

## **LOCAL GOVERNMENT ACT 1995**

### **SHIRE OF KENT**

## **PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2023**

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# LOCAL GOVERNMENT ACT 1995

## SHIRE OF KENT

### PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2023

Under the powers conferred by the *Local Government Act 1995* and under all other relevant powers, the Council of the Shire of Kent resolved on \_\_\_\_\_ to adopt the following local law.

#### PART 1 - PRELIMINARY

##### 1.1 Citation

This local law may be cited as the *Shire of Kent Public Places and Local Government Property Local Law 2023*.

##### 1.2 Commencement

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

##### 1.3 Application

This local law applies throughout the district.

##### 1.4 Repeal

The following local laws are repealed –

- (a) the Municipality of the Shire of Nyabing-Pingrup adoption of *Draft Model By-laws No. 10, Relating to Petrol Pumps* published in the *Government Gazette* on 30 September 1966;
- (b) the Municipality of the Shire of Kent adoption of *Local Government Model By-laws (Parking Facilities) No. 19* published in the *Government Gazette* on 3 September 1993;
- (c) *Shire of Kent Local Law – Nuisances* published in the *Government Gazette* on 23 March 1998;
- (d) *Shire of Kent Local Laws Relating to Reserves* published in the *Government Gazette* on 23 March 1998; and
- (e) *Shire of Kent Parking Facilities Local Law* published in the *Government Gazette* on 2 September 1998.

##### 1.5 Transitional provisions

- (1) An application for, or the renewal of a licence, permit or other authorisation made under a repealed local law that has not been finally determined before the commencement day is to be dealt with and determined as if it were an application under this local law.
- (2) A licence, permit or other authorisation under a repealed local law that is in force before the commencement day is to be regarded on and after that day as a licence under this local law and may be dealt with accordingly.

##### 1.6 Terms used

- (1) In this local law –

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

**applicant** means a person who applies for a licence;

**application** means an application for a licence;

**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 and includes the CEO;

**building** means any building or structure which is local government property and includes any –

- (a) hall or room; and
- (b) corridor, stairway or annexe of any hall or room; and
- (c) the immediate environs of the building if the context requires, but does not include an open space, a carpark or a similar;

**building permit** means a permit granted under section 20 of the *Building Act 2011*;

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

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

**children's playground** means an area set aside for use by children and noted by the presence of any of the following –

- (a) dedicated children's playground equipment,
- (b) the presence of either sand or other form of soft fall surface; or
- (c) a sign indicating the area is a children's playground;

**closed thoroughfare** means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act;

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

**Code** means the *Road Traffic Code 2000*;

**costs** means all expenses directly associated with reinstatement or replacement, and includes administrative expenses associated with reinstatement or replacement;

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

**crossover** means a crossing giving access from a public thoroughfare to –

- (a) private land; or
- (b) a private thoroughfare serving private land;

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

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

**emergency vehicle** has the meaning given to it by the Code;

**entertainment** means –

- (a) the action of providing or being provided with amusement or enjoyment; or
- (b) an event, performance, or activity designed to entertain others;

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

**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;

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

**hire** includes offer to hire and expose for hire;

**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;

**licence** means a licence, permit or approval issued under this local law;

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

**licensed premises** has the same meaning as is given to it in section 3 of the Liquor Control Act;

**licence holder** means a person who holds a licence;

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

**Liquor Control Act** means the *Liquor Control Act 1988*;

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

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

- (a) which belongs to or is leased by the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an otherwise unvested facility within section 3.53 of the Act;

**local public notice** has the meaning given to it in section 1.7 of the Act;

**lot** has the meaning given to it in the *Planning and Development Act 2005*;

**market** means a collection of stalls, stands or displays erected for the purpose of selling or hiring goods or services or carrying out any other transaction;

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

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

**owner or occupier**, in relation to land, has the meaning given to it in section 1.4 of the Act, but; does not include the local government;

**owner** where used in relation to –

- (a) a vehicle licensed under the *Road Traffic (Vehicles) Act 2012*, means the person in whose name the vehicle has been registered under the *Road Traffic (Vehicles) Act 2012*; and
- (b) any other vehicle, means the person who owns, or is entitled to possession of that vehicle;

**park** in relation to a vehicle, has the meaning given to it by the Code;

**permitted verge treatment** means any one of the treatments described in clause 6.7(3), and includes any reticulation pipes and sprinklers;

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

**public notice** means such notice as the local government considers necessary –

- (a) stipulating duration and placement of notices as is considered relevant to inform the community,
- (b) not requiring compliance with local public notice under section 1.7 of the Act; and
- (c) which may placed by the local government as a public notice on the local government's website or other means of informing the public;

**public place** means –

- (a) a thoroughfare;
- (b) any local government property; or
- (c) a place to which the public have access;

**repealed local law** means a local law repealed under clause 1.4;

**restricted local government property** means local government property which by its nature or by sign erected by the local government property does not have public access, and includes –

- (a) a building used as a residence and the whole of the land on which it is situated;
- (b) a non-residential building occupied under an agreement with the local government and the whole or identified portion of the land on which it is situated;
- (c) land occupied under an agreement with the local government; and
- (d) buildings or land restricted by the local government for municipal purposes to ensure public safety, or for community interest or benefit;

**sell** includes –

- (a) offer or attempt to sell;
- (b) display for sale;
- (c) send, forward or deliver for sale or on sale;
- (d) barter or exchange;
- (e) dispose, by lot or chance or by auction;
- (f) supply, or offer, agree or attempt to supply –
  - (i) in circumstances which the supplier derives or would be likely to derive a direct or indirect pecuniary benefit; or
  - (ii) gratuitously, but with a view to gaining or maintaining custom or other commercial advantage; or
- (g) authorise, direct, cause or permit to be done any act referred to in this definition;

