Shire of Dundas

Norseman Woodlands to Eucla Coast

ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW 2016

SHIRE OF DUNDAS

ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW 2016

TABLE OF CONTENTS

PART 1—PRELIMINARY
1.1 Citation 1
1.2 Definitions 3
1.3 Application 3
1.4 Repeal 3
PART 2—ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES 3
Division 1—General 3
2.1 General prohibitions 3
2.2 Activities allowed with a permit—general 4
2.3 No possession and consumption of liquor on thoroughfare 4
Division 2—Vehicle crossing 5
Subdivision 1—Temporary crossings 5
2.4 Permit required 5
Subdivision 2—Redundant vehicle crossings 5
2.5 Removal of redundant crossing 5
Division 3—Verge treatments 5
Subdivision 1—Preliminary 5
2.6 Interpretation 5
2.7 Application 6
Subdivision 2—Permissible verge treatments 6
2.8 Permissible verge treatments 6
2.9 Only permissible verge treatments to be installed 6
2.10 Obligation of owner or occupier 6
2.11 Notice to owner or occupier 6
Subdivision 3—Existing verge treatments 7
2.12 Transitional provision 7
Subdivision 4—Public works 7
2.13 Power to carry out public works on verge 7
Division 4—Property numbers 7
Subdivision 1—Preliminary 7
2.14 Interpretation 7
Subdivision 2—Assignment and marking of numbers 7
2.15 Assignment of numbers 7
Division 5—Fencing 8
2.16 Public place—Item 4(1) of Division 1, Schedule 3.1 of the Act 8
Division 6—Signs erected by the local government 8
2.17 Signs 8
2.18 Transitional 8
Division 7—Driving on a closed thoroughfare 8
2.19 No driving on closed thoroughfare 8

PART 3 ADVERTISING SIGNS ON THOROUGHFARES 9
Division 1—Preliminary 9
3.1 Interpretation 9
Division 2—Permit 9
3.2 Advertising signs and portable direction signs 9
3.3 Matters to be considered in determining application for permit 10
Division 3—Conditions on permit 10
3.4 Conditions on portable sign 10
3.5 Conditions on election sign 10
PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS 11
Division 1—Animals and vehicles 11
4.1 Leaving animal or vehicle in public place or on local government property 11
4.2 Prohibitions relating to animals 11
4.3 Prohibition relating to parking on verges 12
Division 2—Shopping trolleys 12
4.4 Interpretation 12
4.5 Shopping trolley to be marked 12
4.6 Person not to leave shopping trolley in public place 12
4.7 Retailer to remove abandoned trolley 13
PART 5—ROADSIDE CONSERVATION 13
Division 1—Preliminary 13
5.1 Interpretation 13
5.2 Application 13
Division 2—Flora roads 13
5.3 Declaration of flora road 13
5.4 Construction works on flora roads 13
5.5 Signposting of flora roads 13
5.6 Driving only on carriageway of flora roads 14
Division 3—Special environmental areas 14
5.7 Designation of special environmental areas 14
5.8 Marking of special environmental areas 14
Division 4—Planting in thoroughfares 14
5.9 Permit to plant 14
5.10 Relevant considerations in determining application 14
Division 5—Clearance of vegetation 14
5.11 Permit to plant 14
5.12 Application for permit 15
Division 6—Fire management 15
5.13 Permit to burn thoroughfare 15
5.14 Application for permit 15
5.15 When application for permit can be approved 15
5.16 Prohibitions on burning 15
Division 7—Firebreaks 16
5.17 Permit for firebreaks on thoroughfares 16
5.18 When application for permit cannot be approved 16
Division 8—Commercial wildflower harvesting on thoroughfares 16
5.19 Commercial wildflower harvesting 16
5.20 Permit for revegetation projects 16

