

# CITY OF BELMONT

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## CONSOLIDATED LOCAL LAW 2020

Consolidated Local Law 2020

03/09/2020

Amendment Effective

11/11/2022

Consolidated Local Law 2020

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**LOCAL GOVERNMENT ACT 1995**

**CITY OF BELMONT**

**CONSOLIDATED LOCAL LAW 2020**

Under the powers conferred on it by the *Local Government Act 1995*, *Cat Act 2011*, *Dividing Fences Act 1961*, *Dog Act 1976*, and *Waste Avoidance and Resource Recovery Act 2007* and all other enabling powers, the Council of the City of Belmont resolved on **27 October 2020** to make the following local law.

**Part 1 – Preliminary**

**1.1 Short title**

This is the *City of Belmont Consolidated Local Law 2020*.

**1.2 Commencement**

This local law commences 14 days after the day on which it is published in the *Government Gazette*.

**1.3 Application**

This local law applies throughout the district.

**1.4 Read as a whole**

This local law must be read as a whole and the treatment of the subject matter in one part does not exclude the treatment of the same subject matter in another part.

**1.5 Repeal**

The following local government local laws are repealed—

- (a) *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* published in the *Government Gazette* 13 September 2001; and
- (b) *Dust and Liquid Waste Local Law 2007* published in the *Government Gazette* 29 May 2007; and
- (c) *Dogs Local Law* published in the *Government Gazette* 13 September 2001; and
- (d) *Local Government Property Local Law* published in the *Government Gazette* 13 September 2001; and
- (e) *Local Laws Relating To Fencing* published in the *Government Gazette* 13 September 2001; and
- (f) *Parking and Parking Facilities Local Law* published in the *Government Gazette* 22 August 2002; and
- (g) *Stable Premises Local Law 2015* published in the *Government Gazette* 29 July 2015; and

- (h) *Urban Environment and Nuisance Local Law* published in the *Government Gazette 13 September 2001*; and
- (i) Clauses 35 – 47 of Part 4 – Waste Food and Refuse of the *City of Belmont Health Local Law 2002* published in the *Government Gazette 13 August 2002*.

## 1.6 Fees

- (1) Where provision is made in this local law for fees and where the power to impose such fees is contained in legislation other than the LG Act, then those fees are to be determined and imposed under and in accordance with that legislation.
- (2) Where this local law provides for fees other than those referred to in subclause (1), such fees shall be set and imposed in accordance with section 6.16 to 6.19 of the LG Act.
- (3) Fees referred to in subclauses (1) and (2) are to be as recorded in the Fees and Charges Schedule in the local government's Annual Budget and that Schedule as published in the Annual Budget from time to time is to apply as if it was a schedule of this local law and is referred to herein as the 'Fees Schedule'.
- (4) Where provision is made in this local law for a fee to be paid for any licence, permit, registration, authority or exemption, or any like or other consent, permission or approval, or any other service (**the service**), then the person requiring the service or any renewal, variation or transfer thereof, shall pay the fee as set out in the Fees Schedule at the time and in the manner provided for in this local law or in the Fees Schedule, or otherwise as required by the responsible officer of the local government if no applicable provision is made in this local law or the Schedule.
- (5) Where provision is made in this local law for the payment of a fee for any service as referred to in subclause (4), then—
  - (a) in the absence of any provision to the contrary, the fee is to be paid to the local government upon the lodging or making of the application for the service; and
  - (b) in the case of the renewal, variation or transfer of a licence, permit, registration, authority or any other service, the fee for the same is to be paid at the time of the application for the renewal, and if there is no provision or requirement for an application, the fee is to be paid before the renewal, variation or transfer takes effect.

## 1.7 Delegation

*[Clause 1.7 amended by Government Gazette No. 153 of 2022]*

# Part 2 – General Interpretation

## 2.1 Terms used

- (1) In this local law unless the context otherwise requires—

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

**AS** or **AS/NZS** means an Australian Standard or Australian/New Zealand Standard published by Standards Australia as amended from time to time;

**authorised person** means a person appointed by the local government under section 9.10 of the *Local Government Act 1995*, section 29(1) of the *Dog Act 1976* or section 48(1) of the *Cat Act 2011* to perform any of the functions of an authorised person under this local law;

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

**carriageway** has the same meaning as in the *Road Traffic Code 2000*;

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

**commencement date** means the date on which this local law commences operation under clause 1.2;

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

**dangerous dog** means a dog declared to be a dangerous dog under section 33E of the *Dog Act 1976*;

**determination** means a determination made under clause 13.3;

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

**footpath** has the same meaning as 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; or
- (b) its occurrence is generally advertised or notified in writing to particular persons; or
- (c) organisation by or on behalf of a club; or
- (d) payment of a fee to attend it; or
- (e) systematic recurrence in relation to the day, time and place;

**intersection** has the same meaning as in the *Road Traffic Code 2000*;

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

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

**liquid waste** means waste from any process or activity, whether useful or useless, that is in liquid form and includes paint, fuel, grease, fat, oil, degreaser, solvent, detergent, chemical, animal waste, food waste, effluent and all discharges of liquid to land or water that are not otherwise authorised by a written law but does not without limiting the generality of the foregoing include uncontaminated stormwater;

**liquor** has the same meaning as in the *Liquor Control Act 1988*;

**local government** means the City of Belmont;

**local government property** means any building, land or thing that is owned, vested in, or under the care, control or management of the local government, including but not limited to, any reserve, street, footpath, verge, tree, vehicle or otherwise unvested facility;

**local planning scheme** means a local planning scheme of the local government made under the *Planning and Development Act 2005*;

**lot** has the same meaning as in the *Planning and Development Act 2005*, but also where the context permits includes a lot in relation to a strata scheme, a lot in relation to a survey strata scheme, or a lot shown as common property on a survey strata plan, as those terms are defined in the *Strata Titles Act 1985*;

**nuisance** means unless the context of, or the enabling legislation for, a specific provision of this local law requires otherwise—

- (a) an activity or condition which is harmful or annoying to a person of reasonable susceptibility, and which would give rise to legal liability in the tort of public or private nuisance at law; or
- (b) an unreasonable interference with a person's use or enjoyment of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

**occupier** has the same meaning as in the LG Act;

**otherwise unvested facility** has the same meaning as in the LG Act;

**owner** has the same meaning as in the LG Act except—

- (a) where used in relation to a vehicle licensed under the *Road Traffic Act 1974*, means the person in whose name the vehicle has been registered under that Act; and
- (b) where used in relation to any other vehicle, means the person who owns, or is entitled to possession of that vehicle;

**permit** means a permit issued under this local law;

**permit holder** means a person who holds a valid permit;

**person** includes a body corporate, association or other body of persons but does not include the local government;

**public place** includes a place to which the public ordinarily have access whether or not by payment of a fee;

**Schedule** means a schedule to this local law;

**street** means any road, thoroughfare, highway or land used for vehicular or pedestrian traffic, and includes all land lying between property lines, including the verge and footpath;

**vehicle** includes—

- (a) every conveyance, not being a bicycle, train, vessel or aircraft, and every object capable of being propelled or drawn, on wheels or tracks, by any means, whether licensed or not; and
- (b) where the context permits, an animal being driven or ridden;

**verge** means the portion of a street which lies between the boundary of a carriageway and the adjacent property line.

- (2) Where, in this local law, a duty or liability is imposed on an owner or occupier the duty or liability is taken to be imposed jointly and severally on each of the owners or occupiers.

## 2.2 Interpretation

- (1) Terms used in this local law which are defined in section 5 of the *Interpretation Act 1984* have the meanings given in that section notwithstanding any provision in this clause to the contrary.
- (2) Where there is a definition of a term in this local law, the term when used in this local law has the meaning given in that definition unless the context of a specific provision requires otherwise, or unless the enabling legislation for that specific provision requires otherwise.
- (3) If a term used in this local law does not have a definition in the *Interpretation Act 1984* or in this local law, the meaning will be as follows—
  - (a) as the term is defined in the enabling provision for those provisions which provide the context for the term in this local law; and
  - (b) if there is no definition as provided in (a), then as the term is defined in the *Local Government Act 1995*; and
  - (c) if there is no definition as provided in (a) and (b), then the meaning is to be ascertained by the general principles of statutory interpretation.

## Part 3 – Activities on local government property

### 3.1 Terms used

In this Part, unless the context otherwise requires—

**jetty** means and includes any jetty, pier, wharf and landing place which is local government property;

**crossing** means a crossing giving access from public land to—

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

### **3.2 Activities requiring permission**

- (1) A person must not, without the permission of the local government—
  - (a) subject to Part 7, place or drain anything onto local government property which may create a nuisance; or
  - (b) destroy, damage, deface, remove or interfere with any local government property; or
  - (c) 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 local government property; or
  - (d) enter local government property which has been fenced off or closed to the public by a sign or otherwise; or
  - (e) cause any obstruction to a vehicle or a person using local government property; or
  - (f) alter, obstruct, or interfere with, any watercourse, drain, tunnel, or bridge that is local government property; or
  - (g) hoist anything over local government property; or
  - (h) advertise anything by any means on local government property; or
  - (i) teach, coach or train, for profit, on local government property; or
  - (j) conduct a function on local government property; or
  - (k) charge any person for entry onto local government property; or
  - (l) light a fire or burn anything on local government property except in a facility provided for that purpose; or
  - (m) parachute, hang glide, abseil or base jump from or on to local government property; or
  - (n) make any excavation on or erect or remove any fence on local government property; or
  - (o) play or practice golf on local government property except on a reserve set aside for the purpose of playing golf.
- (2) The local government may exempt a person from compliance with subclause (1) on the written application by that person.

### **3.3 Notice to remove anything unlawfully placed on local government property**

Where anything is placed on local government property in contravention of this local law, the local government may give written notice to the person responsible for the thing being so placed, requiring that person to remove the thing from the local government property.

### 3.4 Liability for damage to local government property

- (1) Where a person damages local government property, the local government may by notice in writing to that person require that person within the time stipulated in the notice to pay the costs, at the option of the local government, of either—
  - (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
  - (b) replacing that property.
- (2) Unless there is evidence establishing on the balance of probabilities to the contrary, a person (hereafter referred to as the accused person) is to be taken to have damaged local government property within subclause (1)—
  - (a) in a case where a vehicle or a boat caused the damage, the accused person is the person responsible, at the time the damage occurred, for the control of the vehicle or boat; or
  - (b) in a case where the damage occurred when an approval, permit or permission was in force, authorising a person to occupy or use the local government property, the accused person is the person who was granted the approval, permit or permission.
- (3) On a failure to comply with the notice issued under subclause (1), the local government may recover the costs referred to in the notice in a court of competent jurisdiction as a debt due to the local government.

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

A person must not enter or remain on local government property while intoxicated.

### 3.6 No possession or consumption of liquor or prohibited drug

- (1) A person must not consume or have possession of or be in control of any liquor or prohibited drug, on local government property, unless—
  - (a) permitted under the *Liquor Control Act 1988* or under another written law; or
  - (b) in accordance with a permit.
- (2) Subclause (1) does not apply where the liquor is in a sealed and unopened container.

### 3.7 Permission required to camp outside a facility

- (1) In this clause—

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

- (2) This clause does not apply to a facility operated by the local government.
- (3) A person must not without the permission of the local government—

- (a) camp on, lodge at or occupy any structure or vehicle at night for the purpose of sleeping on local government property; or
  - (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.
- (4) The maximum period for which the local government may approve an application for permission in respect of subclause (3)(a) or (3)(b) is as provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

### **3.8 When entry must be refused into swimming pool facility**

- (1) In this clause—

**manager** means the person for the time being employed or contracted by the local government to control and manage a swimming pool facility which is local government property and includes the person's assistant.

- (2) A manager or an authorised person must refuse admission to, may direct to leave or must remove or cause to be removed from a swimming pool facility any person who—
- (a) in their opinion is—
    - (i) under the age of 12 years and who is unaccompanied by a responsible person of at least 18 years of age; or
    - (ii) suffering from any gastrointestinal disease, skin infection or other disease that is communicable in an aquatic environment; or
    - (iii) intoxicated; or
    - (iv) a baby or young child, who would ordinarily wear a nappy, not wearing an aqua-nappy; or
  - (b) is the subject of a decision by the local government to be refused entry for behavior that is inappropriate, disruptive or causes a potential danger or threat to any person or damage to property.

### **3.9 Prohibitions on use of jetty**

- (1) A person must not, without the permission of the local government—
- (a) drive or ride any vehicle onto a jetty; or
  - (b) take or allow an animal onto a jetty; or
  - (c) use, hang or dry any fishing net on a jetty; or
  - (d) tie or moor any boat so as to cause obstruction or prevent others from lawfully using the jetty or contravene any other conditions of use for the jetty.
- (2) Subclause (1)(b) does not apply to a dog, fish or bait.

### **3.10 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 must not use that entry of the toilet block or change room; or
  - (b) males, then a person of the female gender must not use that entry of the toilet block or change room.
- (2) Clauses 3.10(1)(a) and (b) do not apply to—
  - (a) children under the age of 6 years when accompanied by a parent, guardian or other person who is taking care of that child; or
  - (b) a person providing assistance to a disabled person.

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

- (1) A person must not enter local government property on such days or during such times as the local government property is set aside for a function whether or not the function is one for which a charge for admission is authorised, except—
  - (a) through the proper entrance for that purpose; and
  - (b) on payment of any fee chargeable for admission at the time.
- (2) The local government may exempt a person from compliance with subclause (1)(b).

