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LOCAL GOVERNMENT ACT 1995

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**TOWN OF CLAREMONT**

**ACTIVITIES ON  
THOROUGHFARES AND  
PUBLIC PLACES LOCAL LAW**



**LOCAL GOVERNMENT ACT 1995**

## TOWN OF CLAREMONT

**ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES  
LOCAL LAW**

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## LOCAL GOVERNMENT ACT 1995

## TOWN OF CLAREMONT

ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES  
LOCAL LAW

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Town of Claremont resolved on 28 March 2000 to make the following local law.

## PART 1—PRELIMINARY

## 1.1 Citation

This local law may be cited as the Town of Claremont Activities on Thoroughfares and Public Places Local Law.

## 1.2 Definitions

In this local law unless the context otherwise requires—

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

“**applicant**” means a person who applies for a permit;

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

“**built-up area**” means the territory contiguous to and including any road—

(a) on which there is provision for lighting by means of street lamps; or

(b) which is built up with structures devoted to business, industry or dwelling houses at intervals of less than 100 metres for a distance of one half kilometre or more; or beyond a sign indicating “BUILT-UP AREA” erected at the roadside to face drivers approaching a development consisting of dwelling houses, or business or industrial structures;

“**bulk rubbish container**” means a bin or container designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance, but does not include a bin or container used in connection with the local government’s regular domestic rubbish collection service;

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

“**CEO**” means the chief executive officer of the local government;

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

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

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

(a) private land; or

(b) a private thoroughfare serving private land;

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

“**footpath**” means the paved or made portion of a thoroughfare used or intended for use by pedestrians and cyclists;

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

“**intersection**” has the meaning given to it in the *Road Traffic Code 1975*;

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

“**lawn**” means any part of a thoroughfare 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;

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

“**local government**” means the *Town of Claremont*;

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

(a) which belongs to 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 section 3.53 of the Act;

“**lot**” has the meaning given to it in the *Town Planning and Development Act 1928*;

- “**owner**” or “**occupier**” in relation to land does not include the local government;
- “**permissible verge treatment**” means any one of the 4 treatments described in clause 2.8(2), and includes any reticulation pipes and sprinklers;
- “**permit**” means a permit issued under this local law;
- “**permit holder**” means a person who holds a valid permit;
- “**person**” does not include the local government;
- “**premises**” for the purpose of the definition of “**public place**” means a building or similar structure, but does not include a carpark or a similar place;
- “**public place**” includes any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include—
- (a) premises on private property from which trading is lawfully conducted under a written law; and
  - (b) local government property;
- “**Regulations**” means the *Local Government (Functions and General) Regulations 1996*;
- “**sign**” includes a notice, flag, mark, structure or device on which may be shown words, numbers, expressions or symbols;
- “**thoroughfare**” means a road or other thoroughfare and includes structures or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is open at each end;
- “**town planning scheme**” means a town planning scheme of the local government made under the *Town Planning and Development Act 1928*;
- “**vehicle**” includes—
- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
  - (b) an animal being ridden or driven,
- but excludes—
- (a) a wheel-chair or any device designed for use by a physically impaired person on a footpath; and
  - (b) a pram, a stroller or a similar device; and
- “**verge**” means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare, but does not include any footpath.

### 1.3 Application

This local law applies throughout the district.

### 1.4 Repeal

- (1) The following local laws are repealed—
- Eating Areas in Streets and Other Public Places, as published in the 15 December 1992 Government Gazette;
  - Removal and Disposal of Obstructing Animals or Vehicles, as published in the 12 March 1963 Government Gazette and amended in the 4 January 1985 Government Gazette;
  - Prevention of Damage to Footpaths, as published in the 28 September 1979 Government Gazette and amended in the 30 April 1982 Government Gazette; and
  - Street Lawn and Gardens, as published in the 28 May 1963 Government Gazette and amended in the Government Gazettes of 18 August 1971, 15 July 1977 and 21 May 1982.
- (2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.
- (3) The Council may resolve that notwithstanding subclause (2) specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

## PART 2—ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES

### *Division 1—General*

#### 2.1 General prohibitions

A person shall not—

- (a) plant any plant which exceeds or which may exceed 0.40m in height on a thoroughfare so that the plant is within 6m of an intersection;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless—
  - (i) the person is the owner or the occupier of the lot 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) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 2m of a carriageway;

- (d) place on any footpath any substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (e) 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;
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare; or
- (g) within a mall, arcade or verandah of a shopping centre, ride any skateboard, rollerblades or similar device.