**set fee** refers to fees and charges imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act;

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

**special purpose vehicle** has the meaning given to it by the Code;

**stall** means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold and includes a vehicle;

**street tree** means any tree planted or self sown in a thoroughfare, of an appropriate species and in an appropriate location, for the purposes of contributing to the appearance of the thoroughfare;

**thoroughfare** has the meaning given to it by the Act;

**townsite** means the following townsites constituted under section 26(2) of the *Land Administration Act 1997* –

- (a) Nyabing; and
- (b) Pingrup;

**trading** means selling or hiring goods or services and includes the setting up of a stall and conducting business at a stall;

**UAV** means unmanned aircraft, other than a balloon or kite;

**vehicle** includes –

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
  - (b) where the context permits, an animal being ridden or driven,
- but excludes –
- (c) a wheelchair or any device designed for use by a physically impaired person on a footpath; and
  - (d) a pram, stroller or similar device;

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

**waste** includes matter –

- (a) whether liquid, solid, gaseous or radioactive and whether useful or useless, which is discharged into the environment; or
- (b) prescribed by regulations under the *Waste Avoidance and Resource Recovery Act 2007* to be waste.

## **1.7 Interpretation**

In this local law, a reference to local government property includes a reference to any part of local government property.

## **1.8 Assistance animals**

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

## **1.9 Overriding power to hire and agree**

Despite anything to the contrary in this local law, an authorised person, on behalf of 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.

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

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

The Council may make a determination in accordance with clause 2.2 –

- (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
- (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
- (c) as to the matters in clauses 2.7(2) and 2.8(2); and
- (d) as to any matter ancillary or necessary to give effect to a determination.

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

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

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

- (a) the Council 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 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) is to 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) whether or not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, local public notice is to be given –
- (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, local public notice is to be given 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.

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

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.

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

A person shall comply with a determination.

### **2.5 Register of determinations**

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

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

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

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

- (1) A determination may provide that specified local government property is set aside as an area on which a person may –
  - (a) take, ride or drive a vehicle, or a particular class of vehicle;
  - (b) use a UAV;
  - (c) 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;
  - (d) launch, beach or leave a boat;
  - (e) take or use a boat, or a particular class of boat;
  - (f) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;



- (g) play or practise –
    - (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; and
  - (h) 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, equipment or things, or may extend it to all vehicles, equipment or things;
  - (e) may specify that the activity can be pursued by a class of persons or all persons; and
  - (f) may distinguish between different classes of the activity.

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

- (1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property –
- (a) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
  - (b) taking, riding or driving a vehicle on the property or a particular class of vehicle;
  - (c) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
  - (d) taking or using a boat, or a particular class of boat;
  - (e) 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;
  - (f) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
  - (g) the traversing of 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, equipment or things, or all vehicles, 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.

## **2.9 Sign under repealed local law taken to be determination**

- (1) Where a sign erected on local government property has been erected under a repealed 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 - ACTIVITIES ON LOCAL GOVERNMENT PROPERTY REQUIRING A LICENCE**

## **3.1 Activities requiring a licence**

- (1) A person shall not without a licence –

- (a) subject to subclause (3) hire local government property;
  - (b) advertise anything by any means on local government property;
  - (c) erect, on local government property a structure for public amusement or for any performance, whether for gain or otherwise;
  - (d) teach, coach or train, for profit, any person in any 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 licence to conduct a function, and where the trading is carried on under and in accordance with the licence; or
    - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
  - (g) conduct or set up a market on local government property or public place;
  - (h) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose –
    - (i) drive or ride or take any vehicle on to local government property; or
    - (ii) park or stop any vehicle on local government property;
  - (i) conduct a function or entertainment event on local government property;
  - (j) 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;
  - (k) light a fire on local government property except in a facility provided for that purpose;
  - (l) parachute, hang glide, abseil or base jump from or on to local government property;
  - (m) erect a building or a refuelling site on local government property;
  - (n) make any excavation on or erect or remove any fence on local government property;
  - (o) 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;
  - (p) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property;
  - (q) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly;
  - (r) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property; or
  - (s) film or make a recording as part of or for commercial gain on local government property.
- (2) An authorised person may exempt a person from compliance with subclause (1) on the application of that person.
- (3) An authorised person may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

### 3.2 Licence to erect structures or camp

- (1) In this clause—
- camp** unless the context requires otherwise has the same meaning as given to it in section 5 of the *Caravan Parks and Camping Grounds Act 1995*;
- caravan** has the same meaning as given to it in section 5 of the *Caravan Parks and Camping Grounds Act 1995*;
- facility** has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*;
- park home** has the same meaning as given to it in section 5 of the *Caravan Parks and Camping Grounds Act 1995*; and
- structure** includes a caravan, park home, or camp.
- (2) This clause does not apply to a caravan park or camping ground operated by the local government.
- (3) A person shall not without a licence –
- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property;
  - (b) erect any tent, camp, hut or similar structure on local government property other than a shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day; or

- (c) park a vehicle on local government property, thoroughfare or public place for the purpose of sleeping in the vehicle.
- (4) The maximum period for which the local government may approve an application for a licence in respect of paragraph (a) or (b) of subclause (2) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

### **3.3 Licence required for possession and consumption of liquor**

- (1) A person shall not offer for sale, consume, have in her or his possession or under her or his control on local government property, any liquor unless –
  - (a) permitted under the Liquor Control Act; and
  - (b) a licence has been obtained for that purpose from the local government.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

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

### **4.1 Application**

In this Part –

**local government property** includes any structure, facility or item constructed or owned by the local government which may be situated on land not under the local government's management.

