

**5.6 FINAL ADOPTION OF LOCAL GOVERNMENT PROPERTY LOCAL LAW 2021**

- Attachments:**
1. Draft Local Government Property Local Law 2021
  2. Draft Local Government Property Local Law 2021 - Tracked Changes Showing Revisions
  3. Draft Local Government Property Local Law 2021 - As Advertised
  4. Consultation Submission 1
  5. Consultation Submission 2
  6. Administration Response to Consultation Submission 2

**RECOMMENDATION:****That Council:**

1. **NOTES** that local public notice of the *City of Vincent Local Government Property Local Law 2021* was provided for the period 30 July 2021 to 24 September 2021 and two submissions were received;
2. **NOTES** the purpose of repealing the *City of Vincent Local Government Property Local Law 2008* and replacing it with the *Local Government Property Local Law 2021* is to:
  - 2.1. increase the efficiency in the management of signs located on local government property;
  - 2.2. provide the City with a discretion to require a permit for the erection or display of an election sign on local government property;
  - 2.3. remove provisions regarding animals;
  - 2.4. assist with the management and regulation of security deposits and bank guarantees provided by developers constructing on private land;
  - 2.5. increase the deterrent for:
    - (a) causing damage to local government property;
    - (b) increasing the risk of public harm or harming fauna on local government property; and
    - (c) using local government property for a commercial activity without a permit;
  - 2.6. increase the deterrent for offensive and indecent behaviour on local government property;
  - 2.7. increase the efficiency in the management (beautification) of verges;
  - 2.8. deter damage or removal of trees on verges, thoroughfares or local government property;
  - 2.9. prohibit and effectively deter the use of recording devices within change rooms;
  - 2.10. amend the local law in accordance with prior advice received from the Department of Local Government, Sport and Cultural Industries;
  - 2.11. make administrative modifications so that the local law aligns with common practice and the City's current objectives and processes; and
  - 2.12. provide the City with discretion to make a determination prescribing a local government property or thoroughfare as a smoke-free area;

3. **NOTES** the effect of repealing the *City of Vincent Local Government Property Local Law 2008* and replacing it with the *Local Government Property Local Law 2021* is that:
- 3.1. conditions relating to when a sign permit will be required are now provided;
  - 3.2. election signs placed on local government property will now require a permit;
  - 3.3. provisions relating to animals will be incorporated into the proposed City of Vincent Animals Local Law;
  - 3.4. when and how the City may use security deposits or bank guarantees to rectify damage to local government property is regulated;
  - 3.5. increased penalties will apply for:
    - (d) causing damage to local government property;
    - (e) using local government property for a commercial activity without a permit;
    - (f) taking, injuring or killing (or attempting to) any fauna on local government property; and
    - (g) placing/draining offensive fluid or lighting a fire on a thoroughfare without a permit;
  - 3.6. increased penalties will apply for:
    - (a) offensive behaviour in a toilet block or changeroom on local government property;
    - (b) being indecently clothed on local government property; and
    - (c) spitting on or within community facilities;
  - 3.7. the conditions relating to management (beautification) of verges, prescribed in the City's relevant policy, are incorporated in the local law;
  - 3.8. increased penalties will apply for damage or removal of trees on verges, thoroughfares or local government property;
  - 3.9. the use of recording devices within change rooms is prohibited and an appropriate penalty is applicable;
  - 3.10. amendments are incorporated in the local law in line with the Department of Local Government, Sport and Cultural Industries recommendations;
  - 3.11. administrative modifications are made to ensure the local law aligns with common practice and the City's current objectives and processes; and
  - 3.12. the procedure for making a smoke-free area determination is specified and a penalty for smoking in a smoke-free area is applicable; and
4. **MAKES BY ABSOLUTE MAJORITY**, the *Local Government Property Local Law 2021* at Attachment 1, in accordance with section 3.12(4) of the *Local Government Act 1995*, subject to the Chief Executive Officer:
- 4.1. publishing the *Local Government Property Local Law 2021* in the Government Gazette in accordance with s3.12(5) of the *Local Government Act 1995* and providing a copy to the Minister for Local Government; and
  - 4.2. following Gazettal, providing local public notice in accordance with s3.12(6) of the *Local Government Act 1995*, and providing a copy of the law and Explanatory

**Memorandum signed by the Mayor and Chief Executive Officer to the Western Australian Parliamentary Joint Standing Committee on Delegated Legislation.**

**PURPOSE OF REPORT:**

To consider adopting the *Local Government Property Local Law 2021* (2021 Local Law).

**BACKGROUND:**

At its 2 April 2019 Meeting, Council resolved to provide public notice of the proposed *City of Vincent Local Government Property Amendment Local Law 2019* (Item 11.4). In accordance with Section 3.12(3)(b) of the *Local Government Act 1995*, a copy of the proposed *City of Vincent Local Government Property Amendment Local Law 2019* was provided to the Department of Local Government, Sports and Culture (DLGSC) for review and comment. DLGSC advised that the *City of Vincent Local Government Property Local Law 2008* should be repealed and replaced with a single, consolidated local law.

At its 28 July 2020 Meeting, Council resolved (Item 12.7) to provide public notice of its proposal to repeal the *City of Vincent Local Government Property Local Law 2008* and replace it with the *Local Government Property Local Law 2020*.

The proposed *Local Government Property Local Law 2020* was advertised between 11 August and 1 October 2020 for community consultation on the Imagine Vincent website.

At its 20 October 2020 Meeting, Council approved (Item 9.4) the adoption of the *Public Health Plan 2020-2025* (PHP). To align with the PHP objective to achieve 'Smoke-free Town Centres by 2025', the *Local Government Property Local Law 2020* was put on hold due to requiring a number of changes.

At its 22 June 2021 Meeting, Council approved (Item 12.2) the recommencement of the process of repealing the *Local Government Property Local Law 2008* and adopting the *Local Government Property Local Law 2021*.

**DETAILS:**

Local public notice of the proposed *Local Government Property Local Law 2021* was given in accordance with section 3.12(3)(a) of the *Local Government Act 1995*. Consultation on the proposed *Local Government Property Local Law 2021* included the following:

- a notice displayed on the City's website (Imagine Vincent);
- inclusion of a News Item on the City's website;
- advertisement in The Perth Voice on 31 July 2021;
- promotion on the City of Vincent's Facebook page on 1 August 2021; and
- inclusion on notice boards at the City of Vincent's Administration building and Library.

The submission period was open between 30 July 2021 and 24 September 2021. No submissions were received during the consultation period; however, two submissions were received in the days following the closure of the public notice period. Administration has included the two responses.

Submission 1, at **Attachment 4**, was submitted by representatives from Cancer Council WA and Australian Council on Smoking and Health. The feedback shows support for the proposed Local Law and the City's smoke-free town centres objective.

Submission 2, at **Attachment 5**, made a number of suggestions regarding the proposed local law. Administration's response is at **Attachment 6**. A number of minor amendments are proposed as a result of this submission. The modifications are included in the final draft Local Law 2021 as at **Attachment 1**.

A complete copy of the 2021 Local Law marked up in tracked changes showing modifications made following public consultation and advice from DLGSC is at **Attachment 2**.

Administration recommends the adoption of the 2021 Local Law at **Attachment 1**.

The 2021 Local Law includes a Repeal Clause (1.4) which notes that the “*Local Government Property Local Law 2008*, published in the Government Gazette on 15 April 2008, will be repealed on the day this local law comes into operation.”

### Smoke-free amendments

A key objective within the PHP is to achieve ‘Smoke-free Town Centres by 2025’, to reduce community exposure to environmental tobacco smoke. In response to the PHP, Administration made substantive amendments to Part 1 (Preliminary) and Part 5 (Matters relating to particular local government property) of the proposed Local Law to reflect the smoke-free town centres objective of the PHP. These changes triggered the requirement to recommence the making of the local law under section 3.13 of the *Local Government Act 1995*.

A summary of the proposed amendments and additions to the 2021 Local Law which relate to smoke-free areas are as follows:

1. clause 1.6 includes definitions of e-cigarette, smoke/smoking and tobacco product,
2. new clause 5.16 – defines smoke free area;
3. new clause 5.17 (Prohibition on smoking) – provides that:
  - (a) a person must not smoke in a smoke-free area; and
  - (b) that an authorised person may direct a person contravening this clause to extinguish the tobacco product or e-cigarette;
4. new clause 5.18 (Determination in regard to smoke-free area) – provides that the City may make a determination prescribing a local government property or thoroughfare (or part thereof) as a smoke-free area;
5. new clause 5.19 (Procedure for making smoke-free area determination):
  - (a) requires the City to provide local public notice of the proposed determination;
  - (b) specifies the requirements of the local public notice;
  - (c) sets out the process for making, amending or not proceeding with the determination (as the case may be); and
  - (d) provides that Council cannot delegate a decision to make, amend or not proceed with a determination;
6. new clause 5.20 (Considerations in making a determination) – sets out the factors (such as submissions from the community and benefits versus detriments to the community) the City must consider in effecting a proposed determination;
7. new clause 5.21 (Signage) - allows the City to erect a sign identifying an area as smoke-free;
8. new clause 5.22 (Application of clauses 2.5 and 2.6) – states that clause 2.5 (requiring all determinations be placed on a register) and clause 2.6 (relating to the amendment or revocation of a determination) apply to determinations made under this Division; and
9. new penalties added to Schedule 1:
  - (a) a person must not smoke in a smoke-free area - \$100; and
  - (b) failure to extinguish the tobacco product or e-cigarette upon direction of an authorised person - \$200.

The changes to the Local Law enable the City to go beyond the *Tobacco Products Control Act 2006* to prescribe additional smoke-free areas within the Local Government area.

The City referred the proposed additions to the Department of Local Government, Sport and Cultural Industries (DLGSC) in March 2021, who provided advice on the procedure for making a smoke-free area. Administration has taken into account DLGSC’s suggestions and provided for any decision of Council to prescribe an area as smoke-free be made in the form of a determination under the 2021 Local Law. The proposed 2021 Local Law allows Council to prescribe a smoke-free area (clause 5.18) and sets out the procedure for making a smoke-free area determination (clause 5.19).

Administration referred the proposed 2021 Local Law to DLGSC as advertised for their final comments in October 2021. They provided the following advice:

*“Part 5 Division 6 of the local law enables the local government to prescribe a thoroughfare as a smoke-free area. These clauses have several potential issues:*

- (a) *A ban would apply to a person on a thoroughfare even if the smoking occurs inside a private vehicle or the person is smoking alone and posed no health risk to others.*

- (b) *The power could potentially be used to ban smoking in all thoroughfares, either in one resolution or gradually over several resolutions.*
- (c) *The use of the determination power would not be subject to Parliamentary scrutiny or disallowance, meaning the Parliament can't block a determination if they believe it is inappropriate.*
- (d) *While public smoking in thoroughfares can cause issues for bystanders, it is generally legal under State smoking laws unless it involves an outdoor eating area. This raises the question of what level of restrictions local governments can impose."*

As well as correcting any spelling or formatting mistakes, Administration has made the following amendments to the advertised 2021 Local Law:

<p><b>1.6 Definitions</b> wheeled recreational device means a wheeled device built to transport a person (whether propelled by human power, electricity, motor or gravity). <del>including:</del> <del>(1) a bicycle or unicycle;</del> <del>(2) in-line skates, roller skates, a skateboard or similar device; and</del> <del>(3) a scooter being used by a person aged 12 years or older.</del></p>
<p><b>4.2 Only specified gender to use entry of toilet block or change room</b> (1) Subject to clause 4.2(2), where a sign on a toilet block or change room specifies that a particular toilet block or change room is to be used by – (c) families, then, where the toilet block or change room is being used by a family, only an immediate member of that family, <del>a guardian, or a caregiver,</del> may use that toilet block or change room.</p>
<p><b>5.16 Definitions</b> In this Division – smoke free area means an area prescribed by Council under this Division as an area where smoking is prohibited. <del>Areas are limited to:</del> <del>(a) An Activity Centre (as defined in the State Planning Policy 4.2 – Activity Centres for Perth and Peel);</del> <del>(b) A Public Open Space that is local government property (recreation, sport and nature spaces defined by the Department of Local Government, Sport and Cultural Industries Public Open Space Classification);</del> <del>(c) A thoroughfare adjacent to a business or facility where there is activity that caters for children and/or young people; and</del> <del>(d) A thoroughfare adjacent to a business or facility where trading with an outdoor eating area as an extension of food premises or licensed premises.</del></p>
<p><b>6.1 Definitions</b> (e) <del>minor nature development</del> means a sign that is characterised as: (i) <del>not exceeding 500mm in height nor 0.5m<sup>2</sup> in area, on any side, small in scale and composition</del> and which will not unduly adversely affect the local government property;</p>
<p><b>6.2 Advertising signs</b> (4) No clause of this local law will be taken to <del>grant permit</del> the permanent display of an advertising sign on local government property.</p>
<p><b>8.1 Definitions</b> The definition of 'developer' has been deleted: <del>developer means the developer, builder or land owner or occupier proposing to undertake the development</del> The definition of 'applicant' has been included: <b>8.1 Definitions</b> <del>applicant</del> means the person or business that received a development approval, building permit, or demolition permit, that has been issued to undertake the development. All references to 'developer' have been changed to 'applicant'.</p>
<p><b>9.2 Footpath, verge and street tree protection</b> (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; and (b) take all necessary action to ensure that the footpath remains in a safe functional state suitable for use by the public.; <del>and</del> <del>(c) notify the local government of any existing damage to the footpath, verge or street tree prior to the commencement of the works.</del> The relevant penalty has been removed.</p>
<p><b>9.4 Definitions</b></p>

<p>(a) <b>Garden</b> means a verge that is planted, developed or treated, otherwise than as a lawn, with one or more plants that:</p> <p>(i) <del>where possible,</del> are waterwise or native;</p> <p>(d) verge treatment means a:</p> <p>(i) garden;</p> <p>(ii) lawn; and/or</p> <p>(iii) <del>permitted</del> landscaping feature</p>
<p><b>9.6 Maintenance of verge treatments</b></p> <p>An owner who installs or maintains a verge treatment must ensure:</p> <p>(a) <i>the verge treatment is maintained:</i></p> <p>(i) in good and tidy condition, including removing build-up of leaves and grass clippings; and</p> <p>(ii) to ensure clear lines of sight for pedestrians, cyclists and motorists are provided at all times;</p> <p><del>(b) if the treatment includes lawn, the lawn is regularly mowed;</del></p> <p><del>(b)-(e)</del> the verge treatment is setback from and provides clear access to any infrastructure such as power poles and underground services within, under or over the verge; and</p> <p><del>(c)-(d)</del> any footpath running alongside the verge is kept clear of plants and landscaping features.</p>
<p><b>9.7 Permitted landscaping features</b></p> <p><i>Unless otherwise approved by the local government, the following restrictions apply to landscaping features installed in a verge:</i></p> <p><del>(3) compacted gravel pathways must provide a minimum 0.5 metre setback from any street trees; and</del></p> <p><del>(3)-(4)</del> compacted gravel pathways, paved pathways and bin stands (for non-parking purposes) must:</p> <p>(a) be finished level to be flush with the adjacent footpath, driveway, kerb and verge soil level; and</p> <p>(b) provide a minimum 0.5 metre setback from any street trees.</p>
<p><b>14.3 Infringement notices and infringement withdrawal notices</b></p> <p>(1) For the purpose of this local law –</p>

These changes made to the 2021 Local Law as a result of consultation submissions and advice from DLGSC, as seen in **Attachment 2**, are minor amendments. After including these amendments, the 2021 Local Law is not significantly different to what was advertised, therefore it does not trigger the requirement to recommence the making of the local law under section 3.13 of the *Local Government Act 1995*.

The Western Australian Parliamentary Joint Standing Committee on Delegated Legislation may exercise its discretion to disallow part or all of the 2021 Local Law. Additionally, DLGSC noted:

*“Local laws have successfully been made in the past to prohibit smoking in local government buildings and public beaches. However, it is uncertain whether the Delegated Legislation Committee would allow a local law which allowed bans via determination or which could be used to ban smoking from all public thoroughfares. There is also a possibility that the State Parliament may wish to disallow the local law if they believe that public smoking in thoroughfares is an issue to be reserved for State legislation.”*

### Election Sign Permits

The City currently grants Portable Signage Permits which are obtained through an online application form. The permit allows the applicant to display a portable sign associated with their business on the footpath area in front of their premises. The permit is immediately emailed to the applicant upon submission of the online application. Administration intends to create a similar application form for election sign permits. The application web page would be created after final adoption of the 2021 Local Law and would follow requirements specified in the 2008 Local Law. This provides a consistent approach to permit applications for signs on local government property.

### CONSULTATION/ADVERTISING:

Following Gazettal, the City would provide local public notice that the *Local Government Property Local Law 2021* has been published in the Government Gazette, in accordance with s3.12(6) of the *Local Government Act 1995*. The notice would include the following details: the title of the local law; the purpose and effect of the local law; the day the local law comes into operation; and advising that copies of the local law can be inspected and obtained from the City's office and website.

**LEGAL/POLICY:**

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

- (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 local 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.*
- (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 the local law is published on the local government's official website and that copies of the local law may be inspected at 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.*

**RISK MANAGEMENT IMPLICATIONS**

Low: It is low risk for Council to adopt the *Local Government Property Local Law 2021*.

**STRATEGIC IMPLICATIONS:**

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

Innovative and Accountable

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

**SUSTAINABILITY IMPLICATIONS:**

This does not contribute to any specific sustainability outcomes of the *City's Sustainable Environment Strategy 2019-2024*.

**PUBLIC HEALTH IMPLICATIONS:**

This is in keeping with the following priority health outcomes of the City's *Public Health Plan 2020-2025*:

*Reduced smoking*

**FINANCIAL/BUDGET IMPLICATIONS:**

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

## **City of Vincent**

### **Local Government Act 1995**

### **Local Government Property Local Law 2021**

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Local Government Property Local Laws 2021

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**LOCAL GOVERNMENT ACT 1995****CITY OF VINCENT****LOCAL GOVERNMENT PROPERTY LOCAL LAW 2021**

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 (date) 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 2021*.

**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**

The following local laws adopted by the City of Vincent:

- (a) *Local Government Property Local Law 2008*, published in the Government Gazette on 15 April 2008;
- (b) *Local Government Property Amendment Local Law 2008*, published in the Government Gazette on 7 October 2008;
- (c) *Local Government Property Amendment Local Law 2009*, published in the Government Gazette on 27 February 2009; and
- (d) *Local Government Property Local Law No.1, 2013*, published in the Government Gazette on 21 May 2013,

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

**1.5 Application**

- (1) This local law applies throughout the district.
- (2) 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 and/or occupation of any local government property.

