



**WESTERN  
AUSTRALIAN  
GOVERNMENT**  
**Gazette**

ISSN 1448-949X (print)

ISSN 2204-4264 (online)

PRINT POST APPROVED PP665002/00041



**PERTH, MONDAY, 16 JANUARY 2017 No. 12 SPECIAL**

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 12.00 NOON

© STATE OF WESTERN AUSTRALIA

LOCAL GOVERNMENT ACT 1995

---

**SHIRE OF BROOME**

---

**TRADING, OUTDOOR DINING  
AND STREET  
ENTERTAINMENT LOCAL  
LAW 2016**



**LOCAL GOVERNMENT ACT 1995****SHIRE OF BROOME****TRADING, OUTDOOR DINING AND STREET ENTERTAINMENT  
LOCAL LAW 2016****CONTENTS****PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Commencement
- 1.3 Purpose
- 1.4 Repeal
- 1.5 Application
- 1.6 Definitions

**PART 2—APPLICATION FOR LICENCE AND ISSUE OF LICENCE**

- 2.1 Planning consent
- 2.2 Application for licence
- 2.3 Determination of application
- 2.4 Issue of licence
- 2.5 Licence renewal
- 2.6 Fees
- 2.7 Cancellation of licence
- 2.8 Suspension of licensee rights and privileges
- 2.9 Rights of objection and appeal

**PART 3—OUTDOOR DINING**

- 3.1 Outdoor dining
- 3.2 Limitations on outdoor dining
- 3.3 Licence application
- 3.4 Outdoor dining licence
- 3.5 Term and validity of licence
- 3.6 Cancellation of an outdoor dining license
- 3.7 Responsibilities of licensee

**PART 4—MARKETS**

- 4.1 Markets
- 4.2 Limitations on markets
- 4.3 Licence application
- 4.4 Market licence
- 4.5 Term and validity of license
- 4.6 Responsibilities of licensee

**PART 5—TRADING**

- 5.1 Trading
- 5.2 Limitations on trading
- 5.3 Exemption from requirement to pay fee
- 5.4 Licence application
- 5.5 Trading licence
- 5.6 Term and validity of licence
- 5.7 Responsibilities of licensee

**PART 6—STREET ENTERTAINMENT**

- 6.1 Street entertainment
- 6.2 Limitations on street entertainment
- 6.3 Licence application
- 6.4 Street entertainment licence
- 6.5 Term and validity of licence
- 6.6 Responsibilities of licensee
- 6.7 Cancellation or variation of street entertainment licence

**PART 7—SECURED SUM**

- 7.1 Security for restoration and reinstatement
- 7.2 Use by the local government of secured sum

**PART 8—MISCELLANEOUS**

- 8.1 Directions of authorised person
- 8.2 Notice requiring works to be done to remedy breach
- 8.3 Notice to advise licensee of planned or emergency works
- 8.4 Works in public property
- 8.5 Serving of notice
- 8.6 Public liability insurance and indemnity

**PART 9—OFFENCES AND PENALTIES**

- 9.1 Offences
- 9.2 Prescribed offences and modified penalties

**SCHEDULE 1****PRESCRIBED OFFENCES AND MODIFIED PENALTIES**

## LOCAL GOVERNMENT ACT 1995

## SHIRE OF BROOME

TRADING, OUTDOOR DINING AND STREET ENTERTAINMENT  
LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Broome resolved to make the following local law on 15 December 2016.

## PART 1—PRELIMINARY

**1.1 Citation**

This local law may be cited as the *Shire of Broome Trading, Outdoor Dining and Street Entertainment Local Law 2016*.

**1.2 Commencement**

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

**1.3 Purpose**

The purpose of this local law is to provide for the regulation, control and management of outdoor dining areas, markets, trading (including door to door) and street entertainment, in any public place within the district.

**1.4 Repeal**

The *Shire of Broome Trading, Outdoor Dining and Street Entertainment Local Law 2003* as published in the *Government Gazette* on 5 March 2004 and amended on 31 July 2012, is repealed.

**1.5 Application**

This local law applies throughout the district.

**1.6 Definitions**

In this local law unless the context requires otherwise—

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

**advertising device** means an object on which words, numbers or figures are written, placed, affixed or painted for the purpose of advertising any business, function, operation, event, undertaking, product, or thing and includes a vehicle or trailer or other similar object placed or located so as to serve the purpose of advertising a business, function, operation, event, undertaking, product or thing;

**applicant** means a person who has lodged an application for a licence;

**application fee** means the application fee referred to in subclause 2.2.2(d) and which relates to the lodgement, assessment and determination of an application for a licence but does not include the licence fee;

**approved area** means an approved outdoor dining area, approved street entertainment area, approved market area or approved trading area;

**approved market area** means the portion of a public place approved for the setting up or conduct of a market under a market licence;

**approved outdoor dining area** means the portion of a public place approved for the setting up or conduct of an outdoor dining area under an outdoor dining licence;

**approved street entertainment area** means the portion of a public place approved for street entertainment under a street entertainment licence;

**approved trading area** means the portion of a public place approved for the carrying on of trading under a trading licence, or in the case of a licensee who does not trade from a fixed location, the route or the areas approved for the carrying on of trading under a trading licence;

**authorised person** means—

- (a) 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; and
- (b) any member of the Western Australian Police Force;

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

**certificate of currency** is a document which outlines the currency of an insurance policy, it details the type of policy, sums insured, policy expiry date and the insurer;

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

**development approval** means approval granted by the local government in accordance with the *Planning and Development Act 2005*;

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

**event** means—

- (a) an occurrence held within the local government on private or public land, by a person(s)/group/organisation, where people assemble at a given time for entertainment, recreation or community purposes and includes but is not limited to—
  - (i) concerts and events run as a commercial activity;
  - (ii) ceremonies and processions;
  - (iii) sporting and competitor events such as marathons, triathlons, organised swims and other similar events;
  - (iv) shows and fairs including circuses, carnivals and other customised venue based events;
  - (v) festivals, exhibitions and expos; and
  - (vi) community events and fundraisers, and
- (b) an occurrence approved by the local government in accordance with the *Shire of Broome Local Government Property and Public Places Local Law 2012*;

**food** has the same meaning as that in section 9 of the *Food Act 2008*;

**food premises** means premises—

- (a) on which a food business as defined by the *Food Act 2008* is carried out; or
- (b) that is the subject of a hotel licence, limited hotel licence, special facility licence or restaurant licence granted under the *Liquor Control Act 1988*;

