

**LOCAL GOVERNMENT ACT 1995**

**SHIRE OF CHITTERING**

**LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2023**

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## LOCAL GOVERNMENT ACT 1995

### SHIRE OF CHITTERING

#### LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2023

Under the power conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Chittering resolved on 19 April 2023 to make the following local law.

#### PART 1—PRELIMINARY

##### 1.1 Citation

This local law may be cited as the *Shire of Chittering Local Government Property and Public Places Local Law 2023*.

##### 1.2 Commencement

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

##### 1.3 Application

This local law applies throughout the district.

##### 1.4 Repeal

This local law repeals the *Shire of Chittering Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* as published in the *Government Gazette* on 20 April 2001.

##### 1.5 Definitions

In this local law, unless the context otherwise requires—

**Act** means the *Local Government Act 1995* (WA);

**advertising sign** means a sign or advertisement used for the purposes of advertising or drawing attention to a product, business, person or event and includes election advertising and portable signs;

**animal** means any animal other than a cat or dog;

**AS or AS/NZS** means an Australian or New Zealand Standard as published by Standards Australia and amended from time to time;

**authorised person** means a person appointed 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;

**Building Act** means the *Building Act 2011* (WA);

**Building Code Australia** means the Building Code of Australia which is volumes 1 and 2, as amended from time to time, of the National Construction Code series published by, or on behalf of, the Australian Building Codes Board;

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

**camera device** means an apparatus for taking photographs or moving pictures and includes a mobile phone when used for this purpose;

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

**change room** means a room designated for the changing of clothes and may include showers, toilets and hand washing basins;

**charitable organisation** means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other similar nature and from which no member receives any pecuniary profit except where the member is an employee or the profit is an honorarium;

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

**closed thoroughfare** means a thoroughfare wholly or partially closed by the local government under sections 3.50 or 3.50A of the Act;

**commencement day** means the day on which this local law commences under clause 1.2;

**Commissioner of Main Roads WA** means the person appointed under section 7 of the *Main Roads Act 1930* (WA) to be the Commissioner;

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

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

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

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

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

**detrimental to the property** includes—

- (a) removing anything from the local government property such as a rock, plant, fixture, fitting, chattel, equipment or furniture provided for the use, enjoyment or safety of any person;
- (b) destroying, defacing or damaging a building or anything on the local government property, such as a plant, fixture, chattel, equipment or furniture provided for the use, enjoyment or safety of any person; and
- (c) causing environmental harm or nuisance on the local government property;

**development approval** means an approval issued under the local government's planning scheme;

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

**drunk** has the meaning provided in the *Liquor Control Act 1988*;

**election advertising** means any sign or advertisement which encourages persons to vote for a candidate, political party or referenda or matter relating to any federal, state or local government election;

**election date** means the date on which a federal, state or local government election is held;

**fauna** means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes, in relation to any such animal—

- (a) any class of animal or individual members;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur;

**Firearms Act** means the *Firearms Act 1973* (WA);

**flora** means all vascular plants other than plants recognised as weeds;

**Food Act** means the *Food Act 2008* (WA);

**food business** has the same meaning as given in the Food Act;

**footpath** has the meaning given in the *Road Traffic Code 2000* and includes a shared and dual use path;

**gaming** means has the same meaning as in the *Gaming and Wagering Commission Act 1987*;

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

**liquor** has the meaning given to it by the Liquor Act;

**Liquor Act** means the *Liquor Control Act 1988* (WA);

**local government** means the Shire of Chittering;

**local government policy** means a policy or standard adopted by the local government;

**local government property** means anything except a thoroughfare which—

- (a) is owned by the local government;
- (b) is vested in the local government;
- (c) is otherwise under the care, control or management of the local government, including under the *Land Administration Act 1997* (WA); or
- (d) is an 'otherwise unvested facility' within the meaning of section 3.53 of the Act;

**local public notice** means notice given in accordance with the procedure set out in section 1.7 of the Act;

**nuisance** means—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at common law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

**occupier** has the meaning given to it by the Act, but does not include the local government;

**off-road vehicle** has the meaning given to that term by the *Control of Vehicles (Off-road Areas) Act 1978* (WA);

**other portable sign** means a portable sign other than a home open sign, display home sign or garage sale sign;

**owner** has the meaning given to it by the Act;

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

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

**permitted area** means the area or areas, specified in a permit for the purpose of street entertaining, in which the permit holder may perform;

**permitted time** means the time or times, specified in a permit for the purpose of street entertaining, during which the permit holder may perform;

**planning scheme** has the same meaning as "local planning scheme" in the *Planning and Development Act 2005*;

**portable sign** means a free standing portable advertising sign not permanently attached to a structure or fixed to the ground or pavement, and includes a 'A' frame sign;

**premises** for the purposes of clauses 2.8(1)(a) and 4.6 means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field;

**prohibited drug** has the meaning given to it in the *Misuse of Drugs Act 1981* (WA);

**promotional activity** means the advertising of, promotion of, or raising of funds for, a particular group, product or service;

**public interest sign** means an advertising sign for an event that is open to the public to attend at no cost and is of significant interest to persons within, and visitors to, the district, and which is being held on local government property or in a public place, but does not include election advertising;

**public place** includes a thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include—

- (a) premises on private property from which trading is lawfully conducted under a written law; or
- (b) local government property;

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

**smoke** has the meaning given to it in the *Tobacco Products Control Act 2006* (WA);

**street market** means a collection of stalls, stands and displays on local government property or a public place for the purposes of selling goods, wares, merchandise, produce or services, or carrying out any other transaction;

**lot numbering** means a number or numbers with or without an alphabetical suffix assigned to identify the street address of a property;

**street tree** means any tree or tall plant that has a wooden trunk and branches that grow from its upper part, planted or self-sown in the street, of an appropriate species and in an appropriate location for the purpose of contributing to the streetscape;

**thoroughfare** has the meaning given to it by the Act, but does not include a private thoroughfare which is not under the management or control of the local government;

**tobacco product** has the meaning given to it in the *Tobacco Products Control Act 2006* (WA);

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

**trading** means—

- (a) the selling or hiring of, the offering for sale or hire of, or the soliciting of orders for, goods or services in a public place or on local government property;
- (b) displaying goods in a public place or local government property for the purpose of—
  - (i) offering them for sale or hire;
  - (ii) inviting offers for their sale or hire;
  - (iii) soliciting orders for them; or
  - (iv) carrying out any other transaction in relation to them,

and includes the setting up of a stall, or the conducting of a business at a stall;

**vehicle** includes—

- (a) every conveyance and every object capable of being propelled or towed on wheels, tracks or otherwise, including an off-road vehicle; and
- (b) an animal being ridden or driven;

but excludes—

- (c) a wheelchair or any device designed for use by physically impaired person on a footpath;
- (d) a pram, a stroller or a similar device;
- (e) a bicycle or wheeled recreational device; and
- (f) a shopping trolley;

**Western Power** means the body corporate known as the Electricity Networks Corporation established under section 4 of the *Electricity Corporations Act 2005* (WA) or such other entity established or constituted in its place or by which its functions have become exercisable;

**wheeled recreational device** means a wheeled device built to transport a person which is propelled by human power or gravity and ordinarily used for recreation or play, including—

- (a) in-line skaters, rollerskates, a skateboard or similar wheeled device;
- (b) a scooter being used by a person 12 years of age or older; and
- (c) a unicycle,

but excludes a goffer, golf buggy, pram, stroller or trolley, or a bicycle, wheelchair or wheeled toy.