### **3.12 Permission required for vehicle crossing**

- (1) Where it is likely that works on a lot will involve vehicles leaving a street and entering the lot, the person responsible for the works must obtain permission from the local government 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 permit issued under the *Building Act 2011*, if one has been issued in relation to the works; or
  - (b) the demolition contractor named on the demolition permit issued under the *Building Act 2011*, if one has been issued in relation to the works; or
  - (c) the registered proprietor of the lot, if no building or demolition permit has been issued under the *Building Act 2011* in relation to the works.
- (3) If the local government grants permission for the purpose of subclause (1), the permission is taken to be issued on the condition that until such time as the

temporary crossing is removed, the builder, demolition contractor or registered proprietor must keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction.

### **3.13 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, street and any other local government property 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 the owner or occupier 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, street and any other local government property, which may be affected by the removal,

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

### **3.14 Assignment of property numbers**

- (1) In this clause—

***number*** means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a street.
- (2) 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.
- (3) An assigned number must be displayed in a prominent position on or at the front of the lot so that it is clearly visible from the carriageway of the principal fronting street.

### **3.15 No smoking**

A person must not smoke within a 5 metre radius of any entrance or exit of premises on local government property.

## **Part 4 – Animals**

### **Division 1: General**

#### **4.1 Leaving animal on local government property**

- (1) Subject to the provisions of subclause (2) a person must not permit an animal to remain unattended on local government property.
- (2) An animal may be secured on local government property wherein animals may lawfully be secured for the purposes of this local law but only if secured for a period not exceeding 1 hour unless with the permission of the local government.

## 4.2 Prohibitions relating to animals

A person must not, on local government property—

- (a) allow an animal to enter or remain for any time unless it is led, ridden or driven; or
- (b) allow an animal which has a contagious or infectious disease to enter or be led, ridden or driven; or
- (c) train, race, lead, ride or drive an animal so as to damage local government property; or
- (d) depasture any animal without the permission of the local government.

## 4.3 Taking or injuring any animal

A person must not, take, injure or kill or attempt to take, injure or kill any animal or animal egg which is on or above local government property, unless that person is authorised under a written law to do so.

## 4.4 Restrictions on feeding wildlife

- (1) A person must not feed wildlife on local government property—
  - (a) so as to cause a nuisance; or
  - (b) with a food or other substance that is not a natural food for that wildlife.
- (2) Where an authorised person forms the opinion that a person has not complied with subclause (1) the authorised person may give written notice requiring the person to clean up and properly dispose of any food or other substance including waste products specified in the notice.

## 4.5 Damaging or interfering with local government property used for seizing animal

A person must not destroy, break into, damage or in any way interfere with or render not animal proof any local government property used for the purpose of catching, holding or conveying a seized animal.

## Division 2: Cats

### 4.6 Terms used

In this Division unless the context otherwise requires—

**cat** means an animal of the species *felis catus* or a hybrid of that species;

**owner** has the same meaning as in the *Cat Act 2011*;

**premises** has the same meaning as in the *Cat Act 2011*.

#### **4.7 Limitation on the number of cats**

- (1) Subject to subclause (5), a person must not, without an exemption in writing from the local government, keep more than 2 cats over the age of 6 months on premises.
- (2) An owner or occupier of premises may apply in writing to the local government for exemption from the requirements of subclause (1).
- (3) The local government must not grant an exemption under this clause unless it is satisfied that the number of cats to be kept will not be a nuisance or injurious or dangerous to health.
- (4) An exemption granted under this clause must specify—
  - (a) the owner or occupier to whom the exemption applies; and
  - (b) the premises to which the exemption applies; and
  - (c) the maximum number of cats which may be kept on the premises.
- (5) A person may keep more than 2 cats on premises where a defence or an exemption under regulation 6(2) or 6(3) of the *Cat (Uniform Local Provisions) Regulations 2013* applies.

#### **4.8 Nuisance cat**

- (1) The owner of a cat, or any other person in control of a cat, must not allow a cat to create a nuisance.
- (2) Where, in the opinion of an authorised person, a cat is creating a nuisance, the local government may give written notice to the owner of the cat or any other person apparently in control of the cat, requiring that person to abate the nuisance.
- (3) When a nuisance has occurred and a notice to abate the nuisance is given, the notice remains in force for the period specified by the local government on the notice or until the local government withdraws the notice.
- (4) A person given a notice to abate the nuisance must comply with the notice within the period specified in the notice.

### **Division 3: Dogs**

#### **4.9 Dogs to be confined**

- (1) An occupier of premises on which a dog is kept must—
  - (a) cause the portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog; and
  - (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it; and

- (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures that the dog remains confined) and is fitted with a proper latch or other means of fastening it; and
  - (d) maintain the fence and all gates and doors in the fence in good order and condition; and
  - (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
- (2) Notwithstanding subclause (1), the confinement of dangerous dogs is dealt with in the *Dog Act 1976* and *Dog Regulations 2013*.

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

- (1) This clause does not apply to premises which have been granted an exemption under section 26(3) of the *Dog Act 1976*.
- (2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the *Dog Act 1976*, 2 dogs over the age of 3 months and the young of those dogs under that age.

#### **4.11 Where application cannot be approved for kennel establishment**

The local government cannot approve an application for a licence to keep an approved kennel establishment on premises where—

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a local planning scheme; or
- (b) an approval required under a local planning scheme has not been granted.

#### **4.12 Impounding of dog charges and costs**

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

- (a) the charges to be levied under section 29(4) of the *Dog Act 1976* relating to the seizure and impounding of a dog; and
- (b) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the *Dog Act 1976*.

#### **4.13 Fouling local government property**

- (1) Any person liable for the control of a dog who permits that dog to defecate on local government property or on any land within the district without the consent of the occupier of that land must remove forthwith and dispose of the faeces either on private land with the written consent of the occupier or in such other manner as the local government approves.
- (2) Notwithstanding clause 14.7, the penalty for an offence under clause 4.13(1) is \$1000.

## Division 4: Horses (Stable Premises)

### 4.14 Terms used

In this Division unless the context otherwise requires—

**associated building** means a feed room, gear room, shoeing area, hosing down area, shelter or veterinary treatment room connected to the care and management of horses;

**dwelling house** means a building used solely for human habitation, and also means any part of a building which is designed for use as a self-contained unit for living purposes and is used solely for human habitation, but does not include open verandas or patios;

**Environmental Health Officer** means any Environmental Health Officer appointed by the local government under the *Public Health Act 2016*;

**habitable room** has the meaning given to it in the *National Construction Code*;

**horse** means any animal belonging to the subspecies *Equus ferus caballus*;

**National Construction Code** means the latest edition of the *National Construction Code* published from time to time by, or on behalf of, the Australian Building Codes Board, as amended from time to time, but not including explanatory information published with that code;

**sleeping quarters** means a room within a stable premises that is used by people for resting purposes but is not a place of residence;

**stable premises** means a building for the keeping, caring and feeding of 1 or more horses;

**stall** means a single compartment in a stable premises in which 1 horse is kept;

**training/walking ring** means an area where horses are temporarily contained for the purpose of training and exercise;

**walk-in/walk-out stall** means a single compartment in a stable premises with a sand floor and a floor area of a minimum of 28 square metres for the keeping of 1 horse;

**yard** means an area contained by a fence or rails where horses are kept during day-light hours only.

### 4.15 Requirement for registration

- (1) A person must not keep or stable any horse within the district of the local government other than in a stable premises registered under this local law.
- (2) A person must not keep or stable in any stable premises a greater number of horses than the number for which the stable premises is registered.
- (3) Registration may only be granted in the name of the owner of the property or an occupier holding a lease on the whole of the property on which the stable premises are situated.
- (4) The provisions of this local law are in addition to, and do not derogate from, the provisions of any other written law.

- (5) Any condition of registration imposed by the local government under clause 10.2(1)(a) must be complied with.

#### **4.16 Application for registration**

- (1) An application for the registration of a stable premise must be lodged with the local government together with such plans and other information as required by the local government.
- (2) Applications for the renewal of a registration must be submitted—
  - (a) during the month of June; and
  - (b) prior to the expiry of the registration.
- (3) If stable premises—
  - (a) are registered in the name of the owner and the property is sold, the new owner must within 28 days of the registration of the transfer of the property at Landgate, make application for a variation to the name on the registration of the stable premises, and must pay the applicable fee; or
  - (b) are registered in the name of an occupier holding a lease on the whole of the property, and the lease is terminated by any means whatsoever or assigned, the new occupier or the owner must within 28 days of the termination or assignment of the previous lease, make application for a variation in the name on the registration of the stable premises and must pay the applicable fee.
- (4) Where the owner or occupier of a registered stable premises intends to—
  - (a) alter or amend the buildings, facilities or land designed or used for the keeping of a horse or horses and equine activities; or
  - (b) keep horses in excess of the number permitted on the current certificate of registration,

the owner or occupier must make an application for a variation to the registration and lodge the variation application with the local government together with the variation fee and such, specifications, drawings, particulars and information as the local government requires in relation to the variation.

#### **4.17 Property inspection**

Upon receipt of a new application, the local government may cause the property to be inspected by an Environmental Health Officer who is to report on the sufficiency of the property as stable premises and such other matters as are required by this local law.

#### **4.18 Expiry, suspension and cancellation of registration**

- (1) A registration is valid from the date of issue until the upcoming 30 June, unless it is suspended or cancelled prior to that date under this local law.
- (2) If a registration is not renewed prior to 30 June in the year following its date of issue, the registration shall expire.

- (3) If registration of stable premises is granted in the name of the owner of the property, and the property is sold, and the new owner or a lessee of the whole of the property, does not within 28 days of the registration of the transfer of the property at Landgate make an application under subclause 4.16(3), any registration current at the time of the sale is, by force of this subclause, cancelled.
- (4) If registration of stable premises is granted in the name of an occupier holding a lease on the whole of the property, if the lease expires or is surrendered or assigned, or is otherwise terminated, and the new occupier being lessee of the whole of the property, or otherwise the owner, does not within 28 days of the expiration, surrender or other termination of the lease, does not make an application under subclause 4.16(3), any registration current at the time of termination or assignment of the lease is, by force of this subclause, cancelled.
- (5) Where a person to whom a registration has been granted—
  - (a) fails to comply with a condition of registration; or
  - (b) is convicted of an offence under this local law,

the local government may give written notice to such person of its suspension, cancellation, or refusal to renew the registration.
- (6) Where the local government suspends or cancels a registration under subclause (5), the suspension or cancellation will be effective from—
  - (a) the date specified in the written notice; or
  - (b) the same day on which the notice is issued, if no date is specified in the written notice.
- (7) Where a registration has been suspended under subclause (5), the local government may reinstate the registration by giving written notice.

#### **4.19 Requirements for the construction of stable premises**

- (1) The construction of a stable premises and its situation with respect to adjacent buildings must be in accordance with the *National Construction Code*, any local law and the local planning scheme, but the local government may waive strict compliance with this requirement with respect to any approved stable premises in existence prior to the commencement date.
- (2) Subject to subclause (3), all stable premises and associated buildings must be built in brickwork or other materials approved by the local government and provided with a concrete floor having a minimum thickness of 75mm with a finished floor level at least 75mm above the surrounding ground level and where required, drained to the sewer or as otherwise approved by the local government.
- (3) Every stable premises must be constructed with full height external walls to the requirements of the *National Construction Code* and any—
  - (a) partition walls between stalls must not be less than 1.5 metres high; and
  - (b) full height partition walls must provide a minimum area of 0.5 square metres of permanent ventilation, not more than 300mm below the roofline.

- (4) Every stall must have an area of not less than 12 square metres with walls not less than 3 metres in length.
- (5) Every stall must be provided with a roof that covers the entire floor area of the stall and allows for a minimum ceiling height of 2.7 metres with an average ceiling height of 3 metres.
- (6) Where an application proposes a stable premises with less than 10 stalls, each stall must be provided with a yard that complies with the requirements of clause 4.20.
- (7) Where an application proposes a stable premises with 10 or more stalls, at least 1 yard that complies with the requirements of clause 4.20, must be provided for every 10 stalls.
- (8) The construction of walk-in/walk-out stalls must comply with the following requirements—
  - (a) the site must be well drained with the highest known water table no closer than 1.2 metres below the ground or sand floor level, which may be achieved artificially; and
  - (b) a bed of crushed, compacted limestone or any other proposed alternative acceptable to the local government, with a minimum thickness of 300mm must be laid under the sand floor; and
  - (c) whether natural or imported sand is used for the sand floor, it must be clean, coarse and free from dust; and
  - (d) footings must be a minimum of 450mm below ground level; and
  - (e) the design must provide a minimum access width of 1.5 metres and must allow sufficient access for small earth moving machinery; and
  - (f) the floor area must not be less than 28 square metres and must have a minimum ceiling height of 2.7 metres with an average ceiling height of 3 metres; and
  - (g) walls must have a minimum length of 4 metres; and
  - (h) the roofed area must not be less than 80 percent of the floor area; and
  - (i) where a walk-in/walk-out stall abuts a boundary fence with a minimum height of 1.8 metres and built of masonry or other approved materials of similar or better quality, the walk-in/walk-out stall is not required to have a separation fence or railing 1.2 metres from the boundary; and
  - (j) where a separation fence or railing is required then the relevant measurements for the 28 square metre area in subclause (8)(f) are to be taken from the separation fence or railing and not from the boundary of the adjoining property; and
  - (k) on a corner lot, a walk-in/walk-out stall may be permitted to the street boundary, provided the boundary fence is 1.8 metres high and constructed of masonry or other material of similar or better quality; and

- (l) in all other respects subclause 4.19(1) must apply.
- (9) Any room used for the purpose of general administration or as sleeping quarters must as a minimum be separated from the stable premises by a door.

