

(Extract from Government Gazette (No 15) of 18 January 2000)

## **LOCAL GOVERNMENT ACT 1995**

### **The Municipality of the City of Joondalup**

#### **LOCAL GOVERNMENT AND PUBLIC PROPERTY LOCAL LAW 1999**

Under the powers of the Local Government Act 1995 and by all other powers, the Council of the City of Joondalup resolved to make the following local law on the 7<sup>th</sup> December, 1999.

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#### **PART 1 - PRELIMINARY**

##### **Title**

1. This local law may be referred to as the City of Joondalup Local Government and Public Property Local Law 1999.

##### **Commencement**

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

##### **Purpose and intent**

3. (1) The purpose of this local law is to provide for the regulation, control and management of activities and facilities on local government and public property within the district.

- (2) The effect of this local law is to establish the requirements with which any persons using or being on local government and public property within the district, must comply.

### **Repeal**

4. The following by laws of the former City of Wanneroo:

By Law B1: Safety, Decency, Convenience and Comfort of Persons in Respect of Bathing, published in the Government Gazette - 21 July 1964 and amendments;

By Law F3: Prevention of Damage to Footpaths, published in the Government Gazette - 10 March 1978 and amendments;

By Law H1: The Control and Management of Halls, Community Recreation Centres, Equipment and Property, published in the Government Gazette - 7 April 1978 and amendments;

By Law P5: Public Golf Courses, published in the Government Gazette - 8 April 1988 and amendments;

By Law R3: Relating to Reserves and Foreshores, published in the Government Gazette - 28 September 1990 and amendments;

By Law S6: Street Lawns and Gardens, published in the Government Gazette - 12 April 1967;

By Law S7: Swimming Pools, published in the Government Gazette - 5 February 1988;

are repealed on the day this local law comes into operation.

### **Application of local law**

5. This local law applies throughout the district and in the sea adjoining the district for a distance of 200m seawards from the low water mark at ordinary spring tides. Its application into the sea applies to structures under the care, control and management of the City and for the purpose of permitting Beach inspectors and Life Saving Patrols, to designate swimming areas where the entry of boats, personal watercraft and surf boards is prohibited or restricted, in the interests of swimmer safety.

### **Definitions**

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

“Act” means the Local Government Act 1995;

“adjacent owner” means the owner of any property or lot adjoining a street verge which is subject to a verge treatment;

“aperture” means a man-made opening.

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“applicant” means a person who has lodged an application for an approval, or certificate, required for any activity under this local law;

“application” means the completed form lodged by an applicant as required by this local law;

“appointed place” means a place appointed by the local government or CEO where anything confiscated or impounded under the provisions of this local law, may be held in custody;

“approval holder” means the person issued with an approval;

“article” in respect of lost property, includes money;

“attendant” means an employee of the local government duly authorised to perform duties in connection with a pool premises, golf courses or other recreational facility;

“authorised person” means a person authorised by the local government under section 9.10 of the Act;

“bathing” means the act of entering the sea, a swimming pool, or other water body, to swim or use a bathing appliance and includes the act of emerging therefrom;

“bathing appliance” means a float of any material, including, kick boards, paddle boards, body boards, or any other device used or capable of being used for the purpose of bathing;

“beach” for the purposes of s.44A, means the area of sandy shoreline from the low-water mark to either the toe of the sand dune or the commencement of vegetation or a man-made structure.

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“boat” means any structure or vessel, excluding personal water craft, whether motorised or not and made or used to travel or float on water or travel under water;

“CEO” means the chief executive officer of the local government;

“controller” means the person or persons for the time being appointed by the local government to direct, control and manage a golf course and includes any assistant to the controller approved in writing by the local government;

“decency” means wearing of proper and adequate clothing for the occasion, so as to prevent indecent exposure;

“district” means the district of the local government;

“fishing” means to use any line, lure, rod, pot or other method for the purpose of catching marine life;

“firework” means a device like a Catherine wheel, roman candle, or rocket in which combustible materials are ignited and produce coloured flames, smoke and are sometimes accompanied by a bang;

“fireworks display” means a show of a number of fireworks set off over a pre-arranged time period, for the purpose of providing enjoyment to those persons able to view them;

“function” means an event or activity characterised by any or all of the following:

- (a) formal organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;
- (c) it is organised by or on behalf of a club;
- (d) payment of a fee is required for attendance; and
- (e) there is systematic recurrence in relation to the day, time and place;

“golf course” means all that portion of land which is set aside and laid out as a golf course and includes all tees, fairways, greens, adjacent rough areas, practice tees, practice fairways, practice greens and any driving range and all buildings, structures, fittings, fixtures and equipment forming part thereof;

“life saving club” means a life saving club affiliated with Surf Lifesaving WA Inc. or any branch;

“life saving gear” means any gear or appliance for use in the provision of life saving or for training of life saving club members in their duties;

“life saving patrol” means a patrol comprising such members of a life saving club as are appointed by that club from time to time to provide life saving services in a defined area and the term includes an employee of the local government appointed as a beach patrol officer or inspector;

“local government” means the City of Joondalup;

“local government building” means a structure, hall, or room, and a corridor, stairway or annex, therein or thereto attached and includes all plumbing, electrical installations, fixtures, fittings, furniture and other contents, owned or under the care, control and management of the local government;

“local government property” means anything which belongs to, is owned by or is under the care control and management of a local government, other than a thoroughfare;

“lot” means a defined portion of land for which a separate certificate of title has been issued and includes a strata lot;

“manager” means the person for the time being employed by the local government to manage a swimming pool premises or recreation centre and includes any assistant or deputy;

“nuisance” means:

- (a) any activity, thing, condition, circumstance or state of affairs caused or contributed to by a person which is injurious or dangerous to the health of another person of normal susceptibility, or which has a disturbing effect on the state of reasonable physical, mental or social well-being of another person;
- (b) any thing a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place; or
- (c) any thing a person does on public or private land which unreasonably detracts from or interferes with the enjoyment or value of land owned by another person, provided that any thing done in accordance with the law or a legal right or which is consistent with the standard of behaviour in the relevant locality shall not be unreasonable for the purpose of this local law;

“obstruct” means to hinder in passing and “obstruction” has correlative meaning.

