

**7.4 LATE REPORT: AMENDMENTS TO THE TRADING IN PUBLIC PLACES LOCAL LAW 2008 AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008**

**TRIM Ref:** D18/193088

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**Attachments:**

1. Trading in Public Places Amendment Local Law 2019 (draft)
2. Local Government Property Amendment Local Law 2019 (draft)
3. Street Entertainment Policy (draft)
4. Trading In Public Places Local Law 2008 (with amendments marked up)
5. Local Government Property Local Law 2008 (with amendments marked up)

**RECOMMENDATION:**

**That Council:**

1. **GIVES** Statewide and local public notice, in accordance with section 3.12 of the *Local Government Act 1995* stating that:
  - 1.1 It is proposed to make the City of Vincent Trading in Public Places Amendment Local Law 2019 at Attachment 1;
  - 1.2 The purpose of the City of Vincent Trading in Public Places Amendment Local Law 2019 is to repeal the City of Vincent Trading in Public Places Amendment Local Law 2015 and to amend the City of Vincent Trading in Public Places Local Law 2008 to:
    - 1.2.1 align the provisions with the City's online permit process for outdoor eating areas, goods, display and portable advertising signage;
    - 1.2.2 manage the placement of portable advertising signage on local government property;
    - 1.2.3 simplify the requirements relating to the Permit Free Entertainer Zones; and
    - 1.2.4 to make administrative modifications so that the local law aligns with the City's current objectives and processes;
  - 1.3 The effect of the City of Vincent Trading in Public Places Amendment Local Law 2019 is that:
    - 1.3.1 the City's online permit process for outdoor eating area, goods display and portable advertising signage will be reflected in the local law;
    - 1.3.2 portable advertising signage on local government property will now be governed by the Trading in Public Places Amendment Local Law 2019;
    - 1.3.3 the requirements relating to the Permit Free Entertainer Zones are simplified within the local law and additional guidelines will be provided in an associated Policy;
    - 1.3.4 administrative modifications are made to ensure the local law aligns with the City's current objectives and processes;
  - 1.4 Copies of the proposed local law are available for inspection at the City's office, Library and Local History Centre and on its website; and

- 1.5 Submissions on the proposed local law may be made to the City within a period of not less than six weeks after public notice is given;
2. NOTES that the City of Vincent Trading in Public Places Amendment Local Law 2015 will be repealed;
3. GIVES Statewide and local public notice, in accordance with section 3.12 of the *Local Government Act 1995* stating that:
  - 3.1 It is proposed to make the City of Vincent Local Government Property Amendment Local Law 2019 at Attachment 2;
  - 3.2 The purpose of the City of Vincent Local Government Property Amendment Local Law 2019 is to amend the City of Vincent Local Government Property Local Law 2008 to:
    - 3.2.1 remove provisions relating to portable advertising signage on local government property;
    - 3.2.2 to increase the deterrent for causing damage to local government property or using local government property for a commercial activity without a permit;
    - 3.2.3 to increase the efficiency in the management (beautification) of verges;
    - 3.2.4 to deter damage or removal of trees on verges, thoroughfares or local government property;
    - 3.2.5 to prohibit and effectively deter the use of recording devices within change rooms; and
    - 3.2.6 to make administrative modifications so that the local law aligns with the City's current objectives and processes;
  - 3.3 The effect of the City of Vincent Local Government Property Amendment Local Law 2019 is that:
    - 3.3.1 portable advertising signage on local government property will now be governed by the City of Vincent Trading in Public Places Amendment Local Law 2019;
    - 3.3.2 increased penalties will apply for causing damage to local government property or using local government property for a commercial activity without a permit;
    - 3.3.3 the conditions relating to management (beautification) of verges are prescribed in the City's relevant policy;
    - 3.3.4 increased penalties will apply for damage or removal of trees on verges, thoroughfares or local government property;
    - 3.3.5 the use of recording devices within change rooms is prohibited and an appropriate penalty is applicable; and
    - 3.3.6 administrative modifications are made to ensure the local law aligns with the City's current objectives and processes;
  - 3.4 Copies of the proposed local laws are available for inspection at the City's office, Library and Local History Centre and on its website; and
  - 3.5 Submissions on the proposed local laws may be made to the City within a period of not less than six weeks after public notice is given;

4. **NOTES** that in accordance with Section 3.12(3)(b) of the *Local Government Act 1995* a copy of the proposed local laws and public notice will be provided to the Minister for Local Government;
5. **NOTES** that any submissions received as a result of the public notice provided as set out in 1. and 3. above will be presented to Council for consideration;
6. **GIVES** local public notice of draft Policy No 3.10.4 – ‘Street Entertainment’, at Attachment 3, which sets out the guidelines for street entertainment, for a period of not less than 21 days, in accordance with the City’s Policy No. 4.1.1. ‘Policy Manual – Adoption and Review of Policies’; and
7. **NOTES** that any submissions received in relation to 6. above will be presented to Council for consideration.

#### **PURPOSE OF REPORT:**

To consider giving public notice of the City of Vincent Trading in Public Places Amendment Local Law 2019, City of Vincent Local Government Property Amendment Local Law 2019 and Street Entertainers Policy.

#### **BACKGROUND:**

Council, at its meeting of 7 March 2017, resolved (in part) as follows:

*“That Council:*

1. *Pursuant to section 3.16(4) of the Local Government Act 1995, DETERMINES BY ABSOLUTE MAJORITY that it considers that the following local laws should be amended for the reasons set out below and REQUIRES Administration, for each local law, to present a report back to Council by September 2017 to consider making amendments to those local laws, pursuant to section 3.12 of the Local Government Act 1995:*

<i>Local Law</i>	<i>Reason</i>
<i>Trading in Public Places Local Law 2008</i>	<i>To satisfy action 7.2 of the City’s Corporate Business Plan 2016/17 – 2019/20.</i>
<i>Local Government Property Local Law 2008</i>	<i>To address concerns that construction activity on private property is damaging or obstructing access to footpaths, thoroughfares and other public places; and To increase the City’s powers to deal effectively with for-profit groups that use public spaces without agreement.”</i>

Action 7.2 of the City’s Corporate Business Plan 2016/17 – 2019/20 relates to Council’s resolution from its meeting of 5 April 2016 concerning the process for outdoor eating areas and display of goods. Council’s resolution is provided below:-

*“That Council:*

1. *REQUESTS the Chief Executive Officer to prepare an amendment to the City of Vincent’s Trading in Public Places Local Law 2008 for Council’s formal consideration and following public consultation on the 8-yearly review of local laws, in order to give effect to the following changes to the licencing of Outdoor Eating Areas and Display of Goods on Footpaths:*
  - 1.1 *To generally remove the need for the City’s approval of outdoor eating areas and display areas, where those areas comply with existing Local Law and Policy standards and conditions for approval of such areas; and*
  - 1.2 *To specify any circumstances where the City’s approval will still be required;*

2. *NOTES AND ENDORSES Administration's intent to develop an electronic self-assessment and self-certification tool to assist businesses in the City of Vincent to apply for and obtain licences for outdoor eating area and outdoor display areas as an interim measure, pending the formal review and revision of the Trading in Public Places Local Law 2008; and*
3. *LISTS for consideration in the Draft 2016/17 Annual Budget a revision and reduction to the fee charged for outdoor eating areas and outdoor display areas, to reflect the self-assessment and self-certification approach referred to in 2 above."*

The Trading in Public Places Amendment Local Law 2015 was gazetted on 15 January 2015 to introduce provisions relating to Permit Free Entertainer Zones. The Department of Local Government and Communities, now the Department of Local Government, Sport and Cultural Industries (DLGSC) identified procedural inconsistencies following gazettal relating to the period of statewide notice, differences between the advertised and gazetted version of the local law and the incorrect operation date for the Amendment Local Law 2015 being published. This may affect the validity of the local law if it were to be challenged and therefore should be rectified as part of this amendment process.

This report is presented to repeal the City's Trading in Public Places Amendment Local Law 2015 and to amend the City's Trading in Public Places Local Law 2008 and Local Government Property Local Law 2008 in accordance with the process prescribed in section 3.12 of the *Local Government Act 1995*.

#### **DETAILS:**

##### ***Trading In Public Places Local Law***

Council's resolution of 5 April 2016 and item 7.2 of the City's Corporate Business Plan 2016/17 – 2019/20 sought to generally remove the need for the City's approval of outdoor eating areas and goods displays that complied with the requirements of the Trading in Public Places Local Law 2008.

In February 2018, the City launched the electronic self-assessment and self-certification tool for outdoor eating areas, portable advertising sign and goods display permits (online permit process). The online permit process allows business owners to make their application for an outdoor eating area, goods display or portable advertising sign permit online and receive an automatically generated permit, where they meet the requirements.

Having reviewed the Trading in Public Places Local Law 2008 in the context of the success of the online permit process, it is considered that removing the need for approval altogether for outdoor eating areas, goods display and portable advertising signs could unnecessarily increase the City's risk of non-compliance with the Trading in Public Places Local Law 2008, which may affect public safety and amenity. As an alternative, appropriate amendments to the Trading in Public Places Local Law 2008 to complement the online permit process will ensure that the process for obtaining a permit will be simple and efficient for local businesses. This approach is in line with Council's desire to generally remove the need for approval which stemmed from the length of time that it was taking the City to determine applications for permits and the impact that this was having on local businesses.

The proposed amendments to the Trading in Public Places Local Law are as follows:

##### ***Repealing the Trading in Public Places Amendment Local Law 2015:***

The inconsistencies with the processing of the Trading in Public Places Amendment Local Law 2015 identified by DLGSC relate to the following:

- Section 3.12(3) of the *Local Government Act 1995* requires the local government to provide statewide notice of a proposed local law and provide a public notice period of no less than six weeks (42 days). State-wide consultation for the Trading in Public Places Amendment Local Law 2015 commenced on 18 June 2014 and the closing date for submissions was 11 July 2014, a total of 23 days;
- The advertised version of the proposed local law included specific maps listed in clause 2.10 which identified the location of Permit Free Entertainer Zones. The gazetted version of the local law did not include the maps or zones, and clause 2.10 enabled the City to designate any public place as a Permit Free Entertainer Zone; and

- Section 3.12(6) of the *Local Government Act 1995* requires the local government to issue a public notice indicating the date of gazettal and the day the local law comes into effect. The notice published by the City on 10 February 2015 stated that the local law would come into operation on 23 February 2015 when in fact it came into effect on 30 January 2015.

The inconsistencies as outlined above could affect the validity of the local law on the basis that the procedural requirements of the *Local Government Act 1995* were not satisfied. To remedy this situation, it is proposed to repeal the Trading in Public Places Amendment Local Law 2015. This will remove any doubt as to the validity of the local law. The rescission process can be undertaken simultaneously to the amendments currently proposed.

*Aligning the Trading in Public Places Local Law 2008 with the online permit process:*

The implementation of the online permit process, whilst greatly reducing the timeframes associated with the processing of application for permits, does not provide the City the ability to verify the information submitted by the applicant before the permit is issued. This may result in incorrect information being submitted. A number of amendments are proposed to the local law in order to remedy this issue by expanding the circumstances under which the City can cancel or suspend a permit, including:

- If the application is found to be incomplete or incorrect;
- If the application is found to contain incorrect or falsified information;
- If the City considers the activity permitted by the permit poses a public health, safety or amenity issue;
- If valid development approval is not held for the premises which relate to the activity permitted by the permit; and
- Where a permit already exists for the same location.

*Including provisions relating to the display of portable advertising signs (this is currently included within the Local Government Property Local Law 2008), and introducing penalties that relate to this activity:*

The requirements relating to the display of portable advertising signs are currently located in the Local Government Property Local Law 2008. It is proposed to relocate these provisions to the Trading in Public Places Local Law 2008, given that these signs relate to businesses trading in a public place. The provisions related to fixed advertising signage, directional signs and election signs will still be retained in the Local Government Property Local Law 2008.

*Clarifying the requirements that apply to the Permit Free Entertainer Zone:*

The Trading in Public Places Amendment Local Law 2015 includes a number of obligations for both performers inside and outside of the Permit Free Entertainer Zones, as well as referring to a set of 'Risk Management Guidelines and Code of Practice for Street Performers'. This document however was not adopted by Council at the time of gazettal of the Trading in Public Places Amendment Local Law 2015 and as such has not been applied.

It is proposed firstly, to simplify the requirements for Permit Free Entertainer Zones within the Trading in Public Places Local Law 2008, and secondly to adopt a revised set of guidelines for street entertainers in the form of a policy which will be referred to within the local law and provide guidance for all performers within the City of Vincent. The revised Street Entertainment Policy is included as **Attachment 3**.

### ***Local Government Property Local Law***

The proposed amendments to the Local Government Property Local Law 2008 are discussed in turn below.

#### *Portable advertising signs*

Provisions relating to the display of portable advertising signs on local government property and thoroughfares are proposed to be removed from the local law as these requirements will now be incorporated within the Trading in Public Places Local Law 2008, as explained above.

#### *Deterring damage to local government property, including trees*

To address concerns that construction activity on private property is damaging or obstructing access to footpaths, thoroughfares and other public places, a number of penalties are proposed to be increased in order to act as a more realistic deterrent.

It is also proposed to create two separate offences for failing to obtain a permit to carry out works on local government property and for failing to comply with the conditions of that permit. This will enable the City to increase the penalties relating to this activity without increasing the penalties that relate to other activities that require a permit. Similarly, a specific offence will be created for failure to pay a bond or security when required to do so by the City. The proposed prescribed penalties for the above are \$500.

In order to deter damage or removal of trees on local government property or on a thoroughfare, the penalty is proposed to be increased from \$300 to \$500.

These amended / new penalties are detailed below:

<i>Clause</i>	<i>Description</i>	<i>Current Penalty</i>	<i>Proposed Penalty</i>
3.5(2)	Failure to comply with conditions of a permit for works on local government property.	100	500
3.14(2)	Failure to obtain a permit to carry out works on local government property.	-	500
3.14(3)	Failure to obtain a permit to use local government property or a community facility for a for profit purpose	-	500
5.3(m)	Using a mobile phone, camera or other recording device in a change room in a pool premises, library or other community facility	-	500
9.1	Damaging a thoroughfare or anything belonging to or under the care, control or management of the local government that is on a thoroughfare.	200	500
9.2(1)(a)	Failing to take necessary precautions to ensure footpaths, verges or trees are not damaged during works.	200	500
9.2(1)(b)	Failing to ensure footpath remains in a safe and functioning state suitable for use by the public.	200	500
9.2(2)(a)	Failing to take reasonable precautions to prevent damage to footpath, verge or street tree.	200	500
9.4	Failure to install or maintain a verge in accordance with the relevant City policy, as amended from time to time.	100	250
10.1(g)	Damaging or removing a tree, which includes a tree on a verge, thoroughfare or local government property without the approval of the local government.	300	500

#### *Deterring for-profit activities on local government property without a permit*

In relation to increasing the City's powers to deal effectively with for-profit groups that use public spaces without agreement, a new clause is proposed which deals with using local government property or a community facility for a commercial purpose (including group fitness). This offence has prescribed a penalty of \$500, as set out in the above table.

#### *Prohibiting the use of recording devices in change rooms*

As part of the review it was also identified that the local law did not expressly prohibit the use of recording devices within change rooms at pool premises, the library or other community facilities. This was currently managed through the use of signage in change rooms, with enforcement possible for non-compliance with a direction on a sign. Introducing this express provision will streamline the management of this, and enables an increased penalty to be prescribed. The proposed penalty is \$500, as set out in the table above.

Further additional administrative changes have been made to ensure the local law aligns with the City's current practices and strategic objectives. Changes have also been made to reduce the prescriptiveness of the local law. An example of this is the removal of a number of clauses relating to verge treatments. As the requirements for treatments, planting and beautifications of a verge are stipulated in the City's relevant policy, it is appropriate for the local law to refer to verges being treated, planted and beautified in accordance with the City's relevant policy, as amended from time to time. A penalty of \$250 is proposed for non-compliance.

Track change versions of the Trading in Public Places Local Law 2008 and Local Government Property Local Law 2008 including the proposed amendments are provided at **Attachments 4 and 5** respectively.

**CONSULTATION/ADVERTISING:**

Section 3.12 of the *Local Government Act 1995* sets out the consultation requirements for making a local law. This section of the Act is reproduced in the Legal/Policy section of this report.

The City's Community Consultation Policy No. 4.1.5 also requires that notice of the proposed amendment local law is provided on the City's website and to local businesses and community groups.

The proposed amendments to the Trading in Public Places Local Law 2008 were presented to the Council Members at a workshop on 20 November 2018. Both marked up local laws were subsequently circulated to Council Members on 20 February 2019 for review and comment.

**LEGAL/POLICY:**

Section 3.12 of the *Local Government Act 1995* sets out the requirements for making a local law:

*"3.12. Procedure for making local laws*

- (1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2A) Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.*
- (2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) The local government is to —*
  - (a) give Statewide public notice stating that —*
    - (i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and*
    - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
    - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given; and*
  - (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
  - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3A) A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.*

*\* Absolute majority required.*
- (5) After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) After the local law has been published in the Gazette the local government is to give local public notice*

- (a) *stating the title of the local law; and*
  - (b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
  - (c) *advising that copies of the local law may be inspected or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*
- (8) *In this section — making in relation to a local law, includes making a local law to amend the text of, or repeal, a local law."*

In accordance with the City's Policy No. 4.1.5 – Community Consultation, Administration will also write to any impacted business and community groups.

**RISK MANAGEMENT IMPLICATIONS:**

**Low:** There are considered to be minimal risks involved in reviewing the City's local laws and making the proposed amendments.

**STRATEGIC IMPLICATIONS:**

This is in keeping with the City's *Strategic Community Plan 2018 – 2028*:

Innovative and Accountable

*Our community is aware of what we are doing and how we are meeting our goals.*

*We are open and accountable to an engaged community.*

**SUSTAINABILITY IMPLICATIONS:**

Not applicable.

**FINANCIAL/BUDGET IMPLICATIONS:**

There are nominal costs associated with making the local laws, including advertising and Gazettal, which can be expended from the City's operating budget.

**LOCAL GOVERNMENT ACT 1995**  
**TRADING IN PUBLIC PLACES LOCAL LAW 2008**

*City of Vincent*

Trading in Public Places Amendment Local Law 2019

Under the powers conferred by the Trading in Public Places Local Law 2008 and by all other powers enabling it, the Council of the City of Vincent resolved on ..... to make the following local law:

**1. Citation**

This local law may be cited as the *City of Vincent Trading in Public Places Amendment Local Law 2019*.

**2. Commencement**

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

**3. Principle local law**

In this local law, the *City of Vincent Trading in Public Places Local Law 2008* published in the *Government Gazette* on 15 April 2008 and amended as published in the *Government Gazette* on 7 October 2008 and 27 February 2009 is referred to as the principle local law.

**4. Table of Contents**

In the table of contents –

- (1) Delete clauses 1.6, 1.7 and 1.8 and insert –

“1.6 *Definitions*  
1.7 *Interpretation*  
1.8 *Fees and charges*”

- (2) In Division 2

(a) After clause 2.9 insert –

“2.10 *Permit free entertainer zone*”

(b) Rename clauses 2.10, 2.11, 2.12, 2.13 and 2.14 as 2.11, 2.12, 2.13, 2.14 and 2.15 respectively.

(c) In clause 2.15 delete “*permit holder*” and insert “*performers*”.

- (3) Delete Division 3 and 4 and insert –

**“Division 3 – Outdoor Eating Areas**

2.16 *Definitions*  
2.17 *Outdoor eating area permit*  
2.18 *Requirements for an outdoor eating area*  
2.19 *Obligations of permit holder*  
2.20 *Removal of an outdoor eating area unlawfully conducted*  
2.21 *Use of an outdoor eating area by public*  
2.22 *Temporary removal of an outdoor eating area may be requested*

**Division 4 – Display of Goods on a Footpath**

- 2.23 Definitions
- 2.24 Goods permit
- 2.25 Requirements for goods display
- 2.26 Obligations of permit holder
- 2.27 Safety of persons
- 2.28 Removal of goods for works
- 2.29 Removal of goods
- 2.30 Unlawful placement of goods"

- (4) After Division 4 insert –

**"Division 5 – Portable Advertising Signs on Thoroughfares**

- 2.31 Definitions
- 2.32 Portable advertising sign permit
- 2.33 Requirements for portable advertising signs
- 2.34 Dimensions for portable advertising signs
- 2.35 Obligations of permit holder
- 2.36 Safety of persons
- 2.37 Removal of portable advertising sign for works
- 2.38 Removal of portable advertising sign which does not comply
- 2.39 Unlawful placement of portable advertising signs"

- (5) In PART 3

- (a) In clause 3.4 insert "an" after the word "which";
- (b) In clause 3.7 insert "permit" after the word "with";
- (c) In clause 3.14 delete "holder" and replace with "holder's";
- (d) In clause 3.15 delete "Planning approval" and replace with "Other approvals".

- (6) In clause 5.4 delete "and indemnity" and replace with "policy";

- (7) In clause 6.4 delete "thoroughfares" and replace with "thoroughfare";

- (8) Delete clause 7.3 and insert –

"7.3 Infringement notices and infringement withdrawal notices"

- (9) In Schedule 1 insert "prescribed offences".

**5. Clause 1.2 amended**

In clause 1.2(1) delete "items and" and insert "portable advertising signs and the activities of".

**6. Clause 1.4 amended**

After clause 1.4(1)(c) insert –

- "(d) Trading in Public Places Amendment Local Law 2015, published in the Government Gazette on 15 January 2015."

**7. Clause 1.6 amended**

- (1) Insert *“amend” means replace, substitute, in whole or in part, add to or vary, and the doing of any two or more such things simultaneously or by the same written law”*;
- (2) Amend “applicant” definition; insert *“or a body corporate”* after the word “person”, delete *“for a permit under”* and insert *“to the local government to trade in a public place or use local government property in accordance with”*;
- (3) Insert *“body corporate” means a legal entity, such as an association, company, government, government agency, institution, partnership, or a person that is a corporation created by charter, prescription or legislation”*;
- (4) Amend “carriageway” definition; insert *“bitumen or”* after the word “the”, and delete *“or made”*;
- (5) Insert *“development approval” means an approval issues under a local planning scheme”*;
- (6) Amend “kerb” definition; delete *“includes”* and insert *“means”*;
- (7) Amend “local government property” definition:
  - (a) Delete *“belongs to”* and insert *“is owned or leased by”*;
  - (c) Delete *“under”* and insert *“within the district as defined in”*;
- (8) Insert *“local planning scheme” shall have the same meaning given to it under Part 1 of the Planning and Development Act 2005”*;
- (9) Amend “nuisance” definition:
  - (a) Delete *“any thing”* and replace with *“anything”*;
  - (b) Delete *“any thing”* and replace with *“anything”*;
- (10) Amend “permit” definition; delete *“means a permit issued under this local law”* and replace with *“means written confirmation from the local government of an applicant’s right to trade on or use local government property in accordance with this local law, and can include electronic confirmation, and may include a booking/reference number”*;
- (11) Amend “person” definition; insert *“means a natural person and”*
- (12) Delete definition of “planning approval”
- (13) Delete definition of “Town planning scheme”
- (14) Insert *“thoroughfare” is defined in section 1.4 of the Act, and means a road or thoroughfare and includes structures or other things relating to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end”*;
- (15) Amend “verge” definition; delete *“land”* and replace with *“private property”* and insert *“but does not include any footpath or kerb”* after the word “thoroughfare”.

#### **8. New clause 1.7 inserted**

After clause 1.6 insert –

##### **“1.7 Interpretation**

*In this local law unless the context required otherwise, a reference to local property includes a reference to any part of that local government property."*

**9. Clause 1.7 amended**

- (1) Rename clause 1.7 as 1.8;
- (2) Insert *"and will be specified in the City's Schedule of Fees and Charges, as amended from time to time"* after the word "Act".

**10. Clause 2.3 amended**

- (1) After clause 2.3(1) insert –  
*"(2) A trader's permit is not required for activities subject to another permit issued under this local law, including a goods permit under Division 4 of Part 2 and a portable advertising sign permit issued under Division 5 of Part 2;"*
- (2) Rename clause 2.3(2) as 2.3(3);
- (3) Rename clause 2.3(3) as 2.3(4).

**11. Clause 2.9 amended**

Insert the following definitions:

- (1) *"permit free entertainer zone" means an allocated area where an entertainer can perform without the need for a permit; and*
- (2) *"pitch location" means a prescribed location within the permit free entertainer zones where a performer or performance group may perform.*

**12. New clause 2.10 inserted**

After Clause 2.9 insert –

**"2.10 Permit free entertainer zone**

- (1) *A permit to perform is not required within the permit free entertainer zone;*
- (2) *Permit free entertainer zones are determined by the local government;*
- (3) *Performers or performance groups may only perform at prescribed pitch locations in the permit free entertainer zones as delineated by the local government by a marker on the ground; and*
- (4) *The local government can designate any public place as a pitch location within the permit free entertainer zones."*

**13. Division 2 renumbered**

Rename clauses 2.10, 2.11, 2.12, 2.13 and 2.14 as 2.11, 2.12, 2.13, 2.14 and 2.15 respectively.

**14. Clause 2.10 amended**

- (1) In clause 2.10(1) insert *"outside of the permit free entertainer zone"* after the word "place";
- (2) Delete clause 2.10(3)(a) and (b).

**15. Clause 2.12 amended**

Delete clause 2.12 and insert –

**“2.13 Duration of permit**

*An entertainer’s permit is valid for the period of 3 specified in the permit unless cancelled in accordance with clause 2.14.”*

**16. Clause 2.14 amended**

Delete clause 2.14 and insert –

**“2.15 Obligations of permit holder**

- (1) *Performers or performance groups in the permit free entertainer zones shall not perform in a public place otherwise than in accordance with the terms and conditions of the associated Policy, as amended from time to time.*
- (2) *A permit holder shall not perform in a public place otherwise than in accordance with the terms and conditions of his or her entertainers permit and the associated Policy, as amended from time to time.”*

**17. Division 3 renumbered**

Rename clauses 2.15, 2.16, 2.18, 2.19, 2.20, 2.21 as 2.16, 2.17, 2.19, 2.20, 2.21 and 2.22 respectively.

**18. Clause 2.15 amended**

Amend “food business” definition; delete “section” and replace with “Section”.

**19. Clause 2.16 amended**

Delete clause 2.16 and insert –

**“2.17 Outdoor eating area permit**

- (1) *A person shall not establish or conduct an outdoor eating area without a valid permit;*
- (2) *The rights of a permit holder under an outdoor eating area permit are subject to this local law.”*

**20. Clause 2.17 deleted****21. New clause 2.18 inserted****“2.18 Requirements for an outdoor eating area**

*An outdoor eating area must –*

- (a) *be conducted in conjunction with and as an extension of food premises or licensed premises abutting the outdoor eating area which are registered as a food business under the Food Act, and the applicant must be the person conducting such food premises or licensed premises;*
- (b) *effect and maintain all necessary approvals governing the operation of the outdoor eating area;*
- (c) *comply with any local law made under section 172 of the Health Act or any other relevant local law of the local government;*
- (d) *have access to proper and sufficient sanitary and ablutionary conveniences for users of the outdoor eating area;*

(e) not –

- (i) obstruct the visibility or clear sight lines of any person at an intersection of thoroughfares;
- (ii) impede pedestrian access; or
- (iii) contain furniture which obstructs or impedes the use of the public place for the purpose for which it was designed.”

