



PERTH, TUESDAY, 30 NOVEMBER 2021 No. 201 **SPECIAL**

PUBLISHED BY AUTHORITY GEOFF O. LAWN, GOVERNMENT PRINTER  
© STATE OF WESTERN AUSTRALIA

LOCAL GOVERNMENT ACT 1995

---

**CITY OF VINCENT**

---

**LOCAL GOVERNMENT  
PROPERTY LOCAL LAW 2021**



## LOCAL GOVERNMENT ACT 1995

## CITY OF VINCENT

## LOCAL GOVERNMENT PROPERTY LOCAL LAW 2021

<b>PART 1 -PRELIMINARY</b> .....	5239
1.1 Citation.....	5239
1.2 Objective.....	5239
1.3 Commencement.....	5239
1.4 Repeal.....	5239
1.5 Application .....	5240
1.6 Definitions.....	5240
1.7 Interpretation.....	5242
1.8 Fees and Charges.....	5242
1.9 Assistance animals .....	5242
<b>PART 2 - DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY</b> .....	5242
2.1 Determinations as to use of local government property .....	5242
2.2 Procedure for making a determination.....	5242
2.3 Discretion to erect sign .....	5243
2.4 Determination to be complied with.....	5243
2.5 Register of determinations .....	5243
2.6 Amendment or revocation of a determination.....	5243
2.7 Activities which may be pursued on specified local government property.....	5243
2.8 Activities which may be prohibited on specified local government property .....	5244
2.9 Signs taken to be determinations .....	5244
<b>PART 3 - PERMITS</b> .....	5244
3.1 Terms used.....	5244
3.2 Application of this Part 3.....	5244
3.3 Application for permit.....	5245
3.4 Relevant considerations in determining application for permit.....	5245
3.5 Decision on application for permit .....	5245
3.6 Grounds on which an application may be refused.....	5245
3.7 Conditions which may be imposed on a permit .....	5245
3.8 Compliance with permit conditions .....	5246
3.9 Amendment of permit conditions .....	5246
3.10 Erection of a building.....	5246
3.11 Duration of permit .....	5246
3.12 Renewal of permit.....	5246
3.13 Transfer of permit.....	5246
3.14 Production of permit .....	5247
3.15 Cancellation of permit .....	5247
3.16 Suspension of permit holder's rights and privileges .....	5247
3.17 Other approvals .....	5247
3.18 Activities on local government property or thoroughfares needing a permit .....	5247
3.19 Permit required to camp outside a facility .....	5248
3.20 Permit required for possession and consumption of liquor.....	5249
3.21 Responsibilities of permit holder.....	5249
<b>PART 4 - BEHAVIOUR ON LOCAL GOVERNMENT PROPERTY</b> .....	5249
4.1 Personal behaviour .....	5249
4.2 Only specified gender to use entry of toilet block or change room .....	5249
4.3 Proper and adequate clothing .....	5249

4.4 Behaviour detrimental to property .....	5250
4.5 Taking or injuring any fauna or flora .....	5250
4.6 Intoxicated persons not to enter local government property .....	5250
4.7 No prohibited drugs or substances.....	5250
4.8 Signs .....	5250
<b>PART 5 - MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY</b>	5250
5.1 Definitions .....	5250
5.2 Direction of Manager or authorised person to be observed.....	5250
5.3 Responsibilities of users of a community facility.....	5251
5.4 Definition.....	5251
5.5 Boat launching .....	5251
5.6 Fishing.....	5251
5.7 No entry to fenced or closed local government property .....	5251
5.8 Definition.....	5251
5.9 Siting and design of air conditioning units .....	5251
5.10 Definitions .....	5252
5.11 Approval to erect or maintain an awning, balcony or verandah.....	5252
5.12 Dimensions of awnings, balconies and verandahs .....	5252
5.13 Design of awnings, balconies and verandahs .....	5252
5.14 Maintenance and public safety.....	5252
5.15 Permanent structures within a thoroughfare or road reserve.....	5252
5.16 Definitions .....	5253
5.17 Prohibition on smoking.....	5253
5.18 Determination in regard to smoke free area.....	5253
5.19 Procedure for making smoke free area determination.....	5253
5.20 Considerations in making a determination .....	5253
5.21 Signage .....	5254
5.22 Application of clauses 2.5 and 2.6 .....	5254
<b>PART 6 - SIGNS</b> .....	5254
6.1 Definitions .....	5254
6.2 Advertising signs.....	5254
6.3 Portable direction signs .....	5254
6.4 Location, maintenance and design of an advertising sign or portable direction sign.....	5255
6.5 Matters to be considered in determining application for a sign permit .....	5255
6.6 Conditions on sign permits .....	5255
6.7 Obligations of permit holder.....	5256
6.8 Election signs .....	5256
6.9 Safety of persons .....	5256
6.10 Removal of sign for works.....	5256
6.11 Removal of sign which does not comply .....	5256
6.12 Unlawful placement of signs .....	5256
<b>PART 7 - OBSTRUCTING SHOPPING TROLLEYS</b> .....	5256
7.1 Definitions .....	5256
7.2 Name of owner of shopping trolley.....	5256
7.3 Shopping trolleys in public places.....	5256
<b>PART 8 - BANK GUARANTEE OR SECURITY DEPOSIT</b> .....	5257
8.1 Definitions .....	5257
8.2 Security for restoration and reinstatement .....	5257
8.3 Restoration or reinstatement of local government property .....	5257
8.4 Obligation to provide bank guarantee or security deposit .....	5257
<b>PART 9 - WORKS ON OR AFFECTING A THOROUGHFARE</b> .....	5258
9.1 No damage to thoroughfare .....	5258
9.2 Footpath, verge and street tree protection.....	5258
9.3 Liability for damage to thoroughfare .....	5258
9.4 Definitions .....	5258
9.5 Verge treatment .....	5258
9.6 Maintenance of verge treatments.....	5258
9.7 Permitted landscaping features .....	5259

9.8 Damage to local government property .....	5259
9.9 Removal of verge treatments.....	5259
9.10 Enforcement .....	5259
9.11 Public works on verges .....	5259
9.12 Contribution towards construction of standard vehicle crossings.....	5259
9.13 Temporary vehicle crossings .....	5259
9.14 Removal of redundant vehicles crossings .....	5260
<b>PART 10 - ACTIVITIES ON THOROUGHFARES AND LOCAL GOVERNMENT PROPERTY</b>	
.....	5260
10.1 General prohibitions .....	5260
10.2 Activities allowed with a permit .....	5260
<b>PART 11 - NOTICES OF BREACH</b> .....	5261
11.1 Offence to fail to comply with Notice .....	5261
11.2 Local government may undertake requirements of Notice.....	5261
11.3 Notice to remove, redirect or repair sprinkler.....	5261
11.4 Hazardous plants.....	5261
11.5 Notice to repair damage to thoroughfare.....	5261
11.6 Notice to remove thing unlawfully placed on thoroughfare.....	5261
<b>PART 12 - OBJECTIONS AND REVIEW</b> .....	5261
12.1 Application of Division 1, Part 9 of the Act .....	5261
<b>PART 13 - MISCELLANEOUS</b> .....	5261
13.1 Authorised person to be obeyed.....	5261
13.2 Persons may be refused admission or directed to leave local government property or a community facility.....	5261
13.3 Liability for damage to local government property .....	5262
13.4 Public liability insurance policy .....	5262
13.5 Payment of application fees.....	5262
13.6 No unauthorised entry to function.....	5262
<b>PART 14 - OFFENCES</b> .....	5262
14.1 Offences and general penalties .....	5262
14.2 Prescribed offences.....	5263
14.3 Infringement notices and infringement withdrawal notices .....	5263
14.4 Evidence of a determination.....	5263

## LOCAL GOVERNMENT ACT 1995

### CITY OF VINCENT

## LOCAL GOVERNMENT PROPERTY LOCAL LAW 2021

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Vincent resolved on 16 November 2021 to make the following local law.

