



14 NOVEMBER 2024

Shire of Esperance

ORDINARY COUNCIL MEETING

26 NOVEMBER 2024

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Shire of Esperance

BUSH FIRE BRIGADES LOCAL LAW 2024

Bush Fires Act 1954

Shire of Esperance
BUSH FIRE BRIGADES LOCAL LAW 2024

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Local Government Act 1995
Bush Fires Act 1954
Shire of Esperance
BUSH FIRE BRIGADES LOCAL LAW 2024

Under the powers conferred on it by the *Bush Fires Act 1954* and the *Local Government Act 1995* and under all other enabling powers, the Council of the Shire of Esperance resolved on [date] to make the following local law.

PART 1 PRELIMINARY

1.1 Short title

This local law may be cited as the Shire of Esperance *Bush Fire Brigades Local Law 2024*.

1.2 Commencement

This local law comes into operation 14 days 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The Shire of Esperance *Bush Fire Brigades Local Law* published in the *Government Gazette* on 6 September 2022 is repealed.

1.5 Definitions

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

Act means the *Bush Fires Act 1954*;

brigade area is defined in clause 2.2(a)(b);

brigade member means a fire fighting member, associate member or a cadet member of a bush fire brigade;

brigade officer means a person holding a position referred to in clause 2.2 (1)(c), whether or not he or she was appointed by the local government or elected at an annual general meeting of a bush fire brigade or otherwise appointed to the position;

bush fire brigade is defined in section 7 of the Act;

Bush Fire Operating Procedures means the Bush Fire Operating Procedures adopted by the local government as amended from time to time;

CEO means the Chief Executive Officer of the local government;

Council means the Council of the Shire of Esperance;

Department means the Department of Fire and Emergency Services of Western Australia;

district means the district of the local government;

fire fighting member is defined in clause 4.2;

local government means the Shire of Esperance;

LG Act means the *Local Government Act 1995*;

normal brigade activities is defined by section 35A of the Act

- (2) Subject to these Rules, where a decision is to be made by the bush fire brigade, then the decision may be made by a resolution passed by a simple majority of the brigade members who are present in person or by proxy at the meeting.
- (3) Subject to these Rules, where a decision is to be made by the Committee, then the decision may be made by a resolution passed by a simple majority of the brigade officers who are present in person or by proxy at the meeting.

Regulations means Regulations made under the Act; and

Rules means the Rules Governing the Operation of Bush Fire Brigades set out in the First Schedule.

- (1) In this local law, unless the context otherwise requires, a reference to –
 - (a) a Captain;
 - (b) a First Lieutenant;
 - (c) any additional Lieutenants;
 - (d) an Equipment Officer;
 - (e) a Secretary.
 - (f) a Treasurer; or
 - (g) a Secretary / Treasurer combined;means a person holding that position in a bush fire brigade.

PART 2 ESTABLISHMENT OF BUSH FIRE BRIGADES

DIVISION 1 ESTABLISHMENT OF BUSH FIRE BRIGADES

2.1 Establishment of a bush fire brigade

- (1) The local government may establish a bush fire brigade for the purpose of carrying out normal brigade activities.
- (2) A bush fire brigade is established on the date of the local government's decision under subclause (1).

2.2 Name and officers of bush fire brigade

- (1) On establishing a bush fire brigade under clause 2.1(1) the local government is to –
 - (a) give a name to the bush fire brigade;
 - (b) specify the area in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities (the **brigade area**); and
 - (c) appoint –
 - (d) a Captain;
 - (e) a First Lieutenant;
 - (f) additional Lieutenants if the local government considers it necessary, ranked by seniority;
 - (g) an Equipment Officer;
 - (h) a Secretary; and
 - (i) a Treasurer; or
 - (j) a Secretary/Treasurer combined.
- (2) When considering the appointment of persons to the positions in subclause (1)(c), the local government is to have regard to the qualifications and experience which may be required to fill each position.
- (3) A person appointed to a position in subclause (1)(c) is to be taken to be a brigade member.
- (4) The appointments referred to in subclause (1)(c) expire at the completion of the first annual general meeting of the bush fire brigade.
- (5) If a position referred to in subclause (1)(c) becomes vacant prior to the completion of the first annual general meeting, then the local government is to appoint a person to fill the vacancy in accordance with subclause (2)

DIVISION 2 COMMAND AT A FIRE

2.3 Ranks within the bush fire brigade

- (1) In the absence of the Captain, the first Lieutenant, and in the absence of the first, the second Lieutenant and so on, in the order of seniority determined, is to exercise all the powers and duties of the Captain.
- (2) Where a bush fire control officer is in attendance at a fire which the members of the bush fire brigade have command of under the Act and the Bush Fire Operating Procedures, the most senior bush fire control officer has full control over other persons fighting the fire and is to issue instructions as to the methods to be adopted by the fire fighters.

DIVISION 3 APPLICATION OF RULES TO A BUSH FIRE BRIGADE

2.4 Rules

- (1) The Rules govern the operation of a bush fire brigade.
- (2) A bush fire brigade and each brigade member is to comply with the Rules as set out in the First Schedule.

DIVISION 4 TRANSITIONAL

2.5 Existing Bush Fire Brigades

- (1) Where a local government has established a bush fire brigade prior to the commencement date, then on and from the commencement day –
 - (a) the bush fire brigade is to be taken to be a bush fire brigade established under and in accordance with this local law;
 - (b) the provisions of this local law apply to the bush fire brigade save for clause 2.2; and
 - (c) any rules governing the operation of the bush fire brigade are to be taken to have been repealed and substituted with the Rules.
- (2) In this clause –

commencement day means the day on which this local law comes into operation.

DIVISION 5 DISSOLUTION OF BUSH FIRE BRIGADE

2.6 Dissolution of bush fire brigade

In accordance with section 41(3) of the Act, the local government may cancel the registration of a bush fire brigade if it is of the opinion that the bush fire brigade is not complying with the Act, this local law, the Bush Fire Operating Procedures or the Rules, or is not achieving the objectives for which it was established.

2.7 New arrangement after dissolution

If the local government cancels the registration of a bush fire brigade, alternative fire control arrangements are to be made in respect of the brigade area.

PART 3 ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES

DIVISION 1 LOCAL GOVERNMENT RESPONSIBILITY

3.1 Local government responsible for structure

The local government is to ensure that there is an appropriate structure through which the organisation of bush fire brigades is maintained.

3.2 Officers to be supplied with Act

The local government is to supply each brigade officer with a copy of the Act, the Regulations, the Bush Fire Operating Procedures, this local law and any other written laws which may be relevant to the performance of the brigade officers' functions, and any amendments which are made from time to time.

DIVISION 2 CHIEF BUSH FIRE CONTROL OFFICER

3.3 Managerial role of Chief Bush Fire Control Officer

Subject to any directions by the local government the Chief Bush Fire Control Officer has primary managerial responsibility for the organisation and maintenance of bush fire brigades.

3.4 Chief Bush Fire Control Officer may attend meetings

The Chief Bush Fire Control Officer or her or his nominee (who is to be a bush fire control officer) may attend as a non-voting representative of the local government at any meeting of a bush fire brigade.

3.5 Duties of Chief Bush Fire Control Officer

The duties of the Chief Bush Fire Control Officer include –

- (1) provide leadership to volunteer bush fire brigades;
- (2) monitor bush fire brigades' resourcing, equipment (including protective clothing) and training levels and report thereon with recommendations at least once a year to the local government;
- (3) liaise with the local government concerning fire prevention / suppression matters generally and directions to be issued by the local government to bush fire control officers (including those who issue permits to burn) bush fire brigades or brigade officers;
- (4) ensure that bush fire brigades are registered with the local government and that lists of brigade members are maintained.

DIVISION 3 ANNUAL GENERAL MEETINGS OF BUSH FIRE BRIGADES

3.6 Holding of annual general meeting

A bush fire brigade is to hold an annual general meeting each year.

3.7 Nomination of bush fire control officers to Bush Fire Advisory Committee

At the annual general meeting of a bush fire brigade, at least one brigade member, to a maximum of five members, is to be nominated to the Bush Fire Advisory Committee to serve as the bush fire control officer for the brigade area until the next general meeting.

3.8 Nomination of bush fire control officer to the local government

If the local government has not established a Bush Fire Advisory Committee, then at the annual general meeting of a bush fire brigade, the bush fire brigade is to nominate one brigade member to the local government to serve as the bush fire control officer for the brigade area until the next annual general meeting.

DIVISION 4 BUSH FIRE ADVISORY COMMITTEE

3.9 Functions of Advisory Committee

The Bush Fire Advisory Committee is to have the functions set out in section 67 of the Act and is to include such number of nominees of the bush fire brigades as is determined by the local government.