### **4.2 Restricted local government property**

Nothing in this local law is to be construed as –

- (a) permitting access to or activities by the public on restricted local government property without the express approval –
  - (i) in the case of a building used as a residence and the whole of the land on which it is situated, by the occupier or authorised representative of the occupier;
  - (ii) in the case of a non-residential building occupied under an agreement with the local government, the building and the whole of the land on which it is situated, by the person occupying the building;
  - (iii) in the case of land occupied under an agreement with the local government, by the person occupying the land; and
  - (iv) in the case of a building or land restricted by the local government for municipal purposes to ensure public safety, or for community interest or benefit, by an authorised person; and
- (b) limiting the right of the occupier of restricted local government property to full use of that property for their private enjoyment as permitted by law or by agreement with the local government.

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

In or on any local government property, a person shall not, behave in a manner which –

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

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

A person shall not behave in or on local government property in a way which is or might be detrimental to the property, including but not limited to –

- (a) removing any thing from the local government property including 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, including a plant, a seat provided for the use of any person or a building.

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

- (1) A person shall not enter local government property on such days or during such times as the property is set aside for a function, except –
  - (a) through the proper entrance for that purpose; and
  - (b) on payment of any fee chargeable for admission as determined by the hirer at the time.

- (2) An authorised person may exempt a person from compliance with subclause (1)(b).

#### **4.6 Taking or injuring fauna**

- (1) In this clause –

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

**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 unless it has been shed or discarded by the fauna in a normal or natural manner.

- (2) 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.

#### **4.7 Flora**

- (1) In this clause –

**flora** means all vascular plants, seeds and other flora, whether living or dead.

- (2) On or above any local government property unless authorised to do so under a written law or with the written approval of an authorised person, a person shall not –

- (a) remove, damage or interfere with any flora; or
- (b) plant or deposit any flora.

#### **4.8 Animals**

Unless otherwise approved by an authorised person or authorised by other written law, a person shall not on any local government property –

- (a) tether any animal other than a dog, to an object or tree; or
- (b) permit any animal other than a dog or cat, to enter unless authorised by a licence.

#### **4.9 Waste**

A person shall not deposit or discard waste on local government property except –

- (a) in a place or receptacle set aside by an authorised person for that purpose; and
- (b) in accordance with any conditions that may be specified on the receptacle or a sign.

#### **4.10 Vehicles on local government property**

- (1) Unless authorised by a licence or determination, a person shall not take or cause a vehicle to be taken onto or driven on local government property unless –

- (a) subject to subclause (3), the local government property is clearly designated as a road, access way, or car park;
- (b) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government, who is engaged in –
  - (i) providing a service or making a delivery in connection with the local government property; or
  - (ii) maintaining the local government property;
- (c) the person is driving an emergency vehicle or special purpose vehicle in the course of his or her duties;
- (d) the vehicle is –
  - (i) used in accordance with the conditions set down by the local government or an authorised person; and
  - (ii) of a type allowed to be taken onto the local government property by the local government or an authorised person; or
- (e) the vehicle is a motorised wheelchair, and the driver of that vehicle is a person with a disability.

- (2) A person shall not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 20 kilometres per hour or as otherwise indicated by a sign, or in such a manner as to cause danger to any person.

- (3) Other than in accordance with subclause (1)(b), (c), (d) or (e), a person shall not drive a vehicle on local government property or part of it that is being used for a function for which a licence has been obtained unless permitted to do so by the licence holder or an authorised person.

#### **4.11 UAVs**

A person shall not use a UAV on or from local government property except where a licence or determination specifies a particular local government property.

#### **4.12 Archery, pistol or rifle shooting**

A person shall not play or practise archery, pistol or rifle shooting on local government property except on land which is reserved by the local government for that purpose, or as otherwise provided by a determination or licence.

#### **4.13 Playing or practising golf**

A person shall not play or practise golf on local government property except where a licence or determination specifies a particular local government property.

#### **4.14 Prohibition relating to bicycles, skateboards etc. on local government property**

Unless the local government property is clearly identified for the purpose or with the approval of an authorised person, a person shall not, use or ride a bicycle or wheeled recreational device, skateboard or roller-blades, or sand board or similar devices on any local government property –

- (a) inside, or on the curtilage to, a building;
- (b) which has been prepared or is intended for another purpose: or
- (c) in or on a lakebed or waterway.

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

#### **5.1 No entry to fenced, closed or restricted local government property**

- (1) Unless that person is authorised to do so by an authorised person, a person shall not enter onto –
- (a) 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, or
  - (b) restricted local government property except in accordance with clause 4.2.
- (2) Nothing in this local law is to be construed as preventing the access necessary by persons empowered to do so under a written law.

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

- (1) 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;
  - (b) males – then a person of the female gender shall not use that entry of the toilet block or change room; or
  - (c) families – then, where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry of the toilet block or change room.
- (2) Subclause (1)(a) and (b) does not apply to a child, when accompanied by a parent, guardian or caregiver, where the child is –
- (a) under the age of 8 years; or
  - (b) otherwise permitted by an authorised person to use the relevant entry.

#### **5.3 Use of shower or bath facilities**

A person may use a shower or bath facility in change rooms only on conditions that –

- (a) the facilities shall be used by the person only for the purpose of cleansing, bathing and washing themselves; and
- (b) the facilities shall not be used for the purpose of laundering of clothing or washing of other articles.

