

**Local Government Act 1995**

**City of Joondalup**

**Local Government and Public Property Local Law 2014**

**(Amended by Local Government and Public Property Amendment Local Law 2015)**

**(Amended by Local Government and Public Property Amendment Local Law 2019)**

Local Government Act 1995

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## Local Government Act 1995

### City of Joondalup

## Local Government and Public Property Local Law 2014

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Joondalup resolved on 9 December 2014<sup>1</sup> to make the following local law.

### Part 1 - Preliminary

#### 1.1 Citation

This local law may be cited as the *City of Joondalup Local Government and Public Property Local Law 2014*.

#### 1.2 Commencement

This local law commences on the 14th day after the day on which it is published in the *Government Gazette*.

#### 1.3 Purpose and effect

- (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.

#### 1.4 Application

This local law applies –

- (a) throughout the district; and
- (b) in the sea adjoining the district for a distance of 200 metres seawards from the low water mark at ordinary spring tides, as approved by the Governor under section 3.6 of the *Local Government Act 1995* as published in the *Government Gazette* on 2 December 2014, No. 188, page 4490.

#### 1.5 Repeal

The following local laws are repealed:

- (1) the *City of Joondalup Local Government and Public Property Local Law 1999* as published in the *Government Gazette* on 18 January 2000;
- (2) the *City of Joondalup Trading in Public Places Local Law 1999* as published in the *Government Gazette* on 27 August 1999;

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<sup>1</sup> Amended by *Local Government and Public Property Amendment Local Law 2015*, effective 27 November 2015

- (3) Part 4 of the *City of Joondalup Signs Local Law 1999* as published in the *Government Gazette* on 27 August 1999;
- (4) Clauses 6.4 and 6.5 and Part 4 of the *City of Joondalup Amendment Local Law 2000*, as published in the *Government Gazette* on 10 July 2000;
- (5) Part 6 of the *City of Joondalup Amendment Local Law 2001*, as published in the *Government Gazette* on 15 January 2002;
- (6) the *City of Joondalup Local Government and Public Property Amendment Local Law 2007* as published in the *Government Gazette* on 25 January 2008;
- (7) the *City of Joondalup Local Government and Public Property Local Law (No. 2) 2007* as published in the *Government Gazette* on 11 January 2008;
- (8) the *City of Joondalup Local Government and Public Property Amendment Local Law 2008* as published in the *Government Gazette* on 5 December 2008;
- (9) the *City of Joondalup Local Government and Public Property Amendment Local Law (No. 2) 2008* as published in the *Government Gazette* on 13 January 2009;
- (10) the *City of Joondalup Trading in Public Places Amendment Local Law 2009* as published in the *Government Gazette* on 22 September 2009; and
- (11) the *City of Joondalup Trading in Public Places Amendment Local Law (No. 2) 2009* as published in the *Government Gazette* on 1 December 2009.

## 1.6 Definitions

In this local law -

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

**aircraft** has the meaning given to it in the *Civil Aviation Act 1988* (Cth);

**aircraft** means any machine or craft that can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth's surface.

[Section 3 of the *Civil Aviation Act 1988* (Cth)]

**animal** means any living thing that is not a human being or plant;

**aperture** means a man-made opening;

**applicant** means a person who applies for a permit under this local law;

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

**article** in respect of lost property, includes money;

**attendant** means an employee of the local government with responsibility for the control and management of persons in a pool area or other facility which is local government property;



**beach** 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;

**boat** means any ship, vessel or structure capable of being used in navigation by water, however propelled or moved, and includes a personal watercraft;

**building** means any building which is local government property and includes a –

- (a) hall or room;
- (b) corridor, stairway or annexe of any hall or room; and
- (c) jetty;

**bulk rubbish container** means a bin or container designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance, but does not include a bin or container used in connection with the local government's regular domestic rubbish collection service;

**camera device** means an apparatus for taking photographs or moving pictures, and includes a mobile phone when used for this purpose;

**carriageway** has the meaning given to it in the *Road Traffic Code 2000*;

**carriageway** means a portion of a road that is improved, designed or ordinarily used for vehicular traffic, and includes the shoulders, and areas, including embayments, at the side or centre of the carriageway, used for the stopping or parking of vehicles; and, where a road has 2 or more of those portions divided by a median strip, the expression means each of those portions, separately.

[Regulation 3 of the *Road Traffic Code 2000*]

**CEO** means the Chief Executive Officer of the local government;

**change room** means a room designated for the changing of clothes and may include showers, toilets and hand washing basins;

**charitable organisation** means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium;

**children's playground** means an area set aside for use by children and noted by the presence of dedicated children's playground equipment and the presence of either sand or other form of soft fall surface;

**collection bin** means a receptacle for the collection of clothing or goods;<sup>2</sup>

**commencement day** means the day on which this local law commences under clause 1.2;

**Council** means the Council of the local government;

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<sup>2</sup> Amended by *Local Government and Public Property Amendment Local Law 2015*, effective 27 November 2015

**crossing** means a crossing giving access from a public thoroughfare to –

- (a) private land; or
- (b) a private thoroughfare serving private land;

Note: crossings are also dealt with in regulations 12 to 16 of the *Local Government (Uniform Local Provisions) Regulations 1996*. Those include provisions relating to construction, cost sharing, repair, and crossings affecting declared main roads.

**date of publication** means, where local public notice is required to be given of a matter under this local law, the date on which notice of the matter is published in a newspaper circulating generally throughout the district;

**determination** means a determination made under clause 2.1;

**district** means the district of the local government;

**drone** means a remotely piloted aircraft system that<sup>3</sup>

- (a) has three or more propellers; and
- (b) capable of vertical take-off and landing;

**electoral officer** has the meaning given to it in the Act;

**electoral officer** means a returning officer or a deputy returning officer or electoral officer appointed by a returning officer.  
[Section 4.1 of the *Local Government Act 1995*]

**food business** has the meaning given to it in the *Food Act 2008*;

**food business** means a business, enterprise or activity (other than a business, enterprise or activity that is primary food production) that involves —

- (a) the handling of food intended for sale; or
- (b) the sale of food,

regardless of whether, subject to section 6, the business, enterprise or activity concerned is of a commercial, charitable or community nature or whether it involves the handling or sale of food on one occasion only.  
[Section 10 of the *Food Act 2008*]

**footpath** has the meaning given to it in the *Road Traffic Code 2000*;

**footpath** means an area that is open to the public that is designated for, or has as one of its main uses, use by pedestrians.  
[Regulation 3 of the *Road Traffic Code 2000*]

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<sup>3</sup> Amended by *Local Government and Public Property Amendment Local Law 2019*, effective 19 November 2019

**firework** means a device like a Catherine wheel, roman candle, or rocket made from combustible materials which may be ignited to produce coloured flames, smoke or a loud bang;

**fireworks display** means a show of a number of fireworks set off over a prearranged time period, for the purpose of providing enjoyment to those persons able to view them;

**fishing** means to use any line, lure, rod, pot, net or other method for the purpose of catching marine life and fish has correlative meaning;

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

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

**garage sale** means the sale of second hand domestic goods, not being part of a business, trade or profession and being held on no more than 2 occasions for the same lot in each 6 month period;

**garden** means any part of a thoroughfare which is planted, developed or treated, otherwise than as a lawn, with one or more plants but does not include the planting of a tree;

**indecent exposure** means the revealing to view of those parts of the body, especially the genitals, which by law and convention should be covered by clothing under the given circumstances;

**intersection** has the meaning given to it in the *Road Traffic Code 2000*;

**intersection** means –

- (a) the area where 2 or more carriageways meet; or
- (b) the area within which vehicles, travelling by, on or from different carriageways may come into conflict.

[Regulation 3 of the *Road Traffic Code 2000*]

**kerb** includes the edge of a carriageway;

**lawn** means any part of a thoroughfare which –

- (a) is planted, by any person, only with grass, or with a similar plant; or
- (b) is planted, by the local government, with any other plant;

**life saving equipment** means any equipment, gear or appliance for the use in the provision of life saving or for training of members of a life saving club in their duties;

**liquor** has the meaning given to it in the *Liquor Control Act 1988*;

**liquor** means —

- (a) a substance intended for human consumption which at 20° Celsius contains more than 1.15% ethanol by volume, or such other proportion as is prescribed;
- (b) any other substance prescribed as being liquor for the purposes of this Act; and
- (c) any thing that, for the purposes of sale, is held out to be such a substance.

[Section 3 of the *Liquor Control Act 1988*]

**local government** means the City of Joondalup;

**local government property** means anything except a thoroughfare —

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an 'otherwise unvested facility' within section 3.53 of the Act;

**local public notice** has the same meaning as in section 1.7 of the Act;

- (1) Where under this Act local public notice of a matter is required to be given, a notice of the matter is to be —
  - (a) published in a newspaper circulating generally throughout the district; and
  - (b) exhibited to the public on a notice board at the local government's offices; and
  - (c) exhibited to the public on a notice board at every local government library in the district.
- (2) Unless expressly stated otherwise it is sufficient if the notice is —
  - (a) published under subsection (1)(a) on at least one occasion; and
  - (b) exhibited under subsection (1)(b) and (c) for a reasonable time, being not less than —
    - (i) the time prescribed for the purposes of this paragraph; or
    - (ii) if no time is prescribed, 7 days.

[Section 1.7 of the *Local Government Act 1995*]

**lot** has the meaning given to it in the *Planning and Development Act 2005*;

**lot** means a defined portion of land —

- (a) depicted on a plan or diagram available from, or deposited with, the Authority and for which a separate Crown grant or certificate of title has been or can be issued; or
- (b) depicted on a diagram or plan of survey of a subdivision approved by the Commission; or
- (c) which is the whole of the land the subject of —
  - (i) a Crown grant issued under the *Land Act 1933*;
  - (ii) a certificate of title registered under the *Transfer of Land Act 1893*;
  - (iii) a survey into a location or lot under section 27(2) of the *Land Administration Act 1997* or a certificate of Crown land title the subject of such a survey;
  - (iv) a part-lot shown on a diagram or plan of survey of a subdivision deposited with the Authority; or
  - (v) a conveyance registered under the *Registration of Deeds Act 1856*,

but does not include a lot in relation to a strata scheme, a lot in relation to a survey-strata scheme, or a lot shown as common property on a survey-strata plan, as those terms are defined in the *Strata Titles Act 1985*;

[Section 4 of the *Planning and Development Act 2005*]

**nature strip** has the meaning given to it in the *Road Traffic Code 2000*;

**nature strip** means an area between a carriageway and the front boundary of adjacent land but does not include a path.

