

# LOCAL GOVERNMENT ACT 1995

## CITY OF KALAMUNDA

### ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES LOCAL LAW

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 Activities in Thoroughfares and Public Places Local Law.

##### 1.2 Commencement

This local law commences 14 days after the date on which it is published in the Government Gazette.

##### 1.3 Repeal

The following local laws are repealed –

- (a) Municipality of the Shire of Kalamunda By-law Relating to Numbering Houses and Buildings, published in Government Gazette No. 65 on 29 August 1963;
- (b) Municipality of the Shire of Kalamunda Adoption of Draft Model By-law Relating to Removal and Disposal of Obstructing Animals or Vehicles, No. 7 published in Government Gazette No. 65 on 29 August 1963;
- (c) Municipality of the Shire of Kalamunda Adoption of Draft Model By-law Relating to Street Lawns and Gardens published in Government Gazette No. 64 on 6 July 1965;
- (d) Municipality of the Shire of Kalamunda By-laws relating to Signs, Hoardings and Bill Posting published in Government Gazette No. 26 on 10 April 1981; and
- (e) Shire of Kalamunda Trading on Thoroughfares and Public Places Local Law 2008, published in Government Gazette No. 121 on 11 July 2008.

##### 1.4 Application

- (1) This local law applies throughout the district.
- (2) Where in this local law there is an inconsistency between the local government's local planning scheme and this local law, the local planning scheme prevails to the extent of the inconsistency.

## 1.5 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;

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

**built-up area** has the meaning given to it in the *Road Traffic Code 2000*;

**bulk container** means a portable container designed or used for storage of materials and which is unlikely to be lifted without mechanical assistance and includes sea containers;

**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;

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

**Chief Executive Officer** 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;

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

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

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

**electric rideable device** has the meaning given to it in the *Road Traffic Code 2000*;

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

**garden** means any part of a thoroughfare planted, developed or treated, otherwise than as a lawn, with one or more plants;

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

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

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

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

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

**median strip** has the meaning given to it in 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;

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

**permissible verge treatment** means any of the treatments described in clause 2.8 and includes any reticulation pipes and sprinklers;

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

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

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

**portable sign** means a portable free standing advertising sign;

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

**public place** includes any 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; or
- (b) local government property.

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

**relevant election period** means the period commencing on the day nominations for an election close under the written law governing that election, and ending at the close of polls on polling day;

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

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

**street** includes a carriageway and a thoroughfare which the public are allowed to use, and includes every part of the thoroughfare, and other things including bridges and culverts, appurtenant to it;

**street tree** means any tree planted or self-sown within the thoroughfare or on the verge for the purposes of contributing to the streetscape;

**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;

**traffic light** means a traffic-control signal as defined by the *Road Traffic Code 2000*;

**traffic sign** has the same meaning as in the *Road Traffic Code 2000*;

**utility provider** means any public or private body which provides a 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;

**utility pole** means a pole or post in a thoroughfare for the purpose of holding or carrying electricity transmission lines, telephone lines or a street light, and includes a pole or post used to support a utility pole;

**vehicle** includes –

- (a) every conveyance and every object, or part of a conveyance or 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 path;
  - (ii) a bicycle or wheeled recreational device;
  - (iii) a shopping trolley; or
  - (iv) a pram, a stroller or a similar device.
- (b) an animal being ridden or driven.

**verge** means that part of a thoroughfare between the carriageway and the boundary of land which abuts the thoroughfare, but does not include any path.

- (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.

## **1.6 Meaning of ‘on’**

In this local law –

- (a) a reference to ‘on a thoroughfare’ or to ‘in a thoroughfare’ includes ‘on or in a thoroughfare’; and
- (b) a reference to ‘on a public place’ or to ‘in a public place’ includes ‘on or in a public place’.

## **1.7 Transitional**

From and after commencement day, 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, suspended or withdrawn in accordance with this local law.

# **Part 2 — Activities on thoroughfares and public places**

## ***Division 1 — General***

### **2.1 General prohibitions**

(1) A person shall not –

- (a) plant any plant other than lawn or prostrate ground covers with a maximum mature height of 1.2 metres on a thoroughfare so that the plant –
  - (i) is within 6 metres of an intersection;
  - (ii) is within 2 metres of a carriageway; or
  - (iii) encroaches on a path, vehicle crossing, fire hydrant, manhole, inspection pit, drain or gully;
- (b) where there is no path, plant any plant, other than lawn or prostrate ground covers with a maximum mature height of 100mm on a thoroughfare so that it is within 2 metres of a carriageway;
- (c) plant any plant that is likely to be hazardous to any person using the thoroughfare;
- (d) damage a lawn or garden or remove any plant or part of a plant from a lawn or garden on a thoroughfare unless the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn, garden or plant has not been installed or planted by the local government;

- (e) subject to Division 4 of this Part, throw, place, deposit, discard or otherwise dispose of anything on a verge except for imminent removal by the local government or another person;
  - (f) dig or fill so as to vary the prevailing ground level of a verge;
  - (g) place, deposit, install or otherwise cause to leave any object on a median strip or a roundabout without lawful authority;
  - (h) damage, remove, or interfere with any signpost, direction plate, road marking, guidepost, notice, shelter, shed, fence, street furniture, planter box (including planting), or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
  - (i) obstruct, cover, bury, fill, damage or otherwise interfere with a fire hydrant unless authorised under a written law;
  - (j) install on any thoroughfare any –
    - (i) impervious membrane;
    - (ii) steel stakes or posts;
    - (iii) uncompacted gravel, sand or similar material;
    - (iv) rock or rocks; or
    - (v) retaining feature, wall or structure
  - (k) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare;
  - (l) place anything on a path which may create a hazard for any person using the path; or
  - (m) ride any bicycle, electric rideable device, skateboard, rollerblades or similar device within a mall, arcade or verandah of a shopping centre.
- (2) Clause 2.1(1) does not apply to an activity being undertaken by a person who –
- (a) is an employee or contractor of the local government and is authorised or engaged to undertake that activity; or
  - (b) is otherwise lawfully authorised to undertake that activity.