PART 6—TRADING IN THOROUGHFARES AND PUBLIC PLACES 17
Division 1—Stallholders and traders 17
Subdivision 1—Preliminary 17
6.1 Interpretation 17
6.2 Stallholder's permit 18
6.3 Trader's permit 18
Subdivision 2—Permits 19
6.4 No permit required to sell newspaper 19
6.5 Relevant considerations in determining application for permit 19
6.6 Conditions of permit 19
6.7 Exemptions from requirement to pay fee or to obtain a permit 20
Subdivision 3—Conduct of stallholders and traders 21
6.8 Conduct of stallholders and traders 21
Division 2—Street entertainers 21
Subdivision 1—Preliminary 21
6.9 Interpretation 21
Subdivision 2—Permits 22
6.10 Permit required to perform 22
6.11 Variation of permitted area and permitted time 22
6.12 Duration of permit 22
6.13 Cancellation of permit 22
6.14 Obligations of permit holder 22
Division 3—Outdoor eating facilities on public places 23
6.15 Interpretation 23
6.16 Permit required to conduct facility 23
6.17 Matters to be considered in determining application 23
6.18 Obligations of permit holder 23
6.19 Removal of facility unlawfully conducted 24
6.20 Use of facility by public 24
6.21 Temporary removal of facility may be requested 24
PART 7—PERMITS 24
Division 1—Applying for a permit 24
7.1 Application for permit 24
7.2 Decision on application for permit 25
Division 2—Conditions 25
7.3 Conditions which may be imposed on a permit 25
7.4 Imposing conditions under a policy 26
7.5 Compliance with and variation of conditions 26
Division 3—General 26
7.6 Duration of permit 26
7.7 Renewal of permit 26
7.8 Transfer of permit 27
7.9 Production of permit 27
7.10 Cancellation of permit 27
PART 8—OBJECTION AND APPEALS 28
8.1 Application of Division 1 of Part 9 of the Act 28

PART 9—MISCELLANEOUS NOTICES 28
9.1 Notice to redirect or repair sprinkler 28
9.2 Hazardous plants 28
9.3 Notice to repair damage to thoroughfare 28
9.4 Notice to remove thing unlawfully placed on thoroughfare 28
PART 10—ENFORCEMENT 28
Division 1—Notices given under this local law 28
10.1 Offence fail to comply with notice 28
10.2 Local government may undertake requirements of notice 29
Division 2—Offences and penalties 29
Subdivision 1—General 29
10.3 Offences 29
Subdivision 2—Infringement notices and modified penalties 29
10.4 Prescribed offences 29
10.5 Forms 29
SCHEDULE 1—PRESCRIBED OFFENCES 30

LOCAL GOVERNMENT ACT 1995

SHIRE OF DUNDAS

ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Dundas resolved on 20 of September 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Dundas Activities on Thoroughfares and Public Places and Trading Local Law 2016*.

1.2 Definitions

In this local law unless the context otherwise requires—

Act means the *Local Government Act 1995*;

a***pplicant*** means a person who applies for a permit;

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

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

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;

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

Council means the council of the local government;

crossing means a crossing giving access from a public thoroughfare to—

(a) private land; or

(b) a private thoroughfare serving private land;

district means the district of the local government;

footpath 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;

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

local government means the *Shire of Dundas;*

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 one of the 4 treatments described in clause 2.8(2), and includes any reticulation pipes and sprinklers;

permit means a permit issued under this local law;
permit holder means a person who holds a valid permit; ***person*** does not include the local government;

premises for the purpose of the definition of public place in both this clause and clause 6.1, means a building or similar structure, but does not include a carpark or a similar place;

public place includes any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include—

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

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

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

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 *Planning and Development Act 2005*;

townsite means the town sites of Norseman and Eucla which are—

(a) constituted under section 26(2) of the *Land Administration Act 1997*; or
(b) referred to in clause 37 of Schedule 9.3 of the Act;

vehicle includes—

(a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
(b) an animal being ridden or driven,
but excludes—
(a) a wheelchair or any device designed for use by a physically impaired person on a footpath; and
(b) a pram, a stroller, Shopping trolley or a 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.

nuisance means—

(a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;

(b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or

(c) interference which causes material damage to land or other property on the land affected by the interference.

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The *Shire of Dundas Activities on Thoroughfares and Public Property and Trading Local Law 2013* as published in the *Government Gazette* on 20 August 2013 is repealed.

PART 2—ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES

Division 1—General

2.1 General prohibitions

A person shall not—

(a) plant any plant (except ground coverage to a maximum height of 0.1 metres) within 6 metres of an intersection;

(b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless—

  (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or

  (ii) the person is acting under the authority of a written law;

(c) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 2 metres of a carriageway;

(d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;

(e) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;

(f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare; or

(g) within a mall, arcade or verandah of a shopping centre, ride any skateboard, rollerblades or similar device.

