Activities and Trading in Thoroughfares and Public Places Local Law

Local Government Act 1995

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CITY OF ARMADALE

ACTIVITIES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES LOCAL LAW

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Local Government Act 1995

CITY OF ARMADALE

ACTIVITIES AND TRADING 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 Armadale resolved on 2 July 2001 to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *City Of Armadale Activities and Trading in Thoroughfares and Public Places Local Law.*

1.2 Definitions

In this local law unless the context otherwise requires -

"acceptable paving material" means any material which will create a hard surface, such as bricks, blocks, concrete slabs, and granular materials such as gravel, limestone or roadbase; but does not include loosely placed 'pea' gravel, crushed rock, crushed bricks, concrete or asphalt;

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

"applicant" means a person who applies for a permit;

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

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

"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 waste collection service;

"carriageway" has the meaning given to it in the *Road Traffic Code 2000* and means the paved or made portion of a thoroughfare, whether sealed or unsealed, used or intended for use by vehicles and includes the kerb;

"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;

"crossing" means an area of verge giving vehicular access from a carriageway to -

(a) private land; or

(b) a private thoroughfare serving private land;

"district" means the district of the local government;

"footpath" 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" means a strip of rigid material installed at the edge of a carriageway;

"lawn" means any part of a thoroughfare which is planted only with grass, or with a similar plant;

"liquor" has the meaning given to it in section 3 of the *Liquor Control Act 1988*;

"local government" means the City of Armadale*;*

"local government property" means any thing 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;

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

"owner" or "occupier" in relation to land does not include the local government;

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

"paving" means the creation of a hard surface using acceptable paving materials;

"permissible verge treatment" means any one of the treatments described in clause 2.13(2);

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

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

"person" does not include the local government;

"premises" for the purpose of the definition of "public place" in both this clause and clause 6.1, means a building or similar structure, but does not include a carpark or a similar place;

"property line" means the lateral boundary of a thoroughfare;

"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 trading is lawfully conducted under a written law;

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

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

"**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;
"town planning scheme" means a town planning scheme of the local government made under the *Planning and Development Act 2005*;
"vehicle" includes –

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

but excludes –

(a) a wheel-chair or any device designed for use by a physically impaired person on a path; and
(b) a pram, a stroller or a similar device; and

"verge" means that part of a thoroughfare between the carriageway and the property line of land which abuts the thoroughfare, but does not include any footpath.

1.3 Application

This local law applies throughout the district.

1.4 Repeal

(1) The following local laws are repealed –

(a) Relating to Street Lawns and Gardens, published in the *Government Gazette* of 13 April 1970 and amended by publication in the *Government Gazette* of 30 June 1971;
(b) Relating to Hawkers, published in the *Government Gazette* of 26 October 1990 and amended by publication in the *Government Gazette* of 6 May 1997;
(c) Relating to Street Stalls, published in the G*overnment Gazette* of 9 November 1990;
(d) Relating to Care, Control and Management of Roads and Ways, published in the *Government Gazette* of 13 December 1991;
(e) Relating to Crossing Places, published in the *Government Gazette* of 10 January 1992, and amended by publication in the *Government Gazette* of 4 September 1992; and
(f) Relating to Trading in Public Places, published in the *Government Gazette* of 5 February 1993 and amended by publication in the *Government Gazette* of 6 May 1997.

(2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.

(3) The Council may resolve that notwithstanding subclause (2) specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

PART 2 – ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES

Division 1 - General

Subdivision 1 – Restrictions on general activities in thoroughfares and public places

2.1 General prohibitions

A person shall not -

(a) plant any plant which exceeds or which may exceed 0.75m in height on a thoroughfare so that the plant is within 6 metres of an intersection;

(b) plant any plant that is likely to be hazardous to any person using the thoroughfare;

(c) install paving on a thoroughfare within 15 metres of an intersection;

(d) on the verge abutting a corner lot at an intersection, position a crossing so that any portion of it is contained within the truncated corner of the lot;

(e) dig or fill so as to vary the prevailing ground levels on a verge;

(f) water a lawn or garden in such a manner as may cause inconvenience to any person using the thoroughfare;

(g) install in a thoroughfare any –

(i) impervious membrane;
(ii) loosely placed materials with a particle size exceeding 25 millimetres; or
(iii) steel stakes.

(h) drive a vehicle on a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless –
(i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
(ii) the person is acting under the authority of a written law;

(i) plant any plant (except lawn), erect any temporary enclosure, place any rock or rocks, or install any retaining feature or structure on a thoroughfare so that it is within 2 metres of a carriageway;

(j) plant any tree on a thoroughfare where the width of the verge is less than 4.4 metres;
(k) place any thing on any path which may create a hazard for any person using the path;
(l) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
(m) 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, or install furniture associated with any game or sport; or
(n) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, rollerblades or similar device.