## **2.2 Activities allowed with a permit—general**

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

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) subject to Division 3 of this Part, 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) damage a thoroughfare;
- (f) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose, unless acting under authority of a permit issued under the authority of any other written law;
- (g) fell any tree onto a thoroughfare;
- (h) unless installing a permissible verge treatment—
  - (i) lay pipes under or provide taps on any verge; or
  - (ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
- (i) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
- (j) on a public place use anything or do anything so as to create a nuisance;
- (k) place or cause to be placed on a thoroughfare a bulk rubbish container; or
- (l) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.

(2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

## **2.3 No possession and consumption of liquor on thoroughfare**

(1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless—

- (a) that is permitted under the *Liquor Licensing Act 1988* or under another written law; or
- (b) the person is doing so in accordance with a permit.

(2) Subclause (1) does not apply where the liquor is in a sealed container.

### *Division 2—Vehicle crossing*

#### Subdivision 1—Temporary crossings

## **2.4 Permit required**

(1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works shall obtain a permit for the construction of a temporary crossing to protect the existing carriageway, kerb, drains and footpath, where—

- (a) a crossing does not exist; or
- (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.

(2) The “person responsible for the works” in subclause (1) is to be taken to be—

- (a) the builder named on the building licence issued under the *Local Government (Miscellaneous Provisions) Act 1960*, if one has been issued in relation to the works; or
- (b) the registered proprietor of the lot, if no building licence has been issued under the *Local Government (Miscellaneous Provisions) Act 1960* in relation to the works.

(3) If the local government approves an application for a permit for the purpose of subclause (1), the permit is taken to be issued on the condition that until such time as the temporary crossing is removed, the permit holder shall keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

#### Subdivision 2—Redundant vehicle crossings

## **2.5 Removal of redundant crossing**

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

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

- (a) remove any part of or all of a crossing which does not give access to the lot; and
- (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal,

within the period of time stated in the notice, and the owner or occupier of the lot shall comply with that notice.

*Division 3—Verge treatments*

Subdivision 1—Preliminary

## 2.6 Interpretation

In this Division, unless the context otherwise requires—

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

## 2.7 Application

This Division only applies throughout the district.

Subdivision 2—Permissible verge treatments

## 2.8 Permissible verge treatments

(1) An owner or occupier of land which abuts on a verge may on that part of the verge directly in front of her or his land install a permissible verge treatment.

(2) The permissible verge treatments are—

- (a) the planting and maintenance of a lawn;
- (b) the planting and maintenance of a garden provided that—
  - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare; and
  - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
- (c) the installation of an acceptable material; or
- (d) the installation over no more than one third of the area of the verge (excluding any vehicle crossing) of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b);
- (e) not to shed excessive stormwater run off (less than 50% impervious material).

## 2.9 Only permissible verge treatments to be installed

(1) A person shall not install or maintain a verge treatment which is not a permissible verge treatment.

(2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 2.10.

## 2.10 Obligations of owner or occupier

An owner or occupier who installs or maintains a permissible verge treatment shall—

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) not place any obstruction on or around the verge treatment; and
- (c) not disturb a footpath on the verge.

## 2.11 Notice to owner or occupier

The local government may give a notice in writing to the owner or the occupier of a lot abutting on a verge to make good, within the time specified in the notice, any breach of a provision of this Division.

Subdivision 3—Existing verge treatments

## 2.12 Transitional provision

(1) In this clause—

“**former provisions**” means the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was repealed by this local law.

(2) A verge treatment which—

- (a) was installed prior to the commencement day; and
- (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions,

is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions.