#### **4.20 Yards and training/walking rings**

- (1) Yards and training/walking rings must conform to the following requirements—
  - (a) the site must be well drained with the highest known water table no closer than 1.2 metres below the ground or sand floor level, which may be achieved artificially; and
  - (b) a bed of crushed, compacted limestone or any other proposed alternative acceptable to the local government, with a minimum thickness of 300mm, must be laid under the sand pad; and
  - (c) whether natural or imported sand is used for the sand floor, it must be clean, coarse and free from dust; and
  - (d) the floor area must not be less than 28 square metres and the side of each yard or training/walking ring must not be less than 4 metres in length; and
  - (e) yards and training/walking rings must be provided with a separation fence or railing at a distance of not less than 1.2 metres from the boundary of any adjoining property not in the same ownership or occupation as the registered stable premises, except when in accordance with subclause (1)(g); and
  - (f) if a separation fence or railing is provided to comply with subclause (1)(e), then the relevant measurements for the 28 square metre floor area in subclause (1)(d) are to be taken from the separation fence or railing and not from the boundary of the adjoining property; and
  - (g) where a yard or training/walking ring abuts a boundary fence with a minimum height of 1.8 metres and built of masonry or other approved materials of similar or better quality, the yard or training/walking ring is not required to have a separation fence or railing 1.2 metres from the boundary; and
  - (h) on a corner lot, yards and training/walking rings may be permitted to the street boundary, provided the boundary fence is 1.8 metres high and constructed of masonry or other material of similar or better quality.
- (2) Any roof erected over the whole or part of a yard or training/walking ring must have a minimum ceiling height of 2.7 metres with an average ceiling height of 3 metres.
- (3) A person must not keep a horse overnight in a yard.

#### **4.21 Limitation of number of horses**

- (1) A person must not keep more than the following number of horses on a property—
  - (a) where the total area of the property is less than 900 square metres – six horses; and

- (b) where the total area of the property is between 900 and 1,400 square metres – six horses, plus an additional horse for every 50 square metres for which the total area of the property exceeds 900 square metres; and
  - (c) where the property is in excess of 1,400 square metres – sixteen horses, plus an additional number of horses as approved by the local government.
- (2) Subclause (1) does not restrict the conditions which may be imposed by the local government under clause 10.2(1)(a).

#### 4.22 Required minimum setbacks

The structures identified in Column 1 of Table 1 must be set back in accordance with the required setbacks described in Column 2 of Table 1.

**Table 1**

<b>Column 1</b>	<b>Column 2</b>
<b>Structure</b>	<b>Required Setback</b>
Stalls and walk-in/walk-out stalls	No less than 6 metres from dwelling house on same property
	No less than 10 metres from dwelling house on adjacent property
	No less than 15 metres from commercial premises
Yards and training/walking rings	No less than 6 metres from dwelling house on same property
	No less than 10 metres from dwelling house on adjacent property
	No less than 15 metres from commercial premises
Associated buildings - feed room, gear room, shoeing area, hosing down area, shelter or veterinary treatment room	No less than 6 metres from dwelling house on same property
	No less than 10 metres from commercial premises
	No less than 10 metres from <u>any habitable room</u> of a dwelling house on adjacent property

#### 4.23 Exemption for existing stable premises

- (1) Notwithstanding clause 4.22, the local government may vary or not apply the required setback between an existing structure described in Column 1 of Table 1 of clause 4.22 and any proposed building on an adjacent property.
- (2) Where an existing stable premises is demolished and new stable premises are proposed, the existing setbacks can be used but the setbacks cannot be less than those of the existing stable premises prior to demolition.
- (3) Where the exemption in subclause (2) is utilised, the owner of the stable premises must ensure that the new stable premises are built and are operational or capable of being in operation within 2 years of the demolition of the existing stable premises.

#### **4.24 Waste receptacles**

- (1) Every stable premises must have mobile or free-standing fly-proof waste receptacles of a size, number and construction approved by the local government.
- (2) All stable premises waste, and without limiting the generality of the foregoing, including soiled bedding and manure produced on the premises, must be placed into a waste receptacle approved by the local government for that purpose.
- (3) The contents of such receptacles must be removed from the stable premises at least once in every week and more often if required by written notice from the local government.
- (4) All reasonable steps must be taken to ensure that the lid of each receptacle is kept closed at all times except when depositing waste or during cleaning of the receptacle.
- (5) Receptacles in which waste is placed must not be situated closer than 10 metres from any habitable room on the same property or any premises or dwelling house on an adjacent property.

#### **4.25 Feed storage**

Every stable premises must have impervious rodent-proof containers for the storing of horse feed.

#### **4.26 Cleanliness standards**

The person in whose name a stable premises is registered must ensure that—

- (a) all manure and soiled bedding is swept up and placed in the approved waste receptacles at least once every day; and
- (b) all waste receptacles are kept in a sanitary condition and the contents of such receptacles removed in accordance with clause 4.24(3); and
- (c) any surface of any stable premises or associated building is promptly sprayed with an approved residual pesticide as required by written notice from the local government; and
- (d) any sand, wood shavings, sawdust or other materials are removed and replaced when impregnated with urine, manure or any other offensive matter; and
- (e) stable premises are kept in a clean and sanitary condition and as far as practicable, free from flies, rats, other vectors of disease and offensive odours.

#### **4.27 Maintenance standards**

The person in whose name a stable premises is registered must ensure that—

- (a) the stable premises and associated buildings are maintained in good working order, sound weatherproof condition and are fit for use, including but not limited to—
  - (i) roofs, walls, floors, guttering, downpipes and on-site storm water disposal systems; and

- (ii) doors and windows; and
- (b) fences, railings and gates in the stable premises and associated buildings are maintained in good working order and repair.

#### 4.28 Liability for default

The person in whose name a stable premises is registered must ensure compliance with obligations imposed in this local law in respect of stable premises, but if in any case it appears some other person had direct involvement in a breach, the local government may in any such case take action for default against the person in whose name the stable premises is registered, by reason of that person having responsibility by reason of registration as the owner or occupier, or against the other person by reason of that person having direct responsibility for the breach.

## Part 5 – Fencing

### 5.1 Terms used

In this Part, unless the context otherwise requires—

**commercial lot** means a lot where a commercial use—

- (a) is permitted or permissible under the local planning scheme; and
- (b) is or will be the predominant use of the lot;

**dangerous** in relation to any fence means—

- (a) an electrified fence other than a fence in respect of which a written approval under Part 5 of this local law has been issued; or
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law; or
- (c) a fence containing exposed broken glass, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause.

**dividing fence** has the same meaning as in the *Dividing Fences Act 1961*;

**electrified fence** means a fence carrying or designed to carry an electric current;

**fence** means any structure, including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes a gate in a fence or otherwise performing the function of a fence;

**frontage** means the boundary line between a lot and the street which the lot abuts;

**height** in relation to a fence means the vertical distance between—

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are

not the same, the higher ground level, immediately below that point; or

**industrial lot** means a lot where an industrial use—

- (a) is permitted or permissible under the local planning scheme; and
- (b) is or will be the predominant use of the lot;

**open construction** in reference to a fence, means a fence with not less than one third of the face of the fence being visually open for the total length of the fence;

**owner** has the same meaning as in the *Dividing Fences Act 1961*;

**residential lot** means a lot where a residential use—

- (a) is permitted or permissible under the local planning scheme; and
- (b) is or will be the predominant use of the lot;

**retaining wall** means any structure which prevents the movement of soil in order to allow ground levels of different elevations to exist adjacent to one another;

**setback** has the same meaning as in the *Residential Design Codes*;

**sufficient fence** means a fence described in clause 5.4.

## 5.2 Application

- (1) Subject to any requirements under a local planning scheme, Part 5 of this local law applies throughout the district.
- (2) Where there is any inconsistency between this local law and a local planning scheme, the provisions of the local planning scheme prevail.

## 5.3 Specified public place

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 LG Act—

- (a) a public place; and
- (b) local government property.

## 5.4 Sufficient fences

- (1) Unless by agreement between the owners of adjoining properties, an owner or occupier of a lot must not erect or permit the erection of a dividing fence that is not a sufficient fence.
- (2) Subject to subclauses (3) and (4), and any provision contained in a local planning scheme, a sufficient fence on a—
  - (a) residential lot is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 1; or
  - (b) commercial lot or an industrial lot is a dividing fence constructed and

maintained in accordance with the specifications and requirements of Schedule 2.

- (3) Where a fence is erected on or near the boundary between a residential lot and—
  - (a) an industrial lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 1; or
  - (b) a commercial lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 2.
- (4) Unless the local government specifies otherwise a sufficient fence on a boundary between lots other than those specified in subclause (3) is a dividing fence constructed in accordance with the specifications and requirements of Schedule 2.
- (5) Notwithstanding any other provisions in this local law, a fence constructed of brick, stone, concrete or any other masonry product or material will only be a sufficient fence if it is designed by a structural engineer where—
  - (a) it is greater than 1800mm in height; or
  - (b) the local government so requires.

#### **5.5 Fences within front setback areas**

- (1) A person must not, without the written consent of the local government, erect a fence greater than 1200mm in height, within the front setback area of a residential lot.
- (2) The local government may approve the erection of a fence of a height greater than 1200mm in the front setback area of a Residential Lot only if the fence on each side of the driveway into the lot across the front boundary is to be angled into the lot for a distance of not less than 1500mm along the frontage to a distance of not less than 1500mm from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a street.
- (3) In the case of a fence across the front boundary of a residential lot—
  - (a) the fence must be of open construction, and where the fence includes or is constructed on a retaining wall, that portion of the fence above the retaining wall must be of open construction; and
  - (b) where the fence includes a retaining wall, the height of the fence above the retaining wall must not exceed 1200mm.
- (4) A fence across or near the front boundary of a residential lot must not be constructed of corrugated fibre cement sheeting, pre-painted steel sheeting or similar material whether as a singular method of construction or as part of a composite fence.
- (5) Subclause (3) does not apply in respect of a fence lawfully erected under a written law prior to the coming into operation of this local law.

## **5.6 Maintenance of fences**

An owner and an occupier of a lot on which a fence is erected must maintain the fence in good condition and so as to prevent it from becoming dangerous, dilapidated, or unsightly.

## **5.7 General discretion of the local government**

- (1) Notwithstanding clause 5.4, the local government may consent to the erection or repair of a fence which does not comply with the requirements of this local law.
- (2) In determining whether to grant its consent to the erection or repair of any fence, the local government may consider, in addition to any other matter that it is authorised to consider, whether the erection or retention of the fence would have an adverse effect on the—
  - (a) safe or convenient use of any land; or
  - (b) safety or convenience of any person.

## **5.8 Fencing materials**

- (1) A person must construct a fence on a residential lot, a commercial lot or an industrial lot from only brick, stone, concrete, wrought iron, tubular steel, link mesh, timber, plastic coated or galvanized link mesh, corrugated fibre reinforced cement sheeting, pre-painted steel sheeting or other material approved by the local government.
- (2) Where the local government approves the use of pre-used materials in the construction of a fence under subclause (1), that approval may be conditional on the applicant painting or treating the pre-used material as directed by the local government.

## **5.9 Prohibited fencing materials**

In constructing a fence a person must not use—

- (a) broken glass or any other potentially harmful projections or material; or
- (b) material that is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause.

## **5.10 Fencing materials requiring permission**

- (1) An owner or occupier of a lot must not construct a—
  - (a) barbed wire fence; or
  - (b) electrified fence; or
  - (c) razor wire fence,without the permission of the local government.
- (2) Permission for a barbed wire fence or other materials with spiked or jagged projections is not to be granted unless—

- (a) such barbed wire or other materials with spiked or jagged projections are carried on posts such that the bottom row of wire or other materials is not nearer than 2000mm from the ground level; and
  - (b) such barbed wire or other materials with spiked or jagged projections are carried on posts with the top set at an angle of 45 degrees, and the bottom row of wire or other materials is set back 150mm from the face of the fence and is not nearer than 2000mm from the ground level; and
  - (c) posts which carry such barbed wire or other materials with spiked or jagged projections are angled towards the outside of the lot bounded by the fence so that the face of the fence must be set back from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach on adjoining land.
- (3) Permission to have or use an electrified fence will not be granted where—
- (a) the property is a residential lot or abuts a residential lot; or
  - (b) the fence does not comply with *AS/NZS 3016:2002* as amended from time to time; or
  - (c) the fence is rendered operable during the hours of business operations, if any, on the lot where it is erected.
- (4) Permission to have a fence constructed wholly or partly of razor wire will not be granted—
- (a) if the fence is within 3 metres of the boundary of the lot; or
  - (b) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above the ground level.
- (5) An application for permission referred to in subclause (2), (3) or (4) must be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

### **5.11 Transfer of approval**

A written approval referred to in clause 5.10 passes with the land to any new owner or to any new occupier of the lot, as the case may be.

### **5.12 Cancellation of approval**

The local government may cancel a written approval issued under this Part if—

- (a) a fence given written approval no longer satisfies the requirements specified in subclause 5.10(2) or 5.10(3) as the case may be; or
- (b) the owner or occupier breaches any condition upon which the written approval was issued.