2.2 Activities allowed with a permit—general

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

(a) dig or otherwise create a trench through or under a kerb or footpath;

(b) subject to Division 3 of this Part, throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only during the period of time advertised in connection with that collection by the local government;

(c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;

(d) cause any obstruction to a water channel or a water course in a thoroughfare;

(e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;

(f) damage a thoroughfare;

(g) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose or under a permit issued under clause 5.13;

(h) fell any tree onto a thoroughfare;

(i) unless installing a permissible verge treatment—

(i) lay pipes under or provide taps on any verge; or

(ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;

(j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;

(k) on a public place use anything or do anything so as to create a nuisance;

(l) place or cause to be placed on a thoroughfare a bulk rubbish container; or

(m) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare.

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

2.3 No possession and consumption of liquor on thoroughfare

(1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless without a permit—

(a) that is permitted under the *Liquor Control Act 1988* or under another written law; or

(b) the person is doing so in accordance with a permit.

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

Division 2—Vehicle crossing

Subdivision 1—Temporary crossings

2.4 Permit required

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

(a) a crossing does not exist; or

(b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.

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

(a) the builder named on the building licence issued under the *Building Act 2011*, if one has been issued in relation to the works; or

(b) the registered proprietor of the lot, if no building licence has been issued under the *Building Act 2011* in relation to the works.

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

Subdivision 2—Redundant vehicle crossings

2.5 Removal of redundant crossing

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

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

(a) remove any part of or all of a crossing which does not give access to the lot; and

(b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal,

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

Division 3—Verge treatments

Subdivision 1—Preliminary

2.6 Interpretation

In this Division, unless the context otherwise requires—

acceptable material means any of the following materials—

(1) gravel;

(2) blue metal;

(3) brick paving; or

similar material approved by the local government.

2.7 Application

This Division only applies to the townsites.

Subdivision 2—Permissible verge treatments

2.8 Permissible verge treatments

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

(2) The permissible verge treatments are—

(a) the planting and maintenance of a lawn;

(b) the planting and maintenance of a garden provided that—

(i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare; and

(ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;

(c) the installation of an acceptable material; or

(d) the installation over no more than one third of the area of the verge (excluding any vehicle crossing) of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

2.9 Only permissible verge treatments to be installed

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

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

2.10 Obligations of owner or occupier

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

(a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;

(b) not place any obstruction on or around the verge treatment; and

(c) not disturb a footpath on the verge.

2.11 Notice to owner or occupier

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

Subdivision 3—Existing verge treatments

2.12 Transitional provision

(1) In this clause—

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

(2) A verge treatment which—

(a) was installed prior to the commencement day; and

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

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

Subdivision 4—Public works

2.13 Power to carry out public works on verge

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

(a) is not liable to compensate any person for that disturbance;

(b) may backfill with sand, if necessary, any garden or lawn; and

(c) is not liable to replace or restore any—

(i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or

(ii) sprinklers, pipes or other reticulation equipment.

Division 4—Property numbers

Subdivision 1—Preliminary

2.14 Interpretation

In this Division, unless the context requires otherwise, ***number*** means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare

Subdivision 2—Assignment and marking of numbers

2.15 Assignment of numbers

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

Division 5—Fencing

2.16 Public place—item 4(1) of Division 1, Schedule 3.1 of the Act

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

(a) a public place, as that term is defined in clause 1.2; and

(b) local government property.

Division 6—Signs erected by the local government

2.17 Signs

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

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

(3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose of giving notice of the effect of a provision of this local law.

2.18 Transitional

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

(a) the sign specifies a condition of use relating to the public place which gives notice of the effect of a provision of this local law; and

(b) the condition of use specified is not inconsistent with any provision of this local law.

Division 7—Driving on a closed thoroughfare

2.19 No driving on closed thoroughfare

(1) A person shall not drive or take a vehicle on a closed thoroughfare unless without a permit—

(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.

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

PART 3—ADVERTISING SIGNS ON THOROUGHFARES

Division 1—Preliminary

3.1 Interpretation

In this Part, unless the context otherwise requires—

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

direction sign means a sign which indicates the direction of another place, activity or event, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;

election sign means a sign or poster which advertises any aspect of a forthcoming Federal, State or local government election;

portable direction sign means a portable free standing direction sign; and

portable sign means a portable free standing advertising sign.