“patrol flag” means a flag or notice erected at the limits of a bathing area to indicate the extremities of that area;

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

“personal watercraft” means any vessel designed for the transport of 1, 2, or 3 persons that:

- (a) is propelled by means of an inboard motor powering a water jet pump; and
- (b) is designed to be steered by means of handlebars by a person sitting, standing or kneeling on the vessel and not within it;

“pool premises” means and includes any swimming pool for the time being under the control and management of the local government and all buildings, fences, gardens, car parks, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of the swimming pool or used in connection with it;

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“public place” means any thoroughfare or place which the public are allowed to use, whether the thoroughfare or place is or is not on private property and includes, park lands, squares, reserves, beaches, and other lands set apart for the use and enjoyment of the public, including all lands which belong to or which are vested in, or are under the care, control or management of the local government;

“public property” means any real property, land, lot, or reserve which is open and available for use by the public for public purposes, whether through payment of a fee or not and includes any building or structure thereon;

“retailer” means a proprietor of a shop which provides shopping trolleys for the use of customers of the shop;

“sandboard” means a board designed to be used for sliding down a slope of land and sandboarding has a correlative meaning;

“sufficient and suitable golfing equipment” comprises not less than one putter, two clubs, two golf balls and a golf bag;

“shopping trolley” means a container or receptacle on wheels provided by a retailer for customers to transport goods;

“surf board” means a floatation device designed and used for riding or surfing waves, including surf skis or any other device used or capable of being used for the purpose;

“thoroughfare” means any street, way or place that is designed and used for the passage of vehicles and includes the shoulders and embayments at the side or centre of the carriageway used for the parking of vehicles;

“verge” means that portion of land that lies between the front of a property and the edge of the thoroughfare and between imaginary lines extended at a 90 degree angle with the thoroughfare, from the edge of the thoroughfare to meet the side boundaries at the front of the property;

“verge treatment” means any of the treatments permitted by these local laws and includes any reticulation pipes and sprinklers;

“vehicle” includes every conveyance, and every object capable of being propelled or drawn, on wheels or tracks, by any means, not being a train, vessel or aircraft while being used as such;

“vehicle crossing specification” means the design details, measurements and materials, approved by the local government as the standard vehicle crossing, which when first constructed on any land in the district, will be eligible for a subsidy of half the cost from the local government.

“zoned” means zoned under a town planning scheme of the local government.

## **PART 2 - APPROVALS AND FEES**

### **Agreements for use of local government property**

7. Notwithstanding anything to the contrary in this local law, the local government may enter into an agreement with any person with respect to the operation and use of any local government property.

### **Application for approval**

8. An application for a written approval required in accordance with clause 13 shall be made on the form provided for the purpose and the signature of the applicant on the form shall be deemed to be proof that the applicant has:
  - (a) read and understood the conditions, if any, printed on the application form; and
  - (b) accepts and will abide by the approval conditions on the application form.

### **Determination of application**

9. The local government may, in respect of an application for an approval:
  - (a) refuse the application; or
  - (b) approve the application on such terms and conditions, if any, as it sees fit.

### **Term and validity of approval**

10. Subject to clause 11, an approval remains valid until:
  - (a) the expiration date and time detailed in the approval is reached;
  - (b) the activity or function for which the approval was issued is changed to the extent that it is no longer consistent with the original purpose or intent for which the approval was given;
  - (c) the approval is cancelled by the local government; or
  - (d) the public liability/indemnity insurance required as a condition of an approval lapses, is cancelled or is no longer current.

### **Cancellation of approval**

11. The local government may cancel an approval if:
  - (a) anything purporting to be done in accordance with the approval is not done in conformity with the conditions of the approval;
  - (b) the approval holder is convicted of an offence against this local law; or

- (c) the approval holder fails to abide by a notice served in accordance with Part 9, requiring works to be undertaken or changes to the arrangements or operation of the activity, subject of the approval.

### **Fees and charges**

- 12. (1) All fees and charges applicable under this local law shall be as determined by the local government from time to time in accordance with section 6.16 of the Act.
- (2) In the event of cancellation of an approval, the approval holder shall not be entitled to a refund of the approval fees if any, for the remainder of the approval period.

## **PART 3 - GENERAL**

### **Activities requiring approval**

- 13. A person shall not on or from any local government property, without having first obtained a written approval from the local government to do so:
  - (a) consume any liquor;
  - (b) erect a structure for public amusement or for any performance for personal gain or otherwise;
  - (c) conduct any function;
  - (d) light or set off any fireworks or conduct a fireworks display;
  - (e) light any fire except in a facility provided for the purpose;
  - (f) erect any tent, camp, hut or other structure, other than a beach umbrella or other portable item used for protection from the elements between sunrise and sunset on any day;
  - (g) carry out any works in a street, thoroughfare or other public place, including but not limited to:
    - (i) verge treatments;
    - (ii) vehicle crossing treatments;
    - (iii) crossing a footpath with a vehicle which is likely to or does cause damage to the footpath;
  - (h) hire or use a building, reserve or other local government facility;



- (i) plant any plant or sow any seeds on local government property;
- (j) coach, teach, instruct or train for a fee, any person on or in a golf course, pool, tennis centre, recreation facility or other local government property;
- (k) charge a person for entry to local government property;
- (l) make an excavation on, or erect or remove, any fence or other structure;
- (m) operate any broadcasting or public address system or apparatus, other than those used by a life saving club in the performance of its functions;
- (n) cut, break, injure, deface, pull up, pick, remove, or destroy any tree, shrub, flower, grass or plant of any kind;
- (o) cut, collect, or remove any timber, firewood, stone, sand or other materials, other than seaweed; or
- (p) erect any sign.

**Personal behaviour**

14. A person on or in any local government property shall not behave in a manner which:
- (a) is likely to interrupt, disturb or interfere with the enjoyment of any other person who may use the property; or
  - (b) interrupts, disturbs or interferes with the enjoyment of any other person using the property.

