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# **TOWN OF COTTESLOE**

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LOCAL GOVERNMENT ACT 1995

**LOCAL GOVERNMENT PROPERTY  
LOCAL LAW**

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

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DOG ACT 1976

**DOGS LOCAL LAW**



**LOCAL GOVERNMENT ACT 1995**

## TOWN OF COTTESLOE

**LOCAL GOVERNMENT PROPERTY LOCAL LAW**

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**LOCAL GOVERNMENT ACT 1995**

## TOWN OF COTTESLOE

**LOCAL GOVERNMENT PROPERTY 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 Cottesloe resolved on the 22nd day of November, 1999 to make the following proposed local law.

**PART 1—PRELIMINARY****Citation**

1.1 This local law may be cited as the Town of Cottesloe Local Government Property Local Law.

**Definitions**

1.2 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 under clause 3.2;

“**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, vessel or structure capable of being used in navigation by water, however propelled or moved, and includes a jet ski;

“**building**” means any building which is local government property and includes a—

(a) hall or room; and

(b) corridor, stairway or annexe of any hall or room;

“**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;

“**date of publication**” 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;

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

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

“**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) organisation 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;

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

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

“**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;

“**Manager**” means the person for the time being employed by the local government to control and manage an area or facility which is local government property and includes the person’s assistant or deputy;

“**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;

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

“**sign**” includes a notice, flag, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols;

**“trading”** means the selling or hiring, or the offering for sale or hire of 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; and

**“vehicle”** includes —

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

but excludes —

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

### **Interpretation**

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

### **Application**

1.4 (1) This local law applies throughout the district.

(2) Notwithstanding anything to the contrary 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 of any local government property.

### **Repeal**

1.5 (1) The following local laws are repealed —

Amusements, as published in the Government Gazette of 23 January, 1968 and 23 December, 1971.  
Parks and Reserves By Law No 10, as published in the Government Gazette of 7 June, 1935 and 25 May, 1971.

(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—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY**

### *Division 1—Determinations*

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

2.1 (1) 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) The determinations in Schedule 2 —

- (a) are to be taken to have been made in accordance with clause 2.2; may be amended or revoked in accordance with clause 2.6; and
- (b) have effect on the commencement day.

#### **Procedure for making a determination**

2.2 (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 date of publication.

(3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide whether 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; 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.

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

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

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

2.4 A person shall comply with a determination.

#### **Register of determinations**

2.5 (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, relating to the right of the public to inspect certain local government information, are to apply to the register referred to in subclause (1). For that purpose, the register is to be taken to be information within section 5.94(u)(i) of the Act.

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

2.6 (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 date of publication.

#### *Division 2—Activities which may be Pursued or Prohibited under a Determination*

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

2.7 (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;
- (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) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device.

(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.

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

2.8 (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 on premises;
- (b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
- (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
- (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
- (e) 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; and
- (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.

(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.

(3) In this clause —

“**premises**” means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

### *Division 3—Transitional*

#### **Signs taken to be determinations**

2.9 (1) Where a sign erected on local government property has been erected under a local law of the local government 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—Preliminary*

#### **Application of 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 to do so.

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

#### **Application for permit**

3.2 (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 —

- (a) be in the form determined by the local government;
- (b) be signed by the applicant;
- (c) provide the information required by the form; 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.

(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).



**Decision on application for permit**

3.3 (1) The local government may —

- (a) approve an application for a permit unconditionally or subject to any conditions; or
- (b) 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.

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

3.4 (1) Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to —

- (a) the payment of a fee;
- (b) compliance with a standard or a 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 or bond against such damage; and
- (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government.

(2) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued —

- (a) when fees and charges are to be paid;
- (b) payment of a bond against possible damage or cleaning expenses or both;
- (c) restrictions on the erection of material or external decorations;
- (d) rules about the use of furniture, plant and effects;
- (e) limitations on the number of persons who may attend any function in or on local government property;
- (f) the duration of the hire;
- (g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;
- (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Licensing Act 1988*;
- (i) whether or not the hire is for the exclusive use of the local government property;
- (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, 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 hire of the local government property by the hirer; and
- (k) the provision of an indemnity from the hirer, 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 hire of the local government property by the hirer.

**Imposing conditions under a policy**

3.5 (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 3.3(1)(a).

(2) Under clause 3.3(1)(a) the local government may approve an application subject to conditions by reference to a policy.

(3) The local government shall 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 3.3(2).

(4) An application for a permit shall be deemed 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 shall apply to a policy and for that purpose a policy shall be deemed to be information within section 5.94(u)(i) of the Act.

**Compliance with and variation of conditions**

3.6 (1) Where an application for a permit has been approved subject to conditions, 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 4—General*

**Agreement for building**

3.7 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.

**Duration of permit**

3.8 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 3.12.

**Renewal of permit**

3.9 (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 this Part shall apply to an application for the renewal of a permit, with necessary changes.

**Transfer of Permit**

3.10 (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 an endorsement on the permit signed by the CEO.

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

**Production of permit**

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

**Cancellation of permit**

3.12 (1) Subject to clause 7.1, a permit may be cancelled by the local government if the permit holder has not complied with a —

- (a) condition of the permit; or
- (b) determination or a provision of any written law which may relate to the activity regulated by the permit.

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

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

*Division 5—When a permit is required*

**Activities needing a permit**

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

- (a) subject to subclause 3, hire local government property;
- (b) advertise anything by any means on local government property;
- (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
- (d) teach, coach or train, for profit, any person in a pool area or an indoor recreation facility which is local government property;
- (e) plant any plant or sow any seeds on local government property;
- (f) carry on any trading on local government property unless the trading is conducted —
  - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
  - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
- (g) unless an employee of the local government in the course of her or his duties, or on an area set aside for that purpose, or a person with the approval of an authorised person—
  - (i) drive or ride or take any vehicle on to local government property; or
  - (ii) park or stand any vehicle on local government property;

- (h) conduct a function on local government property;
  - (i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
  - (j) light a fire on local government property except in a facility provided for that purpose;
  - (k) parachute, hang glide, abseil or base jump from or on to local government property;
  - (l) erect a building or a refuelling site on local government property;
  - (m) make any excavation on or erect or remove any fence on local government property;
  - (n) 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; or
  - (o) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

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

3.14 (1) In this clause —

“**facility**” has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.