## PART 6 - ACTIVITIES IN THOROUGHFARES

### *Division 1 – General*

#### **6.1 General prohibitions**

A person shall not –

- (a) plant, or allow to remain, in a thoroughfare a plant that is or may become an obstruction to a reasonable sight line for a driver of any vehicle negotiating or using the thoroughfare;
- (b) damage a lawn or a garden, or remove any plant or part of a plant from a lawn or a garden, in a thoroughfare 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) damage, or remove a street tree, or part of a street tree, irrespective of whether it was planted by the owner or occupier of the lot abutting the thoroughfare or by the local government, unless –
  - (i) the damage to, or removal of, the street tree is authorised by an authorised person in writing; or
  - (ii) the person is acting under authority of written law;
- (d) except as permitted by this local law place, or allow to be planted, placed or remain, on a thoroughfare any thing (except water) that –
  - (i) obstructs the thoroughfare; or
  - (ii) results in a hazard for any person using the thoroughfare;
- (e) unless at the direction of an authorised person, damage, remove or interfere with any part of a thoroughfare, or any structure erected on a thoroughfare, by the local government or a person acting under the authority of a written law; or
- (f) play or participate in any game or sport so as to cause danger to any person or thing or unreasonably impede the movement of vehicles or persons on a thoroughfare.

#### **6.2 Activities allowed with a licence**

(1) A person shall not, without a licence –

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and 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;
- (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) fell or damage any street tree;
- (h) fell any tree onto a thoroughfare;
- (i) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose;
- (j) unless installing, or in order to maintain, a permitted verge treatment –
  - (i) lay pipes under or provide taps on any verge; or
  - (ii) place or install, on any part of a thoroughfare, any thing such as gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
- (k) 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;
- (l) on a thoroughfare, park, use anything or do anything so as to create a nuisance;
- (m) place or cause to be placed on a thoroughfare a bulk rubbish container;
- (n) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare;
- (o) conduct or carry on any trading on a thoroughfare;
- (p) conduct, carry on or set up a market on a thoroughfare; or

- (q) conduct or carry on an entertainment event on a thoroughfare.
- (2) An authorised person may exempt a person from compliance with subclause (1) on the application of that person.

### **6.3 Assignment of numbers**

- (1) In this clause –  
**number** means a number with or without an alphabetical suffix indicating the street address of land as assigned by the local government from time to time, in accordance with this local law.
- (2) An authorised person may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

### **6.4 No driving on closed thoroughfare**

A person shall not drive or take a vehicle on a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act unless –

- (a) it is in accordance with any limit or exception specified in the order made under section 3.50 of the Act; or
- (b) the person has first obtained a licence.

### **6.5 Fencing of public place – Item 4(1) of Division 1, Schedule 3.1 of Act**

A public place, as that term is defined in clause 1.6, is specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act.

#### *Division 2 – Permitted verge treatments*

### **6.6 Application**

This Division only applies to townsites.

### **6.7 Permitted verge treatments**

- (1) A person shall not install or maintain a verge treatment which is not a permitted verge treatment.
- (2) An owner or occupier of land which abuts on a verge may install a permitted verge treatment, on that part of the verge directly in front of her or his land.
- (3) A permitted verge treatment is–
  - (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;
    - (iii) it does not include a wall or built structure; and
    - (iv) is not of a thorny, poisonous or hazardous nature;
  - (c) subject to subclause (4), the installation of material which does not detract from the amenity of the area, including but not limited to –
    - (i) bituminous surface or in-situ concrete, subject to reduction of area shedding of storm water or flooding;
    - (ii) use of paving bricks or concrete slabs; and
    - (iii) all forms of loose aggregate materials such as pebbles, stones and gravel, not larger than 50mm and contained within the verge area at all times; and
  - (d) other treatment approved by the local government.
- (4) Where installation of material which would create a hard surface has been installed or is intended, an authorised person may by written notice, require –
  - (a) a reduction of area covered or to be covered, if shedding of storm water or flooding is likely to cause a nuisance to neighbours or users of a thoroughfare; and
  - (b) an area of open space to a maximum of 1m from the edge of a street trees.



- (5) 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 6.9.

#### **6.8 Obligations of owner or occupier**

An owner or occupier who installs or maintains a permitted verge treatment shall –

- (a) keep the permitted verge treatment in a good and tidy condition and, where the verge treatment is a garden or lawn, ensure that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) ensure that clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in a carriageway, or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
- (c) not place any obstruction on or around the verge treatment;
- (d) not disturb a footpath on the verge;
- (e) ensure that the verge treatment does not damage or obstruct a drain, manhole, galley, inspection pit, channel, kerb or tree planted by the local government; and
- (f) ensure that any sprinklers or pipes installed to irrigate a verge treatment –
  - (i) do not protrude above the level of the lawn or verge treatment when not in use;
  - (ii) are not used at such times so as to cause unreasonable inconvenience to pedestrians or other persons; and
  - (iii) do not otherwise present a hazard to pedestrians or other persons.

#### **6.9 Transitional provision**

- (1) In this clause –  
**former provisions** means the provisions of the repealed local laws which permitted certain types of verge treatments, whether with or without the consent of the local government.
- (2) A verge treatment is to be taken to be a permitted verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions 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.

#### **6.10 Power to carry out public works on verge**

Where the local government or an authority is 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 material or other hard surface; or
  - (ii) sprinklers, pipes or other reticulation equipment.

### *Division 3 – Vehicle crossovers*

#### **6.11 Temporary crossovers**

- (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 licence for the construction of a temporary crossover to protect the existing carriageway, kerb, drains, footpath, existing materials and street trees, where –
- (a) a crossover does not exist; or
  - (b) a crossover does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossover.
- (2) The person responsible for the works in subclause (1) is to be taken to be –
- (a) the builder named on the building permit issued under the *Building Act 2011*, if one has been issued in relation to the works; or
  - (b) the owner of the lot, if no building permit has been issued under the *Building Act 2011* in relation to the works.