## **2.2 Activities allowed with a permit**

- (1) A person shall not, without a permit –
- (a) dig or otherwise create a trench through or under a kerb or path;
  - (b) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare without lawful authority;

- (c) cause any obstruction to a water channel, water course or drain in a thoroughfare or a public place;
  - (d) paint, install or otherwise cause to be placed a marking on a thoroughfare to inhibit the lawful movement of a vehicle or person in a thoroughfare;
  - (e) install a bollard or other form of barrier on a verge, path or road;
  - (f) damage a thoroughfare;
  - (g) light any fire or cause anything to burn on a thoroughfare;
  - (h) fell any tree onto a thoroughfare;
  - (i) remove, or intentionally damage or kill any street tree on a thoroughfare;
  - (j) install or lay pipes under any verge, unless in order to maintain a permissible verge treatment;
  - (k) 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;
  - (l) subject to clause 2.2(3), place or cause to be placed on a thoroughfare a bulk rubbish container, unless it has been placed by, or arranged to be placed for, the local government;
  - (m) subject to clause 2.2(3), place or cause to be placed on a thoroughfare a bulk container;
  - (n) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare;
  - (o) harvest wildflowers for a commercial purpose;
  - (p) erect a building, fence or other structure on or over a thoroughfare, or in a tree on a thoroughfare;
  - (q) deposit or discharge any material including dust, sand, waste water, storm water, waste, mud, concrete, paint, oil, or chemicals in, on a thoroughfare or across a public place whether by hand, vehicle, or otherwise.
- (2) Clause 2.2(1) does not apply to an activity being undertaken by a person who –
- (a) is an employee or contractor of the local government and is authorised or engaged to undertake that activity; or
  - (b) is otherwise lawfully authorised to undertake that activity.
- (3) Clauses 2.2(1) (l) and (m) do not apply to the placement of a single bulk container or single bulk rubbish container on a verge adjacent to a property in accordance with the following conditions –

- (a) the placement of the bulk container or bulk rubbish container does not exceed 7 days;
  - (b) the bulk container or bulk rubbish container does not cause a sight obstruction for users of the thoroughfare;
  - (c) the bulk container or bulk rubbish container must be placed 2 metres back from the kerb if there is no path;
  - (d) the bulk container or bulk rubbish container is not placed on a path;
  - (e) the bulk container or bulk rubbish container does not obstruct lawful use of the thoroughfare; and
  - (f) the bulk container or bulk rubbish container does not damage any street tree, kerb, path, sign, or other infrastructure on the thoroughfare.
- (4) An authorised person may direct a person who places a bulk container or a bulk rubbish container on a thoroughfare to relocate or remove the container, if it is placed on a thoroughfare in a manner that is not in accordance with clause 2.2(3).
- (5) A person who does not comply with the direction of an authorised person in accordance with subclause (4) commits an offence.

### **2.3 No possession and or consumption of liquor on thoroughfare**

- (1) A person shall 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***

### **2.4 Number of crossings**

Unless approved by the local government, no more than two crossings are to be created or constructed to any one lot.

### **2.5 Temporary crossings**

- (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 shall obtain a permit for the construction of a temporary crossing to protect the existing infrastructure and street trees 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 builder named on a building permit issued under the *Building Act 2011* in relation to the works, if one has been issued in relation to the works; or
  - (b) the registered owner of the lot, if no building 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 shall 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.

## **2.6 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, path, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the local government.
- (2) An authorised person may give written notice to the owner or occupier of a lot requiring the owner or occupier 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, path, 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 shall comply with that notice.

## ***Division 3 – Driving on a closed thoroughfare***

### **2.7 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 shall not drive or take a vehicle on a closed thoroughfare unless –
- (a) it is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act;
  - (b) the person has first obtained a permit; or
  - (c) the person is authorised under a written law to do so.

## **Division 4 — Verge treatments**

### **Subdivision 1 — Permissible verge treatments**

#### **2.8 Permissible verge treatments**

- (1) An owner or occupier of land abutting a verge may on that part of the verge directly in front of their land install a permissible verge treatment.
- (2) The permissible verge treatments are –
  - (a) the planting and maintenance of a lawn provided that the lawn is maintained at a height no greater than 100mm;
  - (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; and
    - (ii) where there is no path, a pedestrian has safe and clear access of a minimum width of 1.5 metres along that part of the verge immediately adjacent to the kerb, and a minimum height of 2 metres; or
  - (c) the installation of an acceptable material.
- (3) In this clause, an **acceptable material** is any material which would create a hard surface, installed to the satisfaction of the local government.
- (4) An acceptable material is not to consist of more than 50% of the total verge area, inclusive of a path and any crossing that has been constructed to the satisfaction of the local government.

#### **2.9 Only permissible verge treatments to be installed**

- (1) A person must not install or maintain a verge treatment which is not a permissible verge treatment.
- (2) A person may make an application to the local government for a permit to install a verge treatment other than a permissible verge treatment.
- (3) The local government is to determine an application made under subclause (2) and is to either approve or refuse the application.
- (4) The owner and 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 2.12.

#### **2.10 Obligations of owner or occupier**

An owner or occupier who installs or maintains a permissible verge treatment shall –

- (a) take reasonable steps to keep the verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a path on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) not disturb a path on the verge;
- (c) ensure the verge treatment does not damage or obstruct a drain, manhole, gully, inspection pit, channel, kerb or street tree planted by the local government;
- (d) ensure the verge treatment does not become a hazard to users of the thoroughfare; and
- (e) ensure any sprinklers, pipes or other reticulation equipment do not protrude above the level of the lawn or the garden when not in use.

### **2.11 Notice to owner or occupier**

An authorised person 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.

#### *Subdivision 2 — Existing verge treatments*

### **2.12 Transitional provision**

- (1) In this clause –

**former provisions** means a local law or by-law referred to in clause 1.3 that is repealed by this local law.

- (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 any former 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 any former provisions providing the verge treatment does not present a safety issue or hazard.

#### *Subdivision 3 — Public works*

### **2.13 Power to carry out public works on verge**

Where the local government disturbs a verge, the local government –

- (a) is not liable to compensate any person for that disturbance;

- (b) may backfill with sand, if necessary, any garden or lawn; and
- (c) is not liable to replace or restore any –
  - (i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or
  - (ii) sprinklers, pipes or other reticulation equipment.