(2) This clause does not apply to a facility operated by the local government.

(3) 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; or
- (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.

(4) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

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

3.15 (1) A person, on local government property, shall not consume any liquor or have in her or his possession or under her or his control any liquor, unless —

- (a) that is permitted under the *Liquor Licensing Act 1988*; and
- (b) a permit has been obtained for that purpose.

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

### *Division 6—Responsibilities of Permit Holder*

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

3.16 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) report any damage or defacement of the local government property to the local government; and
- (d) 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 Licensing Act 1988* for that purpose.

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

### *Division 1—Behaviour on and Interference with Local Government Property*

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

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

- (a) is likely to interfere with the enjoyment of a person who might use the property; or
- (b) interferes with the enjoyment of a person using the property.

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

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

(2) In subclause (1) —

“detrimental to the property” includes —

- (a) removing any thing from the local government property such as a rock, a plant or a seat provided for the use of any person; and

- (b) destroying, defacing or damaging any thing on the local government property, such as a plant, a seat provided for the use of any person or a building.

#### **Taking or injuring any fauna or flora**

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

(b) A person shall not injure, cut, pick, remove, or destroy any flora which is on or above any local government property, unless that person has the written authorization of the local government or is authorised under a written law to do so.

(2) In this clause —

“**animal**” means any living thing that is not a human being or plant; and

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

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

“**flora**” means any tree, shrub, flower, grass or plant of any kind or description.

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

4.4 A person shall not enter or remain on local government property while under the influence of liquor or a prohibited drug.

#### **No prohibited drugs**

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

### *Division 2—Signs*

#### **Signs**

4.6 (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—Fenced or Closed Property*

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

5.1 A person must 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 2—Toilet Blocks and Change Rooms*

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

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

- (a) females, then a person of the male gender shall not use that entry of the toilet block or change room; or
- (b) males, then a person of the female gender shall not use that entry of the toilet block or change room.

## **PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY**

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

6.1 (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 7—OBJECTIONS AND APPEALS**

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

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

- (a) grant a person a permit or consent under this local law; or

- (b) renew, vary, or cancel a permit or consent that a person has under this local law, the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

## PART 8—MISCELLANEOUS

### Authorised person to be obeyed

8.1 A person on local government property shall obey any lawful direction of an authorised person and shall not in any way obstruct or hinder an authorised person in the execution of her or his duties.

### Persons may be directed to leave local government property

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

### Disposal of lost property

8.3 An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by the local government in any manner it thinks fit.

### Liability for damage to local government property

8.4 (1) Where a person unlawfully damages local government property, the local government may by notice in writing to that person require that person within the time required in the notice to, at the option of the local government, pay the costs of —

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

(2) Unless there is proof to the contrary, a person is to be taken to have damaged local government property within subclause (1) where —

- (a) a vehicle or a boat caused the damage, the person was the person responsible, at the time the damage occurred, for the control of the vehicle or the boat; or
- (b) the damage occurred under a permit, the person is the permit holder in relation to that permit.

(3) 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 it.

### Decency of Dress

8.5 Where an authorised person considers that the clothing of any person on local government property is not proper or adequate to secure decency, the authorised person may order that person to put on adequate clothing and that person is to comply with the order immediately.

## PART 9—ENFORCEMENT

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

#### Offence to fail to comply with notice

9.1 Whenever the local government gives 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.

#### Local government may undertake requirements of notice

9.2 Where a person fails to comply with a notice referred to in clause 9.1, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

### *Division 2—Offences and penalties*

#### Subdivision 1—General

#### Offences and general penalty

9.3 (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

#### Prescribed offences

9.4 (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 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.

**Form of notices**

9.5 (1) For the purposes of this local law —

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (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 *Local Government (Functions and General) Regulations 1996*; 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 *Local Government (Functions and General) Regulations 1996*.

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

*Division 3—Evidence in legal proceedings*

**Evidence of a determination**

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

(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	Description	Modified Penalty \$
2.4	Failure to comply with determination	100
3.6	Failure to comply with conditions of permit	100
3.13(1)	Failure to obtain a permit	100
3.14(3)	Failure to obtain permit to camp outside a facility	100
3.15(1)	Failure to obtain permit for liquor	100
3.16	Failure of permit holder to comply with responsibilities	100
4.2(1)	Behaviour detrimental to property	100
4.4	Under influence of liquor or prohibited drug	100
4.6(2)	Failure to comply with sign on local government property	100
5.1	Unauthorised entry to fenced or closed local government property	100
5.2	Gender not specified using entry of toilet block or change room	100
6.1(1)	Unauthorised entry to function on local government property	100
9.1	Failure to comply with notice	200

**Schedule 2**

**DETERMINATIONS**

The following determinations are to be taken to have been made by the local government under clause 2.1.

**PART 1—PRELIMINARY**

**Definitions**

1.1 In these determinations unless the context otherwise requires —

“**local law**” means the *Local Government Property Local Law* made by the local government;

**Interpretation**

1.2 Unless the context otherwise requires, where a term is used but not defined in a determination and that term is defined in the local law then the term shall have the meaning given to it in the local law.

Dated 28th November 2000.

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

JOHN HAMMOND, Mayor.  
BARRY AUSTIN, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**

## TOWN OF COTTESLOE

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

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## LOCAL GOVERNMENT ACT 1995

## TOWN OF COTTESLOE

**ACTIVITIES ON THOROUGHFARES AND TRADING IN  
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 Cottesloe resolved on 22 November, 1999 to make the following proposed local law.