3.10 Advisory Committee to nominate bush fire control officers

As soon as practicable after the annual general meeting of each bush fire brigade in the district, the Bush Fire Advisory Committee is to nominate to the local government from the persons nominated by each bush fire brigade a person for the position of a bush fire control officer for the brigade area.

3.11 Local government to have regard to nominees

When considering persons for the position of a bush fire control officer, the local government is to have regard to those persons nominated by the Bush Fire Advisory Committee, but is not bound to appoint the persons nominated.

3.12 Advisory Committee to consider bush fire brigade motions

The Bush Fire Advisory Committee is to make recommendations to the local government on all motions received by the Bush Fire Advisory Committee from bush fire brigades.

PART 4 TYPES OF BUSH FIRE BRIGADE MEMBERSHIP

4.1 Types of membership of bush fire brigade

The membership of a bush fire brigade consists of the following –

- (1) fire fighting members;
- (2) associate members;
- (3) cadet members; and
- (4) honorary life members.

4.2 Fire fighting members

- (1) Fire fighting members are those persons being at least 17 years of age who undertake all normal bush fire brigade activities.
- (2) Fire fighting members aged 17 years and under 18 years old must –
 - (a) Have the written consent of a parent/guardian, and;
 - (b) The Captain is satisfied that the member is able to perform an activity, and;
 - (c) Is accompanied by a member over the age of 18 during an activity to undertake normal bush fire brigade activities.

4.3 Associate members

Associate members are those persons who are willing to supply free vehicular transport for fire fighting members or fire fighting equipment, or who are prepared to render other assistance required by the bush fire brigade.

4.4 Cadet members

Cadet members are –

- (1) to be aged 11 to 16 years;
- (2) to be admitted to membership only with the consent of their parent or guardian;
- (3) admitted for the purpose of training and are not to attend or be in attendance at an uncontrolled fire or other emergency incident;
- (4) to be supervised by a fire fighting member when undertaking normal brigade activities as defined by paragraphs (c), (d), (e), (f) and (g) of section 35A of the Act;
- (5) ineligible to vote at bush fire brigade meetings;
- (6) not to be assigned ranks under the Department's rank structure.

4.5 Honorary life member

- (1) The bush fire brigade may by a simple majority resolution appoint a person as an honorary life member in recognition of services by that person to the bush fire brigade.
- (2) No membership fees are to be payable by an honorary life member.

4.6 Notification of membership

When a change of membership occurs, the bush fire brigade is to report to the Shire of Esperance the name, contact details and type of membership of each brigade member.

PART 5 APPOINTMENT DISMISSAL AND MANAGEMENT OF MEMBERS

5.1 Rules to govern

The appointment, dismissal and management of brigade members by the bush fire brigade are governed by the Rules.

PART 6 EQUIPMENT OF BUSH FIRES BRIGADES

6.1 Funding from Local Government Grant Scheme

The local government provides funding to bush fire brigades via the Local Government Grant Scheme (LGGS) for the purchase of protective clothing, equipment, appliances and other operational needs.

Expenditure of funds under the LGGS shall be managed by the Local Government in accordance with the Local Government Grant Scheme Manual

6.2 Funding from local government budget

Where an item is not eligible or is not otherwise able to be funded through the LGGS, a bush fire brigade may submit a request to the Local Government for funding from the Local Government budget.

A request for funding must be received, in writing, no later than 28th February each year, for consideration in the upcoming budget deliberations for the coming financial year.

The local government may approve or refuse an application for funding depending upon the assessment of budget priorities for the year in question.

FIRST SCHEDULE

RULES GOVERNING THE OPERATION OF BUSH FIRE BRIGADES

PART 1 PRELIMINARY

1.1 Interpretation

(1) In these Rules, unless the context otherwise requires, where a term is used in these Rules and is defined in the local law, the Act or the Regulations, then the term is to be taken to have the meaning assigned to it in the local law, the Act or the Regulations, as the case may be.

(2) In these Rules, unless the context otherwise requires –

absolute majority means a majority of more than 50% of the number of -

- (a) brigade members of the bush fire brigade, whether in attendance at the meeting or not, if the majority is required at a meeting of the bush fire brigade; or
- (b) brigade officers of the bush fire brigade, whether in attendance at the meeting or not, if the majority is required at a meeting of the Committee.

Committee means the Committee of the bush fire brigade;

local law means the Shire of Esperance *Bush Fire Brigades Local Law 2024*; and

normal brigade activities is defined by section 35A of the Act

- (1) Subject to these Rules, where a decision is to be made by the bush fire brigade, then the decision may be made by a resolution passed by a simple majority of the brigade members who are present in person or by proxy at the meeting.
- (2) Subject to these Rules, where a decision is to be made by the Committee, then the decision may be made by a resolution passed by a simple majority of the brigade officers who are present in person or by proxy at the meeting.

PART 2 OBJECTS AND MEMBERSHIP OF BUSH FIRE BRIGADE

2.1 Objects of bush fire brigade

The objects of the bush fire brigade are to carry out –

- (1) the normal brigade activities; and

- (2) the functions of the bush fire brigade which are specified in the Act, the Regulations and the local law.

2.2 Committee to determine applications

Applications for membership are to be determined by the Committee.

2.3 Conditions of membership

In relation to any type of membership, as described in Part 4 of the local law, the bush fire brigade may establish policies pertaining to –

- (1) the qualifications required;
- (2) fees payable, if any;
- (3) a requirement to serve a probationary period;
- (4) procedures to be employed by the Committee prior to approval of an application for membership,

and the Committee is to act within the parameters of any such policy in determining applications for membership.

2.4 Applications for membership

An application for membership is to be in writing and is to be accompanied with a completed Emergency Services Volunteer Membership Application Form and submitted to the Shire.

2.5 Decision on application for membership

- (1) The Committee may –
 - (a) approve an application for membership unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for membership.
- (2) If the Committee refuses to approve an application for membership, it is to give written reasons for the refusal, as soon as practicable after the decision is made, to the applicant and the advice that the applicant has the right to object to the local government.

2.6 DFES to be notified of registrations

If any application for membership is approved, the Secretary of the bush fire brigade is to supply registration details to the Shire who are to inform the Department within 14 days of a person being admitted to membership in the form required by the Department from time to time.

2.7 Termination of membership

- (1) Membership of the bush fire brigade terminates if the member –
 - (a) dies;
 - (b) gives written notice of resignation to the Secretary;
 - (c) is, in the opinion of the Committee, permanently incapacitated by mental or physical ill-health;
 - (d) is dismissed by the Committee; or
 - (e) ceases to be a member or is taken to have resigned under subclause (2); or
 - (f) Is found to have breached the Shire of Esperance Code of Conduct
- (2) Where a membership is terminated, all property owned by the bush fire brigade or the local government that is held by or in the possession of the person whose membership has been terminated, shall be returned on demand to the bush fire brigade or local government

2.8 Suspension of membership

- (1) Membership of the bush fire brigade may be suspended at any time if, in the opinion of the Committee, circumstances warrant suspending the member.
- (2) The period of suspension shall be at the discretion of the Committee.
- (3) Upon the expiry of the period of suspension the Committee may -
 - (a) extend the period of suspension;
 - (b) terminate the membership; or
 - (c) reinstate the membership.

2.9 Existing liabilities to continue

The resignation, or dismissal of a member under clause 2.7 does not affect any liability of the brigade member arising prior to the date of resignation or dismissal.

2.10 Member has right of defence

A brigade member is not to be dismissed under clause 2.7(1)(d) without being given the opportunity to meet with the Committee and answer any charges which might give grounds for dismissal.

2.11 Objection Rights

A person whose -

- (1) application for membership is refused under clause 2.5(1)(b);

- (2) membership is terminated under clause 2.7(1)(c), clause 2.7(1)(d) or clause 2.8(3)(b); or
 - (3) membership is suspended under clause 2.8(1) or clause 2.8(3)(a),
- has the right of objection to the local government which may dispose of the objection by –
- (1) dismissing the objection;
 - (2) varying the decision objected to; or
 - (3) revoking the decision objected to, with or without –
 - (a) substituting for it another decision; or
 - (b) referring the matter, with or without directions, for another decision by the Committee.

PART 3 FUNCTIONS OF BRIGADE OFFICERS

3.1 Chain of command during fire fighting activities

Subject to the Act and the local law, the command procedures to apply during fire fighting activities are as detailed in the local government's Bush Fire Operating Procedures.

3.2 Duties of Captain

The Captain is the most senior operational member of the brigade.

- (1) Subject to subclause (2) below, the Captain is to preside at all meetings.
- (2) In the absence of the Captain, the meeting may elect another person to preside at the meeting.

