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LOCAL GOVERNMENT ACT 1995

CITY OF GOSNELLS

**THOROUGHFARES AND
PUBLIC PLACES LOCAL LAW
2012**

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THOROUGHFARES AND PUBLIC PLACES LOCAL LAW 2012

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Gosnells resolved on 28 February 2012 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Gosnells Thoroughfares and Public Places Local Law 2012*.

1.2 Commencement

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

1.3 Repeal

The following local laws are repealed—

The *City of Gosnells Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2000* published in the *Government Gazette* on 7 March 2001.

The City of Gosnells By-laws relating to Signs, Hoardings and Bill Posting published in the *Government Gazette* on 10 June 1988.

1.4 Interpretation

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

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

bulk container means a portable container designed or used for storage of materials and which is unlikely to be lifted without mechanical assistance and includes sea containers;

bulk rubbish collection means a collection service by the local government for green waste and general items that cannot be disposed off through a normal weekly rubbish collection service;

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 governments regular domestic rubbish collection service;

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

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 City of Gosnells;

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 City of Gosnells;

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

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 2000*;

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;

local government means the City of Gosnells;

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 *Planning and Development Act 2005*;

owner or **occupier** in relation to land does not include the local government;

permissible verge treatment means any of the 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 means a building or similar structure, but does not include a carpark or a similar place;

public place includes any place to which the public has or is permitted to have access, but does not include—

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

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

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

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

town planning scheme means a town planning scheme of the local government made under the former *Town Planning and Development Act 1928* or a local planning scheme of the local government made under the *Planning and Development Act 2005*;

vehicle includes—

- (a) every conveyance and every object, or part of a conveyance or 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.

1.5 Application

This local law applies throughout the district.

PART 2—ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES

Division 1—General

2.1 General prohibitions

A person shall not—

- (a) plant any plant (except grasses or a similar plant) 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 on a thoroughfare unless—
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn, garden or 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 anything on a footpath (except water) which may create a hazard for any person using the footpath;
- (e) unless at the direction of the local government or an authorised person, 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 bicycle, skateboard, rollerblades or similar device.

2.2 Activities allowed with a permit

- (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 4 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 and manner prescribed in any advertising literature distributed in connection with that collection by the local government;
 - (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
 - (d) cause any obstruction to a water channel or a water course in a thoroughfare;
 - (e) damage a thoroughfare;
 - (f) light any fire or cause anything to burn on a thoroughfare other than in a stove or fireplace provided for that purpose;
 - (g) fell any tree onto a thoroughfare;
 - (h) unless in order to maintain a permissible verge treatment—
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
 - (i) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
 - (j) place or cause to be placed on a thoroughfare a bulk rubbish container;
 - (k) place or cause to be placed on a thoroughfare a bulk container for the temporary storage of materials;
 - (l) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare; and
 - (m) erect a building, fence or other structure on a thoroughfare.
- (2) The local government or an authorised person may exempt a person from compliance with subclause (1) on the application of that person.

Division 2—Vehicle crossings

Subdivision 1—Temporary crossings

2.3 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 a building permit issued under the *Building Act 2011* in relation to the works; or
 - (b) the registered proprietor of the lot, if no building licence has been issued in relation to the works.
- (3) If the local government or an authorised person 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

2.4 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.
- (2) An authorised person 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.

*Division 3—Driving on a closed thoroughfare***2.5 No driving on closed thoroughfare**

- (1) In this clause—
- closed thoroughfare** means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.

- (2) 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.

Division 4—Verge treatments

Subdivision 1—Preliminary

2.6 Interpretation

In this Division, unless the context otherwise requires—

acceptable material means any of the following—

- (a) Organic mulch and woodchips; and
- (b) Artificial lawn;

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 or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
 - (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; and
 - (iii) plantings are maintained at a height no greater than 600mm; or
- (c) the installation of an acceptable material.

(3) Acceptable materials that prevent water penetration are not to be installed closer than 2m to an existing verge tree.

2.8 Only permissible verge treatments to be installed

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

(2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 2.9.

2.9 Obligations of owner or occupier

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

- (a) 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 disturb a footpath on the verge;
- (c) ensure the verge treatment does not damage or obstruct a drain, manhole, gully, inspection pit, channel, kerb or tree planted by the local government; and
- (d) ensure any sprinklers, pipes or other reticulation equipment does not protrude above the level of the lawn or the garden when not in use.

2.10 Notice to owner or occupier

The local government or an authorised person 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 5—Street numbers***2.13 Interpretation**

In this Division, unless the context requires otherwise—

street number means a number or numbers with or without an alphabetical suffix assigned to identify the street address of a lot.

2.14 Assignment of street numbers

- (1) The local government shall assign street numbers within the district.
- (2) The local government may assign a different street number to that previously assigned.
- (3) A person shall not adopt, use or display a street number other than that street number assigned by the local government.

2.15 Street number to be displayed

- (1) The owner or occupier may display the street number on a kerb.
- (2) The street number shall face the front of the street to which the street number was issued.