## **1.6 Transitional**

Any permit, licence, consent or authorisation issued in accordance with a local law listed in clause 1.4—

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

## **1.7 Application as to assistance animals**

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

# **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 must state that—
  - (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
  - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
  - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received under clause 2.2(2)(c), the local government is to decide—
  - (a) to give local public notice that the proposed determination has effect as a determination on and from the date of publication;
  - (b) to amend the proposed determination, in which case clause 2.2(5) will apply; or
  - (c) not to continue with the proposed determination.
- (4) If submissions are received under clause 2.2(2)(c), the local government—
  - (a) is to consider those submissions; and
  - (b) is to decide—
    - (i) whether to amend the proposed determination; or
    - (ii) not to continue with the proposed determination.
- (5) If the local government decides to amend the proposed determination, it is to give local public notice—
  - (a) of the effects of the amendments; and
  - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the local government 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 amendment is to have effect as a determination on and from the date of publication of the local public notice referred to in clauses 2.2(3), 2.2(5) and 2.2(6).
- (8) A decision under clauses 2.2(3) or 2.2(4) is not to be delegated by Council.

### **2.3 Discretion to erect a sign**

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

### **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 apply to the register referred to in clause 2.5(1) and for that purpose, the register is 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 must give local public notice of the revocation and the determination will cease to have effect on and from the date of publication.

*Division 2—Activities which may be pursued or prohibited on specified local government property as a result of 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 aircraft, car, ship, glider or rocket;
- (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) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
- (f) play or practice—
  - (i) golf or archery;
  - (ii) pistol or rifle shooting, but subject to compliance of that person with the Firearms Act; 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 and damage to a person or property; or
- (g) ride a bicycle, a wheeled recreational device, or similar device; or
- (h) wear no clothing.

- (2) A determination may specify the extent to which and the manner in which an activity referred to in clause 2.7(1) may be pursued and in particular—

- (a) the days and times during which the activity may be pursued;
- (b) that any 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 taken to be prohibited on all local government property other than that specified in the determination;
- (d) may limit the activity to a class of vehicles, equipment or things, or may extend it to all vehicles, equipment or things;
- (e) may specify that the activity can be pursued by a class of persons or all persons; and
- (f) may distinguish between different classes of the activity.

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

- (1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property—

- (a) smoking in premises;
- (b) riding a bicycle, a wheeled recreational device, or a similar device;
- (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
- (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
- (e) the playing or practice of—
  - (i) golf, archery, pistol 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;
- (f) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
- (g) the traversing of land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.

- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in clause 2.7(1) and, in particular—

- (a) the days and times during which the activity is prohibited;
- (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
- (c) that an activity is prohibited in respect of a class of vehicles, equipment or things, or all vehicles, equipment or things;

- (d) that an activity is prohibited in respect of a class of persons or all persons; and
- (e) may distinguish between different classes of the activity.

*Division 3—Transitional*

**2.9 Existing signs to have effect as a determination**

- (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 have effect as a determination under this local law on and from the commencement day, except to the extent that the sign is inconsistent with any provisions 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 clause 2.9(1).

**PART 3—ACTIVITIES ON LOCAL GOVERNMENT PROPERTY**

*Division 1—When a permit is required*

**3.1 Activities needing a permit—general**

- (1) Subject to this local law, a person must not without a permit granted in accordance with Part 14—
  - (a) hire local government property;
  - (b) cut, break, damage, injure, deface, pull up, pick, remove, or destroy any tree, shrub, flower, grass, plant or flora of any kind on any local government property;
  - (c) cut, collect or remove any timber, firewood, stone, sand or other materials on local government property;
  - (d) plant any plant or sow any seeds on local government property;
  - (e) erect any sign on local government property;
  - (f) erect on local government property a structure for public amusement or for any other performance, whether for gain or otherwise;
  - (g) erect a building or a refuelling site on local government property;
  - (h) make any excavation on, erect a fence on or remove a fence from, local government property;
  - (i) 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;
  - (j) deposit or store anything on local government property;
  - (k) depasture, tether, drive or ride any animal on local government property;
  - (l) launch an aircraft or helicopter from, or land an aircraft or helicopter into, local government property;
  - (m) camp on or lodge at local government property for the purpose of sleeping on local government property;
  - (n) occupy any structure, including a vehicle, at night for the purpose of sleeping on local government property;
  - (o) erect a tent, camp, hut or similar structure on local government property other than a sunshade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day;
  - (p) teach, coach or train for profit any person, animal or dog on or in local government property;
  - (q) conduct a function, or undertake any promotional activity, on local government property;
  - (r) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a charitable organisation;
  - (s) light a fire on local government property except in a facility provided for that purpose;
  - (t) light or set off any fireworks or conduct a fireworks display on local government property;
  - (u) parachute, hang glide, abseil or base jump from or onto local government property;
  - (v) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly on local government property; or
  - (w) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property, other than those used by a sporting club in the performance of its functions.
- (2) The local government may exempt by written notice—
  - (a) a person from compliance with clause 3.1(1) or any part thereof on the application by that person; or
  - (b) specified local government property or a class of local government property or any part thereof from the application of clause 3.1(1).

**3.2 Possession and/or consumption of liquor**

A person must not, on local government property, consume any liquor or have in his or her possession or under his or her control any liquor unless—

- (a) it is permitted under the *Liquor Control Act 1988* (WA); and
- (b) any necessary permit has been obtained for that purpose.

### *Division 2—Hiring local government property*

#### **3.3 Application for a permit to hire local government property**

(1) The local government may hire local government property to a person who makes an application for a permit for the hire of local government property under Part 12 and who pays the hire fee determined by the local government.

(2) The local government may—

- (a) determine that the requirements of this local law do not apply to the hiring of particular local government property or a class of local government property; and
- (b) waive the requirement to pay a hire fee or any part thereof on the application of the person seeking a permit.

#### **3.4 Decision on application where two or more applicants**

In the event of two or more applications being made for the hire of the same local government property for the same date and time, the local government may determine, in its absolute discretion, which, if any, applicant shall be granted a permit to hire the local government property.

#### **3.5 Responsibilities of a permit holder**

The holder of a permit must—

- (a) take reasonable steps to maintain law and order by all in attendance at any function for which the local government property has been hired;
- (b) 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;
- (c) prevent overcrowding;
- (d) leave the local government property in a clean and tidy condition after its use;
- (e) comply with a direction from the Chief Executive Officer or an authorised person to take the action specified in the direction for the purpose of maintaining public safety;
- (f) report any damage or defacement of the local government property to the local government;
- (g) 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 Act for that purpose; and
- (h) comply with any other direction imposed by the local government.

#### **3.6 Conditions on use and hire**

In addition to the conditions described in clause 12.4, the local government may impose conditions on the hire of local government property relating to—

- (i) the purpose for which the local government property may be hired;
- (ii) the use of furniture, plants and effects;
- (iii) restrictions on the erection of decorations inside and outside any building which is local government property;
- (iv) the number of persons that may attend any function in or on local government property;
- (v) the right of the local government to cancel a booking at any time during the course of an annual or seasonal booking;
- (vi) securing and locking up local government property at the end of each hire period;
- (vii) the prohibition of gaming unless a gaming approval has been obtained under the *Gaming and Wagering Commission Act 1987* (WA);
- (viii) requiring that the amplification of any noise or any noise emitted during the hire complies at all times with the *Environmental Protection (Noise) Regulations 1997* (WA); or
- (ix) any other matter that the local government considers fit or appropriate.