### PART 1 - PRELIMINARY

#### 1.1 Citation

This local law may be cited as the *City of Vincent Local Government Property Local Law 2021*.

#### 1.2 Objective

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

#### 1.3 Commencement

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

#### 1.4 Repeal

The following local laws adopted by the City of Vincent—

- (a) *Local Government Property Local Law 2008*, published in the *Government Gazette* on 15 April 2008;

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

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

### 1.5 Application

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

### 1.6 Definitions

In this local law unless the context requires otherwise—

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

**applicant** means a person who applies to the local government to use local government property, in accordance with this local law;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**firework** means a device such as a Catherine wheel, a roman candle, a rocket or the like, in which combustible materials are ignited and produce coloured smoke, flames and (sometimes) an explosion or loud noise and **fireworks display** means a show of a number of fireworks set off over a pre-arranged period;

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

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

**function** means an event or activity characterised by all or any of the following—

- (a) formal organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;
- (c) organised by or on behalf of a club;
- (d) payment of a fee to attend it; and
- (e) systematic recurrence in relation to the day, time and place;

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

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

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

**landscaping feature** means any—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Relevant Authority**—

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

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

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

- (a) smoke, hold or otherwise have control over an ignited tobacco product;

(b) light a tobacco product; or

(c) use an e-cigarette;

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

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

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

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

(a) offering them for sale or hire;

(b) inviting offers for their sale or hire;

(c) soliciting orders for them; or

(d) carrying out any other transaction in relation to them;

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

**vehicle** includes—

(a) every conveyance and object capable of being propelled or drawn on wheels, tracks or by any means;

(b) an animal being ridden or driven; and

(c) a vehicle described or prescribed by the *Road Traffic (Vehicles) Act 2014*;

but excludes a—

(a) wheel-chair or any device designed for use by physically impaired persons on a footpath;

(b) pram, stroller or similar device;

(c) wheeled recreational device, wheeled toy or a scooter used by a person aged under 12 years; and

(d) train, boat or aircraft;

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

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

### 1.7 Interpretation

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

### 1.8 Fees and Charges

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

### 1.9 Assistance animals

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

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

### Division 1—Determinations

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

The local government may make a determination in accordance with clause 2.2—

(a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;

(b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;

(c) as to the matters in clauses 2.7(2) and 2.8(2); and

(d) as to any matter ancillary or necessary to give effect to a determination.

#### 2.2 Procedure for making a determination

(1) The local government is to give local public notice of its intention to make a determination.

(2) The local public notice referred to in subclause (1) is to state that—

(a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;

(b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and

(c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the publication date.

- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to—
- (a) give local public notice that the proposed determination has effect as a determination on and from the publication date;
  - (b) amend the proposed determination, in which case subclause (5) will apply; or
  - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c), the Council is to—
- (a) consider those submissions; and
  - (b) decide—
    - (i) whether or not to amend the proposed determination; or
    - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice—
- (a) of the effect of the amendments; and
  - (b) that the proposed determination has effect as a determination on and from the publication date.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the publication date.
- (7) A proposed determination is to have effect as a determination on and from the publication date of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

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

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

### **2.4 Determination to be complied with**

A person must comply with a determination.

### **2.5 Register of determinations**

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

### **2.6 Amendment or revocation of a determination**

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

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

### **2.7 Activities which may be pursued on specified local government property**

- (1) A determination may provide that specified local government property is set aside as an area on which a person may—
- (a) bring, ride or drive an animal;
  - (b) take, ride or drive a vehicle, or a particular class of vehicle;
  - (c) fly or use a motorised model aeroplane, drone or other similar remotely piloted device;
  - (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
  - (e) launch, beach or leave a boat;
  - (f) take or use a boat, or a particular class of boat;
  - (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
  - (h) play or practice—
    - (i) golf or archery;
    - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
    - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
  - (i) use a wheeled recreational device; and
  - (j) wear no clothing.

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

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

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

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

- (a) smoking;
- (b) using a wheeled recreational device;
- (c) taking, riding or driving a vehicle or a particular class of vehicle;
- (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
- (e) taking or using a boat, or a particular class of boat;
- (f) the playing or practice of—
  - (i) golf, archery, pistol shooting or rifle shooting; or
  - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
- (g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property;
- (h) the traversing of sand dunes or land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose; and
- (i) the use of a motorised model aeroplane, drone or other similar remotely piloted device.

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

- (a) the days and times during which the activity is prohibited;
- (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
- (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;
- (d) that an activity is prohibited in respect of a class of persons or all persons; and
- (e) may distinguish between different classes of the activity.

## Division 3—Transitional considerations

### 2.9 Signs taken to be determinations

(1) Where a sign erected on local government property has been erected under a local law that is repealed by this local law, then it is to be taken to be and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 2.1.

(2) Clause 2.5 does not apply to a sign referred to in subclause (1).

## PART 3 - PERMITS

### Division 1—Application of this Part

#### 3.1 Terms used

In this Part—

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

#### 3.2 Application of this Part 3

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

(2) This Part applies to any application for a permit to use a Property.

**Division 2—Applying for a permit****3.3 Application for permit**

- (1) A person required to obtain a permit under this local law, must apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law must—
  - (a) be in the form determined by the local government;
  - (b) provide the information and any further documentation required by the form, including (but not limited to) plans, specifications and/or photographs; and
  - (c) be forwarded to the local government together with any fee specified in the form or as specified in the local government's Schedule of Fees and Charges.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government may, prior to granting a permit, give local public notice of the application for a permit by an applicant to.
- (5) The local government may refuse to consider an application for a permit—
  - (a) which does not comply with the requirements in subclause (2);
  - (b) which is not properly completed; or
  - (c) where any required documentation, plan, specification or photograph does not in the opinion of the CEO or an authorised person, contain sufficient information or is not sufficiently clear to enable the local government to properly consider the application.

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

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

- (a) the desirability of the proposed activity;
- (b) the location of the proposed activity; and
- (c) such other matters as the local government may consider to be relevant in the circumstances of the case.

**3.5 Decision on application for permit**

- (1) The local government may—
  - (a) approve an application for a permit unconditionally or subject to any conditions, including but not limited to those conditions in clause 3.7; or
  - (b) refuse to approve an application for a permit on any of the grounds specified in clause 3.6, or for any other reason determined at the sole discretion of the local government.
- (2) If the local government approves an application for a permit, it will provide the applicant with Notice accordingly.
- (3) If the local government refuses to approve an application for a permit, it is to give Notice of that refusal, including the reasons for the local government's refusal, to the applicant.

