

# LOCAL GOVERNMENT ACT 1995

## CITY OF KALAMUNDA

### LOCAL GOVERNMENT PROPERTY LOCAL LAW 2026

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

#### Part 1 – Preliminary

##### 1.1 Citation

This local law is the City of Kalamunda Local Government Property Local Law 2026.

##### 1.2 Commencement

This local law comes into operation 14 days after the day it is published in the Government Gazette.

##### 1.3 Repeal

This local law repeals the Shire of Kalamunda Local Government Property Local Law, published in Government Gazette No. 191 of 19 September 2001.

##### 1.4 Application

This local law applies throughout the district.

##### 1.5 Purpose and effect

- (1) The purpose of this local law is to provide for the regulation and management of activities on local government property in the district.
- (2) The effect of this local law is that any person being on local government property in the district must comply with the requirements of the local law.

##### 1.6 Interpretation

- (1) Subject to the operation of the *Interpretation Act 1984*, in this local law unless the context otherwise requires –

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

**applicant** means a person who applies for a permit under clause 3.2;

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

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

- (a) hall or room; and

(b) corridor, stairway or annexe of any hall or room;

**CEO** means the chief executive officer of the local government;

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

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

**date of publication** means the date on which local public notice is given;

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

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

**electric rideable device** has the same meaning as in the *Road Traffic Code 2000*;

**entertain** means the conduct of any form of theatrical, artistic, musical, audio or visual performance;

**firearm** has the same meaning as in the *Firearms Act 2024*;

**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; and
- (e) systematic recurrence in relation to the day, time and place;

**hire** includes offer to hire and expose for hire;

**hirer** means the person who has been granted a permit to hire local government property, either in whole or in part for a time specified by the local government;

**liquor** has the same meaning as in the *Liquor Control Act 1988*;

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

**local government employee** means a person employed by the local government under section 5.36 or 5.37 of the Act;

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

- (a) which belongs to, or is leased by 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 meaning given to it by the Act;

**market** means a collection of stalls, stands or displays erected for the purpose of selling or hiring goods or services or carrying out any other transaction;

**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;

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

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

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

**sign** includes a notice, flag, mark, structure or device approved by the local government 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 goods or services are sold and includes a vehicle;

**trading** means selling or hiring goods or services and includes the setting up of a stall and conducting business at a stall;

**utility provider** means an entity or agent of the Government of Western Australia or the Commonwealth that is authorised under a written law to provide and maintain utilities such as electricity, water, sewerage, gas or telecommunications;

**vaping device** means a personal vaporiser for delivery of nicotine or other substances by means of inhalation;

**vehicle** includes –

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise but excludes –
    - (i) a wheelchair or any device designed for use, by a physically impaired person on a footpath; and
    - (ii) a pram, stroller or similar device, or a shopping trolley.
  - (b) an animal being ridden or driven.
- (2) Headings used in this local law are for the purpose of convenience and have no effect on the interpretation and application of the local law.

## 1.7 Meaning of ‘on’

In this local law –

- (a) a reference to 'on local government property' or to 'in local government property' includes 'on or in local government property'; and
- (b) a reference to local government property includes a reference to any part of the local government property.

### **1.8 Transitional**

A permit, licence, consent, authorisation, notice or infringement issued in accordance with a local law that is repealed under clause 1.3 –

- (a) is taken to be a permit, licence, consent, authorisation, notice or infringement issued under this local law;
- (b) is to be valid for the period specified on the permit, licence, consent, authorisation, notice or infringement; and
- (c) may be cancelled or suspended in accordance with this local law.

### **1.9 Application as to assistance animals**

This local law is subject to any written law and any law of the Commonwealth about an **assistance animal** as defined in section 9(2) of the *Disability Discrimination Act 1992* (Cth).

### **1.10 Power to hire and make agreements**

Subject to the requirements of the Act and any other written law, and despite anything in this local law to the contrary the local government may –

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

### **1.11 Entry to local government property**

Entry to local government property may be subject to –

- (a) any conditions of use specified by the local government in accordance with clause 4.12(1)(a);
- (b) any opening hours specified by the local government for a particular local government property;
- (c) the payment of a fee in accordance with clause 5.1, if applicable;
- (d) the display or presentation of a card, tag, token or other item provided by the local government to a person, which is specific to that person for the express purpose of giving them entry to a particular place; or
- (e) the operation of any written law.