## City of Vincent Local Government Property Local Law 2021

**1.6 Definitions**

In this local law unless the context requires otherwise –

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

*applicant* means a person who applies 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;

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

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

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

*change room* means the room or area designated as a change room, bathroom or toilet in a public place such as a pool premises;

*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, child health clinic, aged persons centre and the like;

*Council* means the Council, from time to time, of the local government;

*decency* means wearing of proper and adequate clothing for the occasion, so as to prevent indecent exposure;

*determination* means a determination made under clause 2.1;

*district* means the district of the local government;

*drone* means a powered aerial vehicle that does not carry a human operator and is piloted remotely;

*e-cigarette* means a portable device that is designed to generate or release an aerosol or vapour for personal use;

*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 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 and *fireworks display* means a show of a number of fireworks set off over a pre-arranged period;

*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 or runs through a road reserve, park, reserve or 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;

## City of Vincent Local Government Property Local Law 2021

- (c) organised by or on behalf of a club;
- (d) payment of a fee to attend it; and
- (e) systematic recurrence in relation to the day, time and place;

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

**garden** means a verge or other area within a local government property that is planted, developed or treated, otherwise than as a lawn, with one or more plants;

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

**landscaping feature** means any:

- (a) raised garden beds;
- (b) rocks, stones or logs;
- (c) compacted crushed gravel pathways;
- (d) paved pathways or bin stand areas;
- (e) seating or benches; and/or
- (f) decorations and lighting, installed within a garden or verge;

**lawn** means a verge or other area within a local government property 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 tree;

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

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

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

- (a) which 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” within the district as defined in section 3.53 of the Act;

**local public notice** has the same meaning as is given to it in section 1.7(1) of the Act from time to time;

**lot** means a defined portion of land in accordance with the meaning given to it in section 4(1) of the *Planning and Development Act 2005* from time to time;

**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;

**Notice** means a written notice (in any form, including electronic) issued by the local government or an authorised person under these local laws;

**nuisance** means any activity, thing, condition, circumstance or state of affairs caused or contributed to by a person which:

- (a) is injurious or dangerous to the health of another person of normal susceptibility; or

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- (b) which has a disturbing effect on the state of the physical, mental or social well-being of another person of normal susceptibility;

**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 may include electronic confirmation and/or a reference number;

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

**person** means a natural person, body corporate (as defined in the *Corporations Act 2001* (Cth)) or other legal entity such as an incorporated association, government or government agency but does not include the local government;

**premises** means a building, stadium or structure which is located on local government property, but excludes an open public space such as a park or a playing field;

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

**publication date** 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;

**public place** means 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 a building or structure on private property from which trading is lawfully conducted;

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

**Relevant Authority:**

- (a) any government or government authority in any jurisdiction, whether federal, state, territorial or local (including the Western Australian Planning Commission);
- (b) any provider of public utility services, whether statutory or not; and
- (c) any other person, authority, instrumentality or body having jurisdiction, rights, powers, duties or responsibilities over the affected land or any part of them;

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

**smoke** and/or **smoking** means to:

- (a) smoke, hold or otherwise have control over an ignited tobacco product;
- (b) light a tobacco product; or
- (c) use an e-cigarette;

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

**thoroughfare** has the same meaning as defined in section 1.4 of the Act, from time to time, and includes a footpath that is local government property;

**tobacco product** has the same meaning as defined in the *Tobacco Products Control Act 2006*;

**trading** means selling or hiring, or offering for sale or hire, goods or services, and includes displaying goods for the purpose of:

- (a) offering them for sale or hire;

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- (b) inviting offers for their sale or hire;
- (c) soliciting orders for them; or
- (d) carrying out any other transaction in relation to them;

*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 –

- (a) every conveyance and 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 or prescribed by the *Road Traffic (Vehicles) Act 2014*;

but excludes a –

- (a) wheel-chair or any device designed for use by physically impaired persons on a footpath;
- (b) pram, stroller or similar device;
- (c) wheeled recreational device, wheeled toy or a scooter used by a person aged under 12 years; and
- (d) train, boat or aircraft;

*verge* means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare, but does not include any footpath or kerb; and

*wheeled recreational device* means a wheeled device built to transport a person (whether propelled by human power, electricity, motor or gravity).

#### 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 local government's Schedule of Fees & Charges as amended from time to time.

#### 1.9 Assistance animals

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

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## Part 2 - Determinations in respect of Local Government Property

### *Division 1 - Determinations*

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

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.

#### **2.2 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 publication date.
- (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 publication date;
  - (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 publication date.

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- (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 publication date.
- (7) A proposed determination is to have effect as a determination on and from the publication date 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 must comply with a determination.

**2.5 Register of determinations**

- (1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act 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 publication date.

***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, drone or other similar remotely piloted device;
  - (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;

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- (h) play or practice –
    - (i) golf or archery;
    - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
    - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
  - (i) use a wheeled recreational 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;
  - (b) using a wheeled recreational device;
  - (c) taking, riding or driving a vehicle 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;
  - (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; and
  - (i) the use of a motorised model aeroplane, drone or other similar remotely piloted device.

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- (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.

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

- (1) Where a sign erected on local government property has been erected under a local law that is 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).

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## **Part 3 - Permits**

### ***Division 1 – Application of this Part***

#### **3.1 Terms used**

In this Part:

- (1) **Property** means a local government property or a thoroughfare or a portion thereof; and
- (2) **facility** means a caravan park or camping ground in accordance with section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.

#### **3.2 Application of this Part 3**

- (1) This Part does not apply to a person who uses or occupies local government property under a written agreement with the local government, including (but not limited to) a lease, licence, management agreement or shared use agreement.
- (2) This Part applies to any application for a permit to use a Property.

### ***Division 2 – Applying for a Permit***

#### **3.3 Application for Permit**

- (1) A person required to obtain a permit under this local law, must apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law must –
  - (a) be in the form determined by the local government;
  - (b) provide the information and any further documentation required by the form, including (but not limited to) plans, specifications and/or photographs; and
  - (c) be forwarded to the local government together with any fee specified in the form or as specified in the local government's Schedule of 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, prior to granting a permit, give local public notice of the application for a permit by an applicant to.
- (5) The local government may refuse to consider an application for a permit –
  - (a) which does not comply with the requirements in subclause (2);
  - (b) which is not properly completed; or
  - (c) where any required documentation, 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.

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

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:

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- (a) the desirability of the proposed activity;
- (b) the location of the proposed activity; and
- (c) such other matters 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 3.7; or
  - (b) refuse to approve an application for a permit on any of the grounds specified in clause 3.6, 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 will provide the applicant with Notice accordingly.
- (3) If the local government refuses to approve an application for a permit, it is to give Notice of that refusal, including the reasons for the local government's refusal, to the applicant.

**3.6 Grounds on which an application may be refused**

The local government may refuse 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 any other written law or condition of a lease or licence or hire arrangement between the applicant and the local government 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; or
  - (ii) the applicant has entered into any composition or arrangement with creditors;
- (d) the local government deems the permit application to be for an activity which is not appropriate for the local government property or thoroughfare for which the permit is sought; or
- (e) such other grounds as the local government may consider to be relevant in the circumstances of the case.

***Division 3 - Conditions*****3.7 Conditions which may be imposed on a permit**

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 fees, charges and bonds, as determined by the local government in accordance with sections 6.16 and 6.19 of the Act and specified in the local government's Schedule of Fees and Charges, as amended from time to time;
- (b) compliance with a standard or policy of the local government adopted by the local government;

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- (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.

**3.8 Compliance with permit conditions**

Where an application for a permit has been approved for an activity defined in clause 3.18(1) subject to conditions, the permit holder shall comply with each of those conditions.

**3.9 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 subclause (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 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*****3.10 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.
- (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.

**3.11 Duration of permit**

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

- (a) it is otherwise stated in this local law or the permit; or
- (b) cancelled in accordance with clause 3.15.

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**3.12 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 with all necessary modifications.

**3.13 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 former permit holder and the transferee.

**3.14 Production of permit**

- (1) A permit holder is to produce evidence of a permit to an authorised person immediately upon being required to do so by that authorised person.
- (2) The evidence referred to in subclause (1) may include the written confirmation (electronic version acceptable) provided by the local government or the permit number (if applicable).

**3.15 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 –
    - (i) condition of the permit; or
    - (ii) provision of this local law 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) if the permit holder's application is subsequently found to be incomplete, insufficient or not containing a required document;
  - (g) if the permit holder's application is subsequently found to contain incorrect or falsified information and/or documents;

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- (h) if the local government reasonably considers that the activity permitted by the permit may create a public health, safety or amenity issue;
  - (i) 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
  - (j) another permit for an outdoor eating area, goods display or portable advertising sign (as the case may be) 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 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 the thoroughfare unless the Notice 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.

**3.16 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 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 local government 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.

**3.17 Other approvals**

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

***Division 5 – When a permit is required*****3.18 Activities on local government property or thoroughfares needing a permit**

- (1) A person shall not without a permit –
- (a) subject to subclause (3), use a Property for any purpose which amounts to exclusive use of the whole or a portion of the Property for any period of time;

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- (b) advertise anything by any means on a Property, 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 a Property;
  - (d) plant any plant, sow any seeds or install any other landscaping feature on local government property, unless in accordance with clause 9.5 of this local law;
  - (e) carry on any trading on local government property unless the trading is conducted in accordance with a permit issued under the *City of Vincent Trading in Public Places Local Law 2008* (as amended from time to time);
  - (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 onto local government property; or
    - (ii) park or stop any vehicle on local government property;
  - (g) conduct a function or public gathering on local government property;
  - (h) charge any person for entry to local government property, unless the charge is for entry to 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;
  - (i) light a fire on a Property except in a facility provided by the local government for that purpose;
  - (j) parachute, hang glide, abseil or base jump from or onto a Property;
  - (k) erect a building or a refuelling site on local government property;
  - (l) make any excavation on or erect or remove any fence on local government property;
  - (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;
  - (n) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property;
  - (o) light or set off any fireworks or conduct a fireworks display on local government property;
  - (p) operate any broadcasting or public address system or sound amplification equipment or apparatus on local government property;
  - (q) erect, display, post, stick, stamp, stencil, paint or otherwise affix or cause to be erected, displayed, posted, stuck, stamped, stencilled 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;
  - (r) carry out filming, shooting or take a recording on local government property or within a thoroughfare where exclusive use of portion of the local government property or thoroughfare is required; or
  - (s) construct anything or place any infrastructure on a Property, including but not limited to paving, planter boxes and outdoor seating.
- (2) A person shall not without a permit carry out works in a thoroughfare or on local government property, including but not limited to –

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- (a) verge treatments, unless the verge treatment is in accordance with clause 9.5 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; or
  - (e) undertaking construction activities adjacent to a verge or thoroughfare which results in the use of the verge or thoroughfare.
- (3) A person shall not without a permit use local government property or a community facility for a 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 its sole discretion, exempt a person from compliance with subclauses (1), (2) or (3) on the application of that person by providing Notice to that person.
- (5) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

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

- (1) 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.
- (2) The maximum period for which the local government may approve an application for a permit in respect of subclause (1)(a) or (1)(b) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.
- (3) This clause does not apply to a facility operated by the local government.

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

A person on local government property, shall not consume any liquor or have in their possession or under their control any liquor, unless –

- (a) permitted under the *Liquor Control Act 1988*;
- (b) a permit has been obtained for that purpose; or
- (c) consumption does not, in the reasonable opinion of the local government, result in any anti-social or unsafe behaviour or cause risk to members of the public accessing the local government property.

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

**3.21 Responsibilities of permit holder**

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

- (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.

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## 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) causes or is likely to cause injury to, or to interrupt, disturb or interfere with the enjoyment of, a person who might use the property; or
- (b) may be considered disorderly or offensive by a person on the local government property.

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

- (1) Subject to clause 4.2(2), where a sign on a toilet block or change room specifies 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;
  - (b) males, then a person of the female gender over the age of 6 years shall not use the toilet block or change room; or
  - (c) families, then, where the toilet block or change room is being used by a family, only an immediate member of that family, a guardian, or a caregiver, may use that toilet block or change room.
- (2) Subclause (1) does not apply to a toilet block or change room where a sign designates that particular toilet block or change room as unisex.
- (3) 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 offensive 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) Subclause (3)(b) does not apply to a parent, guardian or caregiver accompanying a child under the age of 6 years.

#### 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) In this clause 4.4, *detrimental to the property* includes –

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- (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, tree or a seat provided for the use of any person; and
  - (c) climbing on or over local government property.
- (2) A person shall not behave in or any local government property in a way which is or might be detrimental to the property.

**4.5 Taking or injuring any fauna or flora**

- (1) In this clause –
- (a) *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 –
    - (i) any class of animal or individual member;
    - (ii) the eggs or larvae; or
    - (iii) the carcass, skin, plumage or fur; and
  - (b) *flora* means all vascular plants other than plants recognised as weeds.
- (2) 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, 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; or
  - (c) remove, prune or damage any flora.

**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 3.20) or a prohibited drug or substance.

**4.7 No prohibited drugs or substances**

A person shall not take a prohibited drug or substance, 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.

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

### *Division 1 – Community facilities*

#### 5.1 Definitions

In this Division –

- (a) **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; and
- (b) **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 portion of Crown Land Lot 1618, being Reserve 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.

#### 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 or a community facility, a person who –
  - (a) in her or his opinion is –
    - (i) under the age of 12 years and who is unaccompanied in the water by a responsible person 16 years or older;
    - (ii) suffering from any contagious, infectious or cutaneous disease or complaint;
    - (iii) in an unclean condition; or
    - (iv) 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) Subject to subclause (1), a person shall, on being requested by the Manager or an authorised person to do so, leave the administration centre or community facility immediately, quietly and peaceably.
- (3) A person who fails to comply with a request under subclause (2) may be removed from the administration centre or community facility 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 or a community facility, shall not –

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

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- (e) use any detergent, substance or oil in any pool or spa;
- (f) foul or pollute the water in any shower, pool or spa;
- (g) bring into any part of the pool premises or place thereon any chemical substance, liquid or powder;
- (h) bring into any part of the pool premises any glass containers;
- (i) deliberately waste or wastefully use fresh or potable water in a community facility;
- (j) spit or expectorate in any part of a community facility, other than in a water closet;
- (k) enter a pool or spa on the pool premises in a dirty or unclean condition; and
- (l) use a mobile phone, camera or other similar recording device in a change room at a 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 that 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.

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**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 may be granted or withheld by the local government at its absolute discretion.
- (2) If the local government provides approval in accordance with subclause (1), 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 –

- (a) **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;
- (b) **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;
- (c) **permanent structure** means a structure which is affixed to the ground and is considered to form part of the ground, including verandah posts and canopy structures;
- (d) **road** means Crown land dedicated at common law or reserved, declared or otherwise dedicated under an act as an alley, bridge, court, lane, road, street, thoroughfare or yard for the passage of pedestrians or vehicles or both and which the local government has care, control and management of, pursuant to section 55(2) of the *Land Administration Act 1997*;
- (e) **road reserve** means that area of a road which is reserved but not used as a carriageway and includes the verge, kerb and footpath; and
- (f) **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**

The local government may approve an awning, balcony or verandah over a thoroughfare provided it complies with the dimensions and design requirements as set out in clauses 5.12 and 5.13.

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

An awning, balcony or verandah erected over a thoroughfare must have:

- (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 600 millimetres from the face of kerb.

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

The following design requirements apply for an awning, balcony or verandah erected over a thoroughfare are:

- (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, in a sound and safe structural condition and in good and substantial repair.

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

Subject to obtaining any other approvals required, including development approval and any approvals required by a Relevant Authority, 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.

***Division 6 – Smoke free areas*****5.16 Definitions**

In this Division – ***smoke free area*** means an area prescribed by Council under this Division as an area where smoking is prohibited. Areas are limited to:

- (a) An Activity Centre (as defined in the *State Planning Policy 4.2 – Activity Centres for Perth and Peel*);
- (b) A Public Open Space that is local government property (recreation, sport and nature spaces defined by the Department of Local Government, Sport and Cultural Industries Public Open Space Classification);
- (c) A thoroughfare adjacent to a business or facility where there is activity that caters for children and/or young people; and
- (d) A thoroughfare adjacent to a business or facility where trading with an outdoor eating area as an extension of food premises or licensed premises.

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**5.17 Prohibition on smoking**

- (1) A person must not smoke in a smoke free area.
- (2) Where an authorised person believes on reasonable grounds that a person is contravening or has contravened subclause (1), the authorised person may direct the person to extinguish the tobacco product or e-cigarette.

**5.18 Determination in regard to smoke free area**

The local government may make a determination in accordance with clause 5.19 prescribing a local government property or thoroughfare, or any part thereof, as a smoke free area.

**5.19 Procedure for making smoke free area determination**

- (1) The local government is to give local public notice of its intention to make a determination in accordance with clause 5.18.
- (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 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 publication date.
- (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 in accordance with clause 5.20; 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).

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- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

**5.20 Considerations in making a determination**

In effecting a proposed determination in accordance with subclause 5.19(3), (5) or (6), the local government must have regard to the following factors –

- (a) the size of the proposed smoke free area;
- (b) the submissions from the community, including the opinions of the owners and occupiers of the land immediately adjoining the proposed smoke free area;
- (c) the proximity of the proposed smoke free area to a public place, part or all of which is not in a smoke free area;
- (d) the extent and outcome of public consultation on the proposed smoke free area (in accordance with clause 5.19);
- (e) any benefits to the community which would be achieved by the Council prescribing the proposed smoke free area; and
- (f) any detriments to the community which would be caused by the Council prescribing the proposed smoke free area.

**5.21 Signage**

The local government may erect or caused to be erected a sign identifying an area as smoke free.

**5.22 Application of clauses 2.5 and 2.6**

Clause 2.5 (Register of determinations) and clause 2.6 (Amendment or revocation of a determination) apply to any determination of the local government made under this Division.

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## Part 6 - Signs

### Division 1 – Preliminary

#### 6.1 Definitions

In this Part, unless the context otherwise requires –

- (a) **advertising sign** means a sign, which may or may not be permanently attached to a structure or fixed on or to the ground, that is –
  - (i) used or intended to be used for the purpose of advertising any premises, services, property, business, function, event, product or thing; and
  - (ii) not a portable advertising sign under the *City of Vincent Trading in Public Places Local Law 2008*;
- (b) **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;
- (c) **election sign** means a sign which advertises any aspect of a forthcoming Federal, State or Local Government election;
- (d) **frame sign** means a folding sign which is hinged at the top to provide a stable structure when open;
- (e) **minor nature development** means a sign that is characterised as:
  - (i) not exceeding 500mm in height nor 0.5m<sup>2</sup> in area, on any side, and which will not unduly adversely affect the local government property;
  - (ii) of a temporary nature occurring on one-off occasions (although may occur on a number of days) but not of any permanent nature or reoccurrence; and
  - (iii) uses which will not adversely affect the amenity, streetscape or day-to-day activities of the local government property or any other use which, in the opinion of the local government, constitutes a minor use;
- (f) **permit holder** means the person to whom a sign permit has been issued;
- (g) **portable direction sign** means a portable free standing direction sign;
- (h) **sign** includes a notice, poster, flag, mark, word, letter, model, placard, structure, device or representation and includes advertising signs, portable direction signs and election signs; and
- (i) **sign permit** means a permit to display a sign.

### Division 2 – Advertising signs and portable direction signs

#### 6.2 Advertising signs

- (1) Subject to subclause (2), a person shall not display an advertising sign on local government property unless that person is the holder of a valid sign permit.
- (2) Notwithstanding subclause (1), a sign permit is not required to display an advertising sign on local government property if the advertising sign is:
  - (a) a minor nature development;
  - (b) does not exceed 500mm in height nor 0.5m<sup>2</sup> in area, on any side; and

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- (c) is not illuminated and does not incorporate reflective or fluorescent materials;

provided that:

- (d) no more than one (1) advertising sign shall be erected in relation to the one building or business without a sign permit; and
  - (e) a person requiring more than one (1) advertising sign per building or business must obtain a sign permit for each additional advertising sign.
- (3) The local government may grant approval for the erection or display of an advertising sign for the duration of the period specified in the sign permit.
  - (4) No clause of this local law will be taken to grant the permanent display of an advertising sign on local government property.

### 6.3 Portable direction signs

- (1) Subject to subclause (2), a person shall not, without a sign permit erect or place portable direction sign on local government property.
- (2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which is:
  - (a) a minor nature development;
  - (b) does not exceed 750mm in height nor 0.5sqm in area, on any side; and
  - (c) placed or erected on a thoroughfare or local government property on an infrequent or occasional basis and only to direct attention to a place, activity or event during the hours of that activity or event;

provided that:

- (d) no more than one (1) portable direction sign shall be erected in relation to the one building or business without a sign permit; and
- (e) a person requiring more than one (1) portable direction sign per building or business must obtain a sign permit for each additional portable direction sign.