Division 2—Permit

3.2 Advertising signs and portable direction signs

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

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

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

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

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

(a) on a footpath;

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

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

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

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

3.3 Matters to be considered in determining application for permit

In determining an application for a permit for the purpose of clause 3.2(1), the local government is to have regard to—

(a) any other written law regulating the erection or placement of signs within the district;

(b) the dimensions of the sign;

(c) other advertising signs already approved or erected in the vicinity of the proposed location of the sign;

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

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

Division 3—Conditions on permit

3.4 Conditions on portable sign

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

(a) the portable sign shall—

(i) not exceed 1m in height;

(ii) not exceed an area of $1m^2$ on any side;

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

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

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

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

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

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

(ix) be maintained in good condition; and

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

3.5 Conditions on election sign

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

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

(b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;

(c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access to a place by any person;

(d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;

(e) being maintained in good condition;

(f) not being erected until the election to which it relates has been officially announced;

(g) being removed within 24 hours of the close of polls on voting day;

(h) not being placed within 100m of any works on the thoroughfare;

(i) being securely installed;

(j) not being an illuminated sign;

(k) not incorporating reflective or fluorescent materials; and

(l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

Division 1—Animals and vehicles

4.1 Leaving animal or vehicle in public place or on local government property

(1) A person shall not leave an animal or a vehicle, or any part of a vehicle, in a public place or on local government property so that it obstructs the use of any part of that public place or local government property, unless that person has first obtained a permit or is authorised to do so under a written law.

(2) A person will not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.

(3) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

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

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 on 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, unless that person does so under a permit or under the authority of a written law.

4.3 Prohibition relating to parking on verges

(1) A person shall not park on a verge a vehicle having a gross vehicle mass in excess of 4.5 tonnes or that is in combination with any other vehicle or vehicles or anything in or on that vehicle more than 7.5 metres in length—

(a) for more than four hours consecutively;

(b) within 10 metres of an intersection for any period of time; or

(c) for the purpose of repairing, servicing or cleaning the vehicle.

(2) For the purpose of subclause (1) park means to permit a vehicle whether attended or not to remain stationary and parking has a correlative meaning.

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 Shopping trolley to be marked

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

4.6 Person not to leave trolley in public place

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

4.7 Retailer to remove abandoned trolley

(1) If a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, the local government may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.

(2) A retailer shall remove a shopping trolley within 24 hours of being so advised under subclause (1), unless the retailer—

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

(b) pays any fee for that collection and delivery, imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act, within the period specified by the local government.

PART 5—ROADSIDE CONSERVATION

Division 1—Preliminary

5.1 Interpretation

In this Part —

MRWA means Main Roads Western Australia;

protected flora has the meaning given to it in section 6(1) of the *Wildlife Conservation Act 1950*;

rare flora has the meaning given to it in section 23F of the *Wildlife Conservation Act 1950*;

Roadside Conservation Committee Roadside Conservation Committee means the Roadside Conservation Committee appointed by the Minister for Environment; and

special environmental area means an area designated as such under clause 5.7.

5.2 Application

This Part does not apply to the townsites.

Division 2—Flora roads

5.3 Declaration of flora road

The local government may declare a thoroughfare which has, in the opinion of the local government, high quality roadside vegetation to be a flora road.

5.4 Construction works on flora roads

Construction and maintenance work carried out by the local government on a flora road is to be in accordance with the 'Handbook of Environmental Practice for Road Construction and Road Maintenance Works' prepared by the Roadside Conservation Committee.

5.5 Signposting of flora roads

The local government may signpost flora roads with the standard MRWA 'flora road' sign.

5.6 Driving only on carriageway of flora roads

(1) A person driving or riding a vehicle on a flora road shall only drive or ride the vehicle on the carriageway.

(2) Subclause (1) does not apply where—

(a) conditions on the thoroughfare do not reasonably permit a vehicle to remain on the carriageway;

(b) there is no carriageway; or

(c) an exemption from the application of subclause (1) has been obtained from the local government.

Division 3—Special environmental areas

5.7 Designation of special environmental areas

The local government may designate a thoroughfare, or any part of a thoroughfare, has a special environmental area which—

(a) as protected flora or rare flora; or

(b) in the opinion of the local government, has environmental, aesthetic or cultural significance.

5.8 Marking of special environmental areas

The local government is to mark and keep a register of each thoroughfare, or part of a thoroughfare, designated as a special environmental area.

Division 4—Planting in thoroughfares

5.9 Permit to plant

A person shall not plant any plant or sow any seeds in a thoroughfare without first obtaining a permit.