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

The local government may refuse an application for a permit under this Division on any one or more of the following grounds—

- (a) that within the preceding 5 years the applicant has committed a breach of any provision of this local law, or any other written law or condition of a lease or licence or hire arrangement between the applicant and the local government relevant to the activity in respect of which the permit is sought;
- (b) that the applicant in the opinion of the local government is not a fit and proper person to hold a permit;
- (c) that—
  - (i) the applicant is an undischarged bankrupt or is in liquidation; or
  - (ii) the applicant has entered into any composition or arrangement with creditors;
- (d) the local government deems the permit application to be for an activity which is not appropriate for the local government property or thoroughfare for which the permit is sought; or
- (e) such other grounds as the local government may consider to be relevant in the circumstances of the case.

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

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

- (a) the payment of fees, charges and bonds, as determined by the local government in accordance with sections 6.16 and 6.19 of the Act and specified in the local government's Schedule of Fees and Charges, as amended from time to time;
- (b) compliance with a standard or policy of the local government adopted by the local government;
- (c) the duration and commencement of the permit;
- (d) the commencement of the permit being contingent on the happening of an event;
- (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (f) the approval of another application for a permit which may be required by the local government under any written law;
- (g) the area of the district to which the permit applies;
- (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit, bond or secure sum against such damage; and
- (i) the obtaining of public liability insurance in an amount and on terms reasonably required by the local government as set out in clause 13.4.

### **3.8 Compliance with permit conditions**

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

### **3.9 Amendment of permit conditions**

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

## **Division 4—General**

### **3.10 Erection of a building**

- (1) Where a person applies for a permit to erect a building on local government property, the local government may enter into an agreement with the permit holder in respect of the ownership of the materials in the building.
- (2) The person is required to obtain all other necessary approvals to govern the erection of a building, including but not limited to development approval, if applicable, and a permit for use of the local government property.

### **3.11 Duration of permit**

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

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

### **3.12 Renewal of permit**

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

### **3.13 Transfer of permit**

- (1) An application for the transfer of a valid permit is to—
  - (a) be made in writing;
  - (b) be signed by the permit holder and the proposed transferee of the permit;
  - (c) provide such information as the local government may require to enable the application to be determined; and
  - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) Where the local government approves an application for the transfer of a permit, it will provide written confirmation to the former permit holder and the transferee.

**3.14 Production of permit**

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

**3.15 Cancellation of permit**

- (1) Subject to clause 12.1, a permit may be cancelled by the local government on any one or more of the following grounds—
- (a) the permit holder has not complied with—
    - (i) condition of the permit; or
    - (ii) provision of this local law or any other written law relating to the activity regulated by the permit.
  - (b) the permit holder is convicted of an offence against this local law;
  - (c) the permit holder fails to maintain any required public liability insurance or ceases to indemnify the local government against damages in connection with loss or damage in connection with an activity conducted by the permit holder under the permit;
  - (d) the permit holder has become bankrupt or gone into liquidation;
  - (e) the permit holder has entered into any composition or arrangement with creditors;
  - (f) if the permit holder's application is subsequently found to be incomplete, insufficient or not containing a required document;
  - (g) if the permit holder's application is subsequently found to contain incorrect or falsified information and/or documents;
  - (h) if the local government reasonably considers that the activity permitted by the permit may create a public health, safety or amenity issue;
  - (i) if valid development approval is required and not held for the abutting premises at which the business relating to the activity authorised by the permit is conducted; or
  - (j) another permit for an outdoor eating area, goods display or portable advertising sign (as the case may be) has been granted, and remains in effect, in relation to the building or business premises related to the permit.
- (2) On the cancellation of a permit, the local government will provide the permit holder with Notice that the permit has been cancelled.
- (3) On receiving Notice that the permit has been cancelled in accordance with sub-clause (2)—
- (a) the permit holder must immediately cease using the local government property or the thoroughfare unless the Notice provides otherwise; and
  - (b) any fees paid by the permit holder in respect of the permit are forfeited and will not be refunded by the local government.

**3.16 Suspension of permit holder's rights and privileges**

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

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

**3.17 Other approvals**

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

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

- (1) A person shall not without a permit—

- (a) subject to subclause (3), use a Property for any purpose which amounts to exclusive use of the whole or a portion of the Property for any period of time;
  - (b) advertise anything by any means on a Property, except where the person holds a permit issued under another local law of the local government authorising such advertising in that location;
  - (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on a Property;
  - (d) plant any plant, sow any seeds or install any other landscaping feature on local government property, unless in accordance with clause 9.5 of this local law;
  - (e) carry on any trading on local government property unless the trading is conducted in accordance with a permit issued under the *City of Vincent Trading in Public Places Local Law 2008* (as amended from time to time);
  - (f) unless an employee of the local government in the course of their duties or on an area set aside for that purpose—
    - (i) drive or ride or take any vehicle onto local government property; or
    - (ii) park or stop any vehicle on local government property;
  - (g) conduct a function or public gathering on local government property;
  - (h) charge any person for entry to local government property, unless the charge is for entry to area or a building hired or leased from the local government, and that hire or lease arrangement provides that a fee for entry may be charged;
  - (i) light a fire on a Property except in a facility provided by the local government for that purpose;
  - (j) parachute, hang glide, abseil or base jump from or onto a Property;
  - (k) erect a building or a refuelling site on local government property;
  - (l) make any excavation on or erect or remove any fence on local government property;
  - (m) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
  - (n) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property;
  - (o) light or set off any fireworks or conduct a fireworks display on local government property;
  - (p) operate any broadcasting or public address system or sound amplification equipment or apparatus on local government property;
  - (q) erect, display, post, stick, stamp, stencil, paint or otherwise affix or cause to be erected, displayed, posted, stuck, stamped, stencilled or otherwise affixed any sign, banner, placard, handbill, notice, advertisement, writing or picture whatsoever upon any tree, plant, building, structure, fitting or soil being local government property or on any other local government property, except where the person holds a permit issued under another local law of the local government authorising such an activity in that location;
  - (r) carry out filming, shooting or take a recording on local government property or within a thoroughfare where exclusive use of portion of the local government property or thoroughfare is required; or
  - (s) construct anything or place any infrastructure on a Property, including but not limited to paving, planter boxes and outdoor seating.
- (2) A person shall not without a permit carry out works in a thoroughfare or on local government property, including but not limited to—
- (a) verge treatments, unless the verge treatment is in accordance with clause 9.5 of this local law;
  - (b) vehicle crossovers;
  - (c) crossing a footpath with a vehicle which is likely to cause or causes damage to the footpath;
  - (d) locating construction materials on a verge or thoroughfare; or
  - (e) undertaking construction activities adjacent to a verge or thoroughfare which results in the use of the verge or thoroughfare.
- (3) A person shall not without a permit use local government property or a community facility for a profit purpose, including but not limited to—
- (a) group fitness classes;
  - (b) life coaching or counselling;
  - (c) meetings or seminars; or
  - (d) guided walks or tours.
- (4) The local government may, at its sole discretion, exempt a person from compliance with subclauses (1), (2) or (3) on the application of that person by providing Notice to that person.
- (5) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

### 3.19 Permit required to camp outside a facility

- (1) A person shall not without a permit—
- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property;

- (b) erect any tent, camp, hut, or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day; or
  - (c) camp on or occupy any vehicle at night for the purpose of sleeping in a public place.
- (2) The maximum period for which the local government may approve an application for a permit in respect of subclause (1)(a) or (1)(b) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.
- (3) This clause does not apply to a facility operated by the local government.