## **Part 2 – Determinations**

### **2.1 Determinations as to use of local government property**

- (1) The Council may make a determination in accordance with clause 2.2 –
  - (a) setting aside specified local government property for the lawful 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 CEO is to give local public notice of the Council's intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that –
  - (a) the Council 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 offices of the local government; 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 Council may 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) is to apply; or
  - (c) not to continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c), the Council –
  - (a) is to consider those submissions; and

- (b) may decide –
  - (i) whether or not to amend the proposed determination; or
  - (ii) whether or not to continue with the proposed determination.
- (5) If the Council 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 Council 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).

### **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 CEO 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 Council 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 Council 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.

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

- (1) A determination may provide that specified local government property, or part thereof, is set aside as an area on which a person may –
  - (a) take, ride or drive a vehicle, or a particular class of vehicle;

- (b) fly or use any model aircraft, drone, remotely operated aircraft, or similar device, subject to any applicable written law of the Commonwealth or State;
  - (c) 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;
  - (d) play or practice golf or archery;
  - (e) use or shoot a firearm, subject to the compliance of that person with the *Firearms Act 2024*, or any similar activity as 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; or
  - (f) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; or
  - (g) bring, ride or drive an animal.
- (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, equipment or things, or may extend it to all vehicles, 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) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
  - (b) taking, riding or driving a vehicle or a particular class of vehicle;
  - (c) riding or driving above a specified speed a vehicle or a particular class of vehicle;
  - (d) fly or use a motorised model aeroplane or other remotely controlled aerial device;
  - (e) using or riding an electric rideable device;
  - (f) taking or using a boat or watercraft;

- (g) the playing or practice of golf or archery;
  - (h) shooting or use of a firearm or 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) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property;
  - (j) the traversing of land which –
    - (i) is local government property; and
    - (ii) in the opinion of the local government has environmental value warranting protection, either absolutely or except by paths or tracks provided for that purpose;
  - (k) bring, ride or drive an animal.
- (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, equipment or things, or all vehicles, 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.

## **2.9 Sign under repealed local law taken to be determination**

- (1) Where a sign erected on local government property has been erected under a repealed local law, then it is to be taken to be and have 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)

## **Part 3 – Permits**

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

## **3.1 Activities requiring a permit**

- (1) On any local government property a person must not without a permit –
  - (a) subject to subclause (3), hire the local government property;
  - (b) erect a sign or advertise anything by any means, subject to clause 4.13;

- (c) erect a structure for public amusement or for any performance, whether for gain or otherwise;
- (d) teach, coach or train, for profit, a person or animal;
- (e) plant any plant or sow any seeds;
- (f) harvest wildflowers for a commercial purpose;
- (g) carry on any trading 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 permit to carry on trading on local government property under any written law;
- (h) conduct or set up a market;
- (i) drive or ride or take any vehicle, or park or stop any vehicle on local government property in an area set not aside for that purpose, or unless authorised by the local government;
- (j) conduct a function;
- (k) charge any person for entry, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
- (l) light a fire except in a facility provided for that purpose;
- (m) parachute, hang glide, abseil or base jump from or on to local government property;
- (n) erect a building or a refuelling site;
- (o) make any excavation;
- (p) erect or remove any fence;
- (q) erect or install any structure above or below ground for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
- (r) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly;
- (s) record or carry on an activity for film, video or television production for a commercial purpose, other than for news reporting or current affairs;
- (t) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound; or
- (u) conduct an entertainment event.

- (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 from the application of subclause (1)(a).
- (4) Subclause (1) does not apply to a person who uses or occupies local government property under a written agreement with the local government to do so.

### *Division 2 – Dealing with permit applications*

#### **3.2 Application for a 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) state the full name and address of the applicant;
  - (c) be signed by the applicant;
  - (d) contain the information required by the form;
  - (e) contain any other information required for that particular type of permit under this local law; and
  - (f) 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) Before determining an application for a permit, the local government may require the applicant to provide additional information reasonably related to the application.
- (4) 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.

#### **3.3 Decision on application for permit**

- (1) The local government, in respect of an application for a permit, may –
  - (a) approve an application for a permit, unconditionally or subject to any conditions the local government considers appropriate; or
  - (b) refuse to approve an application for a permit.
- (2) If an application for a permit is granted, the applicant is to be issued a permit in the form approved by the local government.