**22. Clause 2.18 amended**

- (1) In clause 2.18(1)(b) insert “or other Act relevant to the outdoor eating area” after the word “Act”;
- (2) In clause 2.18(1)(e) insert “relating to the” after the word “costs”;
- (3) In clause 2.18(1)(f) insert “immediately”;
- (4) Insert clause 2.18(1)(h) “produce evidence of the outdoor eating area permit whenever requested by an authorised person to do so. Evidence could include the written confirmation (electronic version acceptable) provided by the City of the permit number (if applicable).”

**23. Clause 2.19 amended**

Delete clause 2.19 and insert –

**“2.20 Removal of an outdoor eating area unlawfully conducted**

*Where an outdoor eating area is established or conducted without a permit, or in contravention of a condition of a permit or this local law, any furniture may be removed by an authorised person and impounded in accordance with the Act.”*

**24. Clause 2.20 amended**

In clause 2.20(1) delete “them” and insert “the chair or furniture”.

**25. Clause 2.21 amended**

In clause 2.21(1) delete “service” and replace with “Service”.

**26. Clause 2.22 amended**

- (1) Rename clause 2.22 to 2.23;
- (2) Amend “goods” definition; delete “has the meaning given to it under the Act” and replace with “for the purposes of display of goods under this local law means goods for sale and/or hire as part of the permit holder’s business.”

**27. Clause 2.23 deleted**

**28. Clause 2.24 amended**

Delete clause 2.24(2) and insert –

- “(2) The rights of a permit holder under a goods display permit are subject to this local law.”

**29. Clause 2.25 amended**

Delete clause 2.25 and insert –

**“2.25 Requirements for goods display**

A goods display must not –

- (a) obstruct the visibility of clear sightlines of any person at an intersection of thoroughfares;
- (b) impede pedestrian access; or
- (c) obstruct or impede the use of the footpath for the purpose for which it was designed.”

**30. Clause 2.26 amended**

Delete clause 2.26 and insert –

**“2.26 Obligations of permit holder**

The permit holder shall –

- (a) Comply with the terms and conditions of the permit to establish and conduct the goods display;
- (b) Maintain the goods and the goods display in a safe condition at all times;
- (c) Produce evidence of the goods permit whenever requested by an authorised person to do so. Evidence could include the written confirmation (electronic version acceptable) provided by the City or the permit number (if applicable);
- (d) Ensure that the goods display is of a stable design and is not readily moved by the wind, and does not cause any hazard or danger to any person using the thoroughfare;
- (e) Only display goods on a footpath which immediately abuts the building occupied by the owner of the goods, and not more than 1 metre from that building in a location approved by the local government and specified in the permit; and
- (f) Ensure the free passage of persons using the footpath on which the goods display is positioned.”

**31. Clause 2.30 amended**

- (1) In clause 2.30(1) insert “display” after the word “goods”;
- (2) In clause 2.30(2) insert “display” after the word “goods”.

**32. Division 5 inserted**

Insert –

**“Division 5 – Portable Advertising Signs on Thoroughfares**

**2.31 Definitions**

In this Division unless the context otherwise requires –

“**A” frame sign**” means a folding sign which is hinged at the top to provide a stable structure when open;

“**permit holder**” means the person to whom a portable advertising sign permit is issued;

“**portable advertising sign**” means a free standing sign and includes a ground based sign, a sandwich board and an “A” frame sign that is used or intended to be used for the purpose of advertising any premises, services, business, function, event, product or thing;

“**portable advertising sign permit**” means a permit to display a portable advertising sign;

*“sign” means a notice, poster, flag, mark, word, letter, model, placard, board, structure, device or representation.*

### **2.32 Portable advertising sign permit**

- (1) *A person shall not erect or place a portable advertising sign on a thoroughfare unless that person is the holder of a valid portable advertising sign permit.*
- (2) *The rights of a permit holder under a portable advertising sign permit are subject to this local law.*

### **2.33 Requirements for portable advertising signs**

*A portable advertising sign must –*

- (a) *be consistent with, and be erected or placed in accordance with any other written law regulating the erection or placement of portable advertising signs within the district;*
- (b) *be consistent with the dimensions in clause 2.34 of this local law;*
- (c) *relate to the business described on the portable advertising sign permit;*
- (d) *not be erected or placed on a footpath in front of a building if there is another portable advertising sign already erected or placed in front of that building relating to that business;*
- (e) *only be displayed on a footpath which directly abuts a building occupied by the permit holder, and not more than 1 metre from the building, or in another location approved by the local government and specified in the permit;*
- (f) *not create a hazard to persons using a thoroughfare;*
- (g) *be secure and of stable design and not readily moved by the wind;*
- (h) *be maintained in a good, safe and serviceable condition;*
- (i) *not obstruct the visibility or clear sightlines of:*
  - (i) *any person at an intersection of thoroughfares; or*
  - (ii) *any vehicle;*
- (j) *not impede pedestrian access on the thoroughfare; and*
- (k) *not obstruct or impede the use of the footpath for the purpose of which it is used.*

### **2.34 Dimensions for portable advertising signs**

*The permit holder shall ensure that the portable advertising sign:*

- (a) *does not exceed 1,000 millimetres in height; and*
- (b) *does not exceed an area of 0.8 square metres on any side.*

### **2.35 Obligations of a permit holder**

*The permit holder shall –*

- (a) *ensure that the portable advertising sign complies with the requirements in clauses 2.33 and 2.34 of this local law*
- (b) *ensure that the portable advertising sign is removed each day at the close of the business to which it relates and is not erected again until the business next opens for trading;*

- (c) *only display the portable advertising sign on a footpath in the location approved by the local government and specified in the permit;*
- (d) *comply with any conditions imposed on the portable advertising sign permit; and*
- (e) *produce evidence of the portable advertising sign permit whenever requested by an authorised person to do so. Evidence could include the written confirmation (electronic version acceptable) provided by the City or the permit number (if applicable).*

### **2.36 Safety of persons**

*A person shall not cause or permit a portable advertising sign to be erected or displayed in such a condition, where, in the opinion of an authorised person, causes or is likely to cause injury or danger to any person or damage to the clothing or possessions of any person.*

### **2.37 Removal of portable advertising sign for works**

*A permit holder shall ensure that a portable advertising sign is removed from any footpath to permit the footpath to be swept or to permit any other authorised work to be carried out when directed to do so by an authorised person.*

### **2.38 Removal of portable advertising sign which does not comply**

*A person shall remove any portable advertising sign which does not comply with the requirements of this local law from any footpath when directed to do so by an authorised person.*

### **2.39 Unlawful placement of portable advertising signs**

*A person who places, causes, or permits to be placed on any thoroughfare any portable advertising sign except in accordance with this local law commits an offence."*

## **33. Clause 3.2 amended**

- (1) Delete clause 3.2(2)(b);
- (2) Rename clause 3.2(2)(c) and 3.2(2)(d) as 3.2(2)(b) and 3.2(2)(c) respectively;
- (3) In clause 3.2(2)(c) insert "*which may include a plan, specifications or photographs*" after the word "form";
- (4) Delete clause 3.2(2)(d) and insert –  

*"(c) be forwarded to the local government or the specified person at the local government together with any fee specified in the City's Schedule of Fees and Charges, as amended from time to time."*
- (5) Delete clause 3.2(5)(a) and insert –  

*"(a) which does not comply with the requirements in subclause (2)"*
- (6) In clause 3.2(5)(b)(i) insert "*or*";
- (7) In clause 3.2(5)(b)(ii) delete "*(2)*" and replace with "*(3)*";
- (8) In clause 3.2(5)(b)(iii) delete "*2.10*" and replace with "*2.11*";
- (9) Delete clause 3.2(5)(b)(iv);
- (10) Delete clause 3.2(5)(c) and (d) and insert –

*"(c) Which is not properly completed";*

- (11) Rename Clause 3.2(5)(e) to 3.2(5)(d).

**34. Clause 3.3 amended**

- (1) Delete clause 3.3(c);  
(2) Rename clause 3.3(d) to 3.3(c).

**35. Clause 3.4 amended**

- (1) In clause 3.4 delete *"division"* and replace with *"local law"*;  
(2) In clause 3.4(a) insert *"or condition of lease or license"* after the word *"law"*;  
(3) In clause 3.4(b) insert *"in the opinion of the local government"* after the word *"applicant"*;  
(4) After clause 3.4(c) insert –  
*"(d) the local government deems the permit application to be for an activity which is not appropriate for the local government property or thoroughfare which the permit is sought in respect to";*  
(5) Rename clause 3.4(d) to 3.4(e).

**36. Clause 3.5 amended**

- (1) In clause 3.5(1)(a) insert *"including but not limited to those conditions in clause 3.6"*;  
(2) In clause 3.5(1)(b) insert *"including but not limited to those grounds specified in clause 3.4"*;  
(3) Delete clause 3.5(2) and insert –  
*"(2) If the local government approved an application for a permit, it will provide the applicant with written confirmation in the form determined by the local government, which could be electronic.*  
(4) In clause 3.5(3) insert *"(which includes electronic)"* after the word *"notice"*, and *"it is not necessary for the local government to provide reason for the refusal"* after the word *"applicant"*;  
(5) Delete clauses 3.5(4) and (5).

**37. Clause 3.6 amended**

- (1) In clause 3.6 insert *"without limiting the generality of clause 3.5(1)(a), the"*;  
(2) In clause 3.6(1)(a) delete *"a fee"* and insert *"fees, charges and bonds, as specified in the City's Schedule of Fees and Charges, as amended from time to time or as otherwise determined by the local government, at the local government's sole discretion"*;  
(3) In clause 3.6(1)(h) insert *"as set out in clause 5.4"* after the word *"government"*;  
(4) Delete clause 3.6(1)(i) and insert –  
*"(i) compliance with a standard or a policy of the local government adopted by the local government"*

**38. Clause 3.7 amended**

- (1) In clause 3.7 insert *"permit"* in the heading after the word *"with"*;
- (2) Delete clause 3.7(2).

**39. Clause 3.8 amended**

- (1) In clause 3.8(3) insert *"subject to providing the permit holder with written notice of the reasons for the amendment"* after the word *"permit"*;
- (2) In clause 3.8(4) delete *"after the amendment is made, and unless otherwise specified in the amendment, the amended term of condition, or both, of the permit apply from the date of notification"* and insert *"and the amended condition(s) shall apply from the date of notification, unless otherwise specified in the amendment."*
- (3) Delete clause 3.8(5) and (6).

**40. Clause 3.9 amended**

Delete clause 3.9 and insert –

***"3.9 Duration of permit"***

*A permit is valid for the period specified in the permit unless cancelled in accordance with clause 3.13."*

**41. Clause 3.10 amended**

Delete clause 3.10(2) and insert –

- "(2) The provisions of this Part and 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, to the extent that it is applicable for a permit renewal."*

**42. Clause 3.11 amended**

- (1) In clause 3.11(1)(d) delete *"CEO"* and replace with *"local government"*;
- (2) In clause 3.11(3) delete *"the transfer may be effected by"* and insert *"it will provide written confirmation to the former permit holder and the transferee"*;
- (3) Delete clause 3.11(a) and (b).

**43. Clause 3.12 amended**

- (1) Delete *"is to"* and *"their permit"*;
- (2) Insert *"must"* after the word *"holder"*, and insert *"evidence of a permit"* after the word *"produce"*, and insert *"evidence could include the written confirmation (electronic version acceptable) provided by the City or the permit number (if applicable)"*.

**44. Clause 3.13 amended**

Delete clause 3.13 and insert –

***"3.13 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 this local or any other written law relating to the activity regulated by the permit;
  - (b) the permit holder is convicted of an offence against this local law;
  - (c) the permit holder fails to maintain any required public liability insurance or ceases to indemnify the local government against damages in connection with loss or damage in connection with an activity conducted by the permit holder under the permit;
  - (d) the permit holder has become bankrupt, or gone into liquidation;
  - (e) the permit holder has entered into any composition or arrangement with creditors;
  - (f) 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;
  - (g) if the permit holder's application is subsequently found to be incomplete, insufficient or not containing a required document;
  - (h) if the permit holder's application is subsequently found to contain incorrect or falsified information and/or documents;
  - (i) if the City reasonably considers that the activity permitted by the permit may create a public health, safety or amenity issue;
  - (j) if valid development approval is required and not held for the abutting premises at which the business relating to the activity authorised by the permit is conducted or for the outdoor eating area; and
  - (k) another permit for an outdoor eating area, goods display or portable advertising sign has been granted, and remains in effect, in relation to the building or business premises related to the permit.
- (2) On the cancellation of a permit the local government will provide the permit holder with written notice that the permit has been cancelled –
- (3) On receiving notice that the permit has been cancelled in accordance with sub clause (2):
- (a) the permit holder must immediately cease using the local government property or thoroughfare unless the notice from the local government provides otherwise; and
  - (b) any fees paid by the permit holder in respect of the permit are forfeited and will not be refunded by the local government."

**45. Clause 3.14 amended**

- (1) In the heading of clause 3.14 delete "holder" and replace with "holder's";
- (2) In clause 3.14(2) insert "by notice in writing to the permit holder" after the word "government";
- (3) Insert clause 3.14(3) –
  - "(3) The rights and privileges granted to a permit holder on the issue of a permit may be suspended by the local government where –

- (a) *the permit holder's application is subsequently found to be incomplete, insufficient or not containing a required document;*
- (b) *the permit holder's application is subsequently found to contain incorrect or falsified information and/or documents; or*
- (c) *the City considers the activity permitted by the permit may create a public health, safety or amenity issue.*

*until the defect in the permit holder's application is rectified to the satisfaction of the local government and/or the local government considers that the activity may be conducted in a manner which does not create a public health, safety or amenity issue."*

**46. Clause 3.15 amended**

- (1) Delete the heading "*Planning approval*" and replace with "*Other approvals*";
- (2) Delete "*a planning*" and insert "*any other approvals, including but not limited to development*".

**47. Clause 4.1 amended**

In clause 4.1(1) delete "2.18" and insert "2.19".

**48. Clause 4.2 amended**

- (1) In clause 4.2(1) delete "2.18" and insert "2.19";
- (2) In clause 4.1(1)(a) insert "*that clause*" after the word "specified" and insert "*or the notice (as the case may be); or*" after the word "conditions";
- (3) In clause 4.1(1)(b) delete "*establish or conduct the outdoor eating area*" and insert "*complete restoration or reinstatement works*";
- (4) Delete clause 4.2(1)(c);
- (5) In clause 4.2(3) insert "*the*" after the word "meet" and "*incurred by it*" after the word "costs".

**49. Clause 5.2 amended**

In clause 5.2(2) insert "*portable*" after the word "area".

**50. Clause 5.4 amended**

Delete clause 5.4 and insert –

**"5.4 Public liability insurance policy**

- (1) *Where, as a condition of a permit, the permit holder is required to obtain and maintain a public liability insurance policy, the permit holder shall –*
  - (a) *effect and maintain a policy of insurance in the name of the permit holder and the local government (if required by the local government) in respect to any injury to any person or any damage to any property which may occur in connection with the use of the local government property by the permit holder;*
  - (b) *ensure that any policy of insurance referred to in (a) indemnifies 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 local government property by the permit holder;*

- (c) *effect and maintain the policy of insurance referred to in (a) for the duration of the permit,*
  - (d) *immediately notify the local government if the policy of insurance cover lapses, in which case the permit may be cancelled by the local government in accordance with clause 3.11;*
  - (e) *provide the local government with a certificate of currency confirming that public liability insurance cover is in place at any time requested by the local government*
  - (f) *ensure that, as a minimum, the permit holder's public liability insurance policy provides coverage of \$10 million (ten million dollars), or such other amount as the local government considers appropriate to the risk and liability involved in the activity authorised by the permit. At the discretion of the local government, minimum value of coverage required may be increased at the policy renewal date;*
  - (g) *ensure that the public liability insurer of the permit holder is a reputable insurer licensed to conduct insurance business in Australia in accordance with the guidelines issued by the Australian Prudential Regulatory Authority (APRA).*
- (2) *A permit holder who refuses to or cannot provide a current certificate of insurance at least 14 days prior to the commencement of any activity, action or thing performed or erected in accordance with the permit, as required in accordance with subclause (1) commits an offence.*
- (3) *A permit holder must provide the local government with a copy of their certificate of insurance currency at any time requested by the local government, including at the permit application stage."*

#### **51. Clause 6.1 amended**

Delete "WA" and "Service" and replace with "Western Australia" and "Force" respectively.

#### **52. Clause 7.1 amended**

In clause 7.1(3) delete "shall be liable" and "250" and replace with "is liable" and "300" respectively.

#### **53. Clause 7.3 amended**

In the heading of clause 7.3 delete "Forms of" and insert "notices" and "infringement".

#### **54. Prescribed Offences amended**

Schedule 1 be deleted and substituted with the following:

#### **SCHEDULE 1 PRESCRIBED OFFENCES**

<b>CLAUSE</b>	<b>DESCRIPTION</b>	<b>MODIFIED PENALTY \$</b>
2.2 (1)	Conducting a stall in a public place without a permit	250
2.3 (1)	Trading without a permit	250
2.8 (1)(b)	Failure of stallholder or trader to display or carry permit	100
2.8 (1)(c)	Stallholder or trader not displaying valid permit	100
2.8 (1)(d)	Stallholder or trader not carrying certified scales when selling goods by weight	100
2.8 (3)	Stallholder or trader engaged in prohibited conduct	250
2.11 (1)	Performing in a public place outside of the permit free entertainer zone without a permit	250
2.12 (2)	Failure of performer to move onto another area when directed	100

2.15	<i>Failure of performer to comply with obligations</i>	100
2.17	<i>Establishment or conduct of outdoor eating area without a permit</i>	250
2.19	<i>Failure of permit holder of outdoor eating area to comply with obligations</i>	250
2.21 (1)	<i>Use of furniture of outdoor eating area without purchase of food or drink from permit holder</i>	100
2.21 (2)	<i>Failure to leave outdoor eating area when requested to do so by permit holder</i>	100
2.24 (1)	<i>Displaying goods on a footpath without a permit</i>	250
2.26	<i>Failure of permit holder of goods display to comply with obligations</i>	250
2.27	<i>Permitting goods to be displayed in an unsafe or dangerous manner</i>	250
2.28	<i>Refusing or failing to remove goods to allow for sweeping, cleaning or any other authorised work</i>	100
2.29	<i>Refusing or failure to remove goods when requested to do so</i>	250
2.30 (1)	<i>Placing or permitting goods contrary to the requirements of the local law</i>	250
2.30 (2)	<i>Placing or permitting an item so as to obstruct a footpath without lawful authority</i>	250
2.32 (1)	<i>Erecting or placing a portable sign on a thoroughfare without a permit</i>	250
2.35	<i>Failure of a permit holder to comply with obligations</i>	250
2.36	<i>Permitting a portable advertising sign to be displayed in an unsafe or dangerous manner</i>	250
2.37	<i>Refusing or failing to move a portable advertising sign to allow for sweeping, cleaning or other authorised works</i>	100
2.38	<i>Refusing or failing to remove a portable advertising sign which does not comply when requested to do so</i>	250
2.39	<i>Placing or permitting a portable advertising sign contrary to the requirements of the local law</i>	250
3.7	<i>Failure to comply with a condition of a permit</i>	250
3.12	<i>Failure to produce a permit when requested to do so by an authorised person</i>	100
5.3	<i>Carrying out works in thoroughfare without permission</i>	250
5.4 (2)	<i>Failure to hold or provide a current certificate of currency to an authorised person when requested</i>	250
6.1	<i>Failure to obey a lawful direction of an authorised person</i>	250
6.2	<i>Failing to leave local government property when directed to do so</i>	250
7.1 (2)	<i>Failure to comply with notice</i>	250
7.1	<i>All other offences not described above</i>	100

**LOCAL GOVERNMENT ACT 1995****LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008***City of Vincent*

## Local Government Property Amendment Local Law 2019

Under the powers conferred by the *Local Government Property Local Law 2008* and by all other powers enabling it, the Council of the City of Vincent resolved on ..... to make the following local law:

**1. Citation**

This local law may be cited as the *City of Vincent Local Government Property Local Law 2008*

**2. Commencement**

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

**3. Principal local law**

In this local law the *City of Vincent Local Government Property Local Law* published in the *Government Gazette* on ..... is referred to as the principal local law. The principal local law is amended.

**4. Table of Contents**

The table of contents is deleted and replaced with:

**“PART 1 – PRELIMINARY**

- 1.1 *Citation*
- 1.2 *Objective*
- 1.3 *Commencement*
- 1.4 *Repeal*
- 1.5 *Application*
- 1.6 *Definitions*
- 1.7 *Interpretation*
- 1.8 *Fees and charges*

**PART 2 – DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY****Division 1 – Determinations**

- 2.1 *Determinations as to use of local government property*
- 2.2 *Procedure for making a determination*
- 2.3 *Discretion to erect sign*
- 2.4 *Determination to be complied with*
- 2.5 *Register of determinations*
- 2.6 *Amendment or revocation of a determination*

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

*Local Government Property Amendment Local Law 2019*

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- 2.7 *Activities which may be pursued on specified local government property*
- 2.8 *Activities which may be prohibited on specified local government property*

**Division 3 – Transitional**

- 2.9 *Signs taken to be determinations*

**PART 3 – PERMITS**

**Division 1 – Preliminary**

- 3.1 *Application of Part*

**Division 2 – Applying for a permit**

- 3.2 *Application for permit*
- 3.2A *Relevant considerations in determining application for permit*
- 3.3 *Decision on application for permit*
- 3.3A *Grounds on which an application may be refused*

**Division 3 – Conditions**

- 3.4 *Conditions which may be imposed on a permit*
- 3.5 *Compliance with permit conditions*
- 3.5A *Amendment of permit conditions*

**Division 4 – General**

- 3.6 *Erection of a building*
- 3.7 *Duration of permit*
- 3.8 *Renewal of permit*
- 3.9 *Transfer of permit*
- 3.10 *Production of permit*
- 3.11 *Cancellation of permit*
- 3.12 *Suspension of permit holder's rights and privileges*
- 3.13 *Other approvals*

**Division 5 – When a permit is required**

- 3.14 *Activities on local government property and thoroughfares needing a permit*
- 3.15 *Permit required to camp outside a facility*
- 3.16 *Permit required for possession and consumption of liquor*

**Division 6 – Responsibilities of permit holder**

- 3.17 *Responsibilities of permit holder*

**PART 4 – BEHAVIOUR ON LOCAL GOVERNMENT PROPERTY**

**Division 1 – Behaviour on and interference with local government property**

- 4.1 *Personal behaviour*

- 4.2 *Only specified gender to use entry of toilet block or change room*
- 4.3 *Property and adequate clothing*
- 4.4 *Behaviour detrimental to property*
- 4.5 *Taking or injuring any fauna*
- 4.6 *Intoxicated persons not to enter local government property, community facility*
- 4.7 *No prohibited drugs or substances*

**Division 2 – Signs**

- 4.8 *Signs*

**PART 5 – MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY**

**Division 1 – Community Facilities**

- 5.1 *Definitions*
- 5.2 *Direction of manager or authorised person to be observed*
- 5.3 *Responsibilities of users of a community facility*

**Division 2 – Fishing and boat launching**

- 5.4 *Definition*
- 5.5 *Boat launching*
- 5.6 *Fishing*

**Division 3 – Fenced or closed property**

- 5.7 *No entry to fenced or closed local government property*

**Division 4 – Air conditioning units over thoroughfares**

- 5.8 *Definition*
- 5.9 *Siting and design of air conditioning units*

**Division 5 – Awnings, balconies and verandahs over thoroughfares**

- 5.10 *Definitions*
- 5.11 *Approval to erect or maintain an awning, balcony or verandah*
- 5.12 *Dimensions of awnings, balconies and verandahs*
- 5.13 *Design of awnings, balconies and verandahs*
- 5.14 *Maintenance and public safety*
- 5.15 *Permanent structures within a thoroughfare or road reserve*

**PART 6 – ADVERTISING SIGNS ON THOROUGHFARES**

**Division 1 – Preliminary**

- 6.1 *Definitions*
- 6.1A *Permit period for advertising sign*
- 6.1B *Advertising sign permit*

**Division 2 – Permit**

- 6.2 *Portable direction sign permit*
- 6.3 *Nature and position of an advertising sign or portable direction sign*
- 6.4 *Matters to be considered in determining application for a permit*

**Division 3 – Conditions on permit**

- 6.5 *Conditions on portable direction sign permit*
- 6.6 *Conditions on election sign permit*
- 6.7 *Obligations of permit holder*
- 6.8 *Safety of persons*
- 6.9 *Removal sign for works*
- 6.10 *Revoal of sign which does not comply*
- 6.11 *Unlawful placement of signs*

**PART 7 – OBSTRUCTING ANIMALS OR SHOPPING TROLLEYS****Division 1 – Animals**

- 7.1 *Leaving animal in a public place*
- 7.2 *Prohibitions relating to animals*

**Division 2 – Shopping trolleys**

- 7.3 *Definitions*
- 7.4 *Name of owner of shopping trolley*
- 7.5 *Shopping trolleys in public places*

**PART 8 – BOND OR SECURITY**

- 8.1 *Security for restoration and reinstatement*
- 8.2 *Use by local government of bond or security*

**PART 9 – WORKS ON OR AFFECTING A THOROUGHFARE****Division 1 – Works affecting a thoroughfare**

- 9.1 *No damage to thoroughfare*
- 9.2 *Footpath, verge and street tree protection*
- 9.3 *Liability for damage to thoroughfares*

**Division 2 – Verge treatments**

- 9.4 *Verge treatment*
- 9.5 *Enforcement*

**Division 3 – Public works**

- 9.6 *Public works on verges*
- 9.7 *Contribution towards construction of standard vehicle crossing*

9.8 Temporary vehicle crossings

9.9 Removal of redundant vehicle crossings

**PART 10 – ACTIVITIES ON THOROUGHFARES AND LOCAL GOVERNMENT PROPERTY**

10.1 General prohibitions

10.2 Activities allowed with a permit

**PART 11 – NOTICES OF BREACH**

11.1 Offence to fail to comply with notice

11.2 Local government may undertake requirements of notice

11.3 Notice to remove, redirect or repair sprinkler

11.4 Hazardous plants

11.5 Notice to repair damage to thoroughfare

11.6 Notice to remove thing unlawfully placed on thoroughfare

**PART 12 – OBJECTIONS AND REVIEW**

12.1 Application of Division 1, Part 9 of the Act

**PART 13 – MISCELLANEOUS**

13.1 Authorised person to be obeyed

13.2 Persons may be refused admission or directed to leave local government property or a community facility

13.3 Liability for damage to local government property

13.4 Public liability insurance policy

13.5 Payment of applicable fees

13.6 No unauthorised entry to function

**PART 14 – OFFENCES**

**Division 1 – Offences and penalties**

14.1 Offences and general penalties

14.2 Prescribed offences

14.3 Infringement notices and infringement withdrawal notices

**Division 2 – Evidence in legal proceedings**

14.4 Evidence of a determination

**SCHEDULE 1 – PRESCRIBED OFFENCES**

**SCHEDULE 2 – DETERMINATIONS”**

**5. Clause 1.5 amended**

In clause 1.5(2) —

Delete “Notwithstanding anything to the contrary” and insert “Unless otherwise provided for”