2.2 Activities allowed with a permit – general

A person shall not, without a permit –

(a) dig or otherwise create a trench through or under a carriageway or path;
(b) subject to Division 3 of this Part, throw, place or deposit any thing on a verge except –
    (i) for removal by the local government under a bulk rubbish collection, and then only for the period of time advertised in connection with that collection by the local government;
    (ii) a bulk rubbish container, and then only for the period of time required to fill the container, but in any event, for a period not exceeding 1 week;
    (iii) a bulk container for household and personal effects, and then only for the period of time required to load or unload the container, but in any event, for a period not exceeding 1 week; and
    (iv) when permitted to do so under a current building permit issued under the *Building Act 2011;*
(c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
(d) cause any obstruction to a water channel or a water course in a thoroughfare;
(e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
(f) interfere with or damage any thing in a thoroughfare;
(g) make any alterations to the carriageway or any other thing in a thoroughfare, and then only if details of the work to be done are shown on a plan accompanying the application;
(h) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose or under a permit issued under clause 5.13;
(i) plant a tree in a thoroughfare;
(j) create or construct more than two crossings to any one lot;

(k) unless installing a permissible verge treatment as detailed in Division 3 of this Part -
    (i) lay pipes under or provide taps on any verge; or
    (ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any, acceptable paving materials, garden edging up to 50mm high, wood chips, bark or sawdust;
(l) place rocks, including 'pea' gravel, crushed rock or crushed bricks not exceeding 25 millimetre particle size, on any verge, and then only if -
    (i) the rocks are part of a permissible verge treatment as detailed in Division 3 of this Part;
    (ii) the rocks complement the undeveloped nature of the surrounding terrain;
    (iii) the rocks are placed no closer than 1 metre from a path and 2 metres from a carriageway; and
    (iv) the sizes, types and locations are detailed on a plan accompanying the application;
(m) install any retaining feature or structure that creates a difference in level from one side to the other of no more than 50mm, and then only if –
    (i) the feature or structure complements the undeveloped nature of the terrain;
    (ii) any retaining structure over 1 metre in height is designed by a competent structural engineer, in which case design details shall be submitted with the application; and
    (iii) the details are shown on a plan accompanying the application;

(n) fell any tree onto a thoroughfare;
(o) lay any pipes on or under a carriageway, and then only if the details are shown on a plan accompanying the application;
(p) make a connection to the stormwater drainage system;
(q) 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;
(r) on a public place use any thing or do any thing so as to create a nuisance;
(s) clear the vegetation or interfere with the soil in a thoroughfare, or take any thing from a thoroughfare; or
(t) unless in accordance with clause 2.6, drive a vehicle over or across a verge to gain access to land other than on a constructed crossing authorised under Subdivision 1 of Division 2 of this Part.

Subdivision 2 – Restriction on Liquor in Thoroughfares

2.3 Possession and consumption of liquor in 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
Subdivision 1 - Installing crossings

2.4 Construction of Crossings

(1) A concrete, brick paved or asphalt crossing is only to be constructed under regulation 12(1) of the *Local government (Uniform Local Provisions) Regulations 1996*, if the work is undertaken by –

(a) the local government using its own day labourers or contractors; or

(b) a contractor experienced in the type of work being undertaken.

(2) Where the local government is to undertake construction of a crossing under subclause (1)(a) an amount equal to the estimated cost of constructing the crossing as determined by the local government is to be paid to the local government when an application is made for a building licence to carry out work on the private land or as otherwise required by the local government.

2.5 Building applications

An application for a building licence to construct a building on a lot is to show on the accompanying site plan the width and location of the proposed crossing place to give access to the lot.

2.6 Temporary access

The crossing place approved by the local government under clause 2.5 may be used by vehicles as a temporary access to the lot during construction of a building.

2.7 Number of crossings

No more than two crossings may be created or constructed to any one lot unless with the approval of the local government.

2.8 Standard crossing

A standard crossing for the purpose of regulation 15 of the *Local Government (Uniform Local Provisions) Regulations 1996,* is a concrete construction 3 metres wide at the property line, 5 metres at the edge of the carriageway, and 6 metres in length from the property line to the edge of the carriageway, built to the specifications of the local government.