### *Division 3—Camping on local government property*

#### **3.7 Camping on local government property**

(1) The maximum period for which the local government may approve an application for a permit in respect of the activities set out in clauses 3.1(1)(m) and 3.1(1)(o) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997* (WA).

(2) Any tent, camp, hut or similar structure erected in contravention of clause 3.1(1)(o) and associated goods may, subject to regulation 29 of the Regulations, be impounded.

## **PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY**

### *Division 1—Behaviour on and interference with local government property*

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

A person must not, in or on local government property, behave in a manner which—

- (a) is likely to or does interfere with, interrupt or disturb the enjoyment of a person who might use the property or who is using the property;
- (b) causes or is likely to cause a disturbance to nearby residents;
- (c) otherwise creates a nuisance; or
- (d) places the public at risk or interferes with the safety of others.

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

A person must not, in or on local government property, behave in a way which is or might be detrimental to the local government property.

#### **4.3 Taking or injuring any fauna**

A person must not take, injure or kill, or attempt to take, injure or kill, any fauna which is on or above any local government property unless that person is authorised under a written law to do so.

#### **4.4 Drunk persons not to enter local government property**

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

#### **4.5 No prohibited drugs**

A person must not take a prohibited drug onto or consume or use a prohibited drug on local government property.

#### **4.6 No smoking**

A person must not smoke within a 5 metre radius of any entrance, exit or aperture of premises on local government property.

#### **4.7 Appropriate behaviour and adequate clothing**

(1) A person over the age of 6 years shall not on or in any local government property—

- (a) appear in public unless properly dressed in clothing which covers the body to prevent indecent exposure, except where the property is set aside for the wearing of no clothes under clause 2.7(1)(h);
- (b) loiter outside or act in an inappropriate manner in any portion of a toilet block or change room facility; or
- (c) without the consent of the occupier, enter or attempt to enter any toilet or other compartment which is already occupied.

(2) Where an authorised person considers that the clothing of any person on local government property is not proper or adequate to cover the body so as to prevent indecent exposure, the authorised person may direct that person to put on adequate clothing and that person shall comply with that direction immediately.

#### **4.8 Entry to local government property**

A person, other than an authorised person performing a function or a contractor of the local government carrying out a contracted duty, shall not—

- (a) enter or leave any local government property other than by the public entrance or exit, except in an emergency;
- (b) enter or remain on any local government property except on those days and during those times when access is available to the public; or
- (c) enter any place that has been fenced off or closed to the public.

#### **4.9 Refusal of entry to local government property**

(1) Subject to clauses 5.3 and 5.4, an authorised person may refuse to allow entry, or suspend admission, to any local government property to any person whom he or she reasonably suspects has behaved in a manner contrary to the provisions of this Part.

(2) A refusal or suspension under subclause (1) can be for any period of up to 12 months as determined by an authorised person.

(3) Subclause (1) does not apply to a venue where Council or Committee meetings are held.

#### *Division 2—Signs*

#### **4.10 Signs**

(1) The local government may erect a sign on local government property specifying any conditions of use which apply to that property.

(2) A person must comply with a sign erected under clause 4.10(1).

(3) A condition of use specified on a sign erected under clause 4.10(1) must not be inconsistent with any provision of this local law or any determination.

### **PART 5—SPECIFIC MATTERS RELATING TO TYPES OF LOCAL GOVERNMENT PROPERTY**

#### *Division 1—Fenced or closed property*

#### **5.1 No entry to fenced or closed local government property**

A person must not enter local government property which has been fenced off or closed to the public by a sign or otherwise unless authorised by the local government.

#### *Division 2—Toilet blocks and change rooms*

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

(1) Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by—

- (a) females, then a person of the male gender must not use that entry to the toilet block or change room; or
  - (b) males, then a person of the female gender must not use that entry to the toilet block or change room.
- (2) Clause 5.2 (1) does not apply to a child, when accompanied by a parent, guardian or caregiver where the child is—
- (a) under the age of 6 years; or
  - (b) otherwise permitted by an authorised person to use the relevant entry.

### **5.3 Use of showers**

A person may use a shower in a change room provided that—

- (a) the facilities must only be used by the person for the purpose of cleansing, bathing and washing themselves; and
- (b) the facilities must not be used for the purposes of laundering or washing any clothing or other articles.

### **5.4 No use of camera devices in toilet blocks or change rooms**

A person must not operate a camera device in any portion of a toilet block or change room to record or transmit an image.

## **PART 6—FEES FOR ENTRY ONTO LOCAL GOVERNMENT PROPERTY**

### **6.1 Payment of applicable fees for entry or participation**

- (1) Subject to clause 6.1(2), where a fee is payable for entry to local government property or participation in an activity on or in any local government property, a person shall not enter that property or participate in the activity without first paying the applicable fee.
- (2) The local government may exempt a person from compliance with clause 6.1(1) on the application of that person.

## **PART 7—ACTIVITIES IN PUBLIC PLACES**

### *Division 1—General*

### **7.1 General prohibitions**

- (1) Subject to this local law, a person shall not—
- (a) plant any plant on a thoroughfare—
    - (i) within the vicinity of an intersection that creates a sight line hazard in relation to pedestrians or drivers of vehicles using that intersection and which is not maintained at or below 0.5 metres in height; or
    - (ii) so that it is within 2 metres of a carriageway, except in the case of grass or a similar plant to grass;
  - (b) damage a lawn or garden on or in a public place or remove any plant or part of a plant from a lawn or garden on or in a public place unless—
    - (i) the person is the owner or occupier of the lot abutting that portion of the thoroughfare and the lawn, garden or the particular plant was installed or planted by that owner or occupier; or
    - (ii) the person is acting under the authority of a written law;
  - (c) on a verge, repair or service any vehicle;
  - (d) place, allow to be placed or allow to remain on a thoroughfare or verge anything that results in a hazard for any person using the thoroughfare or verge;
  - (e) cause or permit any water from a hose or sprinkler to interfere with the use of any street, way or footpath by pedestrians;
  - (f) play or participate in any game or sport so as to—
    - (i) cause danger to any person on a thoroughfare; or
    - (ii) obstruct the movement of vehicles or persons on a thoroughfare;
  - (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, wheeled recreational device or similar device; or
  - (h) use anything or do anything so as to create a nuisance on or in a public place.

### **7.2 Activities requiring a permit**

- (1) Subject to clause 7.2(2), a person must not without a permit—
- (a) dig or otherwise create a trench through or under a kerb or footpath;
  - (b) damage a street tree or remove a street tree or part of a street tree, including the roots, which is on or in a public place irrespective of whether the street tree was planted by the owner or occupier of the lot abutting the thoroughfare or by the local government unless the person is acting under the authority of a written law;

- (c) damage, remove or interfere with any part of a thoroughfare, kerb, footpath or any structure or sign erected on or in a thoroughfare by the local government or a person acting under written authority;
  - (d) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
  - (e) cause any obstruction to a water channel or a water course, including drainage swales, in a thoroughfare;
  - (f) light any fire or burn anything on a thoroughfare or verge;
  - (g) lay pipes under or provide taps on any verge;
  - (h) place or install, on any part of a thoroughfare, anything such as crushed limestone, gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust, including for the purposes of storage or stockpiling;
  - (i) provide, erect, install or use in or on any building, structure or land abutting a thoroughfare any hoist or other thing for use over the thoroughfare;
  - (j) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare;
  - (k) drive any vehicle over or across a kerb or footpath except at a vehicle crossing;
  - (l) drive a vehicle or permit a vehicle to be driven across a kerb or footpath if such vehicle is so heavy or is of such a nature that it causes or is likely to cause damage to the kerb or the paving of the footpath; and
  - (m) drive or take a vehicle on a closed thoroughfare unless it is in accordance with any limit or exception specified in an order made under section 3.50 of the Act.
- (2) The local government may exempt a person from compliance with clause 7.2(1) on the application of that person.