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

#### **6.12 Removal of redundant crossover**

- (1) Where works on a lot will result in a crossover no longer giving access to a lot, the crossover 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 an authorised person.
- (2) An authorised person may give written notice to the owner or occupier of a lot requiring her or him within the period of time stated in the notice to –
- (a) remove any part of or all of a crossover 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.

#### **6.13 Crossovers in unsafe locations**

- (1) Where a crossover is in an unsafe location, the local government may give notice to the owner or occupier to –
- (a) remove the crossover; or
  - (b) make the crossover safe.
- (2) In determining whether the crossover is in an unsafe location, the local government shall have regard to –
- (a) any guidelines or advice Main Roads Western Australia sought or published from time to time;
  - (b) the usage of the thoroughfare; and
  - (c) alternative treatments available to make the crossover safe.
- (3) Any notice issued under subclause (1) is to give a minimum period of 28 days to remove or make the crossover safe, provided immediate measures are taken to advise users of the thoroughfare of the circumstances deemed unsafe.

### **PART 7 - ACTIVITIES IN PUBLIC PLACES**

#### **7.1 Leaving animal or vehicle in public place**

- (1) A person shall not leave an animal or a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place, unless that person has first obtained a licence or is authorised to do so under a written law.
- (2) A person does not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.
- (3) A person does not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

#### **7.2 Prohibitions relating to animals**

- (1) In this clause, **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 other than a cat to enter or remain for any time on any public place except for the use of the public place 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 in a public place.
- (3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare, unless that person does so under a licence or under the authority of a written law.

### **PART 8 - PARKING**

### **8.1 Parking on a carriageway with heavy and long vehicles**

- (1) Unless engaged in the picking up or setting down of goods, a person shall not park on any part of a thoroughfare in a townsite for any period exceeding 1 hour, a vehicle or any combination of vehicles, that together with any projection on, or load carried by, the vehicle or combination of vehicles, is 7.5 metres or more in length or exceeds a GVM of 4.5 tonnes.
- (2) Nothing in this clause affects the operation of any other clause in this local law or any other written law relating to the parking or stopping of vehicles.

### **8.2 Parking generally**

Subject to clause 9.1(2), unless otherwise indicated, parking in a thoroughfare is to be parallel with the edge of the carriageway.

## **PART 9 - SIGNS AND POWERS TO GIVE DIRECTIONS**

### **9.1 Signs installed by the local government**

- (1) The local government may install a sign in public places specifying any conditions of use which apply to that public place, local government property or thoroughfare.
- (2) Where parking of vehicles in a thoroughfare is controlled by a sign, the sign shall be read as applying to that part of the thoroughfare which –
  - (a) lies beyond the sign;
  - (b) lies between the sign and the next sign beyond that sign; and
  - (c) is on that side of the thoroughfare adjacent to the sign.
- (3) A person shall comply with a sign erected under subclause (1) or (2).
- (4) A condition of use specified on a sign erected under subclause (1) or (2) is to be for the purpose of giving notice of the effect of a provision of this local law.
- (5) Clause 2.5 does not apply to a sign referred to in subclause (1) or (2).

### **9.2 Transitional provision**

Where a sign in a public place, on local government property or on a thoroughfare has been erected under a repealed local law then, on and from the commencement day, it is to be taken to be a sign erected under clause 9.1 if –

- (a) the sign specifies a condition of use relating to the thoroughfare 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.

### **9.3 Authorised person to be obeyed**

- (1) A person on or in local government property or on a thoroughfare that is given a lawful direction by an authorised person shall comply with that direction.
- (2) A person shall not obstruct or hinder an authorised person in the performance of that person's duties.

### **9.4 Refusal of entry and removal**

- (1) If an authorised person reasonably suspects that a person is breaching, or has just breached, a provision of this local law or any other written law, an authorised person may –
  - (a) refuse to allow that person to enter local government property;
  - (b) if the person is on local government property, direct the person to leave the local government property; and
  - (c) specify a period of up to 30 calendar days within which the person is not to re-enter the local government property.
- (2) A person who has been refused entry or who has been directed to leave under subclause (1) shall immediately leave the local government property quickly and peaceably.
- (3) If a person fails to comply with subclause (2), an authorised person may remove the person, or arrange for the person to be removed, from the local government property.
- (4) An authorised person may reduce the period specified in subclause (1)(c) on application of the person who has been directed not to re-enter local government property.

## **9.5 Disposal of lost property**

An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by an authorised person –

- (a) if the value of the property is reasonably believed to exceed the amount prescribed by regulation 30(3) of the *Local Government (Functions and General) Regulations 1996*, using the process under section 3.58 of the Act for the sale of the article as if it was property referred to in that section;
- (b) if the value of the property is reasonably believed to have a realisable value more than 1% of the amount prescribed by regulation 30(3) of the *Local Government (Functions and General) Regulations 1996* but not exceeding the amount prescribed, by handing the property to the Western Australian Police Force, or
- (c) if the property is reasonably believed to be of less value than that in subclause (b) –
  - (i) by donation to a not for profit body incorporated under the *Associations Incorporations Act 2015*; or
  - (ii) if likely to be of no interest to a not for profit body, in any manner he or she thinks fit.