3.3 Duties of Lieutenants

- (1) Lieutenants shall be ranked numerically according to seniority.
- (2) The first lieutenant is the second most senior operational member of the brigade, and so on.

3.4 Secretary

- (1) The Secretary is to –
 - (a) be in attendance at all meetings and keep a correct minute and to record an account of the proceedings of the bush fire brigade, to which shall be made available for inspection by brigade members at any reasonable time;

- (b) answer all correspondence or direct it appropriately, and keep a record of the same;
- (c) prepare and send out all necessary notices of meetings;
- (d) receive donations and other monies on behalf of the bush fire brigade, and remit them to the Treasurer upon receipt;
- (e) maintain a register of all current brigade members which includes each brigade member's contact details and type of membership.
- (f) to provide reports to the Local Government on membership updates as required and from time to time, detailing the name, contact details, and type of membership.

3.5 Treasurer

The Treasurer is to –

- (1) receive donations and deposits from the Secretary, and deposit all monies to the credit of the bush fire brigade's bank account;
- (2) pay accounts as authorized by the Committee;
- (3) keep a record of all monies received and payments made, maintain the accounts and prepare the balance sheet for each financial year;
- (4) be the custodian of all monies of the bush fire brigade; and
- (5) report on the financial position at meetings of the bush fire brigade or Committee.

3.6 Equipment Officer

The Equipment Officer is responsible for the custody and maintenance in good order and condition of all protective clothing, equipment and appliances provided by the local government to the bush fire brigade (or of the bush fire brigade).

- (1) A captain or secretary/treasurer may act as an equipment officer should a brigade elect not to appoint an equipment officer.

3.7 Storage of equipment

- (1) The Equipment Officer may store all of the equipment of the bush fire brigade at a place approved by the Captain (the "station").
- (2) If there is to be more than one station in the brigade area, the Equipment Officer is to appoint in respect of each station a person who is responsible for the custody and maintenance in good order and condition of all equipment and appliances at the station, subject to any direction of the Equipment Officer.

3.8 Equipment Officer to report

The Equipment Officer is to provide, no later than 31 May of each year, a report to the local government and bush fire brigade captain describing the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the bush fire brigade area (or at a station of the bush fire brigade).

PART 4 COMMITTEE

4.1 Management of bush fire brigade

- (1) Subject to the provisions of these Rules, the administration and management of the affairs of the bush fire brigade are vested in the Committee.
- (2) Without limiting the generality of subclause (1), the Committee is to have the following functions –
 - (a) to recommend to the local government amendments to these Rules;
 - (b) to draft the annual budget for the bush fire brigade and present it at the annual general meeting of the bush fire brigade;
 - (c) to propose a motion for consideration at any meeting of the bush fire brigade;
 - (d) to recommend to the local government equipment which needs to be supplied by the local government to the bush fire brigade;
 - (e) to invest or place on deposit any of the funds of the bush fire brigade not immediately required to perform the normal brigade activities;
 - (f) to delegate to a person, as from time to time thought fit, any functions (being less than the total functions of the Committee) on any conditions it thinks fit;
 - (g) to do all things necessary or convenient in order to perform any of its functions and to secure the performance of the normal brigade activities by the bush fire brigade; and
 - (h) deal with membership applications, grievances, disputes and disciplinary matters.

4.2 Constitution of Committee

- (1) The Committee of the bush fire brigade is to consist of the brigade officers being the Captain, Secretary, Treasurer, Equipment Officer and the Lieutenants of the bush fire brigade.
- (2) The brigade officers are to -

- (a) be elected at the annual general meeting of the bush fire brigade;
 - (b) hold office until the next annual general meeting; and
 - (c) be eligible for re-election at the next annual general meeting.
- (3) Any brigade officer may be removed from office by an absolute majority decision of the brigade members present in person or by proxy at a special meeting called for such a purpose.
- (4) The Committee may appoint a brigade member to fill a vacancy in any office arising from a resolution under subclause (3) or which has arisen for any other reason.

PART 5 MEETINGS OF BUSH FIRE BRIGADE

5.1 Ordinary meetings

- (1) Ordinary meetings may be called at any time by the Secretary by giving at least 7 days notice to all brigade members and to the Chief Bush Fire Control Officer, for the purpose of –
- (a) organising and checking equipment;
 - (b) requisitioning new or replacement equipment;
 - (c) organising field excursions, training sessions, hazard reduction programs, and the preparation of fire-breaks;
 - (d) establishing new procedures in respect of any of the normal brigade activities; and
 - (e) dealing with any general business.
- (2) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.
- (3) Business may be conducted at an ordinary meeting of the bush fire brigade notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.

5.2 Special meetings

- (1) The Secretary is to call a special meeting when 5 or more brigade members request one in writing.
- (2) At least 2 days notice of a special meeting is to be given by the Secretary, to all brigade members and to the Chief Bush Fire Control Officer.
- (3) In a notice given under subclause (2) the Secretary is to specify the business which is to be conducted at the meeting.
- (4) No business is to be conducted at a special meeting beyond that specified in a notice given under subclause (2) in relation to that meeting.

5.3 Annual general meeting

- (1) At least 7 days notice of the annual general meeting is to be given by the Secretary to all brigade members and to the Chief Bush Fire Control Officer.
- (2) At the annual general meeting the bush fire brigade is to –
 - (a) elect the brigade officers from among the brigade members;
 - (b) consider the Captain's report on the year's activities;
 - (c) adopt the annual financial statements;
 - (d) appoint an Auditor for the ensuing financial year in accordance with clause 5.6; and
 - (e) deal with any general business.
- (3) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.
- (4) Business may be conducted at an annual general meeting notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.

5.4 Quorum

- (1) The quorum for a meeting of the bush fire brigade is at least 50% of the number of offices (whether vacant or not) of member of the bush fire brigade.
- (2) No business is to be transacted at a meeting of the bush fire brigade unless a quorum of brigade members is present in person or by proxy.

5.5 Voting

Each brigade member is to have one vote, however in the event of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

5.6 Auditor

- (1) At the annual general meeting a person, not being a brigade member, is to be appointed as the Auditor of the bush fire brigade for the ensuing financial year.
- (2) The Auditor is to audit the accounts of the bush fire brigade not less than 7 days before the annual general meeting and is to certify to their correctness or otherwise and present a report at the annual general meeting.

PART 6 MEETINGS OF COMMITTEE

6.1 Meetings of Committee

- (1) The Committee is to meet for the despatch of business, adjourn and otherwise regulate its meeting as it thinks fit.
- (2) The Captain or Secretary may convene a meeting of the Committee at any time.

6.2 Quorum

No business is to be transacted at a meeting of the Committee unless a quorum of 3 brigade officers are present in person.

6.3 Voting

Each brigade officer is to have one vote, however in the case of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

PART 7 GENERAL ADMINISTRATION MATTERS

7.1 Fees

- (1) The membership fees, if any, for each type of member for the ensuing 12 months are to be determined by the bush fire brigade at the annual general meeting.
- (2) Subject to subclause (3), a member is to pay the membership fees for her or his type of membership on or before 1 May.
- (3) The bush fire brigade may exempt a brigade member, or a class of membership, from the payment of membership fees, for such period and on such conditions as the bush fire brigade may determine.

7.2 Funds

The funds of the bush fire brigade are to be used solely for the purpose of promoting the objects of the bush fire brigade.

7.3 Financial year

The financial year of the bush fire brigade is to commence on 1 July and is to end on 30 June of the following year.

7.4 Banking

- (1) The funds of a bush fire brigade are to be placed in the bush fire brigade's bank account and are to be drawn on only by authorised use of electronic banking by the Secretary or Treasurer in accordance with subclause (2)

- (2) For the purposes of subclause (1)(b), any 2 of the President, Captain, Secretary or Treasurer may authorise in writing the use of electronic banking to draw on the brigade's funds for transactions greater than \$1500.

7.5 Disclosure of interests

- (1) A brigade member shall disclose to the bush fire brigade or Committee any financial interest (whether direct or indirect) he or she may have in any matter being considered by the bush fire brigade or Committee, as appropriate.
- (2) If a financial interest has been disclosed under subclause (1), then the bush fire brigade or Committee, as appropriate, is to decide, in the absence of the brigade member who disclosed that interest, whether or not the brigade member is to be permitted to vote on that matter.
- (3) Where the bush fire brigade or Committee, as appropriate, decides under subclause (2), that a brigade member is not to be permitted to vote on a matter, and the brigade member votes on the matter, then her or his vote is to be taken to have no effect and is not to be counted.