### 6.4 Location, maintenance and design of an advertising sign or portable direction sign

- (1) 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 footpath is less than 2,700 millimetres;
  - (b) on or within 600 millimetres from the face of 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.
- (2) A person erecting or placing an advertising sign or portable direction sign on local government property must:
  - (a) maintain the sign in a safe and serviceable condition at all times and remove the sign upon it ceasing to be serviceable;

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- (b) 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 local government property;
- (c) ensure the free passage at all times of persons using the local government property; and
- (d) 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.

***Division 3 – Applications and Conditions on sign permits*****6.5 Matters to be considered in determining application for a sign permit**

In determining an application for a permit for 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 signs within the district;
- (b) the dimensions of the sign;
- (c) other signs already approved or erected in the vicinity of the proposed location of the signs;
- (d) whether or not the signs 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 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 sign may obstruct or impede the use of the footpath for the purpose for which it is used.

**6.6 Conditions on sign permits**

- (1) If the local government approves an application for a sign permit for an advertising sign or portable direction sign, the application is to be taken to be approved subject to the following conditions –
  - (a) the sign shall –
    - (i) not exceed 1,000 millimetres in height;
    - (ii) not exceed an area of 0.8 square metres on any side;
    - (iii) if a portable direction sign, relate only to directions to the place described on the permit;
    - (iv) not be placed closer than 600 millimetres to the face of kerb or further than 1200 millimetres from the kerb so as to ensure the free passage of persons using the 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;

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- (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 advertising sign or portable direction sign shall be erected in relation to the one building or business, unless otherwise approved by the local government.
- (2) The permit holder of a permit for an advertising sign or portable direction sign shall comply with each of the conditions in subclause (1) in addition to any other conditions imposed on the sign permit by the local government.

**6.7 Obligations of permit holder**

The permit holder shall –

- (a) maintain the 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 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 local government property;
- (d) 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 local government property.

**6.8 Election signs**

The local government may issue a permit for the erection or display of an election sign on local government property.

***Division 4 – sign requirements*****6.9 Safety of persons**

A person shall not cause or permit a sign to be erected or displayed in such 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.

**6.10 Removal of sign for works**

When directed to do so by an authorised person, a person who has displayed a sign on local government property will ensure that the sign is removed to permit the local government property to be swept or to permit any other authorised work to be carried out.

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

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

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**6.12 Unlawful placement of signs**

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

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## **Part 7 - Obstructing Shopping Trolleys**

### ***Division 1 – Shopping trolleys***

#### **7.1 Definitions**

In this Part, unless the context otherwise requires –

- (a) **retailer** means a proprietor of a shop which provides shopping trolleys for the use of customers of the shop; and
- (b) **shopping trolley** means a container or receptacle on wheels provided by a retailer for the transport of goods.

#### **7.2 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 on a public place by the customer.

#### **7.3 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.

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## Part 8 - Bank Guarantee or Security Deposit

### 8.1 Definitions

In this Part, unless the context otherwise requires –

- (a) *applicant* means the person or business that received a development approval, building permit, or demolition permit, that has been issued to undertake the development.
- (b) *approval* means approval of a development application granted by the local government to an applicant in accordance with the Planning Act;
- (c) *bank guarantee* means an unconditional, irrevocable bank guarantee provided by an Australian trading bank carrying on business in Western Australia, in favour of the local government;
- (d) *building permit* means a building permit granted (subject to conditions or otherwise) by the local government to an applicant, in accordance with the *Building Act 2011* as amended from time to time, to build a development;
- (e) *development* has the same meaning as defined in section 4 of the Planning Act, as amended from time to time, but includes proposals to subdivide or amalgamate land;
- (f) *development application* has the same meaning as defined in section 4 of the Planning Act, from time to time;
- (g) *land* means privately owned land the subject of a development application; and
- (h) *Planning Act* means the *Planning and Development Act 2005*, as amended from time to time.

### 8.2 Security for restoration and reinstatement

- (1) Where an applicant proposes to undertake a development, the local government may require the applicant to pay a security deposit or provide a bank guarantee of a kind and to a value determined by the local government as a condition of an approval or a building permit and payable before the issue of the approval or building permit, 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 development on adjacent land, can be repaired or reinstated; and/or
  - (c) conditions of an approval or building permit insofar as they relate to local government property or a thoroughfare, are complied with.
- (2) A security deposit required under subclause (1) is to be held in an account established by the local government for the purpose of this clause prior to any work on the development commencing, unless otherwise agreed by the local government.

### 8.3 Restoration or reinstatement of local government property

- (1) If an applicant fails to carry out or complete reinstatement works on affected local government property as required by the building 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);

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

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 (**restoration works**). All costs incurred by the local government relating to the restoration works are a debt owing by the applicant to the local government.

- (2) Where a bank guarantee or security deposit has been provided by the applicant and the costs of the restoration works exceed the bank guarantee or security deposit amount, the balance of the costs will be a debt owing by the applicant to the local government.
- (3) The applicant 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.
- (4) The local government may apply the proceeds of any bank guarantee or security deposit obtained under clause 8.2 to meet any costs incurred by it under this clause.
- (5) The liability of the applicant to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 8.2.

**8.4 Obligation to provide bank guarantee or security deposit**

When required under this local law, an applicant must provide the local government with a bank guarantee or pay a security deposit in the amount determined by the local government.

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## **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; and
  - (b) take all necessary action to ensure that the footpath remains in a safe functional state suitable for use by the public.
- (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 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 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 in a court of competent jurisdiction.

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

#### **9.4 Definitions**

In this Part, unless the context otherwise requires –

- (a) ***garden*** means a verge that is planted, developed or treated, otherwise than as a lawn, with one or more plants that:
  - (i) are waterwise or native;
  - (ii) are not prickly and do not have spines;
  - (iii) are not known to be poisonous or cause allergic reactions;
- (b) ***lawn*** means a verge which is planted only with grass, or with a similar plant but does not include synthetic turf or lawn;
- (c) ***owner*** means an owner or occupier of land adjacent to a verge; and
- (d) **verge treatment** means a:
  - (i) garden;
  - (ii) lawn; and/or
  - (iii) permitted landscaping feature,

installed in a verge and includes reticulation pipes and sprinklers but excludes paving or other treatments for the purpose of parking vehicles.

#### **9.5 Verge treatment**

An owner may install a verge treatment on a verge, in accordance with the requirements of this Part 9 Division 2.

#### **9.6 Maintenance of verge treatments**

An owner who installs or maintains a verge treatment must ensure:

- (a) the verge treatment is maintained:
  - (i) in good and tidy condition, including removing build-up of leaves and grass clippings; and
  - (ii) to ensure clear lines of sight for pedestrians, cyclists and motorists are provided at all times;
- (b) the verge treatment is setback from and provides clear access to any infrastructure such as power poles and underground services within, under or over the verge; and
- (c) any footpath running alongside the verge is kept clear of plants and landscaping features.

#### **9.7 Permitted landscaping features**

Unless otherwise approved by the local government, the following restrictions apply to landscaping features installed in a verge:

- (1) raised garden beds, seating or benches, decorations and lighting must:
  - (a) be constructed of durable material, securely installed with no sharp edges, corners or fixtures;

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- (b) be built to a height not exceeding 0.5 metres;
  - (c) provide a minimum 0.5 metre setback from any street tree;
  - (d) provide a minimum 0.5 metre setback from the face of the kerb;
  - (e) maintain clear access for parked cars at all times; and
  - (f) only solar lighting is permitted within a verge;
- (2) rocks, stones or logs must:
- (a) maintain clear access for parked vehicles at all times; and
  - (b) be of a size and installed securely so as to not be easily moved; and
- (3) compacted gravel pathways, paved pathways and bin stands (for non-parking purposes) must:
- (a) be finished level to be flush with the adjacent footpath, driveway, kerb and verge soil level; and
  - (b) provide a minimum 0.5 metre setback from any street trees.

**9.8 Damage to local government property**

Any damage to the footpath, kerb, thoroughfare or carriageway caused by a person installing a verge treatment must be repaired or made good, to the satisfaction of the local government, by that person at his or her cost.

**9.9 Removal of verge treatments**

The local government may remove any verge treatment at any time if it considers the verge treatment is contrary to these local laws or poses a hazard to or interference with persons or property.

**9.10 Enforcement**

The local government may give a Notice to an owner who has installed or maintained a verge treatment in front of their land, requiring that owner, 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*****9.11 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

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surface or in any event, shall not be liable to any person for any damage or disturbance caused.

**9.12 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.

**9.13 Temporary vehicle crossings**

- (1) Where it is likely that works on a lot will involve vehicles leaving on 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.

**9.14 Removal of redundant vehicles crossings**

- (1) Where works on a lot will result in a crossing no longer giving access to 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 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.

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**Part 10 - Activities on thoroughfares and local government property****10.1 General prohibitions**

A person shall not –

- (a) plant any tree or plant (except grasses or a similar plant) within 10 metres from the truncation of an intersection;
- (b) damage a lawn or a garden or remove a plant or part of a plant from 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) within a mall, arcade or verandah of a shopping centre, ride any wheeled recreational device or similar device; or
- (f) 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.

**10.2 Activities allowed with a permit**

- (1) A person will not without a permit -
  - (a) dig or otherwise create a trench through or under a kerb, carriageway 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;
  - (d) cause any obstruction to a water channel or a water course in a thoroughfare;
  - (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
  - (f) damage a thoroughfare;
  - (g) light any fire or burn any thing on a thoroughfare;
  - (h) fell any tree onto a thoroughfare;
  - (i) if installing a verge treatment in accordance with any requirements specified in this local law, to –

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- (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;
  - (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
  - (k) on a public place use anything or do anything so as to create a nuisance;
  - (l) place or cause to be placed on a thoroughfare a bulk rubbish container;
  - (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare; or
  - (n) place or cause to be placed on a footpath or thoroughfare, a planter box or pots.
- (2) The local government may grant a permit in accordance with subclause (1) subject to conditions.

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## **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 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**

- (1) 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 timeframe stipulated in the Notice.
- (2) If a person does not comply with a Notice provided under subclause (1), to the satisfaction of the local government, that 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 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 above Notice.

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## **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.

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## 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) Subject to subclause (2), an authorised person or Manager may refuse to allow entry, suspend admission or direct a person to leave local government property where:
  - (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) The refusal or suspension referred to in subclause (1) can be for a period of up to 12 months as decided by the authorised person or Manager.
- (3) A person shall, on being requested by the authorised person to leave the local government property, do so immediately, quietly and peaceably.
- (4) A person who fails to comply with a request under subclause (3) 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

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 to that person require that person within the time specified in the Notice to, at the option of the local government, pay the costs of –

- (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
- (b) replacing that property.

### 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 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 subclause (1)(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;

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- (c) effect and maintain the policy of insurance referred to in subclause (1)(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 3.15;
  - (e) at any time requested by the local government, provide the local government with a certificate of currency confirming that public liability insurance cover is in place;
  - (f) ensure that, as a minimum, the permit holder's public liability insurance policy provides coverage of \$20 million (twenty 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;
  - (g) upon the request of the local government (in its absolute discretion), increase the minimum value of coverage at the public liability insurance policy renewal date; and
  - (h) 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.
- (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.

**13.5 Payment of application 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).

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## **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 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 purpose 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 purpose 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 section 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.

#### **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 14.2(1))*

<b>Item</b>	<b>Clause</b>	<b>Description</b>	<b>Modified Penalty \$</b>
1.	2.4	Failure to comply with determination	100
2.	3.8	Failure to comply with conditions of a permit	100
3.	3.14	Failure to produce permit when required by an authorised person	100
4.	3.18(1)	Failure to obtain a permit	250
5.	3.18(2)	Failure to obtain a permit to carry out works on local government property	500
6.	3.18(3)	Failure to obtain a permit to use local government property or a community facility for a for profit purpose	500
7.	3.19(1)	Failure to obtain a permit to camp outside a facility or erect structure	100
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## **City of Vincent**

### **Local Government Act 1995**

### **Local Government Property Local Law 2021**

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**LOCAL GOVERNMENT ACT 1995****CITY OF VINCENT****LOCAL GOVERNMENT PROPERTY LOCAL LAW 2021**

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 (date) 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 2021*.

**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**

The following local laws adopted by the City of Vincent:

- (a) *Local Government Property Local Law 2008*, published in the Government Gazette on 15 April 2008;
- (b) *Local Government Property Amendment Local Law 2008*, published in the Government Gazette on 7 October 2008;
- (c) *Local Government Property Amendment Local Law 2009*, published in the Government Gazette on 27 February 2009; and
- (d) *Local Government Property Local Law No.1, 2013*, published in the Government Gazette on 21 May 2013,

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

**1.5 Application**

- (1) This local law applies throughout the district.
- (2) 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 and/or occupation of any local government property.

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**1.6 Definitions**

In this local law unless the context requires otherwise –

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

*applicant* means a person who applies 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;

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

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

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

*change room* means the room or area designated as a change room, bathroom or toilet in a public place such as a pool premises;

*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, child health clinic, aged persons centre and the like;

*Council* means the Council, from time to time, of the local government;

*decency* means wearing of proper and adequate clothing for the occasion, so as to prevent indecent exposure;

*determination* means a determination made under clause 2.1;

*district* means the district of the local government;

*drone* means a powered aerial vehicle that does not carry a human operator and is piloted remotely;

*e-cigarette* means a portable device that is designed to generate or release an aerosol or vapour for personal use;

*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 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 and *fireworks display* means a show of a number of fireworks set off over a pre-arranged period;

*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 or runs through a road reserve, park, reserve or 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;

## City of Vincent Local Government Property Local Law 2021

- (c) organised by or on behalf of a club;
- (d) payment of a fee to attend it; and
- (e) systematic recurrence in relation to the day, time and place;

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

**garden** means a verge or other area within a local government property that is planted, developed or treated, otherwise than as a lawn, with one or more plants;

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

**landscaping feature** means any:

- (a) raised garden beds;
- (b) rocks, stones or logs;
- (c) compacted crushed gravel pathways;
- (d) paved pathways or bin stand areas;
- (e) seating or benches; and/or
- (f) decorations and lighting, installed within a garden or verge;

**lawn** means a verge or other area within a local government property 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 tree;

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

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

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

- (a) which 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” within the district as defined in section 3.53 of the Act;

**local public notice** has the same meaning as is given to it in section 1.7(1) of the Act from time to time;

**lot** means a defined portion of land in accordance with the meaning given to it in section 4(1) of the *Planning and Development Act 2005* from time to time;

**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;

**Notice** means a written notice (in any form, including electronic) issued by the local government or an authorised person under these local laws;

**nuisance** means any activity, thing, condition, circumstance or state of affairs caused or contributed to by a person which:

- (a) is injurious or dangerous to the health of another person of normal susceptibility; or

## City of Vincent Local Government Property Local Law 2021

- (b) which has a disturbing effect on the state of the physical, mental or social well-being of another person of normal susceptibility;

**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 may include electronic confirmation and/or a reference number;

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

**person** means a natural person, body corporate (as defined in the *Corporations Act 2001* (Cth)) or other legal entity such as an incorporated association, government or government agency but does not include the local government;

**premises** means a building, stadium or structure which is located on local government property, but excludes an open public space such as a park or a playing field;

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

**publication date** 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;

**public place** means 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 a building or structure on private property from which trading is lawfully conducted;

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

**Relevant Authority:**

- (a) any government or government authority in any jurisdiction, whether federal, state, territorial or local (including the Western Australian Planning Commission);
- (b) any provider of public utility services, whether statutory or not; and
- (c) any other person, authority, instrumentality or body having jurisdiction, rights, powers, duties or responsibilities over the affected land or any part of them;

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

**smoke** and/or **smoking** means to:

- (a) smoke, hold or otherwise have control over an ignited tobacco product;
- (b) light a tobacco product; or
- (c) use an e-cigarette;

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

**thoroughfare** has the same meaning as defined in section 1.4 of the Act, from time to time, and includes a footpath that is local government property;

**tobacco product** has the same meaning as defined in the *Tobacco Products Control Act 2006*;

**trading** means selling or hiring, or offering for sale or hire, goods or services, and includes displaying goods for the purpose of:

- (a) offering them for sale or hire;

## City of Vincent Local Government Property Local Law 2021

- (b) inviting offers for their sale or hire;
- (c) soliciting orders for them; or
- (d) carrying out any other transaction in relation to them;

*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 –

- (a) every conveyance and 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 or prescribed by the *Road Traffic (Vehicles) Act 2014*;

but excludes a –

- (a) wheel-chair or any device designed for use by physically impaired persons on a footpath;
- (b) pram, stroller or similar device;
- (c) wheeled recreational device, wheeled toy or a scooter used by a person aged under 12 years; and
- (d) train, boat or aircraft;

*verge* means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare, but does not include any footpath or kerb; and

*wheeled recreational device* means a wheeled device built to transport a person (whether propelled by human power, electricity, motor or gravity); ~~including~~

~~a bicycle or unicycle;~~

~~in-line skates, roller-skates, a skateboard or similar device; and~~

~~a scooter being used by a person aged 12 years or older.~~

### 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 local government's Schedule of Fees & Charges as amended from time to time.

### 1.9 Assistance animals

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

City of Vincent Local Government Property Local Law 2021

## **Part 2 - Determinations in respect of Local Government Property**

### ***Division 1 - Determinations***

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

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.

#### **2.2 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 publication date.
- (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 publication date;
  - (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 publication date.
- (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 publication date.

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- (7) A proposed determination is to have effect as a determination on and from the publication date 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 must comply with a determination.

**2.5 Register of determinations**

- (1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act 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 publication date.

***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, drone or other similar remotely piloted device;
  - (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;

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- (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
  - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
  - (i) use a wheeled recreational 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;
  - (b) using a wheeled recreational device;
  - (c) taking, riding or driving a vehicle 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;
  - (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; and
  - (i) the use of a motorised model aeroplane, drone or other similar remotely piloted device.
- (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;

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- (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.

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

- (1) Where a sign erected on local government property has been erected under a local law that is 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).

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## **Part 3 - Permits**

### ***Division 1 – Application of this Part***

#### **3.1 Terms used**

In this Part:

- (1) **Property** means a local government property or a thoroughfare or a portion thereof; and
- (2) **facility** means a caravan park or camping ground in accordance with section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.

#### **3.2 Application of this Part 3**

- (1) This Part does not apply to a person who uses or occupies local government property under a written agreement with the local government, including (but not limited to) a lease, licence, management agreement or shared use agreement.
- (2) This Part applies to any application for a permit to use a Property.

### ***Division 2 – Applying for a Permit***

#### **3.3 Application for Permit**

- (1) A person required to obtain a permit under this local law, must apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law must –
  - (a) be in the form determined by the local government;
  - (b) provide the information and any further documentation required by the form, including (but not limited to) plans, specifications and/or photographs; and
  - (c) be forwarded to the local government together with any fee specified in the form or as specified in the local government's Schedule of 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, prior to granting a permit, give local public notice of the application for a permit by an applicant to.
- (5) The local government may refuse to consider an application for a permit –
  - (a) which does not comply with the requirements in subclause (2);
  - (b) which is not properly completed; or
  - (c) where any required documentation, 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.

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

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:

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- (a) the desirability of the proposed activity;
- (b) the location of the proposed activity; and
- (c) such other matters 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 3.7; or
  - (b) refuse to approve an application for a permit on any of the grounds specified in clause 3.6, 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 will provide the applicant with Notice accordingly.
- (3) If the local government refuses to approve an application for a permit, it is to give Notice of that refusal, including the reasons for the local government's refusal, to the applicant.

**3.6 Grounds on which an application may be refused**

The local government may refuse 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 any other written law or condition of a lease or licence or hire arrangement between the applicant and the local government 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; or
  - (ii) the applicant has entered into any composition or arrangement with creditors;
- (d) the local government deems the permit application to be for an activity which is not appropriate for the local government property or thoroughfare for which the permit is sought; or
- (e) such other grounds as the local government may consider to be relevant in the circumstances of the case.