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

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

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

## **Division 6—Responsibilities of permit holder**

### **3.21 Responsibilities of permit holder**

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

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

## **PART 4 - BEHAVIOUR ON LOCAL GOVERNMENT PROPERTY**

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

#### **4.1 Personal behaviour**

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

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

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

(1) Subject to clause 4.2(2), where a sign on a toilet block or change room specifies that a particular toilet block or change room is to be used by –

- (a) females, then a person of the male gender over the age of 6 years shall not use that toilet block or change room;
- (b) males, then a person of the female gender over the age of 6 years shall not use the toilet block or change room; or
- (c) families, then, where the toilet block or change room is being used by a family, only an immediate member of that family, a guardian, or a caregiver, may use that toilet block or change room.

(2) Subclause (1) does not apply to a toilet block or change room where a sign designates that particular toilet block or change room as unisex.

(3) A person over the age of 6 years shall not, on any local government property or public place—

- (a) loiter outside or act in an offensive manner, in any portion of a toilet block or change room, or
- (b) enter, or attempt to enter, a cubicle or compartment of a toilet block or change room which is already occupied or in use.

(4) Subclause (3)(b) does not apply to a parent, guardian or caregiver accompanying a child under the age of 6 years.

#### **4.3 Proper and adequate clothing**

(1) A person over the age of 6 years shall not on any local government property or public place appear in public unless decently clothed.

(2) Where an authorised person considers that a person on any local government property or public place appearing in public is not decently clothed, the authorised person may direct that person to put on clothing so as to be decently clothed and that person shall comply with the direction immediately.

(3) In this clause, *decently clothed* means the wearing of proper and adequate clothing for the occasion, so as to prevent indecent exposure.

#### 4.4 Behaviour detrimental to property

(1) In this clause 4.4, *detrimental to the property* includes—

- (a) removing any thing from local government property such as a sign, rock, plant or seat provided for the use of any person;
- (b) destroying, defacing or damaging any thing on the local government property, such as a sign, plant, tree or a seat provided for the use of any person; and
- (c) climbing on or over local government property.

(2) A person shall not behave in or any local government property in a way which is or might be detrimental to the property.

#### 4.5 Taking or injuring any fauna or flora

(1) In this clause—

- (a) *fauna* means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes in relation to any such animal—
  - (i) any class of animal or individual member;
  - (ii) the eggs or larvae; or
  - (iii) the carcass, skin, plumage or fur; and
- (b) *flora* means all vascular plants other than plants recognised as weeds.

(2) A person shall not, on or above any local government property, unless that person is authorised under a written law to do so—

- (a) take, injure, kill or attempt to take, injure or kill any fauna; or
- (b) take on to, set or use, or attempt to take on to, set or use any animal trap, bird trap, fish trap, net or similar device; or
- (c) remove, prune or damage any flora.

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

A person shall not enter or remain on any local government property while under the influence of liquor (unless pursuant to a permit issued under clause 3.20) or a prohibited drug or substance.

#### 4.7 No prohibited drugs or substances

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

### Division 2—Signs

#### 4.8 Signs

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

(2) A person shall comply with a sign erected under subclause (1).

(3) A condition of use specified on a sign erected under subclause (1) is—

- (a) not to be inconsistent with any provision of this local law or any determination; and
- (b) to be for the purpose of giving notice of the effect of a provision of this local law.

## PART 5 - MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

### Division 1—Community facilities

#### 5.1 Definitions

In this Division—

- (a) *administration centre* means the local government's administration centre which is currently located on Crown Land Lot 502, being Reserve 50345 and having an address of 244 Vincent Street, Leederville; and
- (b) *pool premises* means the place or premises provided by the local government for the purpose of swimming or bathing, and includes Beatty Park Leisure Centre which is located on portion of Crown Land Lot 1618, being Reserve 884 and having an address of 220 Vincent Street, North Perth, and includes all buildings, fences, gardens, car parks, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of the place or premises or used in connection with it.

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

(1) The Manager or an authorised person may refuse admission to, may direct to leave, or may remove or cause to be removed from the administration centre or a community facility, a person who—

- (a) in her or his opinion is—

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

### 5.3 Responsibilities of users of a community facility

A person while in the administration centre or a community facility, shall not—

- (a) consume foodstuffs or drinks in any specific area in which food or beverage consumption is prohibited;
- (b) climb up or upon any roof, fence, wall, partition or other structure not intended for climbing;
- (c) enter the premises if suffering from a contagious, infectious or cutaneous disease or whilst in an unclean condition;
- (d) use soap or shampoo in any part of the premises other than in a change-room;
- (e) use any detergent, substance or oil in any pool or spa;
- (f) foul or pollute the water in any shower, pool or spa;
- (g) bring into any part of the pool premises or place thereon any chemical substance, liquid or powder;
- (h) bring into any part of the pool premises any glass containers;
- (i) deliberately waste or wastefully use fresh or potable water in a community facility;
- (j) spit or expectorate in any part of a community facility, other than in a water closet;
- (k) enter a pool or spa on the pool premises in a dirty or unclean condition; and
- (l) use a mobile phone, camera or other similar recording device in a change room at a community facility.

## Division 2—Fishing and boat launching

### 5.4 Definition

In this Division, *river* means the Swan River as referred to in the *Swan and Canning Rivers Management Act 2006*.

### 5.5 Boat launching

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

### 5.6 Fishing

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

## Division 3—Fenced or closed property

### 5.7 No entry to fenced or closed local government property

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

## Division 4—Air conditioning units over thoroughfares

### 5.8 Definition

In this Division, *air conditioning unit* means any machine, device, equipment, plant or part thereof which constitutes or is part of any mechanical system of ventilation or air conditioning.

### 5.9 Siting and design of air conditioning units

- (1) A person shall not install an air conditioning unit on or over a thoroughfare without the approval of the local government, which may be granted or withheld by the local government at its absolute discretion.

(2) If the local government provides approval in accordance with subclause (1), the air conditioning unit shall not—

- (a) project over any part of a thoroughfare unless provision is made, to the satisfaction of the CEO or an authorised person, for the collection of water discharged from such unit and for its disposal into the stormwater drainage system provided that where such unit is installed above a verandah, balcony or awning no such provision shall be necessary;
- (b) project over any part of a thoroughfare unless the bottom of such unit is not less than 2,750 millimetres above such thoroughfare;
- (c) project more than 300 millimetres over any part of a thoroughfare not more than 10 metres in width;
- (d) project more than 450 millimetres over any part of a thoroughfare more than 10 metres in width.

(3) No air conditioning unit which exhausts foul or vitiated air over or into a thoroughfare shall be installed under a verandah, balcony or awning which projects over any part of a thoroughfare.