**6. Clause 1.6 Definitions Amended**

- (1) Insert “*Amend*” means replace, substitute, in whole or part, add to or vary, and the doing of any two or more of such things simultaneously or by the same written law”;
- (2) Amend “Applicant” definition; insert “or a body corporate” after the word person. Delete after the word applies “for a permit under clause 3.2” and insert “to the local government to use local government property, in accordance with this local law”;
- (3) Insert “*body corporate*” means a legal entity, such as an association, company, government, government agency, institution, partnership, or a person that is a corporation created by charter, prescription or legislation;”
- (4) Amend “carriageway” definition; delete “or made” after the word paved and insert “bitumen or”;
- (5) Amend “community facility” definition; delete “infant welfare centre” after word centre, and replace with “child health clinic”;
- (6) Insert “*face of kerb*” means the side of the kerb adjacent to the carriageway”;
- (7) Amend “firework” definition; delete “catherine” and insert “Catherine”;
- (8) Amend “function” definition, part (c), delete “organisation” and replace with “organised”
- (9) Amend “kerb” definition; delete “includes” and insert “means”;
- (10) Insert “*landscaping feature*” means any garden bed, rock, pathway, seating, decoration and lighting or similar feature, installed with a verge”;
- (11) Amend “lawn” definition; insert “such as a tree” after the word local government;
- (12) Amend “local government property” definition:
  - (a) Delete “belongs to” and replace with “is owned or leased by”;
  - (c) Delete “under” and replace with “within the district as defined in”;
- (13) Amend “permit” definition. Delete “means a permit issued under this local law” and insert “means written confirmation from the local government of an applicant’s right to use local government property in accordance with this local law, and can include electronic confirmation, and may include a booking/reference number”;
- (14) Amend “person” definition. Insert “means a natural person and”
- (15) Amend “sign” definition. Delete “approved by the local government”;
- (16) Amend “thoroughfare” definition. Delete “has the meaning given it” and insert “is defined” followed by the following after the word Act “and means a road or thoroughfare and includes structures or other things relating to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end”;
- (17) Amend “verge” definition. Delete “land” and replace with “private property” and insert after the word footpath “or kerb”;

**7. Clause 1.8 amended**

- (1) Insert “and will be specified in the City’s Schedule of Fees & Charges, as amended from time to time”;

**8. Clause 2.8 amended**

- (1) In clause 2.8(1)(a) delete “on premises”;
- (2) In clause 2.8(1)(c) delete “on the property”;

**9. Clause 3.1 amended**

- (1) In clause 3.1(1) insert "*which includes but is not limited to a lease, license or shared use agreement*" after the word government;
- (2) In clause 3.1(2) delete "*and any permit required under this*" and replace with "*to use*".
- (3) In clause 3.1(2) delete "*law*" and replace with "*government property or a thoroughfare*";

**10. Clause 3.2 amended**

- (1) Delete clause 3.2(2) (b)
- (2) Renumber clause 3.2(2)(c) and 3.2(2)(d) as 3.2(2)(b) and 3.2(2)(c) respectively;
- (3) In clause 3.2(2)(b) insert "*which may include a plan, specifications or photographs*";
- (4) In clause 3.2(2)(c) delete "*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*" and insert "*local government or the specified person at the local government together with any fee specified in the form or as specified in the City's schedule of Fees and Charges*";
- (5) In clause 3.2(5) (a) delete "*is not in accordance with*" and insert "*does not comply with the requirements in*";
- (6) In clause 3.2(5)(b) delete "*in the case of an application for a sign permit, is not in accordance with clause 3.2(2)*" and insert "*is not properly completed; or*";
- (7) Delete clause 3.2(5)(c)
- (8) Delete clause 3.2(5)(d)
- (8) Renumber clause 3.2(5)(e) as 3.2(5)(c)

**11. Clause 3.2A amended**

- (1) In clause 3.2A (1) (b) insert "and";
- (2) Delete clause 3.2A (1)(c)
- (3) Rename clause 3.2A(1)(d) as 3.2A(1)(c)

**12. Clause 3.3 amended**

- (1) In clause 3.3(1)(a) insert "*including but not limited to those conditions in clause 3.4*";
- (2) In clause 3.3(1)(b) insert "*on any of the grounds specified in the clause 3.3A, or for any other reason determined at the sole discretion of the local government*";
- (3) In clause 3.3(2) delete "*is to issue*" and replace with "*will provide*" and delete "*a permit*" and replace with "*written confirmation*" and after the word government insert "*which could be electronic*";
- (4) In clause 3.3(3) insert "*(which includes electronic)*" after the word notice and after the word applicant insert "*It is not necessary for the local government to provide reasons for the refusal*";
- (5) Delete clause 3.3(4) and 3.3(5);

**13. Clause 3.3A amended**

- (1) In clause 3.3A title delete "*applicant*" and insert "*application*";
- (2) In clause 3.3A delete "*to approve*";

- (3) In clause 3.3A(a) insert "*or condition of a lease or licence or hire arrangement*" after the word law;
- (4) In clause 3.3A(b) insert "*in the opinion of the local government*" after the word applicant;
- (5) Insert clause 3.3A(d) "*the local government deems the permit application to be for an activity which is not appropriate for the local government property or thoroughfare which the permit is sought in respect to;*"
- (6) Rename clause 3.3A(d) to 3.3A(e);

**14. Clause 3.4 amended**

- (1) In clause 3.4(1)(a) delete "*the payment of fees and charges*" and insert "*the payment of fees and charges, as amended from time to time, or as otherwise determined by the local government, at the local governments sole discretion*";
- (2) In clause 3.4(1)(i) insert "*as set out in clause 13.4*";
- (3) Delete clause 3.4(2)

**15. Clause 3.5 amended**

- (1) In title of clause 3.5 delete "*and variation of*" and insert "*permit*";
- (2) In clause 3.5(1) insert "*for an activity defined in clause 3.14(1)*" after the word approved;
- (3) In clause 3.5(2) delete "*the local government may vary the conditions of a permit, and*" and insert "*Where an application for a permit has been approved for an activity defined in clause 3.14(2) subject to conditions, the permit holder shall comply with each of those conditions*";

**16. Clause 3.5A inserted**

**3.5A Amendment of permit conditions**

- (1) *A permit holder may apply in writing to the local government to vary or amend any of the terms or conditions of the permit.*
- (2) *The local government may, in respect of an application under sub-clause (1) –*
  - (a) *amend the permit, either in accordance with the application or otherwise as it sees fit; or*
  - (b) *refuse to amend the permit.*
- (3) *The local government may, at any time, amend any of the terms or conditions of a permit, subject to providing the permit holder with written notice of the reasons for the amendment.*
- (4) *If the local government amends a permit under this clause, it is to notify the permit holder in writing of the amendment as soon as practicable and the amended condition(s) shall apply from the date of notification, unless otherwise specified in the amendment.*;

**17. Clause 3.6 amended**

- (1) In clause 3.6 title delete "*Agreement for*" and insert "*erection of a*";
- (2) Rename clause 3.6 as 3.6(1)
- (3) Insert clause 3.6(2) "*The person is required to obtain all other necessary approvals to govern the erection of a building, including but not limited to development approval, if applicable, and a permit for use of the local government property.*";

**18. Clause 3.7 amended**

Delete clause 3.7 and insert-

**"3.7 Duration of Permit**

*A permit is valid for the period specified in the permit unless cancelled in accordance with clause 3.11."*

**19. Clause 3.8 amended**

In clause 3.8(2) delete "*mutatis mutandis*" and insert "*to the extent that is applicable for a permit renewal.*"

**20. Clause 3.9 amended**

In clause 3.9(3) delete "*transfer may be affected by an endorsement on the permit signed by the CEO*" and insert after the word permit "*it will provide written confirmation to the former permit holder and the transferee*"

**21. Clause 3.10 amended**

- (1) Delete "*his or her permit*" after the word person;
- (2) Insert "*evidence of a permit*" after the word produce;
- (3) Insert a new sentence "*Evidence could include the written confirmation (electronic version acceptable) provided by the City or the permit number (if applicable).*"

**22. Clause 3.11 amended**

Delete clause 3.11 and insert –

**"3.11 Cancellation of permit**

- (1) *Subject to clause 12.1, 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 this local or any other written law relating to the activity regulating by the permit;*
  - (b) *the permit holder is convicted of an offence against the local law*
  - (c) *the permit holder fails to maintain any required public liability insurance or ceases to indemnify the local government against damages in connection with loss or damage in connection with an activity conducted by the permit holder under the permit;*
  - (d) *the permit holder has become bankrupt, or gone into liquidation;*
  - (e) *the permit holder has entered into any composition or arrangement with creditors;*

- (f) *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;*
  - (g) *if the permit holder's application is subsequently found to be incomplete, insufficient or not containing a required document;*
  - (h) *if the permit holder's application is subsequently found to contain incorrect or falsified information and/or documents*
  - (i) *if the City reasonably considers that the activity permitted by the permit may create a public health, safety or amenity issue;*
  - (j) *if valid development approval is required and not held for the abutting premises at which the business relating to the activity authorised by the permit is conducted or for the outdoor eating area, and;*
  - (k) *another permit for an outdoor eating area, goods display or portable advertising sign has been granted, and remains in effect, in relation to the building or business premises related to the permit.*
- (2) *On the cancellation of a permit the local government will provide the permit holder with written notice that the permit has been cancelled.*
- (3) *On receiving notice that the permit has been cancelled in accordance with subclause (2):*
- (a) *the permit holder must immediately cease using the local government property or the thoroughfare unless the notice from the local government provides otherwise; and*
  - (b) *any fees paid by the permit holder in respect of the permit are forfeited and will not be refunded by local government."*

**23. Clause 3.11A amended**

- (1) rename clause "3.11A" to "3.12" and in the heading replace "holder" with "holder's"
- (2) In clause 3.12(2) insert "by notice in writing to the permit holder" after the word local government.
- (3) Insert a new clause (3):
 

"(3) *The rights and privileges granted to a permit holder on the issue of a permit may be suspended by the local government where –*

  - (a) *the permit holder's application is subsequently found to be incomplete, insufficient or not containing a required document;*
  - (b) *the permit holder's application is subsequently found to contain incorrect or falsified information and/or documents; or*
  - (c) *the City considers the activity permitted by the permit may create a public health, safety or amenity issue.*

*until the defect in the permit holder's application is rectified to the satisfaction of the local government and/or the local government considers that the activity may be conducted in a manner which does not create a public health, safety or amenity issue."*

**24. Clause 3.11B amended**

- (1) Rename clause "3.11B" to "3.13".
- (2) Delete clause 3.11B and insert-

*"The requirement for a permit under this local law, is additional to the requirement, if any, for any other approvals, included but not limited to development approval."*

**25. Clause 3.12 amended**

- (1) Rename clause "3.12" to "3.14"
- (2) In clause 3.14 heading insert "*on local government property and thoroughfares*" after the word activity.
- (3) In clause 3.14(1)(a) delete the word "*hire*" and replace with "*use*";
- (4) In clause 3.14(1)(a) insert after the word property "*or a thoroughfare for any purpose which amounts to exclusive use of the whole or a portion of the property for any period of time*";
- (5) In clause 3.14(1)(b) insert after the word property "*or a thoroughfare, except where the person holds a permit issued under another local law of the local government authorising such advertising in that location*";
- (6) In clause 3.14(1)(c) insert after the word property "*or a thoroughfare*";
- (7) delete clause 3.14(1)(d) and rename clause 3.14(1)(e), 3.14(1)(f), 3.14(1)(g), 3.14(1)(h), 3.14(1)(i), 3.14(1)(j), 3.14(1)(j), 3.14(1)(k), 3.14(1)(l) and 3.14(1)(m), 3.14(1)(n), 3.14(1)(o), 3.14(1)(p) and 3.14(1)(q) as 3.14(1)(d), 3.14(1)(e), 3.14(1)(f), 3.14(1)(g), 3.14(1)(h), 3.14(1)(i), 3.14(1)(j), 3.14(1)(j), 3.14(1)(k), 3.14(1)(l), 3.14(1)(m), 3.14(1)(n), 3.14(1)(o) and 3.14(1)(p), respectively;
- (8) In clause 3.14(1)(d) delete the word "*or*" after plant
- (9) In clause 3.14(1)(d) insert after the word seeds "*or install any other landscaping feature*" and "*unless in accordance with the clause 9.4 of this local law*";
- (10) Delete clause 3.14(1)(e) and insert –
 

*"carry on any trading on local government property unless the trading is conducted in accordance with a permit issued under the City's Trading in Public Places Local Law;"*;
- (11) In clause 3.14(1)(h) delete after the words entry to "*land or a building hired by a voluntary non profit organisation*" and insert "*an area or a building hired or leased from the local government, and that hire or lease arrangement provides that a fee for entry may be charged*";
- (12) In clause 3.14(1)(i) insert "*or on a thoroughfare*" after the word property;
- (13) In clause 3.14(1)(j) insert "*or a thoroughfare*", after the word property;
- (14) Delete clause 3.14(1)(r) and 3.14(1)(s) and insert –
 

*"3.14(1)(q) erect, display, post, stick, stamp, stencil, paint or otherwise affix or cause to be erected displayed, posted, stuck, stamped, stencilled, painted or otherwise affixed any sign, banner, placard, handbill, notice, advertisement, writing or picture whatsoever upon any tree, plant, building, structure, fitting or soil being local government property or on any other local government property, except where the*

*person holds a permit issued under another local law of the local government authorising such an activity in that location; and”;*

(15) Delete clause 3.14(1)(t) and insert –

“3.14(1)(r) *carry out filming, shoot or take a recording on a local government property or within a thoroughfare where exclusive use of a portion of the local government property or thoroughfare is required;*

(16) Insert a new clause –

“3.14(1)(s) *Construct anything or locate any infrastructure on local government property; or a thoroughfare, including but not limited to paving, planter boxes and outdoor seating.”*

(17) Delete clause 3.14(2) and insert

“3.14(2) *A person shall not without a permit carry out work in a thoroughfare or on a local government property, including but not limited to-*

- (a) *verge treatments, unless he verge treatment is in accordance with clause 9.4 of this local law;*
- (b) *vehicle crossovers;*
- (c) *crossing a footpath with a vehicle which is likely to cause, or causes damage to the footpath;*
- (d) *locating construction materials on a verge or thoroughfare;*
- (e) *Undertaking construction activities adjacent to a verge or thoroughfare”;*

(18) Insert a new clause –

“3.14(3) *A person shall not without a permit use local government property or a community facility for a for profit purpose, including but not limited to:*

- (a) *group fitness classes;*
- (b) *life coaching or counselling;*
- (c) *meetings or seminars; or*
- (d) *guided walks or tours.”*

(19) Amend clause 3.14(4) -

- (1) Insert the words “*at the local government’s sole discretion*” after the word may;
- (2) Insert “(2) or (3) after the word subclauses; and
- (3) Insert the words “*by providing notice in writing to that person*” after the word person.

## **26. Clause 3.13 amended**

Rename 3.13 as 3.15.

## **27. Clause 3.14 amended**

- (1) Rename 3.14 as 3.16;

- (2) In clause 3.16(1)(a) delete "and" and replace with "or";
- (3) In clause 3.16(1)(b) insert "or" after the word purpose;
- (4) delete clauses 3.16(2)(a) and 3.16(2)(b);
- (5) rename clause 3.16(2)(c) as 3.16(1)(c);

**28. Clause 3.15 amended**

Rename clause 3.15 as 3.17.

**29. Clause 4.6 amended**

Insert "unless pursuant to a permit issued under clause 3.14" after the word liquor.

**30. Part 5 division 1 amended:**

- (1) Replace clause 5.1 definitions with –

**"administration centre"** means the local government's administration centre which is currently located on Crown Land Lot 502, being Reserve 50345 and having an address of 244 Vincent Street, Leederville.

**"change room"** means the room or area designated for changing ones clothes in a public place such as a pool premises, and includes any bathroom or toilet at the public place.

**"library"** means the place or premises provided by the local government for the purpose of borrowing books and local history, and includes the library and local history centre located on a portion of Crown Land Lot 501, being Reserve 39009 and having an address of 99 Loftus Street, Leederville; and

**"pool premises"** means the place or premises provided by the local government for the purpose of swimming or bathing, and includes Beatty Park Leisure Centre, which is located on a portion of Crown Land Lot 1618 and being Reserve Number 884, and having an address of 220 Vincent Street, North Perth, and includes all buildings, fences, gardens, car parks, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of the place or premises or used in connection with it."

**31. Clause 5.2 amended**

- (1) In clause 5.2(1) insert "administration centre, library or" after the word the;
- (2) Rename clauses 5.2(1)(a)(ii), 5.2(1)(a)(iii) and 5.2(1)(a)(iv) as 5.2(1)(a)(iii), 5.2(1)(a)(iv) and 5.2(1)(a)(vi) respectively;
- (3) Insert clause –
 

**"5.2(1)(a)(ii)** under the age of 5 years and who is unaccompanied in the water by a responsible person 16 years or older, or;"
- (4) In clause 5.2(2) insert "administration centre, library or" after the word the;
- (5) In clause 5.2(3) insert "" administration centre, library or" after the word the.

**32. Clause 5.3 amended**

- (1) Insert “administration centre, library or” after the word the;
- (2) In clause 5.3(b) delete “or” and insert “wall”;
- (3) In clause 5.3(b) delete “on the pool premises or a community facility” and replace with “or other structure not intended for climbing”;
- (4) In clause 5.3(c) delete “whilst” and insert “enter the premises if”;
- (5) In clause 5.3(c) delete “enter or use or attempt to enter or use the pool premises or a community facility”;
- (6) In clause 5.3(d) delete “pool”;
- (7) In clause 5.3(e) delete “on the pool premises whereby the water may be discoloured or contaminated or rendered turbid or, in the opinion of the Manager or authorised person, in anyway unfit”;
- (8) In clause 5.3(f) delete “in the pool premises”;
- (9) In clause 5.3(k) delete “and”;
- (10) In clause 5.3(l) insert “and”;
- (11) Insert clause –  
“(m) using a mobile phone, camera or other similar recording device in a change room at a pool premises, library or other community facility.”

**33. Division 4 part 5.8 amended**

In thoroughfare definition insert “has the meaning in section 1.4 of the Act and” after the word thoroughfare.

**34. Clause 5.9 amended**

- (1) In clause 5.9(1) insert “which is at the discretion of the City.”
- (2) In clause 5.9(2) delete “no” and insert “if the local government provides approval in subclause (1) above, the”;
- (3) In clause 5.9(2) insert “not”.

**35. Division 5 amended**

- (1) Insert definitions –

**“permanent structure”** means a structure which is affixed to the ground and is considered to form part of the ground, and includes verandah posts and canopy structures;

**“road reserve”** means crown land which the local government has care, control and management of pursuant to section 55(2) of the Land Administration Act 1997;”

- (2) In thoroughfare definition insert “has the meaning in section 1.4 of the Act and” after the word thoroughfare;

**36. Clause 5.11 amended**

- (1) In the heading insert words "*an awning, balcony or verandah*" after the word maintain;
- (2) delete "*a person shall not erect or maintain*" and insert "*the local government may approve*";
- (3) delete "*without*" and insert "*provided that it complies with*" after the word thoroughfare;
- (4) Delete "*approval of the local government*" and insert "*dimensions and design requirements as set out in clauses 5.12 and 5.13*";

**37. Clause 5.12 amended**

- (1) Delete "*a person shall not erect an awning, balcony or verandah over a thoroughfare unless it complies with the following dimension requirements*";
- (2) In clause 5.12(c) delete "*500*" and insert "*600*";
- (3) In clauses 5.12(c) insert "*face of the*" at the end of the sentence.

**38. Clause 5.13 amended**

Delete "*a person shall not erect an awning, balcony or verandah over a thoroughfare unless it complies with the following design requirements*"

**39. Clause 5.15 inserted**

Insert –

**"5.15 Permanent structures within a thoroughfare or road reserve**

*A person shall not erect or maintain a permanent structure within a road reserve or thoroughfare without the prior written approval of the local government, and subject to the person obtaining any other approvals required, including development approval."*

**40. Part 6 amended**

- (1) In the heading delete "*advertising*";
- (2) In the heading delete "*on thoroughfares*";
- (3) In clause 6.1 delete definition of advertisement - "*advertisement means the use or intention of use for the purpose of advertising any premises, services, business, function, event, product or thing*";
- (4) In definition of "advertising sign" delete "*free standing*" after the words means a;
- (5) In "advertising sign" definition delete "*and includes a ground based sign, a sandwich board sign and an "A" frame sign*";
- (6) In "advertising sign" definition insert –
  - (a) *used or intended to be used for the purpose of advertising any premises, services, business, function, vent, product or thing; and*;
  - (b) *not a portable advertising sign under the local governments Trading in Public Places Local Law 2008.*;
- (7) delete "portable sign" definition;
- (8) In "sign" definition insert "*and advertising signs, portable direction signs and election signs*"
- (9) Insert "Division 2 – Permits"

**41. Clause 6.1A amended**

- (1) In heading insert “for advertising sign” after the word period;
- (2) replace “one year or three years, whichever the applicant chooses on” with “the duration of”;
- (3) replace “application for a sign” and insert “period specified in the permit”;

**42. Clause 6.1B amended**

- (1) In the heading insert the word “Advertising”;
- (2) Delete clause 6.1B(1);
- (3) Delete clause 6.1B(2);
- (4) Insert clause 6.1B “A person shall not display an advertising sign on local government property unless that person is the holder of a valid permit for that advertising sign”

**43. Clause 6.2 amended**

- (1) Delete “Permit required for advertising signs and portable signs” and insert “portable sign permit”;
- (2) Delete clause 6.2(1);
- (3) Insert –

**“6.2(1)**            *“Subject to clause 6.2(2), a person shall not, without a permit erect or place a portable direction sign on local government property.”;*

- (4) In clause 6.2(2) delete “neither exceeds” and insert “does not exceed”;
- (5) In clause 6.2(2) delete “provided” and insert “on any side provided” after the word area;
- (6) Delete clause 6.2(3)

**44. Clause 6.3 amended**

- (1) Rename clause 6.3 as 6.4
- (2) Insert –

**“6.3            Nature and position of an advertising sign or portable direction sign**

*Notwithstanding any provision of this local law, a person shall not erect or place an advertising sign or portable direction sign –*

- (a) *over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2,700 millimetres;*
- (b) *on or within 600 millimetres from the face of the kerb;*
- (c) *in any other location where, in the opinion of the local government or 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*
- (d) *on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.”*

- (3) In clause 6.4 delete “the purpose of clauses 3.3 and 6.2(1)” and insert “an advertising sign or a portable direction sign”;
- (4) In clause 6.4(a) delete “advertising”;
- (5) In clause 6.4(a) delete “or advertisements”;

- (6) In clause 6.4(b) delete "*advertising signs or advertisements*" and replace with "*sign*";
- (7) In clause 6.4(c) delete "*advertising*";
- (8) In clause 6.4(c) delete "*or advertisements*";
- (9) In clause 6.4(f) insert "*whether*" and delete "*advertising*";
- (10) In clause 6.4(g) insert "*whether*" and delete "*advertising*";
- (11) In clause 6.4(g) delete "*was designed*" and insert "*is used*".

**45. Division 3 amended**

- (1) Rename clause 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10 as 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, and 6.11 respectively.

**46. Clause 6.5 amended**

- (1) In clause 6.5 heading insert the word "*direction*" after portable;
- (2) In clause 6.5 heading insert the word "*permit*" after sign;
- (3) In clause 6.5(1) insert "*direction*" after the word portable;
- (4) In clause 6.4(1)(a) insert "*direction*" after the word portable;
- (5) In clause 6.4(1)(a)(iii) insert "*directions to*" after the word to;
- (6) In clause 6.4(1)(a)(iii) delete "*business activity*" and insert "*place*";
- (7) In clause 6.4(1)(a)(iv) delete "*in any position other than immediately in front of the building or the business to which the sign relates and be located not*";
- (8) In clause 6.4(1)(a)(iv) delete "*500*" and insert "*600*";
- (9) In clause 6.4(1)(a)(iv) insert "*the face of*" after the word to;
- (10) In clause 6.4(1)(a)(iv) delete "*the*" and insert "*a*" after the word using;
- (11) In clause 6.4(1)(a)(v) insert "*if it relates to a business or event*" at the start of the sentence;
- (12) In clause 6.4(1)(a)(v) insert "*or event*";
- (13) In clause 6.4(1)(b) insert "*direction*";
- (14) In clause 6.4(2) insert "*direction*".

**47. Clause 6.6 amended**

- (1) In the heading of clause 6.6 insert "*permit*" after the word sign;
- (2) In clause 6.6(1) delete "*a thoroughfare*" and insert "*local government property*";
- (3) In clause 6.6(1)(a) insert "*of thoroughfares*";
- (4) In clause 6.6(1)(c) delete "*a thoroughfare*" and insert "*local government property*";
- (5) In clause 6.6(1)(h) delete "*thoroughfare*" and insert "*local government property*".

**48. Division 4 inserted**

Insert –

**"Division 4 – Other obligations of a permit holder"**

**49. Clause 6.7 amended**

- (1) In clause 6.7(a) delete "advertising";
- (2) In clause 6.7(b) delete "advertising";
- (3) In clause 6.7(c) delete "a thoroughfare" and replace with "local government property";
- (4) In clause 6.7(d) delete "display an advertising" and insert "where a";
- (5) In clause 6.7(d) insert "display that sign";
- (6) In clause 6.7(e) insert "at all times";
- (7) In clause 6.7 delete "footpath at all times" and insert "local government property".

**50. Clause 6.8 amended**

Delete "an advertising sign" and insert "a sign to be".

**51. Clause 6.9 amended**

- (1) 6.9 delete "an advertising sign to" and insert "a sign to";
- (2) delete "footpath" and insert "local government property".

**52. Clause 6.10 amended**

- (1) delete words "advertising" and "item";
- (2) delete "footpath" and replace with "local government property".

**53. Clause 6.11 amended**

- (1) delete "footpath" and replace with "local government property";
- (2) delete words "advertising" and "or item".

**54. Clause 8.1 amended**

In clause 8.1(2) insert "prior to any work commencing, unless otherwise agreed by the local government" after the word clause.

**55. Clause 8.2 amended**

- (1) In clause 8.2(1)(a) insert "that clause" after the word in;
- (2) In clause 8.2(1)(a) insert "the notice (as the case may be); or";
- (3) In clause 8.2(1)(b) insert "to complete the restoration or reinstatement works" after the word approval;
- (4) In clause 8.2(1) insert a new sentence after word undone "Any costs relating to the work carried out by the local government exceeding the bond paid by the applicant is a debt owing to the local government."
- (5) In clause 8.2(3) insert "by it" after the word incurred.