- (3) If an application for a permit is refused, the local government must give written notice of that refusal to the applicant.
- (4) The local government may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the applicant, or the date specified in the notice, whichever is the later.
- (5) Where a clause of this local law refers to conditions which may 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).

### **3.4 General restrictions on grant of permit**

- (1) The local government must not grant a permit if there are reasonable grounds for believing that the activity to which the application relates would constitute an unacceptable risk to the safety of the public.
- (2) The local government must not grant a permit unless the local government is satisfied that –
  - (a) the applicant is capable of carrying on the activity in accordance with this local law and the terms and conditions of the permit; and
  - (b) the local government property at which the activity is to be provided is suitable for that purpose.
- (3) The local government must not grant a permit to an applicant if the applicant has committed an offence under this local law, unless the local government is satisfied there are exceptional reasons for doing so.

### **3.5 Conditions which may be imposed on a permit**

- (1) Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to 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 which may be required by the local government under any written law;
  - (g) the part of the district or local government property to which the permit applies;
  - (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and

- (i) the obtaining of public liability insurance in an amount and on terms reasonably required by the local government.
- (2) Without limiting clause 3.3(1)(a) and subclause (1), if the local government approves an application for a permit to conduct trading on local government property subject to conditions, those conditions may specify –
  - (a) the days and hours during which a permit holder may conduct trading;
  - (b) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting trading;
  - (c) the goods or services in respect of which a permit holder may conduct a stall or trading;
  - (d) the number of persons and the names of persons permitted to conduct a stall or trading;
  - (e) the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;
  - (f) any prohibitions or restrictions concerning the –
    - (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;
    - (ii) the use of amplifiers, sound equipment and sound instruments;
    - (iii) the use of signs; and
    - (iv) the use of any lighting apparatus or device;
  - (g) the manner in which the permit holder's name and other details of a valid permit are to be displayed;
  - (h) the care, maintenance and cleansing of any structure used for trading and the place of any structure;
  - (i) where a permit is issued for an activity which is likely to cause damage to the local government property, the payment of a deposit or bond against such damage;
  - (j) the vacating of the place of trading when trading is not being carried on;
  - (k) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.

### **3.6 Conditions on a permit to hire local government property**

Without limiting clause 3.3(1)(a) or any other provision of this local law, conditions that may apply to a permit to hire local government property may include particulars for –

- (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 material or external decorations;

- (d) rules about the use of furniture, plant and effects;
- (e) limitations on the number of persons who may attend any function 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, casual 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 name of 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.

### *Division 3 – Responsibilities of permit holder*

#### **3.7 Responsibilities of permit holder**

- (1) A permit holder must, in respect of local government property to which the permit relates –
  - (a) leave the local government property in a clean and tidy condition after its use;
  - (b) ensure the activity authorised by the permit does not cause a nuisance or hazard to any person;
  - (c) report any damage or defacement of the local government property to the local government;
  - (d) ensure the activity authorised by the permit is limited to that specified by the permit;
  - (e) 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 1988* for that purpose;
  - (f) prevent persons under the influence of alcohol or persons acting in a riotous or disorderly manner from entering or remaining on the local government property;
  - (g) does not obstruct the use of a place that a person is lawfully entitled to access or use; and

- (h) have in their possession a copy of the permit whilst on local government property.
- (2) A permit holder shall ensure that any authorised person has unobstructed access to the local government property for the purpose ascertaining if the conditions of the permit or requirements of this local law are being observed.
- (3) A permit holder is to comply with any conditions of a permit, for the entirety of the duration of the permit, subject to clause 3.8.

#### *Division 4 – Renewal, transfer or cancellation of permits*

### **3.8 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 terms and conditions of the permit; or
- (b) cancelled under clause 3.10.

### **3.9 Renewal of permit**

- (1) A permit holder may apply to the local government for the renewal of a permit.
- (2) An application for renewal must –
  - (a) be in the form determined by the local government;
  - (b) be signed by the permit holder;
  - (c) provide the information required by the form;
  - (d) be forwarded to the local government no later than 28 days before the expiry of the permit, or within a shorter period that the local government in a particular case permits; and
  - (e) be accompanied by any fee imposed by the local government under sections 6.16 to 6.19 of the Act.
- (3) The provisions of this Part that apply to an application for a permit also apply to an application for the renewal of a permit as though it were an application for a permit.