**Decency and adequate clothing**

15. (1) A person over the age of 6 years shall not on any reserve, beach or other public place:
- (a) appear in public unless properly dressed in a bathing costume or other clothing which covers the body to prevent indecent exposure;
  - (b) loiter outside or act in an unacceptable manner, in any portion of a toilet or dressing room set aside for the opposite or same sex; or
  - (c) without the consent of the occupier, enter or attempt to enter any dressing room or other compartment which is already occupied.
- (2) Where an authorised person considers that the clothing of any person on local government property is not proper and adequate to secure decency, the authorised person may direct that person to put on adequate clothing and that person shall comply with the direction immediately.

**Property loss**

16. A person shall not remove from any local government property any fixtures, fittings, chattels or things provided for the safety, enjoyment or use by another person.

**Property damage**

17. A person shall not damage, destroy, deface or interfere with in any way, any local government property provided for the safety, enjoyment or use by another person.

**Property loss or damage exclusion**

18. Clauses 16 and 17 do not apply to:
- (1) an authorised person or local government appointed contractor carrying out their normal duties; or
  - (2) a person using any lifesaving or fire fighting equipment, and acting in an emergency or where permitted or directed to do so by an authorised person.

**Actions of authorised person**

19. A manager, controller, attendant or authorised person may direct any person on local government property to:
- (a) stop doing anything which they are in the process of doing, which is contrary to this local law or any other local law applying in the district,
  - (b) leave that property; and
  - (c) assist the authorised person or another person in the case of an emergency.

**Direction of authorised person to be obeyed**

20. (1) A person on or in local government property that is given a lawful direction by an authorised person shall comply with that direction.
- (2) A person shall not obstruct or hinder an authorised person in the performance of that person's duties.

**Disposal of lost and found property**

21. (1) An article left on or in local government property and not claimed within a period of 3 calendar months shall be disposed of by the local government in any lawful manner.

- (2) Neither the local government nor a manager, attendant or any authorised person shall in any way be responsible for any articles or money lost, stolen, damaged or destroyed whilst on or in any local government property.

### **Treatment of animals**

22. A person shall not, on or in any local government property:

- (a) kill, injure or interfere with any fauna;
- (b) take on to, set or use or attempt to take on to, set or use any animal trap, bird trap, fish trap, net or similar device; or
- (c) take on to or allow any animal to enter or remain, unless that class or type of animal is permitted on that property by any other written law applying in the district.

## **PART 4 – USE OF LOCAL GOVERNMENT AND PUBLIC PROPERTY**

### **Setting aside of local government property**

23. (1) A local government may set aside any local government property, local government building or reserve or portion of such for a specific use or uses and may designate by signs that use and conditions of use, including but not limited to any areas where:

- (a) the entry of persons is restricted or prohibited;
- (b) bathing is permitted at all times or is restricted or prohibited;
- (c) boats, personal watercraft or surf boards, either generally or of a particular class are permitted, restricted or prohibited;
- (d) boats and/or personal watercraft may be launched or retrieved;
- (e) motorised vehicles of a particular class or classes are permitted, restricted, or prohibited;
- (f) the speed limit at which vehicles generally or of a particular class, must travel;
- (g) the age of persons permitted, restricted or prohibited, from playing on children's play equipment;
- (h) motorised model aeroplanes may be flown;
- (i) the practice or playing of games of any type is permitted, restricted prohibited;

- (j) riding a bicycle, skateboards, rollerblades or sandboards or similar devices are permitted, restricted or prohibited;
  - (k) fishing is permitted, prohibited or restricted to fishing in a particular manner.
- (2) In the process of setting aside a local government property, a local government may specify the extent to which and the manner in which a use or activity in sub clause (1) may be pursued and in particular:
- (a) the days and times during which the use or activity may be pursued;
  - (b) that a use or activity may be pursued on a class of local government property, specified local government property or all local government property;
  - (c) that a use or activity is taken to be prohibited on all local government property other than that set aside for the specific use or activity;
  - (d) may limit the use or activity to a class of vehicles, boats, equipment or things or may extend it to all vehicles, boats, equipment or things;
  - (e) may specify that the use or activity can be pursued by a class of persons or all persons;
  - (f) may distinguish between different classes of use or activity.
- (3) Where local government property, a local government building or reserve has been set aside for a specific use in accordance with sub clause (1) a person shall not use that property other than for its specific use and in accordance with any conditions imposed.
- (4) The local government may permit a local government property, local government building or reserve to be temporarily used for a use or activity other than that for which it has been set aside, provided written approval is first obtained from the local government for that temporary use or activity.
- (5) A person who uses a local government property, local government building or reserve for any use or activity other than that for which the local government property, local government building or reserve has been set aside, without first obtaining written approval, commits an offence.
- (6) A condition of use specified on a sign erected under sub clause (1) is:
- (a) not to be inconsistent with any provision of this local law;
  - (b) for the purpose of giving notice of the effect of a provision of this local law.

**Restrictions on or in local government property and buildings**

24. While on or in any local government property or local government building, a person shall not:
- (a) sell, supply or consume liquor unless a liquor licence has been obtained under the Liquor Licensing Act 1988, for that purpose and the local government has issued an approval for the consumption of liquor;
  - (b) act in a way that endangers themselves or any person;
  - (c) be under the influence of liquor or a prohibited drug;
  - (d) use any volatile, explosive or flammable matter;
  - (e) smoke inside a building where smoking is prohibited;
  - (f) take any prohibited drug onto, or consume or use any prohibited drug;
  - (g) enter any place that has been fenced off or closed to the public; or
  - (h) carry firearms unless specifically authorised to do so under the Firearms Act 1973.

**Restrictions outside of local government buildings**

- 24A While outside of any local government building, a person shall not smoke within a 5 metre radius of any entrance, exit or aperture of the building.

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**Prohibited activities**

25. Unless indicated by a sign that any of the following activities are permissible on any reserve or other local government property set aside for the purpose, a person shall not:
- (a) play or practise golf, archery, pistol or rifle shooting;
  - (b) ride a skateboard or roller blades,
  - (c) ride a sandboard or similar device; or
  - (d) launch a personal watercraft or boat;

**Entry to local government property and buildings**

26. A person, other than an authorised person or contractor appointed by the local government carrying out their normal duties, shall not:
- (a) enter or leave any local government property or local government building other than by the public entrance or exit ways, except in an emergency; or

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- (b) enter or remain on any local government property or local government building except on those days and during those times when access is available to the public.