### Division 5—Awnings, balconies and verandahs over thoroughfares

#### 5.10 Definitions

In this Division—

- (a) **awning** means a roof-like covering to shelter persons or protect parts of a building from the effects of sun or rain, which extends or can be made to extend over any part of a thoroughfare;
- (b) **balcony** means an open or covered platform attached to an upper part of a building, projecting from or recessed into the face of a wall and protected by a railing or balustrade and accessible from an adjacent room;
- (c) **permanent structure** means a structure which is affixed to the ground and is considered to form part of the ground, including verandah posts and canopy structures;
- (d) **road** means Crown land dedicated at common law or reserved, declared or otherwise dedicated under an act as an alley, bridge, court, lane, road, street, thoroughfare or yard for the passage of pedestrians or vehicles or both and which the local government has care, control and management of, pursuant to section 55(2) of the *Land Administration Act 1997*;
- (e) **road reserve** means that area of a road which is reserved but not used as a carriageway and includes the verge, kerb and footpath; and
- (f) **verandah** means a roofed structure attached to a building with the outer edge supported on posts and covered either by the main roof or a separate, lower roof, of which any part extends over any part of a thoroughfare.

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

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

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

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

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

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

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

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

#### 5.14 Maintenance and public safety

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

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

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

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

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

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

**5.17 Prohibition on smoking**

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

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

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

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

- (1) The local government is to give local public notice of its intention to make a determination in accordance with clause 5.18.
- (2) The local public notice referred to in subclause (1) is to state that—
  - (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
  - (b) a copy of the determination may be inspected and obtained from the offices of the local government; and
  - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the publication date.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to—
  - (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
  - (b) amend the proposed determination, in which case subclause (5) will apply; or
  - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c) the Council is to—
  - (a) consider those submissions in accordance with clause 5.20; and
  - (b) decide—
    - (i) whether or not to amend the proposed determination; or
    - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice—
  - (a) of the effect of the amendments; and
  - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

**5.20 Considerations in making a determination**

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

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

- (f) any detriments to the community which would be caused by the Council prescribing the proposed smoke free area.

### 5.21 Signage

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

### 5.22 Application of clauses 2.5 and 2.6

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

## PART 6 – SIGNS

### Division 1—Preliminary

#### 6.1 Definitions

In this Part, unless the context otherwise requires—

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

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

#### 6.2 Advertising signs

(1) Subject to subclause (2), a person shall not display an advertising sign on local government property unless that person is the holder of a valid sign permit.

(2) Notwithstanding subclause (1), a sign permit is not required to display an advertising sign on local government property if the advertising sign is—

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

provided that—

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

(3) The local government may grant approval for the erection or display of an advertising sign for the duration of the period specified in the sign permit.

(4) No clause of this local law will be taken to grant the permanent display of an advertising sign on local government property.

#### 6.3 Portable direction signs

(1) Subject to subclause (2), a person shall not, without a sign permit erect or place portable direction sign on local government property.

(2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which is—

- (a) a minor nature development;
- (b) does not exceed 750mm in height nor 0.5sqm in area, on any side; and
- (c) placed or erected on a thoroughfare or local government property on an infrequent or occasional basis and only to direct attention to a place, activity or event during the hours of that activity or event;

provided that—

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

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

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

- (a) over any footpath where the resulting vertical clearance between the sign and footpath is less than 2,700 millimetres;
- (b) on or within 600 millimetres from the face of kerb;
- (c) in any other location where, in the opinion of the local government or an authorised person, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
- (d) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

(2) A person erecting or placing an advertising sign or portable direction sign on local government property must—

- (a) maintain the sign in a safe and serviceable condition at all times and remove the sign upon it ceasing to be serviceable;
- (b) ensure that the sign is of a stable design and is not readily moved by the wind, and does not by the nature of its design or anything else cause any hazard or danger to any person using local government property;
- (c) ensure the free passage at all times of persons using the local government property; and
- (d) if it relates to a business or event, be removed each day at the close of the business or event to which it relates and not be erected again until the business or event next opens for trading.

### **Division 3—Applications and conditions on sign permits**

#### **6.5 Matters to be considered in determining application for a sign permit**

In determining an application for a permit for an advertising sign or a portable direction sign, the local government is to have regard to—

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

#### **6.6 Conditions on sign permits**

(1) If the local government approves an application for a sign permit for an advertising sign or portable direction sign, the application is to be taken to be approved subject to the following conditions—

- (a) the sign shall—
  - (i) not exceed 1,000 millimetres in height;
  - (ii) not exceed an area of 0.8 square metres on any side;
  - (iii) if a portable direction sign, relate only to directions to the place described on the permit;
  - (iv) not be placed closer than 600 millimetres to the face of kerb or further than 1200 millimetres from the kerb so as to ensure the free passage of persons using the footpath;
  - (v) if it relates to a business or event, be removed each day at the close of the business or event to which it relates and not be erected again until the business or event next opens for trading;
  - (vi) be secured in position in accordance with any requirements of the local government;

- (vii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person or the sight line of any vehicle drivers; and
  - (viii) be maintained in good condition; and
  - (b) no more than one advertising sign or portable direction sign shall be erected in relation to the one building or business, unless otherwise approved by the local government.
- (2) The permit holder of a permit for an advertising sign or portable direction sign shall comply with each of the conditions in subclause (1) in addition to any other conditions imposed on the sign permit by the local government.

#### **6.7 Obligations of permit holder**

The permit holder shall—

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

#### **6.8 Election signs**

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

### **Division 4—Sign requirements**

#### **6.9 Safety of persons**

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

#### **6.10 Removal of sign for works**

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

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

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

#### **6.12 Unlawful placement of signs**

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

## **PART 7 - OBSTRUCTING SHOPPING TROLLEYS**

### **Division 1—Shopping trolleys**

#### **7.1 Definitions**

In this Part, unless the context otherwise requires—

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

#### **7.2 Name of owner of shopping trolley**

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

#### **7.3 Shopping trolleys in public places**

(1) A person shall not leave a shopping trolley in a public place or on local government property, other than in an area set aside for the storage of shopping trolleys.

(2) A shopping trolley left in a public place or on local government property is not obstructing unless it is left for a period exceeding three (3) hours.

**PART 8 - BANK GUARANTEE OR SECURITY DEPOSIT****8.1 Definitions**

In this Part, unless the context otherwise requires—

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

**8.2 Security for restoration and reinstatement**

(1) Where an applicant proposes to undertake a development, the local government may require the applicant to pay a security deposit or provide a bank guarantee of a kind and to a value determined by the local government as a condition of an approval or a building permit and payable before the issue of the approval or building permit, for the purpose of ensuring that—

- (a) hired local government property, including fixtures and fittings can be cleaned, replaced or repaired;
- (b) a footpath or local government property damaged, removed or destroyed during the development on adjacent land, can be repaired or reinstated; and/or
- (c) conditions of an approval or building permit insofar as they relate to local government property or a thoroughfare, are complied with.

(2) A security deposit required under subclause (1) is to be held in an account established by the local government for the purpose of this clause prior to any work on the development commencing, unless otherwise agreed by the local government.

**8.3 Restoration or reinstatement of local government property**

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

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

then, the local government may carry out or cause to be carried out, the required restoration and reinstatement works or as much work as remains undone (**restoration works**). All costs incurred by the local government relating to the restoration works are a debt owing by the applicant to the local government.