**footpath** means an area that is open to the public that is designated for, or has as one of its main uses, use by pedestrians;

**goods** means goods, wares, merchandise and produce;

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

**licence fee** means the fee referred to in subclause 2.4.1(b) and which relates to the issue of a licence;

**licence number** means the licence reference number assigned to a licence by the local government;

**licensee** means the holder of a licence;

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

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

**local government property** means anything—

- (a) which belongs to, is owned by or is under the care, control and management of the local government;
- (b) which is an “otherwise unvested facility” within section 3.53 of the Act; or
- (c) of which the local government is a management body under the *Land Administration Act 1997*, but does not include a thoroughfare;

**market** means a collection of stalls set up or conducted for the purpose of trading;

**market licence** means a licence issued under this local law to set up or conduct a market in a public place;

**nuisance** means—

- (a) any activity, thing, condition, circumstance or state of affairs caused or contributed to by a person which is injurious or dangerous to the health of another person of normal susceptibility, or which has a disturbing effect on the reasonable physical, mental or social state of another person;
- (b) any thing a person does or permits or causes to be done which interferes with or is likely to interfere with the reasonable enjoyment or safe use by another person of any public place; or
- (c) any thing a person does in or on a public place which unreasonably detracts from or interferes with the enjoyment or value of nearby land owned by another person;

**outdoor dining area** means an area in which tables, chairs and other structures are provided for the purpose of the supply of food or drink to the public or the consumption of food or drink by the public;

**outdoor dining licence** means a licence issued under this local law to set up and conduct an outdoor dining area in a public place;

**pavement or visual artist** means performance art whereby the artist renders artistic designs on pavement such as streets, footpaths and town squares or creates visual artworks such as painting, sculpting, drawing, photography etc;

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

**proprietor** in relation to a food premises, means—

- (a) the person carrying on the food business or if that person cannot be identified, the person in charge of the food business; or
- (b) the holder of a hotel licence, a limited hotel licence, a special facility licence or a restaurant licence granted under the *Liquor Control Act 1988* in relation to the food premises;

**public liability insurance policy** means an insurance policy held with an insurance company that insures against all sums for which the policy holder may become legally liable by way of compensation for claims of personal injury or property damage that a third party suffers (or claims to have suffered) as a result of the policy holder's business operation/activities;

**public place** means any thoroughfare or local government property;

**public thoroughfare** means any thoroughfare which the public are allowed to use;

**stall** means a movable or temporarily fixed structure, stand or table and includes a vehicle;

**standard business card** means a card made of paper or cardboard displaying the details of the licensee that is no larger than 8.5 centimetres by 5.5 centimetres in size;

**street entertainment** means any form of theatrical, artistic, musical, audio or visual performance, whether for reward or not, and includes busking;

**street entertainment licence** means a licence issued under this local law to engage in street entertainment in a public place;

**thoroughfare** means a road or other thoroughfare including parking areas, structures or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end;

**trading** includes—

- (a) the selling or offering for sale of goods or services in a public place; or
- (b) the hiring or offering for hire of goods; or
- (c) the soliciting of orders for goods or services in a public place; or
- (d) the undertaking of training or instruction, including fitness classes, in a public place, where—
  - (i) any person(s) receiving the training or instruction pay a fee to the person undertaking the training or instruction; and
  - (ii) the training or instruction operates primarily and regularly in public places; or
- (e) displaying goods in any public place for the purpose of—
  - (i) offering them for sale or hire;
  - (ii) inviting offers for their sale or hire;
  - (iii) soliciting orders for their sale or hire; or
  - (iv) carrying out any other transaction in relation to them; and
- (f) the going from place to place, whether or not public places, and—
  - (i) offering goods or services for sale or hire; or
  - (ii) inviting offers or soliciting orders for the sale or hire of goods or services, but does not include—
    - A. the delivery of pre ordered goods or services to the purchaser of those goods or services; or
    - B. the taking of further orders for goods or services from the purchaser of the pre ordered goods or services when those orders are taken at the same time as the previous order is being delivered;

but excludes the erection or placement of a sign advertising 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 approved in accordance with the *Shire of Broome Local Government Property and Public Places Local Law 2012*;

**trading licence** means a licence issued under this local law to carry on trading; and

**vehicle** includes—

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

but excludes—

- (c) a wheel-chair or any device designed for use, by a physically impaired person on a footpath; and
- (d) a pram, stroller or similar device.

**PART 2—APPLICATION FOR LICENCE AND ISSUE OF LICENCE****2.1 Planning consent**

The requirement for a licence under this local law is additional to the requirement, if any, for development approval.

**2.2 Application for licence**

2.2.1 Where a person is required to obtain or hold a licence under this local law, that person must apply for the licence in accordance with subclause 2.2.2 and—

- (a) clause 3.3 in the case of an application for an outdoor dining licence;
- (b) clause 4.3 in the case of an application for a market licence;
- (c) clause 5.4 in the case of an application for a trading licence; and
- (d) clause 6.3 in the case of an application for a street entertainment licence.

2.2.2 An application for a licence under this local law must—

- (a) be in the form determined by the local government;
- (b) be signed by the applicant;
- (c) provide the information required by the form or by any other clause of this local law; and
- (d) be forwarded to the local government together with the application fee.

2.2.3 The local government may refuse to consider or determine an application for a licence which is not in accordance with subclause 2.2.2 or any other clause containing requirements to be complied with when making an application for a licence.

**2.3 Determination of application**

2.3.1 The local government may, in respect of an application for a licence—

- (a) refuse to approve the application; or
- (b) approve the application on such terms and conditions, if any, as it sees fit.

2.3.2 The local government may refuse to approve an application for a licence, where—

- (a) it is not in accordance with clause 2.2 or any other clause containing requirements to be complied with when making an application for a licence;
- (b) the activity will have an unreasonable impact on an established shop or an activity undertaken under an existing licence;
- (c) the application does not comply with a policy of the local government adopted by the Council and relevant to that application;
- (d) the proposed activity or location in respect of which a licence is sought is considered by the local government to be undesirable;
- (e) the proposed stall is considered by the local government to be unsuitable in any respect for the activity or location for which the licence is sought;
- (f) the applicant is not a suitable person to hold a licence;
- (g) the applicant is an undischarged bankrupt or is in liquidation;
- (h) the applicant has entered into any composition or arrangement with creditors;
- (i) a manager, an administrator, a trustee, a receiver or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property; or
- (j) there are other grounds on which the local government considers the application should be refused.