### ***Division 5 — Street numbers***

#### **2.14 Interpretation**

In this Division, unless the context requires otherwise –

***street number*** means a number or numbers with or without an alphabetical suffix assigned to identify the street address of a lot by reference to a thoroughfare.

#### **2.15 Assignment of street numbers**

- (1) The local government may assign street numbers within the district.
- (2) The local government may assign a different street number to that previously assigned.
- (3) A person shall not adopt, use or display a street number other than that street number assigned by the local government.
- (4) Where a street number is –
  - (a) adopted, used or displayed in a manner contrary to this local law; or
  - (b) not legible or visible from the street,the local government may issue a notice to the owner of the lot to which the street number relates, requiring the owner to rectify the non-compliance.

### ***Division 6 — Fencing***

#### **2.16 Public place – Item 4(1) of Division 1, Schedule 3.1 of the Act**

The following places are specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act –

- (a) a public place, as that term is defined in clause 1.5; and
- (b) local government property.

## Part 3 — Signs

### Division 1 — Preliminary

#### 3.1 Interpretation

In this Part, unless the context otherwise requires –

**sign** includes a signboard, portable sign, advertising sign, direction sign, bunting sign, flag, banner, billboard or variable message board.

### Division 2 — Signs erected by the local government

#### 3.2 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 shall 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.
- (4) The local government may erect a sign that is of an advisory nature on a thoroughfare or a public place that is –
  - (a) for the purpose of public information;
  - (b) naming a place, area, locality or other point of interest;
  - (c) advising of an attraction or an event;
  - (d) advising of a hazard or obstruction; or
  - (e) for a specific purpose associated with public use of a thoroughfare or public place.

#### 3.3 Transitional provisions particular to signs

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 3.2 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 3 — Signs on thoroughfares***

#### **3.4 Approval required for signs on thoroughfares**

- (1) Unless otherwise exempted by this local law, a person shall not without a permit –
  - (a) erect or place any sign on a thoroughfare; or
  - (b) post any bill or paint, place or affix any advertisement on a thoroughfare.
- (2) A person may make application to the local government to erect or place a sign on a thoroughfare or a public place, in the form determined by the local government.
- (3) The local government is to approve or refuse to grant a permit applied for in accordance with subclause (2).

#### ***Subdivision 1 — General prohibitions***

#### **3.5 Prohibited signs**

- (1) Notwithstanding clause 3.4, a person shall not erect or place any sign –
  - (a) on a path;
  - (b) on a vehicle crossing;
  - (c) over any path where the resulting vertical clearance between the sign and the path is less than 2.7 metres;
  - (d) on or within 1 metre of a carriageway;
  - (e) on or attached to a traffic sign or a traffic light, inclusive of its pole or post;
  - (f) on or in proximity to a traffic sign or a traffic light where it obscures the traffic sign or the traffic light from being seen by a person using or driving on the thoroughfare;
  - (g) within 50 metres of an intersection;
  - (h) on a median strip or roundabout;
  - (i) on a utility pole or post;
  - (j) within the reservation of a road where permission to erect or place the sign must be obtained from an instrumentality of the Crown, and permission has not been granted;
  - (k) in any other location where, in the opinion of an authorised person, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or

- (l) on any natural feature, including a rock or street tree on a thoroughfare, or on any bridge or the structural attachments or approaches to a bridge.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

### *Subdivision 2 — Exemptions for signs*

#### **3.6 Exempted signs**

- (1) Subject to clause 3.5, the following signs are exempt from the requirement to obtain a permit in accordance with this local law –
  - (a) a sign erected by an authority lawfully empowered to do so;
  - (b) a sign approved pursuant to the *Building Act 2011* or approved or exempted from the requirement for approval pursuant to the local government's local planning scheme;
  - (c) a temporary sign associated with a sporting, cultural, recreational or civic event or other occurrence of general community interest, subject to the local government being satisfied the temporary sign would not otherwise contravene this local law or any other written law;
  - (d) a portable sign that is placed adjacent to the business the sign is advertising and does not exceed 1 metre in height and 1 square metre in area;
  - (e) a sign that advertises a person's candidacy for election to the Commonwealth Parliament, the Parliament of Western Australia, or the local government, subject to –
    - (i) the sign not exceeding 1 metre in height and 1 square metre in area;
    - (ii) the sign not being erected before the commencement of the relevant election period; and
    - (iii) the sign being removed within 48 hours of the declaration of the result of the election.
  - (f) a portable sign that advertises a garage sale or an invitation to inspect real estate that is for sale or lease, and that –
    - (i) the sign does not exceed 0.5 metres in height or 0.5 square metres in area;
    - (ii) relates to real estate that is open for inspection on that day, or a garage sale that is being undertaken on that day;
    - (iii) in either case, placed only between the hours of 7:00 a.m. and 6:00 p.m. on that day; and
    - (iv) no more than 3 signs are placed on a verge for any individual garage sale or invitation to inspect real estate.

- (2) A sign erected by the local government under clause 3.2 is deemed to be exempted under this local law.

### 3.7 Universal conditions for exempted signs

- (1) If a sign is exempt from requiring a permit under clause 3.6, the sign is required to –
- (a) be maintained in good condition;
  - (b) be securely installed in accordance with manufacturer's specifications, freestanding, not secured in place using bricks, rocks or similar weighted objects, and not affixed to any existing sign, post, power or light pole, or similar structure;
  - (c) not use steel stakes as a means of fastening the sign into the ground;
  - (d) not be placed on a thoroughfare that has a speed limit greater than 70 kilometres per hour;
  - (e) not be placed within 100 metres of any works on the thoroughfare;
  - (f) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person;
  - (g) not present a trip, fall, collision or other hazard to a person using the thoroughfare, or for any vehicle lawfully on the thoroughfare;
  - (h) be placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
  - (i) not contain any offensive language, images or items;
  - (j) not be an illuminated sign; and
  - (k) not incorporate reflective or fluorescent materials.
- (2) Where a person has erected or placed a sign on a thoroughfare in accordance with this Subdivision, and the sign or its placement does not comply with this local law, an authorised person may direct the person to rectify or remove the sign.
- (3) A person who does not comply with the directions of an authorised person in accordance with subclause (2) commits an offence.