*Subdivision 4—Public works***2.13 Power to carry out public works on verge**

(1) Where the local government or an authority empowered to do so under a written law disturbs a verge, the local government or the authority—

- (a) is not liable to compensate any person for that disturbance;
- (b) may backfill with sand, if necessary, any garden or lawn; and
- (c) is not liable to replace or restore any—
  - (i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or
  - (ii) sprinklers, pipes or other reticulation equipment.

(2) Notwithstanding clause 2.13(1), the local government will take all possible care and may reinstate any garden, lawn or reticulation equipment damaged during works it carried out or where carried out by others authorised to do so by the local government.

*Division 4—Property numbers**Subdivision 1—Preliminary***2.14 Interpretation**

In this Division, unless the context requires otherwise—

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

*Subdivision 2—Assignment and marking of numbers***2.15 Assignment of numbers**

The local government may assign a Number to a lot in the district and may assign another Number to the lot instead of that previously assigned.

*Division 5—Fencing***2.16 Public place—Item 4(1) of Division 1, Schedule 3.1 of Act**

The following places are specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act—

- (a) a public place, as that term is defined in clause 1.2; and
- (b) local government property.

*Division 6—Signs erected by the local government***2.17 Signs**

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

(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 to be for the purpose of giving notice of the effect of a provision of this local law.

**2.18 Transitional**

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 2.17 if—

- (a) the sign specifies a condition of use relating to the public place which gives notice of the effect of a provision of this local law; and
- (b) the condition of use specified is not inconsistent with any provision of this local law.

*Division 7—Driving on a closed thoroughfare***2.19 No driving on closed thoroughfare**

(1) A person shall not drive or take a vehicle on a closed thoroughfare unless—

- (a) that is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or
- (b) the person has first obtained a permit.

(2) In this clause—

“**closed thoroughfare**” means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.

**PART 3—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS***Division 1—Animals and vehicles***3.1 Leaving animal or vehicle in public place or on local government property**

- (1) A person shall not leave an animal or a vehicle, or any part of a vehicle, in a public place or on local government property so that it obstructs the use of any part of that public place or local government property, unless that person has first obtained a permit or is authorized to do so under a written law.
- (2) A person will not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.
- (3) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours unless that vehicle causes undue obstruction.
- (4) Where an authorised person finds a vehicle left in a public place contrary to the provisions of subclauses (1) and (3) of these local laws the authorised person may impound that vehicle.

**3.2 Prohibitions relating to animals**

- (1) In subclause (2), “owner” in relation to an animal includes—
- an owner of it;
  - a person in possession of it;
  - a person who has control of it; and
  - a person who ordinarily occupies the premises where the animal is permitted to stay.
- (2) An owner of an animal shall not—
- allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
  - allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
  - train or race the animal on a thoroughfare.
- (3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.

*Division 2—Shopping trolleys***3.3 Interpretation**

In this Division—

“**retailer**” means a proprietor of a shop in respect of which shopping trolleys are provided for the use of customers of the shop; and

“**shopping trolley**” means a wheeled container or receptacle supplied by a retailer to enable a person to transport goods.

**3.4 Shopping trolley to be marked**

A retailer shall clearly mark its name or its trading name on any shopping trolley made available for the use of customers.

**3.5 Person not to leave trolley in public place**

A person shall not leave a shopping trolley in a public place other than in an area set aside for the storage of shopping trolleys.

**3.6 Retailer to remove abandoned trolley**

- (1) If a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, the local government may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.
- (2) A retailer shall remove a shopping trolley within 24 hours of being so advised under subclause (1), unless the retailer—
- requests the local government to collect and deliver the shopping trolley to the retailer; and
  - pays any fee for that collection and delivery (imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act) within the period specified by the local government.

**3.7 Retailer taken to own trolley**

In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the trolley.

**PART 4—STREET ENTERTAINERS IN THOROUGHFARES AND PUBLIC PLACES***Division 1—Street entertainers**Subdivision 1—Preliminary***4.1 Interpretation**

In this Division, unless the context otherwise requires—

“**perform**” includes to play a musical instrument, sing, mime, dance, give an acrobatic or aerobic display or entertain, but does not include public speaking;

“**permit**” means a permit issued for the purpose of clause 4.10;

“**permitted area**” means the area or areas, specified in a permit, in which the permit holder may perform; and

“**permitted time**” means the time or times, specified in a permit, during which the permit holder may perform.