***Division 3 - Conditions*****3.7 Conditions which may be imposed on a permit**

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 fees, charges and bonds, as determined by the local government in accordance with sections 6.16 and 6.19 of the Act and specified in the local government's Schedule of Fees and Charges, as amended from time to time;
- (b) compliance with a standard or policy of the local government adopted by the local government;

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- (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.

**3.8 Compliance with permit conditions**

Where an application for a permit has been approved for an activity defined in clause 3.18(1) subject to conditions, the permit holder shall comply with each of those conditions.

**3.9 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 subclause (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 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*****3.10 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.
- (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.

**3.11 Duration of permit**

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

- (a) it is otherwise stated in this local law or the permit; or
- (b) cancelled in accordance with clause 3.15.

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**3.12 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 with all necessary modifications.

**3.13 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 former permit holder and the transferee.

**3.14 Production of permit**

- (1) A permit holder is to produce evidence of a permit to an authorised person immediately upon being required to do so by that authorised person.
- (2) The evidence referred to in subclause (1) may include the written confirmation (electronic version acceptable) provided by the local government or the permit number (if applicable).

**3.15 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 –
    - (i) condition of the permit; or
    - (ii) provision of this local law 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) if the permit holder's application is subsequently found to be incomplete, insufficient or not containing a required document;
  - (g) if the permit holder's application is subsequently found to contain incorrect or falsified information and/or documents;

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- (h) if the local government reasonably considers that the activity permitted by the permit may create a public health, safety or amenity issue;
  - (i) 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
  - (j) another permit for an outdoor eating area, goods display or portable advertising sign (as the case may be) 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 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 the thoroughfare unless the Notice 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.

**3.16 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 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 local government 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.

**3.17 Other approvals**

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

***Division 5 – When a permit is required*****3.18 Activities on local government property or thoroughfares needing a permit**

- (1) A person shall not without a permit –
- (a) subject to subclause (3), use a Property for any purpose which amounts to exclusive use of the whole or a portion of the Property for any period of time;

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- (b) advertise anything by any means on a Property, 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 a Property;
  - (d) plant any plant, sow any seeds or install any other landscaping feature on local government property, unless in accordance with clause 9.5 of this local law;
  - (e) carry on any trading on local government property unless the trading is conducted in accordance with a permit issued under the *City of Vincent Trading in Public Places Local Law 2008* (as amended from time to time);
  - (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 onto local government property; or
    - (ii) park or stop any vehicle on local government property;
  - (g) conduct a function or public gathering on local government property;
  - (h) charge any person for entry to local government property, unless the charge is for entry to 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;
  - (i) light a fire on a Property except in a facility provided by the local government for that purpose;
  - (j) parachute, hang glide, abseil or base jump from or onto a Property;
  - (k) erect a building or a refuelling site on local government property;
  - (l) make any excavation on or erect or remove any fence on local government property;
  - (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;
  - (n) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property;
  - (o) light or set off any fireworks or conduct a fireworks display on local government property;
  - (p) operate any broadcasting or public address system or sound amplification equipment or apparatus on local government property;
  - (q) erect, display, post, stick, stamp, stencil, paint or otherwise affix or cause to be erected, displayed, posted, stuck, stamped, stencilled 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;
  - (r) carry out filming, shooting or take a recording on local government property or within a thoroughfare where exclusive use of portion of the local government property or thoroughfare is required; or
  - (s) construct anything or place any infrastructure on a Property, including but not limited to paving, planter boxes and outdoor seating.
- (2) A person shall not without a permit carry out works in a thoroughfare or on local government property, including but not limited to –

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- (a) verge treatments, unless the verge treatment is in accordance with clause 9.5 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; or
  - (e) undertaking construction activities adjacent to a verge or thoroughfare which results in the use of the verge or thoroughfare.
- (3) A person shall not without a permit use local government property or a community facility for a 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 its sole discretion, exempt a person from compliance with subclauses (1), (2) or (3) on the application of that person by providing Notice to that person.
- (5) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

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

- (1) 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.
- (2) The maximum period for which the local government may approve an application for a permit in respect of subclause (1)(a) or (1)(b) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.
- (3) This clause does not apply to a facility operated by the local government.

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

A person on local government property, shall not consume any liquor or have in their possession or under their control any liquor, unless –

- (a) permitted under the *Liquor Control Act 1988*;
- (b) a permit has been obtained for that purpose; or
- (c) consumption does not, in the reasonable opinion of the local government, result in any anti-social or unsafe behaviour or cause risk to members of the public accessing the local government property.

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

**3.21 Responsibilities of permit holder**

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

- (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.

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## 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) causes or is likely to cause injury to, or to interrupt, disturb or interfere with the enjoyment of, a person who might use the property; or
- (b) may be considered disorderly or offensive by a person on the local government property.

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

- (1) Subject to clause 4.2(2), where a sign on a toilet block or change room specifies 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;
  - (b) males, then a person of the female gender over the age of 6 years shall not use the toilet block or change room; or
  - (c) families, then, where the toilet block or change room is being used by a family, only an immediate member of that family, a guardian, or a caregiver, may use that toilet block or change room.
- (2) Subclause (1) does not apply to a toilet block or change room where a sign designates that particular toilet block or change room as unisex.
- (3) 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 offensive 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) Subclause (3)(b) does not apply to a parent, guardian or caregiver accompanying a child under the age of 6 years.

#### 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) In this clause 4.4, *detrimental to the property* includes –

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- (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, tree or a seat provided for the use of any person; and
  - (c) climbing on or over local government property.
- (2) A person shall not behave in or any local government property in a way which is or might be detrimental to the property.

**4.5 Taking or injuring any fauna or flora**

- (1) In this clause –
- (a) *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 –
    - (i) any class of animal or individual member;
    - (ii) the eggs or larvae; or
    - (iii) the carcass, skin, plumage or fur; and
  - (b) *flora* means all vascular plants other than plants recognised as weeds.
- (2) 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, 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; or
  - (c) remove, prune or damage any flora.

**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 3.20) or a prohibited drug or substance.

**4.7 No prohibited drugs or substances**

A person shall not take a prohibited drug or substance, 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.

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

### *Division 1 – Community facilities*

#### 5.1 Definitions

In this Division –

- (a) **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; and
- (b) **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 portion of Crown Land Lot 1618, being Reserve 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.

#### 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 or a community facility, a person who –
  - (a) in her or his opinion is –
    - (i) under the age of 12 years and who is unaccompanied in the water by a responsible person 16 years or older;
    - (ii) suffering from any contagious, infectious or cutaneous disease or complaint;
    - (iii) in an unclean condition; or
    - (iv) 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) Subject to subclause (1), a person shall, on being requested by the Manager or an authorised person to do so, leave the administration centre or community facility immediately, quietly and peaceably.
- (3) A person who fails to comply with a request under subclause (2) may be removed from the administration centre or community facility 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 or a community facility, shall not –

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

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- (e) use any detergent, substance or oil in any pool or spa;
- (f) foul or pollute the water in any shower, pool or spa;
- (g) bring into any part of the pool premises or place thereon any chemical substance, liquid or powder;
- (h) bring into any part of the pool premises any glass containers;
- (i) deliberately waste or wastefully use fresh or potable water in a community facility;
- (j) spit or expectorate in any part of a community facility, other than in a water closet;
- (k) enter a pool or spa on the pool premises in a dirty or unclean condition; and
- (l) use a mobile phone, camera or other similar recording device in a change room at a 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 that 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.

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**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 may be granted or withheld by the local government at its absolute discretion.
- (2) If the local government provides approval in accordance with subclause (1), 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 –

- (a) **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;
- (b) **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;
- (c) **permanent structure** means a structure which is affixed to the ground and is considered to form part of the ground, including verandah posts and canopy structures;
- (d) **road** means Crown land dedicated at common law or reserved, declared or otherwise dedicated under an act as an alley, bridge, court, lane, road, street, thoroughfare or yard for the passage of pedestrians or vehicles or both and which the local government has care, control and management of, pursuant to section 55(2) of the *Land Administration Act 1997*;
- (e) **road reserve** means that area of a road which is reserved but not used as a carriageway and includes the verge, kerb and footpath; and
- (f) **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**

The local government may approve an awning, balcony or verandah over a thoroughfare provided it complies with the dimensions and design requirements as set out in clauses 5.12 and 5.13.

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

An awning, balcony or verandah erected over a thoroughfare must have:

- (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 600 millimetres from the face of kerb.

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

The following design requirements apply for an awning, balcony or verandah erected over a thoroughfare are:

- (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, in a sound and safe structural condition and in good and substantial repair.

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

Subject to obtaining any other approvals required, including development approval and any approvals required by a Relevant Authority, 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.

***Division 6 – Smoke free areas*****5.16 Definitions**

In this Division – **smoke free area** means an area prescribed by Council under this Division as an area where smoking is prohibited. Areas are limited to:

- (a) An Activity Centre (as defined in the State Planning Policy 4.2 – Activity Centres for Perth and Peel);
- (b) A Public Open Space that is local government property (recreation, sport and nature spaces defined by the Department of Local Government, Sport and Cultural Industries Public Open Space Classification);
- (c) A thoroughfare adjacent to a business or facility where there is activity that caters for children and/or young people; and
- (d) A thoroughfare adjacent to a business or facility where trading with an outdoor eating area as an extension of food premises or licensed premises.

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**5.17 Prohibition on smoking**

- (1) A person must not smoke in a smoke free area.
- (2) Where an authorised person believes on reasonable grounds that a person is contravening or has contravened subclause (1), the authorised person may direct the person to extinguish the tobacco product or e-cigarette.

**5.18 Determination in regard to smoke free area**

The local government may make a determination in accordance with clause 5.19 prescribing a local government property or thoroughfare, or any part thereof, as a smoke free area.

**5.19 Procedure for making smoke free area determination**

- (1) The local government is to give local public notice of its intention to make a determination in accordance with clause 5.18.
- (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 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 publication date.
- (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 in accordance with clause 5.20; 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).

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- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

**5.20 Considerations in making a determination**

In effecting a proposed determination in accordance with subclause 5.19(3), (5) or (6), the local government must have regard to the following factors –

- (a) the size of the proposed smoke free area;
- (b) the submissions from the community, including the opinions of the owners and occupiers of the land immediately adjoining the proposed smoke free area;
- (c) the proximity of the proposed smoke free area to a public place, part or all of which is not in a smoke free area;
- (d) the extent and outcome of public consultation on the proposed smoke free area (in accordance with clause 5.19);
- (e) any benefits to the community which would be achieved by the Council prescribing the proposed smoke free area; and
- (f) any detriments to the community which would be caused by the Council prescribing the proposed smoke free area.

**5.21 Signage**

The local government may erect or caused to be erected a sign identifying an area as smoke free.

**5.22 Application of clauses 2.5 and 2.6**

Clause 2.5 (Register of determinations) and clause 2.6 (Amendment or revocation of a determination) apply to any determination of the local government made under this Division.

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## Part 6 - Signs

### Division 1 – Preliminary

#### 6.1 Definitions

In this Part, unless the context otherwise requires –

- (a) **advertising sign** means a sign, which may or may not be permanently attached to a structure or fixed on or to the ground, that is –
  - (i) used or intended to be used for the purpose of advertising any premises, services, property, business, function, event, product or thing; and
  - (ii) not a portable advertising sign under the *City of Vincent Trading in Public Places Local Law 2008*;
- (b) **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;
- (c) **election sign** means a sign which advertises any aspect of a forthcoming Federal, State or Local Government election;
- (d) **frame sign** means a folding sign which is hinged at the top to provide a stable structure when open;
- (e) **minor nature development** means a sign that is characterised as:
  - (i) ~~small in scale and composition not exceeding 500mm in height nor 0.5m<sup>2</sup> in area, on any side,~~ and which will not unduly adversely affect the local government property;
  - (ii) of a temporary nature occurring on one-off occasions (although may occur on a number of days) but not of any permanent nature or reoccurrence; and
  - (iii) uses which will not adversely affect the amenity, streetscape or day-to-day activities of the local government property or any other use which, in the opinion of the local government, constitutes a minor use;
- (f) **permit holder** means the person to whom a sign permit has been issued;
- (g) **portable direction sign** means a portable free standing direction sign;
- (h) **sign** includes a notice, poster, flag, mark, word, letter, model, placard, structure, device or representation and includes advertising signs, portable direction signs and election signs; and
- (i) **sign permit** means a permit to display a sign.

### Division 2 – Advertising signs and portable direction signs

#### 6.2 Advertising signs

- (1) Subject to subclause (2), a person shall not display an advertising sign on local government property unless that person is the holder of a valid sign permit.
- (2) Notwithstanding subclause (1), a sign permit is not required to display an advertising sign on local government property if the advertising sign is:
  - (a) a minor nature development;

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- (b) does not exceed 500mm in height nor 0.5m<sup>2</sup> in area, on any side; and
- (c) is not illuminated and does not incorporate reflective or fluorescent materials;

provided that:

- (d) no more than one (1) advertising sign shall be erected in relation to the one building or business without a sign permit; and
  - (e) a person requiring more than one (1) advertising sign per building or business must obtain a sign permit for each additional advertising sign.
- (3) The local government may grant approval for the erection or display of an advertising sign for the duration of the period specified in the sign permit.
  - (4) No clause of this local law will be taken to ~~permit~~ grant the permanent display of an advertising sign on local government property.

### 6.3 Portable direction signs

- (1) Subject to subclause (2), a person shall not, without a sign permit erect or place portable direction sign on local government property.
- (2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which is:
  - (a) a minor nature development;
  - (b) does not exceed 750mm in height nor 0.5sqm in area, on any side; and
  - (c) placed or erected on a thoroughfare or local government property on an infrequent or occasional basis and only to direct attention to a place, activity or event during the hours of that activity or event;

provided that:

- (d) no more than one (1) portable direction sign shall be erected in relation to the one building or business without a sign permit; and
- (e) a person requiring more than one (1) portable direction sign per building or business must obtain a sign permit for each additional portable direction sign.

### 6.4 Location, maintenance and design of an advertising sign or portable direction sign

- (1) 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 footpath is less than 2,700 millimetres;
  - (b) on or within 600 millimetres from the face of 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.
- (2) A person erecting or placing an advertising sign or portable direction sign on local government property must:
  - (a) maintain the sign in a safe and serviceable condition at all times and remove the sign upon it ceasing to be serviceable;

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- (b) 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 local government property;
- (c) ensure the free passage at all times of persons using the local government property; and
- (d) 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.

***Division 3 – Applications and Conditions on sign permits*****6.5 Matters to be considered in determining application for a sign permit**

In determining an application for a permit for 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 signs within the district;
- (b) the dimensions of the sign;
- (c) other signs already approved or erected in the vicinity of the proposed location of the signs;
- (d) whether or not the signs 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 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 sign may obstruct or impede the use of the footpath for the purpose for which it is used.

**6.6 Conditions on sign permits**

- (1) If the local government approves an application for a sign permit for an advertising sign or portable direction sign, the application is to be taken to be approved subject to the following conditions –
  - (a) the sign shall –
    - (i) not exceed 1,000 millimetres in height;
    - (ii) not exceed an area of 0.8 square metres on any side;
    - (iii) if a portable direction sign, relate only to directions to the place described on the permit;
    - (iv) not be placed closer than 600 millimetres to the face of kerb or further than 1200 millimetres from the kerb so as to ensure the free passage of persons using the 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;

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- (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 advertising sign or portable direction sign shall be erected in relation to the one building or business, unless otherwise approved by the local government.
- (2) The permit holder of a permit for an advertising sign or portable direction sign shall comply with each of the conditions in subclause (1) in addition to any other conditions imposed on the sign permit by the local government.

**6.7 Obligations of permit holder**

The permit holder shall –

- (a) maintain the 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 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 local government property;
- (d) 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 local government property.

**6.8 Election signs**

The local government may issue a permit for the erection or display of an election sign on local government property.

***Division 4 – sign requirements*****6.9 Safety of persons**

A person shall not cause or permit a sign to be erected or displayed in such 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.

**6.10 Removal of sign for works**

When directed to do so by an authorised person, a person who has displayed a sign on local government property will ensure that the sign is removed to permit the local government property to be swept or to permit any other authorised work to be carried out.

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

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

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**6.12 Unlawful placement of signs**

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

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## **Part 7 - Obstructing Shopping Trolleys**

### ***Division 1 – Shopping trolleys***

#### **7.1 Definitions**

In this Part, unless the context otherwise requires –

- (a) **retailer** means a proprietor of a shop which provides shopping trolleys for the use of customers of the shop; and
- (b) **shopping trolley** means a container or receptacle on wheels provided by a retailer for the transport of goods.

#### **7.2 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 on a public place by the customer.

#### **7.3 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.

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## Part 8 - Bank Guarantee or Security Deposit

### 8.1 Definitions

In this Part, unless the context otherwise requires –

- (a) applicant means the person or business that received a development approval, building permit, or demolition permit, that has been issued to undertake the development.
- ~~(a)~~(b) approval means approval of a development application granted by the local government to an applicant-developer in accordance with the Planning Act;
- ~~(b)~~(c) bank guarantee means an unconditional, irrevocable bank guarantee provided by an Australian trading bank carrying on business in Western Australia, in favour of the local government;
- ~~(e)~~(d) building permit means a building permit granted (subject to conditions or otherwise) by the local government to an applicant-developer, in accordance with the *Building Act 2011* as amended from time to time, to build a development;
- ~~(d)~~ developer means the developer, builder or land owner or occupier proposing to undertake the development;
- (e) development has the same meaning as defined in section 4 of the Planning Act, as amended from time to time, but includes proposals to subdivide or amalgamate land;
- (f) development application has the same meaning as defined in section 4 of the Planning Act, from time to time;
- (g) land means privately owned land the subject of a development application; and
- (h) Planning Act means the *Planning and Development Act 2005*, as amended from time to time.

### 8.2 Security for restoration and reinstatement

- (1) Where an applicant-developer proposes to undertake a development, the local government may require the applicant-developer to pay a security deposit or provide a bank guarantee of a kind and to a value determined by the local government as a condition of an approval or a building permit and payable before the issue of the approval or building permit, 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 development on adjacent land, can be repaired or reinstated; and/or
  - (c) conditions of an approval or building permit insofar as they relate to local government property or a thoroughfare, are complied with.
- (2) A security deposit required under subclause (1) is to be held in an account established by the local government for the purpose of this clause prior to any work on the development commencing, unless otherwise agreed by the local government.

### 8.3 Restoration or reinstatement of local government property

- (1) If an applicant-developer fails to carry out or complete reinstatement works on affected local government property as required by the building permit or approval conditions, or by a Notice served by the local government, either –

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- (a) within the time specified in that clause, those conditions or the Notice (as the case may be);
- (b) where no such time has been specified, a reasonable time from the expiration of the building permit or approval to complete the restoration or reinstatement works; or
- (c) within 14 days or such time as specified in the Notice,

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 (**restoration works**). All costs incurred by the local government relating to the restoration works are a debt owing by the [applicant developer](#) to the local government.

- (2) Where a bank guarantee or security deposit has been provided by the [applicant developer](#) and the costs of the restoration works exceed the bank guarantee or security deposit amount, the balance of the costs will be a debt owing by the [applicant developer](#) to the local government.
- (3) The [applicant developer](#) 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.
- (4) The local government may apply the proceeds of any bank guarantee or security deposit obtained under clause 8.2 to meet any costs incurred by it under this clause.
- (5) The liability of the [applicant developer](#) to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 8.2.

#### 8.4 Obligation to provide bank guarantee or security deposit

When required under this local law, an [applicant developer](#) must provide the local government with a bank guarantee or pay a security deposit in the amount determined by the local government.

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## 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; and
  - (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 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 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 in a court of competent jurisdiction.