## **PART 10 - LICENCES**

### *Division 1 – Applying for a licence*

#### **10.1 Application for licence**

- (1) Where a person is required to obtain a licence under this local law, that person shall apply for the licence in accordance with subclause (2).
- (2) An application for a licence 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; and
  - (d) be forwarded to the local government together with any set fee.
- (3) An authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for a licence.
- (4) An authorised person may require an applicant to give public notice of the application for a licence.
- (5) An authorised person may refuse to consider an application for a licence which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

#### **10.2 Decision on application for licence**

- (1) An authorised person may –
  - (a) approve an application for a licence unconditionally or subject to any conditions; or
  - (b) refuse to approve an application for a licence.
- (2) An authorised person approves an application for a licence, written notice of approval is to be issued to the applicant.
- (3) If an authorised person refuses to approve an application for a licence, written notice of that refusal is to be given to the applicant.
- (4) An authorised person may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the licence holder.

#### **10.3 General restrictions on grant of licence**

- (1) An authorised person shall not grant a licence if there are reasonable grounds for believing that the carrying on of the activity to which the application relates would constitute an unacceptable risk to the safety of the public.
- (2) An authorised person shall not grant a licence unless satisfied that –
  - (a) the applicant is capable of carrying on the activity in accordance with this local law and the terms and conditions of the licence;
  - (b) the public place at which the activity is to be provided is suitable for that purpose;

- (c) a licence or similar authority granted or issued to the applicant has not been cancelled in the period of 5 years before the application is made; and
- (d) the applicant is a fit and proper person to carry on the activity.

#### **10.4 Amendment of licence**

- (1) An authorised person may, by written notice given to the licence holder, amend a licence –
  - (a) imposing any new condition; or
  - (b) change or remove any existing condition.
- (2) An amendment may be made on application made by the licence holder or on the initiative of an authorised person.
- (3) An amendment will come into effect on the day that written notice is given to the licence holder, or some other date as specified in the notice.

#### **10.5 False or misleading statement**

A person shall not make a false or misleading statement in connection with an application in respect of a licence under this local law.

### *Division 2 – Conditions of licences*

#### **10.6 Compliance with conditions**

Where an application for a licence has been approved subject to conditions, the licence holder shall comply with each of those conditions, as amended.

#### **10.7 Examples of conditions**

- (1) Examples of the conditions that an authorised person may impose on a licence under clause 10.2(1)(a) or 10.4(1)(a) are conditions relating to –
  - (a) the payment of a set fee;
  - (b) compliance with a standard or a policy adopted by the local government;
  - (c) the duration and commencement of the licence;
  - (d) the commencement of the licence 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 licence which may be required by the local government under any written law;
  - (g) the area of the district to which the licence applies;
  - (h) where a licence 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 an authorised person.
- (2) Examples of the type and content of the conditions on which a licence to hire local government property may be issued include –
  - (a) when set 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 an authorised person to cancel a booking during the course of an annual or seasonal booking, if an authorised person 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 Control Act;
  - (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.

#### **10.8 Imposing conditions under a policy**

- (1) In this clause –  
**policy** means a local government policy adopted by the Council under section 2.7(2)(b) of the Act containing conditions subject to which an application for a licence may be approved under clause 10.2(1)(a).
- (2) Under clause 10.2(1)(a) an authorised person may approve an application subject to conditions by reference to a policy.
- (3) An authorised person shall give to the licence holder a copy of the policy or, at the discretion of the authorised person, the part of the policy which is relevant to the application for a licence, with the written notice of approval referred to in clause 10.2(2).
- (4) An application for a licence is not to be taken to have been approved subject to the conditions contained in a policy until the authorised person gives the licence 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 apply to a policy and, for that purpose, a policy is deemed to be information within section 5.94(u)(i) of the Act.

#### *Division 3 – Duration of licences*

#### **10.9 Duration of licence**

A licence 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 licence; or  
(b) suspended or cancelled under this Division.

#### **10.10 Renewal of licence**

- (1) A licence holder may apply to the local government for the renewal of a licence.
- (2) An application for renewal shall –
- (a) be in the form determined by the local government;
- (b) be signed by the licence holder;
- (c) provide the information required by the form;
- (d) be forwarded to the local government no later than 28 days before the expiry of the licence, or within a shorter period that the local government in a particular case permits; and
- (e) be accompanied by any set fee.
- (3) The provisions of this Part that apply to an application for a licence also apply to an application for the renewal of a licence as though it were an application for a licence.

#### **10.11 Transfer of licence**

- (1) An application for the transfer of a valid licence is –
- (a) to be made in writing;
- (b) to be signed by the licence holder and the proposed transferee of the licence;
- (c) to include such information as an authorised person may require to enable the application to be determined; and
- (d) to be forwarded to the local government together with any set fee.
- (2) An authorised person may –
- (a) approve an application for the transfer of a licence;
- (b) approve the application subject to any conditions; or
- (c) refuse to approve the application.
- (3) Where an authorised person approves an application for the transfer of a licence, the transfer may be effected by an endorsement on the licence signed by the authorised person.

- (4) Where an authorised person approves the transfer of a licence, the local government is not required to refund any part of any set fee paid by the former licence holder.

#### **10.12 Suspension of licence**

- (1) An authorised person may, subject to clause 10.13, by written notice given to the licence holder, suspend a licence if there are reasonable grounds for believing that –
- (a) the licence holder has contravened a term or condition of a licence;
  - (b) the licence holder has contravened a provision of this local law; or
  - (c) the continued provision of the activity authorised by the licence constitutes or will constitute an unacceptable risk to the safety, health or welfare of the public.
- (2) The suspension notice shall –
- (a) state the day, or the day and time, on or at which the suspension takes effect;
  - (b) state the reasons for the authorised person's decision to suspend the licence;
  - (c) where appropriate, indicate what steps need to be taken to ensure that there is compliance with the relevant provision, term or condition or that there is no longer a risk as described in subclause (1)(c); and
  - (d) inform the licence holder that the licence holder has a right to apply under the Act for a review of the decision to suspend the licence.