*Division 6—Fencing***2.16 Public place—Item 4(1) of Division 1, Schedule 3.1 of Act**

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

- (a) a public place, as that term is defined in clause 1.4; and
- (b) local government property.

PART 3 –SIGNS*Division 1—Preliminary***3.1 Interpretation**

In this Part, unless the context otherwise requires—

sign includes a signboard, portable sign, advertising sign, direction sign, election sign, bunting sign or flag.

*Division 2—Signs erected by the local government***3.2 Signs**

- (1) The City 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.

3.3 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 3.2 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 3—Permits***3.4 Signs on thoroughfares**

- (1) A person shall not, without a permit—
 - (a) erect or place any sign on a thoroughfare; or
 - (b) post any bill or paint, place or affix any advertisement on a thoroughfare.

- (2) Notwithstanding subclause (1), a person shall not erect or place any sign—
- (a) on a footpath;
 - (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.7m;
 - (c) on or within 2m of a carriageway;
 - (d) in any other location where, in the opinion of an authorised person, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
 - (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) The local government or an authorised person may exempt a person from compliance with subclause (1) on the application of that person.

3.5 Matters to be considered in determining application for permit

In determining an application for a permit for the purpose of clause 3.4(1), the local government or an authorised person is to have regard to—

- (a) any other written law regulating the erection or placement of signs within the district;
- (b) the dimensions of the sign;
- (c) other signs already approved or erected in the vicinity of the proposed location of the 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.

3.6 Conditions on permits

If the local government or an authorised person approves an application for a permit, the application is to be taken to be approved subject to the sign—

- (a) being maintained in good condition;
- (b) in the case of a portable sign, not exceeding 1m in height;
- (c) in the case of a portable sign, not exceeding an area of 0.25m² on any side;
- (d) relate only to the activity described on the permit;
- (e) being securely installed, free standing and not affixed to any existing sign, post, power or light pole, or similar structure;
- (f) not being placed within 100m of any works on the thoroughfare;
- (g) being placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person;
- (h) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
- (i) being erected at least 50m from any intersection;
- (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 in public place or on local government property

(1) A person shall not leave an animal 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.

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.

4.3 Prohibitions relating to vehicles

A person shall not paint, repair, alter or maintain a vehicle in a public place or on local government property except to effect minor repairs or services in an emergency for the purpose of enabling the vehicle to be put in motion.

Division 2—Shopping trolleys

4.4 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.

4.5 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).

(3) If the shopping trolley has not been removed by a retailer in accordance with subclause (2), the shopping trolley may be impounded.

4.6 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—

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;
- (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 delivery of pre-ordered goods or services or the taking of further orders for goods or services.
- (e) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder's permit;
- (f) 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;

- (g) 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
- (h) 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 and trading permits

- (1) A person shall not conduct a stall or carry on trading on a public place unless that person is—
 - (a) the holder of a valid stallholder or trading permit; or
 - (b) an assistant specified in a valid stallholder or trading permit.
- (2) Every application for a stallholder or trading 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 or trade, as well as their names and addresses if already engaged;
 - (c) specify the proposed location of the stall or location 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 operation;
 - (e) specify the proposed goods or services to be sold, hired, offered for sale or traded; and
 - (f) be accompanied by an accurate plan and description of the proposed stall, structure or vehicle which may be used by the applicant.

5.3 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.

5.4 Conditions of permit

- (1) If the local government or an authorised person 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 trade;
 - (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, an authorised person 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.

5.5 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 or trading 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 or an authorised person 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

5.6 Conduct of stallholders and traders

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

- (a) display the permit in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit 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 *Trade Measurement Administration Act 2006*.

(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

5.7 Interpretation

In this Division, unless the context otherwise requires—

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

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 5.8;

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.

5.8 Permit required to perform

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

5.9 Variation of permitted area and permitted time

(1) An authorised person 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) An authorised person 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.

5.10 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.

5.11 Cancellation of permit

An authorised person may cancel a permit if, in the opinion of the authorised person, 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 the performance otherwise constitutes a nuisance.

5.12 Obligations of permit holder

A permit holder shall not in a public place—

- (a) perform unless properly dressed in clothing which covers the body to prevent indecent exposure;
- (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

5.13 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 5.14; and

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

5.14 Permit required to conduct a Facility

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

5.15 Matters to be considered in determining application

In determining an application for a permit for the purpose of clause 5.14, the local government or an authorised person 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 *Food Act 2008* and whether the use of the premises is permitted under the town planning scheme;
- (c) users of the Facility will have access to proper and sufficient sanitary and ablutionary conveniences;
- (d) 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
- (e) 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.

5.16 Obligations of permit holder

(1) The permit holder for a Facility shall—

- (a) maintain the chairs, tables and other structures in the eating area in a serviceable condition at all times;
- (b) 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
- (c) be solely responsible for all rates and taxes levied upon the land occupied by the Facility.

(2) Whenever, in the opinion of an authorised person, any work is required to be carried out to a Facility, an authorised person 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.