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### *Division 2 – Verge treatments*

#### 9.4 Definitions

In this Part, unless the context otherwise requires –

- (a) **garden** means a verge that is planted, developed or treated, otherwise than as a lawn, with one or more plants that:
  - (i) ~~where possible,~~ are waterwise or native;
  - (ii) are not prickly and do not have spines;
  - (iii) are not known to be poisonous or cause allergic reactions;
- (b) **lawn** means a verge which is planted only with grass, or with a similar plant but does not include synthetic turf or lawn;
- (c) **owner** means an owner or occupier of land adjacent to a verge; and
- (d) **verge treatment** means a:
  - (i) garden;
  - (ii) lawn; and/or
  - (iii) permitted landscaping feature,

installed in a verge and includes reticulation pipes and sprinklers but excludes paving or other treatments for the purpose of parking vehicles.

#### 9.5 Verge treatment

An owner may install a verge treatment on a verge, in accordance with the requirements of this Part 9 Division 2.

#### 9.6 Maintenance of verge treatments

An owner who installs or maintains a verge treatment must ensure:

- (a) the verge treatment is maintained:
  - (i) in good and tidy condition, including removing build-up of leaves and grass clippings; and
  - (ii) to ensure clear lines of sight for pedestrians, cyclists and motorists are provided at all times;
- ~~(b) if the treatment includes lawn, the lawn is regularly mowed;~~
- ~~(e)~~(b) the verge treatment is setback from and provides clear access to any infrastructure such as power poles and underground services within, under or over the verge; and
- ~~(d)~~(c) any footpath running alongside the verge is kept clear of plants and landscaping features.

#### 9.7 Permitted landscaping features

Unless otherwise approved by the local government, the following restrictions apply to landscaping features installed in a verge:

- (1) raised garden beds, seating or benches, decorations and lighting must:

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- (a) be constructed of durable material, securely installed with no sharp edges, corners or fixtures;
  - (b) be built to a height not exceeding 0.5 metres;
  - (c) provide a minimum 0.5 metre setback from any street tree;
  - (d) provide a minimum 0.5 metre setback from the face of the kerb;
  - (e) maintain clear access for parked cars at all times; and
  - (f) only solar lighting is permitted within a verge;
- (2) rocks, stones or logs must:
- (a) maintain clear access for parked vehicles at all times; and
  - (b) be of a size and installed securely so as to not be easily moved; and
- ~~(3) compacted gravel pathways must provide a minimum 0.5 metre setback from any street trees; and~~
- ~~(4)~~(3) compacted gravel pathways, paved pathways and bin stands (for non-parking purposes) must:
- (a) be finished level to be flush with the adjacent footpath, driveway, kerb and verge soil level; and
  - (b) provide a minimum 0.5 metre setback from any street trees.

**9.8 Damage to local government property**

Any damage to the footpath, kerb, thoroughfare or carriageway caused by a person installing a verge treatment must be repaired or made good, to the satisfaction of the local government, by that person at his or her cost.

**9.9 Removal of verge treatments**

The local government may remove any verge treatment at any time if it considers the verge treatment is contrary to these local laws or poses a hazard to or interference with persons or property.

**9.10 Enforcement**

The local government may give a Notice to an owner who has installed or maintained a verge treatment in front of their land, requiring that owner, 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*****9.11 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 –

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- (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.

**9.12 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.

**9.13 Temporary vehicle crossings**

- (1) Where it is likely that works on a lot will involve vehicles leaving on 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.

**9.14 Removal of redundant vehicles crossings**

- (1) Where works on a lot will result in a crossing no longer giving access to 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 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.

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**Part 10 - Activities on thoroughfares and local government property****10.1 General prohibitions**

A person shall not –

- (a) plant any tree or plant (except grasses or a similar plant) within 10 metres from the truncation of an intersection;
- (b) damage a lawn or a garden or remove a plant or part of a plant from 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) within a mall, arcade or verandah of a shopping centre, ride any wheeled recreational device or similar device; or
- (f) 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.

**10.2 Activities allowed with a permit**

- (1) A person will not without a permit -
  - (a) dig or otherwise create a trench through or under a kerb, carriageway 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;
  - (d) cause any obstruction to a water channel or a water course in a thoroughfare;
  - (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
  - (f) damage a thoroughfare;
  - (g) light any fire or burn any thing on a thoroughfare;
  - (h) fell any tree onto a thoroughfare;
  - (i) if installing a verge treatment in accordance with any requirements specified in this local law, to –

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- (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;
  - (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
  - (k) on a public place use anything or do anything so as to create a nuisance;
  - (l) place or cause to be placed on a thoroughfare a bulk rubbish container;
  - (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare; or
  - (n) place or cause to be placed on a footpath or thoroughfare, a planter box or pots.
- (2) The local government may grant a permit in accordance with subclause (1) subject to conditions.

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## **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 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**

- (1) 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 timeframe stipulated in the Notice.
- (2) If a person does not comply with a Notice provided under subclause (1), to the satisfaction of the local government, that 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 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 above Notice.

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## **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.

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## 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) Subject to subclause (2), an authorised person or Manager may refuse to allow entry, suspend admission or direct a person to leave local government property where:
  - (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) The refusal or suspension referred to in subclause (1) can be for a period of up to 12 months as decided by the authorised person or Manager.
- (3) A person shall, on being requested by the authorised person to leave the local government property, do so immediately, quietly and peaceably.
- (4) A person who fails to comply with a request under subclause (3) 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

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 to that person require that person within the time specified in the Notice to, at the option of the local government, pay the costs of –

- (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
- (b) replacing that property.

### 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 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 subclause (1)(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;

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- (c) effect and maintain the policy of insurance referred to in subclause (1)(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 3.15;
  - (e) at any time requested by the local government, provide the local government with a certificate of currency confirming that public liability insurance cover is in place;
  - (f) ensure that, as a minimum, the permit holder's public liability insurance policy provides coverage of \$20 million (twenty 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;
  - (g) upon the request of the local government (in its absolute discretion), increase the minimum value of coverage at the public liability insurance policy renewal date; and
  - (h) 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.
- (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.

**13.5 Payment of application 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).

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## 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 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 purpose 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 purpose 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 section 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.

#### 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 14.2(1))*

<b>Item</b>	<b>Clause</b>	<b>Description</b>	<b>Modified Penalty \$</b>
1.	2.4	Failure to comply with determination	100
2.	3.8	Failure to comply with conditions of a permit	100
3.	3.14	Failure to produce permit when required by an authorised person	100
4.	3.18(1)	Failure to obtain a permit	250
5.	3.18(2)	Failure to obtain a permit to carry out works on local government property	500
6.	3.18(3)	Failure to obtain a permit to use local government property or a community facility for a for profit purpose	500
7.	3.19(1)	Failure to obtain a permit to camp outside a facility or erect structure	100
8.	3.20	Consumption or possession of liquor without a permit	100
9.	3.21	Failure of permit holder to comply with responsibilities	100
10.	4.2(1)	Failure to use correct toilet block or change room	100
11.	4.2(3)(a)	Loiter outside or act in an unacceptable manner in any toilet block	200
12.	4.2(3)(b)	Enter or attempt to enter an occupied cubicle or compartment	200
13.	4.3(1)	Failure to wear adequate clothing to secure decency	200
14.	4.3(2)	Failure to comply with direction of authorised person, to wear adequate clothing	250
15.	4.4(2)	Behaviour detrimental to property	100
16.	4.5(2)(a)	Take, injure or kill, or attempt to take, injure or kill any fauna	500
17.	4.5(2)(b)	Take onto, set or use any animal, bird or fish trap while on any local government property	250
18.	4.5(2)(c)	Remove, prune or damage any flora	250

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19.	4.6	Under influence of liquor or prohibited drug or substance	100
20.	4.7	Take, consume or use a prohibited drug or substance on local government property	250
21.	4.8(2)	Failure to comply with sign on local government property	100
22.	5.3(a)	Consume food or drink in a prohibited area	100
23.	5.3(b)	Climbing up or upon a community facility	100
24.	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
25.	5.3(d)	Using soap or shampoo in any part of the pool area other than in the change rooms	100
26.	5.3(e)	Using any detergent, substance or oil in any pool or spa	100
27.	5.3(f)	Fouling or polluting the water in any shower, pool or spa	100
28.	5.3(g)	Bringing into any part of the pool area or place thereon any chemical substance, liquid or powder	100
29.	5.3(h)	Bringing into any part of the pool area any glass containers	100
<del>30.</del>	<del>5.3(i)</del>	<del>Smoking in or about the community facility</del>	<del>100</del>
<del>31-30.</del>	5.3(j)	Deliberately waste or wastefully use fresh or potable water in the pool area	100
<del>32-31.</del>	5.3(jk)	Spitting or expectorating in any part of the community facility, other than in a water closet	300
<del>33-32.</del>	5.3(kl)	Entering a pool or spa in a dirty or unclean condition	100
<del>34-33.</del>	5.3(lm)	Using a mobile phone, camera or other recording device in a change room at a community facility	500
<del>35-34.</del>	5.5(1)	Launch a boat into river other than from an approved boat launching ramp or area permitted by signs	100
<del>36-35.</del>	5.5(2)	Launch personal watercraft into river other than from a boat launching ramp	100
<del>37-36.</del>	5.6(1)	Fishing in an area where fishing is prohibited or restricted by signs	100

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<del>38-37.</del>	5.6(2)(a)	Clean fish or cut bait that causes a nuisance to river users	100
<del>39-38.</del>	5.6(2)(b)	Leave or deposit fish offal or bait on land or in the river	100
<del>40-39.</del>	5.7	Unauthorised entry to an area fenced off or closed to the public	250
<del>41-40.</del>	5.9(1)	Installing an air conditioning unit without approval	250
<del>42-41.</del>	5.11	Erecting or maintaining an awning, balcony or verandah without a permit or approval	250
<del>43-42.</del>	5.12	Erecting an awning, balcony or verandah that does not comply with dimensions	250
<del>44-43.</del>	5.13	Erecting an awning, balcony or verandah that does not comply with design requirements	250
<del>45-44.</del>	5.15	Erecting a permanent structure within a thoroughfare or road reserve without approval	250
<del>46-45.</del>	5.17(1)	Smoke in a smoke free area	100
<del>47-46.</del>	5.17(2)	Failure to extinguish tobacco product or e-cigarette upon direction of an authorised person	200
<del>48-47.</del>	6.2(1)	Displaying an advertising sign that requires a sign permit on local government property without a sign permit	250
<del>49-48.</del>	6.3(1)	Erecting or placing a portable direction sign that requires a sign permit on local government property without a sign permit	250
<del>50-49.</del>	6.4(1)	Placing or erecting an advertising sign or portable direction sign in a prohibited area	250
<del>51-50.</del>	6.4(2)(a)	Failing to maintain a sign in safe and serviceable condition at all times	100
<del>52-51.</del>	6.4(2)(b)	Failing to ensure that a sign is of a safe and stable design	100
<del>53-52.</del>	6.4(2)(c)	Failing to ensure the free passage of persons using footpath at all times	100
<del>54-53.</del>	6.4(2)(d)	Failing to remove sign at close of business each day or end of event	100
<del>55-54.</del>	6.6(2)	Failing to display a sign in accordance with conditions of sign permit	100
<del>56-55.</del>	6.7(a)	Failing to maintain sign in safe and serviceable condition at all times	100

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<del>57-56.</del>	6.7(b)	Refusing to conspicuously display the sign permit number on a sign	50
<del>58-57.</del>	6.7(c)	Failing to ensure that a sign is of a safe and stable design	100
<del>59-58.</del>	6.7(d)	Failing to display sign in the approved location	100
<del>60-59.</del>	6.7(e)	Failing to ensure the free passage of persons using the footpath	100
<del>61-60.</del>	6.8	Erecting or displaying an election sign without a permit when a permit is required by the local government	500
<del>62-61.</del>	6.9	Permitting a sign to be displayed in an unsafe or dangerous manner	250
<del>63-62.</del>	6.10	Refusing or failing to remove a sign to allow sweeping, cleaning or other authorised works	100
<del>64-63.</del>	6.11	Refusing or failing to remove a sign when requested to do so	250
<del>65-64.</del>	6.12	Placing or permitting a sign contrary to the requirements of the local law	250
<del>66-65.</del>	7.3(1)	Leaving a shopping trolley in public place other than trolley bay	100
<del>67-66.</del>	7.3(2)	Leaving a shopping trolley for a period in excess of 3 hours	100
<del>68-67.</del>	8.3(1)	Failure to carry out or complete reinstatement works on affected local government property	500
<del>69-68.</del>	8.4	Failure to provide a bank guarantee or pay a security deposit when required by local government	500
<del>70-69.</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	500
<del>71-70.</del>	9.2(1)(a)	Failing to take necessary precautions to ensure footpaths, verges or trees are not damaged during works	500
<del>72-71.</del>	9.2(1)(b)	Failing to ensure footpath remains in a safe and functioning state suitable for use by the public	500
<del>73-72.</del>	<del>9.2(2)(a)9-2(1)(c)</del>	<del>Failing to take reasonable precautions to prevent damage to footpath, verge or street tree</del> <del>Failing to notify local government of existing footpath damage prior to commencement of works</del>	<del>500</del> <del>100</del>
<del>74-73.</del>	<del>9.59-2(2)(a)</del>	<del>Failure to install or maintain a verge in accordance with the local laws</del> <del>Failing to take reasonable</del>	<del>250</del> <del>500</del>

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		precautions to prevent damage to footpath, verge or street tree	
<del>75-74.</del>	<del>9.89-5</del>	<del>Failing to rectify damage caused to footpath, kerb, thoroughfare or carriageway when installing a verge Failure to install or maintain a verge in accordance with the local laws</del>	<del>250250</del>
<del>76-75.</del>	<del>9.13(1)9-8</del>	<del>Failing to obtain permit for temporary crossing Failing to rectify damage caused to footpath, kerb, thoroughfare or carriageway when installing a verge</del>	<del>200250</del>
<del>77-76.</del>	<del>9.14(2)9-13(1)</del>	<del>Failing to comply with notice to remove crossing and reinstate kerb Failing to obtain permit for temporary crossing</del>	<del>250200</del>
<del>78-77.</del>	<del>10.1(a)9-14(2)</del>	<del>Planting of tree or plant which exceeds 500mm in height on local government property within 10metres from the truncation of an intersection Filing to comply with notice to remove crossing and reinstate kerb</del>	<del>100250</del>
<del>79-78.</del>	<del>10.1(b)10-1(a)</del>	<del>Damaging lawn or garden, or remove any plant without authority Planting of tree or plant which exceeds 500mm in height on local government property within 10metres from the truncation of an intersection</del>	<del>100100</del>
<del>80-79.</del>	<del>10.1(c)10-1(b)</del>	<del>Placing any fruit, substance or fluid on footpath which may create a hazard Damaging lawn or garden, or remove any plant without authority</del>	<del>100100</del>
<del>81-80.</del>	<del>10.1(d)10-1(e)</del>	<del>Damaging or interfering with signpost or structure on thoroughfare Placing any fruit, substance or fluid on footpath which may create a hazard</del>	<del>200100</del>
<del>82-81.</del>	<del>10.1(e)10-1(d)</del>	<del>Riding any wheeled recreational device in a mall, arcade or verandah of a shopping centre Damaging or interfering with signpost or structure on thoroughfare</del>	<del>100200</del>
<del>83-82.</del>	<del>10.1(f)10-1(e)</del>	<del>Damaging pruning, injuring, poisoning, removing or killing a tree, which includes a tree on a verge, thoroughfare or local government property without the approval of the local government Riding any wheeled recreational device in a mall, arcade or verandah of a shopping centre</del>	<del>500100</del>
<del>84-83.</del>	<del>10.2(1)(a)10-1(f)</del>	<del>Digging a trench through a kerb or footpath without a permit Damaging pruning, injuring, poisoning, removing or killing a tree, which includes a tree on a verge, thoroughfare or local government property without the approval of the local government</del>	<del>200500</del>
<del>85-84.</del>	<del>10.2(1)(b)10-2(1)(a)</del>	<del>Throwing or placing anything on a verge without a permit Digging a trench through a kerb or footpath</del>	<del>200200</del>

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<del>86-85.</del>	<del>10.2(1)(c)10.2(1)(b)</del>	<del>Causing obstruction to vehicle or person on thoroughfare without a permit</del> <del>Throwing or placing anything on a verge without a permit</del>	<del>200200</del>
<del>87-86.</del>	<del>10.2(1)(d)10.2(1)(c)</del>	<del>Causing obstruction to water channel on thoroughfare without a permit</del> <del>Causing obstruction to vehicle or person on thoroughfare without a permit</del>	<del>200200</del>
<del>88-87.</del>	<del>10.2(1)(e)10.2(1)(d)</del>	<del>Placing or draining offensive fluid on thoroughfare without a permit</del> <del>Causing obstruction to water channel on thoroughfare without a permit</del>	<del>300200</del>
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<del>90-89.</del>	<del>10.2(1)(g)10.2(1)(f)</del>	<del>Lighting a fire on a thoroughfare without a permit</del> <del>Damaging a thoroughfare</del>	<del>300200</del>
<del>91-90.</del>	<del>10.2(1)(h)10.2(1)(g)</del>	<del>Felling tree onto thoroughfare without a permit</del> <del>Lighting a fire on a thoroughfare without a permit</del>	<del>200300</del>
<del>92-91.</del>	<del>10.2(1)(i)10.2(1)(h)</del>	<del>Installing pipes or stone on thoroughfare without a permit</del> <del>Felling tree onto thoroughfare without a permit</del>	<del>200200</del>
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<del>94-93.</del>	<del>10.2(1)(k)10.2(1)(j)</del>	<del>Creating a nuisance on a public place without a permit</del> <del>Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit</del>	<del>200200</del>
<del>95-94.</del>	<del>10.2(1)(l)10.2(1)(k)</del>	<del>Placing a bulk rubbish container on a thoroughfare without a permit</del> <del>Creating a nuisance on a public place without a permit</del>	<del>100200</del>
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City of Vincent Local Government Property Local Law 2021

## **City of Vincent**

### **Local Government Act 1995**

### **Local Government Property Local Law 2021**

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Local Government Property Local Laws 2021

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**LOCAL GOVERNMENT ACT 1995****CITY OF VINCENT****LOCAL GOVERNMENT PROPERTY LOCAL LAW 2021**

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 (date) 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 2021*.

**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**

The following local laws adopted by the City of Vincent:

- (a) *Local Government Property Local Law 2008*, published in the Government Gazette on 15 April 2008;
- (b) *Local Government Property Amendment Local Law 2008*, published in the Government Gazette on 7 October 2008;
- (c) *Local Government Property Amendment Local Law 2009*, published in the Government Gazette on 27 February 2009; and
- (d) *Local Government Property Local Law No.1, 2013*, published in the Government Gazette on 21 May 2013,

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

**1.5 Application**

- (1) This local law applies throughout the district.
- (2) 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 and/or occupation of any local government property.