7.6 Disagreements

- (1) Any disagreement between brigade members may be referred to either the Captain or to the Committee.
- (2) Where a disagreement in subclause (1) is considered by the Captain or the Committee to be of importance to the interests of the bush fire brigade, then the Captain or the Committee, as the case may be, is to refer the disagreement to the annual general meeting, an ordinary meeting or a special meeting of the bush fire brigade.
- (3) The local government is the final authority on matters affecting the bush fire brigade, and may resolve any disagreement which is not resolved under subclause (1) or (2).

PART 8 NOTICES AND PROXIES

8.1 Notices

- (1) Notices of meetings of the bush fire brigade are to be in writing and sent by ordinary post or other means in 8.1(1)(4) to each brigade member.
- (2) Notices of meetings of the Committee may be given in writing in accordance with subclause (1) or by such other means as the Committee may decide (by an absolute majority) at a meeting of the Committee.

- (3) Any accidental omission to give notice of a meeting to, or non-receipt by a person entitled to receive such notice, is not to invalidate the meeting the subject of the notice or any resolutions passed at the meeting.
- (4) Where any notice other than a notice of meeting is to be given under these Rules, the notice is to be –
 - (a) in writing;
 - (b) unless otherwise specified, given to or by the Secretary;
 - (c) given by –
 - (i) Personal delivery;
 - (ii) Post;
 - (iii) Email;
 - (iv) Short Message Service (SMS) or the like: or
 - (v) Facsimile transmissionor any other method approved by the local government.
 - (d) taken to have been received, as the case may be –
 - (i) at the time of personal delivery;
 - (ii) 2 business days after posting; or
 - (iii) on the printing of the sender's transmission report.

8.2 Proxies

- (1) Where under these Rules a brigade member may vote by proxy, in order for the proxy to so vote, the brigade member or the proxy shall give a notice in the form of that appearing in this clause, to the Secretary or the person presiding at the meeting before the start of the meeting at which the proxy is to be used.
- (2) A proxy is to be valid for the meeting for which it is given and for any adjournments of that meeting.
- (3) A proxy shall be valid for the number of votes to which the brigade member is entitled.
- (4) If the donor of the proxy does not give any indication of the manner in which the proxy is to vote, the proxy shall be entitled to vote or not vote as he or she thinks fit.
- (5) A proxy shall be entitled to speak on behalf of the donor of the proxy.
- (6) All forms appointing proxies deposited under subclause (1) are to be retained by the Secretary for not less than 28 days after the conclusion of the meeting to which they relate but if there is any objection to the validity of any vote at the meeting, they are to be retained until the determination of that objection.

Dated _____ day of _____.

The Common Seal of the Shire of Esperance was hereunto affixed by the authority of a resolution of the Council in the presence of -

Ronald Chambers
SHIRE PRESIDENT

Shane Burge
CHIEF EXECUTIVE OFFICER



Shire of Esperance

BUSH FIRE BRIGADES LOCAL LAW 2024

Bush Fires Act 1954

Commented [SW1]: DLGSC feedback incorporated into document during re-formatting process. (repeal clause and template insertions)

Shire of Esperance
BUSH FIRE BRIGADES LOCAL LAW 2024

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Local Government Act 1995

Bush Fires Act 1954

Shire of Esperance

BUSH FIRE BRIGADES LOCAL LAW 2024

Under the powers conferred on it by the *Bush Fires Act 1954* and the *Local Government Act 1995* and under all other enabling powers, the Council of the Shire of Esperance resolved on [date] to make the following local law.

PART 1 PRELIMINARY

1.1 Short title

This local law may be cited as the Shire of Esperance *Bush Fire Brigades Local Law 2024*.

1.2 Commencement

This local law comes into operation 14 days 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 Shire of Esperance *Bush Fire Brigades Local Law* published in the *Government Gazette* on 6 September 2022 is repealed.

1.5 Definitions

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

Act means the *Bush Fires Act 1954*;

brigade area is defined in clause 2.2(a)(b);

brigade member means a fire fighting member, associate member or a cadet member of a bush fire brigade;

brigade officer means a person holding a position referred to in clause 2.2 (1)(c), whether or not he or she was appointed by the local government or elected at an annual general meeting of a bush fire brigade or otherwise appointed to the position;

bush fire brigade is defined in section 7 of the Act;

Bush Fire Operating Procedures means the Bush Fire Operating Procedures adopted by the local government as amended from time to time;

CEO means the Chief Executive Officer of the local government;

Council means the Council of the Shire of Esperance;

Department means the Department of Fire and Emergency Services of Western Australia;

district means the district of the local government;

fire fighting member is defined in clause 4.2;

local government means the Shire of Esperance;

LG Act means the *Local Government Act 1995*;

normal brigade activities is defined by section 35A of the Act

(2) Subject to these Rules, where a decision is to be made by the bush fire brigade, then the decision may be made by a resolution passed by a simple majority of the brigade members who are present in person or by proxy at the meeting.

(3) Subject to these Rules, where a decision is to be made by the Committee, then the decision may be made by a resolution passed by a simple majority of the brigade officers who are present in person or by proxy at the meeting.

Regulations means Regulations made under the Act; and

Rules means the Rules Governing the Operation of Bush Fire Brigades set out in the First Schedule.

(1) In this local law, unless the context otherwise requires, a reference to –

(a) a Captain;

(b) a First Lieutenant;

~~(c) a Second Lieutenant;~~

~~(d)~~(c) any additional Lieutenants;

~~(e)~~(d) an Equipment Officer;

~~(f)~~(e) a Secretary.

~~(g)~~(f) a Treasurer; or

~~(h)~~(g) a Secretary / Treasurer combined;

means a person holding that position in a bush fire brigade.

Commented [SW2]: DFES Minister response recommendation

Commented [ZSM3]: In reference to Danny Sanderson's question regarding these positions – Clarification has been provided in response to this question.

Commented [ZSM4R3]: Consultation group identified that requirement for Second Lieutenant can be removed, as (1)(c) provides for additional lieutenants should a brigade identify that more than 1 lieutenant is required

PART 2 ESTABLISHMENT OF BUSH FIRE BRIGADES

DIVISION 1 ESTABLISHMENT OF BUSH FIRE BRIGADES

2.1 Establishment of a bush fire brigade

- (1) The local government may establish a bush fire brigade for the purpose of carrying out normal brigade activities.
- (2) A bush fire brigade is established on the date of the local government's decision under subclause (1).

Commented [ZSM5]: Ash Comment: the need to reference *Bush Fires Act s41(1)* within 2.1 Establishment of a bush fire brigade

Commented [ZSM6R5]: The first paragraph gives the powers of the Act to make a local law.

2.2 Name and officers of bush fire brigade

- (1) On establishing a bush fire brigade under clause 2.1(1) the local government is to –
 - (a) give a name to the bush fire brigade;
 - (b) specify the area in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities (the **brigade area**); and
 - (c) appoint –
 - (i) a Captain;
 - (ii) a First Lieutenant;
 - ~~(iii) a Second Lieutenant;~~
 - ~~(iv)~~(iii) additional Lieutenants if the local government considers it necessary, ranked by seniority;
 - ~~(v)~~(iv) an Equipment Officer;
 - ~~(vi)~~(v) a Secretary; and
 - ~~(vii)~~(vi) a Treasurer; or
 - ~~(viii)~~(vii) a Secretary/Treasurer combined.
- (2) When considering the appointment of persons to the positions in subclause (1)(c), the local government is to have regard to the qualifications and experience which may be required to fill each **position**.
- (3) A person appointed to a position in subclause (1)(c) is to be taken to be a brigade member.
- (4) The appointments referred to in subclause (1)(c) expire at the completion of the first annual general meeting of the bush fire brigade.
- (5) If a position referred to in subclause (1)(c) becomes vacant prior to the completion of the first annual general meeting, then the local government is to appoint a person to fill the vacancy in accordance with subclause (2)

Commented [ZSM7]: In consultation with CBFCO & Danny Sanderson (Const) – Remove second lieutenant. Brigades size structure don't require second lieutenant, and 2.2(c)(iv) enables additional lieutenants.

The requirement for second lieutenant is too prescriptive for brigades.

Formatted: Not Strikethrough

Commented [ZSM8]: proposed

Commented [ZSM9]: Note: regard for qualifications and experience to be prescribed in policy

Additional note: Position of FCO in relation to captain/lieutenant to be described in policy.

DIVISION 2 COMMAND AT A FIRE

2.3 Ranks within the bush fire brigade

- (1) In the absence of the Captain, the first Lieutenant, and in the absence of the first, the second Lieutenant and so on, in the order of seniority determined, is to exercise all the powers and duties of the Captain.
- (2) Where a bush fire control officer is in attendance at a fire which the members of the bush fire brigade have command of under the Act and the Bush Fire Operating Procedures, the most senior bushfire control officer has full control over other persons fighting the fire and is to issue instructions as to the methods to be adopted by the fire fighters.