[Regulation 3 of the *Road Traffic Code 2000*]

**nuisance** means –

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

**obstruct** means to hinder in passing and obstruction has correlative meaning;

**occupier** has the meaning given to it in the Act, but does not include the local government;

**occupier** where used in relation to land means the person by whom or on whose behalf the land is actually occupied or, if there is no occupier, the person entitled to possession of the land, and includes a person in unauthorised occupation of Crown land and where under a licence or concession there is a right to take profit of Crown land specified in the licence or concession, means the person having that right.

[Section 1.4 of the *Local Government Act 1995*]

**owner** has the meaning given to it in the Act;

**owner**, where used in relation to land —

- (a) means a person who is in possession as —
  - (i) the holder of an estate of freehold in possession in the land, including an estate or interest under a contract or an arrangement with the Crown or a person, by virtue of which contract or arrangement the land is held or occupied with a right to acquire by purchase or otherwise the fee simple;
  - (ii) a Crown lessee or a lessee or tenant under a lease or tenancy agreement of the land which in the hands of the lessor is not rateable land under this Act, but which in the hands of the lessee or tenant is by reason of the lease or tenancy rateable land under this or another Act for the purposes of this Act;
  - (iii) a mortgagee of the land; or
  - (iv) a trustee, executor, administrator, attorney, or agent of a holder, lessee, tenant, or mortgagee, mentioned in this paragraph;
- (b) where there is not a person in possession, means the person who is entitled to possession of the land in any of the capacities mentioned in paragraph (a), except that of mortgagee;
- (c) where, under a licence or concession there is a right to take profit of Crown land specified in the licence or concession, means the person having that right;
- (d) where a person is lawfully entitled to occupy land which is vested in the Crown, and which has no other owner according to paragraph (a), (b), or (c), means the person so entitled;
- (e) means a person who —
  - (i) under the *Mining Act 1978*, holds in respect of the land a mining tenement within the meaning given to that expression by that Act;
  - (ii) in accordance with the *Mining Act 1978* holds, occupies, uses, or enjoys in respect of the land a mining tenement within the meaning given to that expression by the *Mining Act 1978*; or
  - (iii) under the *Petroleum Act 1967* holds in respect of the land a petroleum production licence or a petroleum exploration permit within the meaning given to each of those expressions by that Act; or

- (f) where a person is in the unauthorised occupation of Crown land, means the person so in occupation.

[Section 1.4 of the *Local Government Act 1995*]

**permissible verge treatment** means a treatment described in clause 8.7(2), and includes reticulation pipes and sprinklers installed for the purposes of the treatment;

**permit** means a permit issued under this local law;

**permit holder** means a person who holds a valid permit;

**person** does not include the local government;

**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 area** means any swimming and wading pools and spas and all buildings, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of or used in connection with such swimming and wading pools and spas which are local government property;

**premises** for the purpose of the definition of “public place” in both this clause and clause 4.7, means a building or similar structure, but does not include a carpark or a similar place;

**prohibited drug** has the meaning given to it in the *Misuse of Drugs Act 1981*;

**prohibited drug** means drug to which this Act applies by virtue of section 4;

#### 4. Drugs and plants to which Act applies

(1) Subject to subsection (4), the drugs to which this Act applies are —

- (a) drugs of addiction; and
- (b) specified drugs; and
- (c) whether or not they are also drugs of addiction or specified drugs, the drugs specified in Schedule I.

#### Schedule I — Drugs to which Act applies, notwithstanding anything in *Poisons Act 1964*

##### Item Prohibited drugs

1. Cocaine, ecgonine, heroin, morphine and their respective salts.
2. Opium.
3. Any preparation, admixture, extract, or other substance containing not less than —
  - (a) 0.2% of morphine, the percentage of morphine being for the purpose of this item calculated as in respect of anhydrous morphine; or
  - (b) 0.1% of cocaine or ecgonine.
4. Any derivative of cocaine.
5. Cannabis or cannabis resin or any other cannabis derivative.

[*Misuse of Drugs Act 1981*]

**promotional activity** means the advertising of, promotion of, or raising of funds for, a particular group, product or service;

**public place** includes a thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include –

- (a) premises on private property from which trading is lawfully conducted under a written law; and
- (b) local government property;

**regulations** means the *Local Government (Functions and General) Regulations 1996*;

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

**Schedule** means a schedule in this local law;

**sign** includes a notice, flag, mark, structure or device on which may be shown words, numbers, expressions or symbols;

**stall** means a movable or temporarily fixed structure, stand or table in, on or from which trading is conducted;

**surf life saving club** means a life saving club affiliated with Surf Lifesaving WA Inc. or any branch thereof;

**thoroughfare** has the meaning given to it in the Act, but does not include a private thoroughfare which is not under the management or control of the local government;

**thoroughfare** means a road or other thoroughfare and includes structures or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end.

[Section 1.4 of the *Local Government Act 1995*]

**toilet block** means a toilet block or toilet facility, with or without change room facilities which is local government property;

**tree** means woody perennial plant generally having a single stem or trunk which will grow to a height of approximately 4 metres or higher;

**trading** means -

- (a) the selling or hiring of, the offering for sale or hire of, or the soliciting of orders for, goods or services in a public place or local government property;
- (b) displaying goods in a public place or local government property for the purpose of -
  - (i) offering them for sale or hire;
  - (ii) inviting offers for their sale or hire;
  - (iii) soliciting orders for them; or
  - (iv) carrying out any other transaction in relation to them;

and includes the setting up of a stall, or the conducting of a business at a stall;

**Unclaimed Property Register** means the register kept by an attendant of any unclaimed belongings under Division 4 of Part 5 of this local law;

**utility** means any public or private body which provides an essential service, such as electricity, gas, water, drainage, sewerage, telecommunications or traffic control, and has equipment on, in or under a public place for that purpose;

**valid**, in relation to a permit issued under this local law, means current and for which all the associated fees have either been paid in full or have been waived by the local government;

**vehicle** includes -

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
- (b) an animal being ridden or driven,

but excludes -

- (c) a wheel-chair or any device designed for use, by a physically impaired person on a footpath;
- (d) a pram, a stroller or a similar device;
- (e) a bicycle or wheeled recreational device;
- (f) a shopping trolley; and
- (g) a boat;

**verge** means that part of a thoroughfare between the carriageway and a lot which abuts the thoroughfare and includes a nature strip, but does not include a footpath;

**wheeled recreational device** means a wheeled device, built to transport a person, propelled by human power or gravity, and ordinarily used for recreation or play, and includes -

- (a) in-line skates, rollerskates, a skateboard or similar wheeled device;
- (b) a scooter being used by a person aged 12 years of age or older; and
- (c) a unicycle,

but excludes a golf buggy, pram, stroller or trolley, or a bicycle, wheelchair or wheeled toy; and

**wheeled toy** means a child's pedal car, a tricycle, a scooter or a similar toy, but only if it is being used by a child under 12 years of age.

Note: Throughout this local law the provisions of the *Local Government Act 1995* and other legislation are reproduced in a boxed format.

The purpose of reproducing these provisions is to assist the reader in the interpretation or administration of this local law.

The reproduced provisions of the *Local Government Act 1995*, relevant legislation and other notes are to be treated as footnotes and are not part of this local law and reproduce only the provisions that were in force at the time Council resolved to make this local law.



While all attempts will be made to ensure the reproduced provisions are correct, they may not necessarily be correct at a future date.

## 1.7 Interpretation

In this local law, a reference to local government property includes a reference to any part of that local government property.

## 1.8 Overriding power to hire and agree

Despite anything to the contrary in this local law, the local government may -

- (a) hire local government property to any person; or
- (b) enter into an agreement with any person regarding the use or operation of any local government property.

## 1.9 Transitional

A permit or licence issued in accordance with a local law listed in clause 1.5 -

- (a) is to be taken to be a permit granted under this local law;
- (b) is to be valid for the period specified on the licence or permit; and
- (c) may be earlier cancelled or suspended under this local law.

## 1.10 Application as to assistance animals

This local law is subject to any written law and any law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992* (Cth).

**assistance animal** has the meaning given by subsection 9(2).

### 9. Carer, assistant, assistance animal and disability aid definitions

- (2) For the purposes of this Act, an **assistance animal** is a dog or other animal:
- (a) accredited under a law of a State or Territory that provides for the accreditation of animals trained to assist a persons with a disability to alleviate the effect of the disability; or
  - (b) accredited by an animal training organisation prescribed by the regulations for the purposes of this paragraph; or
  - (c) trained:
    - (i) to assist a person with a disability to alleviate the effect of the disability; and
    - (ii) to meet standards of hygiene and behaviour that are appropriate for an animal in a public place.

[*Disability Discrimination Act 1992* (Cth)]

## Part 2 - Determinations in respect of local government property

### Division 1 - Determinations

## 2.1 Determinations as to use of local government property

- (1) The local government may make a determination in accordance with clause 2.2 -

- (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
  - (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
  - (c) as to the matters in clauses 2.7(2) and 2.8(2); and
  - (d) as to any matter ancillary or necessary to give effect to a determination.
- (2) The determinations in Schedule 2 -
- (a) are to be taken to have been made in accordance with clause 2.2;
  - (b) may be amended or revoked in accordance with clause 2.6; and
  - (c) have effect on the commencement day.

## **2.2 Procedure for making a determination**

- (1) The local government is to give local public notice of its intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that –
- (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
  - (b) a copy of the proposed determination may be inspected and obtained from the local government's offices; and
  - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the local government is to decide –
- (a) to give local public notice that the proposed determination has effect as a determination on and from the date of publication;
  - (b) to amend the proposed determination, in which case subclause (5) will apply; or
  - (c) not to continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c), the local government –
- (a) is to consider those submissions; and
  - (b) is to decide –
    - (i) whether or not to amend the proposed determination; or
    - (ii) not to continue with the proposed determination.
- (5) If the local government decides to amend the proposed determination, it is to give local public notice –
- (a) of the effect of the amendments; and

- (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the local government decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by Council.

### **2.3 Discretion to erect sign**

The local government may erect a sign on local government property to give notice of the effect of a determination which applies to that property.