**PART 1—PRELIMINARY****1.1 Citation**

This local law may be cited as the Town of Cottesloe Activities on Thoroughfares and Trading in 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;

“**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;

“**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 Cottesloe*;

“**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**” or the purpose of the definition of “public place” in both this clause and clause 6.1, 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;
- “**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 —

- Streets and Footpaths By Law No 21, as published in the Government Gazette of 20 July, 1955 and 11 August, 1964, 30 May, 1975 and 19 August, 1988.
- Deposit of Rubbish on Roads, as published in the Government Gazette of 23 July, 1962.
- Removal and Disposal of Obstructing Animals and Vehicles, as published in the Government Gazette of 23 March, 1963 and 23 December, 1971.
- Street Lawns and Gardens, as published in the Government Gazette of 8 December, 1966 and 16 March, 1973.
- By Law No 36 – Relating to Crossing Places, as published in the Government Gazette of 7 June, 1935, 27 October, 1966, 31 March, 1971, 23 December, 1971 and 30 May, 1975.
- By Law No 17 – Relating to Drainage Under Footways, as published in the Government Gazette of 26 May, 1971.
- Parking of Commercial and Other Vehicles on Street Verges, as published in the Government Gazette of 16 December, 1971.
- Prevention of Damage to Footpaths, as published in the Government Gazette of 10 March, 1978 and 3 September, 1982 and 4 March, 1988.
- Trading in Streets and Public Places, as published in the Government Gazette of 4 November, 1988 and 6 December, 1996.
- Hawkers and Stallkeepers, as published in the Government Gazette of 11 November, 1988.
- Eating Areas in Streets and Other Public Places, as published in the Government Gazette of 25 November, 1988 and 19 March, 1993.

(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.

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 0.60m 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) 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 other than in a stove or fireplace provided for that purpose or under a permit issued under other written law;
  - (h) fell any tree onto a thoroughfare;
  - (i) 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 such as 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; or
  - (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.
  - (n) allow stormwater from roofs, paved or other hardstand areas and driveways to discharge into or upon any thoroughfare of public place.
- (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 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.

#### Subdivision 2—Permissible Verge Treatments

##### 2.7 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).

##### 2.8 Only Permissible Verge Treatments to be Installed

(1) A person shall not install or maintain a verge treatment that 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 2.9.

##### 2.9 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.

##### 2.10 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

##### 2.11 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*

**2.12 Power to carry out public works on verge**

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.

*Division 4—Property numbers*

*Subdivision 1—Preliminary*

**2.13 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*

**2.14 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*

**2.15 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*

**2.16 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.

**2.17 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 2.16 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*

**2.18 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—ADVERTISING SIGNS ON THOROUGHFARES***Division 1—Preliminary***3.1 Interpretation**

In this Part, unless the context otherwise requires —

“**advertising sign**” means a sign used for the purpose of advertisement and includes an “election sign”;

“**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;

“**election sign**” means a sign or poster which advertises any aspect of a forthcoming Federal, State or Local Government election; and

“**portable direction sign**” means a portable free standing direction sign; and

“**portable sign**” means a portable free standing advertising sign.

*Division 2—Permit***3.2 Advertising signs and portable direction signs**

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

(a) erect or place an advertising sign on a thoroughfare; or

(b) post any bill or paint, place or affix any advertisement on a thoroughfare.

(2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which neither exceeds 500mm in height nor 0.5m<sup>2</sup> in area, provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.

(3) Notwithstanding subclause (1), a person shall not erect or place an advertising sign —

(a) on a footpath;

(b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5m;

(c) on or within 3m of a carriageway;

(d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or

(e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

**3.3 Matters to be considered in determining application for permit**

In determining an application for a permit for the purpose of clause 3.2(1), 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 advertising signs already approved or erected in the vicinity of the proposed location of the sign;

(d) whether or not the sign will create a hazard to persons using a thoroughfare; and

(e) the amount of the public liability insurance cover, if any, to be obtained by the applicant.

*Division 3—Conditions on Permit***3.4 Conditions on portable sign**

If the local government approves an application for a permit for a portable sign, the application is to be taken to be approved subject to the following conditions —

(a) the portable sign shall —

(i) not exceed 1m in height;

(ii) not exceed an area of 1m<sup>2</sup> on any side;

(iii) relate only to the business activity described on the permit;

(iv) contain letters not less than 200mm in height;

(v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;

(vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;

(vii) be secured in position in accordance with any requirements of the local government;

(viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and

(ix) be maintained in good condition; and

(b) no more than one portable sign shall be erected in relation to the one building or business.

**3.5 Conditions on election sign**

If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign —

(a) being erected at least 30m from any intersection;

- (b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;
- (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access to a place by any person;
- (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
- (e) being maintained in good condition;
- (f) not being erected until the election to which it relates has been officially announced;
- (g) being removed within 24 hours of the close of polls on voting day;
- (h) not being placed within 100m of any works on the thoroughfare;
- (i) being securely installed;
- (j) not being an illuminated sign;
- (k) not incorporating reflective or fluorescent materials; and
- (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

#### **PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS**

##### *Division 1—Animals and Vehicles*

#### **4.1 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 authorised 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.

#### **4.2 Prohibitions relating to animals**

(1) In subclause (2), “owner” in relation to an animal includes —

- (a) an owner of it;
- (b) a person in possession of it;
- (c) a person who has control of it; and
- (d) a person who ordinarily occupies the premises where the animal is permitted to stay.

(2) An owner of an animal shall not —

- (a) 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;
- (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
- (c) 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*

#### **4.3 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.

#### **4.4 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.

#### **4.5 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.

#### **4.6 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 —

- (a) requests the local government to collect and deliver the shopping trolley to the retailer; and



- (b) 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.

#### 4.7 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 5—TRADING IN THOROUGHFARES AND PUBLIC PLACES

#### *Division 1—Stallholders and Traders*

##### Subdivision 1—Preliminary

#### 5.1 Interpretation

In this Division, unless the context otherwise requires —

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

“**public place**” includes —

- (a) any thoroughfare or place which the public are allowed to use whether or not the thoroughfare or place is on private property; and
- (b) local government property,

but does not include premises on private property from which trading is lawfully conducted under a written law.