2.9 Construction Conditions

A crossing is to be constructed –

(a) of concrete or brick or block paving unless prior written approval is given to another form of construction by the local government;

(b) at least 3 metres wide at the property line in the case of a residential development and at least 6 metres wide in the case of an industrial or commercial development and at the edge of the carriageway, no wider than 8 metres in the case of a residential development and 12 metres in the case of an industrial or commercial development;

(c) to include a culvert constructed of reinforced concrete pipes, complete with masonry headwalls, where these are needed in the opinion of the local government, with the pipe size to be determined by the local government;

(d) in the position approved by the local government, but no portion of a crossing is to be –

(i) closer than 500 m1llimetres from any side boundary of an adjoining lot or 800 millimetres from any side entry gully, street light/power poles, verge tree or pram ramp; or

(ii) contained within the truncated corner of a lot at an intersection or closer than 2 metres from the truncation; and

(e) at 90 degrees to the carriageway, but in special circumstances variations of up to 20 degrees may be authorised by the local government.

2.10 Transitional provision

Any crossing constructed with local government approval prior to the commencement day may continue in existence in the form approved by the local government, but when reconstruction is required, such work is to be carried out in accordance with the requirements of this local law.

Subdivision 2 - Redundant vehicle crossings

2.11 Redundant crossings

(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) The local government may give written notice to the owner or occupier of a lot requiring her or him to –

(a) remove any part of or all of a crossing which does not give access to the lot; and

(b) reinstate the kerb, drain, 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 - Verge treatments

Subdivision 1 - Preliminary

2.12 Application

This Division only applies to areas zoned central city area, urban, industrial and public purposes in the Metropolitan Region Scheme.

Subdivision 2 - Permissible verge treatments

2.13 Permissible verge treatments

(1) An owner or occupier of land abutting a verge may on that part of the verge directly in front of her or his land install a permissible verge treatment.

(2) The permissible verge treatments are –

(a) the planting and maintenance of a lawn, including water reticulation subject to subclause 3;

(b) the planting and maintenance of a garden, including water reticulation subject to subclause 3, 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; and

(ii) where there is no path, a pedestrian has safe and clear access of a minimum width of 2metres along that part of the verge immediately adjacent to the carriageway;

(c) the installation of an acceptable paving materials in accordance with subclause (5); or

(d) the installation of acceptable paving materials in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

(3) Any water reticulation pipes laid to service a lawn or garden as part of a permissible verge treatment shall –

(a) be laid beneath the surface of the verge to a depth of between 200 and 350 millimetres and so that any fitting including a sprinkler head connected to the reticulation pipes does not protrude above the surface of the lawn or garden;

(b) be connected to the water supply within the property;

(c) if connected to a public water (mains) supply, comply with the requirements of the authority responsible for the public water supply;
(d) have the flow controlled through approved valves located within the property; and
(e) not be laid closer than 2 metres to an existing tree planted by the local government.

(4) Any tree planted as part of a permissible verge treatment shall –
(a) be of a species approved by the local government, especially where being planted under power lines;
(b) be planted on an alignment of between 2.4 and 3 metres on the verge measured from the property line; and
(c) be planted a minimum of –
(i) 1 metre from a vehicle crossing;
(ii) 1 metre from the edge of an abutting section of verge;
(iii) 2 metres from the carriageway;
(iv) 5 metres from the alignment of a household consumer power connecting cable; and
(v) 15 metres from an intersection;

(5) Any paving installed as part of a permissible verge treatment shall –
(a) comprise an acceptable paving material;
(b) be evenly graded;
(c) be free draining; and
(d) cover no more than one third of the area of the verge (excluding any path or vehicle crossing).

(6) A temporary enclosure may be erected for the period of the establishment of a permissible verge treatment, provided that –
(a) the temporary enclosure is constructed of lightweight materials that will break or collapse upon being impacted by a person walking normally; and
(b) the temporary enclosure is removed as soon as the treatment is established, but in any event, after a period not exceeding 6 months.

2.14 Other verge treatments

(1) A person shall not install or maintain a verge treatment which is not a permissible verge treatment.

(2) 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 2.15.

2.15 Obligations of owner or occupier

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

(a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a path on the verge and a carriageway adjoining the verge are not obstructed by the verge treatment;
(b) where the verge treatment is a lawn, keep the lawn mowed so that the height of the grass does not exceed 150 millimetres;
(c) not place any obstruction on or around the verge treatment, except a temporary enclosure as detailed in subclause 2.13(6);
(d) maintain and care for any tree planted by the local government except for pruning; and
(e) not disturb any path on the verge.

2.16 Notice to owner or occupier

The local government may give a notice in writing to the owner or 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 3 - Existing verge treatments

2.17 Transitional provision

(1) In this clause –

"former provisions" means the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was 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 the 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 the former provisions.

Subdivision 4 - Public works

2.18 Power to carry out public works on verge

Where the local government or an authority empowered to do so under a written law disturbs a verge, the local government or the authority -

(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 verge treatment and, in particular, any plant or any paving, sprinklers, pipes or other reticulation equipment.