Commented [SW10]: If second lieutenant is removed from 2.2(1)(c) this shouldn't be referenced further in the LL?

Commented [ZSM11R10]: Removing the requirement for a second lieutenant does not exclude a bushfire brigade from having a second lieutenant – so keeping second lieutenant here makes logical sense

Commented [ZSM12]: DS question regarding FCO/Lieutenants answered. An FCO have a different function, as prescribed by the Act

DIVISION 3 APPLICATION OF RULES TO A BUSH FIRE BRIGADE

2.4 Rules

- (1) The Rules govern the operation of a bush fire brigade.
- (2) A bush fire brigade and each brigade member is to comply with the Rules as set out in the First Schedule.

DIVISION 4 TRANSITIONAL

2.5 Existing Bush Fire Brigades

- (1) Where a local government has established a bush fire brigade prior to the commencement date, then on and from the commencement day –
 - (a) the bush fire brigade is to be taken to be a bush fire brigade established under and in accordance with this local law;
 - (b) the provisions of this local law apply to the bush fire brigade save for clause 2.2; and
 - (c) any rules governing the operation of the bush fire brigade are to be taken to have been repealed and substituted with the Rules.
- (2) In this clause –

commencement day means the day on which this local law comes into operation.

DIVISION 5 DISSOLUTION OF BUSH FIRE BRIGADE

2.6 Dissolution of bush fire brigade

In accordance with section 41(3) of the Act, the local government may cancel the registration of a bush fire brigade if it is of the opinion that the bush fire brigade is not complying with the Act, this local law, the Bush Fire Operating Procedures or the Rules, or is not achieving the objectives for which it was established.

Commented [ZSM13]: Ash Comment: some wording as a dot point under 2.6 or its separate heading - all personal protective clothing and equipment, appliances, brigade assets are to be return to the Local Government, for the Local Government in conjunction with the CBFCO to determine where best to reallocate resources to other remaining brigades

Commented [ZSM14R13]: This can be covered in a Policy

2.7 New arrangement after dissolution

If the local government cancels the registration of a bush fire brigade, alternative fire control arrangements are to be made in respect of the brigade area.

PART 3 ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES

DIVISION 1 LOCAL GOVERNMENT RESPONSIBILITY

3.1 Local government responsible for structure

The local government is to ensure that there is an appropriate structure through which the organisation of bush fire brigades is maintained.

3.2 Officers to be supplied with Act

The local government is to supply each brigade officer with a copy of the Act, the Regulations, the Bush Fire Operating Procedures, this local law and any other written laws which may be relevant to the performance of the brigade officers' functions, and any amendments which are made from time to time.

Commented [ZSM15]: Note: In development

DIVISION 2 CHIEF BUSH FIRE CONTROL OFFICER

3.3 Managerial role of Chief Bush Fire Control Officer

Subject to any directions by the local government the Chief Bush Fire Control Officer has primary managerial responsibility for the organisation and maintenance of bush fire brigades.

3.4 Chief Bush Fire Control Officer may attend meetings

The Chief Bush Fire Control Officer or her or his nominee (who is to be a bush fire control officer) may attend as a non-voting representative of the local government at any meeting of a bush fire brigade.

3.5 Duties of Chief Bush Fire Control Officer

The duties of the Chief Bush Fire Control Officer include –

- (1) provide leadership to volunteer bush fire brigades;
- (2) monitor bush fire brigades' resourcing, equipment (including protective clothing) and training levels and report thereon with recommendations at least once a year to the local government;
- (3) liaise with the local government concerning fire prevention / suppression matters generally and directions to be issued by the local government to bush fire control officers (including those who issue permits to burn) bush fire brigades or brigade officers;
- (4) ensure that bush fire brigades are registered with the local government and that lists of brigade members are maintained.

DIVISION 3 ANNUAL GENERAL MEETINGS OF BUSH FIRE BRIGADES

3.6 Holding of annual general meeting

A bush fire brigade is to hold an annual general meeting each year.

3.7 Nomination of bush fire control officers to Bush Fire Advisory Committee

At the annual general meeting of a bush fire brigade, at least one brigade member, to a maximum of five members, is to be nominated to the Bush Fire Advisory Committee to serve as the bush fire control officer for the brigade area until the next general meeting.

3.8 Nomination of bush fire control officer to the local government

If the local government has not established a Bush Fire Advisory Committee, then at the annual general meeting of a bush fire brigade, the bush fire brigade is to nominate one brigade member to the local government to serve as the bush fire control officer for the brigade area until the next annual general meeting.

DIVISION 4 BUSH FIRE ADVISORY COMMITTEE

3.9 Functions of Advisory Committee

The Bush Fire Advisory Committee is to have the functions set out in section 67 of the Act and is to include such number of nominees of the bush fire brigades as is determined by the local government.

Commented [ZSM16]: In consl with CBFCO and DA - Reword to read: ...at least one brigade member, to a maximum of 5 members, is to be nominated to the BFAC to serve as BFCO for the brigade area until the next general meeting.

Commented [SW17R16]: Brackets aren't required.

Is this consistent with the BFAC TOR or does this also need to be adjusted and approved by Council?

Commented [ZSM18R16]: I think this has been misunderstood by the consultation group as nomination to FCO, not as a voting member. You are right, this would not be in line with the terms of reference and it would not make sense.

*Committee Members (voting)
 1 Elected Member and 1 Deputy Elected Member
 Chief Bush Fire Control Officer Deputy Chief Bush Fire Control Officer 1
 Senior Bush Fire Control Officers and 1 Deputy for each Bush Fire Zone in the Shire of Esperance
 1 Delegate as nominated by each Bush Fire Brigade in the Shire of Esperance

Commented [ZSM19R16]: Discussed with SW – Clause intention is for the nomination of FCOs, not voting members – proposed edit to be retained

3.10 Advisory Committee to nominate bush fire control officers

As soon as practicable after the annual general meeting of each bush fire brigade in the district, the Bush Fire Advisory Committee is to nominate to the local government from the persons nominated by each bush fire brigade a person for the position of a bush fire control officer for the brigade area.

3.11 Local government to have regard to nominees

When considering persons for the position of a bush fire control officer, the local government is to have regard to those persons nominated by the Bush Fire Advisory Committee, but is not bound to appoint the persons nominated.

3.12 Advisory Committee to consider bush fire brigade motions

The Bush Fire Advisory Committee is to make recommendations to the local government on all motions received by the Bush Fire Advisory Committee from bush fire brigades.

PART 4 TYPES OF BUSH FIRE BRIGADE MEMBERSHIP

4.1 Types of membership of bush fire brigade

The membership of a bush fire brigade consists of the following –

- (1) fire fighting members;
- (2) associate members;
- (3) cadet members; and
- (4) honorary life members.

4.2 Fire fighting members

(1) Fire fighting members are those persons being at least ~~16~~ 17 years of age who undertake all normal bush fire brigade activities.

(2) Fire fighting members aged 17 years and under 18 years old must –

- (a) ~~Have the written consent of a parent/guardian, and;~~
- (b) ~~The Captain is satisfied that the member is able to perform an activity, and;~~
- (c) ~~Is accompanied by a member over the age of 18 during an activity to undertake normal bush fire brigade activities.~~

4.3 Associate members

Associate members are those persons who are willing to supply free vehicular transport for fire fighting members or fire fighting equipment, or who are prepared to render other assistance required by the bush fire brigade.

Commented [SW20]: DFES comment: DFES notes that the *Fire Brigades Regulations 1943* stipulate eligibility criteria for volunteer brigades formed under the *Fire Brigades Act 1954*. Regulation 159C provides for eligibility of probationary members from 16 years if they have parental/guardian consent and the brigade's captain is satisfied that the prospective member is able to perform the requisite duties. As a matter of policy, the Shire may wish to consider adding these protective mechanisms within their clause 4.2.

Commented [ZSM21]: Ash Comment: there are consideration in reviewing the minimum age for active duty in the new legislation

Commented [ZSM22]: Rationale for change of age – a 17yo is able to obtain a provisional drivers licence. However, this will not permit a provisional licence holder to operate an appliance.

Commented [SW23R22]: Will make a note to include this explanation within the explanatory memo that goes through to the Joint Standing Committee for this one.