“**public place**” has the same meaning given to it in clause 1.2.

#### Subdivision 2—Permits

#### 4.2 Permit required to perform

A person shall not perform in a public place without a permit.

#### 4.3 Variation of permitted area and permitted time

(1) The local government may by notice in writing to a permit holder vary—

- (a) the permitted area;
- (b) the permitted time; or
- (c) both the permitted area and the permitted time,

shown on a permit.

(2) The local government may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

#### 4.4 Duration of permit

A permit is valid for a period of 3 months after the date on which it is issued unless it is sooner cancelled under this local law.

#### 4.5 Cancellation of permit

The local government may cancel a permit if in her or his opinion the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place, or if, in her or his opinion, or in the opinion of an authorized person, the performance otherwise constitutes a nuisance.

#### 4.6 Obligations of permit holder

A permit holder shall not in a public place—

- (a) perform wearing dirty, torn or ragged clothing;
- (b) act in an offensive manner; or
- (c) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier -
  - (i) other than in the permitted area; and
  - (ii) unless the musical instrument or device is specified in the permit.

#### *Division 2—Outdoor eating facilities on public places*

#### 4.7 Interpretation

In this Division—

“**Facility**” means an outdoor eating facility or establishment on any part of a public place, but does not include such a facility or establishment on private land;

“**permit holder**” means the person to whom a permit has been issued for the purpose of clause 6.16; and

“**public place**” has the meaning given to it in clause 1.2.

#### 4.8 Permit required to conduct Facility

A person shall not establish or conduct a Facility without a permit.

#### 4.9 Matters to be considered in determining application

In determining an application for a permit for the purpose of clause 4.8, the local government may consider in addition to any other matter it considers relevant, whether or not—

- (a) the Facility is conducted in conjunction with and as an extension of food premises which abut on the Facility, and whether the applicant is the person conducting such food premises;
- (b) any abutting food premises are registered in accordance with the *Health Act 1911* and whether the use of the premises is permitted under the town planning scheme;
- (c) the Facility will comply with any local law made under section 172 of the *Health Act 1911*;
- (d) users of the Facility will have access to proper and sufficient sanitary and ablutionary conveniences;
- (e) the Facility would—
  - (i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or
  - (ii) impede pedestrian access; and
- (f) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

**4.10 Obligations of permit holder**

- (1) The permit holder for a Facility shall—
- ensure that the Facility is conducted at all times in accordance with the provisions of this local law and any local law made under section 172 of the *Health Act 1911*;
  - ensure that the eating area is kept in a clean and tidy condition at all times;
  - maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times;
  - be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the Facility; and
  - be solely responsible for all rates and taxes levied upon the land occupied by the Facility.
- (2) Whenever, in the opinion of the local government, any work is required to be carried out to a Facility, the local government may give a notice to the permit holder for the Facility to carry out that work within the time limited by the notice.
- (3) In subclause (2), “work” includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a Facility.

**4.11 Removal of Facility unlawfully conducted**

Where a Facility is conducted without a permit, or in contravention of a condition of a permit, any tables, chairs, umbrellas or other equipment may be removed by an authorized person and impounded in accordance with the Act.

**4.12 Use of Facility by public**

(1) A person shall not occupy a chair or otherwise use the equipment in a Facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the Facility.

(2) A person shall leave a Facility when requested to do so by the permit holder.