### **2.4 Determination to be complied with**

A person must comply with a determination.

### **2.5 Register of determinations**

- (1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

### **2.6 Amendment or revocation of a determination**

- (1) The local government may amend or revoke a determination.
- (2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the local government revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

*Division 2 - Activities which may be pursued or prohibited under a determination*

### **2.7 Activities which may be pursued on specified local government property**

- (1) A determination may provide that specified local government property is set aside as an area on which a person may –
  - (a) bring, ride or drive an animal;
  - (b) take, ride or drive a vehicle, or a particular class of vehicle;
  - (c) fly or use a motorised model aircraft, car, ship, glider or rocket;
  - (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
  - (e) launch, beach, retrieve or leave a boat;

- (f) take or use a boat, or a particular class of boat;
  - (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
  - (h) play or practice –
    - (i) golf or archery;
    - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
    - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
  - (i) ride a bicycle, a wheeled recreational device, a sandboard or a similar device;
  - (j) wear no clothing; or;
  - (k) launch or land a drone.<sup>4</sup>
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular –
- (a) the days and times during which the activity may be pursued;
  - (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
  - (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
  - (d) may limit the 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 activity can be pursued by a class of persons or all persons; and
  - (f) may distinguish between different classes of the activity.

## **2.8 Activities which may be prohibited on specified local government property**

- (1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property:
- (a) smoking on premises;
  - (b) riding a bicycle, a wheeled recreational device, a sandboard or a similar device;
  - (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
  - (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
  - (e) taking or using a boat, or a particular class of boat;

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<sup>4</sup> Amended by *Local Government and Public Property Amendment Local Law 2019*, effective 19 November 2019

- (f) the playing or practice of -
    - (i) golf, archery, pistol shooting or rifle shooting; or
    - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
  - (g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property;
  - (h) the traversing of sand dunes or land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose;
  - (i) the placing or maintaining of a collection bin<sup>5</sup>; and
  - (j) the launching or landing of drone.<sup>6</sup>
- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular –
- (a) the days and times during which the activity is prohibited;
  - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
  - (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;
  - (d) that an activity is prohibited in respect of a class of persons or all persons; and
  - (e) may distinguish between different classes of the activity.
- (3) In this clause –

**premises** means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

### *Division 3 - Transitional*

## **2.9 Signs taken to be determinations**

- (1) Where a sign erected on local government property has been erected under a local law of the local government that is repealed by this local law, then it is to be taken to be and has effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 2.1.
- (2) Clause 2.5 does not apply to a sign referred to in subclause (1).

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<sup>5</sup> Amended by *Local Government and Public Property Amendment Local Law 2015*, effective 27 November 2015

<sup>6</sup> Amended by *Local Government and Public Property Amendment Local Law 2019*, effective 19 November 2019

## Part 3 - Activities on local government property

### *Division 1 - When a permit is required*

#### **3.1 Activities needing a permit**

- (1) A person must not without a permit -
- (a) subject to subclause (3), hire local government property;
  - (b) advertise anything by any means on local government property;
  - (c) erect any sign on local government property;
  - (d) erect, on local government property, a structure for public amusement or for any performance, whether for gain or otherwise;
  - (e) teach, coach or train, for profit, any person in or on local government property;
  - (f) cut, break, injure, deface, pull up, pick, remove, or destroy any tree, shrub, flower, grass or plant of any kind on local government property;
  - (g) cut, collect, or remove any timber, firewood, stone, sand or other materials, other than seaweed on local government property;
  - (h) plant any plant or sow any seeds on local government property;
  - (i) carry on any trading on local government property unless the trading is conducted -
    - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
    - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
  - (j) unless that person is an employee of the local government acting in the course of his or her duties or on an area set aside for that purpose -
    - (i) drive or ride or take any vehicle on to local government property; or
    - (ii) park or stop any vehicle on local government property;
  - (k) conduct a function, or undertake any promotional activity, on local government property;
  - (l) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a charitable organisation;
  - (m) light a fire on local government property except in a facility provided for that purpose;
  - (n) light or set off any fireworks or conduct a fireworks display on local government property;
  - (o) parachute, hang glide, abseil or base jump from or on to local government property;
  - (p) launch an aircraft from, or land an aircraft onto, local government property;
  - (q) erect a building or a refuelling site on local government property;

- (r) make any excavation on or erect or remove any fence on local government property;
  - (s) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
  - (t) deposit or store any thing on local government property;
  - (u) depasture, tether, drive or ride any horse, sheep, cattle, goat, camel, ass, mule or pig on local government property;
  - (v) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly on local government property; or
  - (w) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property, other than those used by a surf life saving club in the performance of its functions.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

### 3.2 Permit required to camp outside a facility

- (1) In this clause -

**facility** has the meaning given to it in the *Caravan Parks and Camping Grounds Act 1995*;

**facility** means a caravan park or camping ground;

**camping ground** means an area of land on which camps, but not caravans, are situated for habitation but does not include any land prescribed for the purposes of this definition.

[Section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*]

**caravan park** means an area of land on which caravans, or caravans and camps, are situated for habitation;

- (2) This clause does not apply to a facility operated by the local government.
- (3) Except in accordance with a permit, a person must not -
- (a) camp on, or lodge at, local government property;
  - (b) occupy any structure at night for the purpose of sleeping on local government property;
  - (c) park a vehicle on local government property where that vehicle is being used, by that person or any other person, for purposes of camping or sleeping on local government property; or
  - (d) erect a tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.

- (4) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a), (b), (c) or (d) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

Note: Regulations 11, 13 and 14 of the *Caravan Parks and Camping Ground Regulations 1997* state:

**11. Camping other than at a caravan park or camping ground**

- (1) A person may camp —
- (a) for up to 3 nights in any period of 28 consecutive days on land which he or she owns or has a legal right to occupy, and may camp for longer than 3 nights on such land if he or she has written approval under subregulation (2) and is complying with that approval;
  - (b) for up to 24 consecutive hours in a caravan or other vehicle on a road side rest area;
  - (c) for up to 24 consecutive hours in a caravan or other vehicle on a road reserve in an emergency, unless to do so would cause a hazard to other road users or contravene any other written law with respect to the use of the road reserve;
  - (d) on any land which is —
    - (i) held by a State instrumentality in freehold or leasehold; or
    - (ii) dedicated, reserved, or set apart under the *Land Administration Act 1997* or any other written law, and placed under the care, control or management of a State instrumentality,in accordance with the permission of that instrumentality; or
  - (e) on any unallocated Crown land or unmanaged reserve, in accordance with the permission of the Minister within the meaning of the *Land Administration Act 1997*, or a person authorised by the Minister to give permission under this paragraph.
- (2) Written approval may be given for a person to camp on land referred to in subregulation (1)(a) for a period specified in the approval which is longer than 3 nights —
- (a) by the local government of the district where the land is situated, if such approval will not result in the land being camped on for longer than 3 months in any period of 12 months;
  - (b) by the Minister, if such approval will result in the land being camped on for longer than 3 months in any period of 12 months; or
  - (c) despite paragraph (b), by the local government of the district where the land is situated —
    - (i) if such approval will not result in the land being camped on for longer than 12 consecutive months; and
    - (ii) if the person owns or has a legal right to occupy the land and is to camp in a caravan on the land while a permit has effect in relation to the land.
- (3) In this regulation —
- emergency** means a situation where to move the caravan or other vehicle to a more suitable area would constitute an immediate and serious hazard due to the condition of the caravan or other vehicle, or a vehicle towing the caravan, or of the driver, or passengers, of any such vehicle;
- permit** means a building permit or a demolition permit as defined in the *Building Act 2011* section 3;



**road side rest area** means an area designated by a traffic sign erected in accordance with a written law, as an area which may be used for 24 hours for —

- (a) resting;
- (b) stopping; or
- (c) camping,

in a vehicle;

**State instrumentality** has the same meaning as it has for the purposes of the *Land Administration Act 1997*;

**unallocated Crown land** has the same meaning as it has for the purposes of the *Land Administration Act 1997*;

**unmanaged reserve** has the same meaning as it has for the purposes of the *Land Administration Act 1997*.

**13. Suitability of land for camping to be considered before approval under regulation 11(2) or 12(2) is given**

Before giving approval under regulation 11(2) or 12(2), the local government or the Minister is to be satisfied that the land is a suitable place for camping especially with respect to —

- (a) safety and health; and
- (b) access to services.

**14. Caravan or camp to be maintained**

A person camping in a caravan or camp is to maintain it in such a condition that it is not a hazard to safety or health.

Penalty: \$2 000.

[*Caravan Parks and Camping Ground Regulations 1997*]

**3.3 Permit required for possession and consumption of liquor**

- (1) A person must not, on local government property, consume any liquor or have in her or his possession or under her or his control any liquor, unless –
  - (a) that is permitted under the *Liquor Control Act 1988*; and
  - (b) a permit has been obtained for that purpose.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

Note: Section 119 of the *Liquor Control Act 1988* contains other limitations relating to liquor on unlicensed premises.

## Division 2 - Responsibilities of permit holder

### 3.4 Responsibilities of permit holder

A holder of a permit must, in respect of local government property to which the permit relates -

- (a) take reasonable steps to maintain law and order by all in attendance at any function for which the local government property has been hired;
- (b) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (c) prevent overcrowding;
- (d) leave the local government property in a clean and tidy condition after its use;
- (e) comply with a direction from the CEO or an authorised person to take the action specified in the direction for the purpose of maintaining public safety;
- (f) report any damage or defacement of the local government property to the local government; and
- (g) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Control Act 1988* for that purpose.

## Part 4 - Behaviour on all local government property

### Division 1 - Behaviour on and interference with local government property

#### 4.1 Behaviour which interferes with others

A person must not, in or on any local government property, behave in a manner which –

- (a) is likely to interfere with the enjoyment of a person who might use the property;
- (b) interferes with the enjoyment of a person using the property; or
- (c) places the public at risk or interferes with the safety of others.

Note: Other legislative provisions that may also be relevant in this context include section 74A and 203 of the Criminal Code which states:

#### **74A. Disorderly behaviour in public**

- (1) In this section —  
***behave in a disorderly manner*** includes —
  - (a) to use insulting, offensive or threatening language; and
  - (b) to behave in an insulting, offensive or threatening manner.
- (2) A person who behaves in a disorderly manner —
  - (a) in a public place or in the sight or hearing of any person who is in a public place; or
  - (b) in a police station or lock-up,is guilty of an offence and is liable to a fine of \$6 000.