### 3.8 Variable message boards and variable message signs

- (1) In this clause, a **variable message board** means a sign that is an advertising device affixed to a trailer or other vehicle that can display a static or periodically alternating message, whether or not by electronic means, which may also include display of an image.
- (2) A person shall not install, park, stand or otherwise place a variable message board on any part of a thoroughfare or public place unless –
- (a) the person has obtained a permit from the local government; or

- (b) it is for the purpose of advertisement by the local government of an event or matter of public interest; or
  - (c) it is for the purpose of raising public awareness of an incident or an emergency, as defined by the *Emergency Management Act 2005*; or
  - (d) it is being towed or driven on a road; or
  - (e) the person is authorised under a written law to do so.
- (3) For the avoidance of doubt, this clause has no effect in terms of any department, agency or instrumentality of the Government of Western Australia or the Commonwealth of Australia or their officers or agents from installing, parking, standing or otherwise placing a variable message board in a thoroughfare or a public place.

### *Subdivision 3 — Dealing with permit applications*

#### **3.9 Matters to be considered in determining application for permit**

In determining an application for a permit for the purpose of clause 3.4(3), the local government is to have regard to –

- (a) any other written law regulating the erection or placement of signs within the district;
- (b) the dimensions of the sign;
- (c) how the sign will be fixed in place;
- (d) the materials the sign will be made of;
- (e) the type of thoroughfare on which the sign is proposed to be placed, and any sign posted speed limits, traffic control measures or other requirements that apply to drivers or other persons using that thoroughfare;
- (f) whether or not the sign incorporates reflective or fluorescent materials or is an illuminated sign;
- (g) other signs already approved or erected in the vicinity of the proposed location of the sign;
- (h) whether or not the sign will create a hazard to persons using a thoroughfare; and
- (i) the amount of public liability insurance cover, if any, to be obtained by the applicant; and
- (j) any other matters it considers relevant.

### *Division 4 — Impoundment, directions of authorised persons*

#### **3.10 Signs to identify owner**

- (1) A sign that is placed or erected on a thoroughfare is to be clearly marked with the name of the person, organisation or business that erected or placed the sign.
- (2) In the absence of proof to the contrary, a sign is to be taken to belong to the person, organisation or business whose name is marked on the sign.

### **3.11 Signs to be in good repair**

An authorised person may direct the owner of a sign to repair or remove the sign if –

- (a) it is dilapidated; or
- (b) it has been vandalised or defaced; or
- (c) the sign advertises a business, event or occurrence that no longer exists; or
- (d) the sign is, or is likely to become, a danger to the public because of its condition, installation or likelihood of being displaced by weather in a way that creates a hazard.

### **3.12 Impounding of signs**

The local government may impound and dispose of a sign in accordance with Part 3 of the Act and regulation 29 of the Regulations if the sign is –

- (a) placed on a thoroughfare or public place in contravention of this local law; or
- (b) placed on a thoroughfare or public place in contravention of a permit granted by the local government in accordance with clause 3.4(3); or
- (c) not repaired or removed when directed by an authorised person in accordance with clause 3.11.

## **Part 4 — Obstructing animals, vehicles, or shopping trolleys**

### ***Division 1 — Animals and vehicles***

#### **4.1 Leaving an animal in a public place**

- (1) A person shall not leave an animal in a public place unless that person has first obtained a permit or is authorised to do so under a written law.
- (2) A person will not contravene subclause (1) where the animal is secured or tethered for a period of time not exceeding 1 hour, and the animal does not obstruct the use of any part of that public place.

#### **4.2 Prohibitions relating to animals**

- (1) In subclause (2), "owner" in relation to an animal includes –
  - (a) an owner of it;
  - (b) a person in possession of it;

- (c) a person who has control of it; and
  - (d) a person who ordinarily occupies the premises where the animal is permitted to stay.
- (2) An owner of an animal shall –
- (a) take reasonable measures to prevent the animal from entering or remaining for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is being led, ridden or driven;
  - (b) not allow an animal which has a contagious or infectious disease from being led, ridden or driven in a public place;
  - (c) not train or race the animal on a thoroughfare; or
  - (d) not allow an animal to excrete in a public place, subject to subclause (4).
- (3) An owner of a horse or livestock shall not lead, ride or drive a horse or livestock on a thoroughfare in a built-up area, unless that 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 under subclause (2)(d) when any excreta is removed immediately by the owner after the excretion has occurred.

#### **4.3 Prohibitions relating to vehicles**

- (1) Unless authorised by the *Road Traffic Code 2000* or another written law, a person shall not park, stop or stand a vehicle or an electric rideable device in a public place or on a thoroughfare so that it obstructs –
- (a) the use of any part of that public place or thoroughfare; or
  - (b) a person from accessing private land by way of an installed vehicle crossing to that land.
- (2) A person shall not paint, repair, alter, maintain or dismantle a vehicle on a thoroughfare or a public place except to effect minor repairs or services in an emergency for the purpose of enabling the vehicle to be put in motion.
- (3) A contravention of clause 4.3 is a contravention to which regulation 29 of the Regulations applies.

### ***Division 2 – Shopping trolleys***

#### **4.4 Interpretation**

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 supplied by a retailer to enable a person to transport goods.

#### **4.5 Person not to leave trolley in a public place**

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

#### **4.6 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.

#### **4.7 Retailer to remove abandoned trolley**

- (1) If a shopping trolley is found on a thoroughfare or a public place, other than in an area set aside for the storage of shopping trolleys, an authorised person may advise (verbally or in writing) the retailer whose name is marked on the trolley of the location of the shopping trolley.
- (2) A retailer shall remove a shopping trolley within 24 hours of being so advised under subclause (1), unless the retailer –
  - (a) requests the local government to collect and deliver the shopping trolley to the retailer; and
  - (b) pays any fee determined by the local government in accordance with section 6.16 of the Act for that collection and delivery, within the period specified by the local government.
- (3) If the shopping trolley has not been removed by a retailer in accordance with subclause (2), the shopping trolley may be impounded by the local government in accordance with Part 3 of the Act and regulation 29 of the Regulations.