(2) Where a bank guarantee or security deposit has been provided by the applicant and the costs of the restoration works exceed the bank guarantee or security deposit amount, the balance of the costs will be a debt owing by the applicant to the local government.

(3) The applicant shall pay to the local government on demand all administrative, legal, contractor and other costs including, but not limited to loss of income, estimated or incurred by the local government to restore and reinstate the site or which the local government may be required to pay under this clause.

(4) The local government may apply the proceeds of any bank guarantee or security deposit obtained under clause 8.2 to meet any costs incurred by it under this clause.

(5) The liability of the applicant to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 8.2.

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

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

**PART 9 - WORKS ON OR AFFECTING A THOROUGHFARE****Division 1—Works affecting a thoroughfare****9.1 No damage to thoroughfare**

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

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

(1) The owner, occupier, licensee or contractor who undertakes works on a private property adjacent to a footpath, verge or street tree, shall—

- (a) take all necessary precautions to ensure that the footpath, verge or street tree is not damaged during the course of the works; and
- (b) take all necessary action to ensure that the footpath remains in a safe functional state suitable for use by the public.

(2) A person who carries out any building or other operations or works on private property necessitating the crossing of a footpath with vehicles that may cause damage to the footpath, verge or a street tree, shall ensure that—

- (a) all reasonable precautions are taken to prevent damage to the footpath, verge or street tree during the course of the works; and
- (b) heavy vehicles that access the private property, are to cross the footpath at the designated area for the proposed vehicle crossing for that private property.

(3) If a person fails to comply with subclause (1) or (2) and a footpath, verge or street tree is thereby damaged, the local government may by Notice to that person require that person within the time stated in the Notice to pay the costs of reinstating or repairing the footpath, verge or street tree.

(4) On a failure to comply with a Notice issued under subclause (3), the local government may recover the costs referred to in the Notice as a debt due to it in a court of competent jurisdiction.

**9.3 Liability for damage to thoroughfare**

(1) Where a person unlawfully damages a thoroughfare or any thing belonging to or under the care, control or management of the local government that is on a thoroughfare, the local government may by Notice to that person require that person within the time stated in the Notice to, at the option of the local government, pay the costs of—

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

(2) On a failure to comply with a Notice issued under subclause (1), the local government may recover the costs referred to in the Notice as a debt due to in a court of competent jurisdiction.

**Division 2—Verge treatments****9.4 Definitions**

In this Part, unless the context otherwise requires—

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

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

**9.5 Verge treatment**

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

**9.6 Maintenance of verge treatments**

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

- (a) the verge treatment is maintained—

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

#### 9.7 Permitted landscaping features

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

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

#### 9.8 Damage to local government property

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

#### 9.9 Removal of verge treatments

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

#### 9.10 Enforcement

The local government may give a Notice to an owner who has installed or maintained a verge treatment in front of their land, requiring that owner, within the time specified in the Notice, to make good any breach of this Division, or to remove all or any part of a verge treatment that does not comply with this Division.

### Division 3—Public works

#### 9.11 Public works on verges

- (1) For the purpose of carrying out any works the local government or any authority empowered by law to dig up a thoroughfare or carry out any other works on a thoroughfare, may without notice and without being liable to compensate any person, dig up all or part of a thoroughfare and disturb any verge treatment placed there by an owner or occupier of adjacent land.
- (2) Where the local government digs up or carries out any works in a verge which has a verge treatment which complies with Division 2, then the local government shall use its best endeavours to—
- (a) replace and restore any reticulation pipes and sprinklers; and
  - (b) back fill with sand any garden or lawn, but otherwise shall not be liable to replace or restore any verge treatment and in particular any plant, or other vegetation or any surface or in any event, shall not be liable to any person for any damage or disturbance caused.

#### 9.12 Contribution towards construction of standard vehicle crossings

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

#### 9.13 Temporary vehicle crossings

- (1) Where it is likely that works on a lot will involve vehicles leaving on a thoroughfare and entering the lot, the person responsible for the works shall obtain a permit for the construction of a temporary crossing to protect the existing carriageway, kerb, drains and footpath, where—
- (a) a crossing does not exist; or
  - (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.

- (2) The **person responsible for the works** in subclause (1) is to be taken to be—
- (a) the builder named on the building licence issued under the *Local Government (Miscellaneous Provisions) Act 1960*, if one has been issued in relation to the works; or
  - (b) the registered proprietor of the lot, if no building licence has been issued under the *Local Government (Miscellaneous Provisions) Act 1960* in relation to the works.
- (3) If the local government approves an application for a permit for the purpose of subclause (1), the permit is taken to be issued on the condition that until such time as the temporary crossing is removed, the permit holder shall keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

#### 9.14 Removal of redundant vehicles crossings

- (1) Where works on a lot will result in a crossing no longer giving access to an internal driveway or constructed parking amenity on the lot, the crossing is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the local government.
- (2) The local government may give Notice to the owner or occupier of a lot requiring her or him to—
- (a) remove any part or all of a crossing which does not give access to the lot; and
  - (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal, within the period of time stated in the Notice, and the owner or occupier of the lot shall comply with that Notice.

### PART 10 - ACTIVITIES ON THOROUGHFARES AND LOCAL GOVERNMENT PROPERTY

#### 10.1 General prohibitions

A person shall not—

- (a) plant any tree or plant (except grasses or a similar plant) within 10 metres from the truncation of an intersection;
- (b) damage a lawn or a garden or remove a plant or part of a plant from local government property unless—
  - (i) the person is the owner or the occupier of the land abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
  - (ii) the person is acting under the authority of a written law;
- (c) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (d) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
- (e) within a mall, arcade or verandah of a shopping centre, ride any wheeled recreational device or similar device; or
- (f) prune, injure, poison, remove or kill by felling, poisoning or other means, any tree on a thoroughfare or any local government property, unless the person is—
  - (i) acting under the authority of the local government; or
  - (ii) acting under authority of a written law.

#### 10.2 Activities allowed with a permit

- (1) A person will not without a permit—
- (a) dig or otherwise create a trench through or under a kerb, carriageway or footpath;
  - (b) subject to Part 9 of this local law, throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only during the period of time advertised in connection with that collection by the local government;
  - (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
  - (d) cause any obstruction to a water channel or a water course in a thoroughfare;
  - (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
  - (f) damage a thoroughfare;
  - (g) light any fire or burn any thing on a thoroughfare;
  - (h) fell any tree onto a thoroughfare;
  - (i) if installing a verge treatment in accordance with any requirements specified in this local law, to—
    - (i) lay pipes under or provide taps on any verge; or
    - (ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
  - (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
  - (k) on a public place use anything or do anything so as to create a nuisance;

- (l) place or cause to be placed on a thoroughfare a bulk rubbish container;
  - (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare;  
or
  - (n) place or cause to be placed on a footpath or thoroughfare, a planter box or pots.
- (2) The local government may grant a permit in accordance with subclause (1) subject to conditions.

## **PART 11 - NOTICES OF BREACH**

### **11.1 Offence to fail to comply with Notice**

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

### **11.2 Local government may undertake requirements of Notice**

Where a person fails to comply with a Notice referred to in clause 11.1, the local government may by its employees, agents or contractors carry out the works and do all things specified in the Notice and may recover from that person, as a debt, the costs incurred in so doing.