5.10 Relevant considerations in determining application

In determining an application for a permit for the purpose of clause 5.9, the local government is to have regard to—

(a) existing vegetation within that part of the thoroughfare in which the planting is to take place; and

(b) the diversity of species and the prevalence of the species which are to be planted or sown.

Division 5—Clearance of vegetation

5.11 Permit to clear

A person shall not clear and maintain in a cleared state, the surface of a thoroughfare within 1m of that person's land without first obtaining a permit and any other approvals which may be required under any written law.

5.12 Application for permit

In addition to the requirements of clause 7.1(2), a person making an application for a permit for the purpose of clause 5.11 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.

Division 6—Fire management

5.13 Permit to burn thoroughfare

A person shall not burn part of a thoroughfare without first obtaining a permit or unless acting under the authority of any other written law.

5.14 Application for permit

In addition to the requirements of clause 7.1(2), an application for a permit for the purposes of clause 5.13 shall—

(a) include a sketch plan showing the portions of a thoroughfare which are proposed to be burned; and

(b) advise of the estimated fire intensity and the measures to be taken to protect upper storey vegetation from the burn.

5.15 When application for permit can be approved

The local government may approve an application for a permit for the purpose of clause 5.13 only if the burning of the particular part of the thoroughfare will—

(a) reduce a fire hazard and alternative means of reducing that hazard, such as slashing or the use of herbicides, are considered by the local government to be not feasible or more detrimental to native flora and fauna than burning; or

(b) in the opinion of the local government, be beneficial for the preservation and conservation of native flora and fauna.

5.16 Prohibitions on burning

Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 5.13 is not to be approved by the local government—

(a) for burning between 31 August and 1 May of the following year where the intensity of the burn could damage native flora and fauna; or

(b) in any year to any person for any part of a thoroughfare which is on the opposite side of the carriageway to that portion of the thoroughfare for which a permit to burn has been approved in the same year.

Division 7—Firebreaks

5.17 Permit for firebreaks on thoroughfares

A person shall not construct a firebreak on a thoroughfare without first obtaining a permit.

5.18 When application for permit cannot be approved

(1) The local government is not to approve an application for a permit for the purpose of clause 5.17 where the thoroughfare is less than 20m wide.

(2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

Division 8—Commercial wildflower harvesting on thoroughfares

5.19 Commercial wildflower harvesting

(1) Subject to clause 5.20, a person shall not commercially harvest native flora on a thoroughfare without first obtaining a permit under this local law and any other licence or approval which may be required under any other written law.

(2) The local government may approve an application for a permit under subclause (1) only where the thoroughfare, or relevant part of it, is not a special environment area.

5.20 Permit for revegetation projects

(1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.

(2) The local government may approve an application for a permit under subclause (1) only where—

(a) the seed is required for a revegetation project in any part of the district; and

(b) the thoroughfare, or the relevant part of it, is not a special environmental area.

(3) Unless the local government specifically provides to the contrary on a permit, if the local government approves an application for a permit for the purpose of subclause (1) it is to be taken to be approved subject to the following conditions—

(a) the collection of the seed is to be carried out so as not to endanger the long time survival of the native flora on the thoroughfare; and

(b) any licence or approval which may be required under any other written law is to be obtained by the applicant.

PART 6—TRADING IN THOROUGHFARES AND PUBLIC PLACES

Division 1—Stallholders and traders

Subdivision 1—Preliminary

6.1 Interpretation

In this Division, unless the context otherwise requires—

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

public place includes—

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

(b) local government property,

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

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

stallholder means a person in charge of a stall;

stallholder's permit means a permit issued to a stallholder;

trader means a person who carries on trading;

trader's permit means a permit issued to a trader; and

trading includes—

(a) the selling or hiring of, the offering for sale or hire of or the soliciting of orders for goods or services in a public place;

(b) displaying goods in any public place for the purpose of—

(i) offering them for sale or hire;

(ii) inviting offers for their sale or hire;

(iii) soliciting orders for them; or

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

(c) the going from place to place, whether or not public places, and—

(i) offering goods or services for sale or hire;

(ii) inviting offers or soliciting orders for the sale or the hire of goods or services; or

(iii) carrying out any other transaction in relation to goods or services, but does not include—

(d) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder's permit;

(e) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from a person who sells those goods or services;

(f) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; and

(g) the selling or hiring or the offering for sale or hire of—

(i) goods by a person who represents a manufacturer of the goods; or

(ii) services by a person who represents a provider of the services, which are sold directly to consumers and not through a shop.