## City of Vincent Local Government Property Local Law 2021

**1.6 Definitions**

In this local law unless the context requires otherwise –

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

*applicant* means a person who applies 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;

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

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

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

*change room* means the room or area designated as a change room, bathroom or toilet in a public place such as a pool premises;

*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, child health clinic, aged persons centre and the like;

*Council* means the Council, from time to time, of the local government;

*decency* means wearing of proper and adequate clothing for the occasion, so as to prevent indecent exposure;

*determination* means a determination made under clause 2.1;

*district* means the district of the local government;

*drone* means a powered aerial vehicle that does not carry a human operator and is piloted remotely;

*e-cigarette* means a portable device that is designed to generate or release an aerosol or vapour for personal use;

*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 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 and *fireworks display* means a show of a number of fireworks set off over a pre-arranged period;

*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 or runs through a road reserve, park, reserve or 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 –

- (1) formal organisation and preparation;
- (2) its occurrence is generally advertised or notified in writing to particular persons;

## City of Vincent Local Government Property Local Law 2021

- (3) organised by or on behalf of a club;
- (4) payment of a fee to attend it; and
- (5) systematic recurrence in relation to the day, time and place,

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

**garden** means a verge or other area within a local government property that is planted, developed or treated, otherwise than as a lawn, with one or more plants;

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

**landscaping feature** means any:

- (1) raised garden beds;
- (2) rocks, stones or logs;
- (3) compacted crushed gravel pathways;
- (4) paved pathways or bin stand areas;
- (5) seating or benches; and/or
- (6) decorations and lighting,

installed within a garden or verge;

**lawn** means a verge or other area within a local government property 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 tree;

**liquor** has the same meaning as is given to it in section 3 of the *Liquor Control Act 1988* from time to time:

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

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

- (1) which is owned or leased by the local government;
- (2) of which the local government is the management body under the *Land Administration Act 1997*; or
- (3) which is an “otherwise unvested facility” within the district as defined in section 3.53 of the Act;

**local public notice** has the same meaning as is given to it in section 1.7(1) of the Act from time to time:

**lot** means a defined portion of land in accordance with the meaning given to it in section 4(1) of the *Planning and Development Act 2005* from time to time;

**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;

**Notice** means a written notice (in any form, including electronic) issued by the local government or an authorised person under these local laws;

**nuisance** means any activity, thing, condition, circumstance or state of affairs caused or contributed to by a person which:

- (1) is injurious or dangerous to the health of another person of normal susceptibility; or

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- (2) which has a disturbing effect on the state of the physical, mental or social well-being of another person of normal susceptibility;

**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 may include electronic confirmation and/or a reference number;

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

**person** means a natural person, body corporate (as defined in the *Corporations Act 2001* (Cth)) or other legal entity such as an incorporated association, government or government agency but does not include the local government;

**premises** means a building, stadium or structure which is located on local government property, but excludes an open public space such as a park or a playing field;

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

**publication date** 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;

**public place** means 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 a building or structure on private property from which trading is lawfully conducted;

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

**Relevant Authority:**

- (1) any government or government authority in any jurisdiction, whether federal, state, territorial or local (including the Western Australian Planning Commission);
- (2) any provider of public utility services, whether statutory or not; and
- (3) any other person, authority, instrumentality or body having jurisdiction, rights, powers, duties or responsibilities over the affected land or any part of them;

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

**smoke** and/or **smoking** means to:

- (1) smoke, hold or otherwise have control over an ignited tobacco product;
- (2) light a tobacco product; or
- (3) use an e-cigarette;

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

**thoroughfare** has the same meaning as defined in section 1.4 of the Act, from time to time, and includes a footpath that is local government property;

**tobacco product** has the same meaning as defined in the *Tobacco Products Control Act 2006*;

**trading** means selling or hiring, or offering for sale or hire, goods or services, and includes displaying goods for the purpose of:

- (1) offering them for sale or hire;

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- (2) inviting offers for their sale or hire;
- (3) soliciting orders for them; or
- (4) carrying out any other transaction in relation to them;

*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 –

- (1) every conveyance and object capable of being propelled or drawn on wheels, tracks or by any means;
- (2) an animal being ridden or driven; and
- (3) a vehicle described or prescribed by the *Road Traffic (Vehicles) Act 2014*;

but excludes a –

- (4) wheel-chair or any device designed for use by physically impaired persons on a footpath;
- (5) pram, stroller or similar device;
- (6) wheeled recreational device, wheeled toy or a scooter used by a person aged under 12 years; and
- (7) train, boat or aircraft;

*verge* means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare, but does not include any footpath or kerb; and

*wheeled recreational device* means a wheeled device built to transport a person (whether propelled by human power, electricity, motor or gravity) including:

- (1) a bicycle or unicycle;
- (2) in-line skates, roller-skates, a skateboard or similar device; and
- (3) a scooter being used by a person aged 12 years or older.

### 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 local government's Schedule of Fees & Charges as amended from time to time.

### 1.9 Assistance animals

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

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## **Part 2 - Determinations in respect of Local Government Property**

### ***Division 1 - Determinations***

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

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.

#### **2.2 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 publication date.
- (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 publication date;
  - (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 publication date.

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- (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 publication date.
- (7) A proposed determination is to have effect as a determination on and from the publication date 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 must comply with a determination.

**2.5 Register of determinations**

- (1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act 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 publication date.

***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, drone or other similar remotely piloted device;
  - (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;

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- (h) play or practice –
    - (i) golf or archery;
    - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
    - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
  - (i) use a wheeled recreational 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;
  - (b) using a wheeled recreational device;
  - (c) taking, riding or driving a vehicle 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;
  - (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; and
  - (i) the use of a motorised model aeroplane, drone or other similar remotely piloted device.

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- (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.

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

- (1) Where a sign erected on local government property has been erected under a local law that is 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).

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## Part 3 - Permits

### *Division 1 – Application of this Part*

#### 3.1 Terms used

In this Part:

- (1) *Property* means a local government property or a thoroughfare or a portion thereof; and
- (2) *facility* means a caravan park or camping ground in accordance with section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.

#### 3.2 Application of this Part 3

- (1) This Part does not apply to a person who uses or occupies local government property under a written agreement with the local government, including (but not limited to) a lease, licence, management agreement or shared use agreement.
- (2) This Part applies to any application for a permit to use a Property.

### *Division 2 – Applying for a Permit*

#### 3.3 Application for Permit

- (1) A person required to obtain a permit under this local law, must apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law must –
  - (a) be in the form determined by the local government;
  - (b) provide the information and any further documentation required by the form, including (but not limited to) plans, specifications and/or photographs; and
  - (c) be forwarded to the local government together with any fee specified in the form or as specified in the local government's Schedule of 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, prior to granting a permit, give local public notice of the application for a permit by an applicant to.
- (5) The local government may refuse to consider an application for a permit –
  - (a) which does not comply with the requirements in subclause (2);
  - (b) which is not properly completed; or
  - (c) where any required documentation, 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.

#### 3.4 Relevant considerations in determining application for permit

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:

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- (a) the desirability of the proposed activity;
- (b) the location of the proposed activity; and
- (c) such other matters 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 3.7; or
  - (b) refuse to approve an application for a permit on any of the grounds specified in clause 3.6, 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 will provide the applicant with Notice accordingly.
- (3) If the local government refuses to approve an application for a permit, it is to give Notice of that refusal, including the reasons for the local government's refusal, to the applicant.

**3.6 Grounds on which an application may be refused**

The local government may refuse 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 any other written law or condition of a lease or licence or hire arrangement between the applicant and the local government 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; or
  - (ii) the applicant has entered into any composition or arrangement with creditors;
- (d) the local government deems the permit application to be for an activity which is not appropriate for the local government property or thoroughfare for which the permit is sought; or
- (e) such other grounds as the local government may consider to be relevant in the circumstances of the case.

***Division 3 - Conditions*****3.7 Conditions which may be imposed on a permit**

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 fees, charges and bonds, as determined by the local government in accordance with sections 6.16 and 6.19 of the Act and specified in the local government's Schedule of Fees and Charges, as amended from time to time;
- (b) compliance with a standard or policy of the local government adopted by the local government;

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- (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.

**3.8 Compliance with permit conditions**

Where an application for a permit has been approved for an activity defined in clause 3.18(1) subject to conditions, the permit holder shall comply with each of those conditions.

**3.9 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 subclause (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 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*****3.10 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.
- (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.

**3.11 Duration of permit**

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

- (a) it is otherwise stated in this local law or the permit; or
- (b) cancelled in accordance with clause 3.15.

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**3.12 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 with all necessary modifications.

**3.13 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 former permit holder and the transferee.

**3.14 Production of permit**

- (1) A permit holder is to produce evidence of a permit to an authorised person immediately upon being required to do so by that authorised person.
- (2) The evidence referred to in subclause (1) may include the written confirmation (electronic version acceptable) provided by the local government or the permit number (if applicable).

**3.15 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 –
    - (i) condition of the permit; or
    - (ii) provision of this local law 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) if the permit holder's application is subsequently found to be incomplete, insufficient or not containing a required document;
  - (g) if the permit holder's application is subsequently found to contain incorrect or falsified information and/or documents;

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- (h) if the local government reasonably considers that the activity permitted by the permit may create a public health, safety or amenity issue;
  - (i) 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
  - (j) another permit for an outdoor eating area, goods display or portable advertising sign (as the case may be) 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 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 the thoroughfare unless the Notice 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.

**3.16 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 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 local government 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.

**3.17 Other approvals**

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

***Division 5 – When a permit is required*****3.18 Activities on local government property or thoroughfares needing a permit**

- (1) A person shall not without a permit –
  - (a) subject to subclause (3), use a Property for any purpose which amounts to exclusive use of the whole or a portion of the Property for any period of time;

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- (b) advertise anything by any means on a Property, 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 a Property;
  - (d) plant any plant, sow any seeds or install any other landscaping feature on local government property, unless in accordance with clause 9.5 of this local law;
  - (e) carry on any trading on local government property unless the trading is conducted in accordance with a permit issued under the *City of Vincent Trading in Public Places Local Law 2008* (as amended from time to time);
  - (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 onto local government property; or
    - (ii) park or stop any vehicle on local government property;
  - (g) conduct a function or public gathering on local government property;
  - (h) charge any person for entry to local government property, unless the charge is for entry to 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;
  - (i) light a fire on a Property except in a facility provided by the local government for that purpose;
  - (j) parachute, hang glide, abseil or base jump from or onto a Property;
  - (k) erect a building or a refuelling site on local government property;
  - (l) make any excavation on or erect or remove any fence on local government property;
  - (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;
  - (n) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property;
  - (o) light or set off any fireworks or conduct a fireworks display on local government property;
  - (p) operate any broadcasting or public address system or sound amplification equipment or apparatus on local government property;
  - (q) erect, display, post, stick, stamp, stencil, paint or otherwise affix or cause to be erected, displayed, posted, stuck, stamped, stencilled 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;
  - (r) carry out filming, shooting or take a recording on local government property or within a thoroughfare where exclusive use of portion of the local government property or thoroughfare is required; or
  - (s) construct anything or place any infrastructure on a Property, including but not limited to paving, planter boxes and outdoor seating.
- (2) A person shall not without a permit carry out works in a thoroughfare or on local government property, including but not limited to –

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- (a) verge treatments, unless the verge treatment is in accordance with clause 9.5 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; or
  - (e) undertaking construction activities adjacent to a verge or thoroughfare which results in the use of the verge or thoroughfare.
- (3) A person shall not without a permit use local government property or a community facility for a 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 its sole discretion, exempt a person from compliance with subclauses (1), (2) or (3) on the application of that person by providing Notice to that person.
- (5) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

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

- (1) 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.
- (2) The maximum period for which the local government may approve an application for a permit in respect of subclause (1)(a) or (1)(b) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.
- (3) This clause does not apply to a facility operated by the local government.

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

A person on local government property, shall not consume any liquor or have in their possession or under their control any liquor, unless –

- (a) permitted under the *Liquor Control Act 1988*;
- (b) a permit has been obtained for that purpose; or
- (c) consumption does not, in the reasonable opinion of the local government, result in any anti-social or unsafe behaviour or cause risk to members of the public accessing the local government property.

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

**3.21 Responsibilities of permit holder**

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

- (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.

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## **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) causes or is likely to cause injury to, or to interrupt, disturb or interfere with the enjoyment of, a person who might use the property; or
- (b) may be considered disorderly or offensive by a person on the local government property.

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

- (1) Subject to clause 4.2(2), where a sign on a toilet block or change room specifies 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;
  - (b) males, then a person of the female gender over the age of 6 years shall not use the toilet block or change room; or
  - (c) families, then, where the toilet block or change room is being used by a family, only an immediate member of that family may use that toilet block or change room.
- (2) Subclause (1) does not apply to a toilet block or change room where a sign designates that particular toilet block or change room as unisex.
- (3) 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 offensive 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) Subclause (3)(b) does not apply to a parent, guardian or caregiver accompanying a child under the age of 6 years.

#### **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) In this clause 4.4, *detrimental to the property* includes –

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- (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, tree or a seat provided for the use of any person; and
  - (c) climbing on or over local government property.
- (2) A person shall not behave in or any local government property in a way which is or might be detrimental to the property.

**4.5 Taking or injuring any fauna or flora**

- (1) In this clause –
- (a) *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 –
    - (i) any class of animal or individual member;
    - (ii) the eggs or larvae; or
    - (iii) the carcass, skin, plumage or fur; and
  - (b) *flora* means all vascular plants other than plants recognised as weeds.
- (2) 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, 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; or
  - (c) remove, prune or damage any flora.

**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 3.20) or a prohibited drug or substance.

**4.7 No prohibited drugs or substances**

A person shall not take a prohibited drug or substance, 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.

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

### *Division 1 – Community facilities*

#### 5.1 Definitions

In this Division –

- (a) **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; and
- (b) **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 portion of Crown Land Lot 1618, being Reserve 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.

#### 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 or a community facility, a person who –
  - (a) in her or his opinion is –
    - (i) under the age of 12 years and who is unaccompanied in the water by a responsible person 16 years or older;
    - (ii) suffering from any contagious, infectious or cutaneous disease or complaint;
    - (iii) in an unclean condition; or
    - (iv) 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) Subject to subclause (1), a person shall, on being requested by the Manager or an authorised person to do so, leave the administration centre or community facility immediately, quietly and peaceably.
- (3) A person who fails to comply with a request under subclause (2) may be removed from the administration centre or community facility 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 or a community facility, shall not –

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

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- (e) use any detergent, substance or oil in any pool or spa;
- (f) foul or pollute the water in any shower, pool or spa;
- (g) bring into any part of the pool premises or place thereon any chemical substance, liquid or powder;
- (h) bring into any part of the pool premises any glass containers;
- (i) deliberately waste or wastefully use fresh or potable water in a community facility;
- (j) spit or expectorate in any part of a community facility, other than in a water closet;
- (k) enter a pool or spa on the pool premises in a dirty or unclean condition; and
- (l) use a mobile phone, camera or other similar recording device in a change room at a 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 that 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.

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**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 may be granted or withheld by the local government at its absolute discretion.
- (2) If the local government provides approval in accordance with subclause (1), 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 –

- (a) **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;
- (b) **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;
- (c) **permanent structure** means a structure which is affixed to the ground and is considered to form part of the ground, including verandah posts and canopy structures;
- (d) **road** means Crown land dedicated at common law or reserved, declared or otherwise dedicated under an act as an alley, bridge, court, lane, road, street, thoroughfare or yard for the passage of pedestrians or vehicles or both and which the local government has care, control and management of, pursuant to section 55(2) of the *Land Administration Act 1997*;
- (e) **road reserve** means that area of a road which is reserved but not used as a carriageway and includes the verge, kerb and footpath; and
- (f) **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**

The local government may approve an awning, balcony or verandah over a thoroughfare provided it complies with the dimensions and design requirements as set out in clauses 5.12 and 5.13.

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

An awning, balcony or verandah erected over a thoroughfare must have:

- (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 600 millimetres from the face of kerb.

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

The following design requirements apply for an awning, balcony or verandah erected over a thoroughfare are:

- (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, in a sound and safe structural condition and in good and substantial repair.

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

Subject to obtaining any other approvals required, including development approval and any approvals required by a Relevant Authority, 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.

***Division 6 – Smoke free areas*****5.16 Definitions**

In this Division – *smoke free area* means an area prescribed by Council under this Division as an area where smoking is prohibited.

**5.17 Prohibition on smoking**

- (1) A person must not smoke in a smoke free area.
- (2) Where an authorised person believes on reasonable grounds that a person is contravening or has contravened subclause (1), the authorised person may direct the person to extinguish the tobacco product or e-cigarette.

**5.18 Determination in regard to smoke free area**

The local government may make a determination in accordance with clause 5.19 prescribing a local government property or thoroughfare, or any part thereof, as a smoke free area.

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**5.19 Procedure for making smoke free area determination**

- (1) The local government is to give local public notice of its intention to make a determination in accordance with clause 5.18.
- (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 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 publication date.
- (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 in accordance with clause 5.20; 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.

**5.20 Considerations in making a determination**

In effecting a proposed determination in accordance with subclause 5.19(3), (5) or (6), the local government must have regard to the following factors -

- (a) the size of the proposed smoke free area;
- (b) the submissions from the community, including the opinions of the owners and occupiers of the land immediately adjoining the proposed smoke free area;
- (c) the proximity of the proposed smoke free area to a public place, part or all of which is not in a smoke free area;

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- (d) the extent and outcome of public consultation on the proposed smoke free area (in accordance with clause 5.19);
- (e) any benefits to the community which would be achieved by the Council prescribing the proposed smoke free area; and
- (f) any detriments to the community which would be caused by the Council prescribing the proposed smoke free area.

**5.21 Signage**

The local government may erect or caused to be erected a sign identifying an area as smoke free.

**5.22 Application of clauses 2.5 and 2.6**

Clause 2.5 (Register of determinations) and clause 2.6 (Amendment or revocation of a determination) apply to any determination of the local government made under this Division.

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## Part 6 - Signs

### Division 1 – Preliminary

#### 6.1 Definitions

In this Part, unless the context otherwise requires –

- (a) **advertising sign** means a sign, which may or may not be permanently attached to a structure or fixed on or to the ground, that is –
  - (i) used or intended to be used for the purpose of advertising any premises, services, property, business, function, event, product or thing; and
  - (ii) not a portable advertising sign under the *City of Vincent Trading in Public Places Local Law 2008*;
- (b) **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;
- (c) **election sign** means a sign which advertises any aspect of a forthcoming Federal, State or Local Government election;
- (d) **frame sign** means a folding sign which is hinged at the top to provide a stable structure when open;
- (e) **minor nature development** means a sign that is characterised as:
  - (i) small in scale and composition and which will not unduly adversely affect the local government property;
  - (ii) of a temporary nature occurring on one-off occasions (although may occur on a number of days) but not of any permanent nature or reoccurrence; and
  - (iii) uses which will not adversely affect the amenity, streetscape or day-to-day activities of the local government property or any other use which, in the opinion of the local government, constitutes a minor use;
- (f) **permit holder** means the person to whom a sign permit has been issued;
- (g) **portable direction sign** means a portable free standing direction sign;
- (h) **sign** includes a notice, poster, flag, mark, word, letter, model, placard, structure, device or representation and includes advertising signs, portable direction signs and election signs; and
- (i) **sign permit** means a permit to display a sign.

### Division 2 – Advertising signs and portable direction signs

#### 6.2 Advertising signs

- (1) Subject to subclause (2), a person shall not display an advertising sign on local government property unless that person is the holder of a valid sign permit.
- (2) Notwithstanding subclause (1), a sign permit is not required to display an advertising sign on local government property if the advertising sign is:
  - (a) a minor nature development;
  - (b) does not exceed 500mm in height nor 0.5m<sup>2</sup> in area, on any side; and

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- (c) is not illuminated and does not incorporate reflective or fluorescent materials;

provided that:

- (d) no more than one (1) advertising sign shall be erected in relation to the one building or business without a sign permit; and
  - (e) a person requiring more than one (1) advertising sign per building or business must obtain a sign permit for each additional advertising sign.
- (3) The local government may grant approval for the erection or display of an advertising sign for the duration of the period specified in the sign permit.
  - (4) No clause of this local law will be taken to permit the permanent display of an advertising sign on local government property.

### 6.3 Portable direction signs

- (1) Subject to subclause (2), a person shall not, without a sign permit erect or place portable direction sign on local government property.
- (2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which is:
  - (a) a minor nature development;
  - (b) does not exceed 750mm in height nor 0.5sqm in area, on any side; and
  - (c) placed or erected on a thoroughfare or local government property on an infrequent or occasional basis and only to direct attention to a place, activity or event during the hours of that activity or event;

provided that:

- (d) no more than one (1) portable direction sign shall be erected in relation to the one building or business without a sign permit; and
- (e) a person requiring more than one (1) portable direction sign per building or business must obtain a sign permit for each additional portable direction sign.