“**stall**” means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold, hired or offered for sale or hire;

“**stallholder**” means a person in charge of a stall;

“**stallholder’s permit**” means a permit issued to a stallholder;

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

“**trader’s permit**” means a permit issued to a trader; and

“**trading**” includes —

- (a) the selling or hiring of, the offering for sale or hire of or the soliciting of orders for goods or services in a public place;
- (b) displaying goods in any public place for the purpose of —
  - (i) offering them for sale or hire;
  - (ii) inviting offers for their sale or hire;
  - (iii) soliciting orders for them; or
  - (iv) carrying out any other transaction in relation to them; and
- (c) the going from place to place, whether or not public places, and —
  - (i) offering goods or services for sale or hire;
  - (ii) inviting offers or soliciting orders for the sale or the hire of goods or services; or
  - (iii) carrying out any other transaction in relation to goods or services,

but does not include —

- (d) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder’s permit;
- (e) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from a person who sells those goods or services;
- (f) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; and
- (g) the selling or hiring or the offering for sale or hire of —
  - (i) goods by a person who represents a manufacturer of the goods; or
  - (ii) services by a person who represents a provider of the services,
 which are sold directly to consumers and not through a shop.

##### Subdivision 2—Permits

#### 5.2 Stallholder’s permit

(1) A person shall not conduct a stall on a public place unless that person is —

- (a) the holder of a valid stallholder’s permit; or
- (b) an assistant specified in a valid stallholder’s permit.

(2) Every application for a stallholder’s permit shall —

- (a) state the full name and address of the applicant;
- (b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;
- (c) specify the proposed location of the stall;
- (d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;

- (e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and
- (f) be accompanied by an accurate plan and description of the proposed stall.

### **5.3 Trader's permit**

- (1) A person shall not carry on trading unless that person is —
  - (a) the holder of a valid trader's permit; or
  - (b) an assistant specified in a valid trader's permit.
- (2) Every application for a trader's permit shall —
  - (a) state the full name and address of the applicant;
  - (b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;
  - (c) specify the location or locations in which the applicant proposes to trade;
  - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;
  - (e) specify the proposed goods or services which will be traded; and
  - (f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.
- (3) The conditions subject to which the local government may approve an application for a trader's permit include that the permit holder is permitted to remain at a particular location for as long as there is a customer making a purchase, but if there is no customer making a purchase the permit holder must move on from that location within a reasonable time of the last purchase having been made.

### **5.4 No permit required to sell newspaper**

Notwithstanding any other provision of this local law, a person who sells, or offers for sale, a newspaper is not required to obtain a permit.

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

- (1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to —
  - (a) any relevant policies of the local government;
  - (b) the desirability of the proposed activity;
  - (c) the location of the proposed activity;
  - (d) the principles set out in the Competition Principles Agreement; and
  - (e) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds —
  - (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;
  - (b) that the applicant is not a desirable or suitable person to hold a permit;
  - (c) that —
    - (i) the applicant is an undischarged bankrupt or is in liquidation;
    - (ii) the applicant has entered into any composition or arrangement with creditors; or
    - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property; or
  - (d) such other grounds as the local government may consider to be relevant in the circumstances of the case.

### **5.6 Conditions of permit**

- (1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include —
  - (a) the place, the part of the district, or the thoroughfare to which the permit applies;
  - (b) the days and hours during which a permit holder may conduct a stall or trade;
  - (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;
  - (d) the goods or services in respect of which a permit holder may conduct a stall or trade;
  - (e) the number of persons and the names of persons permitted to conduct a stall or trade;
  - (f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;
  - (g) whether and under what terms the permit is transferable;
  - (h) any prohibitions or restrictions concerning the —
    - (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;
    - (ii) the use of amplifiers, sound equipment and sound instruments;

- (iii) the use of signs; and
  - (iv) the use of any lighting apparatus or device;
  - (i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;
  - (j) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;
  - (k) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;
  - (l) the acquisition by the stallholder or trader of public risk insurance;
  - (m) the period for which the permit is valid; and
  - (n) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.
- (2) Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may at the request of that permit holder authorise another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit shall apply to the nominee as if he or she was the permit holder.

### 5.7 Exemptions from requirement to pay fee or to obtain a permit

(1) In this clause —

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

“**commercial participant**” means any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit.

(2) The local government may waive any fee required to be paid by an applicant for a stallholder's permit or a trader's permit on making an application for or on the issue of a permit, or may return any such fee which has been paid, if the stall is conducted or the trading is carried on —

(a) on a portion of a public place adjoining the normal place of business of the applicant;

or

(b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of a stall or trading, and any assistants that may be specified in the permit are members of that charitable organisation.

(3) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place, from the requirements of this Division.

#### Subdivision 3—Conduct of Stallholders and Traders

### 5.8 Conduct of stallholders and traders

(1) A stallholder while conducting a stall or a trader while trading shall —

(a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting a stall or trading;

(b) not display a permit unless it is a valid permit; and

(c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *Weights and Measures Act 1915*.

(2) A stallholder or trader shall not —

(a) deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;

(b) act in an offensive manner;

(c) use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or

(d) in the case of a trader, carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading.

#### *Division 2—Street entertainers*

##### Subdivision 1—Preliminary

### 5.9 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 6.10;

“**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.

## Subdivision 2—Permits

**5.10 Permit required to perform**

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

**5.11 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.

**5.12 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.

**5.13 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 authorised person, the performance otherwise constitutes a nuisance.

**5.14 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 3—Outdoor eating facilities on public places***5.15 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 5.16; and

“**public place**” has the meaning given to it in clause 5.1.

**5.16 Permit required to conduct Facility**

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

**5.17 Matters to be considered in determining application**

In determining an application for a permit for the purpose of clause 5.16, 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.

**5.18 Obligations of permit holder**

(1) The permit holder for a Facility shall —

- (a) 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*;
- (b) ensure that the eating area is kept in a clean and tidy condition at all times;
- (c) maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times;

(d) 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

(e) 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.