### **7.3 Obstructions**

Where anything is deposited or an obstruction is caused to a thoroughfare, kerb or footpath contrary to clauses 7.1 and 7.2, the local government may—

- (a) remove or cause to be removed such deposit or obstruction; and
- (b) recover the costs of doing so as a debt due to it.

#### *Division 2—Vehicle crossings*

### **7.4 Temporary crossing**

(1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works must obtain a permit for the construction and use 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) If the local government approves an application for a permit for the purpose of clause 7.4(1), the permit is taken to be issued on the condition that, until such time as the temporary crossing is removed, the permit holder must 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.

### **7.5 Removal of a redundant crossing**

(1) Where works on a lot will result in a crossing no longer giving access to a lot, the crossing is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the local government.

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

- (a) remove any part of or all of a crossing which does not give access to the lot; and
- (b) reinstate the kerb, drain, 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.

#### *Division 3—Property numbers*

##### *Subdivision 1—Preliminary*

### **7.6 Interpretation**

In this Division, unless the context requires otherwise—

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

##### *Subdivision 2—Assignment and marking of numbers*

### **7.7 Assignment and marking of number**

(1) The local government may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

(2) The owner or occupier of each property must display and maintain the current lot number assigned by the local government in a conspicuous place at the front of the property.

(3) A person shall not place or display the lot number of the property in such a location as to cause confusion or be misleading.

(4) Where the location of a street number causes confusion or is misleading, or an unauthorised lot number is being used or displayed on a property, the local government or an authorised person may serve notice in writing on the owner or occupier of the land specifying remedial action to be taken and the time within which action must be taken.

*Division 4—Fencing*

**7.8 Public place—clause 4(1) of Division 1, Schedule 3.1 of the Act**

Each of the following places is specified as a public place for the purpose of clause 4(1) of Division 1 of Schedule 3.1 of the Act—

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

*Division 5—Signs erected by the local government*

**7.9 Signs**

- (1) The local government may erect a sign on a public place specifying any conditions of use which apply to that place.
- (2) A person must comply with a sign erected under clause 7.9(1).
- (3) A condition of use specified on a sign erected under clause 7.9(1) is to be for the purpose of giving notice of the effect of the provision of a local law.

**7.10 Transitional**

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 7.10 if the sign is not inconsistent with any provisions of this local law.

**PART 8—ADVERTISING DEVICES ON OR IN LOCAL GOVERNMENT PROPERTY OR PUBLIC PLACES**

**8.1 General prohibitions**

- (1) A person must not erect, place, post, paint or affix any advertising sign on, in or over local government property or a public place other than in accordance with this local law.
- (2) Subject to clauses 8.3 to 8.7, a person must not, unless authorised by the local government in writing or a written law, erect or place an advertising sign on or in local government property or a public place—
  - (a) within 30 metres of a similar or identical advertising sign erected or placed for the same purpose;
  - (b) over any footpath where the resulting vertical clearance between the advertising sign is less than 2.5 metres;
  - (c) on any roundabout;
  - (d) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge;
  - (e) on any pedestrian overpass bridges in the District; or
  - (f) in any location where, in the opinion of the local government, the advertising sign or portable direction sign is likely to—
    - (i) obstruct or impede the reasonable use of a thoroughfare or access to a place by any person;
    - (ii) obstruct a line of sight of drivers of vehicles along a thoroughfare, verge or vehicle crossing; or
    - (iii) create a hazard for any person using the thoroughfare or verge, including by obstructing or impeding the vision of a driver of a vehicle entering or leaving a thoroughfare or vehicle crossing.
- (3) Public liability insurance in respect of the erection or placement of the advertising sign must be obtained if required by the local government.

**8.2 Public interest signage**

- (1) Public interest signage is subject to the general prohibitions outlined in clause 8.1.
- (2) A person must not erect or display a public interest sign on or in any local government property or a public place unless that person has a permit issued by the local government for that purpose.
- (3) A permit holder must not erect or display on or in local government property or a public place—
  - (a) subject to clause 8.3(3)(b), more than 6 public interest signs for one event at any one time within the district;
  - (b) more than 10 public interest signs for one event on the day on which the event is taking place within the district;
  - (c) more than one public interest sign for one event on or in the same location, including an intersection, within the district;
  - (d) subject to clause 8.3(3)(e), a public interest sign for a period longer than 10 days in any 6 month period within the district;
  - (e) a public interest sign for an event that occurs on a regular basis for a period longer than 3 days prior to the day on which the event takes place within the district;

- (f) a public interest sign which is, at the absolute discretion of the local government, not of a professional standard and quality;
- (g) a public interest sign in a position which—
  - (i) creates a hazard for pedestrians; or
  - (ii) causes interference with the clear visual lines of sight required by motorists for the safe movement of vehicular traffic,

unless permitted by the terms and conditions of a permit;

- (h) a public interest sign with colours that may cause confusion for motorists approaching an intersection controlled by traffic lights;
- (i) a public interest sign which is not maintained in a good and orderly manner for the duration of the period that the public interest sign is on display;
- (j) a public interest sign that exceeds dimensions of 2 metres long x 1 metre high, unless permitted by the terms and conditions of a permit;
- (k) on a verge, a public interest sign which is—
  - (i) less than 3 metres from the kerb line;
  - (ii) if there is no kerb line, less than 3 metres from the edge line or the edge of the seal where there is no edge line; and
  - (iii) less than 80 metres from the projection of the nearest kerb line of any intersecting road; or
- (l) a public interest sign which is tied or secured to power poles or street lights, unless permitted by Western Power.

(4) The local government may approve an advertising sign, that is not public interest signage, associated with an event in accordance with this local law, subject to any condition imposed by the local government.

### 8.3 Other Portable Signs

(1) Other portable signs are subject to the general prohibitions outlined in clause 8.2.

(2) Subject to clause 8.5 any other portable sign shall—

- (a) not exceed 1.2 metres in height above the finished ground or pavement level;
- (b) not contain more than 2 sign faces;
- (c) not exceed 1 square metre total area on any single sign face;
- (d) not be illuminated or incorporate reflective or fluorescent materials;
- (e) not have moving parts once the sign is in place;
- (f) contain writing that is of a professional standard and quality, and is appropriately maintained;
- (g) in the case of any other portable sign relating to a business, only incorporate the name of the businesses operating from the lot and must not incorporate brand advertising;
- (h) only be erected and displayed on pedestrian areas with the sign faces directed at pedestrians and not at drivers;
- (i) not be erected and displayed within regional road reservations, as defined by the local government's planning scheme;
- (j) in the case of another portable sign relating to a business—
  - (i) be displayed in a location immediately adjacent to the business premises to which the sign relates; and
  - (ii) be removed at the close of trading each day and not displayed again until the business opens for trading the next day;
- (k) not be erected or displayed so as to impede the reasonable use of local government property or a public place;
- (l) not be erected or displayed within 1.8 metres of an intersection or crossover;
- (m) not be fixed or attached to a building, wall, fence, pole, tree or other structure within a road reserve; and
- (n) be removed and relocated at the request of a person authorised for the purpose of a special event, parade, road or footpath works, or other event.

