line on City of Perth Drawing No. 4530A.

City Beach – South-West District:

The Lots within the following area, excluding those Lots listed below:—

The area bounded by part Challenger Drive on the east, thence by part of the south arm of Oceanic Drive and part of West Coast Highway.

The following Lots in the area excluded from this Schedule:—

Lots 130 and 137 inclusive, Lots 143 to 148 inclusive on Land Titles Office Plan 6892, Lots 72 to 75 inclusive on Plan 5705, Lots 149 and 150 on Land Titles Office Plan 6892.

City Beach—South District:

The Lots within the following area:—

The area bounded by part Witney Crescent on the east, thence by part Rochdale Road, part McClemans Road, the northern and western boundaries of Lot 2 on Land Titles Office Diagram 24593, part Fortview Road, the western boundary of Lot 68 on Land Titles Office Plan 7542 and the Municipal boundary easterly to Witney Crescent.

The area also includes Lot 1 on Land Titles Office Diagram 21780 (Theological College site).

### **Second Schedule.**

Floreat Park District:

Lot 412 on Land Titles Office Plan 6091.

Lots 36 and 37 on Land Titles Office Diagram 30314 and

Lots 38 to 42 inclusive on Land Titles Office Plan 8175 (Floreat Forum).

City Beach—Central District:

Lot 288 on Land Titles Office Plan 7267.

City Beach—North District:

Lots 1, 2, and part 158 on Land Titles Office Diagrams 27723 and 28178.

**Third Schedule.**

The area of all that part of Swan Location 1911 being part of the land comprised in Certificate of Title Volume 1008 Folio 655 as is contained within the broken black line on City of Perth Drawing No. 4530A.

**FOURTH SCHEDULE.**

Lots 10 and 15 Parina Way.

Lots 33 and 38 Dilkara Way.

Lot 6, 45, 54 and 68 Yaltara Road.

Lot 151 Taronga Way.

Lots 134 and 135 Warri Road.

Lots 110 and 136 corner Warri Road and Peasholm Street.

Lot 109 corner Peasholm Street and Yaltara Road.

Lot 106 corner Yaltara Road and Poolya Road.

Lots 117 and 118 Poolya Road.

Lots 152, 157 and 182 Tarongo Way.

Lots 169 and 171 Peasholm Street.

Lot 194 Peasholm Street.

Lot 103 Bent Street, Corner Keaney Place.

Lots 115 and 117 Sellenger Court.

Lots 125 and 128 Maloney Way.