#### **5.19 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 authorised person and impounded in accordance with the Act.

#### **5.20 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.

#### **5.21 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 authorised 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 6—PERMITS**

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

##### **6.1 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 —

(a) be in the form determined by the local government;

(b) be signed by the applicant;

(c) provide the information required by the form; 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.

(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).

##### **6.2 Decision on application for permit**

(1) The local government may —

(a) approve an application for a permit unconditionally or subject to any conditions; or

(b) 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*

##### **6.3 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.

#### **6.4 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 6.2(1)(a).

(2) Under clause 6.2(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 6.2(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.

#### **6.5 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*

#### **6.6 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 7.10.

#### **6.7 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.

#### **6.8 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.

#### **6.9 Production of permit**

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

**6.10 Cancellation of permit**

(1) Subject to clause 8.1, 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 7—OBJECTIONS AND APPEALS****7.1 Application of Part 9 Division 1 of Act**

When the local government makes a decision —

- (a) under clause 6.2(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 apply to that decision.

**PART 8—MISCELLANEOUS NOTICES****8.1 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.

**8.2 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.

**8.3 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.

**8.4 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 9—ENFORCEMENT***Division 1—Notices given under this local law***9.1 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.

**9.2 Local government may undertake requirements of notice**

Where a person fails to comply with a notice referred to in clause 10.1, 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***9.3 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

**9.4 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.

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

(2) 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.

**9.5 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 0.60 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 within a 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(e)	Placing or draining offensive fluid on thoroughfare without a permit	200
2.2(g)	Lighting a fire on a thoroughfare without a permit	300
2.2(h)	Felling tree onto thoroughfare without a permit	100
2.2(i)	Installing pipes or stone on thoroughfare without a permit	100
2.2(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	300
2.2(k)	Creating a nuisance on a thoroughfare without a permit	100
2.2(l)	Placing a bulk rubbish container on a thoroughfare without a permit	100
2.2(n)	Allowing stormwater from roofs, paved or similar hardstand areas, and driveways to discharge into or upon any thoroughfare of public place without a permit.	200
2.2(m)	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
2.8(1)	Installation of verge treatment other than permissible verge treatment	200
2.9	Failure to maintain permissible verge treatment or placement of obstruction on verge	100
2.10	Failure to comply with notice to rectify default	100
2.16(2)	Failure to comply with sign on public place	100
2.18(1)	Driving or taking a vehicle on a closed thoroughfare	300
3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	100
3.2(3)	Erecting or placing of advertising sign in a prohibited area	100
4.1(1)	Animal or vehicle obstructing a public place or local government property	100
4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	100
4.2(2)(b)	Animal on public place with infectious disease	100



Clause	Description	Modified Penalty \$
4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	100
4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	100
4.5	Person leaving shopping trolley in public place other than trolley bay	100
4.6(2)	Failure to remove shopping trolley upon being advised of location	100
5.2(1)	Conducting of stall in public place without a permit	300
5.3(1)	Trading without a permit	300
5.8(1)(a)	Failure of stallholder or trader to display or carry permit	100
5.8(1)(b)	Stallholder or trader not displaying valid permit	100
5.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	100
5.8(2)	Stallholder or trader engaged in prohibited conduct	100
5.10	Performing in a public place without a permit	100
5.11(2)	Failure of performer to move onto another area when directed	100
5.14	Failure of performer to comply with obligations	100
5.16	Establishment or conduct of outdoor eating facility without a permit	300
5.18	Failure of permit holder of outdoor eating facility to comply with obligations	100
5.20(1)	Use of equipment of outdoor eating facility without purchase of food or drink from facility	50
5.20(2)	Failure to leave outdoor eating facility when requested to do so by permit holder	50
6.5	Failure to comply with a condition of a permit	100
6.9	Failure to produce permit on request of authorised person	100
9.1	Failure to comply with notice given under local law	100

Dated 28th of November 2000.

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

JOHN HAMMOND, Mayor.  
BARRY AUSTIN, Chief Executive Officer.

**Form 1**

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

*Town of Cottesloe*

**APPLICATION FOR INSTALLATION OF A CROSSING**

To: CEO  
Town of Cottesloe  
109 Broome Street  
COTTESLOE WA 6011

Sir/Madam,

I/We apply for approval to install a crossing/temporary crossing from land owned by me/us and situated at lot ..... subdivision ..... Street .....

To give access to ..... Street.

The required position of the crossing is ..... metres from the boundary of the land and the width required is ..... metres.

This crossing \* is /is not the first crossing in respect of the land.

\* I/We understand that the crossing must be constructed under the superintendence and to the satisfaction of the CEO, and that my/our contribution to the cost is to be .....

\* I/We request the local government to construct the crossing in the terms of the local laws and local government policies.

\* (delete if not applicable)

Signature of owner/s: .....

Address: .....

**Form 2**

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

*Town of Cottesloe*

**APPLICATION FOR A PERMIT TO CONDUCT AN OUTDOOR EATING FACILITY**

To: CEO,  
Town of Cottesloe,  
109 Broome Street,  
COTTESLOE WA 6011

I, ..... (Full Name)  
of ..... (Residential Address)  
..... (Postal Address)  
..... (Occupation)

apply for a permit to set up and conduct an eating area

Details of Proposed Eating Areas: .....

Location of proposed eating area: .....

Description of eating house adjacent to proposed eating area: .....

Proposed days of operation: .....

Proposed hours of operation: .....

Proposed number of tables: .....

Proposed number of other structures: .....

Description of tables and chairs including materials and dimensions: .....

Description of other structures including materials and dimensions: .....

I declare that:

- the eating house referred to in Item 2 above is registered in accordance with the *Health Act 1911* and the *Town of Cottesloe* town planning scheme;
- I am the proprietor of the eating house and am licensed in respect of that eating house in accordance with the Health Act 1911.