Commented [ZSM24]: Note: Consent form to be created

Commented [ZSM25]: In line with Regulation 159C (Fire Brigades Act 1954)

Commented [ZSM26]: Has been included in other LG local law e.g. Shire of Plantagenet

4.4 Cadet members

Cadet members are –

- (1) to be aged 11 to ~~15-16~~ years;
- (2) to be admitted to membership only with the consent of their parent or guardian;
- (3) admitted for the purpose of training and are not to attend or be in attendance at an uncontrolled fire or other emergency incident;
- (4) to be supervised by a fire fighting member when undertaking normal brigade activities as defined by paragraphs (c), (d), (e), (f) and (g) of section 35A of the Act;
- (5) ineligible to vote at bush fire brigade meetings;
- (6) not to be assigned ranks under the Department's rank structure.

Commented [ZSM27]: Changed to reflect change of age in 4.2

4.5 Honorary life member

- (1) The bush fire brigade may by a simple majority resolution appoint a person as an honorary life member in recognition of services by that person to the bush fire brigade.
- (2) No membership fees are to be payable by an honorary life member.

4.6 Notification of membership

~~No later than 31 May in each year~~ When a change of membership occurs, the bush fire brigade is to report to the ~~Chief Bush Fire Control Officer~~ Shire of Esperance the name, contact details and type of membership of each brigade member.

Commented [ZSM28]: In consl with CBFCO, DS, and CESM – This change reflects reporting requirements of the CESM, and it was deemed to be easier to achieve reporting changes as they occur.

PART 5 APPOINTMENT DISMISSAL AND MANAGEMENT OF MEMBERS

5.1 Rules to govern

The appointment, dismissal and management of brigade members by the bush fire brigade are governed by the Rules.

PART 6 EQUIPMENT OF BUSH FIRES BRIGADES

6.1 Funding from Local Government Grant Scheme

The local government provides funding to bush fire brigades via the Local Government Grant Scheme (LGGS) for the purchase of protective clothing, equipment, appliances and other operational needs.

Expenditure of funds under the LGGS shall be managed by the Local Government in accordance with the Local Government Grant Scheme Manual

6.2 Funding from local government budget

Where an item is not eligible or is not otherwise able to be funded through the LGGS, a bush fire brigade may submit a request to the Local Government for funding from the Local Government budget.

A request for funding must be received, in writing, no later than 28th February each year, for consideration in the upcoming budget deliberations for the coming financial year.

The local government may approve or refuse an application for funding depending upon the assessment of budget priorities for the year in question.

FIRST SCHEDULE

RULES GOVERNING THE OPERATION OF BUSH FIRE BRIGADES

PART 1 PRELIMINARY

1.1 Interpretation

- (1) In these Rules, unless the context otherwise requires, where a term is used in these Rules and is defined in the local law, the Act or the Regulations, then the term is to be taken to have the meaning assigned to it in the local law, the Act or the Regulations, as the case may be.
- (2) In these Rules, unless the context otherwise requires –
absolute majority means a majority of more than 50% of the number of -
 - (a) brigade members of the bush fire brigade, whether in attendance at the meeting or not, if the majority is required at a meeting of the bush fire brigade; or
 - (b) brigade officers of the bush fire brigade, whether in attendance at the meeting or not, if the majority is required at a meeting of the Committee.

Committee means the Committee of the bush fire brigade;

local law means the Shire of Esperance *Bush Fire Brigades Local Law 2024*; and

normal brigade activities is defined by section 35A of the Act

- (1) Subject to these Rules, where a decision is to be made by the bush fire brigade, then the decision may be made by a resolution passed by a simple majority of the brigade members who are present in person or by proxy at the meeting.
- (2) Subject to these Rules, where a decision is to be made by the Committee, then the decision may be made by a resolution passed by a simple majority of the brigade officers who are present in person or by proxy at the meeting.

PART 2 OBJECTS AND MEMBERSHIP OF BUSH FIRE BRIGADE

2.1 Objects of bush fire brigade

The objects of the bush fire brigade are to carry out –

- (1) the normal brigade activities; and

- (2) the functions of the bush fire brigade which are specified in the Act, the Regulations and the local law.

2.2 Committee to determine applications

Applications for membership are to be determined by the Committee.

2.3 Conditions of membership

In relation to any type of membership, as described in Part 4 of the local law, the bush fire brigade may establish policies pertaining to –

- (1) the qualifications required;
- (2) fees payable, if any;
- (3) a requirement to serve a probationary period;
- (4) procedures to be employed by the Committee prior to approval of an application for membership,

and the Committee is to act within the parameters of any such policy in determining applications for membership.

2.4 Applications for membership

An application for membership is to be in writing and is to be accompanied with a completed Emergency Services Volunteer Membership Application Form and submitted to the Shire. ~~submitted to the Secretary and in the case of~~

- ~~(1) an application for firefighting membership is to be accompanied by a completed form in the form of that in Appendix I.~~
- ~~(2) an application for associate membership is to be accompanied by a completed form in the form of that in Appendix II.~~
- ~~(3) an application for cadet membership is to be accompanied by a completed form in the form of that in Appendix III.~~

Commented [SW29]: DFES comment:

Attach appendices listed.

Commented [ZSM30]: Remove. These forms are not used. The Shire requires the ESVM Application form.

2.5 Decision on application for membership

- (1) The Committee may –
 - (a) approve an application for membership unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for membership.
- (2) If the Committee refuses to approve an application for membership, it is to give written reasons for the refusal, as soon as practicable after the decision is made, to the applicant and the advice that the applicant has the right to object to the local government.

2.6 DFES to be notified of registrations

If any application for membership is approved, the Secretary of the bush fire brigade is to supply registration details to the ~~Department~~ Shire who are to inform the Department within 14 days of a person being admitted to membership in the form required by the Department from time to time.

Commented [ZSM31]: This clause reflects old arrangements before the role of CESM. Reworded to reflect present process. This enables the Shire to maintain effective oversight of membership.

2.7 Termination of membership

(1) Membership of the bush fire brigade terminates if the member –

- (a) dies;
- (b) gives written notice of resignation to the Secretary;
- (c) is, in the opinion of the ~~Committee~~, permanently incapacitated by mental or physical ill-health;
- (d) is dismissed by the Committee; or
- (e) ceases to be a member or is taken to have resigned under subclause (2); or

Commented [ZSM32]: I assume this is the Bush Fire Brigade Committee, and not the BFAC

- (f) A brigade member whose membership fees are more than one year in arrears is to be taken to have resigned from the bush fire brigade. Is found to have breached the Shire of Esperance Code of Conduct

Commented [ZSM33]: Remove. No fees.

Commented [ZSM34]: Consultation

(f) (2) Where a membership is terminated, all property owned by the bush fire brigade or the local government that is held by or in the possession of the person whose membership has been terminated, shall be returned on demand to the bush fire brigade or local government

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Commented [ZSM35]: Added. consultation

2.8 Suspension of membership

- (1) Membership of the bush fire brigade may be suspended at any time if, in the opinion of the Committee, circumstances warrant suspending the member.
- (2) The period of suspension shall be at the discretion of the Committee.
- (3) Upon the expiry of the period of suspension the Committee may -
 - (a) extend the period of suspension;
 - (b) terminate the membership; or
 - (c) reinstate the membership.

Commented [ZSM36]: City of albanys's BFB LL has far better provisions in their local law for suspension of membership. However, these can either be included in Man 032 Volunteer Management Policy (Needs reviewing in light of legislative change) or in BFB specific policy

Commented [ZSM37R36]: Note: Intended to obtain WALGA advice, but did not occur.

2.9 Existing liabilities to continue

The resignation, or dismissal of a member under clause 2.7 does not affect any liability of the brigade member arising prior to the date of resignation or dismissal.

2.10 Member has right of defence

A brigade member is not to be dismissed under clause 2.7(1)(d) without being given the opportunity to meet with the Committee and answer any charges which might give grounds for dismissal.

2.11 Objection Rights

A person whose -

- (1) application for membership is refused under clause 2.5(1)(b);
- (2) membership is terminated under clause 2.7(1)(c), clause 2.7(1)(d) or clause 2.8(3)(b); or
- (3) membership is suspended under clause 2.8(1) or clause 2.8(3)(a),

has the right of objection to the local government which may dispose of the objection by –

- (1) dismissing the objection;
- (2) varying the decision objected to; or
- (3) revoking the decision objected to, with or without –
 - (a) substituting for it another decision; or
 - (b) referring the matter, with or without directions, for another decision by the Committee.

PART 3 FUNCTIONS OF BRIGADE OFFICERS

3.1 Chain of command during fire fighting activities

Subject to the Act and the local law, the command procedures to apply during fire fighting activities are as detailed in the local government's Bush Fire Operating Procedures.

3.2 Duties of Captain

~~The Captain is the most senior operational member of the brigade.~~

- (1) Subject to subclause (2) below, the Captain is to preside at all meetings.
- (2) In the absence of the Captain, the meeting may elect another person to preside at the meeting.