2.3.3 Where the local government approves an application for a licence, it may approve the application subject to conditions by reference to any policy of the local government adopted by the Council which contains conditions subject to which an application for a licence may be approved.

2.3.4 If the local government refuses to approve an application for a licence, it is to give written reasons for that refusal to the applicant.

**2.4 Issue of licence**

2.4.1 When—

- (a) the local government approves an application for a licence; and
- (b) the applicant pays the licence fee,

then the local government will issue to the applicant a licence in the form determined by the local government.

2.4.2 A licence may include plans or other documents other than the form of licence.

2.4.3 A licence will not be valid until such time as any public liability insurance policy, if required as a condition of the licence, has been put into effect and a certificate of currency covering the period of the licence has been provided to the local government.

2.4.4 The local government may vary the terms or conditions of a licence and the licensee must comply with those terms and conditions as varied on and from the date of notification of the variation.

**2.5 Licence renewal**

2.5.1 Prior to the expiry of an outdoor dining licence, a market licence or a trading licence, the licensee may apply to the local government for the renewal of the licence.



2.5.2 Subject to subclause 2.5.3, the provisions of this local law which are relevant to the licence to be renewed apply to an application for the renewal of the licence.

2.5.3 Where the relevant details in relation to an activity have not changed since the licence was issued, the licensee is not required to resubmit details required at the time of the initial application with the application to renew the licence.

2.5.4 Where the local government approves an application under subclause 2.5.1—

- (a) the licensee must pay the licence fee for the renewed licence prior to the issue of that licence; and
- (b) the renewed licence will be in the form determined by the local government.

## 2.6 Fees

2.6.1 All fees referred to in this local law will be imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

2.6.2 In the event of the cancellation of a licence, a licensee will not be entitled to a refund of the licence fees for the remainder of the licence period unless the licence is cancelled under clause 2.7(g).

## 2.7 Cancellation of licence

The local government may cancel any licence if—

- (a) the licensee does not comply with the conditions of the licence;
- (b) the licensee is convicted of an offence against this local law;
- (c) the licensee does not comply with subclause 8.6.1 where it is a condition of the licence that the licensee provide a public liability insurance policy;
- (d) the licensee does not comply with a notice given under Part 8;
- (e) the licensee fails to undertake the activity approved by the licence for a period of 12 months;
- (f) when relevant to the activity regulated by the licence—
  - (i) the licensee has become bankrupt or gone into liquidation;
  - (ii) the licensee has entered into any composition or arrangement with creditors; or
  - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the licensee's undertakings or property; or
- (g) there are other grounds on which the local government considers the licence should be cancelled.

## 2.8 Suspension of licensee rights and privileges

2.8.1 Where a public liability insurance policy is required as a condition of a licence, the rights and privileges granted to a licensee on the issue of a licence will be taken to be suspended if that policy lapses, is cancelled or is no longer current.

2.8.2 The rights and privileges granted to a licensee on the issue of a licence may be suspended by the local government for the purpose and duration of any works proposed or done in or adjacent to the area subject of the licence, by or on behalf of a Government department, instrumentality of the Crown or the local government.

## 2.9 Rights of objection and appeal

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

- (a) grant a person a licence under this local law; or
- (b) renew, vary, transfer or cancel a licence that a person has under this local law,

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

## PART 3—OUTDOOR DINING

### 3.1 Outdoor dining

A person must not establish an outdoor dining area in a public place without an outdoor dining licence, unless the outdoor dining area is established—

- (a) in accordance with a development approval;
- (b) as part of an event; or
- (c) in accordance with an approval granted by the local government under another written law.

### 3.2 Limitations on outdoor dining

3.2.1 An outdoor dining licence—

- (a) may only be issued—
  - (i) to the proprietor of a food premises, for use of land adjacent to the food premises;
  - (ii) where the positioning of tables and chairs is not in conflict with existing street furniture approved or installed by the local government; and
  - (iii) where the pedestrian flow on any footpath will not be unreasonably impeded; and
- (b) is only transferable with the approval of the local government and on payment of the transfer fee.

3.2.2 The issue of an outdoor dining licence does not give the licensee exclusive possession or use of the approved outdoor dining area.

### 3.3 Licence application

3.3.1 An applicant for an outdoor dining licence must comply with subclause 2.2.2.

3.3.2 The application for an outdoor dining licence must be forwarded to the local government together with—

- (a) a plan or plans to a scale of 1:50 showing—
  - (i) the location and dimensions of the proposed outdoor dining area and the means by which the outdoor dining area will be separated from the rest of the public place;
  - (ii) the food premises to which the outdoor dining area is adjacent, including any indoor seating areas, the area of food preparation and any counter service, and the dimension, location and purpose of all entrances to the food premises;
  - (iii) the dimensions, levels and slope of the adjacent footpath and the location and nature of any street furniture, drainage and utilities in the immediate vicinity of the food premises;
  - (iv) the location and nature of any parking or service bays in the immediate vicinity of the food premises and the alignment of the adjacent carriageway;
  - (v) the number, position and dimensions of all tables, chairs and associated furniture and fixtures proposed to be placed in the outdoor dining area;
  - (vi) the position and description of any landscaping, bollards or other objects proposed to be used or displayed in the proposed outdoor dining area; and
  - (vii) any other information requested by the local government to assist with the assessment of the application;
- (b) a plan to a scale of 1:50 showing the location of the proposed outdoor dining area and all land and improvements within 30 metres of the boundaries of the eating area, and in particular—
  - (i) the development and use of adjoining properties, including the location of any pedestrian or service access to those sites, the alignment of the building facade and the location of any windows;
  - (ii) the footpath and carriageway alignment, vehicle crossovers and any on-street parking provision or restrictions; and
  - (iii) any street furniture or other structures situated in the verge area including any power poles, bollards, phone booths, bus shelters, fire hydrants, trees or free standing signage;
- (c) a management plan outlining the operations of the proposed outdoor dining area including—
  - (i) the manner in which food and other dining accessories will be conveyed to and protected from contamination in the proposed outdoor dining area;
  - (ii) the proposed days and times of operation of the outdoor dining area;
  - (iii) the nature of any advertising devices to be displayed on or within the proposed outdoor dining area;
  - (iv) the arrangements for serving liquor to customers in the proposed outdoor dining area;
  - (v) where tables, chairs, furniture and equipment to be used as part of the proposed outdoor dining area will be stored when the proposed outdoor dining area is not open for business;
  - (vi) the daily cleaning schedule for the proposed outdoor dining area which must include—
    - A. sweeping, washing or scrubbing the paved surface;
    - B. removing and disposing of all rubbish, food and cigarette ashes and butts; and
    - C. clearing the immediate surrounds of any rubbish, matter or things coming from or caused by patrons of the proposed outdoor dining area;
  - (vii) the type of table ornaments, including umbrellas and ashtrays, to be provided, noting that ashtrays must be such that the contents of the ashtray and the ashtray itself will not be blown onto the paved surface of the proposed outdoor dining area; and
  - (viii) details of how customers of the proposed outdoor area will be discouraged from throwing or disposing of rubbish, cigarette butts or food onto the paved surface of the proposed outdoor dining area.