The following are attached:

- Two copies of a plan and specifications of the proposed eating area on a scale of 1:50 showing:
  - the location and dimensions of the proposed eating area and the means by which the eating areas are to be separated from the balance of the street or public place: and
  - the position of all tables, chairs and other structures proposed to be provided in the eating area and which of such items, if any, are to be retained within the eating area at all times;
- Two copies of both a plan and specifications on a scale of 1:200 showing the eating area and all land together with any improvements, public facilities and parking restrictions, within 30 metres of the boundaries of the eating area;
- A colour photograph or photographs of the tables, chairs, and other structures to be set up in the eating area;
- A written statement of the manner in which foodstuffs and other dining accessories are to be conveyed to, and protected from contamination within the eating area; and
- Written particulars of arrangements made in respect of public liability insurance in the sum of ten million dollars.

In making this application for a permit, I agree on the issue of the permit —

- to indemnify and hold indemnified the Crown and the *Town of Cottesloe* against any claims for loss, damage or injury however arising from the operation of the eating area; and
- not to claim from the Crown or the *Town of Cottesloe* or any person acting on their behalf, for any loss, damage or injury however arising from any public work on the thoroughfare or public place.

I enclose:

- the prescribed fee of \$ .....; and
- the prescribed charge of \$ .....

Dated this ..... day of ..... 2000.

.....  
(signature of applicant)

\_\_\_\_\_

**Form 3**

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES  
AND PUBLIC PLACES LOCAL LAW

*Town of Cottesloe*

**PERMIT TO CONDUCT AN OUTDOOR EATING FACILITY**

This permit is to: ..... (Full name)  
..... (address)

("the permit holder")

This permit authorizes the person named above to set up and conduct an eating area:

- on those portions of the thoroughfare or public place shaded in on the permit plan attached to and forming part of this permit; and
- in compliance with the following conditions:  
(insert conditions)

This permit is valid from the ..... day of ..... and expires at 12:00 o'clock  
midnight on ..... or on the sooner cancellation of this permit.

In accepting this permit, the permit holder agrees:

- to indemnify and hold indemnified the Crown and the Town of Cottesloe against any claims for any loss, damage or injury however arising from the operation of the eating area; and
- not to claim from the Crown or the Town of Cottesloe or any person acting on their behalf, for any loss, damage or injury however arising from any public work on the thoroughfare or public place.

Issued this ..... day of ..... 2000.

.....  
CEO

\_\_\_\_\_

**Form 4**

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES  
AND PUBLIC PLACES LOCAL LAW

*Town of Cottesloe*

**TRANSFER OF PERMIT TO CONDUCT AN OUTDOOR EATING FACILITY**

The *Town of Cottesloe* transfers the permit to conduct an eating area situated at

.....  
.....

from the present holder .....

to .....

of ..... ("transferee")

for the period from the date of this transfer until .....

In accepting this Transfer of Permit, the transferee agrees:

- to idemnify and hold indemnified the Crown and the *Town of Cottesloe* against any claim for any loss, damage or injury however arising from the operation of the eating area; and
- not to claim from the Crown or the *Town of Cottesloe* or any person acting on their behalf, for any loss, damage or injury however arising from any public work on the thoroughfare or public place.

.....  
CEO

\_\_\_\_\_

**Form 5**

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES  
AND PUBLIC PLACES LOCAL LAW

*Town of Cottesloe*

**APPLICATION FOR TRADER'S PERMIT**

To: CEO  
Town of Cottesloe  
109 Broome Street  
COTTESLOE WA 6011

I, ..... (Full Name)  
of ..... (Residential Address)  
..... (Postal Address)  
..... (Occupation)  
..... (Telephone Number)

apply for a trader's permit under the Town of Cottesloe Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.

**Details of Proposed Trading:**

Method of Trading (eg. door to door sales, selling form fixed site(s)): .....

Location or part of the district for which permit is required: .....

Description of stand, table, structure or vehicle proposed to be used by the applicant:

.....  
.....  
.....

Kind of goods or services intended to be sold or hired: .....

.....  
.....

Number, names and addresses of assistants: .....

.....  
.....

Proposed days of operation: .....

Proposed hours of operation: .....

Period for which the permit is sought: .....

Attached are:

- an accurate plan and description of any proposed stand, structure or vehicle which may be used for the proposed trading; and
- details of arrangements made in respect of public liability insurance in the joint names of the applicant and the *Town of Cottesloe*

I enclose:

- the permit fee of \$.....
- the additional daily / weekly / monthly annual charge of \$.....
- Total \$.....

Dated this ..... day of.....

.....  
(signature of Applicant)

**Form 6**

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES  
AND PUBLIC PLACES LOCAL LAW

*Town of Cottesloe*

**TRADER'S PERMIT**

This permit is issued to: ..... (Full Name)

of ..... (Address)

("the permit holder")

This permit is issued subject to the following conditions:

Location / part of district to which the permit applies: .....

.....  
.....

Description of stand, table, structure or vehicle to be used by the permit holder: .....

Goods or services to be sold or hired: .....

Number, names and addresses of assistants: .....

Approved days of operation: .....

Approved hours of operation: .....

Other conditions: .....

This permit is valid from the ..... day of ..... and expires at 12:00 o'clock midnight on ..... day of ..... or on the sooner cancellation of this permit.

Issued this ..... day of .....

.....

CEO

**Form 7**

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

*Town of Cottesloe*

**APPLICATION FOR STALLHOLDER'S PERMIT**

To: CEO  
 Town of Cottesloe  
 109 Broome Street  
 COTTESLOE WA 6011

I, ..... (Full Name)  
 of ..... (Residential Address)  
 ..... (Postal Address)  
 ..... (Occupation)  
 ..... (Telephone Number)

apply for a stallholder's permit under the *Town of Cottesloe* Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.

**Details of Proposed Stall**

Location of proposed site for which the permit is sought: .....

Description of stall/s proposed to be used by the applicant: .....

Kind of goods or service intended to be sold or hired: .....

Number, names and addresses of assistants: .....