Division 4 - Property numbers

Subdivision 1 - Preliminary

2.19 Interpretation

In this Division, unless the context requires otherwise -

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

Subdivision 2 - Assignment and marking of numbers

2.20 Assignment of numbers

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

Division 5 - Fencing

2.21 Public place

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 1.2; and

(b) local government property.

Division 6 - Signs erected by the local government

2.22 Signs

(1) A 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.

2.23 Transitional arrangements

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 2.22 if –

(a) the sign specifies a condition of use relating to the public place which gives notice of the effect of a provision of this local law; and

(b) the condition of use specified is not inconsistent with any provision of this local law.

Division 7 - Driving on a closed thoroughfare

2.24 Driving on closed thoroughfare

(1) A person shall not drive or take a vehicle on a closed thoroughfare unless –

(a) in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or

(b) the person has first obtained a permit.

(2) In this clause –

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

PART 3 – ADVERTISING SIGNS ON THOROUGHFARES

Division 1 - Preliminary

3.1 Interpretation

In this Part, unless the context otherwise requires -

"advertising sign" means a sign used for the purpose of advertisement and includes an "election sign" and a "direction sign";

"direction sign" means a sign which indicates the direction of another place, activity or event, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;

"election sign" means a sign or poster which advertises any aspect of a forthcoming Federal, State or Local Government election; and

"portable direction sign" means a portable free standing advertising sign.

Division 2 - Permit

3.2 Advertising signs

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

(a) erect or place an advertising sign on a thoroughfare; or

(b) post any bill or paint, place or affix any advertisement on a thoroughfare.

(2) Notwithstanding subclause (1), a person shall not erect or place an advertising sign -

(a) on a path;

(b) over any path where the resulting vertical clearance between the sign and the footpath is less than 2.5m;

(c) on or within 3m of a carriageway;

(d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
(e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

3.3 Determining application

In determining an application for a permit for the purpose of clause 3.2(1), the local government is to have regard to -

(a) any other written law or policy regulating the erection or placement of signs within the district;
(b) the dimensions of the sign;
(c) other advertising signs already approved or erected in the vicinity of the proposed location of the sign;
(d) whether or not the sign will create a hazard to persons using a thoroughfare; and
(e) the amount of the public liability insurance cover, if any, to be obtained by the applicant.

Division 3 – Conditions on permit

3.4 Conditions on portable signs

If the local government approves an application for a permit for a portable sign, the application is to be taken to be approved subject to the following conditions –

(a) the portable sign shall -
  (i) not exceed 1metre in height;
  (ii) not exceed an area of 1 square metre on any side;
  (iii) relate only to the business activity described on the permit;
  (iv) contain letters not less than 200millimetres in height;
  (v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;
  (vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
  (vii) be secured in position in accordance with any requirements of the local government;
  (viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
  (ix) be maintained in good condition; and
(b) no more than one portable sign shall be erected in relation to the one building or business.

3.5 Conditions on election signs

If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign-

(a) being erected at least 30 metres from any intersection;

(b) being free standing and not affixed to any existing sign, post, power pole, light pole or similar structure;

(c) being placed so as not to obstruct or impede-

  (i) the reasonable use of a thoroughfare, or access to a place by any person; or

  (ii) the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;

(d) being maintained in good condition;

(e) not being erected until the election to which it relates has been officially announced;

(f) being removed within 24 hours of the close of polls on voting day;

(g) not being placed within 100 metres of any works on the thoroughfare;

(h) not being securely installed;

(i) not being an illuminated sign;

(j) not incorporating reflective or fluorescent materials; and

(k) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

PART 4 – OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

Division 1 - Animals and vehicles

4.1 Leaving animals or vehicles in public place or on local government property

(1) A person shall not allow an animal or a vehicle, or any part of a vehicle, in a public place or on local government property so that it obstructs the use of any part of that public place or local government property, unless that person has first obtained a permit or is authorized to do so under a written law.

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 not –

(a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;

(b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or

(c) train or race the animal on a thoroughfare.

(3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.

Division 2 - Shopping trolleys

4.3 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 or receptacle supplied by a retailer to enable a person to transport goods.

4.4 Marking of shopping trolleys

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

4.5 Abandoning shopping trolleys

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

4.6 Removal of abandoned shopping trolleys

(1) If a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, the local government may give notice either verbally or in writing to a retailer whose name is on the trolley of the location of the shopping trolley.

(2) A retailer shall remove an abandoned shopping trolley within 24 hours of having received notice under subclause (1).

(3) deleted

(4) If a retailer, having received a notice under subclause (1), does not remove the abandoned shopping trolley, then the local government may remove and impound the abandoned shopping trolley in accordance with section 3.39 of the Act.