## Part 6 – Nuisances

### 6.1 Terms used

In this Part unless the context otherwise requires—

**amusement** means anything usually conducted for amusement at a fair, carnival or show, whether conducted at a fair, carnival, show or elsewhere;

**dust** means any visible granular or particulate material which has or has the potential to become airborne and includes organic matter and sand, but does not include smoke;

**equipment** means equipment, machinery or vehicles used for or in connection with the development of land;

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

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

**truck** means a vehicle having a tare in excess of 3,000 kgs;

### 6.2 Nuisance

- (1) A person must not, on any local government property—
  - (a) engage in any undertaking or activity or conduct any business in such a manner as to cause or permit the emission of dust, fumes, light, liquid waste, noise, odour, smoke or vibrations so as to create a nuisance; or
  - (b) behave in a manner which is likely to interfere with the enjoyment of a person who might use the local government property or interfere with the enjoyment of a person using the local government property; or
  - (c) use anything or do any other thing so as to create a nuisance.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

### 6.3 Amusement activities

A person must not—

- (a) provide or conduct any amusement on land so as to create a nuisance; or
- (b) erect a structure for public amusement or for any performance, whether for gain or otherwise, without the permission of the local government.

### 6.4 Emission or reflection of light

An owner or occupier of land must ensure that—

- (a) artificial light is not emitted or reflected from anything on a lot so as to illuminate land outside the lot to more than 50 lux or so as to create or be a nuisance to any person; or

- (b) natural light is not reflected from anything on a lot so as to create or be a nuisance to any person.

#### **6.5 Notice of reflective surface or lighting**

The local government may give written notice to the owner or occupier of a lot—

- (a) requiring that any reflective surfaces creating a nuisance within clause 6.4(b) be painted or otherwise treated so as to abate the nuisance; or
- (b) on which artificial lights are erected, requiring that the—
  - (i) hours of use of the lighting be limited to the hours specified in the notice; or
  - (ii) direction or angle in which the lights are shining be altered as specified in the notice.

#### **6.6 Truck noise from residential land**

A person must not start or drive a truck on land zoned, approved or used for residential purposes between the hours of 10pm and 7am on the following day without first obtaining the written consent of the local government.

#### **6.7 Disposing of disused refrigerators or similar containers**

A person must not place, leave or dispose of a disused refrigerator, icechest, icebox, trunk, chest or other similar article having a compartment which has a capacity of 0.04 cubic metres or more on any land without first—

- (a) removing every door and lid and every lock, catch and hinge attached to a door or lid; or
- (b) rendering every door and lid incapable of being fastened.

#### **6.8 Shopping trolley to be marked**

- (1) A retailer must clearly mark its name or its trading name on any shopping trolley made available for the use of customers.
- (2) In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on it.

#### **6.9 Person not to abandon shopping trolley**

A person must not leave a shopping trolley at a place other than—

- (a) on the premises of the retailer whose name is marked on the shopping trolley; or
- (b) in an area set aside for the storage of shopping trolleys by the retailer whose name is marked on it.

## **6.10 Retailer to remove abandoned shopping trolley**

- (1) If a shopping trolley is found—
  - (a) in a public place; or
  - (b) on local government property; or
  - (c) on private property without the permission of the retailer whose name is marked on the shopping trolley,  
  
other than in an area set aside for the storage of shopping trolleys, the local government may notify a retailer whose name is marked on the shopping trolley of the location of the shopping trolley.
- (2) If a shopping trolley is found within the restricted areas highlighted in Schedule 3, other than in an area set aside for the storage of shopping trolleys, the local government may notify a retailer whose name is marked on the shopping trolley of the location of the shopping trolley.
- (3) A retailer must remove a shopping trolley within 24 hours of being notified of the location of the shopping trolley under subclause (1)(a) or (1)(b) or within 3 hours of being notified under subclause (2).

## **6.11 Measures to prevent release of dust or liquid waste**

Any owner or occupier of land and any person responsible for the release of dust or liquid waste on land must take measures which are effective to—

- (a) stabilise dust on the land; and
- (b) contain all liquid waste on the land; and
- (c) ensure no dust or liquid waste is released or escapes from the land whether by means of wind, water or any other cause; and
- (d) ensure that no dust or liquid waste enters a stormwater drain or stormwater soakwell, regardless of whether the stormwater drain or stormwater soakwell is located on the land; and
- (e) notify the owners or occupiers of adjacent land in writing 48 hours prior to the commencement of any activity that has the potential to cause the release or escape from the land of dust or liquid waste giving details of the—
  - (i) nature of the activity; and
  - (ii) proposed time and location of the activity; and
  - (iii) name of the person responsible for carrying out the activity and how and where that person may be contacted.

## **6.12 Notice of dust or liquid waste release**

- (1) Where the local government or an authorised person forms the opinion that—

- (a) a person has not complied with subclause 6.11(a) or 6.11(b); or
- (b) dust or liquid waste has been released or escaped from the land or into a stormwater drain or stormwater soakwell,

the local government or an authorised person may give written notice requiring the owner, occupier or a person responsible for the release of the dust or liquid waste to —

- (i) comply with subclause 6.11(a) or 6.11(b); or
  - (ii) clean up and properly dispose of any released or escaped dust or liquid waste; or
  - (iii) clean up and make good any damage resulting from the released or escaped dust or liquid waste; or
  - (iv) take effective measures to stop any further release or escape of dust or liquid waste.
- (2) The requirements set out in a notice issued under subclause (1) must be complied with—
- (a) within 48 hours of service of the notice where no other time is specified; or
  - (b) within such other period as is specified in the notice; or
  - (c) immediately, if the notice so specifies.

### **6.13 Notice to cease work**

- (1) Where the local government or an authorised person forms the opinion that dust or liquid waste has escaped or been released by reason of an activity undertaken on land or as a consequence of the use of equipment on land, the local government or authorised person may direct, either orally or in writing, notice to the owner, occupier or person responsible for the release of the dust or liquid waste, requiring that the activity or use of the equipment on the land be ceased immediately.
- (2) A notice under subclause (1) may be given to any or all owners, occupiers or persons responsible for the release of the dust or liquid waste.

### **6.14 Notice of potential dust or liquid waste release**

Where the local government or an authorised person is of the opinion that dust or liquid waste may be released or escape as a result of an activity which is likely to be carried on upon any land, the local government or an authorised person may give written notice to the owner, occupier or person responsible for the potential release of dust or liquid waste requiring that the activity only be carried on subject to conditions specified in the notice.

### **6.15 Revocation of notice**

- (1) Where a notice is given to the owner, occupier, or person responsible for the release of the dust or liquid waste and the owner, occupier, or person responsible for the release of the dust or liquid waste satisfies the local government or an

authorised person within 48 hours, or by such other period as is specified in the notice from the date of giving of the notice that—

- (a) they were not responsible for the conduct in respect of which the notice was given pursuant to clause 6.12, or the activity in respect of which a notice was given pursuant to clause 6.13, as the case may be; and
- (b) they took all reasonable precautions to prevent the conduct or activity, as the case may be; and
- (c) where another person was responsible for the conduct or activity, they identify the person responsible for the conduct or activity sufficiently to enable the notice to be issued to that person,

the local government or an authorised person may revoke the notice.

- (2) Clause 6.15(1) shall not apply where a notice is issued to which subclause 6.12(2)(c) applies.

## Part 7 – Plants, trees and verge treatments

### 7.1 Terms used

In this Part, unless the context otherwise requires—

**acceptable hard surface material** means any material which will create a hard surface, and which is approved by the local government;

**garden** means any part of the verge planted, developed or treated, otherwise than as a lawn, with 1 or more plants but does not include the planting of a tree;

**lawn** means any part of a verge or street which is planted only with grass, or a similar plant;

**permissible verge treatment** means a treatment described in clause 7.5, and includes reticulation pipes and sprinklers installed for the purpose of the treatment;

**verge tree** means a woody perennial plant generally having a single stem or trunk which will grow to a height of approximately 4 metres or higher and is located on a verge.

### 7.2 General prohibitions

A person must not—

- (a) plant a tree on any verge or other local government property; or
- (b) cut, prune, lop, damage, poison, remove or kill any tree or part of a tree on local government property; or
- (c) plant any plant or sow seeds on local government property unless installing or maintaining a permissible verge treatment; or
- (d) damage a lawn or a garden on local government property, or remove any plant or part of a plant from a lawn or a garden on local government property, unless the person is the owner or the occupier of the lot abutting the relevant portion of the local government property, and the lawn or the garden or the

particular plant has not been installed, planted or maintained by the local government; or

- (e) install, place or keep on a verge any impervious material, synthetic turf, impervious synthetic membrane or other synthetic material.

### **7.3 Activities requiring permission**

A person must not, without the permission of the local government—

- (a) fell any tree on or across local government property; or
- (b) alter the level or gradient of a verge; or
- (c) unless installing or in order to maintain a permissible verge treatment—
  - (i) lay pipes on or under any footpath, or kerb, or provide taps on any verge; or
  - (ii) place or install anything on any part of a verge, and without limiting the generality of the foregoing, including any gravel, stone, flagstone, cement, concrete slab, block, pebbles, plastic sheeting, kerbing, bark, woodchips or sawdust.

### **7.4 Notice to redirect or repair sprinkler**

Where a sprinkler or other watering equipment is used on land abutting local government property in a manner which causes or may cause an inconvenience or obstruction to any person using the local government property, the local government may give written notice to the owner or the occupier of the abutting land, requiring the direction of the sprinkler or other watering equipment to be redirected or removed.

### **7.5 Permissible verge treatments**

- (1) The owner or occupier of land abutting any part of a verge may on that part of the verge install the following permissible verge treatments—
  - (a) lawn;
  - (b) a garden provided that—
    - (i) clear visibility is maintained at all times for a person using the abutting land or using a driveway on adjacent land; and
    - (ii) plants are maintained at a height of no more than 750mm; and
    - (iii) where there is no footpath, a person has safe and clear access over a minimum width of 1.5 metres along that part of the verge abutting the kerb; and
    - (iv) vegetation except for lawn, is not placed within 1.5 metres of a bus stop; and
    - (v) only mulch, lawn and shrubs are placed within a 1.5 metre radius of the trunk of a verge tree; and

- (vi) plants are not a declared weed, poisonous, prickly in nature, or likely to cause a nuisance; and
  - (vii) it does not cover or obstruct any man hole, gully or inspection pit which is serviced by a public utility provider or the local government;
- (c) irrigation pipes and sprinklers not permanently fixed above the ground and—
- (i) connected from a water supply within the abutting land; and
  - (ii) laid beneath the surface of the verge to a depth of 300mm; and
  - (iii) not protruding above the surface of the lawn or garden including fittings and sprinkler heads; and
  - (iv) having the water flow controlled through valves located within the abutting land; and
  - (v) where connected to public water supply mains, comply with the requirements of the authority responsible for the public water supply; and
  - (vi) positioned to ensure that water does not spray on either footpaths or carriageways; and
  - (vii) not laid any closer than 1.5 metres of an existing verge tree;
- (d) an acceptable hard surface material over no more than one third of the verge, excluding the crossover, provided that—
- (i) the length of the front lot boundary, adjacent to the road, is greater than 12 metres; and
  - (ii) the balance of the verge area is maintained as garden or lawn; and
  - (iii) an area of open space a minimum of 1.5 metres in diameter is made available for the future installation of a verge tree where one does not already exist; and
  - (iv) hard surfaces are set back a minimum of 1.5 metres, from the trunk of any verge tree.
- (2) A person may with the permission of the local government install an acceptable hard surface material over the entire verge where—
- (a) the width of the verge is less than 1 metre not including the width of the footpath; or
  - (b) there are isolated remnant portions of verge less than 4 square metres in area on which it is not practicable to maintain natural lawn and garden.

## **7.6 Only permissible verge treatments to be installed**

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

- (2) The owner and the occupier of the lot abutting a verge treatment referred to in subclause (1) is each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 7.7.

### **7.7 Obligations of owner or occupier**

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

- (a) keep the permissible verge treatment in a good, tidy and safe condition; and
- (b) ensure that the verge treatment does not obstruct or encroach upon a footpath or a carriageway adjoining the verge; and
- (c) ensure that the verge treatment does not otherwise cause a nuisance to any pedestrian or other person.

### **7.8 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 date; and
- (b) on the commencement date is a type of permissible 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.

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

Where the local government disturbs a verge, the local government—

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

## Part 8 – Signs on local government property and public places

### 8.1 Terms used

In this Part, unless the context otherwise requires—

**advertising sign and election sign** means any sign, notice, structure, banner or other similar device used for the purpose of advertising or promoting any goods, services, person, body or other thing, or for displaying information about the same;

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

**home business** has the same meaning as in the local planning scheme;

**home occupation** has the meaning given to it in the local planning scheme;

**portable sign** means a portable free standing sandwich board or “A” frame advertising sign or other device or thing, designed, intended or used for advertising, and not permanently attached to the ground or to a structure, wall, fence or building;

**real estate directional sign** means a small temporary sign erected within the boundaries of a road reserve for the purpose of directing people to a specific address for a specified time to view real estate for sale, auction, lease or open for display or inspection.

*[Clause 8.1 amended by Government Gazette No. 153 of 2022]*

### 8.2 Signs erected by the local government

- (1) The local government may erect a sign in a public place or on local government property specifying any conditions of use which apply to that place or property.
- (2) A person must 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.

### 8.3 Transitional

Where a sign erected in 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 date, it is to be taken to be a sign erected under clause 8.2 if—

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

### 8.4 Unauthorised signs and defacing of signs

A person must not without the permission of the local government—

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government; or

- (b) remove, deface or misuse a sign or property, set up or exhibited by the local government or attempt to do any such act; or
- (c) affix a board, sign, placard, notice or other thing to or paint or write upon any part of a sign set up or exhibited by the local government.