- (3) A person who has the control or management of a place where food or refreshments are sold to or consumed by the public and who permits a person to behave in a disorderly manner in that place is guilty of an offence and is liable to a fine of \$4 000.

**203. Indecent acts in public**

- (1) A person who does an indecent act —

- (a) in a public place or in the sight of any person who is in a public place; or  
(b) in a police station or lock-up,

is guilty of a crime and is liable to imprisonment for 2 years.

*Summary conviction penalty: imprisonment for 9 months and a fine of \$9 000.*

- (2) A person who owns, or has the control or management of, a place to which the public is admitted, whether on payment of consideration or not, and who permits a person to do an indecent act in that place is guilty of a crime and is liable to imprisonment for 2 years.

*Summary conviction penalty: imprisonment for 9 months and a fine of \$9 000.*

- (3) It is a defence to a charge of an offence under this section to prove that it was for the public benefit that the act complained of should be done.

- (4) Whether the doing of any such act is or is not for the public benefit is a question of fact.

**4.2 Behaviour detrimental to property**

- (1) A person must not, in or on local government property, behave in a way which is or might be detrimental to the property, unless authorised by the local government to do so.

- (2) In subclause (1) —

***detrimental to the property*** includes —

- (a) removing any thing from the local government property such as a rock, plant, fixture, fitting, chattel, equipment or furniture provided for the use, enjoyment or safety of any person; and  
(b) destroying, defacing or damaging any thing on the local government property, such as a plant, fixture, fitting, chattel, equipment or furniture provided for the use, enjoyment or safety of any person or a building.

**4.3 Taking or injuring any fauna**

- (1) A person must not take, injure or kill, or attempt to take, injure or kill, any fauna which is on or above any local government property, unless that person is authorised under a written law to do so.

- (2) In this clause —

***fauna*** means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes, in relation to any such animal —

- (a) any class of animal or individual member;  
(b) the eggs or larvae; or  
(c) the carcass, skin, plumage or fur.

Note: Sections 16 and 16A of the *Wildlife Conservation Act 1950* deal with the taking of or possession of protected fauna and section 20 of that Act deals with the authority of wildlife officers.

#### **4.4 Removing or damaging any flora**

(1) A person must not remove or damage any flora which is on or above any local government property, unless that person is authorised to do so under a written law or with the written approval of the local government.

(2) In this clause –

*flora* means all vascular plants other than plants recognised as weeds.

#### **4.5 Intoxicated persons not to enter local government property**

A person must not enter or remain on local government property while under the influence of liquor or a prohibited drug.

#### **4.6 No prohibited drugs**

A person must not take a prohibited drug on to, or consume or use a prohibited drug on, local government property.

#### **4.7 No smoking**

A person must not smoke within a 5 metre radius of any entrance, exit or aperture of premises on local government property.

#### **4.8 Appropriate behaviour and adequate clothing**

(1) A person over the age of 6 years shall not on or in any local government property -

- (a) appear in public unless properly dressed in clothing which covers the body to prevent indecent exposure;
- (b) loiter outside or act in an unacceptable manner, in any portion of a toilet block or change room facility set aside for the opposite or same gender; and
- (c) without the consent of the occupier, enter or attempt to enter any toilet 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 prevent indecent exposure, the authorised person may direct that person to put on adequate clothing and that person shall comply with that direction immediately.

#### **4.9 Refusal of entry to local government property**

(1) An authorised person may refuse to allow entry, or suspend admission, to any local government property to any person whom he or she reasonably suspects has behaved in a manner contrary to the provisions of this Part.

(2) This refusal or suspension can be for any period of up to 12 months as decided by that authorised person.

## *Division 2 - Signs*

### **4.10 Signs**

- (1) The local government may erect a sign on local government property specifying any conditions of use which apply to that property.
- (2) A person must comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) –
  - (a) is not to be inconsistent with any provision of this local law or any determination; and
  - (b) is to be for the purpose of giving notice of the effect of a provision of this local law.

## **Part 5 - Matters relating to particular local government property**

### *Division 1 - Pool areas*

#### **5.1 When entry must be refused**

An attendant or authorised person shall refuse admission to, may direct to leave or shall remove or cause to be removed from, a pool area any person who he or she reasonably suspects is -

- (a) under the age of 10 years and who is unaccompanied by a responsible person over the age of 16 years;
- (b) under the age of 10 years and who is accompanied by a responsible person over the age of 16 years where the responsible person is incapable of, or not providing, adequate supervision of or care for that person;
- (c) suffering from any gastrointestinal disease, skin infection or other disease that is communicable in an aquatic environment;
- (d) in an unclean condition;
- (e) wearing unclean clothes; or
- (f) under the influence of liquor or a prohibited drug.

#### **5.2 Consumption of food or drink may be prohibited**

A person must not consume any food or drink in an area where consumption is prohibited by a sign.

### *Division 2 - Beaches*

#### **5.3 Powers of authorised persons or surf life saving club members**

- (1) An authorised person employed by the local government may perform all or any of the following functions in relation to a beach:
  - (a) patrol any beach;
  - (b) carry out any activity on any beach;

- (c) erect signs designating bathing areas and signs regulating, prohibiting or restricting specified activities on the whole or any part of a beach or in or on the water adjacent to the beach and to direct persons on the beach or in or on the water to comply with such signs;
  - (d) temporarily enclose any area with rope, hessian, wire or any other means for the conduct of surf life saving club activities; and
  - (e) direct persons to leave the water adjacent to a beach during dangerous conditions or if a shark is suspected of being in the vicinity of a beach.
- (2) Subject to subclause (3), the local government may authorise, under section 9.10 of the Act, the members of a surf life saving club to perform all or any of the functions listed in subclause (1).
  - (3) Members authorised by the local government under subclause (2) must have been recommended by the surf life saving club as competent to perform the functions referred to in that subclause in respect of which they are authorised.
  - (4) Under subclause (2), the local government may authorise members generally, or in relation to particular times, days or months.

#### **5.4 Authority of local government employee to prevail**

The authority of an authorised person employed by the local government under clause 5.3(1) is to prevail over the authority provided to members of a surf life saving club under clause 5.3(2).

#### **5.5 Persons to comply with signs and directions**

- (1) A person must -
  - (a) not act in contravention of a sign erected on a beach under clause 5.3(1)(c);
  - (b) not enter an area which has been temporarily closed with rope, hessian, wire or any other means for the conduct of surf life saving club activities, unless he or she is a member of the surf life saving club, an authorised person or has obtained permission to enter from the surf life saving club;
  - (c) comply with any direction given under clause 5.3(1)(c) or 5.3(1)(e); and
  - (d) not interfere with, obscure, obstruct, or hang any item of clothing or towel on a flag, sign, notice or item of life saving equipment.
- (2) A person must not smoke in contravention of a sign erected on a beach which prohibits the act of smoking.

#### *Division 3 - Fenced or closed property*

#### **5.6 No entry to fenced or closed local government property**

A person must not enter local government property which has been fenced off or closed to the public by a sign or otherwise, unless that person is authorised to do so by the local government.

#### *Division 4 - Toilet blocks and change rooms*

#### **5.7 Only specified gender to use entry of toilet block or change room**

- (1) Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by –

- (a) females, then a person of the male gender must not use that entry of the toilet block or change room; or
  - (b) males, then a person of the female gender must not use that entry of the toilet block or change room.
- (2) Paragraphs (a) and (b) of subclause (1) do not apply to a child, when accompanied by a parent, guardian or caregiver, where the child is –
- (a) under the age of 6 years; or
  - (b) otherwise permitted by an authorised person to use the relevant entry.

## 5.8 Hire of lockers

- (1) A person may hire a locker in or near a change room for the purpose of safekeeping articles.
- (2) A person must not store in any locker a firearm or offensive weapon or any article or substance that has been unlawfully acquired or which is a substance or article within the meaning of ‘dangerous goods’ under the *Dangerous Goods Safety Act 2004*.

***dangerous goods*** means a substance or article that is —

- (a) prescribed by the regulations to be dangerous goods; or
- (b) determined by the Chief Officer under the regulations to be dangerous goods;

[Section 3 of the *Dangerous Goods Safety Act 2004*]

- (3) An attendant or authorised person may open and inspect the contents of a locker at any time, where the attendant or authorised person reasonably suspects that a breach of this local law has occurred.

## 5.9 Unclaimed property in locker

- (1) If an article in a locker is not claimed or collected within 48 hours after the date of hire, the article may be removed by an attendant or authorised person.
- (2) An attendant or authorised person must record in the Unclaimed Property Register, with respect to each article removed from a locker –
- (a) a description of the article removed;
  - (b) the time and date the article was removed; and
  - (c) the time and date recorded on the original receipt.
- (3) An attendant or authorised person must ensure that an article removed from the locker is stored at the place determined by the local government.
- (4) An attendant or authorised person may deliver to a person an article recorded in the Unclaimed Property Register on receiving –
- (a) satisfactory evidence of the person’s right to obtain the article;
  - (b) an accurate description of the article being claimed; and
  - (c) payment of any outstanding fees or storage charges.

- (5) A person who receives delivery of an article from the Unclaimed Property Register must, by way of acknowledging receipt of the article, write his or her name and address and sign his or her name in the Unclaimed Property Register.

Note: Under clause 14.3 of this local law, the local government may dispose of any article left on local government property that is not claimed within a maximum period of 2 months.

#### **5.10 Use of showers**

A person may use a shower in change rooms only on conditions that –

- (a) the facilities must be used by the person only for the purpose of cleansing, bathing and washing themselves; and
- (b) the facilities must not be used for the purpose of laundering or washing any clothing or other articles.

#### **5.11 No use of camera devices in toilet blocks or change rooms**

No person shall operate a camera device in any portion of a toilet block or change room to record or transmit an image.

### **Part 6 - Fees for entry on to local government property**

#### **6.1 No unauthorised entry to function**

- (1) A person must not enter local government property on a day or during a time when the property is set aside for a function, or when an admission charge is authorised, except –
- (a) through the proper entrance for that purpose; and
  - (b) on payment of the applicable admission charge.
- (2) The local government may exempt a person from compliance with subclause (1)(b).