**56. Part 9 division 2 amended**

- (1) Delete Part 9 division 2 – Verge Treatments
- (2) Insert –

**"Division 2 – Verge treatments**

**9.4 Verge treatment**

*The owner or occupier of land adjacent to any verge may only treat the verge in front of such land in accordance with the City's policy in respect to verge treatments, planting and beautifications of a verge, as amended from time to time.*

**9.5 Enforcement**

*The local government may give notice in writing to the owner or occupier of land adjacent to a verge who has installed or maintained a treatment on the verge in front of such land, requiring that owner or occupier, within the time specified in the notice, to make good any breach of this Division, or to remove all or any part of a verge treatment that does not comply with this Division."*

**57. Part 9 amended**

- (1) Rename clause 9.11, 9.12, 9.13, 9.14 as 9.6, 9.7, 9.8, and 9.9 respectively;
- (2) In clause 9.9(1) insert "*an internal driveway or constructed parking amenity on the*" after the word a.

**58. Clause 10.1 amended**

- (1) In clause 10.1(b) delete "*a lawn or a garden*" and replace with "*local government property*";
- (2) Delete clause 10(1)(e);
- (3) Delete clause 10(1)(g) and replace with:
 

*"prune, injure, poison, remove or kill, by felling, poisoning or other means, any tree on a thoroughfare or any local government property, unless the person is:*

  - (i) *acting under the authority of the local government;* or
  - (ii) *acting under authority of a written law."*

**59. Clause 10.2 amended**

- (1) In clause 10.2(1) delete "*a person shall not, without*" and replace with "*the local government may grant*";
- (2) In clause 10.2(1) insert "*for the following activities*" at the end of the sentence;
- (3) In clause 10.2(1)(i) delete "*permissible verge treatment*" and insert "*verge treatment in accordance with any requirements specified in this local law or in the local governments policy*";
- (4) In clause 10.2(2) delete "*exempt a person from compliance with a subclause (1) on*" and insert "*grant*";
- (5) In clause 10.2(2) delete "*application of that person*" and insert "*permit in 10.2(1) above subject to conditions.*"

**60. Clause 11.3 amended**

- (1) In the heading insert "*remove*" after the word to;
- (2) Insert "*either remove*" after the word to.

**61. Clause 11.5 amended**

Insert at the end of the sentence "*- and within the time frame stipulated in the notice. If the person does not comply with the notice to the satisfaction of the local government the person commits an offence*".

**62. Clause 13.2 amended**

- (1) In heading insert "or a community facility" after word property;
- (2) In clause 13.2(1) insert "or manager" after word person;
- (3) In clause 13.2(1)(a) insert "or manager" after word person;

**63. Clause 13.4 amended**

- (1) delete clause 13.4 and insert –

**"13.4 Public liability insurance policy**

- (1) *Where, as a condition of a permit, the permit holder is required to obtain and maintain a public liability insurance policy, the permit holder shall –*
  - (a) *Effect and maintain a policy of insurance in the name of the permit holder, and the local government (if required by the local government in respect to any injury to any person or an damage to any property which may occur in connection with the use of the local government property by the permit holder;*
  - (b) *ensure that any policy of insurance referred to in (a) indemnifies 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 local government property by the permit holder;*
  - (c) *effect and maintain the policy of insurance referred to in (a) for the duration of the permit,*
  - (d) *immediately notify the local government if the policy of insurance cover lapses, in which case the permit may be cancelled by the local government in accordance with clause 3.11;*
  - (e) *provide the local government with a certificate of currency confirming that public liability insurance cover is in place at any time requested by the local government*
  - (f) *ensure that, as a minimum, the permit holder's public liability insurance policy provides coverage of \$10 million (ten million dollars), or such other amount as the local government considers appropriate to the risk and liability involved. At the discretion of the local government, minimum value of coverage required may be increased at the policy renewal date;*
  - (g) *ensure that the public liability insurer of the permit holder is a reputable insurer licensed to conduct insurance business in Australia in accordance with the guidelines issued by the Australian Prudential Regulatory Authority (APRA).*
- (2) *A permit holder who refuses to or cannot provide a current certificate of insurance at least 14 days prior to the commencement of any activity, action or thing performed or erected in accordance with the permit, as required in accordance with subclause (1) commits an offence.*
- (3) *A permit holder must provide the local government with a copy of their certificate of insurance currency at any time requested by the local government, including at the permit application stage."*

**64. Clause 14.3 amended**

In heading insert "notices" after word infringements.

**65. Part 14 division 2 amended**

Delete heading "*Division 2 Evidence in legal proceedings*"

**66. Schedule 1 Prescribed Offences amended**

- (1) In clause 3.5(2) delete "*as varied*" and insert "*for works on local government property*"; and delete "*100*" and insert "*500*".
- (2) Renumber clause 3.12(1) to 3.14(1).
- (3) Insert clause –
 

"3.14(2)	<i>Failure to obtain a permit to carry out works on local government property</i>	500"
----------	---	------
- (4) Insert clauses –
 

"3.14(3)	<i>Failure to obtain a permit to use local government property or a community facility for a commercial purpose</i>	500"
----------	---	------
- (5) Renumber clause 3.14(1) to 3.16(1);
- (6) Renumber clause 3.15 to 3.17;
- (7) Insert clause 5.3(m):
 

"5.3(m)	<i>Using a mobile phone, camera or other recording device in a change room in a pool premises, library or other community facility.</i>	500"
---------	---	------
- (8) Insert clause 5.15:
 

"5.15	<i>Erecting a permanent structure within a thoroughfare or road reserve.</i>	250"
-------	--	------
- (9) In clause 6.2(1) insert "*sign or*" after word placing and delete words "*or affixing any advertisement*".
- (10) Insert clause 6.1B(1):
 

"6.1B(1)	<i>Displaying advertising sign on local government property without a permit.</i>	250"
----------	---	------
- (11) Renumber clause 6.2(3) to 6.3.
- (12) Renumber clause 6.4(2) to 6.5(2) and insert "*direction*" after word portable.
- (13) Renumber clause 6.5(2) to 6.6(2);
- (14) Delete clause 6.1B(1).
- (15) Renumber clause 6.6(a) to 6.7(a);
- (16) Renumber clause 6.6(b) to 6.7(b);
- (17) Renumber clause 6.6(c) to 6.7(c);
- (18) Renumber clause 6.6(d) to 6.7(d);
- (19) Renumber clause 6.6(e) to 6.7(e);
- (20) Renumber clause 6.7 to 6.8;
- (21) Renumber clause 6.8 to 6.9 and delete "*or*" after the word sweeping and insert "*or other unauthorised works*" at the end of the sentence;
- (22) Renumber clause 6.9 to 6.10;



## Policy No. 3.10.4 Street Entertainment



CITY OF VINCENT

### PURPOSE

The purpose of this policy is as follows:

- To support and encourage street entertainment to enhance the vibrancy, vitality and ambience of the City;
- To provide the framework to ensure street entertainment is fostered in a well-managed manner, whilst maintaining the well-being, comfort and safety of the public and performers; and
- To identify locations that are suitable as Pitch Locations within the Permit Free Entertainer Zones in accordance with the City's Trading in Public Places Local Law 2008.

### POLICY STATEMENT

These guidelines have been compiled with a view to nurturing a street performance culture in the Town Centres within the City of Vincent. Street entertainment is a means of creating social interaction amongst visitors and residents, adding vibrancy and interest to public spaces and creating opportunity for performers and the public to enjoy public streets and spaces.

These guidelines will provide the framework to assist performers, businesses and residents in understanding the rules for street entertainment within the City of Vincent.

These guidelines are to be read in conjunction with the City's Trading in Public Places Local Law 2008, as amended from time to time.

### SCOPE

This policy applies to street entertainers within the City of Vincent.

### POLICY OWNER

- Policy and Place
- Ranger Services

### ACTIVITIES CONSIDERED TO BE STREET ENTERTAINMENT

A street entertainer is someone who is actively providing a performance in a public place in exchange for a voluntary donation.

Types of street entertainment may include:

- Performing with an instrument or multiple instruments;
- Live performance including but not limited to: singing, dancing, mime, clowning, juggling, puppetry, comedy, magic or living statue act;
- Performing a circle act; and
- Creating visual art (excluding aerosol art).

The following activities are not considered to be street entertainment:

- Fundraising events or promotions;
- Political rallying;
- Tarot card reading, palmistry or fortune telling;
- Massage, chiropractic treatment or other physical manipulation;
- Temporary tattoo applications;
- Vendors of any kind; and
- Begging.

## **DETERMINATION OF PITCH LOCATIONS WITHIN THE PERMIT FREE ENTERTAINER ZONES**

Permit Free Entertainer Zones are determined by the CEO and are displayed on the City's website. Within the Permit Free Entertainer Zones, street entertainers are only permitted to perform within the identified Pitch Locations which will be delineated by a small sticker on the pavement and state the words 'Street Entertainer Zone'.

Pitch Locations will be chosen by the City's Officers using the following criteria:

- The location has enough space for a performer to set up without compromising pedestrian accessibility;
- The location has enough space for a performer to set up without compromising a currently approved alfresco area;
- The location ensures that doorways to shops and buildings are kept clear at all times;
- The location is a reasonable distance from any other Pitch Locations; and
- The location is a highly pedestrianised area and would be seen as a suitable location by a street entertainer.

## **GENERAL CONDITIONS APPLICABLE TO STREET ENTERTAINMENT**

General guidelines and conditions for street entertainment within the City of Vincent include the following:

1. A performer must meet the minimum standards as indicated in Appendix 1.
2. Street entertainers performing outside of the Permit Free Entertainer Zones must use locations that do not:
  - Unduly interfere with pedestrian or vehicle access or public amenities;
  - Cause undue obstruction to trader or delivery vehicles;
  - Obstruct entrances and exits to shops and buildings;
  - Interfere with an entertainment or activity approved by the City of Vincent; and
  - Distract from other street entertainer's performances. A reasonable distance should be maintained from other street entertainers.
3. Street entertainers performing in the Permit Free Entertainer Zones must perform at prescribed Pitch Locations as demarcated on the ground.
4. A person under the age of 14 years should not perform in any part of a performance:

## Attachment 4

- During school hours;
  - Between 7pm and 6am; and
  - Unless accompanied by an adult at all times.
5. A street entertainer who is performing pavement or visual art:
- Must use chalk unless working on paper card;
  - Cannot use spray paint unless it has been approved by the City of Vincent; and
  - Must return the location, including the pavement surface, to its former condition.
6. Street entertainers may not advertise goods for sale or associate themselves with such advertising in conjunction with their performance.
7. The use of amplification during a performance:
- Can only be battery operated; and
  - Is not permitted between the hours of 10pm and 7am.
8. The sound levels from a street entertainment performance shall at no time disrupt business trading, affect workplace performance or detract from public amenity. If an authorised person requests that the volume of the performance be reduced, the street entertainer must turn the volume down to an acceptable level immediately.
9. Street entertainers must keep their site safe and clean while performing.

## PROHIBITED ACTIVITIES

A street entertainer shall not in a public place:

- Perform any act that endangers the safety of the public;
- Perform any act of cruelty to an animal;
- Act in an offensive or obscene manner;
- Create a nuisance or harass, annoy or disturb any person, trader or resident;
- Perform any activity or act which damages public property; or
- Solicit money for any purpose.

## BREACH OF CONDITIONS AND GUIDELINES

An authorised person may ask street entertainers to cease their performance immediately should they not be complying with the requirements of the City's Trading in Public Places Local Law 2008 or this policy.

If a street entertainer is found to have breached the conditions of the Trading in Public Places Local Law 2008 or this policy, these breaches will be dealt with under the appropriate penalties within the Trading in Public Places Local Law 2008.

## SAFETY

Street entertaining activities should at all times prioritise public safety and the accessibility of public space for all people. The amenity of an area must not be compromised by noise, excessive amplification, tripping hazards, anti-social behaviour or dangerous activities. Street

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entertainers must ensure that neither themselves, nor their audience, pedestrians or the general public are put at risk at any time during their performance. Street entertainers must accept responsibility for any direct impact that their performance may have on any other City services and activities.

**CREATION / REVIEW**

Created:	Approved by: <Approver>, on <Approval Date>, see TRIM: <TRIM Ref>
Review / Amend:	Approved by: <Approver>, on <Approval Date>, see TRIM: <TRIM Ref>
Next Review Date:	

**APPENDIX 1: MINIMUM STANDARDS**

Type of Performer	Performance area delineation	Fire Blanket & Extinguisher	Insurance
Solo Musicians & Musical Groups	N/A	N/A	Recommended
Circus Acts i.e. acrobats, cyclists and jugglers	Boundary Required (soft)	N/A	Professional Indemnity Insurance Certificate Required
Fire Acts	Boundary Required (soft)	Yes	Professional Indemnity Insurance Certificate Required
Stature & Mime Artists	N/A	N/A	Recommended
Balloon Artists and Face Painters	N/A	N/A	Recommended
Chalk Artist/s	N/A	N/A	Recommended
Other Acts Using Dangerous Materials or Implements	Boundary Required (soft)	N/A	Professional Indemnity Insurance Certificate Required



**CITY OF VINCENT**

**LOCAL GOVERNMENT ACT 1995**

**TRADING IN PUBLIC PLACES LOCAL LAW 2008**

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[CITY OF VINCENT](#) TRADING IN PUBLIC PLACES LOCAL LAW 2008

## LOCAL GOVERNMENT ACT 1995

### CITY OF VINCENT

## TRADING IN PUBLIC PLACES LOCAL LAW 2008

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Vincent resolved on 26 February 2008 to make the following local law.

### PART 1 – PRELIMINARY

#### 1.1 Citation

This local law may be cited as the *City of Vincent Trading in Public Places Local Law 2008*.

#### 1.2 Objective

- (1) The objective of this local law is to provide for the regulation, control and management of trading activities, outdoor eating facilities, stalls, displays of goods and ~~items and~~ [portable advertising signs and the activities of](#) traders and entertainers in any street or public place within the district by establishing the requirements with which persons must comply in order to undertake those activities.
- (2) The effect of this local law is to control trading activities and street entertainment in any street or public place within the district.

#### 1.3 Commencement

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

#### 1.4 Repeal

- (1) The following local laws adopted by the City of Vincent ~~—~~
  - (a) *Local Law Relating to Alfresco Dining*, published in the *Government Gazette* on 30 April 1998;
  - (b) *Local Law Relating to Display of Items on a Footpath*, published in the *Government Gazette* on 14 June 2000 and as amended and published in the *Government Gazette* on 2 March 2001 and 4 January 2002;
  - (c) *Local Law Relating to Street Trading*, published in the *Government Gazette* on 22 December 1998; [and](#)
  - (d) [Trading in Public Places Amendment Local Law 2015](#), published in the *Government Gazette* on 15 January 2015.

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

## 1.5 Application

This local law applies throughout the district.

## 1.6 Definitions

In this local law unless the context requires otherwise: —

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

“**amend**” means replace, substitute, in whole or in part, add to or vary, and the doing of any two or more of such things simultaneously or by the same written law;

“**applicant**” means a person or a body corporate who applies ~~for a permit under~~ to the local government to trade in a public place or use local government property in accordance with this local law;

“**application fee**” means the fee payable upon lodgement of an application for a permit and which relates to the lodgement, assessment and determination of the application, but does not include any fee which may be imposed as a condition of approval of an application;

“**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;

“**body corporate**” means a legal entity, such as an association, company, government, government agency, institution, partnership, or person that is a corporation created by charter, prescription or legislation;

“**carriageway**” means the bitumen or paved ~~or made~~ portion of a thoroughfare used or intended for use by vehicles;

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

“**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;

“**development approval**” means an approval issued under a local planning scheme;

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

“**footpath**” means a path set aside for use by pedestrians and cyclists that is on a thoroughfare, and includes all that part of a thoroughfare lying between the edge of the carriageway and the property boundary nearest to that edge on the same side of the thoroughfare;

“**goods**” shall have the same meaning given to it in section 3.38 of the Act;

“**hire**” includes offer to hire or expose for hire;

“**kerb**” ~~includes~~ means the edge of a carriageway;

“**local government**” means the City of Vincent;

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

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CITY OF VINCENT TRADING IN PUBLIC PLACES LOCAL LAW 2008

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- (a) which ~~belongs to~~ is owned or leased by the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an "otherwise unvested facility ~~under~~" within the district as defined in section 3.53 of the Act;

"local planning scheme" shall have the same meaning given to it under Part 1 of the Planning and Development Act 2005;

**"nuisance"** means: ~~:-~~ —

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

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

"permit" means written confirmation from the local government of an applicant's right to trade on or use local government property in accordance with this local law, and can include electronic confirmation, and may include a booking/reference number;

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

**"person"** means a natural person and does not include the local government;

~~"planning approval" means an approval issued under a Town planning scheme;~~

**"private property"** means any real property, parcel of land or lot that has a separate certificate of title, which is in private ownership or subject of a lease or agreement with a person enabling its use for private purposes and includes any building or structure thereon;

**"public facility"** includes any light, power or telephone pole, fire hydrant, drain, sump, tree, sign, traffic light, parking device or meter, shelter, seat, telephone box, letter boxes, public toilet or any work provided by a statutory body or authority, in any street or public place;

**"public place"** includes any thoroughfare or place which the public are allowed to use, whether the thoroughfare or place is or is not on private property and includes, parklands, squares, reserves, beaches, and other lands set apart for the use and enjoyment of the public, including local government property, but does not include premises on private property from which trading is lawfully conducted under a written law;

**"street"** means a thoroughfare;

~~"Town planning scheme" means a Town planning scheme of the local government made under the Planning and Development Act 2005;~~ "thoroughfare" is defined in section 1.4 of

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[the Act, and means a road or thoroughfare and includes structures or other things relating to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end;](#)

**“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,

**“valid”**, in relation to a permit issued under this local law means current and for which all the associated fees have been paid in full;

**“vehicle”** includes –

- (a) every conveyance, not being a train, boat, aircraft or wheelchair, and every object capable of being propelled or drawn on wheels, tracks or by any means;
- (b) an animal being driven or ridden; and
- (c) a vehicle described in the *Road Traffic Act 1974*;

**“verge”** means that part of a thoroughfare between the carriageway and the [landprivate property](#) which abuts the thoroughfare, [but does not include any footpath or kerb.](#)

### 1.7 [Interpretation](#)

[In this local law unless the context requires otherwise a reference to local government property includes a reference to any part of that local government property.](#)

### 1.8 Fees and charges

All fees and charges under this Local Law shall be determined by the local government from time to time in accordance with sections 6.16 to 6.19 of the Act, [and will be specified in the City’s Schedule of Fees and Charges, as amended from time to time.](#)

**PART 2 – TRADING IN THOROUGHFARES AND PUBLIC PLACES****Division 1 – Stallholders and Traders****2.1 Definitions**

In this Division, unless the context requires otherwise –

**“Assistant”** means a person who carries out trading on behalf of the permit holder in accordance with the permit issued to the permit holder;

**“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;

**“commercial participant”** means any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit;

**“newspaper”** means any paper containing public news, intelligence or occurrences, or any remarks or observations therein printed for sale and published periodically, or in parts or numbers, at intervals not exceeding seven days between the publication of any two such papers, parts or numbers;

**“stall”** means a moveable or temporary fixed structure, stand or table in, on or from which goods, wares, merchandise or services are displayed or sold or hired or offered for sale or hire;

**“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; and

**“trader’s permit”** means a permit issued to a trader.

**2.2 Stallholder’s permit**

- (1) A person shall not conduct a stall on 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;

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- (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:
  - (i) the proposed stall; and
  - (ii) the proposed location of the proposed stall and the area in a radius of approximately 10 metres around that location, showing on a scale of approximately 1:100 the location of all carriageways, footpaths, verges, street furniture, bins, light poles, parking signs, traffic lights, other impediments to pedestrian traffic and premises abutting any verge or footpath.

### 2.3 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)~~ [A trader's permit is not required for activities subject to another permit issued under this local law, including a goods permit under Division 4 of Part 2 and a portable advertising sign permit issued under Division 5 of Part 2;](#)

(3) 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.

(34) The conditions subject to which the local government may approve an application for a trader's permit include that the permit holder is permitted to remain at a particular location for as long as there is a customer making a purchase, but if there is no customer making a purchase the permit holder must move on from that location within a reasonable time of the last purchase having been made.

## 2.4 No permit required to sell 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 for that purpose.

## 2.5 Matters to be considered in determining application

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

- (a) the stall or trading would –
  - (i) obstruct the visibility or clear sightlines of any person at an intersection on a thoroughfare; or
  - (ii) impede pedestrian access; and
- (b) the stall or any proposed structure or vehicle which may be used by a trader may obstruct or impede the use of the public place for the purpose for which it was designed.

## 2.6 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;

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- (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 liability insurance;
  - (m) the lodgement of a sum or bond of a value determined by the local government to secure compliance with the terms and conditions of the permit and the forfeiture of that sum or bond on non-compliance;
  - (n) the period for which the permit is valid; and
  - (o) 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 or the conditions of the permit, 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.

### 2.7 Exemptions from requirement to pay fee

- (1) 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.
- (2) 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.

### 2.8 Conduct of stallholders and traders

- (1) A stallholder while conducting a stall or a trader while trading shall –
- (a) comply with the terms and conditions of her or his permit;

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- (b) 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;
  - (c) not display a permit unless it is a valid permit;
  - (d) 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*; and
  - (e) in the case of a stallholder:
    - (i) maintain the stall, vehicle or structure in a safe and serviceable condition; and
    - (ii) ensure that the area of the stall, vehicle or structure is kept in a clean and tidy condition.
- (2) A stallholder or trader shall be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of the thoroughfare or public place arising from the conduct of the stall or the carrying on of the trading and the local government may recover such costs from the permit holder in a Court of competent jurisdiction as a debt owing to it.
- (3) 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;
  - (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;
  - (e) sell or provide goods or services other than those specified in the permit;
  - (f) cry out or shout about, or permit any other person to cry out or shout about, any goods or services in any public place; or
  - (g) use, or permit to be used, any loud hailer, microphone, amplifier or other apparatus for making or transmitting sound in any public place, unless approved by the local government.

**Division 2 ~~-Street-~~ Entertainers****2.9 Definitions**

In this Division, unless the context requires otherwise –

**“entertainer’s permit”** means a permit issued to a person who wishes to perform in a public place;

**“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 free entertainer zone”** means an allocated area where an entertainer can perform without the need for a permit;

**“permit holder”** means the holder of a valid entertainer’s permit;

**“permitted area”** means the area or areas, specified in an entertainer’s permit, in which the permit holder may perform;

**“permitted time”** means the time or times, specified in an entertainer’s permit, during which the permit holder may perform;

**“pitch location”** means a prescribed location within the permit free entertainer zones where a performer or performance group may perform; and

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

**2.10 Permit free entertainer zone**

(1) A permit to perform is not required within the permit free entertainer zone;

(2) Permit free entertainer zones are determined by the CEO;

(3) Performers or performance groups may only perform at prescribed pitch locations in the permit free entertainer zones as delineated by the local government by a marker on the ground; and

(4) The local government can designate any public place as a pitch location within the permit free entertainer zones.

**2.110 Entertainer’s permit required to perform**

(1) A person shall not perform in a public place outside of the permit free entertainer zone without a valid entertainer’s permit.

(2) Every application for an entertainer’s permit shall –

(a) state the full name and address of the applicant;

(b) specify the nature of the proposed performance;

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- (c) specify whether any amplifiers, sound equipment or sound instruments are to be used in the proposed performance; and
- (d) specify the number of people involved in the proposed performance, including the name and date of birth of anyone proposed to be involved in the performance who is under 14 years of age.

~~(3) A person under the age of 14 years is not to perform, unless authorised by the local government;~~

~~(a) during school hours on school days; or~~

~~(b) between 7.00pm one day and 6.00am the following day.~~

#### 2.124 Variation of permitted area and permitted time

- (1) The local government or an authorised person 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 an entertainer's permit.
- (2) The local government or an authorised person may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

#### 2.132 Duration of permit

An entertainer's permit is valid for a the period of 3 months after the date on which it is issued specified in the permit unless ~~it is sooner cancelled under this local law in accordance with clause 2.14.~~

#### 2.143 Cancellation of permit

The local government may cancel an entertainer's permit if in the opinion of an authorised person –

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

#### 2.154 Obligations of performers permit holder

- (1) Performers or performance groups in the permit free entertainer zones ~~A permit holder~~ shall not perform in a public place otherwise than in accordance with the terms and conditions of ~~her or his entertainers permit~~ the associated Policy, as amended from time to time.
- (2) A permit holder shall not perform in a public place otherwise than in accordance with the terms and conditions of his or her entertainers permit and the associated Policy, as amended from time to time. –

- ~~(a) perform wearing dirty, torn or aged clothing or clothing with offensive words, symbols or motifs;~~
- ~~(b) act in an offensive, lewd or obscene manner;~~
- ~~(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.~~
- ~~(d) Use fire or any weapon or object with sharp edges;~~
- ~~(e) Perform any act that endangers the safety of the public;~~
- ~~(f) Perform any act of cruelty to an animal;~~
- ~~(g) Sell or permit the sale of any music tapes, recording, compact discs or merchandise unless authorised by the local government;~~
- ~~(h) Solicit money from members of the public, unless authorised by the local government; or~~
- ~~(i) Allow any person under the age of 14 years to perform during school hours on school days or between 7pm one day and 6am the following day, unless authorised by the local government.~~

### **Division 3 – Outdoor Eating Areas**

#### **2.165 Definitions**

In this Division, unless the context requires otherwise –

**“Food Act”** means the *Food Act 2008*;

**“food business”** has the meaning given to it in [section 10](#) of the *Food Act 2008*;

**“furniture”** means chairs, tables, waiters’ stations, planter boxes, umbrellas, screens, barriers, awnings and any other similar structure or equipment;

**“Health Act”** means the *Health Act 1911*;

**“licensed premises”** has the meaning given to it in section 3(1) of the *Liquor Control Act 1988*;

**“outdoor eating area”** means an outdoor eating facility or establishment on any part of a public place in which furniture is provided for the purpose of the supply of food or drink to the public or the consumption of food or drink by the public, but does not include such a facility or establishment on private land; and

**“permit holder”** means the person to whom a permit has been issued to establish or conduct an outdoor eating area.

#### **2.176 Permit required to conduct an outdoor [Outdoor eating area permit](#)**

[\(1\)](#) A person shall not establish or conduct an outdoor eating area without a valid permit.