(3) A person can only erect one other portable sign per business.

(4) A person can only erect another portable sign on a verge of a road which is under the care, control and management of the local government if—

- (a) that person has provided the local government with a current certificate for public liability insurance to an amount not less than \$10 million, which notes that the cover extends to any sign that is located within a road reserve, and maintains that public liability insurance for the duration that the portable sign is so displayed;
- (b) the portable sign is to be erected and displayed adjacent to and between the front of the business premises and the nearest kerb, as approved by the local government in writing;
- (c) no part of the sign is to be less than 600 millimetres from the face of the nearest kerb or, if no kerb, from the edge of the nearest road surface or car parking bay; and



- (d) the effective width of a footpath, pedestrian access way or similar access route is not reduced to less than 2 metres effective width.

#### **8.4 Election advertising**

- (1) Election advertising is subject to the general prohibitions outlined in clause 8.1.
- (2) If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign—
  - (a) being erected at least 30m from any intersection;
  - (b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;
  - (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access to a place by any person;
  - (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
  - (e) being maintained in good condition;
  - (f) not being erected until 6 weeks prior to the election to which it relates has been officially announced;
  - (g) being removed within 72 hours of the close of polls on voting day;
  - (h) not being placed within 100m of any works on the thoroughfare;
  - (i) being securely installed;
  - (j) not being an illuminated sign;
  - (k) not incorporating reflective or fluorescent materials; or
  - (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

#### **8.5 Notification regarding removal and impounding of advertising signs**

- (1) An authorised person may issue a person who has erected or placed an advertising sign on or in local government property or a public place with a notice requiring that person to remove the advertising sign within 24 hours, or earlier if, at the absolute discretion of the local government or an authorised person, the advertising sign is a potential hazard or nuisance to members of the public.
- (2) An authorised person may remove or impound an advertising sign that has been erected or placed on or in local government property or a public place contrary to this local law.

#### **8.6 Advertising sign to be marked**

Each advertising sign erected in or on local government property or a public place shall be clearly marked with the name of the person, organisation or business who erected the advertising sign.

#### **8.7 Person or business taken to own advertising sign**

In the absence of any proof to the contrary, an advertising sign is to be taken to belong to the person, organisation or business whose name is marked on the advertising sign.

#### **8.8 Insurance**

If a person is required by the local government to hold public liability insurance in respect of the erection or placement of an advertising sign on or in local government property or a public place, that person must present an authorised person with a current certificate of public liability insurance upon the direction of the authorised person.

### **PART 9—OBSTRUCTING ANIMALS OR VEHICLES ON OR IN LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES**

#### *Division 1—Animals*

##### **9.1 Leaving an animal on local government property or in a public place**

A person must not leave an animal on local government property or a public place so that it obstructs the use of any part of that local government property or public place unless that person—

- (a) has first obtained a permit; or
- (b) is authorised to do so under a written law or a determination made under this local law.

##### **9.2 Prohibitions relating to animals**

- (1) In this clause, **owner** in relation to an animal includes—
  - (a) the owner of the animal;
  - (b) a person who has the animal in his or her possession or under his or her control; or
  - (c) the occupier of any premises where the animal is ordinarily kept or ordinarily permitted to live.
- (2) An owner of an animal must not—
  - (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare and unless it is led, ridden or driven;
  - (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in or on local government or a public place;
  - (c) train or race the animal on a thoroughfare; or

- (d) subject to clause 9.2(4), allow the animal to defecate on local government property or in a public place.
- (3) An owner of a horse must not lead, ride or drive the horse on a thoroughfare in a built-up area, unless the person does so under a permit or under the authority of a written law.
- (4) An owner of an animal does not commit an offence if the defecation is immediately removed.

### 9.3 Removal of animals

An authorised person may impound an animal left on or in local government property or a public place contrary to clause 9.1.

#### *Division 2—Vehicles*

### 9.4 Leaving a vehicle in a public place

A person must not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place, unless that person has first obtained a permit from the local government or is authorised to do so under a written law.

## PART 10—ROADSIDE CONSERVATION

### *Division 1—Preliminary*

#### 10.1 Interpretations

In this Part—

**MRWA** means Main Roads Western Australia;

**protected flora** has the meaning given to it in the *Biodiversity Conservation Act 2016*;

**rare flora** has the meaning given to it in the *Biodiversity Conservation Act 2016*;

**Roadside Conservation Committee** means the Roadside Conservation Committee appointed by the Minister for Environment; and

**special environmental area** means an area designated as such under clause 10.7.

#### 10.2 Application

This Part does not apply to any townsites within the district.

#### *Division 2—Flora roads*

#### 10.3 Declaration of flora road

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

#### 10.4 Construction works on flora roads

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

#### 10.5 Signposting of flora roads

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

#### 10.6 Driving only on carriageway of flora roads

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

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

- (a) conditions on the thoroughfare do not reasonably permit a vehicle to remain on the carriageway;
- (b) there is no carriageway; or
- (c) an exemption from the application of subclause (1) has been obtained from the local government.

#### *Division 3—Special environmental areas*

#### 10.7 Designation of special environmental areas

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

- (a) has protected flora or rare flora; or
- (b) in the opinion of the local government, has environmental, aesthetic or cultural significance.

#### 10.8 Marking of special environmental areas

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

#### *Division 4—Planting in thoroughfares*

#### 10.9 Permit to plant

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

#### **10.10 Relevant considerations in determining application**

In determining an application for a permit for the purpose of clause 10.9, the local government is to have regard to—

- (a) existing vegetation within that part of the thoroughfare in which the planting is to take place; and
- (b) the diversity of species and the prevalence of the species which are to be planted or sown.

#### *Division 5—Clearance of vegetation*

#### **10.11 Permit to clear**

(1) A person shall not clear and maintain in a cleared state, the surface of a thoroughfare outside a gazetted town boundary, beyond 1.5m of that person's land without first obtaining a permit and any other approvals which may be required under any written law.

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

#### **10.12 Application for permit**

In addition to the requirements of clause 12.1(2), a person making an application for a permit for the purpose of clause 10.11 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.

#### **10.13 Permit to burn thoroughfare**

A person shall not burn part of a thoroughfare without first obtaining a permit from an authorised person other than a Fire Control Officer, or unless acting under the authority of any other written law.

#### **10.14 Application for permit**

In addition to the requirements of clause 12.1(2), an application for a permit for the purposes of clause 10.13 shall—

- (a) include a sketch plan showing the portions of a thoroughfare which are proposed to be burned; and
- (b) advise of the estimated fire intensity and the measures to be taken to protect upper storey vegetation from the burn.

#### **10.15 When application for permit can be approved**

The local government may approve an application for a permit for the purpose of clause 10.13 only if the burning of the particular part of the thoroughfare will—

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

#### **10.16 Prohibitions on burning**

Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 10.13 is not to be approved by the local government—

- (a) for burning between 31 August and 1 May of the following year where the intensity of the burn could damage native flora and fauna; or
- (b) in any year to any person for any part of a thoroughfare which is on the opposite side of the carriageway to that portion of the thoroughfare for which a permit to burn has been approved in the same year.

#### *Division 7—Firebreaks*

#### **10.17 Firebreaks on thoroughfares**

A person shall not construct a firebreak on a thoroughfare.