### 6.4 Location, maintenance and design of an advertising sign or portable direction sign

- (1) 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 footpath is less than 2,700 millimetres;
  - (b) on or within 600 millimetres from the face of 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.
- (2) A person erecting or placing an advertising sign or portable direction sign on local government property must:
  - (a) maintain the sign in a safe and serviceable condition at all times and remove the sign upon it ceasing to be serviceable;

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- (b) 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 local government property;
- (c) ensure the free passage at all times of persons using the local government property; and
- (d) 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.

***Division 3 – Applications and Conditions on sign permits*****6.5 Matters to be considered in determining application for a sign permit**

In determining an application for a permit for 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 signs within the district;
- (b) the dimensions of the sign;
- (c) other signs already approved or erected in the vicinity of the proposed location of the signs;
- (d) whether or not the signs 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 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 sign may obstruct or impede the use of the footpath for the purpose for which it is used.

**6.6 Conditions on sign permits**

- (1) If the local government approves an application for a sign permit for an advertising sign or portable direction sign, the application is to be taken to be approved subject to the following conditions –
  - (a) the sign shall –
    - (i) not exceed 1,000 millimetres in height;
    - (ii) not exceed an area of 0.8 square metres on any side;
    - (iii) if a portable direction sign, relate only to directions to the place described on the permit;
    - (iv) not be placed closer than 600 millimetres to the face of kerb or further than 1200 millimetres from the kerb so as to ensure the free passage of persons using the 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;

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- (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 advertising sign or portable direction sign shall be erected in relation to the one building or business, unless otherwise approved by the local government.
- (2) The permit holder of a permit for an advertising sign or portable direction sign shall comply with each of the conditions in subclause (1) in addition to any other conditions imposed on the sign permit by the local government.

**6.7 Obligations of permit holder**

The permit holder shall –

- (a) maintain the 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 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 local government property;
- (d) 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 local government property.

**6.8 Election signs**

The local government may issue a permit for the erection or display of an election sign on local government property.

***Division 4 – sign requirements*****6.9 Safety of persons**

A person shall not cause or permit a sign to be erected or displayed in such 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.

**6.10 Removal of sign for works**

When directed to do so by an authorised person, a person who has displayed a sign on local government property will ensure that the sign is removed to permit the local government property to be swept or to permit any other authorised work to be carried out.

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

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

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**6.12 Unlawful placement of signs**

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

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## **Part 7 - Obstructing Shopping Trolleys**

### ***Division 1 – Shopping trolleys***

#### **7.1 Definitions**

In this Part, unless the context otherwise requires –

- (a) **retailer** means a proprietor of a shop which provides shopping trolleys for the use of customers of the shop; and
- (b) **shopping trolley** means a container or receptacle on wheels provided by a retailer for the transport of goods.

#### **7.2 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 on a public place by the customer.

#### **7.3 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.

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## Part 8 - Bank Guarantee or Security Deposit

### 8.1 Definitions

In this Part, unless the context otherwise requires –

- (a) **approval** means approval of a development application granted by the local government to a developer in accordance with the Planning Act;
- (b) **bank guarantee** means an unconditional, irrevocable bank guarantee provided by an Australian trading bank carrying on business in Western Australia, in favour of the local government;
- (c) **building permit** means a building permit granted (subject to conditions or otherwise) by the local government to a developer, in accordance with the *Building Act 2011* as amended from time to time, to build a development;
- (d) **developer** means the developer, builder or land owner or occupier proposing to undertake the development;
- (e) **development** has the same meaning as defined in section 4 of the Planning Act, as amended from time to time, but includes proposals to subdivide or amalgamate land;
- (f) **development application** has the same meaning as defined in section 4 of the Planning Act, from time to time;
- (g) **land** means privately owned land the subject of a development application; and
- (h) **Planning Act** means the *Planning and Development Act 2005*, as amended from time to time.

### 8.2 Security for restoration and reinstatement

- (1) Where a developer proposes to undertake a development, the local government may require the developer to pay a security deposit or provide a bank guarantee of a kind and to a value determined by the local government as a condition of an approval or a building permit and payable before the issue of the approval or building permit, 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 development on adjacent land, can be repaired or reinstated; and/or
  - (c) conditions of an approval or building permit insofar as they relate to local government property or a thoroughfare, are complied with.
- (2) A security deposit required under subclause (1) is to be held in an account established by the local government for the purpose of this clause prior to any work on the development commencing, unless otherwise agreed by the local government.

### 8.3 Restoration or reinstatement of local government property

- (1) If a developer fails to carry out or complete reinstatement works on affected local government property as required by the building permit or approval conditions, or by a Notice served by the local government, either –

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- (a) within the time specified in that clause, those conditions or the Notice (as the case may be);
- (b) where no such time has been specified, a reasonable time from the expiration of the building permit or approval to complete the restoration or reinstatement works; or
- (c) within 14 days or such time as specified in the Notice,

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 (**restoration works**). All costs incurred by the local government relating to the restoration works are a debt owing by the developer to the local government.

- (2) Where a bank guarantee or security deposit has been provided by the developer and the costs of the restoration works exceed the bank guarantee or security deposit amount, the balance of the costs will be a debt owing by the developer to the local government.
- (3) The developer 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.
- (4) The local government may apply the proceeds of any bank guarantee or security deposit obtained under clause 8.2 to meet any costs incurred by it under this clause.
- (5) The liability of the developer to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 8.2.

**8.4 Obligation to provide bank guarantee or security deposit**

When required under this local law, a developer must provide the local government with a bank guarantee or pay a security deposit in the amount determined by the local government.

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## **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 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 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 in a court of competent jurisdiction.

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***Division 2 – Verge treatments*****9.4 Definitions**

In this Part, unless the context otherwise requires –

- (a) **garden** means a verge that is planted, developed or treated, otherwise than as a lawn, with one or more plants that:
  - (i) where possible, are waterwise or native;
  - (ii) are not prickly and do not have spines;
  - (iii) are not known to be poisonous or cause allergic reactions;
- (b) **lawn** means a verge which is planted only with grass, or with a similar plant but does not include synthetic turf or lawn;
- (c) **owner** means an owner or occupier of land adjacent to a verge; and
- (d) **verge treatment** means a:
  - (i) garden;
  - (ii) lawn; and/or
  - (iii) landscaping feature,

installed in a verge and includes reticulation pipes and sprinklers but excludes paving or other treatments for the purpose of parking vehicles.

**9.5 Verge treatment**

An owner may install a verge treatment on a verge, in accordance with the requirements of this Part 9 Division 2.

**9.6 Maintenance of verge treatments**

An owner who installs or maintains a verge treatment must ensure:

- (a) the verge treatment is maintained:
  - (i) in good and tidy condition, including removing build-up of leaves and grass clippings; and
  - (ii) to ensure clear lines of sight for pedestrians, cyclists and motorists are provided at all times;
- (b) if the treatment includes lawn, the lawn is regularly mowed;
- (c) the verge treatment is setback from and provides clear access to any infrastructure such as power poles and underground services within, under or over the verge; and
- (d) any footpath running alongside the verge is kept clear of plants and landscaping features.

**9.7 Permitted landscaping features**

Unless otherwise approved by the local government, the following restrictions apply to landscaping features installed in a verge:

- (1) raised garden beds, seating or benches, decorations and lighting must:

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- (a) be constructed of durable material, securely installed with no sharp edges, corners or fixtures;
  - (b) be built to a height not exceeding 0.5 metres;
  - (c) provide a minimum 0.5 metre setback from any street tree;
  - (d) provide a minimum 0.5 metre setback from the face of the kerb;
  - (e) maintain clear access for parked cars at all times; and
  - (f) only solar lighting is permitted within a verge;
- (2) rocks, stones or logs must:
- (a) maintain clear access for parked vehicles at all times; and
  - (b) be of a size and installed securely so as to not be easily moved;
- (3) compacted gravel pathways must provide a minimum 0.5 metre setback from any street trees; and
- (4) paved pathways and bin stands (for non-parking purposes) must:
- (a) be finished level to be flush with the adjacent footpath, driveway, kerb and verge soil level; and
  - (b) provide a minimum 0.5 metre setback from any street trees.

**9.8 Damage to local government property**

Any damage to the footpath, kerb, thoroughfare or carriageway caused by a person installing a verge treatment must be repaired or made good, to the satisfaction of the local government, by that person at his or her cost.

**9.9 Removal of verge treatments**

The local government may remove any verge treatment at any time if it considers the verge treatment is contrary to these local laws or poses a hazard to or interference with persons or property.

**9.10 Enforcement**

The local government may give a Notice to an owner who has installed or maintained a verge treatment in front of their land, requiring that owner, 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*****9.11 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

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## City of Vincent Local Government Property Local Law 2021

- (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.

**9.12 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.

**9.13 Temporary vehicle crossings**

- (1) Where it is likely that works on a lot will involve vehicles leaving on 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.

**9.14 Removal of redundant vehicles crossings**

- (1) Where works on a lot will result in a crossing no longer giving access to 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 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.

## City of Vincent Local Government Property Local Law 2021

**Part 10 - Activities on thoroughfares and local government property****10.1 General prohibitions**

A person shall not –

- (a) plant any tree or plant (except grasses or a similar plant) within 10 metres from the truncation of an intersection;
- (b) damage a lawn or a garden or remove a plant or part of a plant from 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) within a mall, arcade or verandah of a shopping centre, ride any wheeled recreational device or similar device; or
- (f) 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.

**10.2 Activities allowed with a permit**

- (1) A person will not without a permit -
  - (a) dig or otherwise create a trench through or under a kerb, carriageway 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;
  - (d) cause any obstruction to a water channel or a water course in a thoroughfare;
  - (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
  - (f) damage a thoroughfare;
  - (g) light any fire or burn any thing on a thoroughfare;
  - (h) fell any tree onto a thoroughfare;
  - (i) if installing a verge treatment in accordance with any requirements specified in this local law, to –

## City of Vincent Local Government Property Local Law 2021

- (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;
  - (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
  - (k) on a public place use anything or do anything so as to create a nuisance;
  - (l) place or cause to be placed on a thoroughfare a bulk rubbish container;
  - (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare; or
  - (n) place or cause to be placed on a footpath or thoroughfare, a planter box or pots.
- (2) The local government may grant a permit in accordance with subclause (1) subject to conditions.

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## **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 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**

- (1) 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 timeframe stipulated in the Notice.
- (2) If a person does not comply with a Notice provided under subclause (1), to the satisfaction of the local government, that 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 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 above Notice.

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## **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.

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## **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) Subject to subclause (2), an authorised person or Manager may refuse to allow entry, suspend admission or direct a person to leave local government property where:
  - (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) The refusal or suspension referred to in subclause (1) can be for a period of up to 12 months as decided by the authorised person or Manager.
- (3) A person shall, on being requested by the authorised person to leave the local government property, do so immediately, quietly and peaceably.
- (4) A person who fails to comply with a request under subclause (3) 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**

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 to that person require that person within the time specified in the Notice to, at the option of the local government, pay the costs of –

- (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
- (b) replacing that property.

### **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 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 subclause (1)(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;

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## City of Vincent Local Government Property Local Law 2021

- (c) effect and maintain the policy of insurance referred to in subclause (1)(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 3.15;
  - (e) at any time requested by the local government, provide the local government with a certificate of currency confirming that public liability insurance cover is in place;
  - (f) ensure that, as a minimum, the permit holder's public liability insurance policy provides coverage of \$20 million ( twenty 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;
  - (g) upon the request . of the local government (in its absolute discretion), increase the minimum value of coverage at the public liability insurance policy renewal date; and
  - (h) 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.
- (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.

**13.5 Payment of application 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).

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## **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 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 purpose 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 purpose of this local –
  - (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 section 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.

#### **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 14.2(1))*

<b>Item</b>	<b>Clause</b>	<b>Description</b>	<b>Modified Penalty \$</b>
1.	2.4	Failure to comply with determination	100
2.	3.8	Failure to comply with conditions of a permit	100
3.	3.14	Failure to produce permit when required by an authorised person	100
4.	3.18(1)	Failure to obtain a permit	250
5.	3.18(2)	Failure to obtain a permit to carry out works on local government property	500
6.	3.18(3)	Failure to obtain a permit to use local government property or a community facility for a for profit purpose	500
7.	3.19(1)	Failure to obtain a permit to camp outside a facility or erect structure	100
8.	3.20	Consumption or possession of liquor without a permit	100
9.	3.21	Failure of permit holder to comply with responsibilities	100
10.	4.2(1)	Failure to use correct toilet block or change room	100
11.	4.2(3)(a)	Loiter outside or act in an unacceptable manner in any toilet block	200
12.	4.2(3)(b)	Enter or attempt to enter an occupied cubicle or compartment	200
13.	4.3(1)	Failure to wear adequate clothing to secure decency	200
14.	4.3(2)	Failure to comply with direction of authorised person, to wear adequate clothing	250
15.	4.4(2)	Behaviour detrimental to property	100
16.	4.5(2)(a)	Take, injure or kill, or attempt to take, injure or kill any fauna	500
17.	4.5(2)(b)	Take onto, set or use any animal, bird or fish trap while on any local government property	250
18.	4.5(2)(c)	Remove, prune or damage any flora	250
19.	4.6	Under influence of liquor or prohibited drug or substance	100
20.	4.7	Take, consume or use a prohibited drug or substance on local government property	250

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21.	4.8(2)	Failure to comply with sign on local government property	100
22.	5.3(a)	Consume food or drink in a prohibited area	100
23.	5.3(b)	Climbing up or upon a community facility	100
24.	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
25.	5.3(d)	Using soap or shampoo in any part of the pool area other than in the change rooms	100
26.	5.3(e)	Using any detergent, substance or oil in any pool or spa	100
27.	5.3(f)	Fouling or polluting the water in any shower, pool or spa	100
28.	5.3(g)	Bringing into any part of the pool area or place thereon any chemical substance, liquid or powder	100
29.	5.3(h)	Bringing into any part of the pool area any glass containers	100
30.	5.3(i)	Smoking in or about the community facility	100
31.	5.3(j)	Deliberately waste or wastefully use fresh or potable water in the pool area	100
32.	5.3(k)	Spitting or expectorating in any part of the community facility, other than in a water closet	300
33.	5.3(l)	Entering a pool or spa in a dirty or unclean condition	100
34.	5.3(m)	Using a mobile phone, camera or other recording device in a change room at a community facility	500
35.	5.5(1)	Launch a boat into river other than from an approved boat launching ramp or area permitted by signs	100
36.	5.5(2)	Launch personal watercraft into river other than from a boat launching ramp	100
37.	5.6(1)	Fishing in an area where fishing is prohibited or restricted by signs	100
38.	5.6(2)(a)	Clean fish or cut bait that causes a nuisance to river users	100
39.	5.6(2)(b)	Leave or deposit fish offal or bait on land or in the river	100
40.	5.7	Unauthorised entry to an area fenced off or closed to the public	250
41.	5.9(1)	Installing an air conditioning unit without approval	250
42.	5.11	Erecting or maintaining an awning, balcony or verandah without a permit or approval	250

## City of Vincent Local Government Property Local Law 2021

43.	5.12	Erecting an awning, balcony or verandah that does not comply with dimensions	250
44.	5.13	Erecting an awning, balcony or verandah that does not comply with design requirements	250
45.	5.15	Erecting a permanent structure within a thoroughfare or road reserve without approval	250
46.	5.17(1)	Smoke in a smoke free area.	100
47.	5.17(2)	Failure to extinguish tobacco product or e-cigarette upon direction of an authorised person	200
48.	6.2(1)	Displaying an advertising sign that requires a sign permit on local government property without a sign permit	250
49.	6.3(1)	Erecting or placing a portable direction sign that requires a sign permit on local government property without a sign permit	250
50.	6.4(1)	Placing or erecting an advertising sign or portable direction sign in a prohibited area	250
51.	6.4(2)(a)	Failing to maintain a sign in safe and serviceable condition at all times	100
52.	6.4(2)(b)	Failing to ensure that a sign is of a safe and stable design	100
53.	6.4(2)(c)	Failing to ensure the free passage of persons using footpath at all times	100
54.	6.4(2)(d)	Failing to remove sign at close of business each day or end of event	100
55.	6.6(2)	Failing to display a sign in accordance with conditions of sign permit	100
56.	6.7(a)	Failing to maintain sign in safe and serviceable condition at all times	100
57.	6.7(b)	Refusing to conspicuously display the sign permit number on a sign	50
58.	6.7(c)	Failing to ensure that a sign is of a safe and stable design	100
59.	6.7(d)	Failing to display sign in the approved location	100
60.	6.7(e)	Failing to ensure the free passage of persons using the footpath	100
61.	6.8	Erecting or displaying an election sign without a permit when a permit is required by the local government	500
62.	6.9	Permitting a sign to be displayed in an unsafe or dangerous manner	250

## City of Vincent Local Government Property Local Law 2021

63.	6.10	Refusing or failing to remove a sign to allow sweeping, cleaning or other authorised works	100
64.	6.11	Refusing or failing to remove a sign when requested to do so	250
65.	6.12	Placing or permitting a sign contrary to the requirements of the local law	250
66.	7.3(1)	Leaving a shopping trolley in public place other than trolley bay	100
67.	7.3(2)	Leaving a shopping trolley for a period in excess of 3 hours	100
68.	8.3(1)	Failure to carry out or complete reinstatement works on affected local government property	500
69.	8.4	Failure to provide a bank guarantee or pay a security deposit when required by local government	500
70.	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	500
71.	9.2(1)(a)	Failing to take necessary precautions to ensure footpaths, verges or trees are not damaged during works	500
72.	9.2(1)(b)	Failing to ensure footpath remains in a safe and functioning state suitable for use by the public	500
73.	9.2(1)(c)	Failing to notify local government of existing footpath damage prior to commencement of works	100
74.	9.2(2)(a)	Failing to take reasonable precautions to prevent damage to footpath, verge or street tree	500
75.	9.5	Failure to install or maintain a verge in accordance with the local laws	250
76.	9.8	Failing to rectify damage caused to footpath, kerb, thoroughfare or carriageway when installing a verge	250
77.	9.13(1)	Failing to obtain permit for temporary crossing	200
78.	9.14(2)	Filing to comply with notice to remove crossing and reinstate kerb	250
79.	10.1(a)	Planting of tree or plant which exceeds 500mm in height on local government property within 10metres from the truncation of an intersection	100
80.	10.1(b)	Damaging lawn or garden, or remove any plant without authority	100
81.	10.1(c)	Placing any fruit, substance or fluid on footpath which may create a hazard	100

## City of Vincent Local Government Property Local Law 2021

82.	10.1(d)	Damaging or interfering with signpost or structure on thoroughfare	200
83.	10.1(e)	Riding any wheeled recreational device in a mall, arcade or verandah of a shopping centre	100
84.	10.1(f)	Damaging pruning, injuring, poisoning, removing or killing a tree, which includes a tree on a verge, thoroughfare or local government property without the approval of the local government	500
85.	10.2(1)(a)	Digging a trench through a kerb or footpath without a permit	200
86.	10.2(1)(b)	Throwing or placing anything on a verge without a permit	200
87.	10.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	200
88.	10.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	200
89.	10.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	300
90.	10.2(1)(f)	Damaging a thoroughfare	200
91.	10.2(1)(g)	Lighting a fire on a thoroughfare without a permit	300
92.	10.2(1)(h)	Felling tree onto thoroughfare without a permit	200
93.	10.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	200
94.	10.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	200
95.	10.2(1)(k)	Creating a nuisance on a public place without a permit	200
96.	10.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	100
97.	10.2(1)(m)	Interfering with anything on a thoroughfare without a permit	200
98.	10.2(1)(n)	Placing a planter box or pot on a footpath or thoroughfare	100
99.	11.1	Failing to comply with notice given under local law where not specified in Schedule 1	500
100.	13.4(2)	Failure to hold or provide a current certificate of currency to an authorised person when requested	250
101.	13.5	Failing to pay the applicable fee to enter, use or participate in an activity on local government property	100
102.	13.6(1)	Entering local government property or building other than through the proper entrance or without payment of the admission fee	100

City of Vincent Local Government Property Local Law 2021

103.	14.1(1)	Other offences not specified	100
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City of Vincent Local Government Property Local Law 2021



Caroline Dewey  
Senior Public Health Officer  
City of Vincent  
By email: [mail@vincent.wa.gov.au](mailto:mail@vincent.wa.gov.au)

29<sup>th</sup> September 2021

Dear Ms Dewey,

**Re: Local Government Property Local Law 2021**

We write on behalf of Cancer Council WA and the Australian Council on Smoking and Health (ACOSH) to provide feedback to the City of Vincent's public consultation on Local Government Property Local Law 2021 (the Local Law).