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

~~In determining an application for [The rights of](#) a permit for the purpose of [clause 3.5](#), the local government may consider in addition to any other matter it considers relevant, whether or not –~~

[\(2\)](#) ~~(a) — the holder under an outdoor eating area [is](#) [permit are subject to this local law.](#)~~

## 2.18 Requirements for an outdoor eating area

An outdoor eating area must –

- (a) ~~be~~ be conducted in conjunction with and as an extension of food premises or licensed premises abutting the outdoor eating area which ~~abut the outdoor eating area~~ are registered as a food business under the Food Act, and ~~whether~~ the applicant is ~~is~~ must be the person conducting such food premises or licensed premises;
- ~~(b) any abutting food premises are registered as an eating house in accordance with the Health Act;~~
- effect and maintain all necessary approvals governing the operation of the outdoor eating area;
- ~~(c) the use of the abutting food premises or licensed premises as such is permitted under the City planning scheme;~~
- ~~(d) the outdoor eating area will~~ comply with any local law made under section 172 of the *Health Act* or any other relevant local law of the local government;
- ~~(e) users of the outdoor eating area will~~ (d) have access to proper and sufficient sanitary and ablutionary conveniences for users of the outdoor eating area;
- ~~(f) the outdoor eating area would –~~
- (e) not –
- (i) obstruct the visibility or clear sight lines of any person at an intersection of thoroughfares; ~~or~~
- (ii) impede pedestrian access; or
- ~~(g) the~~ (iii) contain furniture which to be used may obstruct ~~obstructs~~ or ~~impede~~ impedes the use of the public place for the purpose for which it was designed; ~~and~~
- ~~(h) the abutting food premises or licensed premises provide sufficient car parking bays for customers of the outdoor eating area, and in this respect the car parking requirements of the City planning scheme may be used as a guide.~~

## 2.198 Obligations of permit holder

- (1) The permit holder for an outdoor eating area shall –
- (a) comply with the terms and conditions of the permit to establish and conduct the outdoor eating area;
- (b) ensure that the outdoor eating area is conducted at all times in accordance with the provisions of this local law and any local law made under section 172 of the *Health Act* or other Act relevant to the outdoor eating area;
- (c) ensure that the eating area is kept in a clean and tidy condition at all times;

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- (d) maintain the furniture in the eating area in a good, clean and serviceable condition at all times;
  - (e) be solely responsible for all and any costs ~~relating to the~~ reinstatement or reconstruction of any part of the public place arising from the conduct of the outdoor eating area;
  - (f) immediately on the expiration of or cancellation of a permit to establish or conduct an outdoor eating area, the permit holder shall at his or her cost, reinstate or restore the public place on which the outdoor eating area is established or conducted, to a condition consistent with its condition prior to the commencement of the outdoor eating area and which is to the reasonable satisfaction of the local government; ~~and~~
  - (g) be solely responsible for all rates and taxes levied upon the land occupied by the outdoor eating area; ~~and~~
  - (h) produce evidence of the outdoor eating area permit whenever requested by an authorised person to do so. Evidence could include the written confirmation (electronic version acceptable) provided by the City or the permit number (if applicable).
- (2) Whenever, in the opinion of the local government or an authorised person, any work is required to be carried out to an outdoor eating area, the local government or authorised person may give a notice to the permit holder for the outdoor eating area 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 an outdoor eating area.

**2.2019 Removal of an outdoor eating area unlawfully conducted**

Where an outdoor eating area is established or conducted without a permit, or in contravention of a condition of a permit or this local law, any furniture may be removed by ~~a City Ranger or Authorised Officer~~ an authorised person and impounded in accordance with the Act.

**2.210 Use of an outdoor eating area by public**

- (1) A person shall not occupy a chair or otherwise use the furniture in an outdoor eating area the subject of a permit unless the person uses ~~them~~ the chair or furniture for the purpose of consuming food or drinks provided by the permit holder of the outdoor eating area.
- (2) A person shall leave an outdoor eating area when requested to do so by the permit holder or an authorised person.

**2.221 Temporary removal of an outdoor eating area may be requested**

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

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

**Division 4 – Display of Goods on a Footpath****2.232 Definitions**

In this Division, unless the context otherwise requires:

“**permit holder**” means the person to whom a goods permit has been issued;

“**goods permit**” means a permit to display goods; and

“**goods**” has the meaning given to it in the Act.

**2.23 Permit period**

~~The local government may grant approval for the purposes of display of goods under this local law means goods for one year sale and/or three years, whichever the applicant chooses on the application for a goods hire as part of the permit holder's business.~~

**2.24 Goods permit**

- (1) A person shall not display goods on a footpath unless that person is the holder of a valid goods permit.
- (2) ~~The Every application for rights of a permit holder under a goods display permit shall are subject to this local law. (a) state the full name and address of the applicant~~

**2.25 Requirements for goods display**

~~A goods display must not – specify the proposed permitted area of the goods;~~

~~(c) be accompanied by an accurate plan and description of:~~

~~(i) the propo; and~~

~~(ii) the proposed location of the goods and the area in a radius of approximately 10 metres around that location showing on a scale of approximately 1:100 the location of all carriageways, footpaths, verges, street furniture, bins, light poles, parking signs, traffic lights, other impediments to pedestrian traffic and premises abutting any verge or footpath; and~~

~~(d) provide a colour photograph or similar representation of the goods.~~

**2.25 Matters to be considered in determining application**

~~In determining an application for a permit for the purpose of this Division, the local government may consider in addition to any other matter it considers relevant, whether or not –~~

~~(a) the goods would –~~

~~(i)~~

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

(ii) ~~b)~~ b) impede pedestrian access; ~~and~~ or

~~(b) the goods, may (c)~~ (b) obstruct or impede the use of the footpath for the purpose for which it was designed.

## 2.26 Obligations of permit holder

The permit holder shall –

(a) ~~comply with the terms and conditions of the permit to establish and conduct the goods display;~~

(b) maintain the goods ~~or~~ and the goods display in a safe condition at all times;

~~(b) display the permit number provided by the local government in a conspicuous place on or near the goods or goods display and (c) produce evidence of the goods permit whenever requested by an authorised person to do so, produce the goods permit to that person; Evidence could include the written confirmation (electronic version acceptable) provided by the City or the permit number (if applicable);~~

~~(d) ensure that the goods are display is~~ (d) ensure that the goods ~~are~~ display is of a stable design and is not readily moved by the wind, and does not cause any hazard or danger to any person using the thoroughfare;

~~(de) only display goods on a footpath which immediately abuts and not extending more than 1 metre from the building, which is occupied by the owner of the goods, and not more than 1 metre from that building or in a location approved by the local government and specified in the permit; and~~

~~(ef) ensure the free passage of persons using the footpath on which the goods display is positioned.~~

## 2.27 Safety of persons

A person shall not cause or permit goods to be displayed in such a condition, which in the opinion of an authorised person, causes or is likely to cause injury or danger to any person or damage to the clothing or possessions of any person.

## 2.28 Removal of goods for works

A permit holder shall ensure that goods are removed from any footpath to permit the footpath to be swept or to permit any other authorised work to be carried out when directed to do so by an authorised person.

## 2.29 Removal of goods

A person shall remove goods which does not comply with the requirements of this local law, from any footpath when directed to do so by an authorised person.

## 2.30 Unlawful placement of goods

(1) A person who places, causes or permits to be placed on any footpath any goods display which does not comply with the requirements of this local law, commits an offence.

- (2) A person who places, causes or permits to be placed on any footpath any goods display which obstructs or may obstruct the use of the footpath commits an offence, unless the person proves they had lawful authority to so place the goods display.

#### Division 5 – Portable Advertising Signs on Thoroughfares

##### 2.31 -Definitions

In this Division unless the context otherwise requires –

“A” frame sign means a folding sign which is hinged at the top to provide a stable structure when open;

“permit holder” means the person to whom a portable advertising sign permit is issued;

“portable advertising sign” means a free standing sign and includes a ground based sign, a sandwich board and an “A” frame sign that is used or intended to be used for the purpose of advertising any premises, services, business, function, event, product or thing;

“portable advertising sign permit” means a permit to display a portable advertising sign;

“sign” means a notice, poster, flag, mark, word, letter, model, placard, board, structure, device or representation.

##### 2.32 -Portable advertising sign permit

- (1) A person shall not erect or place a portable advertising sign on a thoroughfare unless that person is the holder of a valid portable advertising sign permit.;
- (2) The rights of a permit holder under a portable advertising sign permit are subject to this local law.

##### 2.33- Requirements for portable advertising signs

A portable advertising sign must –

- (a) be consistent with, and be erected or placed in accordance with any other written law regulating the erection or placement of portable advertising signs within the district;
- (b) be consistent with the dimensions in clause 2.34 of this local law;
- (c) relate to the business described on the portable advertising sign permit;
- (d) not be erected or placed on a footpath in front of a building if there is another portable advertising sign already erected or placed in front of that building relating to that business;
- (e) only be displayed on a footpath which directly abuts a building occupied by the permit holder, and not more than 1 metre from the building, or in another location approved by the local government and specified in the permit;
- (f) not create a hazard to persons using a thoroughfare;
- (g) be secure and of stable design and not readily moved by the wind;

- (h) be maintained in a good, safe and serviceable condition;
- (i) not obstruct the visibility or clear sightlines of:
  - (i) any person at an intersection of thoroughfares; or
  - (ii) any vehicle;
- (j) not impede pedestrian access on the thoroughfare; and
- (k) not obstruct or impede the use of the footpath for the purpose of which it is used.;~~and~~

#### **2.34- Dimensions for portable advertising signs**

The permit holder shall ensure that the portable advertising sign:

- (a) does not exceed 1,000 millimetres in height; and
- (b) does not exceed an area of 0.8 square metres on any side.

#### **2.35 -Obligations of a permit holder**

The permit holder shall –

- (a) ensure that the portable advertising sign complies with the requirements in clauses 2.33 and 2.34 of this local law
- (b) ensure that the portable advertising sign is removed each day at the close of the business to which it relates and is not erected again until the business next opens for trading;
- (c) only display the portable advertising sign on a footpath in the location approved by the local government and specified in the permit;
- (d) comply with any conditions imposed on the portable advertising sign permit; and
- (e) produce evidence of the portable advertising sign permit whenever requested by an authorised person to do so. Evidence could include the written confirmation (electronic version acceptable) provided by the City or the permit number (if applicable).

#### **2.36 -Safety of persons**

A person shall not cause or permit a portable advertising sign to be erected or displayed in such a condition, where, in the opinion of an authorised person, causes or is likely to cause injury or danger to any person or damage to the clothing or possessions of any person.

#### **2.37- Removal of portable advertising sign for works**

A permit holder shall ensure that a portable advertising sign is removed from any footpath to permit the footpath to be swept or to permit any other authorised work to be carried out when directed to do so by an authorised person.

#### **2.38 -Removal of portable advertising sign which does not comply**

A person shall remove any portable advertising sign which does not comply with the requirements of this local law from any footpath when directed to do so by an authorised person.

### 2.39- Unlawful placement of portable advertising signs

A person who places, causes, or permits to be placed on any thoroughfare any portable advertising sign except in accordance with this local law commits an offence.

## **PART 3 – PERMITS**

### **3.1 Application of part**

This Part applies to an application for a permit under this local law and to permits issued under this local law.

### **3.2 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;~~
  - ~~(b)~~ provide the information required by the form, which may include a plan, specifications or photographs; and
  - ~~(d)~~ be forwarded to the CEO local government or the specified person at the local government together with any fee ~~imposed and determined by the local government under and specified in accordance with sections 6.16 to 6.19 the City's Schedule of the Act Fees and Charges, as amended from time to time.~~
- (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 –
  - (a) which ~~is~~ does not ~~in accordance~~ comply with the requirements in subclause (2).
  - (b) which, in the case of:
    - (i) an application for a stallholder's permit, is not in accordance with clause 2.2(2); or
    - (ii) an application for a trader's permit, is not in accordance with clause 2.3(~~2~~3); or

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- (iii) an application for an entertainer's permit, is not in accordance with ~~2.1011(2); or~~;
- ~~(iv) an application for a sign permit, is not in accordance with clause 2.24(2);~~
- (c) which is not ~~accompanied by the plans and specification and the application fee;~~
- ~~(d) which is not~~ properly completed; or
- ~~(e)~~ where any required plan, specification or photograph does not in the opinion of the CEO or an authorised person, contain sufficient information or is not sufficiently clear to enable the local government to properly consider the application.

### 3.3 Relevant considerations in determining application for permit

~~(1)~~ Where a clause of this local law refers to matters which the local government is to have regard to in determining an application for a permit, the local government shall have regard to those matters prior to making a decision on an application for a permit under clause 3.5 and, in addition, may have regard to the following matters:

- (a) the desirability of the proposed activity;
- (b) the location of the proposed activity; and
- ~~(c) the principles set out in the Competition Principles Agreement; and~~
- ~~(d)~~ (c) such other matters as the local government may consider to be relevant in the circumstances of the case.

### 3.4 Grounds on which an application may be refused

The local government may refuse to approve an application for a permit under this ~~Division~~local law on any one or more of the following grounds –

- (a) that within the preceding 5 years the applicant has committed a breach of any provision of this local law, or of any other written law or condition of lease or license relevant to the activity in respect of which the permit is sought;
- (b) that the applicant in the opinion of the local government is not a fit and proper 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~~.

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(d)- the local government deems the permit application to be for an activity which is not appropriate for the local government property or thoroughfare which the permit is sought in respect to;

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

### 3.5 Decision on application for permit

(1) The local government may –

(a) approve an application for a permit unconditionally or subject to any conditions, including but not limited to those conditions in clause 3.6; or

(b) refuse to approve an application for a permit, including but not limited to those grounds specified in clause 3.4.

(2) If the local government approves an application for a permit, it ~~is to issue to will~~ provide the applicant ~~a permit with written confirmation~~ in the form determined by the local government, which could be electronic.

(3) If the local government refuses to approve an application for a permit, it is to give written notice (which includes electronic) of that refusal to the applicant. It is not necessary for the local government to provide reason for the refusal.

~~(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).~~

### 3.6 Conditions which may be imposed on a permit

~~The~~ Without limiting the generality of clause 3.5(1)(a), the local government may approve an application for a permit subject to conditions relating to –

(a) the payment of ~~a fee fees, charges and bonds, as specified in the City's Schedule of Fees and Charges, as amended from time to time, or as otherwise determined by the local government, at the local government's sole discretion;~~

(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;

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- (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 as set out in clause 5.4;
- ~~(i) the provision of an indemnity from the \_\_\_\_\_ permit holder providing a written undertaking to the local government 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;~~
- ~~(j)(i) compliance with a standard or a policy of the local government adopted by the local government;~~
- (j) the safe storage, handling, preparation, display and sale of food; and
- (k) the safe display or erection of furniture, goods or other things related to an activity.

**3.7 Compliance with permit 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) If the local government varies the terms or conditions of a permit, the permit holder shall comply with those terms or conditions as varied.~~

**3.8 Amendment of permit conditions**

- (1) A permit holder may apply in writing to the local government to amend any of the terms or conditions of the permit.
- (2) The local government may, in respect of an application under sub-clause (1) –
  - (a) amend the permit, either in accordance with the application or otherwise as it sees fit; or
  - (b) refuse to amend the permit.
- (3) The local government may, at any time, amend any of the terms or conditions of a permit, subject to providing the permit holder with written notice of the reasons for the amendment.
- (4) If the local government amends a permit under this clause, it is to notify the permit holder in writing of the amendment as soon as practicable ~~after the amendment is made and, unless otherwise specified in the amendment, the amended term or condition, or both, of the permit apply from the date of notification.~~ and the amended conditions(s) shall apply from the date of notification, unless otherwise specified in the amendment.
- ~~(5) If the local government amends a permit otherwise than in accordance with an application from the permit holder, it is, as soon as practicable after the decision to amend is made – to give to the permit holder written notice of, and written reasons for, its decision to amend the permit.~~

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(a) ~~to give to the permit holder written notice of, and written reasons for, its decision to amend; and~~

(b) ~~inform the permit holder of his or her rights, under Part 9, Division 1 of the Act, to object to, and apply for a review of, the decision.~~

(6) ~~In this clause, 'amend' has the meaning given to it in section 5 of the Interpretation Act 1984.~~

### 3.9 Duration of permit

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

(a) ~~otherwise stated in this local law or in the permit; or~~

(b) ~~cancelled under~~ in accordance with clause 3.13.

### 3.10 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, to the extent that it is applicable for a permit~~ mutatis mutandis renewal.

### 3.11 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 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 –~~ it will provide written confirmation to the former permit holder and the transferee.

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- ~~(a) an endorsement on the permit signed by the CEO or an authorised person; or~~
- ~~(b) issuing to the transferee a permit in the form determined by the local government.~~

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

**3.12 Production of permit**

A permit holder ~~is to~~ must produce evidence of a permit to an authorised person ~~their permit~~ immediately upon being required to do so by that authorised person. Evidence could include the written confirmation (electronic version acceptable) provided by the City or the permit number (if applicable).

**3.13 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 this local or any other written law ~~which may relate~~ relating to the activity regulated by the permit;
  - (b) the permit holder is convicted of an offence against this local law;
  - (c) the permit holder fails to maintain any required public liability insurance or ceases to indemnify the local government against damages; ~~or in connection with loss or damage in connection with an activity conducted by the permit holder under the permit;~~
  - ~~(d) if it is relevant to the activity regulated by the permit –~~
  - ~~(i)(d)~~
  - ~~(i)~~ the permit holder has become bankrupt, or gone into liquidation;
  - ~~(ii)~~ (e) the permit holder has entered into any composition or arrangement with creditors; ~~or~~
  - ~~(iii)~~ (f) 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;
  - (g) if the permit holder's application is subsequently found to be incomplete, insufficient or not containing a required document;
  - (h) if the permit holder's application is subsequently found to contain incorrect or falsified information and/or documents;
  - (i) if the City reasonably considers that the activity permitted by the permit may create a public health, safety or amenity issue;

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- (j) if valid development approval is required and not held for the abutting premises at which the business relating to the activity authorised by the permit is conducted or for the outdoor eating area; and
  - (k) another permit for an outdoor eating area, goods display or portable advertising sign has been granted, and remains in effect, in relation to the building or business premises related to the permit.
- (2) On the cancellation of a permit the ~~permit holder—~~
- (a) ~~shall return the permit as soon as practicable to the local government; and will provide the permit holder with written notice that the permit has been cancelled –~~
- (3) On receiving notice that the permit has been cancelled in accordance with sub clause (2):
- (a) -the permit holder must immediately cease using the local government property or thoroughfare unless the notice from the local government provides otherwise; and
  - (b) ~~is to be taken to have forfeited,~~ any fees paid by the permit holder in respect of the permit. are forfeited and will not be refunded by the local government.

**3.14 Suspension of permit ~~holder~~holder's rights and privileges**

- (1) The rights and privileges granted to a permit holder on the issue of a permit, shall be automatically suspended, where the public liability insurance required as a condition of a permit, lapses, is cancelled or is no longer current.
- (2) The rights and privileges granted to a permit holder on the issue of a permit, may be suspended by the local government by notice in writing to the permit holder for the purpose of and during the carrying out of any works by or on behalf of the State, or an agency or instrumentality of the Crown, or the local government, in or adjacent to the area the subject of the permit.
- (3) The rights and privileges granted to a permit holder on the issue of a permit may be suspended by the local government where –
  - (a) the permit holder's application is subsequently found to be incomplete, insufficient or not containing a required document;
  - (b) the permit holder's application is subsequently found to contain incorrect or falsified information and/or documents; or
  - (c) the City considers the activity permitted by the permit may create a public health, safety or amenity issue.

until the defect in the permit holder's application is rectified to the satisfaction of the local government and/or the local government considers that the activity may be conducted in a manner which does not create a public health, safety or amenity issue.

**3.15 ~~Planning approval~~Other approvals**

The requirement for a permit under this local law, is additional to the requirement, if any, for a ~~planning~~any other approvals, including but not limited to development approval.

**PART 4 – BOND OR SECURITY****4.1 Security for restoration and reinstatement**

- (1) For the purpose of ensuring that an outdoor eating area is properly restored or reinstated under clause 2.1819(1)(f), on the expiry or cancellation of a permit, the local government may require that the applicant or permit holder –
- (a) as a condition of a permit; or
  - (b) before the issue of a permit; or
  - (c) before the renewal of a permit,
- give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government.
- (2) A bond required under sub-clause (1) is to be paid into an account established by the local government for the purposes of this clause.

**4.2 Use by the local government of bond or security**

- (1) If a permit holder fails to carry out or complete the restoration or reinstatement works required by clause 2.1819(1)(f), the permit conditions or by a notice served by the local government –
- (a) within the time specified in that clause, those conditions; or the notice (as the case may be); or
  - (b) where no such time has been specified, a reasonable period of time from the expiration or cancellation of the permit to ~~establish or conduct the outdoor eating area~~ complete the restoration or reinstatement works; ~~or~~
  - (c) ~~within 14 days or such other time as specified in the notice given by the local government to the permit holder,~~
- then the local government may carry out or cause to be carried out the required restoration or reinstatement work or so much of that work as remains undone.
- (2) The permit holder shall pay to the local government on demand all administrative, legal, contractor and other costs, estimated or incurred by the local government, to restore or reinstate the public place or which the local government may be required to pay under this clause.
- (3) The local government may apply the proceeds of any bond or call upon any bank guarantee or other security provided by the permit holder under clause 4.1 to meet the costs incurred by it under this clause.
- (4) The liability of a permit holder to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 4.1.

**PART 5 – MISCELLANEOUS**

**5.1 Notice requiring works to be done**

- (1) Where a permit holder has breached any term or condition of her or his permit or a provision of this local law, the local government may require works to be done by the permit holder to rectify that breach and for that purpose may give a notice to the permit holder –
  - (a) identifying the breach;
  - (b) requiring the permit holder to rectify the breach or do specified works within a specified time so as to remedy the breach; and
  - (c) advising that where the permit holder fails to comply with the requirements of the notice within the time specified, the local government may do the required work at the expense of the permit holder.
- (2) Where, in the opinion of an authorised person, it is necessary to change the location, arrangement or operation of an outdoor eating area so as to maintain public safety, facilitate public works to the footpath or public place, or to protect the amenity of adjacent premises, the authorised person may give a notice to the permit holder –
  - (a) notifying the permit holder of the details of the change in location, arrangement or operation of the outdoor eating area;
  - (b) requiring the permit holder to effect, whether by works or otherwise, the change in location, arrangement or operation of the outdoor eating area; and
  - (c) advising that where the permit holder fails to comply with the requirements of the notice within the time specified, the local government may do the required work at the expense of the permit holder.
- (3) Where the permit holder fails to comply with the requirements of a notice issued under subclause (1) or (2), the local government may, by its employees, agents or contractors, carry out all works and do all things necessary to comply with the requirements of the notice.
- (4) The local government may recover the expenses incurred in carrying out the works in accordance with subclause (3):
  - (a) where a bond, bank guarantee or other security has been given under clause 4.1, by applying the proceeds of any bond or calling upon any bank guarantee or other security to meet those expenses; or
  - (b) from the permit holder as a debt due to the local government, in a court of competent jurisdiction.

**5.2 Notice to advise permit holder of planned or emergency works**

- (1) The local government shall give 14 days notice of any planned works to be undertaken by the local government, that will require closure, part closure or access to an outdoor eating area which is the subject of a valid permit.
- (2) Where the local government is to carry out emergency works in a public place where there is an outdoor eating area, [portable](#) advertising sign or stall which is the subject

of a valid permit, there is no requirement to give notice of the works to the permit holder, other than that which is considered reasonable under the circumstances.

- (3) A notice referred to in sub-clauses (1) and (2) shall be given in accordance with the Act.

### 5.3 Works on public property

A person shall not carry out any works of a structural nature, within a thoroughfare or public place without first obtaining written permission from the local government, in accordance with regulation 17 of the *Local Government (Uniform Local Provisions) Regulations 1996*.

### 5.4 Public liability insurance ~~and indemnity~~ policy

- (1) Where, as a condition of a permit, the permit holder is required to obtain and maintain a public liability insurance policy, the permit holder shall –
- (a) effect and maintain a policy of insurance in the name of the permit holder and the local government (if required by the local government) in respect to any injury to any person or any damage to any property which may occur in connection with the use of the local government property by the permit holder;
  - (b) ensure that any policy of insurance referred to in (a) indemnifies 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 local government property by the permit holder;
  - (c) effect and maintain the policy of insurance referred to in (a) for the duration of the permit,
  - (d) immediately notify the local government if the policy of insurance cover lapses, in which case the permit may be cancelled by the local government in accordance with clause 3.11;
  - (e) provide the local government with a certificate of currency confirming that public liability insurance cover is in place at any time requested by the local government
  - (f) ensure that, as a minimum, the permit holder's public liability insurance policy provides coverage of \$10 million (ten million dollars), or such other amount as the local government considers appropriate to the risk and liability involved in the activity authorised by the permit. At the discretion of the local government, minimum value of coverage required may be increased at the policy renewal date;
  - (g) ensure that the public liability insurer of the permit holder is a reputable insurer licensed to conduct insurance business in Australia in accordance with the guidelines issued by the Australian Prudential Regulatory Authority (APRA).
- (2) A permit holder who refuses to or cannot provide a current certificate of insurance at least 14 days prior to the commencement of any activity, action or thing performed or erected in accordance with the permit, as required in accordance with subclause (1) commits an offence.

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- ~~(3) A permit holder must provide the local government with a copy of their certificate of insurance currency at any time requested by the local government, including at the permit application stage.~~
- ~~(1) Where, as a condition of a permit, a permit holder is required to obtain and maintain a public liability insurance policy, the permit holder shall –~~
- ~~(a) (a) obtain and maintain the required public liability insurance cover during the entire time that the permit is in place, which must provide cover for liabilities arising out of the activity authorised by the permit and which must be taken out in the name of, or extend to, the liabilities of the permit holder;~~
- ~~(b) if required by the local government, enter into an agreement with the local government to provide and maintain the required public liability insurance cover during the entire time that the permit is in place;~~
- ~~(b) take out a public liability insurance policy in the name of the permit holder, covering the permit holder's legal liabilities in respect of 'the permit holder's usual business activities including the provision of an outdoor eating area (alfresco dining) on footpaths or other trading places which may or may not be under the ownership, care, custody and control of the local government;~~
- ~~(c) advise the local government should the permit holder cancel or modify or fail to renew the public liability insurance cover during the period of the licence/permit, in which case the permit may be cancelled by the local government in accordance with clause 3.13;~~
- ~~(d) provide the local government with a Certificate of Currency confirming that the public liability insurance cover is in place as per the requirements of Clause 5.4(1) prior to issuing of the permit; at any time requested by the local government;~~
- ~~(e) ensure that, as a minimum, the permit holder's public liability insurance policy has a limit/provides coverage of liability of \$5\$10 million (fiveten million dollars), or such other amount as the local government considers appropriate to the risk and liability involved, in the activity authorised by the permit. At the discretion of the local government, the limit/minimum value of liability/coverage required may be increased at the policy renewal date;~~
- ~~(f) ensure that the public liability insurer of the permit holder is a reputable insurer licensed to conduct insurance business in Australia in accordance with the guidelines issued by the Australian Prudential Regulatory Authority (APRA).~~
- ~~(2) A permit holder who refuses to or does not comply/cannot provide a current certificate of insurance at least 14 days prior to the commencement of any activity, action or thing performed or erected in accordance with the permit, as required in accordance with subclause (1)(e) or (1)(f)) commits an offence.~~
- ~~(3) A permit holder must provide the local government with a copy of their certificate of insurance currency at any time requested by the local government, including at the permit application stage.~~

**PART 6 – GENERAL****6.1 Authorised person to be obeyed**

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A permit holder who is given a lawful direction by an authorised person or a member of the [WA Western Australia Police Service Force](#), shall comply with that direction.