### 3.4 Outdoor dining licence

3.4.1 An outdoor dining licence granted by the local government will include—

- (a) an endorsed copy of the plan or plans detailing the location and number of tables and chairs, plus any other furniture and equipment required for the operation of the outdoor dining area;
- (b) the management plan;
- (c) the days and hours of operation; and
- (d) details of any terms and conditions to be included as part of the licence.

3.4.2 The licensee must not commence trading until the local government is satisfied that all conditions imposed under subclause 2.3.1(b) have been met.

### 3.5 Term and validity of licence

3.5.1 An outdoor dining licence remains valid until—

- (a) 30 June of the financial year in which the licence was issued, noting that the licence fee for a licence may be calculated on a pro-rata basis;

- (b) the proprietor of the food premises changes and no transfer of the licence has been approved under subclause 3.2.1(b);
- (c) variations are made to the outdoor dining area, including an increase or reduction in the approved outdoor dining area or the type of furniture or equipment used in the operation, unless the variations are made by the local government in accordance with clause 2.4.4;
- (d) any public liability insurance policy required as a condition of the licence lapses, is cancelled or is no longer in operation; or
- (e) the licence is cancelled by the local government.

3.5.2 If any of the events specified in subclause 3.5.1 occur, then a new application for an outdoor dining licence must be made and a new outdoor dining licence issued before any outdoor dining area can be established.

### 3.6 Cancellation of an outdoor dining licence

3.6.1 Without limiting clause 2.7, the local government may cancel an outdoor dining licence where—

- (a) there is a lapse or cancellation of the food premises registration or licence issued to the proprietor under the *Food Act 2008*; or
- (b) the setting up or conduct of the outdoor dining area is determined by the local government to be detrimental to the interests of the public, any adjacent property owner or occupier or cause a nuisance because of the behaviour of customers.

3.6.2 A decision to cancel a licence under sub-clause (b) will not be made without first having advised the licensee of the nature of any complaint or concern and having given the licensee an opportunity to respond.

### 3.7 Responsibilities of licensee

3.7.1 The licensee must—

- (a) comply with the conditions of the outdoor dining licence;
- (b) not permit the operation of the outdoor dining area to extend beyond the portion of a public place specified in the plans approved as part of the licence;
- (c) manage the approved outdoor dining area in accordance with the approved management plan submitted with the application, subject to any approved amendments or modifications by the local government;
- (d) keep the approved outdoor dining area free of any obstacle or matter likely to cause injury to persons or property;
- (e) ensure furniture and equipment remains within the approved outdoor dining area and the storage location approved as part of the licence and does not impede pedestrian flow or access;
- (f) repair any damage to the surface area or any fixtures, fittings or utility services in or on the approved outdoor dining area caused by or attributable to the conduct of the approved outdoor dining area;
- (g) pay all fees, charges, rates and taxes levied or incurred as a result of the establishment and operation of the approved outdoor dining area;
- (h) ensure trading within the approved outdoor dining area is limited to only the operating hours stated in the licence; and
- (i) pay all and any costs associated with the alteration, repair, reinstatement or reconstruction of all or part of the approved outdoor dining area or adjacent public place required as a result of the operation of the outdoor dining area.

3.7.2 If the outdoor dining licence lapses or is cancelled, the licensee must—

- (a) remove all furniture, equipment, structures and other things placed in or adjacent to the approved outdoor dining area; and
- (b) reinstate the area to the satisfaction of the local government or pay the costs of that reinstatement.

## PART 4—MARKETS

### 4.1 Markets

A person must not set up or conduct a market in a public place without a market licence, unless the market—

- (a) forms part of an event; or
- (b) is established in accordance with an approval granted by the local government under another written law.

### 4.2 Limitations on markets

4.2.1 A market licence is only transferable with the approval of the local government and on payment of the transfer fee.

4.2.2 The issue of a market licence does not give the licensee exclusive possession or use of the approved market area.

### 4.3 Licence application

4.3.1 An applicant for a market licence must comply with subclause 2.2.2.

4.3.2 An application for a market licence must be forwarded to the local government together with—

- (a) a plan or plans to a scale of 1:50 showing—
  - (i) the location and dimensions of the proposed market;
  - (ii) the dimensions of the public place including any footpath, and the location and nature of any street furniture, trees, utilities, parking or service bays in the area of the proposed market; and
  - (iii) the position and dimensions of all proposed stalls;
- (b) any other information requested by the local government to assist with the assessment of the application;
- (c) a management plan outlining the operations of the proposed market including—
  - (i) the days and times of operation;
  - (ii) the type and form of any advertising devices to be displayed on or within the proposed market; and
  - (iii) details of how the operational responsibilities of the licensee will be met;
- (d) the nature and extent of any activity relating to street entertainment; and
- (e) details of the goods or services to be traded under the market licence.

### 4.4 Market licence

A market licence granted by the local government will include—

- (a) a licence number;
- (b) an endorsed copy of the plan or plans detailing the location where any stalls, furniture displays and other equipment may be placed for the operation of the market;
- (c) the management plan;
- (d) the days and hours of operation; and
- (e) any terms and conditions of the licence.

### 4.5 Term and validity of licence

4.5.1 A market licence remains valid until—

- (a) the expiry date stated in the licence is reached;
- (b) variations are made to the market area, including an increase or reduction in the approved market area, unless the variations are made by the local government in accordance with clause 2.4.4;
- (c) any public liability insurance policy required as a condition of the licence lapses, is cancelled or is no longer in operation; or
- (d) the licence is cancelled by the local government.

4.5.2 If any of the events specified in subclause 4.5.1 occur, then a new application for a market licence must be made and a new market licence issued before any market can be set up or conducted.