### **3.10 Transfer of permit**

- (1) An application for the transfer of a valid permit is –
  - (a) to be made in writing;
  - (b) to be signed by the permit holder and the proposed transferee of the permit;
  - (c) to include such information as the local government requires to enable the application to be determined; and

- (d) to be forwarded to the local government together with any fee imposed by the local government under sections 6.16 to 6.19 of the Act.
- (2) The local government may, in respect of an application for the transfer of a permit –
  - (a) approve the application, unconditionally or subject to any conditions the local government considers appropriate; or
  - (b) refuse the application.
- (3) If an application for the transfer of a permit is granted –
  - (a) the transfer is to be effected by an endorsement on the permit signed by the CEO or an authorised person;
  - (b) the local government is to give the applicant written notice of the decision to grant the application, including a copy of any endorsement on the permit under paragraph (a); and
  - (c) the local government is not required to refund any part of any fee paid by the former permit holder.
- (4) If an application for transfer of a permit is refused, the CEO or an authorised person must give the applicant written notice of the decision.

### **3.11 Cancellation or suspension of permit**

- (1) Subject to clause 7.1, a permit may be cancelled by the local government if –
  - (a) the permit holder has not complied with a condition of the permit;
  - (b) the permit holder has not complied with a provision of any written law which relates to the activity regulated by the permit;
  - (c) the permit holder's application is subsequently found to contain incorrect or falsified information;
  - (d) the local government reasonably considers that the activity permitted by the permit may create a public health, safety or amenity issue;
  - (e) the permit holder has transferred or assigned, or sought to transfer or assign, the permit without the approval of the local government; or
  - (f) a law is amended or repealed in a manner which is inconsistent with the terms and conditions of the permit and which renders the permit invalid, ineffective or contrary to law.
- (2) The local government may cancel or suspend a permit if the local government or a utility provider 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.
- (3) If a permit is cancelled under subclause (1) or subclause (2), the permit holder –
  - (a) must return the permit to the local government as soon as practicable; and

- (b) subject to subclause (5), is taken to have forfeited any fees paid in respect of the permit.
- (4) If a permit is suspended under subclause (2), the permit holder is, subject to subclause (5), taken to have forfeited any fees paid in respect of the permit.
- (5) If a permit is cancelled or suspended under subclause (2) through no fault of the permit holder, the local government may refund to the permit holder all or part of the fees paid in respect of what would otherwise have been the remaining term of the permit.

### **3.12 Nominee of permit holder**

If 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 the 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 as if the nominee was the permit holder.

## **Part 4 – Behaviour on all local government property**

### *Division 1 – Prohibited behaviour*

#### **4.1 Behaviour which interferes with others**

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

- (a) interferes with or is likely to interfere with the enjoyment of a person using, or otherwise lawfully on the property;
- (b) interferes with or hinders a local government employee going about their lawful duties on the property in the course of their employment; or
- (c) causes, or is likely to cause, a nuisance to residents living adjacent to, or adjoining the property.

#### **4.2 Behaviour detrimental to property**

- (1) Unless authorised under a written law, a person must not behave on local government property in a way which is or might be detrimental to the property.
- (2) In subclause (1) **detrimental to the property** includes –
  - (a) removing anything from the local government property including a rock, a plant, a tree, a seat, a structure or a device provided for the use of any person;
  - (b) destroying, defacing or damaging anything on the local government property, including a plant, lawn, a tree, a structure, a building, a seat or a device provided for the use of any person;
  - (c) interfering with, obstructing or otherwise hindering any apparatus, device, machine, drain, culvert, water course, electrical installation or other item that is part of the local government property without lawful excuse; and

- (d) using any vehicle, machine, apparatus, remotely controlled vehicle or other device that is controlled, driven or directed by a person, in a way that –
  - (i) damages the local government property; or
  - (ii) is a hazard to a person lawfully on the local government property.

#### 4.3 Taking or injuring fauna

- (1) In this clause and in clause 4.5 –

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

**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 unless it has been shed or discarded by the animal in a normal or natural manner.
- (2) A person must not –
  - (a) take, injure or kill, or attempt to take, injure or kill, any fauna which is on or above any local government property; or
  - (b) chase, harass, or otherwise interfere with any fauna on or above any local government property, including by –
    - (i) the use of a device; or
    - (ii) inciting or causing an animal to chase or harass the fauna

unless authorised under a written law to do so.