**4.13 Temporary removal of Facility may be requested**

- (1) The permit holder for a Facility is to temporarily remove the Facility when requested to do so on reasonable grounds by an authorized person or a member of the Police Service or an emergency service in the event of an emergency.
- (2) The permit holder may replace the Facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

**PART 5—PERMITS***Division 1—Applying for a permit***5.1 Application for permit**

- (1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law shall—
- be in the form determined by the local government;
  - be signed by the applicant;
  - provide the information required by the form; and
  - 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.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government may require an applicant to give local public notice of the application for a permit.
- (5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

**5.2 Decision on application for permit**

- (1) The local government may—
- approve an application for a permit unconditionally or subject to any conditions; or
  - refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.
- (3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).
- (5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

*Division 2—Conditions***5.3 Conditions which may be imposed on a permit**

The local government may approve an application for a permit subject to conditions relating to—

- (a) the payment of a fee;
- (b) the duration and commencement of the permit;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the approval of another application for a permit which may be required by the local government under any written law;
- (f) the area of the district to which the permit applies;
- (g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;
- (h) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government; and
- (i) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder.

**5.4 Imposing conditions under a policy**

(1) In this clause—

“**policy**” means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 5.2(1)(a).

(2) Under clause 5.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.

(3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 5.2(2).

(4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.

(5) Sections 5.94 and 5.95 of the Act relating to the right of the public to inspect certain local government information, shall apply to a policy and for that purpose a policy is to be taken to be information within section 5.94(u)(i) of the Act.

**5.5 Compliance with and variation of conditions**

(1) Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder shall comply with each of those conditions.

(2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

*Division 3—General***5.6 Duration of permit**

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

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 5.10.

**5.7 Renewal of permit**

(1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.

(2) The provisions of—

- (a) this Part; and
- (b) any other provision of this local law relevant to the permit which is to be renewed, shall apply to an application for the renewal of a permit, with necessary changes.

**5.8 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, the transfer may be effected by—

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

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

#### **5.9 Production of permit**

A permit holder is to produce to an authorized person her or his permit immediately upon being required to do so by that authorized person.

#### **5.10 Cancellation of permit**

(1) Subject to clause 6.1, a permit may be cancelled by the local government on any one or more of the following grounds—

- (a) the permit holder has not complied with a—
  - (i) condition of the permit; or
  - (ii) provision of any written law which may relate to the activity regulated by the permit; or
- (b) if it is relevant to the activity regulated by the permit—
  - (i) the permit holder has become bankrupt, or gone into liquidation;
  - (ii) the permit holder has entered into any composition or arrangement with creditors; or
  - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the permit holder's undertakings or property.

(2) On the cancellation of a permit the permit holder—

- (a) shall return the permit as soon as practicable to the local government; and
- (b) is to be taken to have forfeited any fees paid in respect of the permit.

### **PART 6—OBJECTIONS AND APPEALS**

#### **6.1 Application of Part 9 Division 1 of Act**

When the local government makes a decision—

- (a) under clause 5.2(1); or
- (b) as to whether it will renew, vary, or cancel a permit,

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations, relating to objection and appeal rights, apply to that decision.

### **PART 7—MISCELLANEOUS NOTICES**

#### **7.1 Notice to 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 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 move or alter the direction of the sprinkler or other watering equipment.

#### **7.2 Hazardous plants**

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

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

#### **7.3 Notice to repair damage to thoroughfare**

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

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

Where any thing is placed on a thoroughfare in contravention of this local law, the local government may by notice in writing to the owner or the occupier of the property which abuts 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, require the relevant person to remove the thing.

### **PART 8—ENFORCEMENT**

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

#### **8.1 Offence to fail to comply with notice**

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

#### **8.2 Local government may undertake requirements of notice**

Where a person fails to comply with a notice referred to in clause 8.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

*Division 2—Offences and penalties*

## Subdivision 1—General

**8.3 Offences**

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

(2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not 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.

## Subdivision 2—Infringement notices and modified penalties

**8.4 Prescribed offences**

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

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

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorized 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.