### 4.6 Responsibilities of licensee

4.6.1 The licensee must—

- (a) comply with the conditions of the market licence;
- (b) not permit the operation of the market to extend beyond the portion of a public place specified in the plans and approved as part of the licence;
- (c) prior to setting up or conducting the market, obtain the following further approvals and make arrangements as follows—
  - (i) where the market is to be set up or conducted on a public thoroughfare, obtain approval from the local government and Western Australian Police Service for the closure of the public thoroughfare to vehicular traffic or the part of it where the market is to be held during the hours of operation of the market;
  - (ii) ensure adequate refuse collection arrangements have been made to the satisfaction of the local government; and
  - (iii) where appropriate, have the necessary local government approvals under the *Health (Public Buildings) Regulations 1992*, including a—
    - A. certificate of approval under regulation 6 of those regulations; and
    - B. certificate of electrical compliance under regulation 10 of those regulations.

4.6.2 During the operation of the market and the setting up and dismantling of the market, the licensee must—

- (a) maintain pedestrian access through and beyond the approved market area;
- (b) maintain access to building entries adjacent to the approved market area;
- (c) retain access to existing or approved outdoor dining areas associated with the building entries referred to in sub-clause (b);
- (d) maintain adequate access for emergency vehicles through any thoroughfare of the approved market area;

- (e) stabilise all stalls, furniture and other equipment provided and used in the operation of the market at all times and remove stalls, furniture and equipment when not in use;
- (f) maintain noise levels from any associated music, announcements and the like, in accordance with any condition of the market licence, so as not to cause a nuisance; and
- (g) maintain the approved market area clean and free from rubbish.

4.6.3 The licensee must at the conclusion of the operation of each market, ensure that all stalls, furniture and other equipment used in the operation of the market, are removed and the area returned to the condition it was in before the commencement of the market, and to the satisfaction of the local government.

## PART 5—TRADING

### 5.1 Trading

A person must not undertake trading in a public place without a trading licence, unless the trading—

- (a) is undertaken as part of an event;
- (b) is undertaken in accordance with a valid market licence;
- (c) is undertaken in accordance with an approval granted by the local government under another written law; or
- (d) is of a type or undertaken in a way that is specified as being exempt from the requirement for a trading licence under a policy adopted by the local government.

### 5.2 Limitations on trading

5.2.1 A trading licence is only transferable with the approval of the local government and on payment of the transfer fee.

5.2.2 The issue of a trading licence does not give the licensee exclusive possession or use of the approved trading area.

### 5.3 Exemption from requirement to pay fee

5.3.1 In this clause—

***charitable organisation*** means an institution, association, club, society or body, whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium.

5.3.2 The local government may waive the application fee referred to in clause 2.2.2(d) or the licence fee referred to in clause 2.4.1(b) or both, or may return any such fee which has been paid, if trading is carried—

- (a) on a public place adjoining the normal place of business of the applicant for the trading licence; or
- (b) solely by members of a charitable organisation to raise funds for that charitable organisation.

### 5.4 Licence application

5.4.1 An applicant for a trading licence must comply with subclause 2.2.2.

5.4.2 An application for a trading licence must be forwarded to the local government together with—

- (a) details of the number of persons to be employed or engaged in the trading at any one time;
- (b) a plan of the proposed location or, where the trading will not be conducted from a fixed location, a description of the route or areas from which the applicant proposes to trade;
- (c) details of the days and hours of operation;
- (d) details of the proposed goods or services to be traded under the trading licence;
- (e) if any stall will be used for trading, a detailed and accurate plan and description, including dimensions, of the stall; and
- (f) where the applicant is a corporation, the name and address of the person responsible for complying with any terms and conditions of the licence.

### 5.5 Trading licence

A trading licence granted by the local government will—

- (a) include a licence number;
- (b) include the location, days and hours of operation and approved trading area;
- (c) detail the goods or services which can be traded under the trading licence;
- (d) specify the number of persons that may carry on trading at any time under the trading licence; and
- (e) detail any other terms and conditions imposed on the licence.

### 5.6 Term and validity of licence

5.6.1 A trading licence remains valid until—

- (a) the expiry date stated in the licence is reached;

- (b) variations are made to the trading area or activities, including an increase, reduction or change in the approved trading area, unless the variations are made by the local government in accordance with subclause 2.4.4;
- (c) any public liability insurance policy required as a condition of the licence lapses, is cancelled or is no longer in operation; or
- (d) the licence is cancelled by the local government.

5.6.2 If any of the events specified in subclause 5.6.1 occur, then a new application for a trading licence must be made and a new trading licence issued before any trading can be carried out.

### 5.7 Responsibilities of licensee

5.7.1 The licensee must—

- (a) comply with the conditions of the trading licence;
- (b) where a stall is being used for trading—
  - (i) display a sign indicating the name of the licensee and the licence number, with letters and numerals not less than 5 centimetres in height in a conspicuous place in the approved trading area;
  - (ii) ensure that the approved trading area is attended either by the licensee or a person employed or engaged in the trading activity at all times when trading is being undertaken;
  - (iii) keep the stall in a clean and safe condition and in good repair;
  - (iv) keep the approved trading area free from refuse and rubbish;
  - (v) remove any stall, goods, equipment and signs from the approved trading area and leave that location clean and vacant—
    - A. at the conclusion of the permitted hours of operation specified in the trading licence; and
    - B. whenever trading is not taking place; and
- (c) have the trading licence available at all times trading is being undertaken, for inspection at the request of any authorised person.

5.7.2 The licensee must not—

- (a) permit any trading activity to extend beyond the approved trading area;
- (b) engage in or permit any trading in any goods or services other than those specified in the trading licence;
- (c) cause, permit or suffer any nuisance to exist, arise or continue on or from the approved trading area;
- (d) deposit, place or store any goods on any public place, other than within the trading area;
- (e) obstruct the free passage of pedestrians on any footpath or pedestrian accessway;
- (f) use or display or permit to be used or displayed any advertisement, placard, poster, streamer, sign or signboard on or about the approved trading area exceeding a total area of 0.5 square metres;
- (g) erect and maintain any signs in accordance with sub-clause (f) so as to obscure any other signage on or adjacent to the approved trading area;
- (h) cry out or shout about, or permit any other person to cry out or shout about, any goods or services in any public place or from the trading area, to the detriment of or causing a nuisance to nearby traders or persons undertaking commercial activities; or
- (i) use or permit to be used—
  - (i). any loud hailer, microphone, amplifier or other apparatus for making or transmitting sound, on or from the approved trading area, unless approved by the local government;
  - (ii). any record, tape, radio, bell, musical instrument or other instrument or device capable of being heard beyond the boundaries of the approved trading area unless approved by the local government;
  - (iii). any flashing or intermittent lighting apparatus or device on or from the approved trading area; or
  - (iv). an apparatus or device including a flap or shelf whereby the dimensions of the stall are increased beyond the dimensions specified in the trading licence.