#### **4.8 Shopping trolley to be marked**

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

### **Part 5 — Trading in thoroughfares and public places**

#### ***Division 1 — Food traders***

##### ***Subdivision 1 — Preliminary***

#### **5.1 Interpretation**

In this Division, unless the context otherwise requires –

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

**food trader** means a person who carries on trading in food or the selling or offering for sale of food in a public place;

**food vehicle** means a vehicle, truck or trailer used for food trading;

**food trader's permit** means a permit issued to a food trader;

**public place** includes –

- (a) any thoroughfare or place which the public are allowed to use whether or not the thoroughfare or place is on private property; and
- (b) local government property,

but does not include premises on private property from which food trading is lawfully conducted under a written law; and

**trading** means the selling or offering for sale of food in a public place.

### *Subdivision 2 — Permits*

#### **5.2 Food trader's permits**

- (1) A person shall not carry on food trading on a public place unless that person is the holder of a valid food trader's permit.
- (2) Every application for a food trader's permit shall –
  - (a) state the full name and address of the applicant;
  - (b) specify the location in which the applicant proposes to trade;
  - (c) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;
  - (d) specify the food proposed to be sold or offered for sale;
  - (e) be accompanied by an accurate plan and description of any proposed stall, structure or vehicle which may be used by the applicant in trading; and
  - (f) if the applicant intends to use a generator for the provision of electricity, provide a copy of the manufacturer's specifications for the generator to be used.
- (3) If the application is for food trading from a food vehicle the applicant must –
  - (a) hold a current *Food Act 2008* Certificate of Registration from a local government in Western Australia;
  - (b) provide evidence of certification for compliance of any installed gas apparatus in the food vehicle; and
  - (c) provide evidence of current vehicle registration of the food vehicle.
- (4) Notwithstanding subclause (3), a person operating a food vehicle, selling food or drink from a thoroughfare, that travels from place to place to engage in trade, is not required

to obtain a food trader's permit, provided that the vehicle does not stay in one location other than temporarily while executing a sale.

### 5.3 Conditions of permit

- (1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include –
  - (a) the place, the part of the district, or the thoroughfare to which the permit applies;
  - (b) the days and hours during which a permit holder may trade;
  - (c) the number, type, form and construction, as the case may be, of any stand, table, structure, vehicle or other thing which may be used by the permit holder;
  - (d) the type of food in respect of which a permit holder may trade;
  - (e) the disposal of waste generated by the trading activity;
  - (f) whether and under what terms the permit is transferable;
  - (g) the vacating of the place when trading is not being carried on;
  - (h) the acquisition by the trader of public liability insurance;
  - (i) the period for which the permit is valid; and
  - (j) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.
- (2) Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, an authorised person 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 shall apply to the nominee as if he or she was the permit holder.

### 5.4 Exemptions from requirement to pay fee or to obtain a permit

- (1) In this clause –

**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; and

**commercial participant** means any person who is involved in any food trading activity for personal gain or profit.
- (2) The local government may waive any fee required to be paid by an applicant for a food 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 out –

- (a) on a portion of a public place adjoining the normal place of business of the applicant;
  - (b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of trading; or
  - (c) by a trader or stallholder who is going to trade at an event organised or approved by the local government.
- (3) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place, from the requirements of this Division.

### *Subdivision 3 — Conduct of food traders*

#### **5.5 Conduct of food traders**

- (1) A food trader while trading shall –
- (a) display the permit in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit while trading; and
  - (b) not display a permit unless it is a valid permit.
- (2) A food trader shall not –
- (a) deposit or store any container, whether holding goods or not, on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;
  - (b) dispose of waste generated by the trading activity in a public rubbish bin that is on a thoroughfare or a public place;
  - (c) discharge any waste water or liquid waste on a thoroughfare or public place;
  - (d) use a generator that does not comply with written laws relating to the emission of noise and exhaust fumes;
  - (e) act in an offensive manner;
  - (f) carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading; or
  - (g) contravene any other written law regulating activities in a public place.

### *Division 2 — Street entertainers*

#### **5.6 Interpretation**

In this Division, unless the context otherwise requires –

**perform** may include playing a musical instrument, singing, mime, dancing, giving an acrobatic or aerobic display, reciting a story or poetry, or doing other acts of a similar nature, but does not include public speaking.

## 5.7 Performing on a thoroughfare

A person is allowed to perform as a street entertainer on a thoroughfare subject to the following conditions:

- (1) the performer(s) must –
  - (a) if the thoroughfare is not local government property, obtain written permission from the owner of the property adjacent to the part of the thoroughfare on which the performer intends to perform which includes –
    - (i) the name of the performer(s);
    - (ii) the days and times that the owner permits the performer(s) to perform;
    - (iii) the type of performance including any permitted equipment; and
    - (iv) any other conditions imposed by the owner of the property adjacent to the part of the thoroughfare where the performance will occur;
  - (b) not act or perform in a manner that is offensive or creates a nuisance; and
  - (c) subject to the requirements of the local government, have appropriate public liability insurance.
- (2) A person shall comply with a direction from an authorised person to cease a performance as a street entertainer on a thoroughfare if they do not comply with subclause (1).
- (3) A person who fails to comply with the directions of an authorised person in accordance with subclause (2) commits an offence.

### ***Division 3 – Outdoor eating facilities on public places***

## 5.8 Interpretation

In this Division –

**Facility** means an outdoor eating facility or establishment on any part of a public place, but does not include such a facility or establishment on private land;

**permit holder** means the person to whom a permit has been issued for the purpose of clause 5.9; and

**public place** has the meaning given to it in clause 5.1.

## **5.9 Permit required to conduct a Facility**

- (1) A person may establish a temporary Facility without a permit where free standing furniture or equipment is placed, subject to the following conditions –
  - (a) the food premises abutting the Facility is registered in accordance with the *Food Act 2008* by the local government and the use of the premises is permitted under the local planning scheme;
  - (b) the Facility is conducted in conjunction with, and as an extension of, food premises which abut the Facility, and the person establishing the Facility is responsible for conducting such food premises;
  - (c) the Facility does not obstruct the visibility or clear sight lines of any person at an intersection of thoroughfares;
  - (d) the Facility does not impede pedestrian access and maintains a distance of at least 1.2 metres between tables and chairs to allow universal access;
  - (e) the Facility is kept clean and free of litter, food waste and other refuse arising from the use of the Facility;
  - (f) the Facility does not impede the use of the public place for the purpose for which it was designed; and
  - (g) the Facility is removed at the end of each trading day by the owner of the Facility.
- (2) Where a Facility is proposed to have permanent fixtures or fittings, or is otherwise not in accordance with subclause (1), a permit is required to establish the Facility.