4.7 Ownership of shopping trolleys

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

PART 5 - ROADSIDE CONSERVATION

Division 1 - Preliminary

5.1 Interpretation

In this Part -

"MRWA" means Main Roads Western Australia;

"protected flora" has the meaning given to it in section 6(1) of the *Wildlife Conservation Act 1950*;

"rare flora" has the meaning given to it in section 23F(1) of the *Wildlife Conservation Act 1950*;

"Roadside Conservation Committee" means the Roadside Conservation Committee established under the Land Resource Policy Council within the Department of the Premier and Cabinet; and

"special environmental area" means an area designated as such under clause 5.7.

5.2 Application

This Part does not apply to areas zoned central city area, urban, industrial and public purposes in the Metropolitan Region Scheme.

Division 2 - Flora roads

5.3 Declaration of flora road

The local government may declare a thoroughfare which has, in the opinion of the local government, high quality roadside vegetation to be a flora road.

5.4 Construction works on flora roads

Construction and maintenance work carried out by the local government on a flora road is to be in accordance with the 'Code of Practice for Roadside Conservation and Road Maintenance' prepared by the Roadside Conservation Committee.

5.5 Signposting of flora roads

The local government may signpost flora roads with the standard MRWA 'flora road' sign.

5.6 Driving on flora roads

(1) A person driving or riding a vehicle on a flora road shall only drive or ride the vehicle on the carriageway.

(2) Subclause (1) does not apply where -

(a) conditions on the thoroughfare do not reasonably permit a vehicle to remain on the carriageway;

(b) there is no carriageway; or

(c) an exemption from the application of subclause (1) has been obtained from the local government.

Division 3 - Special environmental areas

5.7 Designation of special environmental areas

The local government may designate a thoroughfare, or any part of a thoroughfare, as a special environmental area which -

(a) has protected flora or rare flora; or

(b) in the opinion of the local government, has environmental, aesthetic or cultural significance.

5.8 Marking of special environmental areas

The local government is to mark and keep a register of each thoroughfare, or part of a thoroughfare, designated as a special environmental area.

Division 4 – Planting in thoroughfares

5.9 Permit to plant

A person shall not plant any plant or sow any seeds in a thoroughfare without first obtaining a permit.

5.10 Determining application

In determining an application for a permit for the purpose of clause 5.9, the local government is to have regard to -

(a) existing vegetation within that part of the thoroughfare in which the planting is to take place; and

(b) the diversity of species and the prevalence of the species which are to be planted or sown.

Division 5 - Clearance of vegetation

5.11 Permit to clear

A person shall not clear and maintain in a cleared state, the surface of a thoroughfare without first obtaining a permit and any other approvals which may be required under any written law.

5.12 Application for permit

In addition to the requirements of clause 7.1(2), a person making an application for a permit for the purpose of clause 5.11 shall state the reasons why the clearance of vegetation is necessary and submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.

Division 6 - Fire management

5.13 Permit to burn

A person shall not burn part of a thoroughfare without first obtaining a permit or unless acting under the authority of any other written law.

5.14 Application for permit

In addition to the requirements of clause 7.1(2), an application for a permit for the purposes of clause 5.13 shall –

(a) include a sketch plan showing the portions of a thoroughfare which are proposed to be burned; and

(b) advise of the estimated fire intensity and the measures to be taken to protect upper storey vegetation from the burn.

5.15 Approval of application for permit

The local government may approve an application for a permit for the purpose of clause 5.13 only if the burning of the particular part of the thoroughfare will -

(a) reduce a fire hazard and alternative means of reducing that hazard, such as slashing or the use of herbicides, are considered by the local government to be not feasible or more detrimental to native flora and fauna than burning; or

(b) in the opinion of the local government, be beneficial for the preservation and conservation of native flora and fauna.

5.16 Prohibitions on burning

Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 5.13 is not to be approved by the local government -

(a) for burning between 31 August and 1 May of the following year where the intensity of the burn could damage native flora and fauna; or

Division 7 - Firebreaks

5.17 Firebreaks on thoroughfares

A person shall not construct a firebreak on a thoroughfare without first obtaining a permit.

5.18 Application for permit

In addition to the requirements of clause 7.1(2), a person making an application for a permit for the purpose of clause 5.17 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land upon which the firebreak is to be constructed.

5.19 Restrictions on approval

(1) The local government is not to approve an application for a permit for the purpose of clause 5.17 where the thoroughfare is less than 20 metres wide.

(2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

Division 8 - Wildflower harvesting on thoroughfares

5.20 Wildflower harvesting

Subject to clause 5.21, a person shall not harvest native flora on a thoroughfare.

5.21 Seed collection

(1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.

(2) The local government may approve an application for a permit under subclause (1) only where-

(a) the seed is required for a revegetation project in any part of the district; and

(b) the thoroughfare, or the relevant part of it, is not a special environmental area.