### **Payment of applicable fees**

27. Where a fee or charge applies to the entry to or participation in an activity on or in any local government property or building, a person shall not enter that property or building without first paying the applicable fee or charge, unless that person has been exempted by the local government from paying that fee or charge.

### **No refund of fees**

28. A person will not be entitled to a refund of any fee paid for:
- (a) playing or practicing on a golf course notwithstanding that such play or practice may for any reason, not be completed on the day or within the hours permitted by any authorisation or ticket issued to that person;
  - (b) bathing, swimming or using any facilities provided for public use in a pool premises;
  - (c) where a booking for the use of a local government building, property or facility is cancelled by a hirer,

provided that in special circumstances the local government may authorise repayment of a part or all of the amount paid.

### **Application for hire**

29. An application for the hire and use a local government property or building, shall be in the form provided for the purpose and shall be forwarded to the local government together with the application and hire fees.

### **Conditions of hire and use**

30. The conditions that may relate to an approval for hire and use of a local government property or building include:
- (a) when fees and charges are to be paid and the amount;
  - (b) the purpose for which the building may be used;
  - (c) the duration of the hire;
  - (d) payment of a bond against possible damage, cleaning or other expenses;
  - (e) restrictions on the erection of decorations inside the building and externally;

- (f) restrictions on use of furniture, plants and effects;
- (g) the number of persons that may attend any function in a building;
- (h) the right of the local government to cancel a booking at any time during the course of an annual or seasonal booking;
- (i) the prohibition of the consumption of liquor unless an approval has been issued by the local government;
- (j) the prohibition of the sale and supply of liquor unless a liquor licence has been obtained under the Liquor Licensing Act 1988, for that purpose.
- (k) securing the building at the end of each hire period;
- (l) the prohibition on the conduct of gaming unless a gaming approval has been obtained under the Gaming Act 1987;
- (m) restrictions on the type of container (glass, metal, plastic or other) that drinks may be provided and served in or consumed from;
- (n) the amplification of, or any noise complies at all times with the Environmental Protection (Noise) Regulations 1997;
- (o) any other condition that the local government considers fit.

### **Responsibilities of hirer**

31. The hirer of a local government property or building shall:

- (a) maintain law and order and decent behaviour by all in attendance at any function for which the local government property or building has been hired;
- (b) make good any damage to the building which occurs during the term of hire, or at the option of the local government, pay to the local government the costs of the repair and replacement of any such property;
- (c) ensure that an authorised person has unobstructed access to the property for the purpose of inspecting the property or enforcing any provision of this local law;
- (d) prevent overcrowding;
- (e) leave the local government property or building in a clean and tidy condition after its use;
- (f) prevent the sale and consumption of any liquor unless a licence has been obtained under the Liquor Licensing Act 1988 for that purpose, and the local government has issued an approval for consumption;

- (g) report any damage or defacement to the local government; and
- (h) comply with all conditions that are imposed on the hire and use of the local government property or building.

## **PART 5 - GOLF COURSES**

### **Directions of controller to be observed**

32. Every player, caddie and person on a golf course shall at all times observe any reasonable direction given by the controller, and every player shall:
- (a) observe the etiquette of golf and the rules of golf except as varied by any local rules detailed on any score card issued by the controller and displayed on the public notice board at the controller's office; and
  - (b) comply with the directions of the controller in respect of any special conditions of play and shall observe the requirements of any notice erected to direct or control play.

### **Controller's approval required**

33. A person shall not, without the prior approval of the controller:
- (a) be accompanied by a non-playing spectator whilst playing golf on a golf course;
  - (b) cross or trespass on any portion of the golf course prepared for play or practice or on any practice fairway or practice putting green, unless that person is a fee paying player;
  - (c) offer himself for employment or be employed for a fee as a caddie on the golf course; or
  - (d) sell, offer or expose for sale or exchange any golf ball or any golf equipment or other goods or services on a golf course.

### **Inspection of authorisation**

34. A player or person on a golf course, shall at any time requested by the controller or other authorised person, produce any written authority granted or ticket issued, to the player or person, to play golf for the number of holes being played and valid for play on that day and at that time.

### **Use of vehicles and equipment**

35. A person shall not:



- (a) take on to a golf course a bicycle, motor cycle, motor car, motorised or any other vehicle unless:
  - (i) with the prior consent of the controller;
  - (ii) the vehicle is under the control of the controller and used for hire purposes;
- (b) drive, use or park a bicycle, motor cycle, motor car, motorised or other vehicle on any portion of a golf course except in such areas paved, marked and set apart for such purpose without the prior consent of the controller;
- (c) while driving, using or parking any bicycle, motor cycle, motor car, motorised or other vehicle on any portion of a golf course, refuse or fail to comply with all signs applicable thereto and any order or direction given by an authorised person or the controller;
- (d) take any golf buggy or like conveyance fitted with wheels on to any part of a golf course unless the width of its wheels are 25mm or greater;
- (e) take any golf bag or golf bag buggy on to any part of the golf course laid out as a putting green, practice putting green, sand trap or bunker;
- (f) play golf on a golf course unless in full possession of sufficient and suitable golfing equipment for that purpose; or
- (g) leave on a golf course any vehicle, object, or thing or any animal which the controller has directed to be removed.

### **Limit on liability**

36. A player or other person is not entitled to make any claim by way of damages or otherwise against the local government, an authorised person, local government employee, local government appointed sub-contractor or person for whose acts the local government is responsible in law, for any injury or damage sustained by that player or person through any act, default or omission of an authorised or other person.

## **PART 6 - SWIMMING POOLS**

### **Directions of manager and attendant to be observed**

37. (1) Every person, coach and spectator at a swimming pool, shall at all times observe any reasonable direction given by the manager or attendant.
- (2) The manager or attendant may at any time, refuse admission to or remove, or cause to be removed from the pool premises, any person who, in the opinion of the manager or attendant is:

- (a) under the age of 10 years and is unaccompanied by a responsible person over the age of 18 years;
  - (b) under the age of 4 years not being supervised in the water by a responsible person over the age of 18 years;
  - (c) apparently suffering from a contagious, infectious or cutaneous disease or skin complaint; or
  - (d) under, or apparently under the influence of intoxicating liquor or drugs.
- (3) A person shall on being requested by the manager or attendant to leave the pool premises, quietly and peaceably, do so immediately.
- (4) The manager or attendant may temporarily suspend admission to, or remove from the pool premises or any part thereof, all or any person or persons, if in their opinion, such action is necessary or desirable.
- (5) At the discretion of the manager, the pool premises or any part thereof, may at any time be set aside for the use of certain persons to the exclusion of others.