## PART 6—STREET ENTERTAINMENT

### 6.1 Street entertainment

A person must not engage in street entertainment in a public place without a street entertainment licence, unless the street entertainment—

- (a) forms part of an event;
- (b) forms part of a market for which a licence has been granted by the local government under clause 4.4; or
- (c) is provided in accordance with an approval granted by the local government under another written law.



**6.2 Limitations on street entertainment**

6.2.1 A street entertainment licence is not transferable.

6.2.2 The issue of a street entertainment licence does not give the licensee exclusive possession or use of the approved street entertainment area.

**6.3 Licence application**

6.3.1 An applicant for a street entertainment licence must comply with subclause 2.2.2.

6.3.2 An application for a street entertainment licence must be forwarded to the local government together with—

- (a) details of the nature of the proposed street entertainment;
- (b) details of any musical instrument or amplifier proposed to be used;
- (c) details of the number of people to be involved in the proposed street entertainment; and
- (d) any other information requested by the local government.

**6.4 Street entertainment licence**

A street entertainment licence issued by the local government will include—

- (a) a licence number;
- (b) details of the location and equipment that can be used for the street entertainment;
- (c) the days and permitted times for the street entertainment; and
- (d) any other terms and conditions of the licence.

**6.5 Term and validity of licence**

6.5.1 A street entertainment licence remains valid until—

- (a) the expiry time and date stated in the licence is reached;
- (b) any public liability insurance policy required as a condition of the licence lapses, is cancelled or is no longer in operation; or
- (c) the licence is cancelled by the local government.

6.5.2 If any of the events specified in subclause 6.5.1 occur, then a new application for street entertainment must be made and a new street entertainment licence issued before any street entertainment can take place.

**6.6 Responsibilities of licensee**

6.6.1 The licensee of the street entertainment licence must—

- (a) comply with the conditions of the street entertainment licence;
- (b) not permit the street entertainment to extend beyond the specified portion of the public place approved in the street entertainment licence;
- (c) ensure that the conduct of street entertainment approved under the licence—
  - (i) does not prevent or impede pedestrian flow or access to and along footpaths, entry or exit to shops and other buildings;
  - (ii) does not prevent or impede vehicular flow or access to and along any thoroughfare or vehicular entry or exit to any shop or other building;
  - (iii) does not cause a nuisance to any other street entertainment or activity approved by the local government;
  - (iv) unless otherwise approved, does not have more than 4 people participating in any one performance;
  - (v) unless otherwise approved, does not include any person under the age of 14 years—
    - A. during school hours, on school days;
    - B. between 7.00pm and 6.00am;
  - (vi) does not include, involve or permit—
    - A. anything that is offensive or obscene;
    - B. the use of fire;
    - C. any weapon or object with sharp edges, including knives or swords;
    - D. any motorised machinery that emits a loud noise in its operation or is not suitable in the location;
    - E. any other activity, object or matter whatsoever that endangers the safety of the public or the performer; or
    - F. cruelty to an animal;
  - (vii) does not include any amplification unless specifically approved and endorsed on the street entertainment licence;
  - (viii) notwithstanding sub-clause (vii), does not include any amplification between Monday to Saturday, 10.00pm to 7.00am and Sundays between 10.00pm and 9.00am; and
  - (ix) complies at all times with the *Environmental Protection (Noise) Regulations 1997*;
- (d) use the approved street entertainment area to perform during the days and times specified in the licence or vacate that area;

- (e) produce the street entertainment licence when requested to do so by an authorised person;
- (f) display—
  - (i) a sign indicating the name of the licensee and the licence number with letters and numerals not less than 5 centimetres in height in a conspicuous place in the performance location; or
  - (ii) standard business cards;
- (g) if the licensee is a performing pavement or visual artist, return the performance location, including the pavement surface, to its former condition on the completion of a performance; and
- (h) comply at all times with a direction of an authorised person.

6.6.2 A licensee of a street entertainment licence must not—

- (a) reserve or attempt to reserve a performance location within the approved street entertainment area or leave equipment at a location used for performances unless immediately before, during or after a performance;
- (b) trade any goods or services without a licence issued for that purpose;
- (c) erect or display, or permit to be erected or displayed, at or near the performance location any sign—
  - (i) larger than 0.25 square metres in area, displaying the name of the performance; or
  - (ii) standard business cards;
- (d) perform in any one location for more than 60 minutes, unless specifically authorised in the licence, unless the performance is by a pavement or visual artist; and
- (e) if the licensee is a performing pavement or visual artist, use spray paint, crayons, felt tip pens or other indelible materials unless working on paper or card.

### 6.7 Cancellation or variation of street entertainment licence

Without limiting clause 2.7, the local government may cancel or vary the terms and conditions of a street entertainment licence in the event that—

- (a) a complaint is received about a performance or the amenity of a performance location;
- (b) an authorised person has concerns with the content or material used in the performance; or
- (c) the licensee fails to meet any of the responsibilities detailed in clause 6.6.

## PART 7—SECURED SUM

### 7.1 Security for restoration and reinstatement

7.1.1 The local government may require the payment of a bond, bank guarantee or other form of security acceptable to the local government for the purpose of ensuring that a public area is repaired, restored or reinstated.

7.1.2 A bond, bank guarantee or other form of security payable in accordance with subclause 7.1.1 may be required—

- (a) as a condition of a licence;
- (b) before the issue of a licence; or
- (c) before the renewal or transfer of an outdoor dining licence, market licence or trading licence.

7.1.3 The local government will determine the amount payable as a bond, bank guarantee or other form of security payable in accordance with subclause 7.1.1.

7.1.4 If a bond is paid under subclause 7.1.1, the local government must deposit the bond into an account established by the local government for the purpose of holding bonds or other forms of security.

### 7.2 Use by the local government of secured sum

7.2.1 If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions or by a notice where the local government has given the licensee a notice requiring such works to be carried out (“the required restoration and reinstatement work”)—

- (a) within the time specified in those conditions;
- (b) where no such time has been specified, within a reasonable period of time from the expiration of the licence; or
- (c) within 14 days of being given a notice or such other time as may be specified in the notice,

then the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work that has not been completed.

7.2.2 The licensee must pay to the local government on demand all administrative, legal, contractor and other costs actually incurred by the local government in carrying out and completing the required restoration and reinstatement work.