(3) Unless the local government specifically provides to the contrary on a permit, if the local government approves an application for a permit for the purpose of subclause (1) it is to be taken to be approved subject to the following conditions –

(a) the collection of the seed is to be carried out so as not to endanger the long time survival of the native flora on the thoroughfare; and

(b) any licence or approval which may be required under any other written law is to be obtained by the applicant.

PART 6 - TRADING IN THOROUGHFARES AND PUBLIC PLACES

Division 1 - Stallholders and traders

Subdivision 1 - Preliminary

6.1 Interpretation

In this Division, unless the context otherwise requires -

"Competition Principles Agreement" means the Competition Principles Agreement executed by each State and Territory of the Commonwealth and the Commonwealth of Australia on 11 April 1995;

"not for profit organisation" means –

(a) an association incorporated under the *Associations Incorporation Act 1987*; and

(b) any other organisation that does not trade or secure pecuniary profit for its members from the transactions of the organisation.

"stall" means a movable or temporarily fixed structure, stand or table in, on or from which trading is conducted and that trading is conducted only by a not for profit organisation;

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

"stallholder's permit" means a permit described in clause 6.2 that is issued to a stallholder;

"trader" means a person who carries on trading;

"trader's permit" means a permit described in clause 6.3 that is 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;

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

(iii) carrying out any other transaction in relation to goods or services,

but does not include the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder's permit.

Subdivision 2 - Permits

6.2 Stallholder's permit

(1) A person shall not conduct a stall in 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;

(b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;

(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.

6.3 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.

6.4 Newspapers

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

6.5 Determining application

(1) 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;
(d) the principles set out in the Competition Principles Agreement; and
(e) such other matters as the local government may consider to be relevant in the circumstances of the case.

(2) The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds –
(a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;
(b) that the applicant is not a desirable or suitable person to hold a permit;
(c) that –
(i) the applicant is an undischarged bankrupt or is in liquidation;
(ii) the applicant has entered into any composition or arrangement with creditors; or
(iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property; or
(d) such other grounds as the local government may consider to be relevant in the circumstances of the case.

6.6 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; and

(n) 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, the local government may at the request of that permit holder authorize 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.

6.7 Exemptions

(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 operating a stall or in conducting any trading activity for personal gain or profit.

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

(a) on a portion of a public place adjoining the normal place of business of the applicant; or

(b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of a stall or trading, and any assistants that may be specified in the permit are members of that charitable organisation.

(3) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place, from the requirements of this Division.

(4) Notwithstanding any other provisions of this local law, a requirement to obtain a permit under this local law does not apply to:

(a) a special event or trading authorised by the local government under another written law or agreement; or

(b) a person trading in a street market authorised by the local government.

Subdivision 3 - Conduct of stallholders and traders

6.8 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 *Trade Measurement Act 2006*.

(2) A stallholder or trader shall not –

(a) deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;

(b) act in an offensive manner or cause 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.

Division 2 - Street entertainers

Subdivision 1 - Preliminary

6.9 Interpretation

In this Division, unless the context otherwise requires –

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

"permit" means a permit issued for the purpose of clause 6.10;

"permitted area" means the area or areas, specified in a permit, in which the permit holder may perform; and

"permitted time" means the time or times, specified in a permit, during which the permit holder may perform.

Subdivision 2 - Permits

6.10 Permit to perform

A person shall not perform in a public place without a permit.

6.11 Variation of permit

(1) The local government may by notice in writing to a permit holder vary –
   (a) the permitted area;
   (b) the permitted time; or
   (c) both the permitted area and the permitted time,

   shown on a permit.

(2) The local government may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

6.12 Duration of permit

Unless it is sooner cancelled under this local law, a permit is valid -

(a) from the date and for the period (not exceeding 3 months from the date it is issued) determined by the local government when issuing the permit; or

(b) if no date or period is determined by the local government when issuing a permit, from the date it is issued and for the period of 3 months from that date

6.13 Cancellation of permit

The local government may cancel a permit if in her or his opinion the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place, or if, in her or his opinion, or in the opinion of an authorized person, the performance otherwise constitutes a nuisance.

6.14 Obligations of permit holder

A permit holder shall not in a public place –

(a) perform wearing dirty, torn or ragged clothing, unless such clothing forms part of a permitted performance;

(b) act in an offensive manner or create a nuisance; or

(c) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier -
   (i) other than in the permitted area; and

(ii) unless the musical instrument or device is specified in the permit.

Division 3 - Outdoor eating facilities on public places

6.15 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 6.16.

6.16 Permit to conduct Facility

A person shall not establish or conduct a Facility without a permit.