### **Swimming carnivals**

38. (1) A person, club, organisation or association shall not conduct controlled swimming or diving events, carnivals or competitions without the prior approval of the manager.
- (2) A person, club, organisation or association conducting a carnival or event at the pool premises shall be responsible for the conduct of the competitors and spectators during the carnival or event and shall take reasonable steps to prevent overcrowding and ensure that no damage is done to the buildings or fencing or any other portion of the pool premises and that these local laws are observed by all competitors, officials and spectators attending the carnival or event.

### **Responsibilities of swimming pool users**

39. A person while in the swimming pool premises shall not:
- (a) smoke, consume foodstuffs or drinks in any specific area in which smoking or food consumption is prohibited;
  - (b) climb up or upon any roof, fence, wall or partition on the pool premises; or
  - (c) whilst suffering from a contagious, infectious or cutaneous disease or whilst in an unclean condition, enter or use or attempt to enter or use the swimming pool, spa or pool premises.

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## PART 7 – RESERVES, BEACHES AND BATHING

### Sandboarding and sand dune protection

40. A person shall not:
- (a) use a sandboard or any other board or thing to slide down sand dunes;
  - (b) take onto any sand dunes a sandboard or other thing used for sliding down sand dunes;
  - (c) traverse sand dunes except along pathways designated by signs or fences for the purpose; or
  - (d) unless authorised to do so by the local government, or otherwise permitted by a sign, drive or take a vehicle of any kind onto a beach or sand dunes.

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### Boat Launching

41. (1) A person shall not launch a boat into the sea other than at a boat launching ramp designed, constructed and approved for the purpose, or from the beach where this activity is permitted and designated by signs.
- (2) A person shall not launch a personal water craft into the sea other than at a boat launching ramp designed, constructed and approved for the purpose.
- (3) Sub clauses (1) and (2) do not apply to any member of a surf life saving club or life saving patrol in the course of their duties, training or in competition.

### Surf lifesaving activities

42. The local government may appoint beach inspectors and authorise members of surf life saving clubs to perform all or any of the following functions in the interests of maintaining safety at beaches in the district:
- (a) patrol any beach;
  - (b) take onto any beach any life saving gear including vehicles or boats that are used for life saving activities;
  - (c) indicate by signs or patrol flags, any areas of a beach and the adjacent water beyond the beach, where bathing is permitted;
  - (d) indicate by signs any areas of a beach and the adjacent water beyond the beach where:
    - (i) riding of surfboards or any other bathing appliance is prohibited;

- (ii) driving of boats is prohibited;
- (iii) fishing is prohibited;
- (e) regulate, prohibit, restrict or set aside by signs, rope, wire, cloth or other flexible sheeting, any areas for the following activities:
  - (i) entry by any persons;
  - (ii) playing of games;
  - (iii) conduct of training or surf club carnivals;
  - (iv) establishing a first aid or command post;
- (f) direct any person to:
  - (i) bathe within the designated permitted bathing area indicated by signs or patrol flags;
  - (ii) leave the water adjacent a beach during any period of potential dangerous conditions or sighting of a shark.

#### **Identification of life saving patrol**

43. (1) A member of a life saving patrol on duty at any beach shall wear a red and yellow quartered swimming cap for the time they are on patrol.
- (2) A person who is not a member of and on duty life saving patrol shall not wear a red and yellow quartered swimming cap or give the impression they are a member of an on duty life saving patrol.

#### **Compliance with signs and directions**

44. A person attending any beach in the district shall:
- (a) comply with any sign erected on the beach;
  - (b) comply with any lawful direction given by a beach inspector or authorised member of a surf lifesaving club patrolling the beach; and
  - (c) not enter any area set aside for any life saving activity, training, competition or carnival.
- 44A Notwithstanding s44(a), a person shall not contravene a sign erected on the beach which prohibits the act of smoking.

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11.01.08

**Fishing**

45. (1) A person shall not fish in any area:
- (a) where fishing is prohibited and the prohibition is designated by signs; or
  - (b) set aside by a beach inspector or member of a life saving patrol as a designated permitted bathing area.
- (2) A person shall not at any place whether fishing is permitted or not:
- (a) clean fish or cut bait on any seat or hand rail;
  - (b) leave or deposit fish offal on land or in the sea within 200m of any part of the beach; or
  - (c) without written approval of the local government, fish for sharks by use of set or buoyed lines or use blood, offal or any other lure for the purpose of attracting sharks within 200m of any part of a beach.

**Surfboards and boats**

46. A person shall not ride a surfboard or drive a personal watercraft or boat in any area set aside by a beach inspector or member of a life saving patrol, as a designated permitted bathing area.

**PART 8 – ACTIVITIES IN THOROUGHFARES****Works in public property**

47. A person shall not carry out any works in a thoroughfare or public place without first obtaining written approval from the local government, in accordance with regulation 17 of the Local Government (Uniform Local Provisions) Regulations 1996, unless otherwise provided for in this Part.

**Verge treatment**

48. The owner or occupier of land adjacent to any thoroughfare may only treat the verge in front of such land with a permissible treatment and in any event shall not:
- (a) alter the finished level of the verge; or
  - (b) cover or obstruct any manholes, gullies or inspection pits which are serviced from time to time.