Subdivision 2—Permits

6.2 Stallholder's permit

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

(a) the holder of a valid stallholder's permit; or

(b) an assistant specified in a valid stallholder's permit.

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

(a) state the full name and address of the applicant;

(b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;

(c) specify the proposed location of the stall;

(d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;

(e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and

(f) be accompanied by an accurate plan and description of the proposed stall.

6.3 Trader's permit

(1) A person shall not carry on trading unless that person is—

(a) the holder of a valid trader's permit; or

(b) an assistant specified in a valid trader's permit.

(2) Every application for a trader's permit shall—

(a) state the full name and address of the applicant;

(b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;

(c) specify the location or locations in which the applicant proposes to trade;

(d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;

(e) specify the proposed goods or services which will be traded; and

(f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.

Subdivision 2—Permits

6.4 No permit required to sell newspaper

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

6.5 Relevant considerations in determining application for permit

(1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to—

(a) any relevant policies of the local government;

(b) the desirability of the proposed activity;

(c) the location of the proposed activity;

(d) the principles set out in the Competition Principles Agreement; and

(e) such other matters as the local government may consider to be relevant in the circumstances of the case.

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

(a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;

(b) that the applicant is not a desirable or suitable person to hold a permit; that—

(i) the applicant is an undischarged bankrupt or is in liquidation;

(ii) the applicant has entered into any composition or arrangement with creditors; or

(iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property; or

(c) such other grounds as the local government may consider to be relevant in the circumstances of the case.

6.6 Conditions of permit

(1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include—

(a) the place, the part of the district, or the thoroughfare to which the permit applies;

(b) the days and hours during which a permit holder may conduct a stall or trade;

(c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;

(d) the goods or services in respect of which a permit holder may conduct a stall or trade;

(e) the number of persons and the names of persons permitted to conduct a stall or trade;

(f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;

(g) whether and under what terms the permit is transferable;

(h) any prohibitions or restrictions concerning the—

(i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;

(ii) the use of amplifiers, sound equipment and sound instruments;

(iii) the use of signs; and

(iv) the use of any lighting apparatus or device;

(j) the manner in which the permit holder's name and other details of a valid permit are to be displayed;

(k) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;

(l) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;

(m) the acquisition by the stallholder or trader of public risk insurance;

(n) the period for which the permit is valid; and

(o) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.

(2) Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may at the request of that permit holder authorize 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.

6.7 Exemptions from requirement to pay fee or to obtain a permit

(1) In this clause—

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

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

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

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

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

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

Subdivision 3—Conduct of stallholders and traders

6.8 Conduct of stallholders and traders

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

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

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

(c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the National Measurements Act 1960 (Cth).

(2) A stallholder or trader shall not—

(a) [Deleted by Government Gazette 204, 24 Oct 2017, page 5365]

(b) 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;

(c) act in an offensive manner;

(d) 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

(e) 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 entertainer

Subdivision 1—Preliminary

6.9 Interpretation

In this Division the context otherwise requires—

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

permit means a permit issued for the purpose of clause 6.10;

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

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

Subdivision 2—Permits

6.10 Permit required to perform

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

6.11 Variation of permitted area and permitted time

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

(a) the permitted area;

(b) the permitted time; or

(c) both the permitted area and the permitted time, shown on a permit.

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

6.12 Duration of permit

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

6.13 Cancellation of permit

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

6.14 Obligations of a permit holder

A permit holder shall not in a public place—

(a) perform wearing dirty, torn or ragged clothing;

(b) act in an offensive manner; or

(c) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier—

(i) other than in the permitted area; and

(ii) unless the musical instrument or device is specified in the permit.

Division 3—Outdoor eating facilities on public places

6.15 Interpretation

In this Division—

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

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

public place has the meaning given to it in clause 6.1.