3.3 ~~Insert Clause for d~~Duties of Lieutenants

~~(1) Lieutenants shall be ranked numerically according to seniority.~~

~~(2) The first lieutenant is the second most senior operational member of the brigade, and so on.~~

Commented [SW38]: DFES feedback – Section 43 of the *Bush Fires Act 1954* (WA) provides: "A local government that establishes a bush fire brigade shall, by its local laws, provide for the appointment or election of a captain, a first lieutenant, a second lieutenant, and such additional lieutenants as may be necessary ... and prescribe their respective duties." (emphasis added). DFES notes that while the duties of the Captain are provided for in clause 3.2 of the Rules, these relate only to brigade meetings and there are no further duties of the Captain or other officers provided for otherwise

Commented [ZSM39]: Added. (From CoA BFB LL)

Commented [SW40R39]: Does this need to be a separate section '3.3 Duties of Lieutenants'? If we're not using second lieutenant is there any kind of seniority that would actually apply here?

Commented [ZSM41R39]: Yes, we need a separate clause for Lieutenants (3.3). Yes, seniority does apply, as per the proposed clause

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Commented [ZSM42]: Lieutenants had been omitted and require inclusion.

3-33.4 Secretary

- (1) The Secretary is to –
- (a) be in attendance at all meetings and keep a correct minute and to record an account of the proceedings of the bush fire brigade, to which, in a book which shall be open, made available for inspection by brigade members at any reasonable time;
 - (b) answer all correspondence or direct it appropriately, and keep a record of the same;
 - (c) prepare and send out all necessary notices of meetings;
 - (d) receive membership fees, donations and other monies on behalf of the bush fire brigade, and remit them to the Treasurer upon receipt;
 - (e) complete and forward an incident report form in the form required by the Department to the Chief Bush Fire Control Officer and the Department within 14 days after attendance by the bush fire brigade at an incident.
 - (f) maintain a register of all current brigade members which includes each brigade member's contact details and type of membership.
 - (g) provide no later than 31 May in each year, a report to the Chief Bush Fire Control Officer detailing the name, contact details and type of membership of each brigade member, to provide reports to the Local Government on membership updates as required and from time to time, detailing the name, contact details, and type of membership.

- (2) Where a bush fire brigade attends an incident on more than one day, the incident report form is to be completed and forwarded under subclause (1)(e) within 14 days after the last day of attendance.

3-43.5 Treasurer

The Treasurer is to –

- (1) receive donations and deposits from the Secretary, and deposit all monies to the credit of the bush fire brigade's bank account;
- (2) pay accounts as authorized by the Committee;
- (3) keep a record of all monies received and payments made, maintain the accounts and prepare the balance sheet for each financial year;
- (4) be the custodian of all monies of the bush fire brigade; and
- (5) regularly inform the Secretary of the names of those brigade members who have paid their membership fees.

Commented [ZSM43]: To become 3.4, on so on

Commented [ZSM44]: Modernise.

Commented [ZSM45]: Edited.

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Commented [ZSM46]: Removed. No fees

Commented [ZSM47]: Public Comment (DS). Remove – to be included as policy.

Commented [ZSM48]: Remove

Commented [ZSM49]: added

Commented [ZSM50R49]: Further edit: removed reference to the Secretary and specified that reports are to be to the local government.

Commented [ZSM51]: Consultation: Remove. To be included as policy. Policy needs to reflect current processes i.e. The person in charge of the incident (not the secretary).

Commented [ZSM52]: Consultation. Remove. No fees

~~(6)(5)~~ report on the financial position at meetings of the bush fire brigade or Committee.

3.53.6 Equipment Officer

The Equipment Officer is responsible for the custody and maintenance in good order and condition of all protective clothing, equipment and appliances provided by the local government to the bush fire brigade (or of the bush fire brigade).

- (1) ~~A captain or secretary/treasurer may act as an equipment officer should a brigade elect not to appoint an equipment officer.~~

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Commented [ZSM53]: Public comment (DS)/Consultation. Added. Current practice is that this responsibility is undertaken by the captain or secretary/treasurers

3.63.7 Storage of equipment

- (1) The Equipment Officer may store all of the equipment of the bush fire brigade at a place approved by the Captain (the "station").
- (2) If there is to be more than one station in the brigade area, the Equipment Officer is to appoint in respect of each station a person who is responsible for the custody and maintenance in good order and condition of all equipment and appliances at the station, subject to any direction of the Equipment Officer.

3.73.8 Equipment Officer to report

The Equipment Officer is to provide, no later than 31 May of each year, a report to the local government and bush fire brigade captain describing the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the bush fire brigade area (or at a station of the bush fire brigade).

PART 4 COMMITTEE

4.1 Management of bush fire brigade

- (1) Subject to the provisions of these Rules, the administration and management of the affairs of the bush fire brigade are vested in the Committee.
- (2) Without limiting the generality of subclause (1), the Committee is to have the following functions –
 - (a) to recommend to the local government amendments to these Rules;
 - (b) to draft the annual budget for the bush fire brigade and present it at the annual general meeting of the bush fire brigade;
 - (c) to propose a motion for consideration at any meeting of the bush fire brigade;

- (d) to recommend to the local government equipment which needs to be supplied by the local government to the bush fire brigade;
- (e) to invest or place on deposit any of the funds of the bush fire brigade not immediately required to perform the normal brigade activities;
- (f) to delegate to a person, as from time to time thought fit, any functions (being less than the total functions of the Committee) on any conditions it thinks fit;
- (g) to do all things necessary or convenient in order to perform any of its functions and to secure the performance of the normal brigade activities by the bush fire brigade; and
- (h) deal with membership applications, grievances, disputes and disciplinary matters.

4.2 Constitution of Committee

- (1) The Committee of the bush fire brigade is to consist of the brigade officers being the Captain, Secretary, Treasurer, Equipment Officer and the Lieutenants of the bush fire brigade.
- (2) The brigade officers are to -
 - (a) be elected at the annual general meeting of the bush fire brigade;
 - (b) hold office until the next annual general meeting; and
 - (c) be eligible for re-election at the next annual general meeting.
- (3) Any brigade officer may be removed from office by an absolute majority decision of the brigade members present in person or by proxy at a special meeting called for such a purpose.
- (4) The Committee may appoint a brigade member to fill a vacancy in any office arising from a resolution under subclause (3) or which has arisen for any other reason.

PART 5 MEETINGS OF BUSH FIRE BRIGADE

5.1 Ordinary meetings

- (1) Ordinary meetings may be called at any time by the Secretary by giving at least 7 days notice to all brigade members and to the Chief [Bush Fire Control Officer](#), for the purpose of –
 - (a) organising and checking equipment;
 - (b) requisitioning new or replacement equipment;
 - (c) organising field excursions, training sessions, hazard reduction programs, and the preparation of fire-breaks;

- (d) establishing new procedures in respect of any of the normal brigade activities; and
 - (e) dealing with any general business.
- (2) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.
 - (3) Business may be conducted at an ordinary meeting of the bush fire brigade notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.

5.2 Special meetings

- (1) The Secretary is to call a special meeting when 5 or more brigade members request one in writing.
- (2) At least 2 days notice of a special meeting is to be given by the Secretary, to all brigade members and to the Chief Bush Fire Control Officer.
- (3) In a notice given under subclause (2) the Secretary is to specify the business which is to be conducted at the meeting.
- (4) No business is to be conducted at a special meeting beyond that specified in a notice given under subclause (2) in relation to that meeting.

5.3 Annual general meeting

- (1) At least 7 days notice of the annual general meeting is to be given by the Secretary to all brigade members and to the Chief Bush Fire Control Officer.
- (2) At the annual general meeting the bush fire brigade is to –
 - (a) elect the brigade officers from among the brigade members;
 - (b) consider the Captain's report on the year's activities;
 - (c) adopt the annual financial statements;
 - (d) appoint an Auditor for the ensuing financial year in accordance with clause 5.6; and
 - (e) deal with any general business.
- (3) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.
- (4) Business may be conducted at an annual general meeting notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.

5.4 Quorum

- (1) The quorum for a meeting of the bush fire brigade is at least 50% of the number of offices (whether vacant or not) of member of the bush fire brigade.
- (2) No business is to be transacted at a meeting of the bush fire brigade unless a quorum of brigade members is present in person or by proxy.

5.5 Voting

Each brigade member is to have one vote, however in the event of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

5.6 Auditor

(1) At the annual general meeting a person, not being a brigade member, is to be appointed as the Auditor of the bush fire brigade for the ensuing financial year.