### **Part 7 - Jetties and bridges**

#### **7.1 Interpretation**

- (1) In this Part –

**jetty** means any breakwater, groyne, jetty, pier, wharf or landing place which is local government property.

- (2) This Part applies only to bridges and jetties which are local government property.

#### **7.2 Application for consent and application fee**

- (1) Where a person is required to obtain the consent of the local government under this Part, the person must apply for that consent in the manner required by the local government.
- (2) The local government may require an application for consent made under subclause (1) to be accompanied by a fee.
- (3) If an application for consent is not made in the manner required by the local government or the fee which is to accompany that application is not paid, the local government may refuse to consider the application for consent.



- (4) Where a local government considers an application for consent, the local government must provide its decision in writing to the applicant.
- (5) Where a fee is referred to in this Part, the fee must be imposed by the local government under sections 6.16 to 6.19 of the Act.

### **7.3 When use of jetty is prohibited**

A person must not land at, use or go on any part of a jetty which is –

- (a) under construction or repair; or
- (b) closed,

unless that person has first obtained the consent of the local government.

### **7.4 Method of mooring boat**

A person in control of a boat must not moor or make fast the boat to a jetty, or to any part of the jetty, except to such mooring piles, ring bolts or other fastenings as are provided.

### **7.5 When boat may remain moored**

A person in control of a boat must not moor or make fast the boat to a jetty unless –

- (a) the boat is in distress and then only to effect the minimum repairs necessary to enable the boat to be moved elsewhere;
- (b) the embarking or disembarking of passengers is in progress, and then not for a consecutive period exceeding 2 hours without the prior consent of the local government; or
- (c) where the boat is used at that time for commercial purposes, the person has first paid the fee (if any) for such mooring or making fast to the local government.

### **7.6 Authorised person may order removal of boat**

Despite anything to the contrary in this Part, a person in control of a boat moored or fastened to or alongside a jetty must remove it immediately after being directed to do so by an authorised person.

### **7.7 Restrictions on launching**

A person must not launch a boat from or over any jetty (other than a boat ramp) unless he or she has first obtained the consent of the local government.

### **7.8 Limitations on fishing**

A person must not -

- (a) fish from a jetty or a bridge so as to obstruct or interfere with the free movement of a boat approaching or leaving the jetty or the bridge or so as to unreasonably interfere with the use of the jetty or the bridge by any other person; or
- (b) hang or spread a fishing net from, on or over any part of a jetty or a bridge.

## Part 8 - Activities in public places

### *Division 1 - General*

#### **8.1 General prohibitions**

A person must not -

- (a) damage, injure, prune, remove or kill by felling, poisoning or any other means, a tree on a thoroughfare or verge unless the person is -
  - (i) acting under authority of the local government; or
  - (ii) a local government employee or contractor engaged by the local government to undertake work in relation to a particular tree or trees on thoroughfares in the district or on local government property generally; or
  - (iii) acting under authority of a written law.
- (b) damage a lawn or a garden or damage, injure, prune or remove any plant or part of a plant from a lawn or a garden that is not a tree unless –
  - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
  - (ii) the person is acting under the authority of a written law;
- (c) place, or allow to be placed or remain, on a thoroughfare or verge any thing that –
  - (i) obstructs the thoroughfare or verge; or
  - (ii) results in a hazard for any person using the thoroughfare or verge;
- (d) unless at the direction of the local government, damage, remove or interfere with any part of a thoroughfare, or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
- (e) play or participate in any game or sport so as to cause danger to any person or thing or obstruct the movement of vehicles or persons on a thoroughfare;
- (f) within a mall, arcade or verandah of a shopping centre, ride any bicycle, wheeled recreational device or similar device;
- (g) install a tree on the verge unless approved in writing by the local government; or
- (h) on a public place use anything or do anything so as to create a nuisance.

#### **8.2 Activities allowed with a permit - general**

(1) A person must not, without a permit –

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) subject to Division 3 of this Part, throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised by the local government in connection with that collection;

- (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
  - (d) cause any obstruction to a water channel or a water course in a thoroughfare;
  - (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
  - (f) damage a thoroughfare, kerb or footpath;
  - (g) light any fire or burn any thing on a thoroughfare;
  - (h) unless installing, or in order to maintain, a permissible verge treatment -
    - (i) lay pipes under or provide taps on any verge; or
    - (ii) place or install, on any part of a thoroughfare, any thing such as crushed limestone, gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
  - (i) fell any tree onto a thoroughfare;
  - (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
  - (k) place or cause to be placed on a thoroughfare or verge a bulk rubbish container;
  - (l) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare; or
  - (m) prune or lop a tree on a verge or in a thoroughfare unless that person is -
    - (i) a local government employee or contractor engaged by the local government to undertake work in relation to a particular tree or trees on thoroughfares in the district or on local government property generally; or
    - (ii) acting under authority of a written law.
- (2) The local government may exempt a person from compliance with subclause (1) -
- (a) if that person complies with a policy issued by the local government issued under clause 12.6 in relation to a specified activity in or on a thoroughfare, verge or footpath; or
  - (b) on the application of that person.

Note: Wherever a permit is required to be obtained under this local law, the provisions of Part 12 of this local law apply.

### **8.3 No possession and consumption of liquor on thoroughfare**

- (1) A person must not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless –
  - (a) that is permitted under the *Liquor Control Act 1988* or under another written law; or
  - (b) the person is doing so in accordance with a permit.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

## Division 2 - Vehicle crossings

### 8.4 Temporary crossing

- (1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works must obtain a permit for the installation or use of a temporary crossing to protect the existing carriageway, kerb, drains and footpath, where –
  - (a) a crossing does not exist; or
  - (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.
- (2) The “person responsible for the works” in subclause (1) is to be taken to be –
  - (a) the applicant named on a building approval certificate, building permit or demolition permit issued under the *Building Act 2011*; or
  - (b) the owner or occupier of the lot, if no building approval certificate, building permit or demolition permit has been issued under the *Building Act 2011* in relation to the works.
- (3) If the local government approves an application for a permit for the purpose of subclause (1), the permit is taken to be issued on the condition that, until such time as the temporary crossing is removed, the permit holder must keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

### 8.5 Removal of redundant crossing

- (1) Where works on a lot will result in a crossing no longer giving access to a lot, the crossing is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the local government.
- (2) The local government may give written notice to the owner or occupier of a lot requiring her or him to –
  - (a) remove any part of or all of a crossing which does not give access to the lot; and
  - (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal,

within the period of time stated in the notice, and the owner or occupier of the lot must comply with that notice.

## Division 3 - Verge treatments

### 8.6 Definition

In this Division -

**acceptable material** means any material approved by the local government that will create a hard and stable surface.

Note: A list of acceptable materials as determined by the local government can be obtained by contacting the City on 1300 369 972.

## **8.7 Permissible verge treatments**

- (1) An owner or occupier of land which abuts a verge may on that part of the verge directly in front of her or his land install a permissible verge treatment.
- (2) Permissible verge treatments include –
  - (a) the planting and maintenance of a lawn;
  - (b) the planting and maintenance of a garden provided that -
    - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
    - (ii) where there is no footpath, a person has safe and clear access of a minimum width of 1.5 metres along that part of the verge immediately adjacent to the kerb;
    - (iii) the garden does not include a wall, built structure or any thing of a like nature; and
    - (iv) the garden is not of a thorny, poisonous or hazardous nature;
  - (c) the installation of an acceptable material; or
  - (d) the installation of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

## **8.8 Only permissible verge treatments to be installed and maintained**

- (1) A person must not install or maintain a verge treatment which is not a permissible verge treatment.
- (2) The owner or occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 8.9.

## **8.9 Obligations of owner or occupier**

An owner or occupier who installs or maintains a permissible verge treatment must -

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) ensure the verge treatment does not cause a sight distance obstruction to any person using a footpath on the verge or a carriageway or crossing adjoining the verge or in proximity to it;
- (c) not place any obstruction on or around the verge treatment;
- (d) not disturb a kerb or a footpath on the verge;
- (e) ensure that the verge treatment does not damage or obstruct a drain, manhole, gully, inspection pit, channel, kerb, or tree; and

- (f) ensure that any sprinklers or pipes installed to irrigate a verge treatment are not used in a manner which causes or may cause a nuisance or obstruction to any person using the thoroughfare.

#### **8.10 Notice to owner or occupier**

The local government may give a notice in writing to the owner or the occupier of a lot abutting a verge to make good, within the time specified in the notice, any breach of a provision of this Division.

#### **8.11 Transitional provision**

- (1) In this clause –

**repealed provisions** means one or more of the provisions of the repealed local laws which permitted certain types of verge treatments, whether with or without the consent of the local government; and

**repealed local laws** means the local laws that are repealed by clause 1.5.

- (2) A verge treatment which –

- (a) was installed prior to the commencement day; and

- (b) on the commencement day is a type of verge treatment which was permitted under and complied with the repealed provisions,

is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continues to comply with the repealed provisions.

#### *Division 4 - Property numbers*

#### **8.12 Definition**

In this Division -

**number** means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare.

#### **8.13 Assignment of numbers**

The local government may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

#### *Division 5 - Fencing*

#### **8.14 Public place – clause 4(1) of Division 1, Schedule 3.1 of Act**

Each of the following places is specified as a public place for the purpose of clause 4(1) of Division 1 of Schedule 3.1 of the Act –

- (a) a public place, as that term is defined in clause 1.6; and
- (b) local government property.

*Division 6 - Signs erected by the local government*

**8.15 Signs**

- (1) The local government may erect a sign on a public place specifying any conditions of use which apply to that place.
- (2) A person must comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose of giving notice of the effect of a provision of this local law.

**8.16 Transitional**

Where a sign erected on a public place has been erected under the repealed local laws, then on and from the commencement day, it is to be taken to be a sign erected under clause 8.15 if –

- (a) the sign specifies a condition of use relating to the public place which gives notice of the effect of a provision of this local law; and
- (b) the condition of use specified is not inconsistent with any provision of this local law.

*Division 7 - Driving on a closed thoroughfare*

**8.17 No driving on closed thoroughfare**

- (1) In this clause –

***closed thoroughfare*** means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.

- (2) A person must not drive or take a vehicle on a closed thoroughfare unless –
  - (a) it is in accordance with any limit or exception specified in the order made under section 3.50 of the Act; or
  - (b) the person has first obtained a permit.