6.16 Permit required to conduct facility

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

6.17 Matters to be considered in determining application

In determining an application for a permit for the purpose of clause 6.16, the local government may consider in addition to any other matter it considers relevant, whether or not—

(a) the facility is conducted in conjunction with and as an extension of food business which abut on the facility, and whether the applicant is the person conducting such food business;

(b) any abutting food business are registered in accordance with the *Food Act 2008* and whether the use of the premises is permitted under the town planning scheme;

(c) the facility will comply with any local law made under the *Food Act 2008*;

(d) users of the facility will have access to proper and sufficient sanitary and ablutionary conveniences;

(e) the facility would—

(i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or

(ii) impede pedestrian access; and

(f) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

6.18 Obligations of permit holder

(1) The permit holder for a facility shall—

(a) ensure that the facility is conducted at all times in accordance with the provisions of this local law and any local law made under the *Food Act 2008*;

(b) ensure that the eating area is kept in a clean and tidy condition at all times;

(c) maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times; and

(d) be solely responsible for all rates and taxes levied upon the land occupied by the facility.

(2) Whenever, in the opinion of the local government, any work is required to be carried out to a facility, the local government may give a notice to the permit holder for the facility to carry out that work within the time limited by the notice.

(3) In subclause (2), "work" includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a facility.

6.19 Removal of facility unlawfully conducted

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

6.20 Use of facility by public

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

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

6.21 Temporary removal of facility may be requested

(1) The permit holder for a facility is to temporarily remove the facility when requested to do so on reasonable grounds by an authorised person or a member of the Police Service or an emergency service in the event of an emergency.

(2) The permit holder may replace the facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

PART 7—PERMITS

Division 1—Applying for a permit

7.1 Application for permit

(1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).

(2) An application for a permit under this local law shall—

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

(b) be signed by the applicant;

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

(d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

(4) The local government may require an applicant to give local public notice of the application for a permit.

7.2 The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).Decision on application for permit

(1) The local government may—

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

(b) refuse to approve an application for a permit.

(2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.

(3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

(4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).

(5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

Division 2—Conditions

7.3 Conditions which may be imposed on a permit

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

(a) the payment of a fee;

(b) the duration and commencement of the permit;

(c) the commencement of the permit being contingent on the happening of an event;

(d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;

(e) the approval of another application for a permit which may be required by the local government under any written law;

(f) the area of the district to which the permit applies;

(g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;

(h) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government; and

(i) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder.

7.4 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 7.2(1)(a).

(2) Under clause 7.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.

(3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 7.2(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.

7.5 Compliance with and variation of conditions

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

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

Division 3—General

7.6 Duration of permit

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

(a) otherwise stated in this local law or in the permit; or

(b) cancelled under clause 7.10.

7.7 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 all necessary changes as required.

7.8 Transfer of permit

(1) An application for the transfer of a valid permit is to—

(a) be made in writing;

(b) be signed by the permit holder and the proposed transferee of the permit;

(c) provide such information as the local government may require to enable the application to be determined; and

(d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.

(3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by—

(a) an endorsement on the permit signed by the CEO; or

(b) issuing to the transferee a permit in the form determined by the local government.

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

7.9 Production of permit

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

7.10 Cancellation of permit

(1) Subject to clause 8.1, a permit may be cancelled by the local government on any one or more of the following grounds—

(a) the permit holder has not complied with a—

(i) condition of the permit; or

(ii) provision of any written law which may relate to the activity regulated by the permit; or

(b) if it is relevant to the activity regulated by the permit—

(i) the permit holder has become bankrupt, or gone into liquidation;

(ii) the permit holder has entered into any composition or arrangement with creditors; or

(iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the permit holder's undertakings or property.

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

(a) shall return the permit as soon as practicable to the local government; and

(b) is to be taken to have forfeited any fees paid in respect of the permit.

PART 8—OBJECTIONS AND REVIEW

8.1 Application of Division 1 of Part 9 of the Act

When the local government makes a decision—

(a) under clause 7.2(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 9—MISCELLANEOUS NOTICES

9.1 Notice to redirect or repair sprinkler

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

9.2 Hazardous plants

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

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

9.3 Notice to repair damage to thoroughfare

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

9.4 Notice to remove thing unlawfully placed on thoroughfare

Where any thing is placed on a thoroughfare in contravention of this local law, the local government may by notice in writing to the owner or the occupier of the property which abuts on that portion of the thoroughfare where the thing has been placed, or such other person who may be responsible for the thing being so placed, require the relevant person to remove the thing.

PART 10—ENFORCEMENT

Division 1—Notices given under this local law

10.1 Offence to fail to comply with notice

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

10.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 10.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

Division 2—Offences and penalties

Subdivision 1—General

10.3 Offences

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

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

Subdivision 2—Infringement notices and modified penalties

10.4 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.