#### 4.4 Flora

- (1) Unless authorised to do so under a written law or with the written approval of the local government, a person shall not –
  - (a) remove, damage or interfere with any flora that is on or above any local government property;
  - (b) cultivate, plant, deposit or dispose of any flora on local government property; or
  - (c) cut or remove any tree or part of a tree, whether the tree is standing or laying on the ground and whether or not the tree is living or dead.
- (2) In this clause, **flora** means all vascular plants, seeds and other flora, whether living or dead.

#### 4.5 Animals

- (1) A person must not –

- (a) bring any animal onto any local government property without lawful authority; or
  - (b) abandon any animal on local government property unless the property is a pound and the person is lawfully surrendering the animal.
- (2) In subclause (1) the term **animal** does not include fauna.

#### **4.6 Intoxicated persons not to be on local government property**

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

#### **4.7 Smoking, vaping etc.**

A person shall not smoke or use a vaping device –

- (a) within 10 metres of any door, window, air intake or air ventilation aperture of a building that is on local government property;
- (b) inside a building that is on local government property; or
- (c) in a place where smoking is restricted on any local government property.

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

- (1) Subject to clause 4.8(2), where a sign on a toilet (which term also includes a toilet block) or change room specifies that a particular entry of the toilet or change room is to be used by –
  - (a) females, then a person of the male gender shall not use that toilet or change room; or
  - (b) males, then a person of the female gender shall not use the toilet or change room.
- (2) Subclause (1) does not apply when –
  - (a) the person is a child under the age of 8 and requires supervision or assistance from a parent, guardian or caregiver; or
  - (b) the sign on the entry of the toilet or change room specifies that it is for universal access.
- (3) A person over the age of 8 years shall not, on any local government property –
  - (a) loiter outside or act in an offensive manner, in any portion of a toilet or change room; or
  - (b) enter, or attempt to enter, a cubicle or compartment of a toilet block or change room which is already occupied or in use.
- (4) Subclause (3)(b) does not apply to a parent, guardian or caregiver accompanying a child under the age of 8 years.

#### **4.9 Proper and adequate clothing**

- (1) A person over the age of 6 years must not be on any local government property in a state of undress that would constitute indecent exposure.
- (2) If an authorised person reasonably believes that a person is contravening subclause (1), the authorised person may direct the person to cease the contravention.

#### **4.10 Erecting structures or camping**

- (1) In this clause – **facility** has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.
- (2) This clause does not apply to –
  - (a) a facility operated by the local government; or
  - (b) another party that operates a facility on local government property, that has been approved by the local government in accordance with the *Caravan Parks and Camping Grounds Act 1995*.
- (3) A person must not, without a permit –
  - (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property;
  - (b) erect on local government property, any tent, camp, hut or similar structure; or
  - (c) erect, on local government property that is not enclosed, an umbrella or temporary shade structure unless –
    - (i) it is erected for protection from the sun or other elements;
    - (ii) it has an area of no more than 9 square metres;
    - (iii) it has a height of no more than 2.5 metres;
    - (iv) it is removed by that person –
      - (I) immediately on leaving that local government property; and
      - (II) during daylight on the same day on which it was erected; and
    - (v) it is for private use.

#### **4.11 Licence required for possession and consumption of liquor**

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

### *Division 2 – Signs and lost property*

#### **4.12 Signs**

- (1) The local government may erect a sign on local government property –
  - (a) specifying any conditions of use which apply to that property; and
  - (b) for any other purpose relevant to the performance of the local government's functions under this local law or another written law.
- (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 –
  - (a) not to be inconsistent with any provision of this local law or any determination; and
  - (b) to be for the purpose of giving notice of the effect of a provision of this local law.

#### **4.13 Signs placed by other parties**

A person shall not place a sign on local government property, or on a fence that is enclosing or demarcating local government property unless –

- (a) the sign is authorised by the local government and is temporary in direct connection with a sporting or other event authorised by the local government for a particular period of time; or
- (b) the sign authorised by a written agreement between the local government and the party who placed the sign; or
- (c) the sign is authorised by a permit issued under Part 3 of this local law.

#### **4.14 Disposal of unclaimed or lost property**

An article left on local government property and not claimed within a period of 3 months, may be disposed of by the local government –

- (a) if the value of the property is reasonably believed to exceed the amount prescribed by regulation 30(3) of the Regulations, using the process under section 3.58 of the Act for the sale of the article as if it was property referred to in that section;
- (b) if the article is reasonably believed to be of a negligible or little value or likely to be of no interest to a not-for-profit body, in any manner the CEO thinks fit; or
- (c) in any other case, by donation to a not-for-profit body incorporated under the *Associations Incorporations Act 2015*.