We note that adopting the Local Law is, in part, to provide the City with the discretion to make a determination prescribing a Local Government property or thoroughfare as a smoke-free area to reflect the Smoke Free Town Centres (SFTC) objective of the City's Public Health Plan 2020-2025.

Cancer Council WA and ACOSH believe SFTC is a sector leading and progressive initiative and we have previously expressed our support.

Cancer Council WA's Senior Policy and Research Coordinator, Lorena Chapman, and Legal Policy Advisor, Stephanie Parnell, have attended one of the City of Vincent's information sessions on the SFTC boundaries. The session covered some of our initial queries around implementation and enforcement. Cancer Council WA and ACOSH were pleased to learn how the City of Vincent has carefully considered, designed and implemented actions to achieve the objective of SFTC.

We understand that the Local Law stipulates procedures for making a smoke-free area determination, including undertaking community consultation and engagement, and including clear infringement processes. We believe these measures, embedded not just in policy but in a local law, will facilitate successful implementation of the City of Vincent's SFTCs and we support the adoption of the Local Law.

We thank you for considering our feedback and look forward to ongoing consultation with you. Please do not hesitate to contact us for any further information or concerns.

Yours sincerely,



Melissa Ledger  
Director, Cancer Prevention and Research  
Cancer Council WA

and



Maurice G Swanson OAM  
Chief Executive  
Australian Council on Smoking and Health

Local Government Property Local Law

I do not support all of the changes to the local law.

I make the following points

1. The definition of 'smoke'(page 5) is incomplete – people also smoke substances other than tobacco.
2. The definition of 'wheeled recreational device' limits scooters to people over 12 years but makes no similar age dependency for a bicycle. It means that 2.7 (1) (i) only allows scooters if you are less than 12 but allows bicycles for all ages. And 2.8 (1) (b) means you can't prohibit scooters ridden by people over 12.
3. 4.2 (1) (c) limits use of a 'families' toilet or change room to immediate family members. What about caregivers? It seems that a caregiver can enter a cubicle (4.2 (4)) but they can't enter the block in which the cubicle is located (4.2 (1))
4. 6.1 (e) uses the term 'small scale' for a sign without giving any indication what that means. Dimensions are given in 6.2 (2) (a) – perhaps include them in the definition of minor nature development.
5. 6.3 – why can a directional sign be 750mm high but a sign in 6.2 (a) can only be 500mm high?
6. The definition of 'developer' is vague – it includes the developer (circular definition), builder or land owner. In 8.3 (1) and (2) it says that there is a debt owed by the developer. Who is that – the land owner or builder?
7. 9.4 defines a garden as requiring plants that are 'where possible' waterwise or native. Firstly, it is always possible to plant native plants so the 'where possible' should be dropped. Secondly, it says 'waterwise or native' – shouldn't it be 'waterwise and native' if that is your intension
8. 8.4 seems strange – surely you don't issue a permit until they pay the guarantee!
9. Penalty for 8.4 (failure to provide a bank guarantee) – surely you don't issue the required permit until the guarantee is received, so why have a penalty?
10. 9.2.1(c) – making it an offence not to notify the local government of existing damage to a footpath seems a step too far. Sure, require them to notify of any prior damage, but don't make it an offence. Simply make it a condition of issuing the building licence – they must submit any photos of existing damage or agree to a statement that there is no damage as part of the building licence approval.
11. 9.4 definitions uses the term ;'landscaping feature' without defining it. 9.7 then seems to define it and impose conditions. It would better if 'landscape feature' was included in the definitions.
12. 9.6 (b) says that somebody who plants a lawn must mow it on a regular basis, without defining 'regular', and being liable to a \$250 fine if they don't, yet a person who does nothing and just lets the weeds grow has no compulsion to keep the verge clear, and no penalty. If a person has installed a lawn but decide they do not want to maintain it, is it suggested that they remove it and leave just bare sand rather than face a possible \$250 fine.

## Local Government Property Local Law

13. In general, I don't agree with 9.6 and the fact that it can lead to a \$250 fine. I appreciate the intent but I think it creates a higher standard than for verges that are not cared for.
14. 9.6 requires the footpath to be kept clear of plants or landscaping features. The same should apply for any plants planted on private property – they should not be allowed to overgrow the footpath (local government property) if it makes using the footpath difficult or dangerous. I'm not sure if the local law covers this, but if it doesn't, it should. I don't have concerns about soft plants that overhang a small distance, it is the spiky plants or the plants that take up half the footpath that are the problem.
15. 9.7 (4) allows bin stands without defining what they are or how large they may be. By including the term (bin stand) in the local law it gives an indication that bins may be allowed on the verge on a 24/7 basis. This is already happening. There should be a definition of 'bin stand' which makes it clear that it may only be of a size to hold two bins per property, and that bins must be removed within 24 hours of the bins being emptied (or something similar).
16. 9.7 (1) allows landscape features within 0.5 meters of a street tree. This sounds too close for some sort of features if they have the chance of impacting on the root zone. Somebody could build a brick seat within .5 metres of a tree which could damage the tree. This needs better wording to ensure that tree root zones are not impacted.
17. 9.7 (3) and (4) should be combined.
18. Penalty for killing a verge tree (10.1 (f)) is far too small at \$500. It should be set at the 'value' of the tree as determined by some recognised and defined method, plus a 100% penalty premium.
19. Penalty for failing to ensure trees are not damaged during works (9.2 (1) (a)) should be a lot higher than \$500 unless there is another penalty for actually damaging the tree. If there is another penalty it should be tied to the 'value' of the tree based on some defined process.
20. The penalties for 9.2(1)(b) and 9.2(2)(a) sound similar – are the clauses redundant?

**Community Consultation for Local Government Property Local Law 2021 – Administration Response to Submission 2:**

	Comment	Administration response
1.	The definition of 'smoke' (page 5) is incomplete – people also smoke substances other than tobacco.	<p>Shisha is considered a tobacco product and e-cigarettes are noted in the definition of 'smoke'. Smoking of illegal substances is governed by State laws and controlled by the Western Australian Police Force.</p> <p>Illegal substances being consumed on local government property is addressed in Clause 4.7 of the proposed <i>Local Government Property Local Law 2021</i>:</p> <p><b>4.7 No prohibited drugs or substances</b>  <i>A person shall not take a prohibited drug or substance, consume or use a prohibited drug or substance, on any local government property.</i></p>
2.	The definition of 'wheeled recreational device' limits scooters to people over 12 years but makes no similar age dependency for a bicycle. It means that 2.7 (1) (i) only allows scooters if you are less than 12 but allows bicycles for all ages. And 2.8 (1) (b) means you can't prohibit scooters ridden by people over 12.	<p>Administration intends to make the following change:</p> <p><b>1.6 Definitions</b>  <i>wheeled recreational device means a wheeled device built to transport a person (whether propelled by human power, electricity, motor or gravity). <del>including:</del></i>  <del>(1) a bicycle or unicycle;</del>  <del>(2) in-line skates, roller-stakes, a skateboard or similar device; and</del>  <del>(3) a scooter being used by a person aged 12 years or older.</del></p>
3.	4.2 (1) (c) limits use of a 'families' toilet or change room to immediate family members. What about caregivers? It seems that a caregiver can enter a cubicle (4.2 (4)) but they can't enter the block in which the cubicle is located (4.2 (1))	<p>Administration intends to make the following change:</p> <p><b>4.2 Only specified gender to use entry of toilet block or change room</b>  <i>(1) Subject to clause 4.2(2), where a sign on a toilet block or change room specifies that a particular toilet block or change room is to be used by –</i>  <i>(c) families, then, where the toilet block or change room is being used by a family, only an immediate member of that family, <del>a guardian, or a caregiver,</del> may use that toilet block or change room.</i></p>
4.	6.1 (e) uses the term 'small scale' for a sign without giving any indication what that means. Dimensions are given in 6.2 (2) (a) – perhaps include them in the definition of minor nature development.	<p>Administration intends to make the following changes:</p> <p><b>6.1 Definitions</b>  <i>(e) <b>minor nature development</b> means a sign that is characterised as:</i>  <i>(i) <del>not exceeding 500mm in height nor 0.5m2 in area, on any side, small in scale and composition and which will not unduly adversely affect the local government property;</del></i></p>
5.	6.3 – why can a directional sign be 750mm high but a sign in 6.2 (a) can only be 500mm high?	<p>Portable direction signs can be larger in size to advertising signs to allow for greater visibility to people whether they be vision impaired or driving past. They are also noted to be portable, not fixed.</p>
6.	The definition of 'developer' is vague – it includes the developer (circular definition), builder or land owner. In 8.3 (1) and (2) it says that there is a debt owed by the developer. Who is that – the land owner or builder?	<p>Administration intends to make the following changes:</p> <p>The definition of 'developer' has been deleted:</p> <p><b>8.1 Definitions</b>  <del><i>developer means the developer, builder or land owner or occupier proposing to undertake the development</i></del></p> <p>The definition of 'applicant' has been included:</p> <p><b>8.1 Definitions</b>  <i>applicant means the person or business that received a development approval, building permit, or demolition permit, that has been issued to undertake the development.</i></p> <p>All references to 'developer' have been changed to 'applicant'.</p>

**Community Consultation for Local Government Property Local Law 2021 – Administration Response to Submission 2:**

	<b>Comment</b>	<b>Administration response</b>
7.	9.4 defines a garden as requiring plants that are 'where possible' waterwise or native. Firstly, it is always possible to plant native plants so the 'where possible' should be dropped. Secondly, it says 'waterwise or native' – shouldn't it be 'waterwise and native' if that is your intension	Administration intends to make the following changes: <b>9.4 Definitions</b> (a) <b>Garden</b> means a verge that is planted, developed or treated, otherwise than as a lawn, with one or more plants that: (i) <del>where possible,</del> are waterwise or native;  Generally, native gardens are waterwise, however the 'or' was included because gardens can be waterwise and not native.
8.	8.4 seems strange – surely you don't issue a permit until they pay the guarantee!	<b>8.4 Obligation to provide bank guarantee or security deposit</b> <i>When required under this local law, a developer must provide the local government with a bank guarantee or pay a security deposit in the amount determined by the local government.</i>  Clause 8.4 does not specify any timing relating to the local government issuing a Building Permit before or after receiving a security deposit or a bank guarantee. This clause only states that the developer has an obligation under this law if directed by the local government.
9.	Penalty for 8.4 (failure to provide a bank guarantee) – surely you don't issue the required permit until the guarantee is received, so why have a penalty?	<i>The Building Act 2011 (and Building Regulations 2012) do not prescribe verge bonds as a consideration in determining whether a Building Permit can be granted (Building Act 2011 s. 20).</i>
10.	9.2.1(c) – making it an offence not to notify the local government of existing damage to a footpath seems a step too far. Sure, require them to notify of any prior damage, but don't make it an offence. Simply make it a condition of issuing the building licence – they must submit any photos of existing damage or agree to a statement that there is no damage as part of the building licence approval.	Administration intends to make the following changes: <b>9.2 Footpath, verge and street tree protection</b> (1) <i>The owner, occupier, licensee or contractor who undertakes works on a private property adjacent to a footpath, verge or street tree, shall –</i> (a) <i>take all necessary precautions to ensure that the footpath, verge or street tree is not damaged during the course of the works; and</i> (b) <i>take all necessary action to ensure that the footpath remains in a safe functional state suitable for use by the public.;</i> <del>and</del> (c) <del>notify the local government of any existing damage to the footpath, verge or street tree prior to the commencement of the works.</del>  The relevant penalty has been removed.
11.	9.4 definitions uses the term; 'landscaping feature' without defining it. 9.7 then seems to define it and impose conditions. It would better if 'landscape feature' was included in the definitions.	Administration intends to make the following change: <b>9.4 Definitions</b> (d) <i>verge treatment means a:</i> (i) garden; (ii) lawn; and/or (iii) <del>permitted</del> landscaping feature  <b>9.7 Permitted landscaping features</b> outlines the restrictions that apply to landscaping features installed in a verge.

**Community Consultation for Local Government Property Local Law 2021 – Administration Response to Submission 2:**

	Comment	Administration response
12.	9.6 (b) says that somebody who plants a lawn must mow it on a regular basis, without defining 'regular', and being liable to a \$250 fine if they don't, yet a person who does nothing and just lets the weeds grow has no compulsion to keep the verge clear, and no penalty. If a person has installed a lawn but decide they do not want to maintain it, is it suggested that they remove it and leave just bare sand rather than face a possible \$250 fine.	Administration intends to make the following change: <b>9.6 Maintenance of verge treatments</b> <i>An owner who installs or maintains a verge treatment must ensure:</i> <i>(a) the verge treatment is maintained:</i> <i>(i) in good and tidy condition, including removing build-up of leaves and grass clippings; and</i> <i>(ii) to ensure clear lines of sight for pedestrians, cyclists and motorists are provided at all times;</i> <i>(b) if the treatment includes lawn, the lawn is regularly mowed;</i> <i>(b)-(c) the verge treatment is setback from and provides clear access to any infrastructure such as power poles and underground services within, under or over the verge; and</i> <i>(c)-(d) any footpath running alongside the verge is kept clear of plants and landscaping features.</i>
13.	In general, I don't agree with 9.6 and the fact that it can lead to a \$250 fine. I appreciate the intent but I think it creates a higher standard than for verges that are not cared for.	
14.	9.6 requires the footpath to be kept clear of plants or landscaping features. The same should apply for any plants planted on private property – they should not be allowed to overgrow the footpath (local government property) if it makes using the footpath difficult or dangerous. I'm not sure if the local law covers this, but if it doesn't, it should. I don't have concerns about soft plants that overhang a small distance, it is the spiky plants or the plants that take up half the footpath that are the problem.	Encroaching on public thoroughfare is addressed in Regulation 7 of the <i>Local Government (Uniform Local Provisions) Regulations 1996</i> : <b>7. Encroaching on public thoroughfare — Sch. 9.1 cl. 3(2)</b> <i>A person who is the owner or occupier of land on which a structure is erected or a tree or other plant is growing must, when requested by the local government to do so, remove any part of the structure, tree or plant that is encroaching, without lawful authority, on a public thoroughfare.</i> <i>Penalty: a fine of \$5 000 and a daily penalty of \$500 for each day during which the offence continues.</i>
15.	9.7 (4) allows bin stands without defining what they are or how large they may be. By including the term (bin stand) in the local law it gives an indication that bins may be allowed on the verge on a 24/7 basis. This is already happening. There should be a definition of 'bin stand' which makes it clear that it may only be of a size to hold two bins per property, and that bins must be removed within 24 hours of the bins being emptied (or something similar).	Bin stands are permitted by the proposed Local Law. An application to install a bin stand would be reviewed by the City's Engineering team and could be approved subject to requirements. For new builds, bin stands are assessed during the Development Application stage. If permitted and a property installs or already has a bin stand on their verge, they are still required to remove bins from the verge after collection.  The City's <i>Policy 2.2.11 Waste Management</i> notes: <i>1.5 All MGB's must be removed from the verge within twenty-four (24) hours from the day of collection, and stored within the property, failure to do so may result in the MGB/s being impounded.</i>
16.	9.7 (1) allows landscape features within 0.5 meters of a street tree. This sounds too close for some sort of features if they have the chance of impacting on the root zone. Somebody could build a brick seat within .5 metres of a tree which could damage the tree. This needs better wording to ensure that tree root zones are not impacted.	This clause is in line with the City's <i>Policy 2.2.4 Verge Treatments, Plantings and Beautification</i> , which states: <b>1.4.4</b> <i>When installing and/or incorporating landscaping features on the verge, the below guidelines must be met:</i> <i>(ix) Seating or Benches</i> <ul style="list-style-type: none"><li>• <i>Constructed of durable material, securely installed with no sharp edges, corners or fixtures;</i></li><li>• <i>Provide a minimum 0.5 metre setback from any street tree to maintain the health of the tree;</i></li><li>• <i>Maintain clear access for parked cars at all times.</i></li></ul>

**Community Consultation for Local Government Property Local Law 2021 – Administration Response to Submission 2:**

	Comment	Administration response
		<p>If a verge tree was damaged a person can be liable under Clause 9.1 of the proposed <i>Local Government Property Local Law 2021</i>:</p> <p><b>9.1 No damage to thoroughfare</b>  <i>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.</i>  <i>Penalty: \$500.</i></p>
17.	9.7 (3) and (4) should be combined.	<p>Administration intends to make the following change:</p> <p><b>9.7 Permitted landscaping features</b>  <i>Unless otherwise approved by the local government, the following restrictions apply to landscaping features installed in a verge:</i>  <del><i>(3) compacted gravel pathways must provide a minimum 0.5 metre setback from any street trees; and</i></del>  <del><i>(3)-(4) compacted gravel pathways, paved pathways and bin stands (for non-parking purposes) must:</i></del>  <i>(a) be finished level to be flush with the adjacent footpath, driveway, kerb and verge soil level; and</i>  <i>(b) provide a minimum 0.5 metre setback from any street trees.</i></p>
18.	Penalty for killing a verge tree (10.1 (f)) is far too small at \$500. It should be set at the 'value' of the tree as determined by some recognised and defined method, plus a 100% penalty premium.	<p>\$500 is a modified penalty that can be imposed by infringement. Clause 14.1 provides that a maximum penalty of \$5,000 should a person be convicted of an offence under the local law. Section 9.17(3) of the <i>Local Government Act 1995</i> provides that a modified penalty prescribed by a local law can not exceed 10% of the maximum fine that a court could impose for that offence.</p>
19.	Penalty for failing to ensure trees are not damaged during works (9.2 (1) (a)) should be a lot higher than \$500 unless there is another penalty for actually damaging the tree. If there is another penalty it should be tied to the 'value' of the tree based on some defined process.	<p>If a verge tree was damaged during works, the developer would also be liable under Clause 13.3 of the proposed <i>Local Government Property Local Law 2021</i>:</p> <p><b>13.3 Liability for damage to local government property</b>  <i>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 to that person require that person within the time specified in the Notice to, at the option of the local government, pay the costs of –</i>  <i>(a) reinstating the property to the state it was in prior to the occurrence of the damage; or</i>  <i>(b) replacing that property.</i></p>
20.	The penalties for 9.2(1)(b) and 9.2(2)(a) sound similar – are the clauses redundant?	<p>The penalty for Clause 9.2(1)(b) is for failing to maintain the accessibility of any footpath:  <i>9.2(1)(b) Failing to ensure footpath remains in a safe and functioning state suitable for use by the public.</i></p> <p>Whereas the penalty for Clause 9.2(2)(a) is for failing to prevent damage to any footpath:  <i>9.2(2)(a) Failing to take reasonable precautions to prevent damage to footpath, verge or street tree.</i></p>