7.2.3 The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 7.1 to meet the costs referred to in subclause 7.2.2.

7.2.4 The liability of a licensee to pay the costs referred to in subclause 7.2.2 is not limited to the amount, if any, secured under clause 7.1.



7.2.5 A person or a licensee is not entitled to make any claim by way of damages or otherwise, against an authorised person, local government employee, local government appointed sub-contractor or other person authorised by the local government to enter the land and carry out all or part of the required restoration and reinstatement work.

## PART 8—MISCELLANEOUS

### 8.1 Directions of authorised person

8.1.1 An authorised person may direct a person to stop doing anything which the authorised person considers on reasonable grounds the person is in the process of doing, which is contrary to this local law or the condition of a licence issued under this local law.

8.1.2 A person who is given a lawful direction under subclause 8.1.1 must comply with that direction.

### 8.2 Notice requiring works to be done to remedy breach

8.2.1 The local government may give notice to a licensee requiring the licensee—

- (a) to rectify a breach of any condition or term of a licence or of a provision of this local law; or
- (b) to change the arrangement or operation of an approved area considered necessary to maintain public safety, facilitate public works to the public place or to protect the amenity of premises adjacent to an approved area;

8.2.2 A notice issued by the local government under subclause 8.2.1 will—

- (a) outline—
  - (i) details of the breach of the condition or term of the licence;
  - (ii) the provision of the local law; or
  - (iii) of the change in arrangement or operation required;
- (b) require the licensee to remedy the breach or to change the arrangement or operation as required within the time specified in the notice; and
- (c) advise that where the licensee fails to comply with the requirements of the notice within the time specified, the local government may remedy the breach or change the arrangement or operation as required.

8.2.3 Where the licensee fails to comply with the requirements of the notice within the time specified in the notice, the local government may by its employees, agents or contractors do all things necessary to remedy the breach of the condition or term of the licence or of the provision of this local law or to change the arrangement or operation which is required by the notice.

8.2.4 The local government may recover the expenses incurred in doing the works referred to in subclause 8.2.3—

- (a) by deducting the expenses from the secured sum (if any), and where the secured sum is less than the expenses, the local government may recover the balance through a court of competent jurisdiction; or
- (b) from the licensee in a court of competent jurisdiction.

### 8.3 Notice to advise licensee of planned or emergency works

8.3.1 The local government will give 14 days notice of any works to be undertaken by the local government, that will require closure, part closure or access to an approved area.

8.3.2 Where the local government is to carry out emergency works in an approved area, the local government will give such a period of notice which it considers reasonable in the circumstances.

### 8.4 Works in public property

Where an applicant or a licensee is required to obtain the local government's permission under regulation 17 of the *Local Government (Uniform Local Provisions) Regulations 1996*, any licence issued under this local law to the applicant or licensee will not be taken to be a grant of that permission.

### 8.5 Serving of notice

Where a notice or other document is to be given to a person by the local government under this local law, it may be given to the person—

- (a) by delivering it to the person personally;
- (b) where the person is an applicant or a licensee, by posting it by prepaid post to or leaving it at the address appearing on the application for a licence or the licence; or
- (c) where the person is not an applicant or a licensee, by posting it by prepaid post to or leaving it at the usual or the last known place of residence or business of the person.

### 8.6 Public liability insurance and indemnity

8.6.1 Where as a condition of a licence, the licensee is required to obtain public liability insurance, this public liability insurance must indemnify the local government against all actions, suits, claims, damages, losses and expenses made against or incurred by the local government arising from any activity, action or thing performed or erected under the licence.

8.6.2 The public liability insurance policy referred to in subclause 8.6.1 must be kept current for the duration of the licence and—

- (a) must be in the name of the licensee and the local government for a minimum value of \$5,000,000 or such other amount as the local government considers appropriate to the risk involved;
- (b) include a clause which prevents the policy from being cancelled without the written consent of the local government;
- (c) include a clause which requires both the licensee and the insurance company to advise the local government if the policy lapses, is cancelled or is no longer in operation; and
- (d) be available for inspection by an authorised person.

8.6.3 A licensee who refuses or cannot provide a current certificate of insurance within 2 working days of a request under subclause 8.6.2(d) commits an offence.

## PART 9—OFFENCES AND PENALTIES

### 9.1 Offences

9.1.1 A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing without reasonable excuse, commits an offence.

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

9.1.3 A person who commits an offence under this local law will be liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

### 9.2 Prescribed offences and modified penalties

9.2.1 An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.

9.2.2 The amount appearing in the final column of the table in Schedule 1 directly opposite an offence described in Schedule 1 is the modified penalty for that offence.

9.2.3 If the offence is of a continuing nature, the modified penalty of \$50 applies for the offences described in Schedule 1 for each day or part of a day during which the offence continues following the issue of an infringement notice for the amount calculated in accordance with subclause 9.2.2.

## SCHEDULE 1

### PREScribed OFFENCES AND MODIFIED PENALTIES

[cl 9.2]

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
<b>PART 3—OUTDOOR DINING</b>			
1	3.1	Establishing an outdoor dining area in a public place without an outdoor dining licence.	250
2	3.7.1(a)	Failing to comply with conditions of outdoor dining licence.	150
3	3.7.1(b)	Permitting operation of outdoor dining area to extend beyond approved area.	150
4	3.7.1(c)	Failing to manage outdoor dining area in accordance with approved management plan.	150
5	3.7.1(d)	Failing to keep licenced area free of any obstacle or matter likely to cause injury to persons or property.	150
6	3.7.1(e)	Failing to ensure furniture or equipment remains in approved outdoor dining area and does not impede pedestrian flow.	150
7	3.7.1(f)	Failing to repair damage to surface area, fixtures, fittings or utility services caused by operation of an outdoor dining area.	150
8	3.7.1(h)	Failing to ensure trading in outdoor dining area is limited to operating hours stated in licence.	150
9	3.7.2	Failing to remove all equipment, structures and other things and reinstate area to satisfaction of local government on cessation of licence and pay reinstatement costs.	150
<b>PART 4—MARKETS</b>			
10	4.1	Setting up or conducting market without licence.	250
11	4.6.1(a)	Failing to comply with conditions of market licence.	150