**Permissible verge treatments**

49. The owner or occupier of land adjacent to a thoroughfare may on the verge in front of such land, install any one of the following treatments:

(1) *Treatment 1*

Plant and maintain lawn; or

(2) *Treatment 2*

Plant and maintain a garden provided that:

- (a) no part of the garden (or plant, or other vegetation making up the garden) exceeds a height of 600mm, or restricts the clear sight visibility of pedestrians or motorists in the vicinity of intersection corners and bends in the thoroughfare;
- (b) no plant or other vegetation making up the garden is of a thorny or poisonous nature or which may otherwise create a hazard;
- (c) at all times pedestrians must have a 1.5m width safe path or accessway established and kept clear of vegetation at all times adjacent the kerb where there is no made footpath; and
- (d) no water pipes or connections protrude above the surface of the garden; or

(3) *Treatment 3*

Install a hard surface with an acceptable material provided that storm water run off generated from the hard surface does not cause a hazard or damage to property; or

(4) *Treatment 4*

Install a hard stand surface over a portion of the area of verge (excluding any crossover) with an acceptable material and plant and maintain either a lawn or a garden on the balance in accordance with sub clause(1) and (2) respectively.

**Owner's or occupiers responsibilities for verge treatments**

50. An owner or occupier who installs and maintains a verge treatment shall:

- (a) indemnify the local government against all or any damage or injury caused to any person or thing including any thoroughfare, pavement, footpath or crossover or any pipe or cable and shall make good at such owner's or occupier's expense all such damaged caused;

- (b) keep the verge treatment in good and tidy condition and ensure, where the verge treatment is a garden or lawn, that no obstruction of any sort (physical, sight or other) is caused to any accessway, footpath, pavement or thoroughfare;
- (c) lay, install or pave a surface with an acceptable material only;
- (d) not place any obstruction on or around any verge treatment;
- (e) not water or maintain a verge treatment in such a manner as to cause a nuisance or hazard to any person using the adjacent footpath, accessway or thoroughfare;
- (f) not extend the verge treatment beyond the verge immediately adjacent to the property owned or occupied, without the written approval of the owner of the adjoining property, immediately adjacent the verge to be treated.

### **Enforcement**

51. The local government may give notice in writing in accordance with clause 63, requiring the adjacent owner or occupier of any land to make good within the time period specified in the notice or in that time, give satisfactory reason why the verge treatment should be retained or be given extra time in which to comply.

### **Public works on verges**

52. (1) For the purpose of carrying out any works the local government or any authority empowered by law to dig up a thoroughfare or carry out any other works, may without notice and without being liable to compensate any person, dig up all or part of a thoroughfare and disturb any verge treatment placed there by an adjacent owner or occupier.
- (2) Where the local government digs up or carries out any works in a verge which has a verge treatment, then the local government shall use its best endeavours to:
- (a) replace and restore any reticulation pipes and sprinklers; and
  - (b) back fill with sand any garden or lawn, but otherwise shall not be liable to replace or restore any verge treatment and in particular any plant, or other vegetation or any surface or in any event, shall not be liable to any person for any damage or disturbance caused.

### **Vehicle crossing treatment**

53. The owner or occupier of land adjacent to a thoroughfare may only install or have installed a vehicle crossing in front of such land which is a permissible vehicle crossing treatment.

**Permissible treatments for standard vehicle crossings**

54. The owner or occupier of land adjacent to a thoroughfare may install a standard vehicle crossing treatment as follows:
- (a) where the land is zoned Residential:
    - (i) constructed from either brickpaving or concrete in accordance with the local government's Residential Vehicle Crossing specifications as varied from time to time;
    - (ii) minimum width of 2.8m at the private property boundary line and a minimum of 6.0m at the kerb line;
  - (b) where land is zoned Industrial/ Commercial:
    - (i) constructed from concrete in accordance with the local government's Commercial/ Industrial Vehicle Crossing specifications as varied from time to time;
    - (ii) minimum width of 6.0m at the private property boundary line and a minimum of 10.0m at the kerb line;
  - (c) where land is zoned Rural:
    - (i) constructed from either asphalt, chipseal, concrete or brick paving in accordance with the local government's Rural Vehicle Crossing specifications as varied from time to time
    - (ii) minimum width of 3.0m at the property boundary and a minimum of 9.0m at the kerb line.

**Contribution towards Construction of a Standard Vehicle Crossing**

55. For the purpose of determining the local government's contribution towards the construction of a standard vehicle crossing as stipulated in Local Government (Uniform Local Provisions) Regulations 1996, the minimum requirements for a standard vehicle crossing for a Residential area shall be used to determine the contribution for construction of a standard vehicle crossing.

**Footpath protection**

56. (1) The owner, occupier, licensee or contractor who undertakes works on a private property adjacent to a footpath, must:
- (a) take all necessary precautions to ensure that the footpath is not damaged during the course of the works; and
  - (b) notify the local government of any existing damage to the footpath prior to the commencement of the works.



- (2) A person who carries out any building or other operations or works necessitating the crossing of a footpath with vehicles that may cause damage to the footpath, must ensure that:
  - (a) all reasonable precautions are taken to prevent damage to the footpath during the course of the works; and
  - (b) heavy vehicles that access the private property, are to cross the footpath at the designated area for the proposed vehicle crossing.
- (3) Any person who causes damage to a footpath during works undertaken on private property or works within the road reserve shall pay the costs of the local government to repair the damage.

## **PART 9 - SHOPPING TROLLEYS**

### **Name of owner of shopping trolley**

57. A retailer shall clearly mark its name or its trading name on any shopping trolley made available for the use of customers.

### **Shopping trolleys in public places**

58. A person shall not leave a shopping trolley in a public place, other than in the area set aside for the storage of shopping trolleys.

### **Shopping trolley to be removed by owner**

59. Where a shopping trolley is found abandoned in a public place and the owner has been advised verbally or in writing of its location by the local government, the owner shall remove the shopping trolley from the public place within 3 hours of being advised.

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### **Retailer taken to own shopping trolley**

60. In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the trolley.

## **PART 10 - SECURED SUM**

### **Security for restoration and reinstatement**

61. (1) The local government may require payment of a bond for a sum determined by the local government:
  - (a) as a condition of an approval; or

(b) before the issue of an approval;

for the purpose of ensuring that:

- (i) a hired building or facility, including fixtures and fittings can be cleaned or repaired;
- (ii) a footpath damaged during the construction of any building on an adjacent lot, can be repaired or reinstated;
- (iii) conditions of the approval in so far as they relate to public property are complied with.

(2) A bond required under sub clause (1) is to be paid into an account established by the local government for the purposes of this clause.