5.17 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.

5.18 Temporary removal of Facility

(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.

(2) The permit holder may replace the Facility removed under subclause (1) as soon as the person who directed the removal 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 or an authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government or an authorised person may require an applicant to give local public notice of the application for a permit.
- (5) The local government or an authorised person 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 or an authorised person 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 or an authorised person 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 or an authorised person 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 or an authorised person 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 or an authorised person 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 or an authorised person 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) the payment of a deposit or bond against possible 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 or an authorised person may approve an application subject to conditions by reference to a policy.
- (3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 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 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 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 or an authorised person 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 6.10.

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 appropriate modifications.

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 or an authorised person 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 or an authorised person 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 or an authorised person 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 or an authorised person 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 the permit issued by the local government immediately upon being required to do so by that authorised person.

6.10 Cancellation of permit

(1) Subject to clause 7.1, a permit may be cancelled by the local government or an authorised person if—

- (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;
- (b) it is relevant to the activity regulated by the permit that—
 - (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 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 or an authorised person 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 regulation 33 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, an authorised person may give a notice to the owner or the occupier of the land abutting on the lawn or the garden, requiring the owner or the occupier or both to move or alter the direction of the sprinkler or other watering equipment.

8.2 Hazardous plants

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

8.3 Notice to repair damage to thoroughfare

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

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 or an authorised person 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 or an authorised person 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 The local government may undertake requirements of notice

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 that person, as a debt, the costs incurred in so doing.

Division 2—Offences and penalties

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.

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

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
City of Gosnells
Thoroughfares and Public Places Local Law 2012
PRESCRIBED OFFENCES

[clause 9.4]

Clause	Description	Modified Penalty \$
2.1(a)	Plant any plant (except grasses or a similar plant) within 6m of intersection	150
2.1(b)	Damaging lawn or garden on a thoroughfare	150
2.1(c)	Plant (except grass) on thoroughfare within 2m of carriageway	150
2.1(d)	Place hazard on footpath	150
2.1(e)	Damaging or interfering with signpost or structure on thoroughfare	350
2.1(f)	Playing games so as to impede vehicles or persons on thoroughfare	150
2.1(g)	Riding of bicycle, skateboard or similar device on mall or verandah of shopping centre	150
2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	150
2.2(1)(b)	Throwing or placing anything on a verge without a permit	150
2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	150
2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	250
2.2(1)(e)	Damage a thoroughfare	350
2.2(1)(f)	Lighting a fire on a thoroughfare without a permit	350
2.2(1)(g)	Felling tree onto thoroughfare without a permit	150
2.2(1)(h)	Installing pipes or stone on thoroughfare without a permit	150
2.2(1)(i)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	350
2.2(1)(j)	Placing a bulk rubbish container on a thoroughfare without a permit	150
2.2(1)(k)	Placing a bulk container on a thoroughfare without a permit	150
2.2(1)(l)	Interfering with anything on a thoroughfare without a permit	150
2.2(1)(m)	Erect a structure on a thoroughfare without a permit	150
2.3(1)	Failure to obtain permit for temporary crossing	250
2.5(2)	Driving or taking a vehicle on a closed thoroughfare	350
2.8(1)	Installation of verge treatment other than permissible verge treatment	250
2.9	Placement of obstruction on verge	150
2.10	Failure to comply with notice to rectify default	150
2.14(3)	Using a street number not assigned	150
2.15(2)	Incorrectly displaying a street number	150
3.2(2)	Failure to comply with sign on public place	150
3.4(1)	Placing sign or affixing any advertisement on a thoroughfare without a permit	150
3.4(2)	Erecting or placing of advertising sign in a prohibited area	150
4.1(1)	Animal obstructing a public place or local government property	150
4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	150
4.2(2)(b)	Animal on public place with infectious disease	150
4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	150
4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	150
4.3	Repairing vehicle on thoroughfare when not an emergency	150
4.5(2)	Failure to remove shopping trolley upon being advised of location	150
5.2(1)	Conducting a stall or trading in public place without a permit	350
5.6(1)(a)	Failure of stallholder or trader to display or carry permit	150
5.6(1)(b)	Stallholder or trader not displaying valid permit	150
5.6(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	150
5.6(2)	Stallholder or trader engaged in prohibited conduct	150

Clause	Description	Modified Penalty \$
5.8	Performing in a public place without a permit	150
5.9(2)	Failure of performer to move onto another area when directed	150
5.12	Failure of performer to comply with obligations	150
5.14	Establishment or conduct of outdoor eating facility without a permit	350
5.16	Failure of permit holder of outdoor eating facility to comply with obligations	150
6.5	Failure to comply with a condition of a permit	150
6.9	Failure to produce permit on request of authorised person	150
9.1	Failure to comply with notice given under local law	150

Dated: 1 March 2012.

The Common Seal of the City of Gosnells was affixed by authority of a resolution of the Council in the presence of—

DAVID GRIFFITHS, Mayor.
IAN COWIE, Chief Executive Officer.