**6.2 Persons may be directed to leave local government property**

An authorised person may direct a person to leave local government property where the authorised person reasonably suspects that the person has contravened a provision of any written law.

**6.3 Lost goods**

No local government employee or any authorised person shall in any way be responsible for any goods or money lost, stolen, damaged or destroyed whilst on any local government property or thoroughfare.

**6.4 Liability for damage to local government property or thoroughfare**

- (1) Where a person unlawfully damages local government property or a thoroughfare, the local government may by notice in writing to that person require that person within the time required in the notice to, at the option of the local government, pay the costs of –
  - (a) reinstating the property or thoroughfare to the state it was in prior to the occurrence of the damage; or
  - (b) replacing that property.
- (2) On a failure to comply with a notice issued under sub-clause (1), the local government may recover the costs referred to in the notice as a debt due to it in a court of competent jurisdiction.

**PART 7- OFFENCES AND PENALTIES****7.1 Offences**

- (1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) 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.
- (3) Any person who commits an offence under this local law ~~shall be liable~~ is liable, upon conviction, to a penalty not less than ~~\$250~~ \$300 and 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.

**7.2 Prescribed offences and modified penalties**

- (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.

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- (2) The amount appearing in the final column of Schedule 1 directly opposite an offence described in that Schedule is the modified penalty for that offence.

**7.3 Forms of Infringement notices and infringement withdrawal notices**

For the purposes of this local law –

- (a) where a vehicle is involved in the commission of an offence, the form of the infringement notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (b) the form of the infringement notice referred to in sections 9.16 and 9.17 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (c) the form of the withdrawal notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

**PART 8 – OBJECTIONS AND APPEALS**

**8.1 Objections and Appeals**

When the local government makes a decision –

- (a) under clause 3.5(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 regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

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## SCHEDULE 1

## PRESCRIBED OFFENCES

Clause No	Description of Offence	DESCRIPTION	Modified Penalty \$
CLAU SE			MODIFIED PENALTY \$
2.2 (1)	Conducting <u>a</u> stall in <u>a</u> public place without a permit		250
2.3 (1)	Trading without a permit		250
<del>2.8(1)(a)</del>	<del>Failure of stallholder or trader to comply with terms or conditions of permit</del>		<del>250</del>
2.8 (1)(b)	Failure of stallholder or trader to display or carry permit		100
2.8 (1)(c)	Stallholder or trader not displaying valid permit		100
2.8 (1)(d)	Stallholder or trader not carrying certified scales when selling goods by weight		100
2.8 (3)	Stallholder or trader engaged in prohibited conduct		250
<del>2.10</del> <u>11</u> (1)	Performing in a public place <u>outside of the permit free entertainer zone</u> without a permit		250
<del>2.11</del> <u>12</u> (2)	Failure of performer to move onto another area when directed		100
<del>2.14</del> <u>15</u>	Failure of performer to comply with obligations		100
<del>2.16</del> <u>17</u>	Establishment or conduct of outdoor eating area without a permit		250
<del>2.18</del> <u>19</u>	Failure of permit holder of outdoor eating area to comply with obligations		250
<del>2.20</del> <u>21</u> (1)	Use of furniture of outdoor eating area without purchase of food or drink from permit holder		100
<del>2.20</del> <u>21</u> (2)	Failure to leave outdoor eating area when requested to do so by permit holder		100
2.24 (1)	Displaying goods on a footpath without a permit		250
2.26 (a)	<del>Failing to maintain goods in a safe and serviceable condition at all times</del> <u>Failure of permit holder of goods display to comply with obligations</u>		<del>100</del> <u>250</u>
2.26 (b)	<del>Refusing to conspicuously display the permit number on or near the goods display</del>		<del>50</del>
2.26 (c)	<del>Failure to display goods in accordance with conditions of permit</del>		<del>100</del>
2.26 (d)	<del>Displaying the goods more than 1 metre from the adjacent building or in a location not approved by the local government</del>		<del>100</del>
2.26 (e)	<del>Failing to ensure the free passage of persons using the footpath</del>		<del>100</del>
2.27	Permitting goods to be displayed in an unsafe or dangerous manner		250
2.28	Refusing or failing to remove goods to allow <u>for</u> sweeping <del>or</del> cleaning <u>or</u> <u>any other authorised work</u>		100
2.29	Refusing or failure to remove goods when requested to do so		250
2.30 (1)	Placing or permitting goods contrary to the requirements of the local law		250
2.30 (2)	Placing or permitting an item so as to obstruct a footpath without lawful authority		250
<del>2.32</del> (1)	<del>Erecting or placing a portable sign on a thoroughfare without a permit</del>		<del>250</del>
<del>2.35</del>	<del>Failure of a permit holder to comply with obligations</del>		<del>250</del>
<del>2.36</del>	<del>Permitting a portable advertising sign to be displayed in an unsafe or dangerous manner</del>		<del>250</del>

## CITY OF VINCENT TRADING IN PUBLIC PLACES LOCAL LAW 2008

<a href="#">2.37</a>	<a href="#">Refusing or failing to move a portable advertising sign to allow for sweeping, cleaning or other authorised works</a>	100
<a href="#">2.38</a>	<a href="#">Refusing or failing to remove a portable advertising sign which does not comply when requested to do so</a>	250
<a href="#">2.39</a>	<a href="#">Placing or permitting a portable advertising sign contrary to the requirements of the local law</a>	250
3.7 <del>(1)</del> & (2)	Failure to comply with a condition of a permit	250
3.12	Failure to produce a permit when requested to do so <a href="#">by an authorised person</a>	100
5.3	Carrying out works in thoroughfare without permission	250
<a href="#">5.4 (2)</a>	<a href="#">Failure to hold or provide a current certificate of currency to an authorised person when requested</a>	250
6.1 (1)	Failure to obey a lawful direction of an authorised person	250
6.2	Failing to leave local government property when directed to do so	250
7.1 (2)	Failure to comply with notice	250
7.1	All other offences not described above	100

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CITY OF VINCENT TRADING IN PUBLIC PLACES LOCAL LAW 2008

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This local law was made by the City of Vincent at an Ordinary Meeting held on the 26th day of February 2008.

~~the \_\_\_\_\_ day of February \_\_\_\_\_ 2008.~~

The Common Seal of the City of Vincent  
was affixed by authority of a resolution of the Council in the presence of ~~\_\_\_\_\_~~

~~NICK CATANIA, JP, Mayor~~

~~JOHN CAREY~~EMMA COLE  
MAYOR

~~JOHN GIORGI, JP, Chief Executive Officer~~

DAVID MACLENNAN  
CHIEF EXECUTIVE OFFICER

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 CITY OF VINCENT TRADING IN PUBLIC PLACES LOCAL LAW 2008
 

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## SCHEDULE OF AMENDMENTS

Date of Council Resolution	Date of Gazettal	<u>Details of Amendment</u> <del>Local Law</del>
08.07.08	07.10.08	<del>Trading In Public Places Amendment Local Law 2008</del> <u>Subclause 5.4(1) – amended to be brought in line with the current standard wording for public liability insurance policies.</u>
10.02.09	27.02.09	<del>Trading In Public Places Amendment Local Law 2009</del> <u>Division 4 – Display of Goods on a Footpath and Schedule 1, amended to remove inconsistencies and to ensure that the legislation reflects the City's needs.</u>
<del>16.12.14</del>	<del>16.01.15</del>	<del>Trading in Public Places Amendment Local Law 2014</del>



**CITY OF VINCENT**

**LOCAL GOVERNMENT ACT 1995**

**LOCAL GOVERNMENT PROPERTY LOCAL LAW  
2008**

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## CITY OF VINCENT LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008

## LOCAL GOVERNMENT ACT 1995

## CITY OF VINCENT

## LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Vincent resolved on 26 February 2008 to make the following local law.

**PART 1 – PRELIMINARY****1.1 Citation**

This local law may be cited as the *City of Vincent Local Government Property Local Law 2008*.

**1.2 Objective**

- (1) The objective of this local law is to provide for the regulation, control and management of activities and facilities on local government property, thoroughfares and public places within the district.
- (2) The effect of this local law is to establish the requirements with which any person using or being on local government property, thoroughfares and public places within the district must comply.

**1.3 Commencement**

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

**1.4 Repeal**

- (1) The following local laws adopted by the City of Vincent –
  - (a) *Local Law Relating to Air-conditioning Units*, published in the *Government Gazette* on 4 November 1997;
  - (b) *Local Law Relating to Beatty Park Leisure Centre*, published in the *Government Gazette* on 30 April 1998;
  - (c) *Local Law Relating to Halls and Centres*, published in the *Government Gazette* on 30 April 1998;
  - (d) *Local Law Relating to Parks and Public Reserves*, published in the *Government Gazette* on 22 December 1998 and as amended and published in the *Government Gazette* on 23 March 2004;
  - (e) *Local Law Relating to Property Numbers*, published in the *Government Gazette* on 25 September 1998;
  - (f) *Local Law Relating to the Removal and Disposal of Obstructing Animals or Shopping Trolleys*, published in the *Government Gazette* on 22 December 1998;

## CITY OF VINCENT LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008

- (g) *Local Law Relating to the Removal of Refuse, Rubbish and Disused Materials*, published in the *Government Gazette* on 1 May 1998;
- (h) *Local Law Relating to Street Lawns and Gardens*, published in the *Government Gazette* on 30 April 1998;
- (i) *Local Law Relating to Streets and Footpaths*, published in the *Government Gazette* on 14 June 2000; and
- (ii) *Local Law Relating to Verandahs and Awnings over Streets*, published in the *Government Gazette* on 16 January 1998;

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

### 1.5 Application

- (1) This local law applies throughout the district.
- (2) ~~Notwithstanding anything to the contrary~~ Unless otherwise provided for in this local law, the local government may -
  - (a) hire local government property to any person; or
  - (b) enter into an agreement with any person regarding the use of any local government property.

### 1.6 Definitions

In this local law unless the context requires otherwise -

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

“**amend**” means replace, substitute, in whole or in part, add to or vary, and the doing of any two or more of such things simultaneously or by the same written law;

“**applicant**” means a person or a body corporate who applies for a permit under clause 3.2 to the local government to use local government property, in accordance with this local law;

“**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;

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

“**bicycle**” means a vehicle with two or more wheels that is built to be propelled by human power through a belt, chain or gears (whether or not it has an auxiliary motor);

“**boat**” means any structure or vessel, capable of being used in navigation, whether motorised or not and made or used to travel or float on or through water or travel under water;

“**body corporate**” means a legal entity, such as an association, company, government, government agency, institution, partnership, or person that is a corporation created by charter, prescription or legislation;

## CITY OF VINCENT LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008

“**carriageway**” means the bitumen or paved ~~or made~~ portion of a thoroughfare used or intended for use by vehicles;

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

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

“**community facility**” means a facility being local government property operated for the benefit of the public, and includes a hall, public swimming pool, library, leisure centre, recreation centre, child care centre, ~~infant welfare centre~~child health clinic, aged persons centre and the like;

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

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

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

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

“**drip line**” in relation to a street tree means the area of land under the perimeter of a street tree canopy;

“**face of kerb**” means the side of the kerb adjacent to the carriageway;

“**fence**” means any artificially created barrier whether temporary or permanent including post and rails, chain, metal, wire or pipe;

“**firework**” means a device such as a ~~catherine~~Catherine wheel, a roman candle, a rocket or the like, in which combustible materials are ignited and produce coloured smoke, flames, and sometimes an explosion or loud noise;

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

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

“**footpath**” means a path set aside for use by pedestrians and cyclists that is on a thoroughfare, and includes all that part of a thoroughfare lying between the edge of the carriageway and the property boundary nearest to that edge on the same side of the thoroughfare;

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

- (a) formal organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;
- (c) ~~organisation~~organised by or on behalf of a club;
- (d) payment of a fee to attend it; and

## CITY OF VINCENT LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008

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

**“garden”** means a verge planted, developed or treated, otherwise than as a lawn, with one or more plants;

**“kerb”** ~~includes~~means the edge of a carriageway;

**“landscaping feature”** means any garden bed, rock, pathway, seating, decoration and lighting or similar feature, installed within a verge;

**“lawn”** means a verge which is planted only with grass, or with a similar plant, but will include any other plant provided that it has been planted by the local government such as a street tree;

**“liquor”** has the same meaning as is given to it in section 3 of the *Liquor Control Act 1988*;

**“local government”** means the City of Vincent;

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

- (a) which belongs to is owned or leased by the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an “otherwise unvested facility” underwithin the district as defined in section 3.53 of the Act;

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

**“manager”** means the person for the time being employed by the local government to control and manage a community facility or other facility which is local government property and includes the person’s assistant or deputy;

**“nuisance”** means –

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

**“permit”** ~~means a permit issued under this local law;~~

**“permit”** means written confirmation from the local government of an applicant’s right to use local government property in accordance with this local law, and can include electronic confirmation, and may include a booking/reference number;

## CITY OF VINCENT LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008

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

**“person”** means a natural person and does not include the local government;

**“private property”** means any real property, parcel of land or lot that has a separate certificate of title, which is in private ownership or subject of a lease or agreement with a person enabling its use for private purposes and includes any building or structure thereon;

**“public place”** includes any thoroughfare or place which the public are allowed to use, whether the thoroughfare or place is or is not on private property and includes, parklands, squares, reserves, beaches, and other lands set apart for the use and enjoyment of the public, including 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 approved by the local government on which may be shown words, numbers, expressions or symbols;

**“street tree”** means a tree in a thoroughfare;

**“thoroughfare”** has the meaning given it is defined in section 1.4 of the Act, and means a road or thoroughfare and includes structures or other things relating to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end;

**“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,

**“valid”**, in relation to a permit issued under this local law means current, with all relevant conditions met and for which all the associated fees have been paid in full;

**“vehicle”** includes –

## CITY OF VINCENT LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or by any means;
- (b) an animal being ridden or driven; and
- (c) a vehicle described in the *Road Traffic Act 1974*;

but excludes –

- (d) a wheel-chair or any device designed for use by physically impaired persons;
- (e) a pram, a stroller or similar device; and
- (f) a train, boat or aircraft; and

“**verge**” means that part of a thoroughfare between the carriageway and the landprivate property which abuts the thoroughfare, but does not include any footpath or kerb.

### 1.7 Interpretation

In this local law unless the context requires otherwise a reference to local government property includes a reference to any part of that local government property.

### 1.8 Fees and charges

All fees and charges applicable under this local law shall be determined by the local government from time to time in accordance with sections 6.16 to 6.19 of the Act, and will be specified in the City's Schedule of Fees & Charges, as amended from time to time.

## PART 2 – DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

### Division 1 – Determinations

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

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

**2.2 Procedure for making a determination**

- (1) The local government is to give local public notice of its intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that –
  - (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
  - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
  - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to –
  - (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
  - (b) amend the proposed determination, in which case subclause (5) will apply; or
  - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c), the Council is to –
  - (a) consider those submissions; and
  - (b) decide –
    - (i) whether or not to amend the proposed determination; or
    - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice –
  - (a) of the effect of the amendments; and
  - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

**2.3 Discretion to erect sign**

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

**2.4 Determination to be complied with**

A person shall comply with a determination.

**2.5 Register of determinations**

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

**2.6 Amendment or revocation of a determination**

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

***Division 2 – Activities which may be pursued or prohibited under a determination*****2.7 Activities which may be pursued on specified local government property**

- (1) A determination may provide that specified local government property is set aside as an area on which a person may –
  - (a) bring, ride or drive an animal;
  - (b) take, ride or drive a vehicle, or a particular class of vehicle;
  - (c) fly or use a motorised model aeroplane;
  - (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
  - (e) launch, beach or leave a boat;
  - (f) take or use a boat, or a particular class of boat;
  - (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
  - (h) play or practice –
    - (i) golf or archery;
    - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or

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- (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
  - (i) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and
  - (j) wear no clothing.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular –
- (a) the days and times during which the activity may be pursued;
  - (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
  - (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
  - (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;
  - (e) may specify that the activity can be pursued by a class of persons or all persons; and
  - (f) may distinguish between different classes of the activity.

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

- (1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property –
- (a) smoking ~~on premises~~ ;
  - (b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
  - (c) taking, riding or driving a vehicle ~~on the property~~ or a particular class of vehicle;
  - (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
  - (e) taking or using a boat, or a particular class of boat;
  - (f) the playing or practice of –
    - (i) golf, archery, pistol shooting or rifle shooting; or
    - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
  - (g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and

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- (h) the traversing of sand dunes or land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.
- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular –
- (a) the days and times during which the activity is prohibited;
- (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
- (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;
- (d) that an activity is prohibited in respect of a class of persons or all persons; and
- (e) may distinguish between different classes of the activity.
- (3) In this clause –
- “**premises**” means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

**Division 3 – Transitional****2.9 Signs taken to be determinations**

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

**PART 3 – PERMITS****Division 1 – Preliminary****3.1 Application of Part**

- (1) This Part does not apply to a person who uses or occupies local government property under a written agreement with the local government, which includes but is not limited to a lease, licence or shared use agreement.
- (2) This Part applies to any application for a permit and any permit required under this to use local law government property or a thoroughfare.

**Division 2 – Applying for a permit****3.2 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).

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- (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)~~(b) provide the information required by the form, which may include a plan, specifications or photographs; and
  - ~~(d)~~(c) be forwarded to the CEO-local government or the specified person at the local government together with any fee imposed and determined by the local government under and specified in accordance with sections 6.16 to 6.19 the form or as specified in the City's Schedule of the Act Fees and Charges.
- (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 –
- (a) which is does not in accordance comply with the requirements in subclause (2);
  - (b) which, in the case of an application for a sign permit, is not in accordance with clause 3.2(2);
  - ~~(c) which is not accompanied by the plans and specification and the application fee;~~
  - ~~(d) which~~ is not properly completed; or
  - ~~(e)~~(c) where any required plan, specification or photograph does not in the opinion of the CEO or an authorised person, contain sufficient information or is not sufficiently clear to enable the local government to properly consider the application.

**3.2 A Relevant considerations in determining application for permit**

- (1) Where a clause of this local law refers to matters which the local government is to have regard to in determining an application for a permit, the local government shall have regard to those matters prior to making a decision on an application for a permit under clause 3.5 and, in addition, may have regard to the following matters:
- (a) the desirability of the proposed activity;
  - (b) the location of the proposed activity; and
  - ~~(c) the principles set out in the Competition Principles Agreement; and~~
  - ~~(d)~~(c) such other matters as the local government may consider to be relevant in the circumstances of the case.

**3.3 Decision on application for permit**

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- (1) The local government may –
  - (a) approve an application for a permit unconditionally or subject to any conditions, including but not limited to those conditions in clause 3.4; or
  - (b) refuse to approve an application for a permit on any of the grounds specified in clause 3.3A, or for any other reason determined at the sole discretion of the local government.
- (2) If the local government approves an application for a permit, it is to issue to will provide the applicant, a permit with written confirmation in the form determined by the local government, which could be electronic.
- (3) If the local government refuses to approve an application for a permit, it is to give written notice (which includes electronic) of that refusal to the applicant. It is not necessary for the local government to provide reasons for the refusal.
- ~~(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).~~

### 3.3 A Grounds on which an applicant application may be refused

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 within the preceding 5 years the applicant has committed a breach of any provision of this local law, or of any other written law or condition of a lease or licence or hire arrangement relevant to the activity in respect of which the permit is sought;
- (b) that the applicant in the opinion of the local government is not a fit and proper 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) the local government deems the permit application to be for an activity which is not appropriate for the local government property or thoroughfare which the permit is sought in respect to;~~
- (e) such other grounds as the local government may consider to be relevant in the circumstances of the case.

**Division 3 – Conditions****3.4 Conditions which may be imposed on a permit**

(1) Without limiting the generality of clause 3.3-(1)(a), the local government may approve an application for a permit subject to conditions relating to –

- ~~(a) the payment of fees and charges;~~
- (a) the payment of fees, charges and bonds, as specified in the City's Schedule of Fees and Charges, as amended from time to time, or as otherwise determined at the local government's sole discretion.
- (b) compliance with a standard or a policy of the local government adopted by the local government;
- (c) the duration and commencement of the permit;
- (d) the commencement of the permit being contingent on the happening of an event;
- (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (f) the approval of another application for a permit which may be required by the local government under any written law;
- (g) the area of the district to which the permit applies;
- (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit, bond or secure sum against such damage; and
- (i) the obtaining of public liability insurance in an amount and on terms reasonably required by the local government as set out in clause 13.4.

~~(2) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued –~~

- ~~(a) when fees and charges are to be paid;~~
- ~~(b) payment of a deposit, bond or secure sum against possible damage or cleaning expenses or both;~~
- ~~(c) restrictions on the erection of material or external decorations;~~
- ~~(d) rules about the use of furniture, plant and effects;~~
- ~~(e) limitations on the number of persons who may attend any function in or on local government property;~~
- ~~(f) the duration of the hire;~~
- ~~(g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;~~

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- ~~(h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Control Act 1988*;~~
- ~~(i) whether or not the hire is for the exclusive use of the local government property;~~
- ~~(j) the obtaining of a policy of insurance in the names of the hirer and the local government, indemnifying the local government in accordance with clause 13.4 in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and~~
- ~~(k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.~~

**3.5 Compliance with ~~and variation of permit~~ conditions**

- (1) Where an application for a permit has been approved for an activity defined in clause 3.14(1) subject to conditions, the permit holder shall comply with each of those conditions.
- ~~(2) The local government may vary the conditions of a permit, and~~ (2) Where an application for a permit has been approved for an activity defined in clause 3.14(2) subject to conditions, the permit holder shall comply with each of those conditions.

**3.5 A Amendment of permit conditions**

- (1) A permit holder may apply in writing to the local government to vary or amend any of the terms or conditions of the permit.
- (2) The local government may, in respect of an application under sub-clause (1) –
  - (a) amend the permit, either in accordance with the application or otherwise as varied it sees fit; or
  - (b) refuse to amend the permit.
- (3) The local government may, at any time, amend any of the terms or conditions of a permit, subject to providing the permit holder with written notice of the reasons for the amendment.
- (4) If the local government amends a permit under this clause, it is to notify the permit holder in writing of the amendment as soon as practicable and the amended condition(s) shall apply from the date of notification, unless otherwise specified in the amendment.

***Division 4 – General*****3.6 Agreement for ~~Erection of a~~ building**

- (1) Where a person applies for a permit to erect a building on local government property, the local government may enter into an agreement with the permit holder in respect of the ownership of the materials in the building.

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- (2) ~~The person is required to obtain all other necessary approvals to govern the erection of a building, including but not limited to development approval, if applicable, and a permit for use of the local government property.~~

**3.7 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 period specified~~ in the permit; ~~or unless~~  
 (b) cancelled ~~under~~ in accordance with clause 3.11.

**3.8 Renewal of permit**

- (1) A permit holder may apply to the local government in writing prior to the expiry of a permit for the renewal of the permit.
- (2) The provisions of this Part shall apply to an application for the renewal of a permit ~~mutatis mutandis to the extent that it is applicable for a permit renewal.~~

**3.9 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, it will provide written confirmation to the transfer may be effected by an endorsement on the former permit signed by holder and the CEO transferee.
- (4) Where the local government approves the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

**3.10 Production of permit**

A permit holder is to produce evidence of a permit to an authorised person ~~her or his permit~~ immediately upon being required to do so by that authorised person. Evidence could include the written confirmation (electronic version acceptable) provided by the City or the permit number (if applicable).

**3.11 Cancellation of permit**

- (1) Subject to clause 12.1, a permit may be cancelled by the local government if on any one or more of the following grounds –

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- (a) the permit holder has not complied with a –
- (i) ~~(a)~~ condition of the permit; or
- ~~(b)~~ ~~determination or a~~ (ii) provision of this local or any other written law ~~which may relate~~ relating to the activity regulated by the permit;
- ~~(b)~~ the permit holder is convicted of an offence against this local law;
- ~~(c)~~ the permit holder fails to maintain any required public liability insurance or ceases to indemnify the local government against damages in connection with loss or damage in connection with an activity conducted by the permit holder under the permit;
- ~~(d)~~ the permit holder has become bankrupt, or gone into liquidation;
- ~~(e)~~ the permit holder has entered into any composition or arrangement with creditors;
- ~~(f)~~ 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;
- ~~(g)~~ if the permit holder's application is subsequently found to be incomplete, insufficient or not containing a required document;
- ~~(h)~~ if the permit holder's application is subsequently found to contain incorrect or falsified information and/or documents;
- ~~(i)~~ if the City reasonably considers that the activity permitted by the permit may create a public health, safety or amenity issue;
- ~~(j)~~ if valid development approval is required and not held for the abutting premises at which the business relating to the activity authorised by the permit is conducted or for the outdoor eating area; and
- ~~(k)~~ another permit for an outdoor eating area, goods display or portable advertising sign has been granted, and remains in effect, in relation to the building or business premises related to the permit.
- (2) On the cancellation of a permit the ~~permit holder~~ local government will provide the permit holder with written notice that the permit has been cancelled.
- ~~(a)~~ ~~shall return~~ (3) On receiving notice that the permit as soon as practicable to has been cancelled in accordance with subclause (2):
- (a) ~~the CEO~~ permit holder must immediately cease using the local government property or the thoroughfare unless the notice from the local government provides otherwise; and
- (b) ~~is to be taken to have forfeited~~ any fees paid by the permit holder in respect of the permit are forfeited and will not be refunded by the local government.

**3.12 A12 Suspension of permit holder's rights and privileges**

- (1) The rights and privileges granted to a permit holder on the issue of a permit, shall be automatically suspended, where the public liability insurance required as a condition of a permit, lapses, is cancelled or is no longer current.
- (2) The rights and privileges granted to a permit holder on the issue of a permit, may be suspended by the local government by notice in writing to the permit holder for the purpose of and during the carrying out of any works by or on behalf of the State, or an agency or instrumentality of the Crown, or the local government, in or adjacent to the area the subject of the permit.
- (3) The rights and privileges granted to a permit holder on the issue of a permit may be suspended by the local government where –
  - (a) the permit holder's application is subsequently found to be incomplete, insufficient or not containing a required document;
  - (b) the permit holder's application is subsequently found to contain incorrect or falsified information and/or documents; or
  - (c) the City considers the activity permitted by the permit may create a public health, safety or amenity issue.

until the defect in the permit holder's application is rectified to the satisfaction of the local government and/or the local government considers that the activity may be conducted in a manner which does not create a public health, safety or amenity issue.

**3.11 B Planning approval 3.13 Other approvals**

The requirement of a permit under this local law, is additional to the requirement if any, for ~~a~~ planning any other approvals, including but not limited to development approval.