**Part 9 - Advertising signs on thoroughfares**

**9.1 Definitions**

In this Part -

***advertising sign*** means a sign used for the purpose of an advertisement or to draw attention to a product, business, person or event, and includes an election sign;

***community event*** means a charitable, cultural or educational display, event or activity conducted by a charitable organisation;

***election sign*** means a sign which encourages persons to vote for a candidate, political party, referenda or matter relating to any federal, state or local government election;

***portable direction sign*** means a portable free standing sign that –

- (a) does not exceed 500mm in height or 0.5m<sup>2</sup> in area; and

- (b) is used to direct persons to a residential property that is open for inspection by the public; or
- (c) is used to direct persons to a garage sale.

## **9.2 General prohibitions**

Subject to the exceptions in clauses 9.3 to 9.6 inclusive, a person must not –

- (a) erect or place an advertising sign on a thoroughfare or verge; or
- (b) post any bill or paint, place or affix any advertisement on a thoroughfare or verge,

unless permitted to do so under any written law.

## **9.3 Portable direction signs**

- (1) A person may erect or place, in a thoroughfare or verge, a portable direction sign –
  - (a) from 9.00am on the day the property referred to in the sign is open for inspection by the public until one hour after the time of close of inspections referred to in the sign; or
  - (b) during the hours that the garage sale is being conducted.
- (2) The portable direction sign must not be erected or placed –
  - (a) on a footpath; or
  - (b) in any location where, in the opinion of the local government, the sign is likely to obstruct a line of sight along a thoroughfare or create a hazard for any person using the thoroughfare.

## **9.4 Permit for a charitable organisation**

The local government may issue to a charitable organisation a permit to place, on a thoroughfare or verge, advertising signs to draw attention to a community event held by that organisation.

## **9.5 Advertising permit or exemption**

- (1) The local government may enter into an agreement with a person to post a bill, paint, place or affix any advertisement on a bus seat, bus shelter or other street furniture.
- (2) The local government may exempt the holder of a valid stallholder's permit, trader's permit or outdoor eating facility permit from all or part of the prohibitions in clause 9.2 in relation to an advertising sign or advertisement that directly relates to the goods or services which are the subject of the permit.
- (3) A permit is not required for a cultural or educational display, event or activity conducted by the local government.

## **9.6 Election or poll**

The local government may erect or authorise an electoral officer to erect, an advertising sign on a thoroughfare or verge to draw attention to the date of, or location of a polling place for, a local government election or poll.



## 9.7 Impounding of advertising signs

An authorised person may remove or impound an advertising sign or portable direction sign that is in a thoroughfare or verge in contravention of this local law.

Notes:

1. Regulation 29 of the *Local Government (Functions and General) Regulations 1996* states –  
**29. Contraventions that may lead to impounding of goods — s. 3.37**
  - (1) A contravention of a regulation or local law made under the Act can lead to the impounding of goods involved in the contravention if —
    - (a) it occurs in a public place; and
    - (b) either —
      - (i) the presence of the goods —
        - (I) presents a hazard to public safety; or
        - (II) obstructs the lawful use of any place; or
      - (ii) where the regulation or local law prohibits or regulates the placement of the goods, the goods are located in a place contrary to that regulation or local law.
2. The City's *Parking Local Law 2013* regulates the stopping of vehicles on verges and the parking of vehicles on any portion of a thoroughfare for the purpose of exposing it for sale.

## Part 10 - Obstructing animals, vehicles or shopping trolleys

### *Division 1 - Animals and vehicles*

#### 10.1 Leaving animal or vehicle in public place

- (1) A person must not leave an animal or a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place, unless that person has first obtained a permit or is authorised to do so under a written law.
- (2) A person does not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.
- (3) Subject to any other local law, a person does not contravene subclause (1) if a vehicle is left for a period not exceeding 24 hours.

#### 10.2 Prohibitions relating to animals

- (1) In this clause, **owner** in relation to an animal includes –
  - (a) an owner of the animal;
  - (b) a person who has the animal in his or her possession or under his or her control; and
  - (c) the occupier of any premises where the animal is ordinarily kept or ordinarily permitted to live;

and excludes a person of immature age as defined by section 29 of *The Criminal Code*.

- (2) An owner of an animal must not –
  - (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
  - (b) allow the animal which has a contagious or infectious disease to be led, ridden or driven in a public place;
  - (c) train or race the animal on a thoroughfare; or
  - (d) subject to subclause (4), allow the animal to defecate on a thoroughfare.
- (3) An owner of a horse must not lead, ride or drive the horse on a thoroughfare, unless the person does so under a permit or under the authority of a written law.
- (4) An owner of an animal does not commit an offence if the defecation is immediately removed.

#### *Division 2 - Shopping trolleys*

### **10.3 Definitions**

In this Division –

**retailer** means a proprietor of a shop in respect of which shopping trolleys are provided for the use of customers of the shop; and

**shopping trolley** means a wheeled container or receptacle supplied by a retailer to enable a person to transport goods.

### **10.4 Shopping trolley to be marked**

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

### **10.5 Person not to leave trolley in public place**

A person must not leave a shopping trolley in a public place or on local government property other than in an area set aside for the storage of shopping trolleys.

### **10.6 Retailer to remove abandoned trolley**

- (1) If a shopping trolley is found in a public place or on local government property, other than in an area set aside for the storage of shopping trolleys, the local government may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.
- (2) A retailer must remove a shopping trolley within 24 hours of being so advised under subclause (1).

### **10.7 Retailer taken to own trolley**

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 11 - Trading in public places and local government property

### Division 1 - Traders

#### 11.1 Definitions

In this Division -

**trader** means a person who carries on trading; and

**trader's permit** means a permit issued to a trader.

#### 11.2 Trader's permit

A person must not carry on trading on a public place or local government property unless that person is –

- (a) the holder of a valid trader's permit; or
- (b) an assistant specified in a valid trader's permit.

#### 11.3 Exemption from the requirements to obtain a permit

Notwithstanding any other provisions of this local law, a requirement to obtain a permit under this local law does not apply to -

- (a) an itinerant newspaper seller or distributor;
- (b) the collection of donations for charitable purposes authorised under the *Charitable Collections Act 1946*;
- (c) a special event or trading authorised by the local government under another written law;
- (d) a person trading in a street market permitted under this local law; or
- (e) any other person or class of persons exempted in writing by the local government.

#### 11.4 Exemptions from requirement to pay a fee

(1) In this clause –

**commercial participant** means any person who is involved in operating or in conducting any trading activity for personal gain or profit.

(2) The local government may waive any fee required to be paid by an applicant for a trader's permit on making an application for or on the issue of a permit, or may return any such fee which has been paid, if the trading is carried on –

- (a) a portion of a public place or local government property adjoining the normal place of business of the applicant; or
- (b) by a charitable organisation –
  - (i) that does not sublet space to commercial participants;
  - (ii) does not involve commercial participants in the conduct of the stall or trading; and

- (iii) operates under a permit where any assistants specified in the permit are members of that charitable organisation.
- (3) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place or local government property, from the requirements of this Division.

### **11.5 Conduct of traders**

- (1) A trader while trading, must –
- (a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or, if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting the stall or trading; and
  - (b) not display a permit unless it is a valid permit.
- (2) A trader must not -
- (a) sell or provide goods or services other than those specified in the permit;
  - (b) deposit or store any goods or things on any part of a public place so as to obstruct or hinder the movement of pedestrians or vehicles;
  - (c) act in an offensive manner or cause a nuisance;
  - (d) use, or cause to be used, any apparatus or device including any flap or shelf, so that the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit;
  - (e) use or display, or permit to be used or displayed, any advertisement, placard, poster, streamer, sign or signboard on or about the location specified on the permit other than -
    - (i) price tickets or labels; or
    - (ii) in the case of a stall providing information services, public information signs, but in either case not exceeding 0.25 square metres in area on the stall or any part of the area specified in the permit;
  - (f) cry out or shout about, or permit any other person to cry out or shout about, any goods or services in any public place or local government property;
  - (g) use, or permit to be used, any loud hailer, microphone, amplifier or other apparatus for making or transmitting sound in any thoroughfare or public place, unless approved by the local government;
  - (h) use, or permit to be used, any record, tape, radio, bell, musical instrument or other instrument or device capable of being heard beyond the boundaries of the area specified in the permit, unless approved by the local government; or
  - (i) use or permit to be used any flashing or intermittent lighting apparatus or device, unless approved by the local government.

## *Division 2 – Street markets*

### **11.6 Definitions**

In this Division -

**street market** means a collection of stalls, stands and displays on local government property or a public place for the purpose of selling goods, wares, merchandise, produce or services or carrying out any other transaction; and

**street market permit** means a permit issued to a person authorising the conduct of a street market.

### **11.7 Street market permit**

A person must not conduct a street market on a public place or local government property without a valid street market permit.

## *Division 3 – Street entertainers*

### **11.8 Definitions**

In this Division –

**perform** includes to play a musical instrument, sing, mime, dance, give an acrobatic or aerobic display or entertain, but does not include public speaking;

**permit holder** means the person to whom a street entertainer's permit has been issued for the purpose of clause 11.9;

**permitted area** means the area or areas, specified in a street entertainer's permit, in which the permit holder may perform;

**permitted time** means the time or times, specified in a street entertainer's permit, during which the permit holder may perform;

**solicit** in relation to money, means actively seeking or calling for a donation from another person, but does not include a non verbal invitation by a permit holder approved under clause 11.7, to place a donation in a receptacle within the permitted area; and

**street entertainer's permit** means a permit issued for the purpose of clause 11.9.

### **11.9 Street entertainer's permit required to perform**

A person must not perform in a public place or local government property without a street entertainer's permit.

### **11.10 Variation of permitted area and permitted time**

(1) The local government may by notice in writing to a permit holder vary –

(a) the permitted area;

(b) the permitted time; or

(c) both the permitted area and the permitted time, shown on a street entertainer's permit.

- (2) An authorised person may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a street entertainer's permit.

#### **11.11 Duration of street entertainer's permit**

A street entertainer's permit is valid for a period of 3 months after the date on which it is issued unless it is sooner cancelled under this local law.

#### **11.12 Cancellation of permit**

The local government may cancel a street entertainer's permit, if in its opinion, or in the opinion of an authorised person –

- (a) the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place; or
- (b) the performance otherwise constitutes a nuisance.