6.17 Determining application

In determining an application for a permit for the purpose of clause 6.16, the local government may consider in addition to any other matter it considers relevant, whether or not-

(a) the Facility is conducted in conjunction with and as an extension of food premises which abut on the Facility, and whether the applicant is the person conducting such food premises;

(b) any abutting food premises are registered in accordance with the *Food Act 2008* and whether the use of the premises is permitted under the town planning scheme;

(c) the Facility will comply with any local law made under the *Food Act 2008*;

(d) users of the Facility will have access to proper and sufficient sanitary and ablutionary conveniences;

(e) the Facility would -

(i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or

(ii) impede pedestrian access; and

(f) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

6.18 Obligations of permit holder

(1) The permit holder for a Facility shall –

(a) ensure that the Facility is conducted at all times in accordance with the provisions of this local law and any local law made under the *Food Act 2008*;

(b) ensure that the eating area is kept in a clean and tidy condition at all times;

(c) maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times;

(d) be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the Facility; and

(e) be solely responsible for all rates and taxes levied upon the land occupied by the Facility.

(2) Whenever, in the opinion of the local government, any work is required to be carried out to a Facility, the local government may give a notice to the permit holder for the Facility to carry out that work within the time limited 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.

6.19 Removal of Facility

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

6.20 Use of Facility

(1) A person shall not occupy a chair or otherwise use the equipment in a Facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the Facility.

(2) A person shall leave a Facility when requested to do so by the permit holder.

6.21 Temporary removal of Facility

(1) The permit holder for a Facility is to temporarily remove the Facility when requested to do so on reasonable grounds by an authorised person or a member of the Police Service or an emergency service in the event of an emergency.

(2) The permit holder may replace the Facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

PART 7 - PERMITS

Division 1 – Applying for a permit

7.1 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

(d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

(4) The local government may require an applicant to give local public notice of the application for a permit.

(5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

7.2 Determining application

(1) The local government may –

(a) approve an application for a permit unconditionally or subject to any conditions; or

(b) refuse to approve an application for a permit.

(2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.

(3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

(4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).

(5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

Division 2 - Conditions

7.3 Permit Conditions

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 approval of another application for a permit which may be required by the local government 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 risk insurance in an amount and on terms reasonably required by the local government; and
(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.

7.4 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 7.2(1)(a).
(2) Under clause 7.2(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 7.2(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.

7.5 Compliance with and variation of conditions

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

Division 3 - General

7.6 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 7.10.

7.7 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 due alteration of the details.

7.8 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 CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.

(3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by –

(a) an endorsement on the permit signed by the CEO; or

(b) issuing to the transferee a permit in the form determined by the local government.

(4) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

7.9 Production of permit

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

7.10 Cancellation of permit

(1) Subject to clause 8.1, a permit may be cancelled by the local government on any one or more of the following grounds-

(a) the permit holder has not complied with a -

(i) condition of the permit; or

(ii) provision of any written law which may relate to the activity regulated by the permit; or

(b) if it is relevant to the activity regulated by the permit-

(i) the permit holder has become bankrupt, or gone into liquidation;
(ii) the permit holder has entered into any composition or arrangement with creditors; or
(iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the permit holder's undertakings or property.

(2) On the cancellation of a permit the permit holder –
(a) shall return the permit as soon as practicable to the local government; and
(b) is to be taken to have forfeited any fees paid in respect of the permit.

PART 8 - OBJECTIONS AND APPEALS

8.1 Application of Part 9 Division 1 of Act

When the local government makes a decision -
(a) under clause 7.2(1); or
(b) as to whether it will renew, vary, or cancel a permit,
the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations apply to that decision.

PART 9 - MISCELLANEOUS NOTICES

9.1 Notice to redirect or repair sprinklers

Where a lawn or a garden 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, the local government 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.

9.2 Hazardous plants

(1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the garden to remove, cut, move or otherwise attend to that plant so as to remove the hazard.
(2) Subclause (1) does not apply where the plant was planted by the local government.

9.3 Damage to thoroughfare

Where any portion of a thoroughfare has been damaged, the local government may by notice to the person who caused the damage order the person to make arrangements to

repair or replace that portion of the thoroughfare to the satisfaction of the local government.

9.4 Thing unlawfully placed on thoroughfare

Where any thing is placed on a thoroughfare in contravention of this local law, the local government may by notice in writing to the owner or the occupier of the property abutting 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 10 - ENFORCEMENT

Division 1 - Notices given under this local law

10.1 Failure to comply with notice

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

10.2 Local government may undertake requirements

Where a person fails to comply with a notice referred to in clause 10.1, 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

Subdivision 1 - General

10.3 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 $5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding $500 for each day or part of a day during which the offence has continued.

Subdivision 2 - Infringement notices and modified penalties

10.4 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.

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that –

(a) commission of the prescribed offence is a relatively minor matter; and

(b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

10.5 Forms

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.