## **8.5 Advertising signs**

- (1) A person must not, without the permission of the local government –
  - (a) erect or place an advertising sign; or
  - (b) post any bill or paint, place or affix any advertising sign; or
  - (c) place any other sign whatsoever, on local government property.
- (2) If local government approves an application to erect or place an advertising sign on local government property, the approval of the application is subject to the sign –
  - (a) being erected at least 50m from any intersection; and
  - (b) being free standing, and not affixed to any existing post, sign, light or power pole or any similar structure; and
  - (c) not create a nuisance or interfere, obstruct, impede vehicular or pedestrian traffic, or any access to a place by any person; and
  - (d) being kept clean and free from unsightly matter including any offensive words or representations; and
  - (e) being securely installed and maintained in a good condition; and
  - (f) not being placed within 100m of any works on footpaths; and
  - (g) has a maximum of 2 facing sides; and
  - (h) being erected so as not to be moveable by wind or natural forces; and
  - (i) not being –
    - (i) illuminated, rotating, flashing; or
    - (ii) incorporate reflective or fluorescent materials; or
    - (iii) displayed on a carriageway, median strip or roundabout; or
    - (iv) attached to any street furniture or natural feature including trees; or
    - (v) attached to or obstruct any other sign; or
    - (vi) in any other location where, in the opinion of local government, the sign is likely to obstruct lines of sight along a street or cause danger to any person using the street.

*[Clause 8.5 amended by Government Gazette No.153 of 2022]*

## 8.6 Impounding of advertising signs

An authorised person may remove or impound an advertising sign or any other sign or thing that is on local government property in contravention of this local law.

## 8.7 Portable signs

(1) In this clause—

**the business** means a business on premises directly adjacent to the local government property on which a portable sign is located for that business.

(2) Notwithstanding clause 8.5 permission is not required in respect of a portable sign placed on a footpath which—

- (a) neither exceeds 1 metre in height nor 1 square metre in area per face; and
- (b) is the only sign on local government property advertising the business; and
- (c) only promotes the business or contains content that relates to the business; and
- (d) is of sound construction and maintained in a good condition; and
- (e) is kept clean and free from unsightly matter including any offensive words or representations; and
- (f) is removed at the close of business each day and not erected again until the commencement of business on a subsequent trading day; and
- (g) does not create a nuisance or interfere, obstruct or impede vehicular or pedestrian traffic; and
- (h) has a maximum of 2 facing sides; and
- (i) is erected so as not to be moveable by wind or natural forces; and
- (j) is positioned—
  - (i) immediately adjacent to the shop front and where possible within 7 metres of the business premises; and
  - (ii) no less than 500mm from the edge of a kerb; and
  - (iii) so as to maintain a minimum 2 metre clearway for pedestrians; and
- (k) is not—
  - (i) illuminated, rotating or flashing; or
  - (ii) displayed on a carriageway, median strip or roundabout; or
  - (iii) attached to any street furniture or natural feature including a tree; or
  - (iv) attached to or obscuring any other sign; or

- (v) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a street or cause danger to any person using the street.
- (3) The business must have in effect and maintain a public liability insurance policy in an amount not less than \$20,000,000.00 against claims for personal injury and property damage resulting from the display of the portable sign.
- (4) Clause 8.7 does not apply to a home business or home occupation.

## **8.8 Real estate directional signs**

- (1) Notwithstanding clause 8.5 permission is not required in respect of a real estate directional sign which—
  - (a) is no larger than 0.3 square metres in face area; and
  - (b) has a maximum of 2 facing sides; and
  - (c) is freestanding and self-supporting; and
  - (d) contains the date, opening time, closing time and address of the relevant property; and
  - (e) is placed no more than 2 hours prior to the advertised opening time and removed within 2 hours of the advertised closing time; and
  - (f) does not create a nuisance or interfere, obstruct or impede vehicular or pedestrian traffic; and
  - (g) is not—
    - (i) displayed on a footpath, carriageway, median strip, roundabout, park or foreshore; or
    - (ii) attached to or obscuring any other sign; or
    - (iii) attached to any street furniture or natural feature including a tree.
- (2) A maximum of only 4 real estate directional signs for each advertised address may be erected at any one time.
- (3) No more than 1 real estate directional sign for each advertised address may be placed at the same intersection.
- (4) The owner of a real estate directional sign must have in effect and maintain a public liability insurance policy in an amount not less than \$20,000,000.00 against claims for personal injury and property damage resulting from the display of the real estate directional sign.

## Part 9 – Trading in public places, stallholders, public performers and outdoor eating facilities

### 9.1 Terms used

In this Part, 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;

**furniture** means chairs, tables, waiter's stations, planter boxes, umbrellas, screens, barriers, awnings, portable gas heaters and any other structure set up in outdoor dining areas;

**outdoor dining area** means an area in which furniture is provided, on local government property, for the purpose of facilitating the supply or consumption of food or beverages or both by the public;

**outdoor dining area permit** means a permit issued to the operator of an outdoor dining area;

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

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

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

**public place** includes—

- (a) any place which the public are allowed to use whether or not the 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;

**street performer permit** means a permit issued to a person to perform on local government property;

**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; or
  - (ii) inviting offers for their sale or hire; or
  - (iii) soliciting orders for them; or
  - (iv) carrying out any other transaction in relation to them;
- (c) the going from place to place, whether or not public places, and—
  - (i) offering goods or services for sale or hire; or
  - (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 or services to, or the soliciting of orders for goods or services from a person who sells those goods or services;
- (f) 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 not sold directly to consumers and are not sold by retail through a shop.

## **9.2 Stallholder's permit**

A person must not conduct a stall in 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.

## **9.3 Trader's permit**

(1) A person must 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) The conditions subject to which the local government may approve an application for a trader's permit may include that the permit holder is permitted to remain at a particular location for as long as there is a customer making a purchase, but if there is no customer making a purchase the permit holder must move on from that location within two minutes of the last purchase having been made.

#### **9.4 Relevant considerations in determining application for stallholder's or trader's permit**

- (1) In determining an application for a stallholder's or trader's permit the local government is to have regard to—
  - (a) any relevant policies of the local government; and
  - (b) the desirability of the proposed activity; and
  - (c) the location of the proposed activity; and
  - (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 stallholder's or trader's permit 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—
    - (i) the applicant is an undischarged bankrupt or is in liquidation; or
    - (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.

#### **9.5 Conditions of stallholder's or trader's permit**

- (1) If the local government approves an application for a stallholder's or trader's permit subject to conditions, those conditions may include —
  - (a) the place, the part of the district, or the local government property to which the permit applies; or
  - (b) the days and hours during which a permit holder may conduct a stall or trade; or

- (c) the number, type, form and construction, as the case may be, of any stand, furniture, structure or vehicle which may be used in conducting a stall or in trading; or
  - (d) the goods or services in respect of which a permit holder may conduct a stall or trade; or
  - (e) the number of persons and the names of persons permitted to conduct a stall or trade; or
  - (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; or
  - (g) a prohibition or restriction concerning—
    - (i) the causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder; or
    - (ii) the use of amplifiers, sound equipment or sound instruments; or
    - (iii) the use of signs; or
    - (iv) the use of any lighting apparatus or device; or
  - (h) the manner in which the permit holder's name and other details of a valid permit are to be displayed; or
  - (i) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure; or
  - (j) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on; or
  - (k) the acquisition and maintenance by the stallholder or trader of public liability insurance; or
  - (l) the period for which the permit is valid; or
  - (m) the designation of any place or places where trading is wholly, or from time to time, prohibited by the local government.
- (2) Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may at the request of that permit holder authorise another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit are to apply to the nominee as if he or she was the permit holder.

## 9.6 Exemptions from requirement to pay fee or to obtain a stallholder's or trader's 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 no member receives any pecuniary benefit except where the member is an employee, or the benefit 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 the making of 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, or
  - (c) by an individual or commercial participant for the sole purpose of raising money for a charitable organisation, with the written consent of the charitable organisation.
- (3) The local government may vary or waive the fee to obtain a stallholder's or trader's permit.
- (4) The local government may exempt a person or a class of persons, whether or not in relation to a specific public place, from the requirement of obtaining a stallholders or traders permit.

## 9.7 Conduct of stallholders and traders

- (1) A stallholder whilst conducting a stall or a trader whilst trading must—
  - (a) display a valid 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, must carry the permit in their physical possession; and
  - (b) not display a permit unless it is a valid permit.
- (2) A stallholder or trader must not—
  - (a) deposit or store anything so as to obstruct the movement of pedestrians or vehicles; or
  - (b) act in an offensive manner or create a nuisance; or
  - (c) use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or
  - (d) in the case of a trader, carry on trading from a public place, unless there is parking available for customers' vehicles.

## 9.8 Street performer permit

- (1) A person must not perform on local government property unless that person is the holder of a valid street performer permit.

- (2) An authorised person may direct the holder of a street performer permit to cease performing.

### **9.9 Variation of permitted area and permitted time to perform**

- (1) The local government may give written notice to the holder of a street performer permit to vary—
  - (a) the permitted area; or
  - (b) the permitted time; or
  - (c) both the permitted area and the permitted time,  
shown on a permit.

### **9.10 Cancellation of street performer permit**

An authorised person may cancel a street performer permit if the permit holder's performance adversely affects the enjoyment, convenience, or comfort of other persons in a public place, or if, the performance otherwise constitutes a nuisance or is deemed offensive.

### **9.11 Conduct of street performer**

The holder of a street performer permit must not—

- (a) act in a manner likely to cause offence to any person; or
- (b) place, install, erect, play or use any musical instrument or any device which emits sound, 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.

### **9.12 Permit required to conduct an outdoor dining area**

A person must not establish or conduct an outdoor dining area on local government property without an outdoor dining area permit.

### **9.13 Considerations for determining an application for an outdoor dining area permit**

In determining an application for an outdoor dining area permit the local government is to have regard to whether—

- (a) the outdoor dining area is conducted in conjunction with and as an extension of food premises which abut the outdoor dining area, and whether the applicant is the person conducting such food premises; and
- (b) any abutting food premises are registered in accordance with the *Food Act 2008* and whether the use of the premises is permitted under the local planning scheme; and
- (c) the outdoor dining area will comply with other local laws; and

- (d) users of the outdoor dining area will have access to proper and sufficient sanitary and ablutionary conveniences; and
- (e) the outdoor dining area would—
  - (i) obstruct the visibility or clear lines of sight at an intersection; or
  - (ii) impede pedestrian access; and

the furniture and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed; and
- (f) any advertising will be placed on furniture or within the outdoor dining area; and
- (g) the use of the proposed outdoor dining area is likely to cause a nuisance; and
- (h) any other matters considered by the local government to be relevant in the circumstances of the case.

#### **9.14 Conditions of outdoor dining area permit**

If the local government approves an application for an outdoor dining area permit subject to conditions, those conditions may include the—

- (a) place, the part of the district, or the local government property to which the permit applies; or
- (b) days and hours during which a permit holder may conduct an outdoor dining area; or
- (c) number, type, form, construction, and location as the case may be, of any furniture which may be used in conducting an outdoor dining area; or
- (d) requirement of a 1.5 metre clearway; and

must include acquisition and maintenance by the outdoor dining area permit holder of public liability insurance.

#### **9.15 Conduct of an outdoor dining area permit holder**

- (1) The permit holder for an outdoor dining area permit must—
  - (a) ensure that the outdoor dining area is conducted at all times in accordance with the provisions of this local law and any other local law; and
  - (b) ensure that the outdoor dining area is kept in a clean and tidy condition at all times; and
  - (c) store, place and remove any furniture in accordance with the requirements of the permit; and
  - (d) maintain any furniture and other structures in the outdoor dining area in a good, clean and serviceable condition at all times; and

- (e) be responsible for costs associated with the permit holders removal, alteration, repair, reinstatement or reconstruction of any part of the outdoor dining area.
- (2) Whenever, in the opinion of the local government, any work is required to be carried out to an outdoor dining area, the local government may give written notice to the permit holder for the outdoor dining area to carry out that work within the time limited by the notice.
- (3) In subclause (2), **work** includes the alteration, repair, reinstatement reconstruction or removal of any part of a public place or other thing arising from or in connection with the setting up or conduct of an outdoor dining area.

#### **9.16 Removal of an outdoor dining area unlawfully conducted**

Where an outdoor dining area is conducted without a permit or in contravention of a condition of a permit, any furniture or other equipment or thing may be removed by an authorised person and impounded in accordance with the LG Act.

#### **9.17 Use of an outdoor dining area by public**

- (1) A person must not use the furniture or equipment in an outdoor dining area which is the subject of a permit unless the person uses them for the purpose of consuming food or beverage, or both, provided by the operator of an outdoor dining area.
- (2) A person must leave an outdoor dining area when requested to do so by the permit holder.

#### **9.18 Temporary removal of outdoor dining area may be requested**

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

## **Part 10 – Permits**

### **10.1 Application for permit**

- (1) For the purpose of this Part, the term “permit” includes any permit, licence, registration, consent, authority, approval, permission or exemption.
- (2) Where a person is required to obtain a permit under this local law, that person must apply for the permit in accordance with subclause (3).
- (3) An application for a permit under this local law must—
  - (a) be in the form determined by the local government; and
  - (b) be signed by the applicant unless the form, or in the absence of a form, the local government’s requirement, is to the contrary; and

- (c) provide the information required by the form, or in the absence of a form, as required by the local government; and
  - (d) be lodged with or forwarded to the local government together with any fee provided for in the Fees Schedule.
- (4) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
  - (5) The local government may require an applicant to give local public notice of the application for a permit.
  - (6) The local government may refuse to consider an application for a permit which is not in accordance with subclause (3), (4) or (5).