#### **11.13 Obligations of permit holder**

A permit holder shall not in a public place or local government property -

- (a) perform wearing dirty, torn or ragged clothing;
- (b) use or fire any weapon or object with sharp edges;
- (c) perform any act that endangers the safety of the public;
- (d) perform any act of cruelty to an animal;
- (e) have more than 4 people perform, unless otherwise authorised by the street entertainer's permit;
- (f) unless otherwise authorised by the street entertainer's permit, allow any person under the age of 14 years to perform –
  - (i) during school hours, on school days; and
  - (ii) between 7.00pm and 6.00am;
- (g) sell or permit the sale of any music tapes, recordings, compact discs or merchandise unless authorised by the local government;
- (h) act in an offensive or obscene manner;
- (i) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier -
  - (i) other than in the permitted area; and
  - (ii) unless the musical instrument or device is specified in the street entertainer's permit; or
- (j) solicit money from members of the public.

## *Division 4 – Outdoor eating facilities*

### **11.14 Definitions**

In this Division -

**facility** means an outdoor eating facility or establishment adjoining or attached to a food business on any part of a public place or local government property, but does not include such a facility or establishment on private land; and

**permit holder** means the person to whom a permit has been issued for the purpose of clause 11.15.

### **11.15 Permit required to conduct facility**

A person must not establish or conduct a facility without a permit.

### **11.16 Removal of an unlawfully conducted facility**

Where a facility is conducted without a permit, or in contravention of a condition of a permit, any tables, chairs, umbrellas or other equipment may be removed by an authorised person and impounded in accordance with the Act.

### **11.17 Temporary removal of facility may be requested**

- (1) The permit holder for a facility is to temporarily remove the facility when requested to do so on reasonable grounds by an authorised person or a member of the Police Service or an emergency service.
- (2) The permit holder may replace the facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

## **Part 12 - Permits**

### *Division 1 - Applying for a permit*

#### **12.1 Application of Part**

This Part does not apply to a person who uses or occupies local government property or public place under a written agreement with the local government to do so.

#### **12.2 Application for permit**

- (1) A person who is required to obtain a permit under this local law must apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law must -
  - (a) be in the form determined by the local government;
  - (b) be signed by the applicant;
  - (c) provide the information required by the form;
  - (d) contain any other information required, for that particular type of permit, under this local law; and

- (e) be forwarded to the local government together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government may require an applicant to give local public notice of the application for a permit.
- (5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

### **12.3 Decision on application for permit**

- (1) The local government may –
  - (a) approve an application for a permit unconditionally or subject to any conditions; or
  - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.
- (3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).
- (5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

### **12.4 Relevant considerations in determining application for permit**

- (1) In determining an application for a permit, the local government is to have regard to –
  - (a) any relevant policies of the local government;
  - (b) the National Competition Principles Agreement;
  - (c) the desirability of the proposed activity;
  - (d) the location of the proposed activity; and
  - (e) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) The local government may refuse to approve an application for a permit on any one or more of the following grounds:
  - (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;
  - (b) that the applicant is not a desirable or suitable person to hold a permit; or



- (c) such other grounds as the local government may consider to be relevant in the circumstances of the case.

*Division 2 - Conditions*

**12.5 Examples of conditions**

- (1) Examples of the conditions that the local government may impose on a permit are conditions relating to -
  - (a) the payment of a fee;
  - (b) compliance with a standard or a policy adopted by the local government;
  - (c) the duration and commencement of the permit;
  - (d) the commencement of the permit being contingent on the happening of an event;
  - (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
  - (f) the approval of another application for a permit, licence or approval which may be required by the local government under any written law;
  - (g) the area of the district to which the permit applies;
  - (h) where a permit is issued for an activity which will or may cause damage to local government property or public place, the payment of a deposit or bond against such damage;
  - (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government; and
  - (j) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place or local government property by the permit holder.
- (2) Examples of the type and content of the conditions on which a permit to hire local government property may be issued include –
  - (a) when fees and charges are to be paid;
  - (b) payment of a bond against possible damage or cleaning expenses or both;
  - (c) restrictions on the erection of materials or external decorations;
  - (d) rules about the use of furniture, plants and effects;
  - (e) limitations on the number of persons who may attend any function in or on local government property;
  - (f) the duration of the hire;
  - (g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;
  - (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Control Act 1988*;

- (i) whether or not the hire is for the exclusive use of the local government property;
- (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
- (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

## **12.6 Imposing conditions under a policy**

- (1) In this clause –

**policy** means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 12.3(1)(a).

- (2) Under clause 12.3(1)(a) the local government may approve an application subject to conditions by reference to a policy.
- (3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 12.3(2).
- (4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act apply to a policy and, for that purpose, a policy is to be taken to be information within section 5.94(u)(i) of the Act.

## **12.7 Compliance with and variation of conditions**

- (1) Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder must comply with each of those conditions.
- (2) The local government may vary the conditions of a permit, and the permit holder must comply with those conditions as varied.

### *Division 3 - General*

## **12.8 Duration of permit**

A permit is valid for one year from the date on which it is issued, unless it is –

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 12.12.

## **12.9 Renewal of permit**

- (1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.
- (2) The provisions of –

- (a) this Part; and
- (b) any other provision of this local law relevant to the permit which is to be renewed, apply, with appropriate modifications to an application for the renewal of a permit.

#### **12.10 Transfer of permit**

- (1) An application for the transfer of a valid permit is to –
  - (a) be made in writing;
  - (b) be signed by the permit holder and the proposed transferee of the permit;
  - (c) provide such information as the local government may require to enable the application to be determined; and
  - (d) be forwarded to the local government together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by –
  - (a) an endorsement on the permit signed by the CEO or an authorised person; or
  - (b) issuing to the transferee a permit in the form determined by the local government.
- (4) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

#### **12.11 Production of permit**

A permit holder must produce to an authorised person her or his permit immediately on being required to do so by that authorised person.

#### **12.12 Cancellation or suspension of permit**

- (1) Subject to clause 13.1, a permit may be cancelled by the local government if the permit holder has not complied with -
  - (a) a condition of the permit; or
  - (b) a provision of any written law which may relate to the activity regulated by the permit.
- (2) If a permit is cancelled under subclause (1), the permit holder -
  - (a) must return the permit to the local government as soon as practicable; and
  - (b) is to be taken to have forfeited any fees paid in respect of the permit.
- (3) The local government may cancel or suspend a permit if the local government or a utility requires access to or near the place to which a permit applies, for the purposes of carrying out works in or near the vicinity of that place.

- (4) On the cancellation or suspension of a permit under subclause (3), the permit holder is, subject to subclause (5), to be taken to have forfeited any fees paid in respect of the permit.
- (5) Where a permit is cancelled or suspended under subclause (3) through no fault of the permit holder, the local government may refund to the permit holder all or part of the licence fee in respect of what would otherwise have been the balance of the term of the licence.

#### **12.13 Nominee of permit holder**

Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may at the request of that permit holder authorise another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit apply to the nominee as if he or she was the permit holder.

## **Part 13 - Objections and appeals**

### **13.1 Objection and appeal rights**

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

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

the provisions of Division 1 of Part 9 of the Act and regulations 32A and 33 of the Regulations apply to that decision.

Note: Division 1 of Part 9 of the Act gives an affected person a right to lodge an objection to, or apply for a review of, a decision. Regulation 32A of the Regulations also applies to a decision of that type.

## **Part 14 - Miscellaneous**

### **14.1 Authorised person to be obeyed**

A person on local government property or in a public place must obey any lawful direction of an authorised person and must not in any way obstruct or hinder an authorised person in the execution of his or her duties.

### **14.2 Persons may be directed to leave local government property or public place**

An authorised person may direct a person to leave local government property or a public place where he or she reasonably suspects that the person has contravened a provision of this local law.

### **14.3 Disposal of lost property**

An article left on any local government property or public place, and not claimed within a period of 2 months, may be disposed of by the local government in any lawful manner.

### **14.4 Liability for damage to local government property or public place**

- (1) Where a person unlawfully damages local government property or public place, the local government may by notice in writing to that person require that person within the time specified in the notice to, at the option of the local government, pay the costs of –

- (a) reinstating the property to the state it was in prior to the occurrence of the damage;  
or
  - (b) replacing that property.
- (2) On a failure to comply with a notice issued under subclause (1), the local government may recover the costs referred to in the notice as a debt due to it.

## **Part 15 - Enforcement**

### *Division 1 - Notices given under this local law*

#### **15.1 Offence to fail to comply with notice**

A person who fails to comply with a notice given to him or her under this local law commits an offence.

#### **15.2 Local government may undertake requirements of notice**

If a person fails to comply with a notice given to him or her under this local law the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

### *Division 2 - Offences and penalties*

#### **15.3 Offences and general penalty**

- (1) A 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) A person who commits an offence under this local law is 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.

#### **15.4 Prescribed offences**

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

#### **15.5 Form of notices**

- (1) For the purposes of this local law -
  - (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
  - (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
  - (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

- (2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

### **15.6 Impounding of goods**

Provisions dealing with the power to impound goods that are involved in a contravention, including a contravention of this local law, are contained in the Act and Regulations.

Note: another enforcement option that may be open to an authorised person is to impound any goods that are involved in a 'contravention that can lead to impounding'. The relevant provisions include those in sections 3.37-3.38 of the Act and Regulation 29 of the Regulations. In general terms, an authorised person may be able to impound goods (such as surfboards or skateboards) involved in a contravention of this local law if the contravention occurs in a public place and –

- (a) the presence of the goods obstructs the lawful use of any place or presents a hazard to public safety; or
- (b) where the goods are located in a place contrary to a provision of this local law.

### **15.7 Evidence of a determination**

- (1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.
- (2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.
- (3) Subclause (2) does not make valid a determination that has not been properly made.