#### **10.13 Proposed suspension**

- (1) If an authorised person proposes to suspend a licence under clause 10.12(1), the authorised person shall give written notice to the licence holder of the proposed suspension.
- (2) The notice shall –
- (a) state that the authorised person proposes to suspend the licence;
  - (b) state the reasons for the proposed suspension; and
  - (c) inform the licence holder that the licence holder is entitled to make representation to the authorised person in respect of the proposed suspension within 7 days after the day on which the licence holder is given the notice.
- (3) In considering whether to suspend the licence, the authorised person shall have regard to any representations made by the licence holder within the period referred to in subclause (2)(c).

#### **10.14 Revocation of suspension**

- (1) An authorised person shall by written notice given to the licence holder, revoke the suspension of a licence if the authorised person is satisfied that the steps specified in the suspension notice have been taken.
- (2) An authorised person may, by written notice given to the licence holder, revoke the suspension of the licence if it is appropriate to do so in the circumstances of a particular case.

#### **10.15 Period of suspension**

The suspension of a licence has effect on the day, or the day and time, specified in the suspension notice until one of the following happens –

- (a) the suspension is revoked under clause 10.14;
- (b) the licence is cancelled under clause 10.16 or expires; or
- (c) the licence is surrendered in accordance with the provisions of this local law.

#### **10.16 Cancellation of licence**

A licence may be cancelled by an authorised person if –

- (a) the licence was obtained improperly;
- (b) the licence holder has persistently or frequently contravened a term or condition of the licence, or a provision of this local law, whether or not the licence is or has been suspended on the grounds of a contravention; or
- (c) there are reasonable grounds for believing that the continued provision of the activity constitutes or would constitute an unacceptable risk to the safety of the public, whether or not the licence has been suspended on the grounds of that risk.

### **10.17 Surrender of licence**

A licence holder may, at any time by notice in writing to the local government, surrender the licence.

#### *Division 4 – Responsibilities of licence holders and others*

### **10.18 Production of licence**

A licence holder shall produce to an authorised person her or his licence immediately after being required to do so by that authorised person.

### **10.19 Production of licence document for amendment**

If an authorised person amends or renews a licence, the licence holder shall, if required by an authorised person, produce the licence document to the authorised person for amendment within the period specified by the authorised person.

### **10.20 Return of licence document if licence no longer in effect**

- (1) The person who was the licence holder shall as soon as practicable return the licence document to the local government if a licence –
  - (a) has expired or has not been renewed;
  - (b) has been suspended or cancelled; or
  - (c) has been surrendered.
- (2) On the cancellation of a licence under clause 10.16 the licence holder is to be taken to have forfeited any fees paid in respect of the licence.

### **10.21 Other responsibilities of licence holder**

A licence holder shall in respect of local government property to which the licence 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) comply with an instruction from an authorised person to take the action specified in the instruction for the purpose of maintaining public safety;
- (c) leave the local government property in a clean and tidy condition after its use;
- (d) report any damage or defacement of the local government property to an authorised person; and
- (e) take all reasonable action to prevent the consumption of any liquor on the local government property unless the licence allows it and a licence has been obtained under the Liquor Control Act for that purpose.

### **10.22 Advertising**

A person shall not advertise, or otherwise hold out in any way, that the person conducts a commercial activity in any public place unless that person holds a licence authorising that commercial activity.

## **PART 11 - NOTICES**

### **11.1 Notice to remedy non-compliance**

Where any thing is required to be done or not permitted to be done by this local law, an authorised person may give written notice –

- (a) to the owner or the occupier of the property or property which abuts that portion of the thoroughfare where the thing has been done or not done; or
- (b) to any other person who may be responsible for the thing done or not done, requiring the person to comply with the requirements of this local law.

### **11.2 Notice regarding damage**

A person who unlawfully removes, damages or interferes with local government property or portion of a thoroughfare commits an offence and may be given a notice in accordance with clause 11.3.

### **11.3 Notice requirements**

- (1) A notice given under this Part shall –

- (a) be in writing;
  - (b) given to the person referred to in clause 11.1 or 11.2 as the case may be;
  - (c) specify the reason for giving the notice;
  - (d) the action that is required to be undertaken; and
  - (e) the time within which the work or action is to be undertaken.
- (2) At the local government's discretion, the action that may be required to be undertaken is –
- (a) to take or cease such action as may be required for compliance with this local law;
  - (b) reinstate the property or thing to the state it was in before the removal, damage or interference;
  - (c) replace that property or thing; or
  - (d) pay for the costs of reinstatement or replacement.

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

A person who fails to comply with a notice given to him or her under this local law commits an offence.

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

If a person fails to comply with a notice referred to in clauses 11.1 or 11.2, the local government may –

- (a) do the thing specified in the notice, including replace the property, or reinstate the property to the state it was in before the removal, damage or interference;
- (b) take whatever remedial action it considers appropriate to put the local government in the position it would have been in if the breach or failure had not occurred; and
- (c) recover all costs from the person, as a debt.

#### **11.6 Entry into private land**

This local law is subject to sections 3.25, 3.27 and schedules 3.1 and 3.2 of the *Local Government Act 1995* and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3, Subdivision 3 of the Act.

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

#### **12.1 Objection and review rights**

Division 1 of Part 9 of the Act applies to a decision under this local law in respect of the grant, renewal, transfer, amendment, suspension or cancellation of a licence or consent.

### **PART 13 - OFFENCES AND PENALTIES**

#### **13.1 Offences and general penalty**

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

#### **13.2 General penalty**

A person who commits an offence under this local law is liable, on 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.