## **5.10 Matters to be considered in determining application**

In determining an application for a permit for the purpose of clause 5.9(2), the local government will consider the conditions set out in clause 5.9(1), as well as considering the impact the permanent fixtures may have on accessibility and safety of users of the thoroughfare.

## **5.11 Obligations of permit holder**

- (1) The permit holder for a Facility shall maintain the chairs, tables and other structures in a serviceable condition at all times.
- (2) Whenever, in the opinion of an authorised person, any work is required to be carried out to a Facility, an authorised person may give a notice to the permit holder to carry out that work within the time required by the notice.
- (3) In subclause (2), “work” includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a Facility.

## 5.12 Removal of Facility unlawfully conducted

Where a Facility is conducted in contravention of clause 5.9(1) or 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.

## 5.13 Temporary removal of Facility

- (1) The person responsible for the establishment of a Facility is to temporarily remove the Facility when requested to do so on reasonable grounds by an authorised person, or a member of an emergency service.
- (2) The person responsible for the establishment of a Facility may replace the Facility removed under subclause (1) as soon as the person who directed the removal allows it to be replaced.

# Division 4 — Stallholders and traders

## Subdivision 1 — Preliminary

### 5.14 Interpretation

In this Division, unless the context otherwise requires –

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

**stallholder** means a person in charge of a stall;

**stallholder's permit** means a permit issued to a stallholder;

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

**trader's permit** means a permit issued to a trader; and

**trading** includes –

- (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;
- (b) displaying goods in any public place 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
- (c) the going from place to place, whether or not public places, and –

- (i) offering goods or services for sale or hire; or
- (ii) inviting offers or soliciting orders for the sale or the hire of goods or services.

*Subdivision 2 — Permits*

**5.15 Stallholder's permit**

- (1) A person shall not conduct a stall in a thoroughfare or a public place unless that person is –
  - (a) the holder of a valid stallholder's permit; or
  - (b) an assistant specified in a valid stallholder's permit.
- (2) Every application for a stallholder's permit shall –
  - (a) state the full name and address of the applicant, together with any trading name that will be used by the applicant;
  - (b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall;
  - (c) specify the proposed location of the stall;
  - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;
  - (e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and
  - (f) be accompanied by an accurate plan and description of the proposed stall.

**5.16 Trader's permit**

- (1) A person shall not carry on trading unless that person is –
  - (a) the holder of a valid trader's permit; or
  - (b) an assistant specified in a valid trader's permit.
- (2) Every application for a trader's permit shall –
  - (a) state the full name and address of the applicant;
  - (b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;
  - (c) specify the location or locations in which the applicant proposes to trade;
  - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;

- (e) specify the proposed goods or services which will be traded; and
- (f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.

### **5.17 Newspapers**

Notwithstanding any other provision of this local law, a person who sells, offers for sale or gives a newspaper only is not required to obtain a permit.

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

In determining an application for a permit for the purposes of this Division, the local government is to have regard to –

- (a) any relevant policies of the local government;
- (b) the desirability of the proposed activity;
- (c) the location of the proposed activity; and
- (d) such other matters as the local government may consider to be relevant in the circumstances of the case.

### **5.19 Conditions of permit**

- (1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include –
  - (a) the place, the part of the district, or the thoroughfare to which the permit applies;
  - (b) the days and hours during which a permit holder may conduct a stall or trade;
  - (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;
  - (d) the goods or services in respect of which a permit holder may conduct a stall or trade;
  - (e) the number of persons and the names of persons permitted to conduct a stall or trade;
  - (f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;
  - (g) whether and under what terms the permit is transferable;
  - (h) 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;
- (i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;
  - (j) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;
  - (k) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;
  - (l) the acquisition by the stallholder or trader of public risk insurance;
  - (m) the period for which the permit is valid;
  - (n) the designation of any place or places where trading is wholly or from time to time prohibited by the local government; and
  - (o) any other conditions as the local government may apply.
- (2) 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 shall apply to the nominee as if he or she was the permit holder.

*Subdivision 3 — Conduct of stallholders and traders*

**5.20 Conduct of stallholders and traders**

- (1) A stallholder while conducting a stall or a trader while trading shall –
- (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 a stall or trading;
  - (b) not display a permit unless it is a valid permit; and
  - (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *National Measurement Act 1960* (Cwth).
- (2) A stallholder or trader shall not –

- (a) deposit or store any thing on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;
- (b) act in an offensive manner or create a nuisance;
- (c) use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or
- (d) in the case of a trader, carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading.

## **Part 6 — Permits**

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

#### **6.1 Application for permit**

- (1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law shall –
  - (a) be in the form determined by the local government;
  - (b) be signed by the applicant;
  - (c) provide the information required by the form and any other provision of this local law; 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.
- (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 decide 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 applicant has not complied with subclause (3).

#### **6.2 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, as soon as practicable after the decision is made –
  - (a) give to the applicant written notice of, and written reasons for, the refusal; and
  - (b) inform the applicant of his or her rights, under Part 9, Division 1 of the Act, to object to, and apply for a review of the decision.
- (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 or an authorised person to refuse the application for a permit on other grounds under subclause (1)(b).
- (6) A permit issued for any of the activities dealt with by Part 5 does not confer exclusive possession or use of that portion of the thoroughfare or public place that is the subject of the permit, unless otherwise stated in the permit.

## ***Division 2 — Conditions***

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

Without limiting the generality of clause 6.2(1)(a), the local government may approve an application for a permit subject to conditions relating to –

- (a) the payment of a fee;
- (b) the duration and commencement of the permit;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the granting of another approval, permit, licence, or authorisation which may be required under any written law;
- (f) the area of the district to which the permit applies;
- (g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;

- (h) the obtaining of public liability insurance in an amount and on terms reasonably required by the local government;
- (i) 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 by the permit holder; and
- (j) any other matter it considers relevant.

#### **6.4 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 6.2(1)(a).

- (2) Under clause 6.2(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 6.2(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 shall 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.