***Division 5 – When a permit is required*****3.14 Activities on local government property or thoroughfares needing a permit**

- (1) A person shall not without a permit –
  - (a) subject to subclause (3), hire use local government property or a thoroughfare for any purpose which amounts to exclusive use of the whole or a portion of the property for any period of time;
  - (b) advertise anything by any means on local government property or a thoroughfare, except where the person holds a permit issued under another local law of the local government authorising such advertising in that location;
  - (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property or a thoroughfare;

~~teach, coach or train, for profit, any person in a pool area or an indoor recreation facility which is local government property-~~

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- (d) plant any plant ~~or~~, sow any seeds, or install any other landscaping feature on local government property, unless in accordance with clause 9.4 of this local law;
- (e) Carry on any trading on local government property unless the trading is conducted –
- (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit, or a permit issued under the City's Trading in Public Places Local Law;
- (ii) By a person who has a licence or permit to carry on trading on local government property under any written law;
- ~~(g)~~(f) unless an employee of the local government in the course of their duties or on an area set aside for that purpose –
- (i) drive or ride or take any vehicle on to local government property;
- (ii) park or stop any vehicle on local government property; or
- ~~(h)~~(g) conduct a function or public gathering on local government property;
- ~~(i)~~(h) charge any person for entry to local government property, unless the charge is for entry to landan area or a building hired ~~by or leased from the local government, and that hire or lease arrangement provides that a voluntary non-profit organisation fee for entry may be charged;~~
- ~~(j)~~(i) light a fire on local government property or an a thoroughfare except in a facility provided by the local government for that purpose;
- ~~(k)~~(j) parachute, hang glide, abseil or base jump from or on to local government property; or a thoroughfare;
- ~~(l)~~(k) erect a building or a refuelling site on local government property;
- ~~(m)~~(l) make any excavation on or erect or remove any fence on local government property;
- ~~(n)~~(m) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
- ~~(o)~~(n) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property;
- ~~(p)~~(o) light or set off any fireworks or conduct a fireworks display on local government property;
- ~~(q)~~(p) operate any broadcasting or public address system or sound amplification equipment or apparatus on local government property;
- ~~(r)~~ ~~carry out any (q) works in a thoroughfare or~~ on local government property, including ~~but not limited to~~ –
- ~~(t)~~ ~~verge treatments;~~

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- (ii) ~~vehicle cross overs;~~
- (iii) ~~crossing a footpath with a vehicle which is likely to cause, or causes damage to the footpath;~~
- (s) erect, display, post, stick, stamp, stencil, paint or otherwise affix or cause to be erected, displayed, posted, stuck, stamped, stencilled, painted or otherwise affixed any sign, banner, placard, handbill, notice, advertisement, writing or picture whatsoever upon any tree, plant, building, structure, fitting or soil being local government property or on any other local government property, except where the person holds a permit issued under another local law of the local government authorising such an activity in that location; and
- (tr) carry out filming ~~or~~, shoot or take a recording on local government property or within a thoroughfare where:
- (i) ~~any part exclusive use of that filma portion of the local government property or recording may be broadcast thoroughfare is required;~~
- (s) ~~construct anything or distributed or sold; and~~
- ~~(ii) it involves the substantial setting up of associated equipment locate any infrastructure on local government property; or a thoroughfare, including but not limited to paving, planter boxes and outdoor seating.~~
- (2) ~~for reward or for the purpose of sale, (2)~~ A person shall not without a permit carry out works in a thoroughfare or on local government property, including but not limited to –
- (a) ~~verge treatments, unless the verge treatment is in accordance with clause 9.4 of this local law;~~
- (b) vehicle crossovers;
- (c) crossing a footpath with a vehicle which is likely to cause, or causes damage to the footpath;
- (d) Locating construction materials on a verge or thoroughfare;  
~~prior approval undertaking construction activities adjacent to a verge or thoroughfare which results in the use of the CEO. verge or thoroughfare.~~
- (2)(3) A person shall not without a permit use local government property or a community facility for a for profit purpose, including but not limited to:
- (a) group fitness classes
- (b) life coaching or counselling;
- (c) meetings or seminars; or
- (d) guided walks or tours.
- (4) The local government may, at the local government's sole discretion, exempt a person from compliance with subclauses (1), (2) or (3) on the application of that person by providing notice in writing to that person.

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- (35) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

**3.1315 Permit required to camp outside a facility**

- (1) In this clause –

“**facility**” has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.

- (2) A person shall not without a permit –
- (a) Camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property;
  - (b) Erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day; or
  - (c) Camp on or occupy any vehicle at night for the purpose of sleeping in a public place.
- (3) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a) or (b) of subclause (2) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.
- (4) This clause does not apply to a facility operated by the local government.

**3.1416 Permit required for possession and consumption of liquor**

- (1) A person, on local government property, shall not consume any liquor or have in their possession or under their control any liquor, unless –
- (a) that is permitted under the *Liquor Control Act 1988*; and or
  - (b) a permit has been obtained for that purpose; or
- (2) ~~Subclause (1) does not apply where –~~
- ~~(a) the liquor is in a sealed container; or~~
  - ~~(b) the liquor is in small quantities, as determined by the CEO and is being brought to or consumed in the course of a bona fide picnic or gathering.~~
  - ~~(c) consumption is in accordance with the relevant local government policy, as amended from time to time; and does not, in the reasonable opinion of the City, result in any anti-social behaviour.~~

***Division 6 – Responsibilities of permit holder*****3.1517 Responsibilities of permit holder**

A holder of a permit shall in respect of local government property to which the permit relates –

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- (a) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (b) leave the local government property in a clean and tidy condition after its use;
- (c) ensure that the local government property is fully locked or secured after its use where it can be so locked or secured;
- (d) report any damage or defacement of the local government property to the local government; and
- (e) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Control Act 1988* for that purpose.

**PART 4 – BEHAVIOUR ON LOCAL GOVERNMENT PROPERTY*****Division 1 – Behaviour on and interference with local government property*****4.1 Personal behaviour**

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

- (a) is likely to cause injury to, or to interrupt, disturb or interfere with the enjoyment of, a person who might use the property;
- (b) causes injury to, or interrupts, disturbs or interferes with the enjoyment of, a person using the property; ~~or~~
- (c) may be considered disorderly or offensive by a person on the property.

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

- (1) Where a sign on a toilet block or change room specified that a particular toilet block or change room is to be used by –
  - (a) females, then a person of the male gender over the age of 6 years shall not use that toilet block or change room; or
  - (b) males, then a person of the female gender over the age of 6 years shall not use the toilet block or change room.
- (2) A person over the age of 6 years shall not on any local government property or public place –
  - (a) loiter outside or act in an unacceptable manner, in any portion of a toilet block or change room; or
  - (b) enter, or attempt to enter a cubicle or compartment of a toilet block or change room which is already occupied or in use.

**4.3 Proper and adequate clothing**

- (1) A person over the age of 6 years shall not on any local government property or public place appear in public unless decently clothed.
- (2) Where an authorised person considers that a person on any local government property or public place appearing in public is not decently clothed, the authorised person may direct that person to put on clothing so as to be decently clothed, and that person shall comply with the direction immediately.
- (3) In this clause, "**decently clothed**" means the wearing of proper and adequate clothing for the occasion, so as to prevent indecent exposure.

**4.4 Behaviour detrimental to property**

- (1) A person shall not behave in or on any local government property in a way which is or might be detrimental to the property.
- (2) In subclause (1) –  
**"detrimental to the property"** includes –
  - (a) removing any thing from local government property such as a sign, rock, plant or seat provided for the use of any person;
  - (b) destroying, defacing or damaging any thing on the local government property, such as a sign, plant or tree or a seat provided for the use of any person; and
  - (c) climbing on or over local government property.

**4.5 Taking or injuring any fauna**

- (1) A person shall not, on or above any local government property, unless that person is authorised under a written law to do so –
  - (a) take, injure or kill or attempt to take, injure or kill any fauna; or
  - (b) take on to, set or use or attempt to take on to, set or use any animal trap, bird trap, fish trap, net or similar device.
- (2) In this clause –  
**"animal"** means any living thing that is not a human being or plant; and  
**"fauna"** means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes in relation to any such animal –
  - (a) any class of animal or individual member;
  - (b) the eggs or larvae; or
  - (c) the carcass, skin, plumage or fur.

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**4.6 Intoxicated persons not to enter local government property**

A person shall not enter or remain on any local government property while under the influence of liquor, unless pursuant to a permit issued under clause 3.14, or a prohibited drug or substance.

**4.7 No prohibited drugs or substances**

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

**Division 2 – Signs****4.8 Signs**

- (1) A local government may erect a sign on local government property specifying any conditions of use which apply to that property.
- (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 –
  - (a) not to be inconsistent with any provision of this local law or any determination; and
  - (b) to be for the purpose of giving notice of the effect of a provision of this local law.

**PART 5 – MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY****Division 1 – Community facilities****5.1 Definitions**

In this Division –

**“administration centre”** means the local government's administration centre which is currently located on Crown Land Lot 502, being Reserve 50345 and having an address of 244 Vincent Street, Leederville;

**“change room”** means the room or change room means the room or area designated for a public place such as a pool premises, and includes any bathroom or toilet at the public place;

**“library”** means the place or premises provided by the local government for the purpose of borrowing books and local history and includes the library and local history centre located on a portion of Crown Land Lot 501, being Reserve 39009 and having an address of 99 Loftus Street, Leederville; and

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**“pool premises”** means the place or premises provided by the local government for the purpose of swimming or bathing, and ~~known as~~ includes Beatty Park Leisure Centre constructed, which is located on ~~parta~~ portion of the land being Perth Location Crown Land Lot 1618, and being Reserve Number 884, ~~Vesting Order Number 10803/99~~ and having an address of 220 Vincent Street, North Perth, and includes all buildings, fences, gardens, car parks, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of the place or premises or used in connection with it.

## 5.2 Direction of manager or authorised person to be observed

- (1) The manager or an authorised person may refuse admission to, may direct to leave or may remove or cause to be removed from the administration centre, library or pool premises, a person who –
  - (a) in her or his opinion is –
    - (i) under the age of 12 years and who is unaccompanied by a responsible person 16 years or older; or
    - (ii) Under the age of 5 years and who is unaccompanied in the water by a responsible person 16 years or older, or
    - (iii) suffering from any contagious, infectious or cutaneous disease or complaint; or
    - (iv) in an unclean condition; or
    - (v) under the influence of liquor or a prohibited mind altering drug or substance;
  - (b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.
- (2) A person shall, on being requested by the manager or an authorised person to leave the administration centre, library or pool premises, subject to subclause (1), do so immediately, quietly and peaceably.
- (3) A person who fails to comply with a request under subclause (2) may be removed from the administration centre, library or pool premises, by the manager, an authorised person or a Police Officer.

## 5.3 Responsibilities of users of a community facility

A person while in the administration centre, library, pool premises or a community facility shall not –

- (a) smoke, consume foodstuffs or drinks in any specific area in which smoking or food consumption is prohibited;
- (b) climb up or upon any roof, fence, wall ~~or,~~ partition ~~on the pool premises or a community facility; or other structure not intended for climbing,~~ or
- (c) ~~whilst~~ enter the premises if suffering from a contagious, infectious or cutaneous disease or whilst in an unclean condition, ~~enter or use or attempt to enter or use the pool premises or a community facility;~~
- (d) use soap or shampoo in any part of the ~~pool~~ premises other than in a change-room;

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- (e) use any detergent or any substance or oil in any pool or spa ~~on the pool premises whereby the water may be discoloured or contaminated or rendered turbid or, in the opinion of the Manager or authorised person, in anyway unfit;~~
- (f) foul or pollute the water in any shower, pool or spa ~~in the pool premises;~~
- (g) bring into any part of the pool premises or place thereon any chemical substance, liquid or powder;
- (h) bring into any part of the pool premises any glass containers;
- (i) smoke tobacco or any other substance in or about a community facility;
- (j) deliberately waste or wastefully use fresh or potable water in a community facility;
- (k) spit or expectorate in any part of a community facility, other than in a water closet;  
~~and~~
- (l) enter a pool or spa on the pool premises in a dirty or unclean condition; ~~and~~
- (m) Using a mobile phone, camera or other similar recording device in a change room at a pool premises, library or other community facility.

**Division 2 -- Fishing and boat launching****5.4 Definition**

In this Division –

**“river”** means the Swan River as referred to in the *Swan and Canning Rivers Management Act 2006*.

**5.5 Boat launching**

- (1) A person shall not launch a boat into the river other than at a boat launching ramp designed, constructed and approved for that purpose, or from the river where this activity is permitted and designated by signs.
- (2) A person shall not launch a personal water craft into the river other than at a boat launching ramp designed, constructed and approved for the purpose.

**5.6 Fishing**

- (1) A person shall not fish on or from any local government property where fishing is prohibited or restricted and the prohibition or restriction is designated by signs.
- (2) A person shall not on any local government property whether fishing is permitted or not –
  - (a) clean fish or cut bait such that it may cause a nuisance to river users; or
  - (b) leave or deposit fish offal or bait on land or in the river.

**Division 3 – Fenced or closed property****5.7 No entry to fenced or closed local government property**

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

**Division 4 – Air conditioning units over thoroughfares****5.8 Definition**

In this Division –

“**air conditioning unit**” means any machine, device, equipment, plant or part thereof which constitutes or is part of any mechanical system of ventilation or air conditioning; and

“**thoroughfare**” has the meaning in section 1.4 of the Act and includes a pedestrian way that is local government property.

**5.9 Siting and design of air conditioning units**

- (1) A person shall not install an air conditioning unit on or over a thoroughfare without the approval of the local government, which is at the discretion of the City.
- (2) Not if the local government provides approval in subclause (1) above, the air conditioning unit shall – not:
  - (a) project over any part of a thoroughfare unless provision is made, to the satisfaction of the CEO or an authorised person, for the collection of water discharged from such unit and for its disposal into the stormwater drainage system provided that where such unit is installed above a verandah, balcony or awning no such provision shall be necessary;
  - (b) project over any part of a thoroughfare unless the bottom of such unit is not less than 2,750 millimetres above such thoroughfare;
  - (c) project more than 300 millimetres over any part of a thoroughfare not more than 10 metres in width;
  - (d) project more than 450 millimetres over any part of a thoroughfare more than 10 metres in width.
- (3) No air conditioning unit which exhausts foul or vitiated air over or into a thoroughfare shall be installed under a verandah, balcony or awning which projects over any part of a thoroughfare.

**Division 5 – Awnings, balconies and verandahs over thoroughfares****5.10 Definitions**

In this Division –

“**awning**” means a roof-like covering to shelter persons or protect parts of a building from the effects of sun or rain, which extends or can be made to extend over any part of a thoroughfare;

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**“balcony”** means an open or covered platform attached to an upper part of a building, projecting from or recessed into the face of a wall and protected by a railing or balustrade and accessible from an adjacent room;

**“permanent structure”** means a structure which is affixed to the ground and is considered to form part of the ground, and includes verandah posts and canopy structures;

**“road reserve”** means crown land which the local government has care, control and management of pursuant to section 55(2) of the *Land Administration Act 1997*;

**“thoroughfare”** has the meaning in section 1.4 of the Act and includes a pedestrian way that is local government property; and

**“verandah”** means a roofed structure attached to a building with the outer edge supported on posts, and covered either by the main roof or a separate, lower roof, of which any part extends over any part of a thoroughfare.

#### 5.11 Approval to erect or maintain an awning, balcony or verandah

~~A person shall not erect or maintain~~ The local government may approve an awning, balcony or verandah over a thoroughfare ~~without provided that it complies with the approval of the local government~~ dimensions and design requirements as set out in clauses 5.12 and 5.13.

#### 5.12 Dimensions of awnings, balconies and verandahs

~~A person shall not erect an awning, balcony or verandah over a thoroughfare unless it complies with the following dimension requirements:~~

- (a) a minimum clearance of 2,750 millimetres above the thoroughfare;
- (b) a maximum fascia depth of 300 millimetres; and
- (c) a minimum distance of ~~500~~600 millimetres from the face of the kerb.

#### 5.13 Design of awnings, balconies and verandahs

~~A person shall not erect an awning, balcony or verandah over a thoroughfare unless it complies with the following design requirements:~~

- (a) the design, colour and materials shall be compatible with the aesthetics and character of the thoroughfare, in the opinion of the local government;
- (b) the height and width shall be uniform with other verandahs and awnings over the thoroughfare;
- (c) the form shall be cantilevered or suspended, unless otherwise approved by the local government; and
- (d) the design shall not allow water to be retained on the structure or allow water to fall onto the thoroughfare.

#### 5.14 Maintenance and public safety

The owner and occupier for the time being of any building to which any awning, balcony or verandah is attached shall keep the awning, balcony or verandah clean, painted, watertight and in a sound and safe structural condition and in good and substantial repair.

**5.15 Permanent structures within a thoroughfare or road reserve**

A person shall not erect or maintain a permanent structure within a road reserve or thoroughfare without the prior written approval of the local government, and subject to the person obtaining any other approvals required, including development approval.

**PART 6 ~~-ADVERTISING-~~ SIGNS ON THOROUGHFARES****Division 1 ~~-~~ Preliminary****6.1 Definitions**

In this Part, unless the context otherwise requires ~~--~~

~~“advertisement” means the use or intention of use for the purpose of advertising any premises, services, business, function, event, product or thing;~~

~~“advertising sign” means a free-standing sign, which may or may not be permanently attached to a structure or fixed to the ground, and includes a ground-based sign, a sandwich board sign and an “A” frame sign, that is --~~

- ~~(a) used or intended to be used for the purpose of advertising any premises, services, business, function, event, product or thing; and~~
- ~~(b) not a portable advertising sign under the local governments Trading in Public Places Local Law 2008.~~

~~“A” frame sign” means a folding sign which is hinged at the top to provide a stable structure when open;~~

~~“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 which advertises any aspect of a forthcoming Federal, State or Local Government election;~~

~~“permit holder” means the person to whom a sign permit has been issued;~~

~~“portable direction sign” means a portable free standing direction sign;~~

~~“portable sign” means a portable free standing advertising sign;~~

~~“sign” includes a notice, poster, flag, mark, word, letter, model, placard, board, structure, device or representation and includes advertising signs, portable direction signs and election signs;~~

~~“sign permit” means a permit to display a sign.~~

**Division 2 – Permits****6.1A Permit period for advertising sign**

The local government may grant approval for the erection or display of an advertising sign for ~~one year or three years, whichever the applicant chooses on the duration of the application for a sign period specified in the permit.~~

**6.1B Sign Advertising sign permit**

- (1) A ~~personal~~ person shall not display an advertising sign on ~~a footpath~~ local government property unless that person is the holder of a valid sign permit.
- (2) ~~Every application for a sign permit shall—~~
- (a) ~~state the full name and address of the applicant;~~
  - (b) ~~specify the proposed permitted area of the advertising sign;~~
  - (c) ~~be accompanied by an accurate plan and description of:
 
    - (i) ~~the proposed that~~ advertising sign; and
    - (ii) ~~the proposed location of the proposed advertising sign and the area in a radius of approximately 10 metres around that location showing on a scale of approximately 1:100 the location of all carriageways, footpaths, verges, street furniture, bins, light poles, parking signs, traffic lights, other impediments to pedestrian traffic and premises abutting any verge or footpath.~~~~
  - (d) ~~a colour photograph or similar representation of the advertising sign."~~

**Division 2 – Permit****6.2 Permit required for advertising signs and portable Portable direction sign sign permit**

- (1) ~~A~~ Subject to clause 6.2(2), a person shall not, without a permit—
- (a) ~~erect or place an advertising a~~ erect or place a portable direction sign on ~~a thoroughfare; or~~ local government property.
  - (b) ~~post any bill or paint, place or affix any advertisement on a thoroughfare.~~
- (2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which ~~neither exceeds~~ does not exceed 500mm in height nor 0.5m<sup>2</sup> in area, provided on any side provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.

**(6.3) — Nature and position of an advertising sign or portable direction sign**

Notwithstanding ~~subclause (1), any provision of this local law,~~ a person shall not erect or place an advertising sign ~~or portable direction sign –~~

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- (a) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2,700 millimetres;
- (b) on or within ~~500~~600 millimetres from the face of the kerb;
- (c) in any other location where, in the opinion of the local government or 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
- (d) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

**6.34 Matters to be considered in determining application for a permit**

In determining an application for a permit for ~~the purpose of clauses 3.3 and 6.2(1), an~~ advertising sign or a portable direction sign, the local government is to have regard to ~~--~~

- (a) any other written law regulating the erection or placement of advertising signs or advertisements within the district;
- (b) the dimensions of the ~~advertising signs or advertisements~~sign;
- (c) other advertising signs already approved or erected in the vicinity of the proposed location of the ~~advertising signs or advertisements~~;
- (d) whether or not the ~~advertising signs or advertisements~~ will create a hazard to persons using a thoroughfare;
- (e) the amount of the public liability insurance cover, if any, to be obtained by the applicant;
- (f) whether the ~~advertising~~ sign would –
  - (i) obstruct the visibility or clear sight lines of any person at an intersection of thoroughfares; or
  - (ii) impede pedestrian access; and
- (g) whether the ~~advertising~~ sign, may obstruct or impede the use of the footpath for the purpose for which it ~~was designed is used~~.

***Division 3 – Conditions on permit*****6.45 Conditions on portable direction sign permit**

- (1) If the local government approves an application for a permit for a portable direction sign, the application is to be taken to be approved subject to the following conditions –
  - (a) the portable direction sign shall ~~--~~
    - (i) not exceed 1,000 millimetres in height;
    - (ii) not exceed an area of 0.8 square metres on any side;

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- (iii) relate only to directions to the business-activityplace described on the permit;
  - (iv) not be placed ~~in any position other than immediately in front of the building or the business to which the sign relates and be located not~~ closer than 500600 millimetres to the face of the kerb or further than 1200 millimetres from the kerb so as to ensure the free passage of persons using thea footpath;
  - (v) if it relates to a business or event, be removed each day at the close of the business or event to which it relates and not be erected again until the business or event next opens for trading;
  - (vi) be secured in position in accordance with any requirements of the local government;
  - (vii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person or the sight line of any vehicle drivers; and
  - (viii) be maintained in good condition; and
- (b) no more than one portable direction sign shall be erected in relation to the one building or business.
- (2) The permit holder of a permit for a portable direction sign shall comply with each of the conditions in subclause (1) in addition to any other conditions imposed on the permit by the local government.

**6.56 Conditions on election sign permit**

- (1) If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfarelocal government property, the application is to be taken to be approved subject to the sign –
- (a) being erected at least 30 metres from any intersection of thoroughfares;
  - (b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;
  - (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfarelocal government property or access to a place by any person;
  - (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
  - (e) being maintained in good condition;
  - (f) not being erected until the election to which it relates has been officially announced;
  - (g) being removed within 24 hours of the close of polls on voting day;
  - (h) not being placed within 100 metres of any works on the thoroughfarelocal government property;

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- (i) being securely installed;
  - (j) not being an illuminated sign;
  - (k) not incorporating reflective or fluorescent materials; and
  - (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.
- (2) The permit holder of a permit for the erection or placement of an election sign shall comply with each of the conditions in subclause (1) in addition to any other conditions imposed on the permit by the local government.

**Division 4 – Other obligations of a permit holder****6.67 Obligations of permit holder**

The permit holder shall –

- (a) maintain the ~~advertising~~ sign in a safe and serviceable condition at all times;
- (b) display the permit number provided by the local government in a conspicuous place on the ~~advertising~~ sign and whenever requested by an authorised person to do so, produce the sign permit to that person;
- (c) ensure that the sign is of a stable design and is not readily moved by the wind, and does not by the nature of its design or anything else cause any hazard or danger to any person using ~~a thoroughfare~~ local government property;
- (d) ~~display an advertising where a~~ sign is to be displayed on a footpath, display that sign in the location approved by the local government and as specified in the permit; and
- (e) ensure the free passage at all times of persons using the footpath at all times local government property.

**6.78 Safety of persons**

A person shall not cause or permit ~~an advertising sign~~ a sign to be erected or displayed in such a condition, which in the opinion of an authorised person, causes or is likely to cause injury or danger to any person or damage to the clothing or possessions of any person.

**6.89 Removal of sign for works**

A permit holder shall ensure that ~~an advertising~~ a sign, is removed from any footpath local government property to permit the footpath local government property to be swept or to permit any other authorised work to be carried out when directed to do so by an authorised person.

**6.910 Removal of sign which does not comply**

A person shall remove any ~~advertising~~ sign or ~~item~~ which does not comply with the requirements of this local law, from any footpath local government property when directed to do so by an authorised person.

**6.1011 Unlawful placement of signs**

A person who places, causes or permits to be placed on any ~~footpath~~local government property any ~~advertising sign or item~~ which does not comply with the requirements of this local law, commits an offence.

**PART 7 – OBSTRUCTING ANIMALS OR SHOPPING TROLLEYS****Division 1 – Animals****7.1 Leaving animal in a public place**

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

**7.2 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****7.3 Definitions**

In this Part –

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

**“shopping trolley”** means a container or receptacle on wheels provided by a retailer for the transport of goods.

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

A retailer shall clearly mark its name or trading name on any shopping trolley made available for the use of customers and which may be left in a public place by the customer.

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

- (1) A person shall not leave a shopping trolley in a public place or on local government property, other than in an area set aside for the storage of shopping trolleys.
- (2) A shopping trolley left in a public place or on local government property is not obstructing unless it is left for a period exceeding three (3) hours.

### **PART 8 – BOND OR SECURITY**

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

- (1) The local government may require an applicant to pay a bond, bank guarantee or security of a kind and to a value determined by the local government as a condition of an approval or permit and payable before the issue of an approval or permit, or where a land owner proposes to develop, amalgamate or subdivide the land for the purpose of ensuring that –
  - (a) hired local government property, including fixtures and fittings can be cleaned, replaced or repaired;
  - (b) a footpath or local government property damaged, removed or destroyed during the construction of any building on an adjacent lot, can be repaired or reinstated;
  - (c) a footpath or local government property damaged, removed or destroyed during the amalgamation or subdivision of adjacent land, can be repaired or reinstated;
  - (d) conditions of an approval or permit insofar as they relate to local government property or a thoroughfare, are complied with.
- (2) A bond or security required under subclause (1) is to be paid into an account established by the local government for the purposes of this clause prior to any work commencing, unless otherwise agreed by the local government.

#### **8.2 Use by local government of bond or security**

- (1) If a permit or approval holder or adjacent owner or occupier fails to carry out or complete the reinstatement works required by the permit or approval conditions, or by a notice served by the local government, either –
  - (a) within the time specified in that clause, those conditions; or the notice (as the case may be); or

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- (b) where no such time has been specified, a reasonable time from the expiration of the permit or approval to complete the restoration or reinstatement works;  
or
- (c) within 14 days or such time as specified in the notice given by the local government,

then, the local government may carry out or cause to be carried out, the required restoration and reinstatement works or as much work as remains undone. Any costs relating to the work carried out by the local government exceeding the bond paid by the applicant is a debt owing to the local government.

- (2) The permit or approval holder, owner or occupier shall pay to the local government on demand all administrative, legal, contractor and other costs including, but not limited to loss of income, estimated or incurred by the local government to restore and reinstate the site or which the local government may be required to pay under this clause.
- (3) The local government may apply the proceeds of any bond, bank guarantee or security obtained under clause 8.1 to meet any costs incurred by it under this clause.
- (4) The liability of the applicant, permit or approval holder, adjacent owner or occupier to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 8.1.