**8.5 Forms**

Unless otherwise specified, for the purposes of this local law—

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

**Schedule 1****PRESCRIBED OFFENCES**

| Clause    | Description  | Modified Penalty \$ |
|-----------|--|---------------------|
| 2.1(a)    | Plant of 0.75m in height on thoroughfare within 6m of intersection                                     | 100                 |
| 2.1(b)    | Damaging lawn or garden  | 100                 |
| 2.1(c)    | Plant (except grass) on thoroughfare within 2m of carriageway  | 100                 |
| 2.1(d)    | Placing hazardous substance on footpath  | 100                 |
| 2.1(e)    | Damaging or interfering with signpost or structure on thoroughfare                                     | 300                 |
| 2.1(f)    | Playing games so as to impede vehicles or persons on thoroughfare                                      | 100                 |
| 2.1(g)    | Riding of skateboard or similar device on mall or verandah of shopping centre                          | 100                 |
| 2.2(a)    | Digging a trench through a kerb or footpath without a permit   | 100                 |
| 2.2(b)    | Throwing or placing anything on a verge without a permit   | 100                 |
| 2.2(c)    | Causing obstruction to vehicle or person on thoroughfare without a permit                              | 100                 |
| 2.2(d)    | Causing obstruction to water channel on thoroughfare without a permit                                  | 200                 |
| 2.2(f)    | Lighting a fire on a thoroughfare without a permit   | 300                 |
| 2.2(g)    | Felling tree onto thoroughfare without a permit  | 100                 |
| 2.2(h)    | Installing pipes or stone on thoroughfare without a permit   | 100                 |
| 2.2(i)    | Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit  | 300                 |
| 2.2(j)    | Creating a nuisance on a thoroughfare without a permit   | 100                 |
| 2.2(k)    | Placing a bulk rubbish container on a thoroughfare without a permit                                    | 100                 |
| 2.2(l)    | Interfering with anything on a thoroughfare without a permit   | 100                 |
| 2.3(1)    | Consumption or possession of liquor on thoroughfare  | 100                 |
| 2.4(1)    | Failure to obtain permit for temporary crossing  | 200                 |
| 2.5(2)    | Failure to comply with notice to remove crossing and reinstate kerb                                    | 300                 |
| 2.9(1)    | Installation of verge treatment other than permissible verge treatment                                 | 200                 |
| 2.10      | Failure to maintain permissible verge treatment or placement of obstruction on verge                   | 100                 |
| 2.11      | Failure to comply with notice to rectify default   | 100                 |
| 2.17(2)   | Failure to comply with sign on public place  | 100                 |
| 2.19(1)   | Driving or taking a vehicle on a closed thoroughfare   | 300                 |
| 3.1(1)    | Animal or vehicle obstructing a public place or local government property                              | 100                 |
| 3.2(2)(a) | Animal on thoroughfare when not led, ridden or driven  | 100                 |
| 3.2(2)(b) | Animal on public place with infectious disease   | 100                 |
| 3.2(2)(c) | Training or racing animal on thoroughfare in built-up area   | 100                 |
| 3.2(3)    | Horse led, ridden or driven on thoroughfare in built-up area without a permit or other legal authority | 100                 |
| 3.5       | Person leaving shopping trolley in public place other than trolley bay                                 | 100                 |

*Schedule 1—continued*  
**PRESCRIBED OFFENCES**

| Clause  | Description   | Modified<br>Penalty \$ |
|---------|---|------------------------|
| 3.6(2)  | Failure to remove shopping trolley upon being advised of location                           | 100                    |
| 4.2     | Performing in a public place without a permit   | 100                    |
| 4.3(2)  | Failure of performer to move onto another area when directed                                | 100                    |
| 4.6     | Failure of performer to comply with obligations   | 100                    |
| 4.8     | Establishment or conduct of outdoor eating facility without a permit                        | 300                    |
| 4.10    | Failure of permit holder of outdoor eating facility to comply with obligations              | 100                    |
| 4.12(1) | Use of equipment of outdoor eating facility without purchase of food or drink from facility | 50                     |
| 4.12(2) | Failure to leave outdoor eating facility when requested to do so by permit holder           | 50                     |
| 5.5     | Failure to comply with a condition of a permit  | 100                    |
| 5.9     | Failure to produce permit on request of authorized person                                   | 100                    |
| 8.1     | Failure to comply with notice given under local law   | 100                    |

\_\_\_\_\_

Dated 5th of April 2000.

The Common Seal of the Town of Claremont was affixed by authority of a resolution of the Council in the presence of—

PETER OLSON, Mayor.  
ARTHUR KYRON, Chief Executive Officer.