#### **6.5 Compliance 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 shall comply with each of those conditions.
- (2) The local government may vary the conditions of a permit by written notice and the variation will be effective from the point the written notice is issued to the permit holder, and the permit holder shall comply with those conditions as varied.
- (3) An authorised person may –
  - (a) direct a permit holder to comply with this local law or another written law if the permit holder is not complying with this local law or any other written law;
  - (b) direct a permit holder to comply with the conditions of the permit issued to the permit holder;
  - (c) direct a person, who is carrying on the activity governed by the provisions of this Part and does not have a permit from the local government to do so, to cease the activity; and

- (d) impound items involved in a contravention of this Part in accordance with the Act.

### ***Division 3 — General***

#### **6.6 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 6.10.

#### **6.7 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,

shall apply to an application for the renewal of a permit with all the necessary changes as required.

#### **6.8 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 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 permitted to refund any part of any fee paid by the former permit holder.

## **6.9 Production of permit**

A permit holder is to produce to an authorised person the permit issued by the local government immediately upon being required to do so by that authorised person.

## **6.10 Cancellation of permit**

- (1) Subject to clause 7.1, a permit may be cancelled by the local government if a permit holder has not complied with a –
  - (a) condition of the permit;
  - (b) provision of this local law; or
  - (c) provision of another written law which may relate to the activity regulated by the permit;
- (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 in which a permit applies, for the purposes of carrying out works in or near the vicinity of that place.
- (3) If the local government cancels or suspends a permit under this clause, it is to as soon as practicable after the decision is made –
  - (a) give the permit holder written notice of, and reasons for, the decision; and
  - (b) inform the applicant of his or her rights under Part 9, Division 1 of the Act, to object to, and apply for a review of, the decision.
- (4) The cancellation or suspension takes effect from the date on which the permit holder is served with the cancellation or suspension notice.
- (5) On the cancellation of a permit the permit holder shall return the permit as soon as practicable to the local government.
- (6) On the cancellation or suspension of a permit the permit holder is, subject to subclause (7), to be taken to have forfeited any fees paid in respect of the permit.
- (7) Where a permit is cancelled or suspended through no fault of the permit holder, the local government may refund to the permit holder all or part of the fee in respect of what would otherwise have been the balance of the term of the permit.

## **Part 7 — Objections and appeals**

### **7.1 Application of Part 9 Division 1 of the Act**

- (1) When the local government makes a decision as to whether it will –

- (a) grant an application for a permit or the issue of an approval;
- (b) vary, cancel, or suspend a permit;
- (c) transfer a permit;
- (d) impose or amend a condition to which a permit is subject; or
- (e) use the proceeds of a bond under clause 6.3(g),

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

- (2) Under these provisions, an affected person may have the right to object to, or to appeal against, a decision of the local government.

## **Part 8 — Miscellaneous notices**

### **8.1 Notice to redirect or repair sprinkler**

Where a lawn or a garden on a thoroughfare is being watered with a sprinkler which is on the lawn or the garden, in a manner which causes or may cause an inconvenience or obstruction to any person using a thoroughfare, an authorised person may give a notice to the owner or the occupier of the land abutting on the lawn or the garden, requiring the owner or the occupier or both to move or alter the direction of the sprinkler or other watering equipment.

### **8.2 Hazardous plants**

Where a plant in a garden that encroaches a thoroughfare creates or may create a hazard for any person using that thoroughfare, an authorised person may give a notice to the owner or the occupier of the land with the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.

### **8.3 Notice to repair damage to thoroughfare**

Where any portion of a thoroughfare has been damaged, an authorised person may by notice to the person who caused the damage, order the person to repair or replace that portion of the thoroughfare.

### **8.4 Notice to remove thing unlawfully placed on thoroughfare**

Where any thing is placed on a thoroughfare in contravention of this local law, an authorised person may, by notice in writing to the owner or the occupier of the property which abuts on that portion of the thoroughfare where the thing has been placed, or such other person who may be responsible for the thing being so placed, require the relevant person to remove the thing.

## **Part 9 — Enforcement**

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

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

Whenever an authorised person gives a notice under this local law requiring a person to do anything, if the person fails to comply with the notice, the person commits an offence.

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

Where a person fails to comply with a notice referred to in clause 9.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

### ***Division 2 — Offences and penalties***

#### **9.3 Offences**

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$10,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$1,000 for each day or part of a day during which the offence has continued.

#### **9.4 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.

#### **9.5 Form of infringement notices**

Unless otherwise specified, 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.

## City of Kalamunda Activities in Thoroughfares and Public Places Local Law

### Schedule 1 — Prescribed offences

[clause 9.4]

ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY
1	2.1(1)(a)(i)	Plant any plant on a thoroughfare taller than 1.2 metres on a thoroughfare within 6 metres of intersection	\$250
2	2.1(1)(a)(ii)	Plant any plant on a thoroughfare taller than 1.2 metres on a thoroughfare within 2 metres of carriageway	\$250
3	2.1(1)(a)(iii)	Plant any plant on a thoroughfare taller than 1.2 metres on a thoroughfare that encroaches on path, vehicle crossing, infrastructure etc.	\$250
4	2.1(1)(b)	Plant any plant over 100mm in height where there is no path and is within 2 metres of carriageway	\$250
5	2.1(1)(c)	Plant any plant likely to be hazardous to a person using thoroughfare	\$250
6	2.1(1)(d)	Damage lawn or garden on thoroughfare where not installed by the local government	\$250
7	2.1(1)(f)	Discard or dispose of anything on a verge	\$250
8	2.1(1)(g)	Dig or fill so as to vary prevailing level of verge	\$250
9	2.1(1)(h)	Deposit or leave object on median strip or roundabout	\$250
10	2.1(1)(i)	Damage item erected or placed on thoroughfare by the local government	\$500
11	2.1(1)(j)	Obstruct, cover, bury, fill or interfere with fire hydrant	\$500
12	2.1(1)(k)(i)	Install impervious membrane on thoroughfare	\$250
13	2.1(1)(k)(ii)	Install steel stakes or posts on thoroughfare	\$250