Proposed days of operation: .....

Proposed hours of operation: .....

Period for which the permit is sought: .....

Attached are:

- an accurate plan and description of proposed stall/s; and
- details of arrangements made in respect of public liability insurance in the joint names of the applicant and the *Town of Cottesloe*

I enclose:

- the permit fee \$.....
- the additional daily / weekly / monthly annual charge of \$.....
- Total \$.....

Dated this ..... day of.....

.....  
 (signature of Applicant)

**Form 8**

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES LOCAL LAW

*Town of Cottesloe*

**STALLHOLDER'S PERMIT**

This permit is issued to: ..... (Full Name)  
of ..... (Address)  
("the permit holder")

This permit is issued subject to the following conditions:

Location to which the permit applies: .....  
.....  
.....

Description of stall/s to be used by the permit holder: .....  
.....

Goods or services to be sold or hired: .....  
.....

Number, names and addresses of assistants: .....  
.....  
.....

Approved days of operation: .....

Approved hours of operation: .....

Other conditions: .....  
.....

This permit is valid from the ..... day of ..... and expires at 12:00 o'clock midnight on ..... day of ..... or on the sooner cancellation of this permit.

Issued this ..... day of .....  
.....

CEO

**Form 9**

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES LOCAL LAW

*Town of Cottesloe*

**APPLICATION FOR PERMIT TO PERFORM**

To: CEO  
Town of Cottesloe  
109 Broome Street  
COTTESLOE WA 6011

I, ..... (Full Name)  
of ..... (Residential Address)  
..... (Postal Address)  
..... (Occupation)  
..... (Telephone Number)

apply for a permit to perform under the *Town of Cottesloe* Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.

**Details of Proposed Performance:**

Nature of proposed performance: .....  
.....  
.....

Description of any musical instrument, loud speaker or amplifier to be used: .....  
.....  
.....

Preferred permitted area: .....

Preferred permitted times: .....

Dated this ..... day of .....  
.....

(signature of Applicant)

**Form 10**

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

*Town of Cottesloe*

**PERMIT TO PERFORM**

This permit is issued to:

..... (Full Name)

..... (Residential Address)

to perform in the following areas and times for a period of three months commencing on the date of issue of this permit, unless it is sooner cancelled.

Permitted areas: .....

Permitted times: .....

The permit authorizes [*insert nature of proposed performance*] .....

..... and the use of [*insert description of any musical instrument, loud speaker or amplifier to be used*] .....

.....

Issued this ..... day of .....

.....

CEO

\_\_\_\_\_

**DOG ACT 1976**

TOWN OF COTTESLOE

**DOGS LOCAL LAW**

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**SCHEDULE 1**



**DOG ACT 1976**

## TOWN OF COTTESLOE

**DOGS LOCAL LAW**

Under the powers conferred by the *Dog Act 1976* and under all other powers enabling it, the Council of the *Town of Cottesloe* resolved on 13 December, 1999, to make the following proposed local law.

**PART 1—PRELIMINARY****1.1 Citation**

This local law may be cited as the *Town of Cottesloe Dogs Local Law*.

**1.2 Repeal**

The Town of Cottesloe Local Law No. 34 Relating to Dogs, published in the *Government Gazette* on 4 November, 1988, is repealed.

**1.3 Definitions**

In this local law unless the context otherwise requires —

“**Act**” means the *Dog Act 1976*;

“**authorised person**” means a person authorised by the local government to perform all or any of the functions conferred on an authorised person under this local law;

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

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

“**owner**” in relation to a dog means —

- (a) the person by whom the dog is ordinarily kept; or
- (b) the person who is deemed by the Act to be the owner of the dog;

“**person liable for the control of the dog**” means each of the following —

- (a) the registered owner of the dog;
- (b) the owner of the dog;
- (c) the occupier of any premises where the dog is ordinarily kept or permitted to live; or
- (d) a person who has the dog in his possession or under his or her control, but does not include a registered veterinary surgeon, or a person acting on his or her behalf in the course of his or her professional practice, or a police officer or other person acting under statutory duty or in the administration of the Act;

“**pound keeper**” means a person authorised by the local government to perform all or any of the functions conferred on a “pound keeper” under this local law;

“**Regulations**” means the *Dog Regulations 1976*;

“**premises**” shall, for the purpose of determining who is the occupier, be taken to refer to any land or building, or part of any land or building, that is or is intended to be occupied as a separate residence from any adjacent tenement;

“**public place**” means any place to which the public has access;

“**thoroughfare**” has the meaning given to it in section 1.4 of the *Local Government Act 1995*;  
and

“**town planning scheme**” means a town planning scheme made by the local government under the *Town Planning and Development Act 1928* which applies throughout the whole or a part of the district.

**1.4 Application**

This local law applies throughout the district.

**PART 2— IMPOUNDING OF DOGS****2.1 Charges and costs**

The following are to be imposed and determined by the local government under sections 6.16 - 6.19 of the *Local Government Act 1995* —

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;

- (b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

### **2.2 Attendance of pound keeper at pound**

The pound keeper is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are determined by the CEO.

### **2.3 Release of impounded dog**

- (1) A claim for the release of a dog seized and impounded is to be made to the pound keeper or in the absence of the pound keeper, to the CEO.
- (2) The pound keeper is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper, satisfactory evidence —
  - (a) of her or his ownership of the dog or of her or his authority to take delivery of it; or
  - (b) that he or she is the person identified as the owner on a microchip implanted in the dog.

### **2.4 No breaking into or destruction of pound**

A person who —

- (a) unless he or she is the pound keeper or a person authorised to do so, releases or attempts to release a dog from a pound; or
- (b) destroys, breaks into, damages or in any way interferes with or renders not dog-proof —
  - (i) any pound; or
  - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog, commits an offence.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

## **PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS**

### **3.1 Dogs to be confined**

- (1) An occupier of premises on which a dog is kept must —
  - (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
  - (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
  - (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises and is fitted with a proper latch or other means of fastening it;
  - (d) maintain the fence and all gates and doors in the fence in good order and condition; and
  - (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
- (2) Where an occupier fails to comply with subclause (1), he or she commits an offence.