## **10.2 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, if any, determined by the local government.
- (3) If the local government refuses to approve an application for a permit, as soon as practicable after the decision is made, the local government is to give to the applicant written notice of that refusal, including the reasons for the refusal.
- (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).

## **10.3 Conditions which may be imposed on a permit**

- (1) Without limiting the generality of clause 10.2(1)(a), the local government may approve an application for a permit subject to conditions relating to—
  - (a) the payment of a fee; and
  - (b) the duration and commencement of the permit; and
  - (c) the commencement of the permit being contingent on the happening of an event; and
  - (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application; and

- (e) the approval of another application for a permit which may be required by the local government under any written law; and
  - (f) the area of the district to which the permit applies; and
  - (g) where a permit is issued for an activity which will or may cause damage to a public place or local government property, the payment of a deposit or bond against such damage; and
  - (h) the obtaining of public liability 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; and
  - (j) compliance with a standard or a policy of the local government adopted by the local government; and
  - (k) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) Without limiting clause 10.2(1)(a) and subclause (1) of this clause, the following paragraphs indicate, without purporting to be comprehensive, the type and content of the conditions on which a permit to hire local government property may be issued—
- (a) when fees and charges are to be paid; and
  - (b) payment of a bond against possible damage or cleaning expenses or both; and
  - (c) restrictions on the erection of material or external decorations; and
  - (d) rules about the use of furniture, plant and effects; and
  - (e) limitations on the number of persons who may attend any function in or on the local government property; and
  - (f) the duration of the hire; and
  - (g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit; and
  - (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 1988*; and
  - (i) whether or not the hire is for the exclusive use of the local government property; and
  - (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.

#### **10.4 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 10.2(1)(a).

- (2) The local government may approve an application subject to conditions by reference to a policy.
- (3) Sections 5.94 and 5.95 of the LG 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 LG Act.

#### **10.5 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 must comply with each of those conditions.
- (2) Upon application for the renewal, variation or transfer of a permit, the local government may vary the terms of the permit, or of any condition, and may cancel any condition or impose new conditions, or may on reasonable grounds refuse to renew, vary or transfer the permit.

#### **10.6 Duration of permit**

A permit is valid for 1 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 10.9.

#### **10.7 Transfer or renewal of permit**

- (1) An application for the transfer or renewal of a valid permit is to—
  - (a) be made in writing; and
  - (b) be signed by the permit holder and in the case of a transfer, be signed also by the proposed transferee of the permit; and
  - (c) provide such information as the local government may require to enable the application to be determined; and
  - (d) be lodged with or forwarded to the local government together with any fee provided for in the Fees Schedule.

- (2) The local government may—
  - (a) approve an application for the transfer or renewal of a permit unconditionally or subject to any conditions; or
  - (b) refuse to approve an application for the transfer or renewal of a permit for reasons supplied in the notice of determination.
- (3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by issuing to the transferee a permit in the form determined by the local government.
- (4) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.
- (5) An application for renewal of a permit must be made prior to the expiry of the permit.

### **10.8 Production of permit**

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

### **10.9 Cancellation of permit**

- (1) Subject to clause 10.12, 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—
    - (i) a condition of the permit; or
    - (ii) a 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; or
    - (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) must 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.

### **10.10 Agreement for building**

Where a person applies for a permit to erect a building on local government property the local government may enter into an agreement with the permit holder in respect of the ownership of the materials in the building.

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

A holder of a permit must in respect of local government property to which the permit relates take reasonable steps to—

- (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; and
- (b) leave the local government property in a clean and tidy condition after its use; and
- (c) report any damage or defacement of the local government property to the local government; and
- (d) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Control Act 1988* for that purpose.

### **10.12 Application of Part 9, Division 1 of the LG Act objections and review**

- (1) Subject to subclause (2), when the local government makes a decision as to whether it will—
  - (a) grant a person a permit or consent under this local law; or
  - (b) renew, vary, or cancel a permit or consent that a person has under this local law,

the provisions of sections 9.1 to 9.9 of the LG Act and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

- (2) Subclause (1) does not apply to Part 12 except for—
  - (a) an approval under clause 12.7(b);
  - (b) an exemption under clause 12.8(2);
  - (c) an approval under clause 12.9(b);
  - (d) an approval under clause 12.10(1);
  - (e) an authorisation under clause 12.11(1)(c);
  - (f) an approval under clause 12.11(2); and
  - (g) an approval under clause 12.12.

## Part 11 – Vehicles and parking

### 11.1 Terms used

In this Part, unless the context otherwise requires—

**bicycle lane** has the same meaning as in the *Road Traffic Code 2000*

**bicycle path** has the same meaning as in the *Road Traffic Code 2000*;

**bus** has the same meaning as in the *Road Traffic Code 2000*;

**bus embayment** has the same meaning as in the *Road Traffic Code 2000*;

**bus lane** has the same meaning as in the *Road Traffic Code 2000*;

**bus stop** has the same meaning as in the *Road Traffic Code 2000*;

**bus zone** has the same meaning as in the *Road Traffic Code 2000*;

**caravan** means a vehicle that is fitted or designed to allow human habitation and which is drawn or capable of being drawn by another vehicle, or which is capable of self-propulsion;

**centre of the carriageway** means a line or a series of lines, marks or other indications—

- (a) for a two-way carriageway, placed so as to delineate vehicular traffic travelling in different directions; or
- (b) in the absence of any such lines, marks or other indications, the middle of the main travelled portion of the carriageway;

**children's crossing** has the same meaning as in the *Road Traffic Code 2000*;

**commercial vehicle** means a vehicle with a tare weight equal to or greater than 2,500 kilograms constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a vehicle for the conveyance of passengers, and includes any vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

**disability parking permit** has the meaning given to it by the *Local Government (Parking for People with Disabilities) Regulations 2014*;

**driver** means any person driving or otherwise in control of a vehicle;

**edge line** means a line marked along the carriageway at or near the far left or the far right of the carriageway;

**emergency vehicle** has the same meaning as in the *Road Traffic Code 2000*;

**GVM** stands for gross vehicle mass and has the meaning given to it in the *Road Traffic Code 2000*;

**loading zone** has the same meaning as in the *Road Traffic Code 2000*;

**mail zone** has the same meaning as in the *Road Traffic Code 2000*;

**median strip** has the same meaning as in the *Road Traffic Code 2000*;

**motorcycle** has the same meaning as in the *Road Traffic Code 2000*;

**no parking area** has the same meaning as in the *Road Traffic Code 2000*;

**no parking sign** means a sign with the words no parking in red letters on a white background, or the letter P within a red annulus and a red diagonal line across it on a white background;

**no stopping sign** means a sign with the words no stopping or no standing in red letters on a white background or the letter S within a red annulus and a red diagonal line across it on a white background;

**on-demand vehicle** has the same meaning as in the *Transport (Road Passenger Services) Act 2018*;

**painted island** has the same meaning as in the *Road Traffic Code 2000*;

**park** means to permit a vehicle, whether attended or not by any person, to remain stationary except for the purpose of—

- (a) avoiding conflict with other traffic; or
- (b) complying with the provisions of any law; or
- (c) taking up or setting down persons or goods for a maximum of 2 minutes;

**parking area** has the same meaning as in the *Road Traffic Code 2000*;

**parking bay** means a section or part of a street reserve or of a parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked;

**parking facilities** includes land, buildings, shelters, parking bays and other facilities open to the public generally for the parking of vehicles and signs, notices and facilities used in connection with the parking of vehicles;

**parking station** means any land, or structure provided for the purpose of accommodating vehicles;

**pedestrian crossing** has the same meaning as in the *Road Traffic Code 2000*;

**reserve** means any land—

- (a) which belongs to the local government; or
- (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 LG Act;

**Residential and Stables Zone** has the meaning given to it in the local planning scheme and as depicted on the Scheme Map;

**shared zone** has the same meaning as in the *Road Traffic Code 2000*;

**sign** includes a traffic sign, inscription, street marking, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols, and which is placed on or near local government property, a street or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking of vehicles;

**special purpose vehicle** has the meaning given to it by the *Road Traffic Code 2000*;

**stop** in relation to a vehicle means to stop a vehicle and permit it to remain stationary, except for the purposes of avoiding conflict with other traffic or to comply with the provisions of any law

**symbol** includes any symbol specified by *AS 1742.11:2016* as amended from time to time and any symbol specified from time to time by Standards Australia for use in the regulation of parking and any reference to the wording of any sign in this local law must be also deemed to include a reference to the corresponding symbol;

**taxi zone** has the same meaning as in the *Road Traffic Code 2000*;

**traffic island** has the same meaning as in the *Road Traffic Code 2000*;

**trailer** means any vehicle without motive power of its own, designed for attachment to another vehicle for the purpose of being towed, but does not include the rear portion of an articulated vehicle, or a side car;

**transit lane** has the same meaning as in the *Road Traffic Code 2000*;

**truck lane** has the same meaning as in the *Road Traffic Code 2000*.

## 11.2 Parking Region

The parking region is the whole of the district, but excludes the following portions of the district—

- (a) the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads; and
- (b) prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
- (c) any street which is or comes under the control of the Commissioner of Main Roads unless the control of parking and parking facilities on that street has been delegated by the Commissioner of Main Roads to the local government.

## 11.3 Directional Arrows

- (1) An arrow inscribed on a sign erected at an angle to the boundary of the carriageway is deemed to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the boundary.
- (2) Unless the context otherwise requires, where a term is used, but not defined, in

this Part, and that term is defined in the *Road Traffic Act 1974* or in the *Road Traffic Code 2000*, then the term has the meaning given to it in that Act or the Code.

#### **11.4 Application**

- (1) Subject to subclause (2), this local law applies to the parking region.
- (2) This Part does not apply to a parking facility or a parking station that is not the responsibility of the local government, unless the local government and the owner or occupier of that facility or station have agreed in writing that this local law will apply to that facility or station.
- (3) The agreement referred to in subclause (2) may be made on such terms and conditions as the parties may agree.

#### **11.5 Part of street to which sign applies**

Where under this local law the parking of vehicles in a street is controlled by a sign, the sign must be read as applying to that part of the street which—

- (a) lies beyond the sign; and
- (b) lies between the sign and the next sign; and
- (c) is on that side of the street nearest to the sign.

#### **11.6 Classes of vehicles and persons**

- (1) For the purpose of clauses 11.7,11.8,11.11 and 11.30, vehicles are divided into classes as follows—
  - (a) buses; and
  - (b) commercial vehicles; and
  - (c) motorcycles and bicycles; and
  - (d) on-demand vehicles; and
  - (e) all other vehicles.
- (2) For the purpose of clauses 11.7,11.8,11.11 and 11.30, persons are divided into classes as follows—
  - (a) authorised persons; and
  - (b) employees of the local government; and
  - (c) customers or patrons of a shop, shopping centre, facility or event; and
  - (d) persons who work in a shop or shopping centre; and
  - (e) all other persons not otherwise classified.

## **11.7 Powers of the local government**

The local government may prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles or class of persons in any part of the parking region but must do so consistently with the provisions of this local law.

## **11.8 Determine parking bays and parking stations**

The local government may by resolution constitute, determine, vary and indicate by signs—

- (a) parking bays; and
- (b) parking stations; and
- (c) permitted time and conditions of parking in parking bays and parking stations which may vary with the locality; and
- (d) permitted class of vehicles which may park in parking bays and parking stations; and
- (e) permitted class of persons who may park in specified parking bays or parking stations; and

the manner of parking in parking bays and parking stations.

*[Clause 11.8 amended by Government Gazette No.153 of 2022]*

## **11.9 Vehicles to be within parking bay**

- (1) Subject to subclauses (2),(3) and (4), a driver must not park in a parking bay otherwise than—
  - (a) parallel to and as close to the kerb as is practicable; and
  - (b) in a marked parking bay; and
  - (c) headed in the direction of the movement of traffic on the side of the street in which the parking bay is situated.
- (2) Subject to subclause (3) where a parking bay is set out otherwise than parallel to the kerb, then a driver must park wholly within that parking bay.
- (3) If a vehicle is too long or too wide to fit completely within a single parking bay then the driver must park within the minimum number of parking bays needed to park that vehicle.
- (4) A driver must not park partly within and partly outside a parking area.

## **11.10 Parking prohibitions and restrictions**

A driver must not—

- (a) park so as to obstruct an entrance to, or an exit from, a parking station or an access way within a parking station; or

- (b) subject to clause 11.11(2), park on any part of a parking station contrary to a sign referable to that part without permission of the local government or an authorised person; or
- (c) park on any part of a parking station, if an authorised person directs the driver to move the vehicle; or
- (d) park or attempt to park in a parking bay in which another vehicle is parked.

### 11.11 Restrictions on parking in particular areas

- (1) Subject to subclause (2), a driver must not park in an area where a sign—
  - (a) designates the parking of vehicles of a different class; or
  - (b) designates the parking of vehicles by persons of a different class; or
  - (c) prohibits parking during any period.
- (2) A driver may park in a parking bay or parking station, except in a parking bay for people with disabilities to which a disabled parking sign relates, for twice the period indicated on the sign if—
  - (a) a disability parking permit is displayed in the vehicle; and
  - (b) either the driver of or a passenger in the vehicle is the permit holder of the disability parking permit.
- (3) A driver must not park in—
  - (a) a no parking area; or
  - (b) a parking area, except in accordance with any signs associated with the parking area and with this local law; or
  - (c) a parking bay marked **M/C** unless parking a motorcycle without a trailer or sidecar.
- (4) A driver must not park in an area designated by a sign stating **authorised vehicles only**—
  - (a) unless that person has obtained written permission from the local government; and
  - (b) the written permission under subclause 11.11(4)(a) with respect to the vehicle is displayed inside the vehicle and is clearly visible to and able to be read by an authorised person from outside the vehicle.