## **PART 9 – WORKS ON OR AFFECTING A THOROUGHFARE**

### ***Division 1 – Works affecting a thoroughfare***

#### **9.1 No damage to thoroughfare**

A person shall not damage, without lawful authority, a thoroughfare or anything belonging to or under the care, control or management of the local government that is on a thoroughfare, including but not limited to a footpath, verge or street tree.

#### **9.2 Footpath, verge and street tree protection**

- (1) The owner, occupier, licensee or contractor who undertakes works on a private property adjacent to a footpath, verge or street tree, shall –
  - (a) take all necessary precautions to ensure that the footpath, verge or street tree is not damaged during the course of the works;
  - (b) take all necessary action to ensure that the footpath remains in a safe functional state suitable for use by the public; and
  - (c) notify the local government of any existing damage to the footpath, verge or street tree prior to the commencement of the works.
- (2) A person who carries out any building or other operations or works on private property necessitating the crossing of a footpath with vehicles that may cause damage to the footpath, verge or a street tree, shall ensure that –
  - (a) all reasonable precautions are taken to prevent damage to the footpath, verge or street tree during the course of the works; and

- (b) heavy vehicles that access the private property, are to cross the footpath at the designated area for the proposed vehicle crossing for that private property.
- (3) If a person fails to comply with subclause (1) or (2) and a footpath, verge or street tree is thereby damaged, the local government may by notice in writing to that person require that person within the time stated in the notice to pay the costs of reinstating or repairing the footpath, verge or street tree.
- (4) On a failure to comply with a notice issued under subclause (3), the local government may recover the costs referred to in the notice as a debt due to it in a court of competent jurisdiction.

### 9.3 Liability for damage to thoroughfare

- (1) Where a person unlawfully damages a thoroughfare or any thing belonging to or under the care, control or management of the local government that is on a thoroughfare, the local government may by notice in writing to that person require that person within the time stated in the notice to, at the option of the local government, pay the costs of –
  - (a) reinstating the thoroughfare or thing to the state it was in prior to the occurrence of the damage; or
  - (b) replacing that thing.
- (2) On a failure to comply with a notice issued under subclause (1), the local government may recover the costs referred to in the notice as a debt due to it in a court of competent jurisdiction.

### ***Division 2 – Verge treatments***

#### 9.4 **Transitional provision**

- (1) ~~In this Division –~~

~~“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.~~

#### 9.5 **Interpretation**

~~In this Division:~~

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~~“acceptable material” means any material which will create a hard surface, and which appears on a list of acceptable materials maintained by the local government;~~

~~“permissible verge treatment” means any one of the 4 treatments described in clause 9.7(2), and includes any reticulation pipes and sprinklers.~~

### 9.6 Verge treatment

~~(1) The owner or occupier of land adjacent to any thoroughfare verge may only treat the verge in front of such land with a permissible treatment and in any event shall not—~~

- ~~(a) alter the finished level of the verge;~~
- ~~(b) excavate the verge within the drip line of any street tree; or~~
- ~~(c) cover or obstruct any manholes, gullies or inspection pits which are serviced from time to time by the local government.~~

### 9.7 Permissible verge treatments

~~(1) The owner or occupier of land adjacent to a thoroughfare may on the verge in front of such land, install a permissible verge treatment.~~

~~(2) The permissible verge treatments are for the purpose of subclause (1) —~~

- ~~(a) the planting and maintenance of a lawn;~~
- ~~(b) the planting and maintenance of a garden provided that —~~
  - ~~(i) it is in accordance with the local government’s “Verge Treatments, Plantings and Beautification” specifications; City’s policy in respect to verge treatments, planting and beautifications of a verge, as amended from time to time.~~
  - ~~(ii) 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;~~
  - ~~(iii) clear sight visibility is maintained at all times for a person using the driveway on the land adjacent to permissible verge treatment for access to or from the abutting thoroughfare; and~~
  - ~~(iv) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 1,500 millimetres along that part of the verge immediately adjacent to the kerb 9.5;~~
  - ~~(e) the installation of an acceptable material;~~
  - ~~(d) the installation over no more than one third of the area of the verge (excluding any vehicle crossing) to a maximum 7.5 metres of the frontage of the property of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b); or~~

**9.8 ~~Only permissible verge treatments to be installed~~**

~~The owner or occupier of land adjacent to a thoroughfare shall not install or maintain on the verge in front of such land a verge treatment other than a permissible verge treatment.~~

**9.9 ~~Owner's or occupier's responsibility for verge treatments~~**

~~An owner or occupier of land adjacent to a thoroughfare who installs or maintains a permissible verge treatment on the verge in front of such land shall –~~

- ~~(a) repair and make good any damage to the verge treatment at such owner's or occupier's expense;~~
- ~~(b) keep the verge treatment in good and tidy condition and ensure, where the verge treatment is a garden or lawn, that no obstruction of any sort (physical, sight or other) is caused to any accessway, footpath or thoroughfare;~~
- ~~(c) not place any obstruction on or around any verge treatment;~~
- ~~(d) not water or maintain a verge treatment in such a manner as to cause a nuisance or hazard to any person using a footpath, accessway or thoroughfare;~~
- ~~(e) not extend the verge treatment beyond the verge immediately adjacent to the land owned or occupied, without the written approval of the owner of the adjoining property, immediately adjacent to the verge to be treated.~~

**9.10 Enforcement**

The local government may give a notice in writing to the owner or occupier of land adjacent to a ~~thoroughfare~~verge who has installed or maintained a treatment on the verge in front of such land, requiring that owner or occupier, within the time specified in the notice, to make good any breach of this Division, or to remove all or any part of a verge treatment that does not comply with this Division.

***Division 3 ~~Public works~~*****9.116 Public works on verges**

- (1) For the purpose of carrying out any works the local government or any authority empowered by law to dig up a thoroughfare or carry out any other works on a thoroughfare, may without notice and without being liable to compensate any person, dig up all or part of a thoroughfare and disturb any verge treatment placed there by an owner or occupier of adjacent land.
- (2) Where the local government digs up or carries out any works in a verge which has a verge treatment which complies with Division 2, then the local government shall use its best endeavours to –
  - (a) replace and restore any reticulation pipes and sprinklers; and
  - (b) back fill with sand any garden or lawn,

but otherwise shall not be liable to replace or restore any verge treatment and in particular any plant, or other vegetation or any surface or in any event, shall not be liable to any person for any damage or disturbance caused.

**9.127 Contribution towards construction of standard vehicle crossings**

For the purpose of determining the local government's contribution towards the construction of a standard vehicle crossing as stipulated in regulation 15 of the *Local Government (Uniform Local Provisions) Regulations 1996*, a "standard crossing" is a standard vehicle crossing for a residential area.

**9.138 Temporary vehicle 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 carriageway, kerb, drains and footpath, where –
  - (a) a crossing does not exist; or
  - (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.
- (2) The "person responsible for the works" in subclause (1) is to be taken to be –
  - (a) the builder named on the building licence issued under the *Local Government (Miscellaneous Provisions) Act 1960*, if one has been issued in relation to the works; or
  - (b) the registered proprietor of the lot, if no building licence has been issued under the *Local Government (Miscellaneous Provisions) Act 1960* 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.

**9.149 Removal of redundant vehicle crossings**

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

**PART 10 – ACTIVITIES ON THOROUGHFARES AND LOCAL GOVERNMENT PROPERTY**

**10.1 General prohibitions**

A person shall not –

- (a) plant any tree or plant which exceeds or which may exceed 500 millimetres in height on a thoroughfare so that the plant is within 10 metres from the truncation point of an intersection;
- (b) damage a lawn or a garden or remove a plant or part of a plant from ~~a lawn or a garden~~local government property unless –
  - (i) the person is the owner or the occupier of the land abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
  - (ii) the person is acting under the authority of a written law;
- (c) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (d) 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;
- ~~(e) 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;~~
- (f) within a mall, arcade or verandah of a shopping centre, ride any wheeled recreational device or similar device; or
- (g) ~~damage, prune, injure, poison, or remove or kill, by felling, poisoning or other means, any street tree or part thereof on a thoroughfare or any local government property, unless the person is:~~
  - (i) ~~without the approval of the~~ acting under the authority of the local government; or
  - (ii) ~~acting under authority of a written law.~~

**10.2 Activities allowed with a permit**

- (1) ~~A person shall not, without~~The local government may grant a permit ~~for the following activities:~~
  - (a) dig or otherwise create a trench through or under a kerb or footpath;
  - (b) subject to Part 9 of this local law, throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only during the period of time advertised in connection with that collection by the local government;
  - (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;

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- (d) cause any obstruction to a water channel or a water course in a thoroughfare; throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
  - (e) damage a thoroughfare;
  - (f) light any fire or burn any thing on a thoroughfare;
  - (g) fell any tree onto a thoroughfare;
  - (h) unless installing a ~~permissible verge treatment –~~ verge treatment in accordance with any requirements specified in this local law or in the local government's policy–
    - (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 gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
  - (i) 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;
  - (j) on a public place use anything or do anything so as to create a nuisance;
  - (k) place or cause to be placed on a thoroughfare a bulk rubbish container;
  - (l) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare; or
  - (m) place or cause to be placed on a footpath or thoroughfare, a planter box or pots.
- (2) The local government may ~~exempt a person from compliance with subclause (1)–~~ on grant the application of that person permit in 10.2(1) above subject to conditions.

**PART 11 – NOTICES OF BREACH****11.1 Offence to fail to comply with notice**

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

**11.2 Local government may undertake requirements of notice**

Where a person fails to comply with a notice referred to in clause 11.1, the local government may by its employees, agents or contractors carry out the works and do all things specified in the notice and may recover from that person, as a debt, the costs incurred in so doing.

**11.3 Notice to remove, redirect or repair sprinkler**

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 or an authorised person may give a notice to the owner or the occupier of the land abutting on the lawn or the garden, requiring

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the owner or the occupier or both to either remove, move or alter the direction of the sprinkler or other watering equipment.

#### 11.4 Hazardous plants

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

#### 11.5 Notice to repair damage to thoroughfare

Where any portion of a thoroughfare, verge or footpath has been damaged, or is in the opinion of an authorised person, dangerous to the public, the local government or an authorised person may by notice to the person who caused the damage or dangerous condition, order the person to repair or replace that portion of the thoroughfare, verge or footpath to the satisfaction of the local government, and within the time frame stipulated in the notice. If the person does not comply with the notice to the satisfaction of the local government the person commits an offence

#### 11.6 Notice to remove 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 land abutting 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, requiring that person or the owner or occupier, as the case may be, to remove the thing within the time specified in the notice.

### PART 12 – OBJECTIONS AND REVIEW

#### 12.1 Application of Division 1, Part 9 of the Act

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

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

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

### PART 13 – MISCELLANEOUS

#### 13.1 Authorised person to be obeyed

A person on local government property shall obey any lawful direction of a manager or an authorised person.

#### 13.2 Persons may be refused admission or directed to leave local government property or a community facility

- (1) An authorised person or manager may refuse admission or direct a person to leave local government property where:

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- (a) the authorised person or manager reasonably suspects that the person has –
    - (i) contravened a provision of this local law;
    - (ii) behaved in a disorderly manner;
    - (iii) used indecent, offensive, profane or insulting language;
    - (iv) created or taken part in any disturbance whereby a crowd has gathered;
    - (v) committed an act of indecency; or
  - (b) the person has been deemed undesirable by the local government or the authorised person by reason of his or her past conduct.
- (2) A person shall, on being requested by the authorised person to do leave the local government property, do so immediately, quietly and peaceably.
- (3) A person who fails to comply with a request under subclause (2) may be removed from the local government property by an authorised person or a Police Officer.

**13.3 Liability for damage to local government property**

- (1) Where a person unlawfully damages or causes damage to or detrimentally affects the appearance or nature of any local government property, the local government may by notice in writing to that person require that person within the time required in the notice to, at the option of the local government, pay the costs of –
- (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
  - (b) replacing that property.
- (2) On a failure to comply with a notice issued under subclause (1), the local government may recover the costs referred to in the notice as a debt due to it in a court of competent jurisdiction.

**13.4 Public liability insurance ~~and indemnity policy~~**

- (1) Where, as a condition of a permit, the permit holder is required to obtain and maintain a public liability insurance policy, the permit holder shall –
- (a) ~~enter into an agreement with the local government to provide effect and maintain the required public liability insurance cover during the entire time that the license is in place;~~
  - (b) ~~take out a public liability insurance policy of insurance in the name of the permit holder, covering the Permit holder's legal liabilities in respect of the permit holder's usual business activities;~~
  - (c) ~~advise and the local government (if required by the local government should the permit holder cancel) in respect to any injury to any person or modify or fail any damage to renew any property which may occur in connection with the public liability insurance cover during the period use of the license;~~

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- (d) ~~provide the~~ local government ~~with a Certificate~~ property by the permit holder;
  - (b) ensure that any policy of insurance referred to in (a) indemnifies 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 local government property by the permit holder;
  - (c) effect and maintain the policy of insurance referred to in (a) for the duration of the permit,
  - (d) immediately notify the local government if the policy of insurance cover lapses, in which case the permit may be cancelled by the local government in accordance with clause 3.11;
  - (e) ~~Currency~~provide the local government with a certificate of currency confirming that public liability insurance cover is in place ~~as per clause 13.4(1) prior to issuing of the license;~~at any time requested by the local government
  - (ef) ensure that, as a minimum, the permit holder's public liability insurance policy ~~has a limit of liability~~provides coverage of \$10 million (ten million dollars), or such other amount as the local government considers appropriate to the risk and liability involved ~~in the activity authorised by the permit.~~ At the discretion of the local government, ~~the limit~~minimum value of liability coverage required may be increased at the policy renewal date;
  - (fg) ensure that the public liability insurer of the permit holder is a reputable insurer licensed to conduct insurance business in Australia in accordance with the guidelines issued by the Australian Prudential Regulatory Authority (APRA).
- (2) A permit ~~or approval~~ holder who refuses to or cannot provide a current certificate of insurance at least 14 days prior to the commencement of any activity, action or thing performed or erected in accordance with the permit, as required in accordance with subclause (1) commits an offence.
- (3) A permit holder must provide the local government with a copy of their certificate of insurance currency at any time requested by the local government, including at the permit application stage.

**13.5 Payment of applicable fees**

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

**13.6 No unauthorised entry to function**

- (1) A person shall not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorised, except –
- (a) through the proper entrance for that purpose; and
  - (b) on payment of the fee chargeable for admission at the time.

- (2) The local government may exempt a person from compliance with subclause (1)(b).

## **PART 14 – OFFENCES**

### ***Division 1 – Offences and penalties***

#### **14.1 Offences and general penalties**

- (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 less than \$300 and 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.

#### **14.2 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.

#### **14.3 Infringement notices and infringement withdrawal notices**

- (1) For the purposes of this local law –
- (a) where a vehicle is involved in the commission of an offence, the form of the infringement 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 referred to in sections 9.16 and 9.17 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
  - (c) the form of the withdrawal notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.
- (2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

### ***Division 2 – Evidence in legal proceedings***

**14.4 Evidence of a determination**

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

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## SCHEDULE 1

## PRESCRIBED OFFENCES

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
1.8	Failure to pay the fees and charges fixed by the local government from time to time	100
2.4	Failure to comply with determination	100
3.5 (1)	Failure to comply with conditions of a permit	100
3.5 (2)	Failure to comply with conditions of a permit <del>as varied</del> for works on local government property	<del>400</del> 500
3.10	Failure to produce <del>Permit</del> permit when required by an authorised person	100
3. <del>12</del> 14 (1)	Failure to obtain a permit	250
3.14 (2)	<del>Failure to obtain a permit to carry out works on local government property</del>	500
3.14(3)	<del>Failure to obtain a permit to use local government property or a community facility for a for profit purpose.</del>	500
3. <del>13</del> 15 (2)	Failure to obtain a permit to camp outside a facility or erect structure	100
3. <del>14</del> 16 (1)	Consumption or possession of liquor without a permit	100
3. <del>15</del> 17	Failure of permit holder to comply with responsibilities	100
4.1 (c)	Disorderly or offensive conduct, or use of indecent or improper language	100
4.2 (1)	Gender not specified using toilet block or change room	100
4.2 (2) (a)	Loiter outside or act in an unacceptable manner in any toilet block or change room	100
4.2 (2) (b)	Enter or attempt to enter an occupied cubicle or compartment	100
4.3 (1)	Failure to wear adequate clothing to secure decency	100
4.3 (2)	Failure to comply with direction of authorised person, to wear adequate clothing	250
4.4 (1)	Behaviour detrimental to property	100
4.5 (1) (a)	Take, injure or kill, or attempt to take, injure or kill any fauna	250
4.5 (1) (b)	Take onto, set or use any animal, bird or fish trap while on any local government property	250
4.6	Under influence of liquor or prohibited drug or substance	100
4.7	Take, consume or use a prohibited drug or substance on local government property	250
4. <del>89</del> (2)	Failure to comply with sign on local government property	100
5.3 (a)	Smoke or consume food or drink in a prohibited area	100
5.3 (b)	Climbing up or upon a community facility	100
5.3 (c)	Enter or use, or attempt to enter or use a community facility whilst unclean or suffering from a contagious, infectious or cutaneous disease	100
5.3 (d)	Using soap or shampoo in any part of the pool area other than in the changerooms	100
5.3 (e)	Using any detergent or any substance or oil in any pool or spa whereby the water may be discoloured or contaminated or rendered turbid or, in the opinion of the Manager or authorised person, in anyway unfit;	100
5.3 (f)	Fouling or polluting the water in any shower, pool or spa in the pool area;	100
5.3 (g)	Bringing into any part of the pool area or place thereon any chemical substance, liquid or powder	100

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5.3 (h)	Bringing into any part of the pool area any glass containers;	100
5.3 (i)	Smoking tobacco or any other substance in or about the community facility;	100
5.3 (j)	Deliberately waste or wastefully use fresh or potable water in the pool area;	100
5.3 (k)	Spitting or expectorating in any part of the community facility, other than in a water closet	100
5.3 (l)	Entering a pool or spa in a dirty or unclean condition.	100
<u>5.3 (m)</u>	<u>Using a mobile phone, camera or other recording device in a change room in a pool premises, library or other community facility.</u>	<u>500</u>
5.5 (1)	Launch a boat into river other than from an approved boat launching ramp or area permitted by signs	100
5.5 (2)	Launch personal water craft into river other than from a boat launching ramp	100
5.6 (1)	Fishing in an area where fishing is prohibited or restricted by signs	100
5.6 (2) (a)	Clean fish or cut bait that causes a nuisance to river users	100
5.6 (2) (b)	Leave or deposit fish offal on land or in river	100
5.7	Unauthorised entry to and area fenced off or closed to the public	250
5.9 (1)	Installing an air conditioning unit without approval	250
5.11	Erecting or maintaining an awning, balcony or verandah without a permit	250
5.12	Erecting an awning, balcony or verandah with incorrect dimensions	250
5.13	Erecting an awning, balcony or verandah with incorrect design	250
<u>5.15</u>	<u>Erecting a permanent structure within a thoroughfare or road reserve</u>	<u>250</u>
6.2 (1)	Placing <u>sign or</u> advertising sign <u>or affixing any advertisement</u> on a thoroughfare without a permit	250
<u>6.1B (1)</u>	<u>Displaying advertising sign on a local government property without a permit</u>	<u>250</u>
<del>6.2 (3)</del> <u>63</u>	Erecting or placing of advertising sign in a prohibited area	250
<del>6.45</del> (2)	Failure to comply with conditions for portable <u>direction</u> sign	250
<del>6.56</del> (2)	Failure to comply with conditions for election sign	250
<del>6.1B (1)</del>	<del>Displaying advertising sign on a footpath without a permit</del>	<del>250</del>
<del>6.67</del> (a)	Failing to maintain an advertising sign in a safe and serviceable condition at all times	100
<del>6.67</del> (b)	Refusing to conspicuously display the permit number on an advertising sign	50
<del>6.67</del> (c)	Failure to display a sign in accordance with conditions of permit	100
<del>6.67</del> (d)	Failing to display the advertising sign in the approved location	100
<del>6.67</del> (e)	Failing to ensure the free passage of persons using the footpath	100
<del>6.78</del>	Permitting an advertising sign to be displayed in an unsafe or dangerous manner	250
<del>6.89</del>	Refusing or failing to remove an advertising sign to allow sweeping <del>or</del> cleaning <u>or other authorised works</u>	100
<del>6.910</del>	Refusing or failure to remove an advertising sign or item when requested to do so	250
<del>6.4011</del>	Placing or permitting an advertising sign contrary to the requirements of the local law	250

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7.1 (1)	Leaving an animal on a public place without permit	100
7.1 (2)	Leaving an animal secured or tethered for in excess of 1 hour	100
<del>7.2 (2)(a)</del>	<del>Allowing an animal enter or remain on a thoroughfare or public place without authority, unless it is led, ridden or driven</del>	<del>100</del>
<del>7.2 (2)(b)</del>	<del>Allowing an animal which has a contagious or infectious disease to be on a thoroughfare</del>	<del>250</del>
<del>7.2 (2)(c)</del>	<del>Training or racing an animal on a thoroughfare</del>	
7.2 (3)	Leading driving or riding a horse on a thoroughfare in a built-up area without a permit	100
7.5 (1)	Leaving shopping trolley in public place other than trolley bay	100
7.5 (2)	Leaving a shopping trolley for a period in excess of 3 hours	100
<del>8.8 (2)</del>	<del>Failure to pay a required bond or security</del>	<del>500</del>
9.1	Damaging a thoroughfare or anything belonging to or under the care control and management of the local government that is on a thoroughfare	<u>200500</u>
9.2 (1) (a)	Failing to take necessary precautions to ensure footpaths, verges or trees are not damaged during works	<u>200500</u>
9.2 (1) (b)	Failing to ensure footpath remains in a safe and functioning state suitable for use by the public	<u>200500</u>
9.2 (1) (c)	Failing to notify local government of existing footpath damage prior to commencement of works	<u>50100</u>
9.2 (2) (a)	Failing to take reasonable precautions to prevent damage to footpath, verge or street tree	<u>200500</u>
<del>9.6 (a)</del>	<del>Altering finished level of a verge</del>	<del>100</del>
<del>9.6 (b)</del>	<del>Excavating verge within the drip line of street tree</del>	<del>100</del>
<del>9.6 (c)</del>	<del>Covering or obstructing any manholes, gullies or inspection pits</del>	<del>100</del>
<del>9.8</del>	<del>Installing verge treatment other than permissible verge treatment</del>	<del>200</del>
<del>9.9 (a)</del>	<del>Failing to repair and make good any damage to the verge treatment</del>	<del>100</del>
<del>9.9 (b)</del>	<del>Failing to keep verge treatment in good or tidy condition and avoid obstruction of any sort</del>	<del>100</del>
<del>9.9 (c)</del>	<del>Placing any obstruction on or around any verge treatment</del>	<del>100</del>
<del>9.9 (d)4</del>	<del>Not Failure to waterinstall or maintain a verge treatment so in accordance with the relevant City policy, as amended from time to time to cause a nuisance or a hazard to any person using footpath, accessway or thoroughfare</del>	<del>400250</del>
<del>9.9 (e)</del>	<del>Extending the verge treatment without written approval</del>	<del>200</del>
9.138 (1)	Failing to obtain permit for temporary crossing	200
9.149 (2)	Failing to comply with notice to remove crossing and reinstate kerb	250
10.1 (a)	Planting of tree or plant which exceeds 0.75metres in height on local government property within 10metres from the truncation of an intersection	100
10.1 (b)	Damaging lawn or garden, or remove any plant without authority	100
10.1 (c)	Placing any fruit, substance or fluid on footpath which may create a hazard	100
10.1 (d)	Damaging or interfering with signpost or structure on thoroughfare	200
<del>10.1 (e)</del>	<del>Playing games so as to endanger any person or thing or impede vehicles or persons on thoroughfare</del>	<del>200</del>
10.1 (f)	Riding any wheeled recreational device in a mall, arcade or verandah of a shopping centre	100
10.1 (g)	Damaging or removing a tree, which includes a tree on a verge, thoroughfare or local government property, or part thereof without the approval of the local government	<u>300500</u>
<del>10.2 (1)(a)</del>	<del>Digging a trench through a kerb or footpath without a permit</del>	<del>200</del>

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10.2_(1)(b)	Throwing or placing anything on a verge without a permit	200
10.2_(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	200
10.2_(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	200
10.2_(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	200
10.2_(1)(f)	Damaging a thoroughfare	200
10.2_(1)(g)	Lighting a fire on a thoroughfare without a permit	200
10.2_(1)(h)	Felling tree onto thoroughfare without a permit	200
10.2_(1)(i)	Installing pipes or stone on thoroughfare without a permit	200
10.2_(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	200
10.2_(1)(k)	Creating a nuisance on a public place without a permit	200
10.2_(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	100
10.2_(1)(m)	Interfering with anything on a thoroughfare without a permit	200
10.2_(1)(n)	Placing a planter box or pot on a footpath or thoroughfare	100
11.1	Failing to comply with notice given under local law where not specified in Schedule 1	<u>250500</u>
13.4 (2)	<u>Failure to hold or provide a current certificate of currency to an authorised person when requested</u>	<u>250</u>
13.5	Failing to pay the applicable fee to enter, use or participate in an activity on local government property	100
13.6 (1)	Entering local government property or building other than through the proper entrance or without payment of the admission fee	100
14.1 (1)	Other offences not specified	100

**SCHEDULE 2****DETERMINATIONS**

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

**PART 1 – PRELIMINARY****1.1 Definitions**

In these determinations unless the context requires otherwise—

"local law" means the *City of Vincent Local Government Property Local Law 2008*.

**1.2 Interpretation**

Unless the context requires otherwise, where a term is used but not defined in a determination and that term is defined in the local law then the term shall have the meaning given to it in the local law.

**1.3 Determinations**

As at the date of gazettal of this local law, the local government has not made any determinations.

This local law was made by the City of Vincent at an Ordinary Meeting held on the 26<sup>th</sup> day of February 2008.

The Common Seal of the City of Vincent was affixed by authority of a resolution of the Council in the presence of —

**NICK CATANIA, JPEMMA COLE, Mayor**  
**MAYOR**

**JOHN GIORGI, JPD**  
**DAVID MACLENNAN, Chief Executive Officer**  
**CHIEF EXECUTIVE OFFICER**

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## SCHEDULE OF AMENDMENTS

Date of Council Resolution	Date of Gazettal	Details of Amendment
08.07.08	07.10.08	<i>Title and Schedule 2, Clause 1.1</i> – delete 2007 and replace it with 2008  <i>Clause 5.2</i> – subclause (1) delete “or a community facility” also delete subclauses (1)(c), (1)(d), (4) and (5).  <i>Clause 13.4</i> – amended to be brought in line with the current standard wording for public liability insurance policies.
10.02.09	27.02.09	To amend the process for applications and permits, specify obligations of permit holders and conditions for signs.
<u>5.02.2019</u>		