<b>14</b>	2.1(1)(k)(iii)	Install uncompacted gravel, sand etc. on thoroughfare	\$250
<b>15</b>	2.1(1)(k)(iv)	Install rocks on thoroughfare	\$250
<b>16</b>	2.1(1)(k)(v)	Install retaining wall or other structure	\$500
<b>17</b>	2.1(1)(l)	Play sport or game so as to cause danger to any person or thing or impede movement of vehicles or persons on thoroughfare	\$150
<b>18</b>	2.1(1)(m)	Place anything on path which may create a hazard for any person using the path	\$250
<b>19</b>	2.1(1)(n)	Ride bicycle, electric rideable device, skateboard, rollerblades or similar device within mall, arcade or verandah of shopping centre	\$150
<b>20</b>	2.2(1)(a)	Dig trench through or under kerb or path without a permit	\$1000
<b>21</b>	2.2(1)(b)	Cause obstruction to vehicle or person without lawful authority	\$500
<b>22</b>	2.2(1)(c)	Cause obstruction to water course, drain etc. without a permit	\$500
<b>23</b>	2.2(1)(d)	Paint or install marking to inhibit lawful use of thoroughfare without a permit	\$250
<b>24</b>	2.2(1)(e)	Install bollard or barrier without a permit	\$500
<b>25</b>	2.2(1)(f)	Damage a thoroughfare without a permit	\$1000
<b>26</b>	2.2(1)(g)	Light any fire on a thoroughfare without a permit	\$500
<b>27</b>	2.2(1)(h)	Fell any tree onto thoroughfare without a permit	\$500
<b>28</b>	2.2(1)(i)	Remove, damage or kill street tree on a thoroughfare without a permit	\$1000
<b>29</b>	2.2(1)(j)	Install or lay pipes under a verge without a permit	\$500
<b>30</b>	2.2(1)(k)	Install or use hoist on a building for use over a thoroughfare without a permit	\$1000

<b>31</b>	2.2(1)(l)	Place bulk rubbish container on a thoroughfare without a permit or exemption	\$250
<b>32</b>	2.2(1)(m)	Place bulk container on a thoroughfare without a permit or exemption	\$500
<b>33</b>	2.2(1)(n)	Interfere with soil or remove anything from thoroughfare without a permit	\$250
<b>34</b>	2.2(1)(o)	Harvest wildflowers for commercial purpose without a permit	\$250
<b>35</b>	2.2(1)(p)	Erect fence or structure on or over thoroughfare or in a tree on thoroughfare without a permit	\$500
<b>36</b>	2.2(1)(q)	Deposit, discharge etc. material onto a thoroughfare without a permit	\$1000
<b>37</b>	2.2(5)	Fail to comply with directions of authorised person in respect of placement of bulk rubbish container or bulk container on a thoroughfare	\$500
<b>38</b>	2.3(1)	Possession or consumption of liquor in a thoroughfare without a permit	\$250
<b>39</b>	2.4	Construct more than two crossings to a lot without approval of the local government	\$500
<b>40</b>	2.5(1)	Failure to construct temporary crossing when directed by the local government	\$500
<b>41</b>	2.7(2)	Drive on closed thoroughfare without a permit or unless otherwise exempted	\$250
<b>42</b>	2.9(1)	Install verge treatment that is not a permissible verge treatment	\$500
<b>43</b>	3.4(1)	Place, post or erect any sign or advertisement on thoroughfare without a permit	\$500
<b>44</b>	3.5(1)	Place or erect a prohibited sign	\$500
<b>45</b>	3.7(3)	Failure to comply with direction of authorised person in respect of an exempted sign	\$500
<b>46</b>	3.8(2)	Install, park etc. variable message board without a permit or unless otherwise exempted	\$500
<b>47</b>	4.1(1)	Leave animal in a public place unless authorised	\$250

<b>48</b>	4.2(2)(a)	Failure to take reasonable measures to prevent animal from entering thoroughfare	\$250
<b>49</b>	4.2(2)(b)	Allow animal with contagious or infectious disease to be led, ridden etc. in public place	\$250
<b>50</b>	4.2(2)(c)	Race or train animal on thoroughfare	\$250
<b>51</b>	4.2(2)(d)	Allow animal to excrete in public place and owner does not remove excreta	\$250
<b>52</b>	4.3(1)(a)	Obstruct use of thoroughfare or public place by parking, standing etc. vehicle or electric rideable device	\$250
<b>53</b>	4.3(1)(b)	Obstruct a person from accessing land by parking, standing etc. vehicle or electric rideable device	\$250
<b>54</b>	4.3(2)	Paint, repair, alter, maintain or dismantle a vehicle on a thoroughfare or public place	\$250
<b>55</b>	4.5	Leave shopping trolley on thoroughfare or public place other than area for shopping trolleys	\$150
<b>56</b>	5.2(1)	Carry on food trading in a public place without a food trader's permit	\$500
<b>57</b>	5.5(1)	Failure to display valid food trader's permit	\$250
<b>58</b>	5.5(2)(a)	Store a container so as to obstruct the movement of pedestrians or vehicles	\$250
<b>59</b>	5.5(2)(b)	Dispose of waste in a public rubbish bin that is on a thoroughfare or a public place	\$250
<b>60</b>	5.5(2)(c)	Discharge waste water or liquid waste on thoroughfare or public place	\$500
<b>61</b>	5.5(2)(d)	Use a generator that does not comply with written laws relating to the emission of noise and exhaust fumes	\$500
<b>62</b>	5.5(2)(e)	Act in an offensive manner	\$250
<b>63</b>	5.5(2)(f)	Carry on trading without adequate parking	\$250
<b>64</b>	5.7(3)	Failure to comply with directions of authorised person to cease performance	\$250

<b>65</b>	5.15(1)	Conduct a stall in a thoroughfare or public place without a permit	\$500
<b>66</b>	5.16(1)	Carry on trading in a thoroughfare or public place without a permit	\$500
<b>67</b>	5.20(1)	Failure to display or produce valid permit	\$250
<b>68</b>	5.20(2)	Conduct a stall or trade in a manner contrary to the requirements of the local law	\$250
<b>69</b>	6.5(3)(b)	Failure to comply with conditions of a permit	\$250
<b>70</b>	6.9	Failure to produce permit when directed by an authorised person	\$250
<b>71</b>	9.1	Failure to comply with a notice issued for a contravention of the local law	\$500

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