#### **Use by the local government of secured sum**

62. (1) If an approval holder or adjacent owner or occupier fails to carry out or complete the reinstatement works required by the approval conditions, or by a notice served by the local government, either:

- (a) within the time specified in those conditions; or
- (b) where no such time has been specified, a reasonable time from the expiration of the approval; or
- (c) within 14 days or such other time as specified in the notice given by the local government,

then, the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work as remains undone.

(2) The approval holder, owner or occupier shall pay to the local government on demand all administrative, legal, contractor and other costs including, but not limited to loss of income, estimated or incurred by the local government, to restore and reinstate the site or which the local government may be required to pay under this clause.

(3) The local government may apply the proceeds of any bond as a condition of an approval under clause 61 to meet costs under this clause.

(4) The liability of an approval holder or adjacent owner or occupier to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 61.

## PART 11 – REMEDY FOR BREACH

### Notice requiring works to be done

63. (1) Where the local government requires works to be done to rectify a breach of any condition of approval, or to maintain public safety, facilitate public works to the footpath, street, or protect the amenity of a public place, the local government may give notice in writing to the approval holder, or adjacent owner:
- (a) advising details of the breach of the local law or works required;
  - (b) requiring the approval holder or adjacent owner, to remedy the breach or do the works required within the time specified in the notice; and
  - (c) advising that where the approval holder or adjacent owner fails to comply with the requirements of the notice within the time specified, the local government may do the required work.
- (2) Where the approval holder or adjacent owner fails to comply with the requirements of the notice, the local government may by its employees, agents or contractors carry out all works and do all things necessary to comply with the requirements of the notice.
- (3) The local government may recover the expenses incurred in carrying out the works in accordance with sub-clause (2):
- (a) as a charge against the secured sum lodged for the purpose in accordance with clause 61; and
  - (b) from the approval holder or adjacent owner or occupier in a court of competent jurisdiction.

### Serving of notice

64. Notices served under this local law are to be delivered to or sent by mail addressed to the approval holder, adjacent owner or occupier as appropriate.

### Limit on liability

65. A person, owner, occupier approval holder is not entitled to make any claim by way of damages or otherwise, against an authorised person, local government employee, local government appointed sub-contractor or other person authorised by the local government, to enter the land and carry out all or part of the works and do all things necessary that the owner, occupier or licensee was required to do to comply with this local law.

## PART 12 - MISCELLANEOUS

### Substance seizure

66. (1) An authorised person or member of the WA Police Service, may seize for testing any substance thought to be liquor in an unsealed container or a prohibited drug, where the authorised person or member of the police service reasonably suspects that a breach of this local law has occurred.
- (2) Where a person fails to surrender any substance requested by an authorised person in accordance with sub clause (1), that person commits an offence.

### Public liability insurance and indemnity

67. (1) Where, as a condition of an approval, the approval holder or property owner is required to provide a public liability insurance policy, indemnifying the local government against all actions, suits, claims, damages, losses and expenses made against or incurred by the local government arising from any activity, action or thing performed or erected in accordance with the approval and keep that insurance policy current for the duration of the approval or at all times, the approval holder or property owner shall:
- (a) enter into an agreement with the local government to provide and maintain the required public liability insurance protection;
  - (b) take out a public liability insurance policy in the name of the licensee and the local government, for a minimum value of \$5m or such other amount as the local government considers appropriate to the risk involved;
  - (c) include a clause in the policy which prevents the policy from being cancelled without the written consent of the local government;
  - (d) include a clause in the policy which requires both the approval holder or property owner and the insurance company, to advise the local government if the policy lapses, is cancelled or is no longer in operation;
  - (e) on the request of an authorised person, provide for inspection, a certificate of currency for the required insurance policy.
- (2) An approval holder or property owner who refuses or cannot provide a current certificate of insurance within 2 working days as requested in accordance with sub clause (1) commits an offence.

### False or misleading statement

- 68 A person shall not make a false or misleading statement in connection with any application, requirement or demand under this local law.

**No conflict with WA Marine Act 1982**

- 69 Nothing in this local law derogates from the effect of the WA Marine Act 1982 and regulations made under that Act and to the extent that there is any inconsistency between the provisions of this local law and the WA Marine Act 1982 and Regulations, the provisions of the latter shall prevail.

**PART 13 - OFFENCES AND PENALTIES****Offences**

70. (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) An offence against a clause specified in the First Schedule of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) Any person who commits an offence under this local law shall be liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

**Infringement and infringement withdrawal notices**

71. For the purposes of this local law:
- (a) the form of the infringement notice referred to in section 9.17 of the Act is form 2 in the First Schedule of the Local Government (Functions and General) Regulations 1996; and
- (b) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is form 3 in the First Schedule of the Local Government (Functions and General) Regulations 1996 .

**Offence description and modified penalty**

72. The amount appearing in the final column of the First Schedule directly opposite an offence described in that Schedule is the modified penalty for that offence.

**Prosecution for offences**

73. A penalty for an offence against this local law (not being a modified penalty) may be recovered by the local government by taking proceedings against the alleged offender in a Court of Petty Sessions.

**Records to be kept**

74. The local government shall cause adequate records to be kept of all infringement notices served and modified penalties received.

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**Footnotes:****1. Right of Appeal**

When the local government makes a decision as to whether it will:

- (a) grant a person a licence under this local law; or
- (b) renew, vary, or cancel a licence that a person has under this local law,

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Local Government (Functions and General) Regulations 1996 shall apply to that decision.

**2. Appointment of Authorised Persons, and Certificate of Appointment for Authorised Persons**

Both the appointment of authorised persons and issue of a certificate of appointment detailing what duties and responsibilities the person is authorised to perform shall be in accordance with section 9.10 of the Local Government Act 1995.

**3. Impounding of Goods and Recovery of Expenses**

A local government may:

- (a) impound goods in accordance with regulation 29 of the Local Government (Functions and General) Regulations 1996, and
- (b) withhold impounded or confiscated goods until costs are paid, dispose of impounded, confiscated or uncollected goods and recover impounding fees, in accordance with sections 3.46, 3.47 and 3.48 of the Local Government Act 1995.