#### *Division 8—Commercial wildflower harvesting on thoroughfares*

#### **10.18 General prohibition on commercial wildflower harvesting**

Subject to clause 10.19, a person shall not commercially harvest native flora on a thoroughfare.

#### **10.19 Permit for revegetation projects**

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

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

- (a) the seed is required for a revegetation project in any part of the district; and
- (b) the thoroughfare, or the relevant part of it, is not a special environmental area.

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

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

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

## **PART 11—TRADING IN PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY**

### **11.1 Restrictions and requirement to obtain a permit**

- (1) A person must not carry on trading on local government property or in a public place unless—
  - (a) subject to clause 11.1(2), that person is—
    - (i) the holder of a permit for that purpose; or
    - (ii) an assistant specified in a permit for trading; and
  - (b) if required by the local government, public liability insurance in respect of the trading activity has been taken out by the relevant permit holder; and
  - (c) if the person is trading in food, the place of trading must have access to a supply of potable water and/or a sewer for the disposal of wastewater.
- (2) The local government may by written notice exempt a person or class of persons from the need to obtain a permit.
- (3) In determining whether to grant an exemption under clause 11.1(2), the local government may have regard to the matters set out in any local government policy.

### **11.2 Exemptions from requirement to pay a fee**

- (1) The local government may waive any fee required to be paid by an applicant for a permit for the purpose of trading on the application if the trading is carried on—
  - (a) at a portion of local government property or a public place adjoining the normal place of business of the applicant; or
  - (b) by a charitable organisation that—
    - (i) does not sublet space to commercial participants;
    - (ii) does not involve commercial participants in the conduct of the stall or trading; and
    - (iii) operates under a permit where any assistants specified in the permit are members of that charitable organisation.
- (2) In this clause 11.2, **commercial participant** means any person who is involved in operating or in conducting any trading activity for personal gain or profit.

### **11.3 Insurance**

If required by the local government to hold public liability insurance in respect of the permit holder's trading activities, a permit holder must produce to an authorised person a current certificate of insurance upon the direction of that authorised person.

### **11.4 When a permit is required for a street market**

A person must not conduct a street market on a public place or on local government property—

- (a) without a valid permit for that purpose; and
- (b) unless, if required by the local government, the holder of the permit has taken out public liability insurance in respect of the street market.

## **PART 12—PERMITS**

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

#### **12.1 Application for a permit**

- (1) A person who is required to obtain a permit under this local law must apply for the permit in accordance with clause 12.1(2).
- (2) An application for a permit under this local law must—
  - (a) be in the form determined by the local government;
  - (b) state the full name and address of the applicant;
  - (c) be signed by the applicant;
  - (d) contain the information required by the form;
  - (e) contain any other information required for that particular type of permit under this local law; and
  - (f) be forwarded to the local government together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) An application for a permit for the purposes of conducting trading or a street market on or in local government property or a public place must contain the following additional information (as applicable)—
  - (a) the proposed number of assistants, if any, to be engaged by the applicant in trading or the street market, as well as their full names and addresses;
  - (b) details of any location in which the applicant proposes to trade or conduct a street market;
  - (c) the period of time for which the permit is sought, together with the proposed days and hours of operation of the street market;

- (d) the proposed goods and services which will be traded or sold by the trader or at a street market; and
  - (e) details of any proposed structure, stall or vehicle which may be used in conducting the trading or street market and a plan showing where any such structure, stall or vehicle will be located.
- (4) The local government may refuse to consider an application for a permit which does not satisfy the requirements within clause 12.1(2).
- (5) The local government may require an applicant to give local public notice of the application for the permit.

### **12.2 Decision on application for permit**

- (1) The local government may—
- (a) approve an application for a permit;
  - (b) approve an application for a permit subject to conditions; or
  - (c) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit with or without conditions, it must issue to the applicant a permit in the form approved by the local government.
- (3) If the local government refuses to approve an application for a permit, it must give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on a permit or the grounds on which an application for a permit may be refused, the clause does not limit the power of the local government to impose other conditions on the permit or to refuse the application for a permit on other grounds.

### **12.3 Relevant considerations in determining application for granting a permit**

- (1) In determining an application for a permit, the local government is to have regard to—
- (a) any relevant local government policies;
  - (b) the Competition Principles Agreement;
  - (c) the desirability of the proposed activity;
  - (d) the location of the proposed activity, including safety and health requirements, and the character and function of, the location; and
  - (e) such other matters as the local government considers relevant.
- (2) A local government may refuse to approve an application for a permit on any one or more of the following grounds—
- (a) the application is inconsistent with a local government policy or would result in an activity being carried out contrary to this local law or any other written law;
  - (b) the applicant has committed a breach of any provision of this local law or of any other written law relevant to the activity in respect of which the permit is sought;
  - (c) the applicant is insolvent or under administration;
  - (d) the activity may result in traffic and pedestrian safety being adversely impacted;
  - (e) the activity is not in keeping with the surrounding land uses; or
  - (f) such other grounds as the local government considers relevant.

#### *Division 2—Conditions on a permit*

### **12.4 Examples of conditions**

The local government may impose conditions on a permit relating to—

- (a) the payment of a fee;
- (b) the duration and commencement of the permit, including the days and hours within which the activity the subject of the permit may be carried out or is prohibited;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the area or specific location within the district to which the permit applies, including any set back distances applicable to the activity;
- (f) the payment of a bond against possible damage, cleaning or other expenses;
- (g) the obtaining of public liability insurance in an amount and on terms reasonably required by the local government;
- (h) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place or local government property by the permit holder;
- (i) if the permit relates to the trading of food, the provisions to be made for the storage of cooked and uncooked food, and the storage and disposal of waste water; and
- (j) any other matter that the local government considers fit or appropriate.

### **12.5 Compliance with and variations to terms and conditions**

- (1) A permit holder must comply with any terms and conditions imposed on a permit, including any conditions as varied.
- (2) A permit holder may apply to the local government to vary or remove any conditions imposed on a permit.
- (3) In determining whether to vary any condition imposed on a permit, the local government must have regard to any relevant local government policy.

#### *Division 3—General*

### **12.6 Duration of permit**

- (1) A permit is valid for one year from the date on which it is issued unless it is—
  - (a) otherwise stated in this local law or in the terms and conditions of the permit; or
  - (b) cancelled under clause 12.10.

### **12.7 Renewal of permit**

- (1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of a permit.
- (2) The provisions of this Part 12 regarding an application for a permit apply to an application for the renewal of a permit with any necessary modifications.

### **12.8 Transfer of permit**

- (1) An application may be made to the local government to transfer a valid permit.
- (2) An application to transfer a permit must—
  - (a) be made in writing;
  - (b) be signed by the permit holder and the proposed transferee for the permit;
  - (c) provide such information as the local government may require to enable the application to be determined; and
  - (d) be forwarded to the local government together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government may—
  - (a) approve an application for the transfer of a permit;
  - (b) approve an application for the transfer of a permit subject to conditions; or
  - (c) refuse an application to transfer a permit.
- (4) Where the local government approves an application for the transfer of a permit, the transfer may be effected by—
  - (a) an endorsement on the permit signed by the Chief Executive Officer or an authorised person; or
  - (b) issuing to the transferee a permit in the form determined by the local government.
- (5) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

### **12.9 Production of permit**

A permit holder must produce to an authorised person his or her permit immediately on being directed to do so by that authorised person.