### 11.12 Parking vehicle on a carriageway

- (1) Unless otherwise permitted by a sign, a driver parking on a carriageway other than in a parking bay must park it—
  - (a) in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the

direction of the movement of traffic on the side of the street on which the vehicle is parked; and

- (b) in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the street on which the vehicle is parked; and
- (c) so that at least 3 metres of the width of the carriageway lies between—
  - (i) the vehicle and the farther boundary of the carriageway, or any continuous dividing line or median strip; or
  - (ii) between the vehicle and any part of a vehicle parked on the farther side of the carriageway; and
- (d) so that the front and the rear of the vehicle respectively is not less than 1 metre from any other vehicle; and
- (e) so that it does not obstruct any vehicle on the carriageway.
- (f)
- (2) In this clause, ***continuous dividing line*** means—
  - (a) a single continuous dividing line only; or
  - (b) a single continuous dividing line to the left or right of a broken dividing line; or
  - (c) 2 parallel continuous dividing lines.

### 11.13 When parallel and right-angled parking apply

Where a sign associated with a parking area is not inscribed with the words ***angle parking*** or with an equivalent symbol depicting this purpose, then unless a sign associated with the parking area indicates, or marks on the carriageway indicate, that vehicles have to park in a different position, where the parking area is—

- (a) adjacent to the boundary of a carriageway, a driver must park as near as practicable to and parallel with that boundary; and
- (b) at or near the centre of the carriageway, a driver must park at approximately right angles to the centre of the carriageway.

### 11.14 When angle parking applies

- (1) This clause does not apply to—
  - (a) a passenger vehicle or a commercial vehicle with a mass including any load, of over 3 tonnes; or
  - (b) a person parking a motor cycle without a trailer.
- (2) Where a sign associated with a parking area is inscribed with the words ***angle parking*** or with an equivalent symbol depicting this purpose, a driver parking in the parking area must park the vehicle at an angle of approximately 45 degrees to

the centre of the carriageway unless otherwise indicated by the inscription on the parking sign or by marks on the carriageway.

### 11.15 General prohibitions on parking

- (1) This clause does not apply to a vehicle parked in a parking bay.
- (2) A driver must not park so that any portion of the vehicle is—
  - (a) on or adjacent to a median strip; or
  - (b) obstructing a right of way, private driveway or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private driveway or carriageway; or
  - (c) alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic; or
  - (d) on or within 10 metres of any portion of a carriageway bounded by a traffic island; or
  - (e) on or over any footpath, bicycle path or pedestrian crossing; or
  - (f) between the boundaries of a carriageway and any double longitudinal line consisting of 2 continuous lines or between a double longitudinal line consisting of a continuous line and a broken or dashed line and the boundary of a carriageway nearer to the continuous line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line; or
  - (g) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway; or
  - (h) within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug; or
  - (i) within 3 metres of a public letter pillar box, unless the vehicle is being used for the purposes of collecting postal articles from the pillar box; or
  - (j) within 10 metres of the nearer property line of any street intersecting the street on the side on which the vehicle is parked,unless a sign or markings on the carriageway indicate otherwise.
- (3) A driver must not park so that any portion of the vehicle is within 10 metres of the departure side of—
  - (a) a sign inscribed with the words **bus stop** or **hail bus here** or with equivalent symbols depicting these purposes, unless the vehicle is a bus stopped to take up or set down passengers; or
  - (b) a children's crossing or pedestrian crossing.
- (4) A driver must not park so that any portion of the vehicle is within 20 metres of the approach side of—

- (a) a sign inscribed with the words **bus stop** or **hail bus here** or with equivalent symbols depicting these purposes, unless the vehicle is a bus stopped to take up or set down passengers; or
  - (b) a children's crossing or pedestrian crossing.
- (5) A driver must not park so that any portion of the vehicle is within 20 metres of either the approach side or the departure side of the nearest rail of a railway level crossing.

#### **11.16 Authorised person may order vehicle to be moved**

A driver must not park on any part of a street, local government property, parking station or reserve, if directed by an authorised person to move the vehicle.

#### **11.17 Authorised person may mark tyres**

- (1) An authorised person may mark the tyres of a parked vehicle with chalk or any other non-indelible substance for a purpose connected with or arising out of their duties or powers.
- (2) A person must not remove a mark made by an authorised person so that the purpose of the affixing of such a mark is defeated or likely to be defeated.

#### **11.18 No movement of vehicles to avoid time limitation**

Where the parking of vehicles in a parking area or parking facility is permitted for a limited time, a driver must not move a vehicle within the parking area or parking facility so that the total time of parking exceeds the maximum time permitted unless the vehicle has first been removed from the parking area or parking facility for at least 1 hour.

#### **11.19 No parking of vehicles exposed for sale and in other circumstances**

A driver must not park on any portion of local government property or a street—

- (a) for the purpose of exposing a vehicle for sale; or
- (b) a vehicle that is not licensed under the *Road Traffic Act 1974*; or
- (c) an unattached trailer or unattached caravan, except for a horse float temporarily parked in the Residential and Stables Zone with the permission of the occupier of the premises adjacent to the verge where the horse float is parked; or
- (d) for the purpose of effecting repairs to a vehicle, other than the minimum repairs necessary to enable a broken down vehicle to be moved; or
- (e) for the purpose of servicing or cleaning a commercial vehicle.

#### **11.20 Parking on private land**

- (1) In this clause a reference to **land** does not include land—
  - (a) which belongs to the local government; or

- (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 LG Act; or
  - (d) which is the subject of an agreement referred to in clause 11.4(2).
- (2) A driver must not park on land without the consent of the owner or occupier of the land on which the vehicle is parked.
- (3) The consent referred to in subclause (2) may be given subject to any conditions which are specified on a sign, and a person must not park a vehicle on the land otherwise than in accordance with the consent.

#### **11.21 Driving or parking on local government property**

A driver must not drive, ride, take, park or stand any vehicle on local government property other than upon an area specifically set aside for that purpose.

#### **11.22 Lawfully parked vehicles deemed an obstruction**

A vehicle, caravan, trailer or any part of a vehicle, which is parked on local government property or in a public place wherein vehicles may lawfully be parked, is deemed to cause an obstruction where the vehicle, caravan or trailer is—

- (a) parked for any period exceeding 24 hours, without the consent in writing of an authorised person; or
- (b) parked during any period in which the parking of vehicles is prohibited or restricted by a sign; or
- (c) appears to an authorised person to be abandoned or disused.

#### **11.23 Unlawfully parked vehicles**

A vehicle, caravan, trailer or any part of a vehicle, which is parked on local government property or in a public place where vehicles may not lawfully be parked, is deemed to cause an obstruction.

#### **11.24 Vehicle causing an obstruction**

A driver must not park a vehicle, caravan, trailer or any part of a vehicle, on local government property or in a public place so as to cause an obstruction.

#### **11.25 Suspension of parking limitations for urgent, essential or official duties**

- (1) The local government, the CEO or an authorised person may, subject to the *Road Traffic Code 2000*, permit a person to park a vehicle for longer than the permitted time in order for the person to carry out urgent, essential or official duties.
- (2) Where permission is granted under subclause (1), the local government, the CEO or an authorised person may prohibit the use by any other vehicle of that area to which the permission relates, for the duration of that permission.

### 11.26 Special event parking

- (1) The local government may, by use of signs, set aside any area for any period specified on the signs for the parking of vehicles by persons attending a special event.
- (2) A driver must not park or stop a vehicle in a parking station or area set aside under subclause (1) during the period for which it is set aside unless a ticket purchased from or issued by the local government in respect of the special event is clearly visible to and is able to be read by an authorised person from outside the vehicle.
- (3) During the period referred to in subclause (1) any prohibition or parking restriction indicated by a sign as applying to that parking station or parking area does not apply.

### 11.27 No stopping and no parking signs

- (1) A driver must not stop on a length of carriageway or in an area to which a no stopping sign applies.
- (2) A driver must not stop on a length of carriageway or in an area to which a no parking sign applies, unless the driver is—
  - (a) dropping off or picking up passengers or goods; and
  - (b) does not leave the vehicle unattended; and
  - (c) completes the dropping off or picking up the passengers or goods within 2 minutes of stopping and drives on.
- (3) In this clause, **unattended** in relation to a vehicle means that the driver has left the vehicle so that the driver is more than 3 metres from the closest point of the vehicle.
- (4) A driver must not stop at the side of a carriageway marked with a continuous yellow edge line.

### 11.28 Stopping in a loading zone

A driver must not stop in a loading zone unless—

- (a) actively picking up or setting down passengers; or
- (b) the vehicle is a commercial vehicle engaged in the picking up or setting down of goods and does not remain—
  - (i) for longer than a time indicated on the loading zone sign; or
  - (ii) longer than 30 minutes, if no time is indicated on the sign.

### 11.29 Stopping in a taxi, bus or mail zone

- (1) A driver must not stop in a taxi zone, unless the driver is driving an on-demand vehicle.

- (2) A driver must not stop in a bus zone unless the driver is driving a public bus or a bus of a type that is permitted to stop at the bus zone by information on or with the bus zone sign applying to the bus zone.
- (3) A driver must not stop a vehicle in a mail zone.

### **11.30 Other limitations in zones**

A driver must not stop in a zone to which a sign applies if stopping the vehicle would be contrary to any limitation in respect to class of vehicles or class of persons, or specific activities allowed, as indicated by additional words on a sign that applies to the zone.

### **11.31 Stopping in a shared zone**

A driver must not stop in a shared zone unless the driver—

- (a) stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law; or
- (b) stops in a parking bay and the driver is permitted to stop in the parking bay under this local law; or
- (c) is dropping off or picking up passengers or goods; or
- (d) is engaged in door to door delivery or collection of goods, or in the collection of waste or garbage.

### **11.32 Stopping in a designated lane**

A driver must not stop a vehicle in—

- (a) a bus lane; or
- (b) a transit lane; or
- (c) a truck lane; or
- (d) a bicycle lane,

unless the vehicle is a public bus or on-demand vehicle, and the driver is dropping off, or picking up, passengers.

### **11.33 Double parking**

- (1) A driver must not stop a vehicle so that any portion of the vehicle is between any other stopped vehicle and the centre of the carriageway.
- (2) This clause does not apply to a vehicle—
  - (a) stopped in traffic; or
  - (b) parked in a parking bay; or
  - (c) parked on the side of the carriageway or in a median strip parking area, in accordance with this local law.

#### 11.34 Stopping near an obstruction

A driver must not stop on a carriageway, near an obstruction on the carriageway, in a position that further obstructs traffic on the carriageway.

#### 11.35 Stopping on a bridge or in a tunnel

A driver must not stop in a tunnel or underpass or on a bridge, causeway, ramp or similar structure unless—

- (a) the carriageway is at least as wide in the tunnel or underpass or on the structure as it is on each of the approaches and a sign does not prohibit stopping or parking; or
- (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

#### 11.36 Stopping on crests and curves

A driver must not stop on, or partly on, a carriageway, in any position where it is not visible to the driver of an overtaking vehicle, from a distance of 50 metres.

#### 11.37 Stopping near a fire hydrant

- (1) A driver must not stop so that any portion of the vehicle is within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug, unless the driver is driving a—
  - (a) public bus, and the driver stops in a bus zone or at a bus stop and does not leave the bus unattended; or
  - (b) on-demand vehicle, and the driver stops in a taxi zone and does not leave the vehicle unattended.
- (2) In this clause a driver leaves the vehicle **unattended** if the driver leaves the vehicle so the driver is over 3 metres from the closest point of the vehicle.

#### 11.38 Stopping at or near a bus stop

- (1) A driver must not stop so that any portion of the vehicle is within 20 metres of the approach side of a bus stop, or within 10 metres of the departure side of a bus stop, unless—
  - (a) the vehicle is a public bus stopped to take up or set down passengers; or
  - (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.
- (2) In this clause distances are measured in the direction in which the driver is driving.

### **11.39 Stopping on a path, median strip, painted island or traffic island**

A driver must not stop so that any portion of the vehicle is on or over a footpath, bicycle path, median strip, painted island or traffic island unless the driver stops in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

### **11.40 Stopping on verge**

- (1) A driver must not stop—
  - (a) a commercial vehicle or bus; or
  - (b) an unattached trailer or unattached caravan; or
  - (c) any vehicle during any period when the stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge,so that any portion of it is on a verge.
- (2) In the case of a vehicle other than those referred to in subclause (1)(a) and (1)(b), and in circumstances other than those referred to in subclause (1)(c), a driver may stop a vehicle wholly or partly on a verge if the driver is authorised by the occupier of the premises adjacent to the verge.
- (3) Subclause (1)(a) does not apply to a commercial vehicle when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials collected from or delivered to the premises adjacent to the portion of the verge on which the commercial vehicle is parked, provided no obstruction is caused to the passage of any vehicle or person using a carriageway, footpath or bicycle path.

### **11.41 Obstructing access to and from a path or driveway**

- (1) A driver must not stop so that any portion of the vehicle is in front of a footpath or bicycle path, in a position that obstructs access by vehicles, cyclists or pedestrians to or from that footpath or bicycle path, unless the driver—
  - (a) is dropping off or picking up passengers; or
  - (b) stops in a parking bay and the driver is permitted to stop in the parking bay under this local law.
- (2) A driver must not stop on or across a driveway or other way of access for vehicles travelling to or from adjacent land, unless the driver—
  - (a) is dropping off or picking up passengers; or
  - (b) stops in a parking bay and the driver is permitted to stop in the parking bay under this local law.