**Local Government Act 1995**

**City of Joondalup**

**Local Government and Public Property Local Law 2014**

**Schedule 1 - Prescribed offences**

<b>ITEM</b>	<b>CLAUSE</b>	<b>DESCRIPTION</b>	<b>MODIFIED PENALTY \$</b>
1	2.4	Failure to comply with determination	125
2	3.2(3)	Failure to obtain permit to camp outside a facility	125
3	3.3(1)	Failure to obtain a permit for liquor	125
4	3.4	Failure of permit holder to comply with responsibilities	125
5	4.1	Behaviour which interferes with others	125
6	4.2(1)	Behaviour detrimental to property	350
7	4.3(1)	Taking or injuring any fauna	350
8	4.4(1)	Removing or damaging any flora	350
9	4.5	Under influence of liquor or prohibited drug	125
10	4.6	Taking or consuming prohibited drug	125
11	4.7	Smoking within 5 metre radius of an entrance	50
12	4.8(1)	Clothing does not prevent indecent exposure	250
13	4.8(2)	Failure to put on adequate clothing on the direction of an authorised person	250
14	4.10(2)	Failure to comply with sign on local government property	125
15	5.1	Failure to leave when directed	125
16	5.2	Consuming food or drink in prohibited area	125
17	5.5(1)	Failure to comply with sign or direction on beach	125
18	5.5(2)	Failure to comply with sign on beach preventing smoking	50
19	5.6	Unauthorised entry to fenced or closed local government property	125
20	5.7(1)	Gender not specified using entry of toilet block or change room	125
21	5.8(2)	Storage of firearm, offensive weapon or unlawful article in a locker	125
22	5.11	Usage of camera device in a toilet or change room	125
23	6.1(1)	Unauthorised entry to function on local government property	125
24	7.2	Failure to obtain consent under part 7 of the local law	125

<b>ITEM</b>	<b>CLAUSE</b>	<b>DESCRIPTION</b>	<b>MODIFIED PENALTY \$</b>
25	7.3	Unauthorised use of any part of jetty which is closed or under repair or construction	125
26	7.4	Mooring of boats in unauthorised manner	125
27	7.5	Unauthorised mooring of a boat to jetty	125
28	7.6	Failure to remove moored boat on direction of authorised person	125
29	7.7	Launching of boat from jetty without consent	125
30	7.8	Fishing from jetty or bridge so as to obstruct a boat or another person	125
31	8.1(a)	Damage, poison, prune, remove or kill a tree on thoroughfare or verge	350
32	8.1(b)	Damaging lawn or garden	125
33	8.1(c)	Obstructing or causing a hazard on thoroughfare or verge	200
34	8.1(d)	Damaging or interfering with a thoroughfare or structure	350
35	8.1(e)	Playing games so as to impede vehicles or persons on thoroughfare	125
36	8.1(f)	Riding of bicycle or wheeled recreational device on mall or verandah of shopping centre	125
37	8.1(g)	Installing a tree on the verge without approval	125
38	8.2(1)(a)	Digging a trench through a kerb or footpath without a permit	200
39	8.2(1)(b)	Throwing or placing anything on a verge without a permit	200
40	8.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	200
41	8.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	250
42	8.2(1)(e)	Placing, throwing or draining offensive fluid on thoroughfare without a permit	250
43	8.2(1)(f)	Damaging a thoroughfare, kerb or footpath	125
44	8.2(1)(g)	Lighting a fire on a thoroughfare without a permit	350
45	8.2(1)(h)	Installing pipes or stone on thoroughfare without a permit	200
46	8.2(1)(i)	Felling tree onto thoroughfare without a permit	200
47	8.2(1)(j)	Providing, erecting or installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	350
48	8.2(1)(k)	Placing a bulk rubbish container on a thoroughfare without a permit	200
49	8.2(1)(l)	Interfering with anything on a thoroughfare without a permit	200
50	8.2(1)(m)	Prune or lop a tree without a permit	250
51	8.3(1)	Consumption or possession of liquor on thoroughfare	125
52	8.4(1)	Failure to obtain permit for temporary crossing	250
53	8.5(2)	Failure to comply with notice to remove crossing and reinstate kerb	350
54	8.8(1)	Installation of verge treatment other than permissible verge treatment	250
55	8.9	Failure to maintain permissible verge treatment or placement of obstruction on verge	200
56	8.10	Failure to comply with notice to rectify default	200
57	8.15(2)	Failure to comply with sign on public place	125



<b>ITEM</b>	<b>CLAUSE</b>	<b>DESCRIPTION</b>	<b>MODIFIED PENALTY \$</b>
58	8.17(2)	Driving or taking a vehicle on a closed thoroughfare	350
59	9.2	Placing advertising sign or affixing any advertisement on a thoroughfare or verge	125
60	9.3	The erection or placing of a portable direction sign contrary to the local law	125
61	10.1(1)	Animal or vehicle obstructing a public place	125
62	10.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	125
63	10.2(2)(b)	Animal on public place with infectious disease	125
64	10.2(2)(c)	Training or racing animal on thoroughfare	125
65	10.2(2)(d)	Failure to remove animal excreta	125
66	10.2(3)	Horse led, ridden or driven on thoroughfare	125
67	10.5	Person leaving shopping trolley in public place other than trolley bay	125
68	10.6(2)	Failure to remove shopping trolley upon being advised of location	200
69	11.2	Trading without a permit	350
70	11.5(1)(a)	Failure of stallholder or trader to display or carry permit	125
71	11.5(1)(b)	Stallholder or trader not displaying valid permit	125
72	11.5(2)	Stallholder or trader engaged in prohibited conduct	125
73	11.7	Conducting a street market without a permit	125
74	11.9	Performing in a public place without a permit	125
75	11.10(2)	Failure of performer to move onto another area when directed	125
76	11.13	Failure to comply with conditions of permit	125
77	11.15	Establishment or conduct of outdoor eating facility without a permit	350
78	12.2(1)	Failure to obtain a permit	125
79	12.7(1)	Failure to comply with conditions of permit	125
80	12.7(2)	Failure to comply with varied conditions of permit	125
81	12.11	Failure to produce permit on request of authorised person	125
82	14.1	Failure to obey lawful direction of an authorised person	250
83	14.2	Failure to obey direction of authorised person to leave local government property	250
84	15.1	Failure to comply with notice	250

**Local Government Act 1995**

**City of Joondalup**

**Local Government and Public Property Local Law 2014**

**Schedule 2 - Determinations**

The following determinations are to be taken to have been made by the local government under clause 2.1.

**Part 1 - Preliminary**

**1.1 Definition**

In these determinations –

***local law*** means the *City of Joondalup Local Government and Public Property Local Law 2014*.

**1.2 Interpretation**

Where a term is used but not defined in a determination and that term is defined in the local law then the term is to have the meaning given to it in the local law.

**Part 2 - Application**

**2.1 Smoking**

(1) A person shall not smoke in premises on local government property.

**2.2 Animals on local government property**

(1) A person may tether any animal to a tree, shrub, tree guard, wall or fence, or permit any animal to enter on or into any local government property where that person is authorised by a written law or by a permit.

(2) A person does not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.

**2.3 Vehicles on local government property**

(1) Unless authorised by a permit or determination, a person must not take or cause a vehicle to be taken onto or driven on local government property unless –

(a) subject to sub-clause (3), the local government property is clearly designated as a road, access way or car park;

(b) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government, who is engaged in –

(i) providing a service or making a delivery in connection with the local government property; or

(ii) maintaining the local government property;

- (c) the person is driving an emergency vehicle in the course of his or her duties; or
  - (d) the vehicle is a motorised wheelchair, and the driver of that vehicle is a disabled person.
- (2) A person must not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 10 kilometres per hour or as otherwise indicated by a sign, or in such a manner as to cause danger, inconvenience or annoyance to any person.
- (3) Other than in accordance with paragraphs (b), (c) or (d) of subclause (1), a person shall not drive a vehicle on local government property or part of it that is being used for a function for which a permit has been obtained unless permitted to do so by the permit holder or an authorised person.

#### **2.4 Motorised model aircraft, cars or ships**

A person may use, launch or fly a motorised model aircraft, car, ship, glider or rocket that is propelled by mechanical, hydraulic, combustion or pyrotechnic means on or from local government property where that person is authorised by a permit or a determination specifying a particular local government property.

#### **2.5 Children's playgrounds**

- (1) The local government may set aside a public reserve or any portion of a public reserve as a children's playground.
- (2) The local government may limit the ages of persons who are permitted to use a children's playground and may erect a sign under clause 2.3 of this local law to that effect on or in the immediate vicinity of the playground.
- (3) A person over the age specified in that sign, other than a person having the charge of a child or children in the playground, must not use a playground or interfere with the use by children of the playground.

#### **2.6 Launching and retrieval of boats**

A person must not take onto, launch from, or retrieve a boat on local government property except where a permit or a determination specifies a particular local government property unless -

- (a) the person is a local government employee, authorised person or -
  - (i) a contractor engaged by the local government and who is engaged in providing a service or making a delivery in connection with the local government property; or
  - (ii) maintaining the local government property;
- (b) the person is in charge of a boat engaged in rescue services, activities of a surf life saving club or dealing with an emergency; or
- (c) the local government property is a boat ramp on a portion of Reserve 47831, Lot 15446 (326L) Ocean Reef Road, Ocean Reef, known as Ocean Reef Marina as delineated by signs.

#### **2.7 Activities prohibited on local government property**

- (1) A person must not play or practice archery, pistol or rifle shooting on local government property except on land which is reserved by the local government for that purpose, or as otherwise provided by a determination or permit.

- (2) A person must not play or practice golf on local government property.
- (3) A person must not, on any local government property, use or ride a bicycle, a wheeled recreational device, or sand board –
  - (a) inside or on the curtilage to, a building;
  - (b) on a sand dune;
  - (c) in a pool area; or
  - (d) in or on a lakebed or waterway.
- (4) A person must not use on any local government property, a spear gun, hand spear, gidgie or similar device.
- (5) A person must not, on any local government property, traverse a sand dune except by a path provided for that purpose, unless authorised by the local government.

## **2.8 Deposit of refuse, rubbish or liquid waste**

- (1) A person must not, on local government property -
  - (a) shell, gut, scale or clean fish, shellfish or any other animal; or
  - (b) deposit or discard the waste or rubbish from any fish, shellfish or other animal.
- (2) A person must not, on local government property, deposit or discard refuse, rubbish or liquid waste, except -
  - (a) in a place or receptacle set aside by the local government for that purpose and subject to any conditions that may be specified on the receptacle or a sign in relation to the type of waste that may be deposited or other conditions.

Dated 17 December 2014.

The Common Seal of the City of Joondalup            )  
was affixed by authority of a resolution            )  
of the Council in the presence of:                    )

.....

TROY PICKARD  
MAYOR

.....

GARRY HUNT  
CHIEF EXECUTIVE OFFICER