### **12.10 Cancellation or suspension of permit**

- (1) Subject to clause 13.1, a permit may be cancelled by the local government if—
  - (a) the permit holder has not complied with a condition of the permit;
  - (b) the permit holder has not complied with a provision of any written law which relates to the activity regulated by the permit; or
  - (c) the permit holder has transferred or assigned or sought to transfer or assign the permit without the approval of the local government; or
  - (d) a law is amended or repealed in a manner which is inconsistent with the terms and conditions of the permit and which renders the permit invalid, ineffective or contrary to law.
- (2) If a permit is cancelled under clause 12.10(1), the permit holder—
  - (a) must return the permit to the local government as soon as practicable; and
  - (b) is to be taken to have forfeited any fees paid in respect of the permit.
- (3) The local government may cancel or suspend a permit if the local government or a utility requires access to or near the place to which a permit applies for the purposes of carrying out works in or near the vicinity of that place.
- (4) On the cancellation or suspension of a permit under clause 12.10(3), the permit holder is, subject to clause 12.10(5), to be taken to have forfeited any fees paid in respect of the permit.
- (5) Where a permit is cancelled or suspended under clause 12.10(3) through no fault of the permit holder, the local government may refund to the permit holder all or part of the fees paid in respect of what would otherwise have been the remaining term of the permit.

#### **12.11 Nominee of permit holder**

Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may, at the request of the permit holder, authorise another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit apply to the nominee as if he or she was the permit holder.

### **PART 13—OBJECTIONS AND APPEALS**

#### **13.1 Objection and appeal rights**

Where the local government makes a decision as to whether it will—

- (a) grant a person a permit or consent; or
- (b) renew, vary or cancel a permit or consent that a person has under this local law, the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to that decision.

### **PART 14—MISCELLANEOUS**

#### *Division 1—Authorised person*

#### **14.1 Authorised person to be obeyed**

A person in or on local government property or a public place—

- (a) must obey any lawful direction of an authorised person; and
- (b) must not in any way obstruct or hinder an authorised person in the execution of his or her duties.

#### **14.2 Persons may be directed to leave local government property or a public place**

An authorised person may direct a person to leave local government property or a public place where he or she reasonably suspects that the person has contravened a provision of this local law.

#### *Division 2—Notices*

#### **14.3 Liability for damage to local government property or a public place**

(1) Where a person unlawfully damages local government property or a public place, the local government may by notice in writing 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.

(2) On a failure to comply with a notice issued under clause 14.3(1), the local government may recover the costs referred to in the notice as a debt due to it.

#### **14.4 Notice to redirect or repair sprinklers**

Where a lawn or 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 the lawn or the garden requiring the owner or the occupier or both to move or alter the direction of the sprinkler or other watering equipment.

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

Where anything is placed on a thoroughfare contrary to this local law, the local government or an authorised person may give a notice to—

- (a) the owner or the occupier of the property which abuts that portion of the thoroughfare where the thing has been placed; or
- (b) such other person who may be responsible for the thing being so placed, requiring the relevant person to remove the thing.

#### **14.6 Notice to repair damage to thoroughfare**

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

#### **14.7 Hazardous plants**

(1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting the garden to remove, cut, move or otherwise deal with that plant so as to remove that hazard.

(2) Clause 14.7(1) does not apply where the plant was planted by the local government.

### **PART 15—ENFORCEMENT**

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

#### **15.1 Offence to fail to comply with a notice**

A person who fails to comply with a notice given to him or her under this local law commits an offence.

### 15.2 Local government may undertake requirements of a notice

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

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

### 15.3 Offences and general penalty

- (1) A person who—
- (a) fails to do anything required or directed to be done under this local law; or
  - (b) does an act or omits to do an act contrary to this local law,
- commits an offence.
- (2) A person who commits an offence under this local law is liable, upon conviction to—
- (a) a penalty not exceeding \$5,000; and
  - (b) if the offence is a continuing offence, an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

### 15.4 Prescribed offences

- (1) An offence against an item specified in Schedule 1 is a prescribed offence for the purposes of section 9.16 of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the item in Schedule 1.

### 15.5 Form of notices

- (1) For the purposes of this local law—
- (a) where a vehicle is involved in the commission of an offence, the form of the 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 give under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
  - (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.
- (2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

#### *Division 3—Person to give name and address on demand*

### 15.6 Requirement to give name and address on demand

- (1) An authorised person may—
- (a) upon finding a person committing or having committed; or
  - (b) on reasonable grounds suspecting a person of having committed, an offence against this local law, demand from the person the person's name, place of residence and date of birth.
- (2) A person from whom information is demanded in accordance with clause 15.6(1) commits an offence if the person—
- (a) refuses without lawful excuse to give the information; or
  - (b) gives information that is false or misleading in any material particular.

## SCHEDULE 1—PRESCRIBED OFFENCES

[Clause 15.4(1)]

ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY
1.	2.4	Failure to comply with a determination	\$300
2.	3.1(1)(b)	Damaging a tree or plant etc. on local government property without a permit	\$300
3.	3.1(1)(c)	Cutting, collecting or removing timber, firewood etc. on local government property without a permit	\$300
4.	3.1(1)(d)	Planting any plant or sowing any seeds on local government property without a permit	\$300
5.	3.1(1)(e)	Erecting a sign on local government property without a permit	\$300
6.	3.1(1)(f)	Erecting a structure for public amusement etc. on local government property without a permit	\$300
7.	3.1(1)(g)	Erecting a building or a refuelling site on local government property without a permit	\$300



ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY
8.	3.1(1)(h)	Making an excavation on, erecting a fence or removing a fence on local government property without a permit	\$300
9.	3.1(1)(i)	Erecting or installing structures on local government for supplying power, water etc. services without a permit	\$300
10.	3.1(1)(j)	Depositing or storing anything on local government property without a permit	\$300
11.	3.1(1)(k)	Depasturing, tethering, driving or riding animals on local government property without a permit	\$300
12.	3.1(1)(l)	Launching an aircraft or helicopter from or landing an aircraft into local government property without a permit	\$300
13.	3.1(1)(m)	Camping on or lodging at local government property for the purpose of sleeping on local government property without a permit	\$300
14.	3.1(1)(n)	Occupying a structure on local government property at night for the purpose of sleeping without a permit	\$300
15.	3.1(1)(o)	Erecting a tent, camp, hut or similar structure on local government property in certain circumstances without a permit	\$300
16.	3.1(1)(p)	Teaching, coaching or training person, animal or dog for profit in or on local government property without a permit	\$300
17.	3.1(1)(q)	Conducting a function or undertaking a promotional activity on local government property without a permit	\$300
18.	3.1(1)(r)	Charging a person for entry to local government property without a permit	\$300
19.	3.1(1)(s)	Lighting a fire on local government property without a permit	\$300
20.	3.1(1)(t)	Lighting, setting off or conducting a display of fireworks on local government property without a permit	\$300
21.	3.1(1)(u)	Parachuting, hang-gliding, abseiling or base jumping from or onto local government property without a permit	\$300
22.	3.1(1)(v)	Gambling or betting etc. on local government property without permit	\$300
23.	3.1(1)(w)	Erecting, installing, operating or using devices for the emission and amplification of noise on local government property without a permit	\$300
24.	3.5	Failure of permit holder to comply with responsibilities	\$300
25.	4.1	Behaviour on local government property which interferes with others	\$300
26.	4.2	Behaviour on local government property detrimental to property	\$300
27.	4.3	Taking or injuring any fauna on local government property	\$300
28.	4.4	Entering or remaining on local government property while drunk or under the influence of a prohibited drug	\$300
29.	4.5	Taking or consuming a prohibited drug on local government property	\$300
30.	4.6	Smoking within a 5 metre radius of an entrance, exit or aperture of premises on local government property	\$300
31.	4.7(1)(a)	Failing to wear adequate clothing to prevent indecent exposure on local government property	\$300
32.	4.7(1)(b)	Loitering outside or acting in an inappropriate manner in a toilet block or change room facility on local government property	\$300
33.	4.7(1)(c)	Entering or attempting to enter an occupied toilet or other compartment without the consent of the occupier	\$300
34.	4.7(2)	Failing to comply with a direction to put on adequate clothing	\$300
35.	4.8	Unauthorised entry to local government property	\$300
36.	4.10(2)	Failure to comply with a sign on local government property regarding conditions of use	\$300
37.	5.1	Unauthorised entry to fenced off or closed local government property	\$300

ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY
38.	5.2(1)	Gender not specified using entry of toilet block or change room on local government property	\$300
39.	5.3	Using a shower in a prohibited manner	\$300
40.	5.4	Using a camera device to record or transmit an image in a toilet, shower or change room	\$300
41.	6.1(1)	Entering local government property without paying the required fee	\$300
42.	7.1(a)	Planting a plant on a thoroughfare in a prohibited manner	\$300
43.	7.1(b)	Damaging a lawn or garden or removing any plant or part of a plant on or in a public place	\$300
44.	7.1(c)	Repairing or servicing any vehicle on a verge	\$300
45.	7.1(d)	Placing, allowing to be placed or allowing to remain on a thoroughfare or verge an obstructive or hazardous thing	\$300
46.	7.1(e)	Causing or permitting water from a hose or sprinkler to interfere with the use of any street, way or footpath by pedestrians	\$300
47.	7.1(f)	Playing games or sport in a prohibited manner on or in a thoroughfare	\$300
48.	7.1(g)	Riding a bicycle or wheeled recreational device within a mall, arcade or verandah of a shopping centre	\$300
49.	7.1(h)	Creating a nuisance on or in a public place	\$300
50.	7.2(1)(a)	Digging or creating a trench through or under a kerb or footpath without a permit	\$300
51.	7.2(1)(b)	Damaging or removing a street tree without a permit	\$300
52.	7.2(1)(c)	Damaging, removing or interfering with a thoroughfare, kerb, footpath or structure or sign erected on a thoroughfare without a permit	\$300
53.	7.2(1)(d)	Causing an obstruction to a thoroughfare without a permit	\$300
54.	7.2(1)(e)	Causing an obstruction to a water channel or a water course in a thoroughfare without a permit	\$300
55.	7.2(1)(f)	Lighting a fire or burning anything on a thoroughfare or verge without a permit	\$300
56.	7.2(1)(g)	Laying pipes under or providing taps on any verge without a permit	\$300
57.	7.2(1)(h)	Placing or installing prohibited materials on a thoroughfare without a permit	\$300
58.	7.2(1)(i)	Providing, erecting, installing or using a hoist or other thing for use over a thoroughfare without a permit	\$300
59.	7.2(1)(j)	Interfering with the soil of or anything in a thoroughfare or taking anything from a thoroughfare without a permit	\$300
60.	7.2(1)(k)	Driving any vehicle over or across a kerb or footpath except at a vehicle crossing without a permit	\$300
61.	7.2(1)(l)	Driving a vehicle or permitting a vehicle to be driven across a kerb or footpath without a permit	\$300
62.	7.2(1)(m)	Driving or taking a vehicle on a closed thoroughfare without a permit	\$300
63.	7.3	Depositing anything or causing an obstruction to a thoroughfare, kerb or footpath	\$300
64.	7.4(1)	Failure to obtain a permit for a temporary vehicle crossing	\$300
65.	7.7(2)	Failure to properly display and maintain street number	\$300
66.	7.7(3)	Placing or display a street number in a location causing confusion or which is misleading	\$300
67.	7.7(4)	Adopting, using or displaying a street number other than the street number assigned.	\$300
68.	7.9(2)	Failure to comply with a sign on a public place	\$300
69.	8.1(2)	Erecting or placing etc. advertising sign in a prohibited manner	\$300
70.	8.2(1)	Erecting or displaying a public interest sign without a permit	\$300
71.	8.2(3)	Permit holder erecting or displaying a public interest sign in a prohibited manner	\$300

ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY
72.	8.3(1)	Erecting or displaying an other portable sign contrary to local law	\$300
73.	8.3(3)	Erecting or displaying more than one other portable sign per business	\$300
74.	8.3(4)	Erecting or displaying another portable sign on a local government verge contrary to local law	\$300
75.	8.4(1)	Erecting or placing election advertising contrary to local law	\$300
76.	8.4(2)(e)	Failing to maintain election advertising in good condition	\$300
77.	8.4(2)(g)	Failing to remove election advertising within 72 hours of close of polls on election date	\$300
78.	8.4(2)(i)	Failing to securely install election advertising	\$300
79.	8.6	Erecting an advertising sign without marking a name	\$300
80.	9.1	Leaving an animal in a public place or local government property without a permit or authorisation	\$300
81.	9.2(2)(a)	Allowing an animal to enter or remain on a thoroughfare	\$300
82.	9.2(2)(b)	Allowing an animal with a contagious or infectious disease to enter local government property or a public place	\$300
83.	9.2(2)(c)	Training or racing an animal on a thoroughfare	\$300
84.	9.2(2)(d)	Allowing an animal to defecate on local government property or a thoroughfare and failing to remove defecation	\$300
85.	9.2(3)	Leading, riding or driving a horse on a thoroughfare in a built-up area without a permit or authorisation	\$300
86.	9.4	Leaving a vehicle in a public place which causes an obstruction without a permit or authorisation	\$300
87.	10.6(1)	Driving a vehicle on other than the carriageway of a flora road	\$300
88.	10.9	Planting in thoroughfare without a permit	\$300
89.	10.11	Failure to obtain permit to clear a thoroughfare	\$750
90.	10.13	Burning of thoroughfare without a permit	\$750
91.	10.17	Construction of firebreak on thoroughfare	\$750
92.	10.19	Commercial harvesting of native flora on thoroughfare	\$750
93.	10.20(1)	Collecting seed from native flora on thoroughfare without a permit	\$400
94.	11.1	Carrying on trading in a restricted area without the express written consent of the local government	\$300
95.	11.1(1)	Carrying on trading in a public place or on local government property contrary to local law	\$300
96.	11.4(a)	Conducting a street market on or in a public place without a permit	\$300
97.	12.5(1)	Failure to comply with terms and conditions of a permit	\$300
98.	12.9	Failure to produce permit upon request by an authorised person	\$300
99.	14.1(a)	Failure to obey a lawful direction of an authorised person	\$300
100.	14.1(b)	Obstructing or hindering an authorised person in the execution of his or her duties	\$300
101.	15.1	Failure to comply with a notice	\$300
102.	15.6(2)(a)	Refusing to give name and address contrary to local law	\$300
103.	15.6(2)(b)	Giving false or misleading information regarding name and address etc.	\$300

Dated 19 April 2023.

The Common Seal of the Shire of Chittering was affixed by authority of a resolution of the Council in the presence of—

AARON KING, Shire President.  
MELINDA PRINSLOO, Chief Executive Officer.