## Part 5 – Matters relating to particular local government property or facilities

### *Division 1 – General provisions*

#### 5.1 No unauthorised entry to function

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

#### 5.2 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 or an authorised person.

### *Division 2 – Matters for particular property and facilities*

#### 5.3 Behaviour in local government facilities

- (1) In this clause –

**aquatic facility** includes a swimming pool, a wading pool, a spa, a water slide, change room, toilet and also includes all buildings, structures, fittings, fixtures, machinery, chattels, walkways, furniture and equipment forming part of or used in connection with such facility, which is located on local government property; and

**local government facility** includes an aquatic facility, recreational facility or other facility or premises accessible to members of the public, which is on local government property.

- (2) A person shall not, on any local government facility –
  - (a) consume foodstuffs or drinks in any specific area in which food or beverage consumption is prohibited;
  - (b) possess or consume liquor or a prohibited drug, unless such consumption of liquor is in accordance with a function or other organised event approved by the local government under the *Liquor Control Act 1988*;
  - (c) be under the apparent influence of liquor or a prohibited drug;
  - (d) indecently expose themselves, or commit an indecent act in view of patrons or a local government employee who is on duty at the premises;
  - (e) climb up or upon any roof, fence, wall, partition or other structure not intended for climbing;

- (f) use a camera or other form of recording device in a toilet or change room;
  - (g) use a camera or other form of recording device to capture still or video imagery of patrons without the consent of those patrons; or
  - (h) behave in a manner that is harassing, offensive, threatening, violent, abusive, or unsafe towards a patron or a local government employee who is on duty on the local government facility.
- (3) In addition to subclause (2), a person in any aquatic facility shall not –
- (a) smoke anywhere in the aquatic facility;
  - (b) be in or remain in the aquatic facility unaccompanied by a parent or guardian if under the age of 10 years;
  - (c) use a pool toy, device or other item in a manner that endangers the safety of other persons at the aquatic facility;
  - (d) use soap or shampoo in any part of the premises other than in a change room or shower;
  - (e) use any detergent, substance or oil in any pool or spa;
  - (f) foul or pollute the water in any shower, pool or spa;
  - (g) bring into any part of the aquatic facility or place thereon any chemical substance, liquid or powder;
  - (h) bring into any part of the aquatic facility any glass containers; or
  - (i) spit or expectorate in any part of an aquatic facility, other than in a toilet.
- (4) A person acting contrary to subclause (2) or (3) may be dealt with by an authorised person or a local government employee authorised by the local government to manage the facility, by directing the person to –
- (a) cease and desist the behaviour; or
  - (b) leave the facility, pursuant to clause 6.2 of this local law.

## **Part 6 – Enforcement**

### *Division 1 – Powers of the local government and authorised persons*

#### **6.1 Authorised person to be obeyed**

A person on local government property must obey any lawful direction of an authorised person and must not in any way obstruct or hinder the authorised person in the performance of their duties.

## **6.2 Refusal of entry and removal**

- (1) If a person on local government property acts contrary to this local law or another written law, an authorised person or a local government employee authorised by the local government to manage the local government property may direct that person to leave the local government property.
- (2) A person who does not comply with the directions given in accordance with subclause (1) commits an offence.
- (3) An authorised person or a local government employee authorised by the local government to manage the local government property may enlist any assistance that is lawfully necessary to give effect to a direction under subclause (1).
- (4) If a person has been directed to leave the local government property in accordance with subclause (1), the local government may refuse entry of a person to the local government property for a period of up to 12 months inclusive of any building or grounds associated with that property.
- (5) If the local government has refused entry to a person to local government property under subclause (4), the local government is to inform the person in writing, specifying the –
  - (a) commencement day and the last day the refusal of entry has effect;
  - (b) specific local government property to which the refusal of entry applies; and
  - (c) reason for the refusal of entry.

## **6.3 Impounding of items, property**

Pursuant to Part 3 of the Act and regulation 29 of the Regulations, the local government may impound and dispose of an item on local government property if it –

- (a) was placed or installed on local government property contrary to this local law; or
- (b) is not removed by the person responsible for the item, when directed by an authorised person.