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
12	4.6.1(b)	Permitting operation of market area to extend beyond approved market area.	150
13	4.6.1(c)(i)	Failing to obtain approval from local government and Police to close public thoroughfare where market held during market times.	150
14	4.6.1(c)(ii)	Failing to make adequate refuse collection arrangements to satisfaction of local government.	150
15	4.6.1(c)(iii)A.	Failing to obtain approval under <i>Health (Public Buildings) Regulations 1992</i> —Certificate of Approval.	150
16	4.6.1(c)(iii)B.	Failing to obtain approval under <i>Health (Public Buildings) Regulations 1992</i> —Certificate of electrical compliance.	150
17	4.6.2(a)	Failing to maintain pedestrian access through and beyond approved market area.	150
18	4.6.2(b)	Failing to maintain access to adjacent building entries.	150
19	4.6.2(c)	Failing to retain access to existing or approved outdoor dining areas with adjacent building entries.	150
20	4.6.2(d)	Failing to maintain adequate access for emergency vehicles through any thoroughfare of the approved market area.	150
21	4.6.2(e)	Failing to stabilise all stalls and furniture and other equipment used in operation of market and remove same when not in use.	150
22	4.6.2(f)	Failing to maintain noise levels from music, announcements and the like so as not to cause a nuisance.	150
23	4.6.2(g)	Failing to maintain approved market area clean and free from rubbish.	150
24	4.6.3	Failing to remove all structures and equipment at conclusion of market.	150

**PART 5—TRADING**

25	5.1	Trading without a licence.	250
26	5.7.1(a)	Failure to comply with conditions of trading licence.	150
27	5.7.1(b)(i)	Failing to display sign indicating licensee name and licence number.	100
28	5.7.1(b)(ii)	Failing to have approved trading area attended when trading.	100
29	5.7.1(b)(iii)	Failing to keep any stall in clean, safe condition and good repair.	150
30	5.7.1(b)(iv)	Failing to keep approved trading area free from refuse and rubbish.	150
31	5.7.1(b)(v)A.	Failing to remove any stall, goods, equipment and signs and leave approved trading area clean at conclusion of operation hours.	150
32	5.7.1(b)(v)B.	Failing to remove any stall, goods, equipment and signs and leave location vacant whenever trading is not taking place.	150
33	5.7.1(c)	Failing to have licence available at all operation times for inspection at the request of any authorised person.	100
34	5.7.2(a)	Trading beyond approved trading area.	150
35	5.7.2(b)	Trading in any goods or services not specified in the licence.	150
36	5.7.2(c)	Causing or permitting any nuisance to exist, arise, or continue from the approved trading area.	150
37	5.7.2(d)	Depositing, placing or storing any goods on any public place other than the approved trading area.	150
38	5.7.2(e)	Obstructing free passage of pedestrians on footpath or access way.	150
39	5.7.2(f)	Using, displaying or permitting advertisement outside licence location, larger than approved size.	150
40	5.7.2(g)	Erecting and maintaining signs so as to obscure other signage on or adjacent to the approved trading area.	150
41	5.7.2(h)	Crying out or shouting about goods or services in public place.	150

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
42	5.7.2(i)A.	Using or permitting use of loud hailer, microphone, amplifier or other sound apparatus, on approved trading area without approval.	150
43	5.7.2(i)B.	Using or permitting use of any record, tape, radio or musical instrument capable of being heard outside approved trading area without approval.	150
44	5.7.2(i)C.	Using or permitting use of any flashing or intermittent lighting apparatus or device on or from approved trading area.	150
45	5.7.2(i)D.	Using or permitting use of any apparatus to increase dimensions of a stall beyond that specified in the licence.	150

#### PART 6—STREET ENTERTAINMENT

46	6.1	Engaging in street entertainment without a licence.	250
47	6.6.1(a)	Failing to comply with conditions of street entertainment licence.	150
48	6.6.1(b)	Permitting street entertainment to extend beyond area approved as part of the licence.	100
49	6.6.1(c)(i)	Permitting the performance to impede pedestrian flow or access to and along footpaths, entry or exit to shops or other buildings.	150
50	6.6.1(c)(ii)	Permitting the performance to impede vehicular flow or access to and along any thoroughfare or vehicular entry or exit.	150
51	6.6.1(c)(iii)	Permitting the performance to cause a nuisance to any other street entertainment or activity approved by the local government.	150
52	6.6.1(c)(iv)	Having more than 4 people participating in any performance without approval.	150
53	6.6.1(c)(v)A.	Permitting the performance to include persons under 14 years of age, during school hours on a school day, without approval.	150
54	6.6.1(c)(v)B.	Permitting the performance to include persons under 14 years of age on school days between 7.00pm and 6.00am, without approval.	150
55	6.6.1(c)(vi)A.	Permitting the performance to involve anything that is offensive or obscene.	150
56	6.6.1(c)(vi)B.	Permitting the performance to involve the use of fire.	150
57	6.6.1(c)(vi)C.	Permitting the performance to involve any weapon or object with sharp edges, including knives or swords.	150
58	6.6.1(c)(vi)D.	Permitting the performance to involve any motorised machinery which emits a loud noise or is not suitable for the location.	150
59	6.6.1(c)(vi)E.	Permitting the performance to involve any activity, object or matter whatsoever that endangers the safety of the public or performer.	150
60	6.6.1(c)(vi)F.	Permitting the performance to involve cruelty to animals.	150
61	6.6.1(c)(vii)	Permitting the performance to include amplification without specific approval.	150
62	6.6.1(c)(viii)	Permitting the performance to include amplification outside permitted times.	150
63	6.6.1(d)	Failing to use the approved street entertainment area to perform during the days and times specified or vacate that area.	150
64	6.6.1(e)	Failing to produce the licence when requested by an authorised person.	100
65	6.6.1(f)(i)	Failing to display the name of the licensee and licence number during each performance.	150
66	6.6.1(g)	Failing to return the performance location to its former condition.	150
67	6.6.1(h)	Failing to comply with direction of an authorised person.	150

<b>Item No.</b>	<b>Clause No.</b>	<b>Nature of Offence</b>	<b>Modified Penalty \$</b>
68	6.6.2(a)	Reserving or leaving equipment at performance location unless immediately before, during or after performance.	150
69	6.6.2(b)	Trading any goods or services without licence for the purpose.	150
70	6.6.2(c)(i)	Erecting or permitting to be erected or displayed a sign larger than specified.	150
71	6.6.2(d)	Performing in same location for more than 60 minutes without approval.	150
72	6.6.2(e)	Use of spray paint, crayons, textures or other indelible materials, by a pavement or visual artist unless working on paper or card.	250
73	8.1.2	Failure to comply with a lawful direction under subclause 8.1.1.	200

---

Dated: 11 January 2017.

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

R. J. JOHNSTON, Shire President.  
S. MASTROLEMBO, Acting Chief Executive Officer.

---