10.5 Forms

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

(a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;

(b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and

(c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

———

SCHEDULE 1—PRESCRIBED OFFENCES AND MODIFIED PENALTIES

[Clause 10.4]

Item	Clause	Nature of Offence	Modified penalty $
1	2.1(a)	Plant any plant within 6m of intersection	100
2	2.1(b)	Damaging lawn or garden	100
3	2.1(c)	Plant (except grass) on thoroughfare within 2m of carriageway	100
4	2.1(d)	Placing hazardous substance on footpath	100
5	2.1(e)	Damaging or interfering with signpost or structure on thoroughfare	300
6	2.1(f)	Playing games so as to impede vehicles or persons on thoroughfare	100
7	2.1(g)	Riding of skateboard or similar device on mall or verandah of shopping centre	100
8	2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	100
9	2.2(1)(b)	Throwing or placing anything on a verge without a permit	100
10	2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	100
11	2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	200
12	2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	200
13	2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	300
14	2.2(1)(h)	Felling tree onto thoroughfare without a permit	100
15	2.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	100
16	2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	300
17	2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	100
18	2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	100
19	2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	100
20	2.3(1)	Consumption or possession of liquor on thoroughfare	100
21	2.4(1)	Failure to obtain permit for temporary crossing	200
22	2.5(2)	Failure to comply with notice to remove crossing and reinstate kerb	300
23	2.9(1)	Installation of verge treatment other than permissible verge treatment	200
24	2.10	Failure to maintain permissible verge treatment or placement of obstruction on verge	100
25	2.11	Failure to comply with notice to rectify default	100
26	2.17(2)	Failure to comply with sign on public place	100
27	2.19(1)	Driving or taking a vehicle on a closed thoroughfare	300
28	3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	100
29	3.2(3)	Erecting or placing of advertising sign in a prohibited area	100
30	4.1(1)	Animal or vehicle obstructing a public place or local government property	100
31	4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	100
32	4.2(2)(b)	Animal on public place with infectious disease	100
33	4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	100
34	4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	100
35	4.3	Parking unlawfully on verge	100

Item	Clause	Nature of Offence	Modified penalty $
36	4.6	Person leaving shopping trolley in public place other than trolley bay	100
37	4.7(2)	Failure to remove shopping trolley upon being advised of location	100
38	5.6(1)	Driving a vehicle on other than the carriageway of a flora road	200
39	5.9	Planting in thoroughfare without a permit	200
40	5.11	Failure to obtain permit to clear a thoroughfare	500
41	5.13	Burning of thoroughfare without a permit	500
42	5.17	Construction of firebreak on thoroughfare without a permit	500
43	5.19	Commercial harvesting of native flora on thoroughfare	500
44	5.20(1)	Collecting seed from native flora on thoroughfare without a permit	300
45	6.2(1)	Conducting of stall in public place without a permit	300
46	6.3(1)	Trading without a permit	300
47	6.8(1)(a)	Failure of stallholder or trader to display or carry permit	100
48	6.8(1)(b)	Stallholder or trader not displaying valid permit	100
49	6.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	100
50	6.8(2)	Stallholder or trader engaged in prohibited conduct	100
51	6.16	Establishment or conduct of outdoor eating facility without a permit	300
52	6.18	Failure of permit holder of outdoor eating facility to comply with obligations	100
53	6.20(1)	Use of equipment of outdoor eating facility without purchase of food or drink from facility	50
54	6.20(2)	Failure to leave outdoor eating facility when requested to do so by permit holder	50
55	7.5	Failure to comply with a condition of a permit	100
56	7.9	Failure to produce permit on request of authorised person	100
57	10.1	Failure to comply with notice given under local law	100

———

The Common Seal of the Shire of Dundas was affixed by authority of a resolution of the Council in the presence of—

LYNN WEBB, Shire Deputy President.
DOUGLAS STEAD, Chief Executive Officer.

Dated on this 20 day of
September 2016.

———

Revision History:

Version	Made/ Amended	Gazette Reference	Key Changes/Notes
1	20 September 2016	No. 177, 29 September 2016, page 4153	Made
2	17 October 2017	No. 204, 24 October 2017, Page 5365	Clause 6.8 amended
3	22 March 2025		Reviewed. No changes made.