**4. Name and Address to be Given on Demand**

An authorised person may in accordance with clause 9.11 of the Local Government Act 1995, demand the name and address of a person who is found committing or on reasonable grounds is suspected of having committed a breach of the provisions of this local law.

**FIRST SCHEDULE****CITY OF JOONDALUP****LOCAL GOVERNMENT  
AND PUBLIC PROPERTY LOCAL LAW 1999****Offences and Modified Penalties**

<b>Item No</b>	<b>Clause No</b>	<b>Nature of Offence</b>	<b>Modified Penalty \$</b>
<b>Part 2 – Permits, Approvals and Fees</b>			
1	12(c)	Fail to comply with a notice.	100
<b>Part 3 – General</b>			
2	13	Fail to obtain a written approval.	100
3	14(a)	Behaviour likely to interrupt, disturb or interfere with enjoyment of other persons.	100
4	14(b)	Behaviour which interrupts, disturbs or interferes with enjoyment of other persons.	100
5	15(1)(c)	Without consent of the occupier, enter or attempt to enter a dressing room already occupied.	100
6	20(1)	Fail to comply with a lawful direction of an authorised person.	100
7	22(a)	Kill, injure or interfere with any fauna.	100
8	22(b)	Take onto, set or use any animal, bird or fish trap while on any local government property.	100
9	22(c)	Take onto, or allow any animal to remain on any local government property unless permitted by other written law applying in the district.	100
<b>Part 4 – Use of Local Government and Public Property</b>			
10	24(c)	Be under the influence of liquor or a prohibited drug.	100
11	24(d)	Use any volatile, explosive or flammable matter.	50
12	24(e)	Smoke inside a building where smoking is prohibited.	100
13	24(g)	Enter any place that has been fenced off, obstructed or closed to the public.	100
13A	24A	Smoking within a 5 metre radius of an entrance, exit or aperture of a City-owned building.	50
On any reserve or local government property not set aside for the purpose:			
14	25(a)	Play/practise golf, archery, pistol or rifle shooting.	100
15	25(b)	Ride a skateboard or roller blades.	100
16	26(a)	Enter or leave any local government property or building other than by the public entrance or exit ways.	50

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<b>Item No</b>	<b>Clause No</b>	<b>Nature of Offence</b>	<b>Modified Penalty \$</b>
17	26(b)	Enter or remain on any local government property or building except during times access is available to the public.	50
18	27	Enter local government property or building without first paying the applicable fee or charge	50
19	31	Fail to meet responsibilities of hirer of local government property or building.	100
20	31(h)	Fail to comply with conditions of hire local government property or building.	100
<b>Part 5 – Golf Courses</b>			
23	32(1)	Fail to observe reasonable direction of controller.	100
24	32(1)(a)	Fail to observe the etiquette and rules of golf, varied local rules on scorecard or public notice board.	100
Without approval of the controller:			
25	33(a)	Be accompanied by a non-playing spectator whilst playing golf.	50
26	33(b)	Cross or trespass on any portion of the golf course prepared for play.	50
27	33(c)	Offer himself for employment or be employed for a fee as a caddie.	50
28	33(d)	Sell, offer or expose for sale or exchange any golf ball or any golf equipment or other goods or services.	100
29	34	Fail to produce written authority to play golf for number of holes, day and time on the golf course.	100
30	35(a)	Take a vehicle onto golf course without approval of Controller.	100
31	35(d)	Take any golf buggy with wheels less than 25mm wide onto any part of the golf course.	100
32	35(b)	Leave on the golf course any vehicle, object or animal	100
<b>Part 6 – Swimming Pools</b>			
33	37(3)	Fail to leave pool premises quietly and peaceably when requested to do so.	50
34	39(1)	Fail to meet responsibilities of swimming pool users.	100
<b>Part 7 - Reserves, Beaches and Bathing</b>			
35	40(a)	Use a sandboard, other board or thing to slide down sand dunes.	100
36	40(c)	Traverse sand dunes other than along designated paths.	100



<b>Item No</b>	<b>Clause No</b>	<b>Nature of Offence</b>	<b>Modified Penalty \$</b>	
37	40(d)	Drive or take a vehicle onto any beach or sand dunes:		
		(i) in the case of a first such offence:	100	Amd GG No 7 15.01.02
		(ii) in the case of a second such offence:	250	
		(iii) in the case of a third or subsequent such offence:	500	
38	41(1)	Launch a boat into sea from area not approved or not permitted by signs.	100	
39	41(2)	Launch personal water craft into sea other than from a boat launching ramp.	100	
40	44(a)	Fail to comply with a sign erected on a beach.	100	
40(a)	44A	Failing to comply with sign erected on beach that prohibits the act of smoking.	50	Amd GG No 7 11.01.08
41	45(1)(a)	Fish in an area where fishing is prohibited and designated by signs.	100	
42	45(1)(b)	Fish in an area set aside as designated permitted bathing area.	100	
43	45(2)(a)	Clean fish or cut bait on any seat or hand rail.	50	
44	45(2)(b)	Leave or deposit fish offal on land or in sea within 200m of any beach.	50	
45	46	Ride a surfboard, drive a personal watercraft or boat in a designated permitted bathing area.	100	
<b>Part 8 - Activities in Thoroughfares</b>				
46	48(b)	Cover or obstruct any manholes, gullies or inspection pits serviced from time to time.	100	
47	50(2)	Fail to keep verge treatment in good or tidy condition and avoid obstruction of any sort.	100	
48	50(4)	Place any obstruction on or around any verge treatment.	100	
49	50(5)	Water or maintain a verge treatment to cause nuisance or hazard to person using footpath, accessway	100	
50	56(1)(a)	Fail to take necessary precautions to ensure footpath is not damaged during works	100	
51	56(1)(b)	Fail to notify local government of existing footpath damage prior to commencement of works.	50	
<b>Part 9 – Shopping Trolleys</b>				
52	58	Leave a shopping trolley in a public place other than in a shopping trolley storage area.	50	Amd GG No 13 25.01.08
53	59	Failure of owner to remove shopping trolley within 3 hours of being advised by local government.	100	Amd GG No 13 25.01.08
<b>Part 10 – Miscellaneous</b>				
54		Other offences not specified.	100	