### **11.3 Notice to remove, redirect or repair sprinkler**

Where a lawn or a garden is being watered with a sprinkler which is on the lawn or the garden, in a manner which causes or may cause an inconvenience or obstruction to any person using a thoroughfare, the local government or an authorised person may give a Notice to the owner or the occupier of the land abutting on the lawn or the garden, requiring the owner or the occupier or both to either remove, move or alter the direction of the sprinkler or other watering equipment.

### **11.4 Hazardous plants**

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

### **11.5 Notice to repair damage to thoroughfare**

(1) Where any portion of a thoroughfare, verge or footpath has been damaged, or is in the opinion of an authorised person, dangerous to the public, the local government or an authorised person may by Notice to the person who caused the damage or dangerous condition, order the person to repair or replace that portion of the thoroughfare, verge or footpath to the satisfaction of the local government, and within the timeframe stipulated in the Notice.

(2) If a person does not comply with a Notice provided under subclause (1), to the satisfaction of the local government, that person commits an offence.

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

Where any thing is placed on a thoroughfare in contravention of this local law, the local government may by Notice to the owner or the occupier of the land abutting on that portion of the thoroughfare where the thing has been placed, or such other person who may be responsible for the thing being so placed, requiring that person or the owner or occupier, as the case may be, to remove the thing within the time specified in the above Notice.

## **PART 12 - OBJECTIONS AND REVIEW**

### **12.1 Application of Division 1, Part 9 of the Act**

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

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

## **PART 13 - MISCELLANEOUS**

### **13.1 Authorised person to be obeyed**

A person on local government property shall obey any lawful direction of a Manager or an authorised person.

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

(1) Subject to subclause (2), an authorised person or Manager may refuse to allow entry, suspend admission or direct a person to leave local government property where—

- (a) the authorised person or Manager reasonably suspects that the person has—
  - (i) contravened a provision of this local law;
  - (ii) behaved in a disorderly manner;
  - (iii) used indecent, offensive, profane or insulting language;
  - (iv) created or taken part in any disturbance whereby a crowd has gathered;

- (v) committed an act of indecency; or
  - (b) the person has been deemed undesirable by the local government or the authorised person by reason of his or her past conduct.
- (2) The refusal or suspension referred to in subclause (1) can be for a period of up to 12 months as decided by the authorised person or Manager.
- (3) A person shall, on being requested by the authorised person to leave the local government property, do so immediately, quietly and peaceably.
- (4) A person who fails to comply with a request under subclause (3) may be removed from the local government property by an authorised person or a Police Officer.

### **13.3 Liability for damage to local government property**

Where a person unlawfully damages or causes damage to or detrimentally affects the appearance or nature of any local government property, the local government may by Notice to that person require that person within the time specified in the Notice to, at the option of the local government, pay the costs of—

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

### **13.4 Public liability insurance policy**

(1) Where, as a condition of a permit, the permit holder is required to obtain and maintain a public liability insurance policy, the permit holder shall—

- (a) effect and maintain a policy of insurance in the name of the permit holder in respect to any injury to any person or any damage to any property which may occur in connection with the use of the local government property by the permit holder;
- (b) ensure that any policy of insurance referred to in subclause (1)(a) indemnifies the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the local government property by the permit holder;
- (c) effect and maintain the policy of insurance referred to in subclause (1)(a) for the duration of the permit;
- (d) immediately notify the local government if the policy of insurance cover lapses, in which case the permit may be cancelled by the local government in accordance with clause 3.15;
- (e) at any time requested by the local government, provide the local government with a certificate of currency confirming that public liability insurance cover is in place;
- (f) ensure that, as a minimum, the permit holder's public liability insurance policy provides coverage of \$20 million (twenty million dollars), or such other amount as the local government considers appropriate to the risk and liability involved in the activity authorised by the permit;
- (g) upon the request of the local government (in its absolute discretion), increase the minimum value of coverage at the public liability insurance policy renewal date; and
- (h) ensure that the public liability insurer of the permit holder is a reputable insurer licensed to conduct insurance business in Australia in accordance with the guidelines issued by the Australian Prudential Regulatory Authority.

(2) A permit holder who refuses to or cannot provide a current certificate of insurance at least 14 days prior to the commencement of any activity, action or thing performed or erected in accordance with the permit, as required in accordance with subclause (1) commits an offence.

(3) A permit holder must provide the local government with a copy of their certificate of insurance currency at any time requested by the local government, including at the permit application stage.

### **13.5 Payment of application fees**

Where a fee or charge applies to the entry to, use of or participation in an activity on or in any local government property, a person shall not enter that property without first paying the applicable fee or charge, unless that person has been exempted by the local government from paying that fee or charge.

### **13.6 No unauthorised entry to function**

(1) A person shall not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorised, except—

- (a) through the proper entrance for that purpose; and
- (b) on payment of the fee chargeable for admission at the time.

(2) The local government may exempt a person from compliance with subclause (1)(b).

## **PART 14 – OFFENCES**

### **Division 1—Offences and penalties**

#### **14.1 Offences and general penalties**

(1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law is prohibited from doing, commits an offence.

(2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not less than \$300 and not exceeding \$5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

#### 14.2 Prescribed offences

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

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

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

- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

#### 14.3 Infringement notices and infringement withdrawal notices

(1) For the purpose of this local law—

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

(2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

#### 14.4 Evidence of a determination

(1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a copy of an extract from the register certified as a true copy by the CEO.

(2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.

(3) Subclause (2) does not make valid a determination that has not been properly made.

### SCHEDULE 1

#### Prescribed offences (clause 14.2(1))

Item	Clause	Description	Modified Penalty \$
1.	2.4	Failure to comply with determination	100
2.	3.8	Failure to comply with conditions of a permit	100
3.	3.14	Failure to produce permit when required by an authorised person	100
4.	3.18(1)	Failure to obtain a permit	250
5.	3.18(2)	Failure to obtain a permit to carry out works on local government property	500
6.	3.18(3)	Failure to obtain a permit to use local government property or a community facility for a for profit purpose	500
7.	3.19(1)	Failure to obtain a permit to camp outside a facility or erect structure	100
8.	3.20	Consumption or possession of liquor without a permit	100
9.	3.21	Failure of permit holder to comply with responsibilities	100
10.	4.2(1)	Failure to use correct toilet block or change room	100
11.	4.2(3)(a)	Loiter outside or act in an unacceptable manner in any toilet block	200
12.	4.2(3)(b)	Enter or attempt to enter an occupied cubicle or compartment	200
13.	4.3(1)	Failure to wear adequate clothing to secure decency	200