(2) The Auditor is to audit the accounts of the bush fire brigade not less than 7 days before the annual general meeting and is to certify to their correctness or otherwise and present a report at the annual general meeting.

~~**5.6 Auditing**~~

~~(1) The bush fire brigade shall supply on request to the local government the brigade's full financial records for the financial year.~~

~~(2) (2) The local government may request the brigade's financial and accounting records for a review at any time.~~

PART 6 MEETINGS OF COMMITTEE

6.1 Meetings of Committee

- (1) The Committee is to meet for the despatch of business, adjourn and otherwise regulate its meeting as it thinks fit.
- (2) The Captain or Secretary may convene a meeting of the Committee at any time.

6.2 Quorum

No business is to be transacted at a meeting of the Committee unless a quorum of 3 brigade officers are present in person.

Commented [ZSM54]: Public comment (DS)/Consultation. If the proposed clauses cannot be used instead at this stage, at minimum 'not being a brigade member' needs to be replaced with 'not being the treasurer'

Commented [ZSM55R54]:

Commented [SW56R54]: Not sure what you mean here - it makes sense that the BFB's auditor is not a member of the brigade for them to remain independent.

Does the Shire intend to audit the financial records of each brigade or would this just be an ad hoc request?

Commented [ZSM57R54]: This would be an ad hoc request, but important that the local law enables a local government to audit if required. The consultation group advised that it is difficult to get a non-brigade member to be appointed as auditor, as such, it is not happening in practice.

The Shire auditing financial records can be included as policy.

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Commented [ZSM58]: SW to seek advice from WALGA

Commented [ZSM59R58]: Advice received. WALGA: "My advice is to leave the audit clause in the BFB Local law, as this is content from the WALGA template that is expected to be included.

I would also suggest not including proposed new clause 5.7, this does not feature in the WALGA template and in any case the Local Government does not require a local law head of power for it to request the audit / financial report of a brigade."

Commented [ZSM60R58]: Proposed 'Auditing' removed, and 5.6 Auditor to remain.

Commented [ZSM61R58]: Note: When I delete proposed clause, the above comments disappear.

6.3 Voting

Each brigade officer is to have one vote, however in the case of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

PART 7 GENERAL ADMINISTRATION MATTERS

7.1 Fees

- (1) The membership fees, if any, for each type of member for the ensuing 12 months are to be determined by the bush fire brigade at the annual general meeting.
- (2) Subject to subclause (3), a member is to pay the membership fees for her or his type of membership on or before 1 May.
- (3) The bush fire brigade may exempt a brigade member, or a class of membership, from the payment of membership fees, for such period and on such conditions as the bush fire brigade may determine.

7.2 Funds

The funds of the bush fire brigade are to be used solely for the purpose of promoting the objects of the bush fire brigade.

7.3 Financial year

The financial year of the bush fire brigade is to commence on 1 July and is to end on 30 June of the following year.

7.4 Banking

~~The funds of the bush fire brigade are to be placed in a bank account and are to be drawn on only by cheques signed jointly by any 2 of the Captain, Secretary or Treasurer.~~

~~If the Secretary/Treasurer is a combined position, the Captain and Secretary/Treasurer are to sign the cheques referred to in subclause (1).~~

- (1) ~~The funds of a bush fire brigade are to be placed in the bush fire brigade's bank account and are to be drawn on only by authorised use of electronic banking by the Secretary or Treasurer in accordance with subclause (2)~~

~~7.4(2) (2) For the purposes of subclause (1)(b), any 2 of the President, Captain, Secretary or Treasurer may authorise in writing the use of electronic banking to draw on the brigade's funds for transactions greater than \$1500.~~

Commented [ZSM62]: Removed reference of cheques as per DS comments – reflective of modern banking methods

Commented [ZSM63R62]: Remove clauses and replace with the below (adapted for CoA BFB LL).

Commented [SW64R62]: Please check that I've updated the tracking correctly as these were previously formatted to strikethrough rather than being a tracked change.

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Commented [ZSM65]: Added. Amount reflects DS comment – for consideration.

Commented [ZSM66R65]: This amount has been bugging me. I think this should be lower.

~~(1) The funds of the bush fire brigade are to be placed in a bank account and are to be drawn on only by cheques signed jointly by any 2 of the Captain, Secretary or Treasurer.~~

~~(2) If the Secretary/Treasurer is a combined position, the Captain and Secretary/Treasurer are to sign the cheques referred to in subclause (1).~~

7.5 Disclosure of interests

- (1) A brigade member shall disclose to the bush fire brigade or Committee any financial interest (whether direct or indirect) he or she may have in any matter being considered by the bush fire brigade or Committee, as appropriate.
- (2) If a financial interest has been disclosed under subclause (1), then the bush fire brigade or Committee, as appropriate, is to decide, in the absence of the brigade member who disclosed that interest, whether or not the brigade member is to be permitted to vote on that matter.
- (3) Where the bush fire brigade or Committee, as appropriate, decides under subclause (2), that a brigade member is not to be permitted to vote on a matter, and the brigade member votes on the matter, then her or his vote is to be taken to have no effect and is not to be counted.

7.6 Disagreements

- (1) Any disagreement between brigade members may be referred to either the Captain or to the Committee.
- (2) Where a disagreement in subclause (1) is considered by the Captain or the Committee to be of importance to the interests of the bush fire brigade, then the Captain or the Committee, as the case may be, is to refer the disagreement to the annual general meeting, an ordinary meeting or a special meeting of the bush fire brigade.
- (3) The local government is the final authority on matters affecting the bush fire brigade, and may resolve any disagreement which is not resolved under subclause (1) or (2).

PART 8 NOTICES AND PROXIES

8.1 Notices

- (1) Notices of meetings of the bush fire brigade are to be in writing and sent by ordinary post or other means in 8.1(1)(4) to registered address of each brigade member.

Commented [ZSM67]: Public Comment(DS)/Consultation. Remove requirement for registered address. Reflect edits in 8.1(1)(4)(c)

- (2) Notices of meetings of the Committee may be given in writing in accordance with subclause (1) or by such other means as the Committee may decide (by an absolute majority) at a meeting of the Committee.
- (3) Any accidental omission to give notice of a meeting to, or non-receipt by a person entitled to receive such notice, is not to invalidate the meeting the subject of the notice or any resolutions passed at the meeting.
- (4) Where any notice other than a notice of meeting is to be given under these Rules, the notice is to be –
- (a) in writing;
 - (b) unless otherwise specified, given to or by the Secretary;
 - (c) given by –
 - (i) Personal delivery;
 - (ii) Post;
 - (iii) Email;
 - (iv) Short Message Service (SMS) or the like: or
 - (v) Facsimile transmission
or any other method approved by the local government.
 - (d) taken to have been received, as the case may be –
 - (i) at the time of personal delivery;
 - (ii) 2 business days after posting; or
 - (iii) on the printing of the sender's transmission report.

Commented [ZSM68]: Taken from CoA BFB LL

Commented [ZSM69]: Note: CoA has removed this sub-clause.

8.2 Proxies

- (1) Where under these Rules a brigade member may vote by proxy, in order for the proxy to so vote, the brigade member or the proxy shall give a notice in the form of that appearing in this clause, to the Secretary or the person presiding at the meeting before the start of the meeting at which the proxy is to be used.
- (2) A proxy is to be valid for the meeting for which it is given and for any adjournments of that meeting.
- (3) A proxy shall be valid for the number of votes to which the brigade member is entitled.
- (4) If the donor of the proxy does not give any indication of the manner in which the proxy is to vote, the proxy shall be entitled to vote or not vote as he or she thinks fit.
- (5) A proxy shall be entitled to speak on behalf of the donor of the proxy.

Commented [SW70]: DFES comment: Attach form for appointment of proxies referenced in 8.2(1)

Commented [ZSM71R70]: See City of Albany 'Form to appoint a Proxy'

Commented [SW72R70]: Do we have a copy of this form that we can include as an annexure?

Are there any other annexures that we need to include to the LL?

Commented [ZSM73R70]: I will send it through

No, we have removed the need to include the application forms in the annexure as per Part 2, clause 2.4

Commented [ZSM74R70]: Proxy form sent to Sarah. Form to be removed from local law and to be a standard form.

- (6) All forms appointing proxies deposited under subclause (1) are to be retained by the Secretary for not less than 28 days after the conclusion of the meeting to which they relate but if there is any objection to the validity of any vote at the meeting, they are to be retained until the determination of that objection.

Dated _____ day of _____.

The Common Seal of the Shire of Esperance was hereunto affixed by the authority of a resolution of the Council in the presence of -

Ronald Chambers
SHIRE PRESIDENT

Shane Burge
CHIEF EXECUTIVE OFFICER