## **6.4 Liability for damage**

- (1) If a person unlawfully damages local government property, the local government may, by notice in writing to the person, require the person within the time specified in the notice to pay the costs of –
  - (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
  - (b) replacing any property damaged.
- (2) If a person given a notice under subclause (1) fails to comply with the notice, the local government may recover the costs referred to in the notice as a debt due to it.

## **6.5 Local government may undertake requirements of a notice**

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

### *Division 2—Offences and penalties*

## **6.6 Offences**

- (1) A person who –
  - (a) fails to do anything required or directed to be done under this local law; or
  - (b) fails to comply with a notice given to them under this local law; or
  - (c) does an act contrary to this local law,commits an offence.
- (2) A person who commits an offence under this local law is liable on conviction to –
  - (a) a penalty not exceeding \$10,000; and
  - (b) if the offence is a continuing offence, an additional penalty not exceeding \$1,000 for each day or part of a day during which the offence has continued.

## **6.7 Prescribed offences**

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16 of the Act.
- (2) The amount appearing in the final column of Schedule 1 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

## **6.8 Form of notices**

For the purposes of this local law –

- (a) 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
- (b) 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.

## **Part 7 – Objections and appeals**

### **7.1 Objection and appeal rights**

Where the local government makes a decision to –

- (a) grant a person a permit or an approval under this local law; or

- (b) refuse a person entry in accordance with clause 6.2(4); or
- (c) renew, vary, transfer or cancel a permit or an approval that a person has under this local law

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

[Consultation draft]

## Schedule 1 – Prescribed Offences

### City of Kalamunda Local Government Property Local Law 2026 [clause 6.7]

| Item No. | Clause No. | Nature of Offence                                                                                                                              | Modified Penalty |
|----------|------------|------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 1        | 2.4        | Failure to comply with a determination                                                                                                         | \$250            |
| 2        | 3.1(1)(a)  | Hire local government property without a permit                                                                                                | \$250            |
| 3        | 3.1(1)(b)  | Advertise anything on local government property without a permit                                                                               | \$250            |
| 4        | 3.1(1)(c)  | Erect a structure for public amusement or for any performance on local government property without a permit                                    | \$250            |
| 5        | 3.1(1)(d)  | Teach, coach or train, for profit, a person or animal on local government property without a permit                                            | \$250            |
| 6        | 3.1(1)(e)  | Plant any plant or sow any seeds on local government property without a permit                                                                 | \$150            |
| 7        | 3.1(1)(f)  | Harvest wildflowers for a commercial purpose without a permit                                                                                  | \$500            |
| 8        | 3.1(1)(g)  | Carry on trading on local government property contrary to the local law                                                                        | \$500            |
| 9        | 3.1(1)(h)  | Conduct or set up a market on local government property without a permit                                                                       | \$500            |
| 10       | 3.1(1)(i)  | Take a vehicle or park or stop a vehicle on local government property contrary to the local law                                                | \$500            |
| 11       | 3.1(1)(j)  | Conduct a function on local government property without a permit                                                                               | \$500            |
| 12       | 3.1(1)(k)  | Charge any person for entry to local government property unless authorised by the local government                                             | \$500            |
| 13       | 3.1(1)(l)  | Light a fire on local government property contrary to the local law                                                                            | \$1000           |
| 14       | 3.1(1)(m)  | Parachute, hang glide, abseil or base jump from or on to local government property                                                             | \$250            |
| 15       | 3.1(1)(n)  | Erect a building or a refuelling site on local government property without a permit                                                            | \$1000           |
| 16       | 3.1(1)(o)  | Make any excavation on local government property without a permit                                                                              | \$1000           |
| 17       | 3.1(1)(p)  | Erect or remove a fence on local government property without a permit                                                                          | \$1000           |
| 18       | 3.1(1)(q)  | Erect or install any structure above or below ground on local government property without a permit                                             | \$1000           |
| 19       | 3.1(1)(r)  | Conduct or take part in any gambling game or contest or bet, or offer to bet, publicly on local government property without a permit           | \$250            |
| 20       | 3.1(1)(s)  | Record or carry on an activity for film, video or television production for a commercial purpose on local government property without a permit | \$500            |