Schedule 1 – Offences and Modified Penalties

(Clause 10.4)

Clause	Description	Modified Penalty $
2.1(a)	Planting a plant of 0.75m in height on thoroughfare within 6m of intersection	125
2.1(c)	Installing paving on thoroughfare within 15 metres of intersection	125
2.1(d)	Positioning crossing within the truncated corner of lot at intersection	500
2.1(f)	Watering lawn or garden so that it causes inconvenience to persons using thoroughfare	125
2.1(g)	Installing impervious membrane, loosely placed materials or steel stakes on thoroughfare	125
2.1(h)	Driving vehicle on, or otherwise damaging lawn or garden	250
2.1(i)	Planting a plant (except lawn), erecting temporary enclosure, placing rocks or installing retaining feature on thoroughfare within 2 metres of carriageway	125
2.1(k)	Placing hazardous substance on path	125
2.1(1)	Damaging or interfering with signpost or structure on thoroughfare	350
2.1(m)	Playing games so as to impede vehicles or persons on thoroughfare	125
2.1(n)	Riding of skateboard or similar device on mall or verandah of shopping centre	125
2.2(a)	Digging a trench through a carriageway or path without a permit	125
2.2(b)	Throwing or placing any thing on a verge without a permit	125
2.2(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	125
2.2(d)	Causing obstruction to water channel on thoroughfare without a permit	250
2.2(e)	Placing or draining offensive fluid on thoroughfare without a permit	250
2.2(g)	Making alterations to carriageway without a permit	250
2.2(h)	Lighting a fire on a thoroughfare without a permit	350
2.2(1)	Placing rocks on a verge without a permit	125
2.2(m)	Installing retaining feature or structure on verge without a permit	125
2.2(n)	Felling tree onto thoroughfare without a permit	125
2.2(o)	Installing pipes on thoroughfare without a permit	125

2.2(p)	Installing connection to stormwater drainage system without a permit	350
2.2(q)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	350
2.2(r)	Creating a nuisance on a thoroughfare without a permit	125
2.2(s)	Clear the vegetation or interfering with the soil or take any thing in a thoroughfare without a permit	350
2.2(t)	Other than on Crossing driving over or across verge without a permit	250
2.4(1)	Constructing a crossing by persons other than those specified	250
2.7	Installing more than two crossings to one lot without the approval of the local government	125
2.9(b)	Installing crossing wider than allowed	125
2.11(2)	Failure to comply with notice to remove crossing and reinstate kerb	350
2.13(1)	Installation of verge treatment other than permissible verge treatment	250
2.13(2)	Failure to maintain permissible verge treatment	125
2.16	Failure to comply with notice to rectify breach of Division 3-Verge Treatments	125
2.22(2)	Failure to comply with sign on public place	125
2.24(1)	Driving or taking a vehicle on a closed thoroughfare	350
3.2	Erecting or placing of advertising sign in or on a thoroughfare	125
4.1(1)	Animal, vehicle or material obstructing a public place or local government property	125
4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	125
4.2(2)(b)	Animal on public place with infectious disease	125
4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	125
4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	125
4.5	Person leaving shopping trolley in public place other than trolley bay	125
4.6(2)	Failure to remove shopping trolley upon being advised of location	125
5.6(1)	Driving a vehicle on other than the carriageway of a flora road	250
5.9	Planting in thoroughfare without a permit	250
5.11	Failure to obtain permit to clear thoroughfare	500
5.13	Burning of thoroughfare without a permit	500
5.17	Construction of firebreak on thoroughfare without a permit	500

5.20	Harvesting of native flora on thoroughfare	500
5.21(1)	Collecting seed from native flora on thoroughfare without a permit	350
6.2(1)	Conducting of stall in public place without a permit	350
6.3(1)	Trading without a permit	350
6.8(1)(a)	Failure of stallholder or trader to display or carry permit	125
6.8(1)(b)	Stallholder or trader not displaying valid permit	125
6.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	125
6.8(2)	Stallholder or trader engaged in prohibited conduct	125
6.10	Performing in a public place without a permit	125
6.11(2)	Failure of performer to move onto another area when directed	125
6.14	Failure of performer to comply with obligations	125
6.16	Establishment or conduct of outdoor eating facility without a permit	350
6.18	Failure of permit holder of outdoor eating facility to comply with obligations	125
6.20(1)	Use of equipment of outdoor eating facility without purchase of food or drink from facility	60
6.20(2)	Failure to leave outdoor eating facility when requested to do so by permit holder	60
7.5	Failure to comply with a condition of a permit	125
7.9	Failure to produce permit on request of authorised person	125
10.1	Failure to comply with notice given under local law	125

Dated ..... of ..... 200_ .

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

MAYOR/PRESIDENT **CHIEF EXECUTIVE OFFICER**