Penalty: Where the dog kept is a dangerous dog, \$2,000; otherwise \$1,000.

### **3.2 Limitation on the number of dogs**

- (1) This clause does not apply to premises which have been granted an exemption under section 26(3) of the Act.
- (2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act is 2 dogs over the age of 3 months and the young of those dogs under that age.

## **PART 4—DOGS IN PUBLIC PLACES**

### **4.1 Places where dogs are prohibited absolutely**

- (1) Dogs are prohibited absolutely from entering or being in any of the following places —
  - (a) where so indicated by a sign, a public building;
  - (b) a theatre;
  - (c) all premises or vehicles classified as food premises or food vehicles under the *Health (Food Hygiene) Regulations 1993*;
  - (d) a public beach or Reserve not being a beach or Reserve prescribed in clause 4.2 ; and
  - (e) “children’s playground” designated by sand/soft fall area or fence.
- (2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

#### 4.2 Places which are dog exercise areas

(1) Subject to clause 4.1 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, the following are dog exercise areas within the Town of Cottesloe:—

##### Public Beaches

###### Southern Dog Beach

The public beach situated to the south of the northern side of the access path to the beach groyne (located generally in a westerly direction across Marine Parade from the prolongation of Beach Street) then southerly to the southern boundary of the district.

###### Northern Dog Beach

The public beach situated to the north of the prolongation westerly of the southern boundary of Lot 67 of Cottesloe Suburban Lot 13 to the western boundary of the municipality and thence northerly to the northern boundary of the municipality except between the hours of 10.00 am and 4.00pm from 1st November to 31st March (both dates inclusive) during which time this public beach shall be a prohibited area.

##### Reserves

- (a) Reserve A 1203 known as Grant Marine Park
  - (b) Reserve 29939 known as Andrews Place
  - (c) Reserve 24793 known as Jasper Green Reserve
  - (d) Cottesloe Oval, Reserve A6271 (Cottesloe Suburban Lot 63)
  - (e) Harvey Field, Part of Reserve A1664 (Cottesloe Suburban Lot 68)
  - (f) In Curtin Avenue
  - (g) In Railway Street:
    - (i) An area bounded on the north by the prolongation westerly of the southern alignment of William Street; on the south by the prolongation westerly of the northern alignment of Eric Street; on the east by a line 3 metres to the west of and parallel to the western edge of the constructed road pavement; and on the west by the eastern boundary of the Railway Reserve.
    - (ii) An area bounded on the north by the prolongation westerly of the southern alignment of Eric Street; on the south by the prolongation westerly of the northern alignment of Burt Street; on the east by a line 3 metres to the west of and parallel to the western edge of the constructed road pavement; and on the west by the eastern boundary of the Railway Reserve.
  - (h) John Black Dune Reserve A3235 (part of Napier Street Reserve):
    - (i) An area bounded on the north by the prolongation easterly of the southern alignment of Eric Street; on the south by the prolongation easterly of northern alignment of Forrest Street; on the east by the western boundary of the Railway Reserve; and on the west by a line 3 metres to the east of, and parallel to the eastern edge of the constructed road pavement.
    - (ii) An area bounded on the north by the prolongation easterly of the southern alignment of Grant Street; on the south by the prolongation easterly of the northern alignment of Florence Street; on the east by the western boundary of the Railway Reserve; and on the west by a line 3 metres to the east of and parallel to the eastern edge of the constructed road pavement.
    - (iii) John Black Dune Reserve A3235 (part of Napier St Reserve) between the constructed Car Park adjoining the western boundary and the Tennis Courts and appurtenances constructed on the eastern boundary.
- (2) Subclause (1) does not apply to —
- (a) land which has been set apart as a children's playground;
  - (b) an area being used for sporting or other activities, as permitted by the local government, during the times of such use; or
  - (c) a car park.

### PART 5—MISCELLANEOUS

#### 5.1 Offence to excrete

(1) A dog must not excrete on —

- (a) any thoroughfare or other public place; or
- (b) any land which is not a public place without the consent of the occupier.

(2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

Penalty: \$200.

(3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

### PART 6—ENFORCEMENT

#### 6.1 Interpretation

In this Part —

“**infringement notice**” means the notice referred to in clause 6.3; and

“**notice of withdrawal**” means the notice referred to in clause 6.6(1).

### 6.2 Modified penalties

(1) The offences contained in Schedule 1 are offences in relation to which a modified penalty may be imposed.

(2) The amount appearing in the third column of Schedule 1 directly opposite an offence is the modified penalty payable in respect of that offence if —

- (a) the dog is not a dangerous dog; or
- (b) the dog is a dangerous dog, but an amount does not appear in the fourth column directly opposite that offence.

(3) The amount appearing in the fourth column of Schedule 1 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

### 6.3 Issue of infringement notice

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 7 of the First Schedule of the Regulations.

### 6.4 Failure to pay modified penalty

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

### 6.5 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

### 6.6 Withdrawal of infringement notice

(1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 8 of the First Schedule of the Regulations.

(2) A person authorised to issue an infringement notice under clause 6.3 cannot sign or send a notice of withdrawal.

### 6.7 Service

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.

## Schedule 1

(clause 6.2)

### OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES

Offence	Nature of Offence	Modified Penalty \$	Dangerous Dog Modified Penalty \$
2.4(a)	Attempting to or causing the unauthorised release of a dog from a pound	200	400
2.4(b)&(c)	Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs	200	
3.1	Failing to provide means for effectively confining a dog	100	200
4.1(2)	Dog in place from which prohibited absolutely	200	400
5.1(2)	Dog excreting in prohibited place	50	

Dated 28th of November 2000

The Common Seal of the Town of Cottesloe was affixed by authority of a resolution of the Council in the presence of:

JOHN HAMMOND, Mayor.  
BARRY AUSTIN, Chief Executive Officer.



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