|           |            |                                                                                                                      |        |
|-----------|------------|----------------------------------------------------------------------------------------------------------------------|--------|
| <b>21</b> | 3.1(1)(t)  | Erect, install, operate or use any broadcasting, public address system, loudspeaker or other device without a permit | \$500  |
| <b>22</b> | 3.1(1)(u)  | Conduct an entertainment event on local government property without a permit                                         | \$500  |
| <b>23</b> | 3.7(3)     | Failure to comply with conditions of a permit                                                                        | \$250  |
| <b>24</b> | 4.1(a)     | Interfere with a person using or lawfully on local government property                                               | \$250  |
| <b>25</b> | 4.1(b)     | Interfere with or hinder the lawful duties of a local government employee on local government property               | \$250  |
| <b>26</b> | 4.1(c)     | Cause a nuisance to residents living adjacent to local government property                                           | \$250  |
| <b>27</b> | 4.2(1)     | Behave in a way detrimental to local government property                                                             | \$500  |
| <b>28</b> | 4.3(2)(a)  | Take or attempt to take, injure, or kill fauna on local government property                                          | \$1000 |
| <b>29</b> | 4.3(2)(b)  | Chase harass or interfere with fauna on local government property                                                    | \$500  |
| <b>30</b> | 4.4(1)(a)  | Remove or damage flora on local government property                                                                  | \$500  |
| <b>31</b> | 4.4(1)(b)  | Plant or dispose of flora on local government property                                                               | \$250  |
| <b>32</b> | 4.4(1)(c)  | Cut or remove any tree on local government property                                                                  | \$1000 |
| <b>33</b> | 4.5(1)(a)  | Bring an animal onto local government property without lawful authority                                              | \$250  |
| <b>34</b> | 4.5(1)(b)  | Abandon any animal on local government property                                                                      | \$500  |
| <b>35</b> | 4.6        | Enter or remain on local government property when intoxicated                                                        | \$250  |
| <b>36</b> | 4.7(a)     | Smoke or vape within 10 metres of an opening of a building on local government property                              | \$250  |
| <b>37</b> | 4.7(b)     | Smoke or vape inside a building on local government property                                                         | \$250  |
| <b>38</b> | 4.7(c)     | Smoke or vape in a place where smoking is restricted on local government property                                    | \$250  |
| <b>39</b> | 4.10(3)(a) | Camp on local government property without a permit                                                                   | \$250  |
| <b>40</b> | 4.10(3)(b) | Erect tent, hut or similar structure on local government property without a permit                                   | \$250  |
| <b>41</b> | 4.10(3)(c) | Erect umbrella or temporary shade structure on local government property contrary to the local law                   | \$250  |
| <b>42</b> | 4.11       | Consume or possess liquor on local government property without lawful authority                                      | \$500  |
| <b>43</b> | 4.13(a)    | Place a sign on local government property without authorisation                                                      | \$250  |
| <b>44</b> | 4.13(c)    | Place a sign on local government property without a permit                                                           | \$500  |
| <b>45</b> | 5.1(1)     | Enter local government property set aside for a function other than as permitted                                     | \$250  |
| <b>46</b> | 5.2        | Enter local government property that is fenced off or closed                                                         | \$250  |

|           |        |                                                          |       |
|-----------|--------|----------------------------------------------------------|-------|
| <b>47</b> | 6.1    | Failure to obey authorised person                        | \$250 |
| <b>48</b> | 6.2(2) | Failure to leave local government property when directed | \$250 |

## **Schedule 2 – Determinations**

### **City of Kalamunda Local Government Property Local Law 2026**

#### **Determinations that have effect on commencement day** [cl. 2.1(2)]

**(1) All local government property and all local government facilities**

Council Determines in accordance with clause 2.1(1) and (2) of the City of Kalamunda Local Government Property Local Law 2026, that a person shall not –

- (a) play or practice golf or archery;
- (b) use or shoot a firearm;
- (c) drive or bring, park or stand a vehicle;
- (d) bring drive or ride an animal; or
- (e) use or ride an electric rideable device

on any local government property or part thereof unless the local government property or part thereof is expressly set aside for that purpose, is sign-posted to permit that purpose, or the person is authorised pursuant to a written law to do so.

Dated: \_\_\_\_\_ 2026

The Common Seal of the City of Kalamunda was affixed by authority of a resolution of the Council in the presence of –

\_\_\_\_\_  
MARGARET THOMAS JP  
MAYOR

\_\_\_\_\_  
ANTHONY VULETA  
CHIEF EXECUTIVE OFFICER

[Consultation draft]