#### **13.3 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 a modified penalty for a prescribed offence is the number specified adjacent to the clause in Schedule 1.

#### **13.4 Form of infringement notices**

- (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.

### 13.5 Evidence of a determination

- (1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.
- (2) Unless the contrary is proved, it is to be presumed 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 13.2]

Item	Clause	Nature of offence	Modified penalty \$
<b>Part 2 – Determination in respect of local government property</b>			
1	2.4	Failure to comply with a determination	100
<b>Part 3 – Activities on local government property</b>			
2	3.1	Undertaking activity on local government property without a licence	100
3	3.2(3)	Camping on local government property or erecting an unauthorised structure	100
4	3.3(1)	Failure to obtain licence to possess, consume or sell liquor	100
<b>Part 4 – Behaviour on local government property and thoroughfares</b>			
5	4.3	Behaviour interfering with others	100
6	4.4	Behaviour detrimental to property	200
7	4.5	Unauthorised entry to function	100
8	4.6(2)	Taking or injuring fauna without authorisation	200
9	4.7(2)	Removing, damaging or depositing flora without authorisation	200
10	4.8	Animal on local government property without a licence	100
11	4.9	Improper disposal of waste on local government property	100
12	4.10(1)	Unauthorised vehicle on local government property	100
13	4.10(2)	Unauthorised driving of a vehicle at more than 20km/hr on local government property	100
14	4.10(3)	Unauthorised driving of a vehicle on local government property during a function	100
15	4.11	Unauthorised use of a UAV	50
16	4.12	Unauthorised archery, pistol or rifle shooting on local government property	100
17	4.13	Unauthorised playing or practising golf on local government property	100

18	4.14	Unauthorised use of bicycle, skateboard etc. on local government property	50
<b>Part 5 – Matters relating to particular local government property</b>			
19	5.1	Unauthorised entry to fenced, closed or restricted local government property	200
20	5.2(1)	Unauthorised entry to gender specific toilet block or change room	100
21	5.3	Unauthorised use of toilet block or change room	100
<b>Part 6 – Activities in thoroughfares</b>			
22	6.1(a)	Planting or allowing plant or verge treatment in thoroughfare to become a sightline hazard	100
23	6.1(b)	Damaging a lawn or garden in a thoroughfare	100
24	6.1(c)	Damaging or removing whole or part of a street tree without authorisation	200
25	6.1(d)	Obstruction of or permitting a hazard in a thoroughfare	100
26	6.1(e)	Damaging, removing or interfering with thoroughfare, part of thoroughfare, sign or structure in a thoroughfare without authorisation	100
27	6.1(f)	Playing games in thoroughfare so as to impede vehicles or persons	100
28	6.2(1) (a), (d), (e), (f), (g), (i)	Unauthorised activity in a thoroughfare causing damage	200
29	6.2(1) (b), (c), (h), (i), (k), (l), (m), (n), (o), (p), (q)	Unauthorised activity in a thoroughfare causing inconvenience	100
30	6.4	Driving on a closed thoroughfare	100
31	6.7(1)	Unauthorised verge treatment	100
32	6.8 (a), (b), (d), (e)	Failure to keep permitted verge treatment in good and tidy condition, obstruct a thoroughfare, footpath, drain, or driveway	100
33	6.8(c)	Placing an obstruction on or around a verge treatment	50
34	6.8(f)	Failure to ensure sprinklers or reticulation pipes do not protrude, do not cause inconvenience to pedestrians, or present a hazard	100
35	6.11(1)	Failure to obtain licence for a temporary crossover	200
36	6.12	Failure to remove redundant crossover or reinstate kerb, drain, footpath, verge or thoroughfare	200
37	6.13	Failure to remove crossover in unsafe location	500
<b>Part 7 – Activities in public places</b>			
38	7.1(1)	Animal or vehicle obstructing public place without authorisation	100
39	7.2(2)	Animal in public place when not led, ridden or driven	100
40	7.2(3)	Horse being led, ridden or driven in a thoroughfare without authorisation	100

<b>Part 8 – Parking</b>			
41	8.1(1)	Parking a heavy or overlength vehicle in a townsite for more than 1 hour	100
42	8.2	Failure to park parallel to edge of carriageway unless indicated	100
<b>Part 9 – Signs and powers to give directions</b>			
43	9.1(2)	Failure to comply with condition of use indicated by a sign	100
44	9.3(1)	Failure to comply with direction of authorised person	100
45	9.3(2)	Obstruction or hindrance of an authorised person	100
46	9.4(1)(c)	Failure to comply with period of refusal or suspension	200
47	9.4(2)	Failure to leave a venue when instructed by an authorised person	200
<b>Part 10 – Licensing</b>			
48	10.1	Failure to obtain a licence when required	100
49	10.5	False or misleading statement in application for a licence	200
50	10.6	Failure to comply with licence condition	100
51	10.18	Failure to produce licence for inspection when required	100
52	10.19	Failure to produce licence for amendment when required	100
53	10.20	Failure to return licence when no longer in effect	100
54	10.21	Failure to comply with other responsibilities of licence holder	100
55	10.22	Advertising of commercial activity in a public space without holding a licence	200
<b>Part 11 – Notices</b>			
56	11.4	Failure to comply with notice	100
<b>Part 13 – Offences and penalties</b>			
57	13.2	Offence not elsewhere specified	100

Dated \_\_\_\_\_ 2023

The Common Seal of the Shire of Kent was affixed by authority of a resolution of Council in the presence of  
 –

Scott CROSBY, President

Peter CLARKE, Acting Chief Executive Officer.