14.	4.3(2)	Failure to comply with direction of authorised person, to wear adequate clothing	250
15.	4.4(2)	Behaviour detrimental to property	100
16.	4.5(2)(a)	Take, injure or kill, or attempt to take, injure or kill any fauna	500
17.	4.5(2)(b)	Take onto, set or use any animal, bird or fish trap while on any local government property	250
18.	4.5(2)(c)	Remove, prune or damage any flora	250
19.	4.6	Under influence of liquor or prohibited drug or substance	100
20.	4.7	Take, consume or use a prohibited drug or substance on local government property	250
21.	4.8(2)	Failure to comply with sign on local government property	100
22.	5.3(a)	Consume food or drink in a prohibited area	100
23.	5.3(b)	Climbing up or upon a community facility	100
24.	5.3(c)	Enter or use, or attempt to enter or use a community facility whilst unclean or suffering from a contagious, infectious or cutaneous disease	100
25.	5.3(d)	Using soap or shampoo in any part of the pool area other than in the change rooms	100
26.	5.3(e)	Using any detergent, substance or oil in any pool or spa	100
27.	5.3(f)	Fouling or polluting the water in any shower, pool or spa	100
28.	5.3(g)	Bringing into any part of the pool area or place thereon any chemical substance, liquid or powder	100
29.	5.3(h)	Bringing into any part of the pool area any glass containers	100
30.	5.3(i)	Deliberately waste or wastefully use fresh or potable water in the pool area	100
31.	5.3(j)	Spitting or expectorating in any part of the community facility, other than in a water closet	300
32.	5.3(k)	Entering a pool or spa in a dirty or unclean condition	100
33.	5.3(l)	Using a mobile phone, camera or other recording device in a change room at a community facility	500
34.	5.5(1)	Launch a boat into river other than from an approved boat launching ramp or area permitted by signs	100
35.	5.5(2)	Launch personal watercraft into river other than from a boat launching ramp	100
36.	5.6(1)	Fishing in an area where fishing is prohibited or restricted by signs	100
37.	5.6(2)(a)	Clean fish or cut bait that causes a nuisance to river users	100
38.	5.6(2)(b)	Leave or deposit fish offal or bait on land or in the river	100
39.	5.7	Unauthorised entry to an area fenced off or closed to the public	250
40.	5.9(1)	Installing an air conditioning unit without approval	250
41.	5.11	Erecting or maintaining an awning, balcony or verandah without a permit or approval	250
42.	5.12	Erecting an awning, balcony or verandah that does not comply with dimensions	250
43.	5.13	Erecting an awning, balcony or verandah that does not comply with design requirements	250
44.	5.15	Erecting a permanent structure within a thoroughfare or road reserve without approval	250
45.	5.17(1)	Smoke in a smoke free area	100

46.	5.17(2)	Failure to extinguish tobacco product or e-cigarette upon direction of an authorised person	200
47.	6.2(1)	Displaying an advertising sign that requires a sign permit on local government property without a sign permit	250
48.	6.3(1)	Erecting or placing a portable direction sign that requires a sign permit on local government property without a sign permit	250
49.	6.4(1)	Placing or erecting an advertising sign or portable direction sign in a prohibited area	250
50.	6.4(2)(a)	Failing to maintain a sign in safe and serviceable condition at all times	100
51.	6.4(2)(b)	Failing to ensure that a sign is of a safe and stable design	100
52.	6.4(2)(c)	Failing to ensure the free passage of persons using footpath at all times	100
53.	6.4(2)(d)	Failing to remove sign at close of business each day or end of event	100
54.	6.6(2)	Failing to display a sign in accordance with conditions of sign permit	100
55.	6.7(a)	Failing to maintain sign in safe and serviceable condition at all times	100
56.	6.7(b)	Refusing to conspicuously display the sign permit number on a sign	50
57.	6.7(c)	Failing to ensure that a sign is of a safe and stable design	100
58.	6.7(d)	Failing to display sign in the approved location	100
59.	6.7(e)	Failing to ensure the free passage of persons using the footpath	100
60.	6.8	Erecting or displaying an election sign without a permit when a permit is required by the local government	500
61.	6.9	Permitting a sign to be displayed in an unsafe or dangerous manner	250
62.	6.10	Refusing or failing to remove a sign to allow sweeping, cleaning or other authorised works	100
63.	6.11	Refusing or failing to remove a sign when requested to do so	250
64.	6.12	Placing or permitting a sign contrary to the requirements of the local law	250
65.	7.3(1)	Leaving a shopping trolley in public place other than trolley bay	100
66.	7.3(2)	Leaving a shopping trolley for a period in excess of 3 hours	100
67.	8.3(1)	Failure to carry out or complete reinstatement works on affected local government property	500
68.	8.4	Failure to provide a bank guarantee or pay a security deposit when required by local government	500
69.	9.1	Damaging a thoroughfare or anything belonging to or under the care control and management of the local government that is on a thoroughfare	500
70.	9.2(1)(a)	Failing to take necessary precautions to ensure footpaths, verges or trees are not damaged during works	500
71.	9.2(1)(b)	Failing to ensure footpath remains in a safe and functioning state suitable for use by the public	500
72.	9.2(2)(a)	Failing to take reasonable precautions to prevent damage to footpath, verge or street tree	500
73.	9.5	Failure to install or maintain a verge in accordance with the local laws	250
74.	9.8	Failing to rectify damage caused to footpath, kerb, thoroughfare or carriageway when installing a verge	250

75.	9.13(1)	Failing to obtain permit for temporary crossing	200
76.	9.14(2)	Failing to comply with notice to remove crossing and reinstate kerb	250
77.	10.1(a)	Planting of tree or plant which exceeds 500mm in height on local government property within 10metres from the truncation of an intersection	100
78.	10.1(b)	Damaging lawn or garden, or remove any plant without authority	100
79.	10.1(c)	Placing any fruit, substance or fluid on footpath which may create a hazard	100
80.	10.1(d)	Damaging or interfering with signpost or structure on thoroughfare	200
81.	10.1(e)	Riding any wheeled recreational device in a mall, arcade or verandah of a shopping centre	100
82.	10.1(f)	Damaging pruning, injuring, poisoning, removing or killing a tree, which includes a tree on a verge, thoroughfare or local government property without the approval of the local government	500
83.	10.2(1)(a)	Digging a trench through a kerb or footpath without a permit	200
84.	10.2(1)(b)	Throwing or placing anything on a verge without a permit	200
85.	10.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	200
86.	10.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	200
87.	10.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	300
88.	10.2(1)(f)	Damaging a thoroughfare	200
89.	10.2(1)(g)	Lighting a fire on a thoroughfare without a permit	300
90.	10.2(1)(h)	Felling tree onto thoroughfare without a permit	200
91.	10.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	200
92.	10.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	200
93.	10.2(1)(k)	Creating a nuisance on a public place without a permit	200
94.	10.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	100
95.	10.2(1)(m)	Interfering with anything on a thoroughfare without a permit	200
96.	10.2(1)(n)	Placing a planter box or pot on a footpath or thoroughfare	100
97.	11.1	Failing to comply with notice given under local law where not specified in Schedule 1	500
98.	13.4(2)	Failure to hold or provide a current certificate of currency to an authorised person when requested	250
99.	13.5	Failing to pay the applicable fee to enter, use or participate in an activity on local government property	100
100.	13.6(1)	Entering local government property or building other than through the proper entrance or without payment of the admission fee	100
101.	14.1(1)	Other offences not specified	100

Dated: 23 November 2021.

The Common Seal of The City of Vincent was affixed in the presence of—

EMMA COLE, Mayor.  
DAVID MACLENNAN, Chief Executive Officer.