### **11.42 Stopping near a letter box**

A driver must not stop so that any portion of the vehicle is within 3 metres of a public letter box, unless the driver—

- (a) is dropping off or picking up passengers or mail; or

- (b) stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

#### **11.43 Heavy and long vehicles stopping on a carriageway**

- (1) A driver must not park 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 on a carriageway—
  - (a) in a built up area, for any period exceeding 1 hour, unless engaged in the picking up or setting down of goods; or
  - (b) outside a built up area, except on the shoulder of the carriageway, or in a truck bay or other area set aside for the parking of goods vehicles.
- (2) Nothing in this clause mitigates the limitations or condition imposed by any other clause or by any local law or sign relating to the parking or stopping of vehicles.

#### **11.44 Stopping on a carriageway with a bicycle parking sign**

A driver must not stop on a length of carriageway to which a bicycle parking sign applies, unless the driver is dropping off or picking up passengers.

#### **11.45 Stopping on a carriageway with motor cycle parking sign**

A driver must not stop on a length of carriageway, or in an area, to which a motor cycle parking sign applies, or an area marked **M/C** unless—

- (a) the vehicle is a motor cycle; or
- (b) the driver is dropping off or picking up passengers.

#### **11.46 Removal of notices on vehicle**

A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle, must not remove from the vehicle any notice put on the vehicle by an authorised person.

#### **11.47 Signs must be complied with**

An inscription or symbol on a sign operates and has effect according to its terms and a person contravening the direction on a sign commits an offence under this local law.

#### **11.48 General provisions about signs**

- (1) A sign marked, erected, set up, established or displayed is, in the absence of evidence to the contrary presumed to be a sign marked, erected, set up, established or displayed under the authority of this local law.
- (2) The first 3 letters of any day of the week when used on a sign indicate that day of the week.

#### **11.49 Special purpose and emergency vehicles**

Notwithstanding anything to the contrary in this local law, the driver of—

- (a) a special purpose vehicle or authorised person may, but only in the course of their duties and when it is expedient and safe to do so, stop, or park the vehicle in any place, at any time;
- (b) an emergency vehicle may, in the course of their duties and when it is expedient and safe to do so or where they honestly and reasonably believe that it is expedient and safe to do so, stop, or park the vehicle at any place, at any time.

#### **11.50 Averment on complaint as to clause 11.4(2) agreement**

An averment on a complaint that this Part applies to a parking facility or a parking station under an agreement referred to in clause 11.4(2), is sufficient proof that this Part applies to that facility or station, unless to the contrary there is proof that such an agreement does not exist.

#### **11.51 No driving on closed street**

(1) In this clause—

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

(2) A driver must not drive or take a vehicle on a closed street unless—

- (a) in accordance with any limits or exceptions specified in the order made under section 3.50 of the LG Act; or
- (b) the driver has first obtained permission from the local government.

#### **11.52 Preexisting signs**

(1) A sign that—

- (a) was erected by the local government or the Commissioner of Main Roads prior to the coming into operation of this local law; and
- (b) relates to the parking of vehicles within the parking region, is deemed for the purposes of this local law to have been erected by the local government under the authority of this local law.

(2) An inscription or symbol on a sign referred to in subclause (1) operates and has effect according to its terms, and where the inscription or symbol relates to the stopping of vehicles, it is deemed for the purpose of this local law to operate and have effect as if it related to the parking of vehicles.

## Part 12 – Waste

### 12.1 Terms used

(1) In this Part, unless the context otherwise requires—

**collectable waste** means local government waste that is not—

- (a) liquid refuse; or
- (b) liquid waste; or
- (c) non-collectable waste;

**collectable waste receptacle** means a receptacle for the deposit and collection of collectable waste that is—

- (a) a recycling waste receptacle; or
- (b) a general waste receptacle; or
- (c) an organic waste receptacle;

**collection**, when used in relation to a receptacle, means the collection and removal of collectable waste from the receptacle by the local government or its contractor;

**collection day** means the day determined by the local government for the collection of collectable waste in the district or a part of the district;

**collection time** means the time on the collection day determined by the local government for the collection of collectable waste in the district or a part of the district;

**costs** of the local government include administrative costs;

**general waste receptacle** means a receptacle for the deposit and collection of collectable waste that is not recycling waste;

**local government waste** has the same meaning as in the WARR Act;

**non-collectable waste** means—

- (a) hot or burning material; or
- (b) household hazardous waste, including paint, acids, alkalis, fire extinguishers, solvents, pesticides, oils, gas cylinders, batteries, chemicals and heavy metals; or
- (c) any other hazardous material, such as radioactive waste; or
- (d) any explosive material, such as flares or ammunition; or
- (e) electrical and electronic equipment; or
- (f) hospital, medical, veterinary, laboratory or pathological substances; or

- (g) construction or demolition waste; or
- (h) sewage; or
- (i) controlled waste for the purposes of the *Environmental Protection (Controlled Waste) Regulations 2004*; or
- (j) any object that is greater in length, width, or breadth than the corresponding dimension of the receptacle or that will not allow the lid of the receptacle to be tightly closed;
- (k) waste that is or is likely to become offensive or a nuisance, or give off an offensive or noxious odour, or to attract flies or cause fly breeding unless it is first wrapped in non-absorbent or impervious material or placed in a sealed impervious and leak-proof container; or
- (l) any other waste determined by the local government to be non-collectable waste;

**occupier** in relation to premises, means any or all of the following—

- (a) a person by whom or on whose behalf the premises are actually occupied; or
- (b) a person having the management or control of the premises

**organic waste** means waste that decomposes readily, such as garden waste or food waste;

**organic waste receptacle** means a receptacle for the deposit and collection of organic waste;

**receptacle**, means a receptacle—

- (a) that has been supplied for the use of the premises by the local government or its contractor, or which has otherwise been approved by the local government; and
- (b) the waste from which is collected and removed from the premises by the local government or its contractor;

**recycling waste receptacle** means a receptacle for the deposit and collection of recycling waste;

**recycling waste** means—

- (a) paper and cardboard; or
- (b) plastic containers comprised of polyethylene terephthalate or high density polyethylene; or
- (c) glass containers; or
- (d) steel containers; or
- (e) aluminium containers; or

- (f) liquid paper board; or
- (g) any other waste determined by the local government to be recycling waste;

**specified** means specified by the local government or an authorised person, as the case may be;

**street alignment** means the boundary between the land comprising a street and the land that abuts the street;

**WARR Act** means the *Waste Avoidance and Resource Recovery Act 2007*;

**WARR Regulations** means the *Waste Avoidance and Resource Recovery Regulations 2008*;

**waste** has the same meaning as in the WARR Act;

**waste facility** means a waste facility, as defined in the WARR Act, that is operated by the local government;

**waste service** has the same meaning as in the WARR Act.

- (2) For the purposes of this Part, clause 2.1 definitions do not apply to the following terms—
  - (a) carriageway; and
  - (b) footpath; and
  - (c) liquid waste; and
  - (d) nuisance; and
  - (e) person; and
  - (f) street; and
  - (g) verge.

*[Clause 12.1(2) amended by Government Gazette No.153 of 2022]*

## **12.2 Rates, fees and charges**

The local government's powers to impose rates, fees and charges in relation to waste services are set out in sections 66 to 68 of the WARR Act and section 6.16 and 6.17 of the LG Act.

## **12.3 Power to provide waste services**

The local government's power to provide, or enter into a contract for the provision of, waste services is dealt with in section 50 of the WARR Act.

## **12.4 Supply of receptacles**

- (1) The local government is to supply for the use of each premises that are or are capable of being occupied or used for residential purposes, 1 or more receptacles for the collection and removal of collectable waste from those premises.
- (2) The owner of premises to which subclause (1) applies must ensure that—
  - (a) the fee or charge (if any) imposed by the local government in relation to each receptacle is paid to the local government; and
  - (b) each receptacle is used, in respect of those premises, in accordance with this local law.

## **12.5 Deposit of waste in receptacles**

- (1) An owner or occupier of premises must not deposit or permit to be deposited—
  - (a) in a receptacle any non-collectable waste; and
  - (b) in a general waste receptacle—anything other than the particular type of waste for which that receptacle was provided by the local government for those premises; and
  - (c) in a recycling waste receptacle—anything other than the particular type of recycling waste for which that receptacle was provided by the local government for those premises; and
  - (d) in an organic waste receptacle—anything other than the particular type of organic waste for which that receptacle was provided by the local government for those premises; and
  - (e) where a general waste receptacle, recycling waste receptacle or organic waste receptacle has a capacity of 240 litres, no more than 70 kilograms of the particular type of waste for which that receptacle was provided and for any other capacity no more than the weight determined by the local government.
- (2) A person must not deposit waste in a receptacle that has been provided for the use of other premises without the consent of the owner or occupier of those premises.
- (3) Where the local government supplies recycling waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any recycling waste.
- (4) Where the local government supplies organic waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general receptacle any organic waste.

## **12.6 Direction to place or remove a receptacle**

- (1) The local government or an authorised person may give a written direction to an owner or occupier of specified premises to—
  - (a) place a receptacle in respect of those premises for collection; or

- (b) remove a receptacle in respect of those premises after collection.
- (2) The direction under subclause (1) may specify when the placement or removal is to occur, or where the receptacle is to be placed, or both.
- (3) An owner or occupier of premises must comply with a direction given under this clause.

### 12.7 Duties of owner or occupier

An owner or occupier of premises must—

- (a) except for a reasonable period before and after collection time, keep each receptacle in a storage space or area that is behind the street alignment; and
- (b) take reasonable steps, if placing a receptacle for collection on the verge adjoining the premises, or other area as determined by the local government, to ensure that, within a reasonable period before collection time, each receptacle is—
  - (i) within 1 metre of the carriageway; and
  - (ii) so that it does not unduly obstruct any footpath, cycle way, right-of-way or carriageway; and
  - (iii) facing squarely to the edge of and opening towards the carriageway; orin such other position as is approved in writing by the local government or an authorised person; and
- (c) if the receptacle is lost, stolen, damaged or defective, notify the local government, as soon as practicable, after the event; and
- (d) ensure that each receptacle is kept in good condition and repair; and
- (e) take reasonable steps to—
  - (i) ensure that the premises are provided with an adequate number of receptacles; and
  - (ii) ensure that a sufficient number of receptacles are provided to contain all waste which accumulates or may accumulate in or from the premises; and
  - (iii) prevent fly breeding and keep each receptacle free of flies, maggots, cockroaches, rodents and other vectors of disease; and
  - (iv) prevent the emission of offensive or noxious odours from each receptacle; and
  - (v) ensure that each receptacle does not cause a nuisance to an occupier of adjoining premises; and

whenever directed to do so by the local government or an authorised person thoroughly clean, disinfect, deodorise and apply a residual insecticide to each receptacle.

*[Clause 12.7 amended by Government Gazette No. 153 of 2022]*

## **12.8 Exemption**

- (1) An owner or occupier of premises may apply in writing to the local government for an exemption from compliance with the requirements of clause 12.7(a) or 12.7(b).
- (2) The local government or an authorised person may grant, with or without conditions, or refuse an application for exemption from compliance under this clause.
- (3) An exemption granted under this clause must state—
  - (a) the premises to which the exemption applies; and
  - (b) the period during which the exemption applies; and
  - (c) any conditions imposed by the local government or the authorised person.
- (4) An exemption granted under this clause ceases to apply—
  - (a) if the local government decides, on reasonable grounds, that there has been a failure to comply with a condition of the exemption; and
  - (b) from the date that the local government informs the owner or occupier of its decision under clause 12.8(4)(a).

## **12.9 Damaging or removing receptacles**

A person must not—

- (a) damage, destroy or interfere with a receptacle; or
- (b) except as permitted by this local law or as authorised by the local government or an authorised person, remove a receptacle from any premises to which it was delivered by the local government or its contractor.

## **12.10 Verge collections**

- (1) Where the local government has advertised a verge waste collection (such as a green waste, or a bulk waste, verge collection) a person, unless with and in accordance with the approval of the local government or an authorised person must—
  - (a) deposit waste only during the period of time, and in accordance with other terms and conditions, as advertised by the local government in relation to that verge waste collection; and
  - (b) comply with those terms and conditions.
- (2) Where waste has been deposited on a verge for a verge waste collection, a person must not remove any of that waste for a commercial purpose but may remove it for any other purpose.

- (3) Except where waste is lawfully removed from a verge under this clause, a person must not disassemble or tamper with any waste deposited on a verge for a verge waste collection in a manner which may increase the risk of harm to any person.

### 12.11 Removal of waste from premises

- (1) A person must not remove any waste from premises unless that person is—
- (a) the owner or occupier of the premises; or
  - (b) authorised to do so by the owner or occupier of the premises; or
  - (c) authorised in writing to do so by the local government or an authorised person.
- (2) A person must not remove any waste from a receptacle without the approval of—
- (a) the local government or an authorised person; or
  - (b) the owner or occupier of the premises at which the receptacle is ordinarily kept.

### 12.12 Receptacles and containers for public use

A person must not, without the approval of the local government or an authorised person—

- (a) deposit household, commercial or other waste from any premises on or into; or
- (b) remove any waste from,

a receptacle provided for the use of the general public in a public place.

### 12.13 Waste control on building sites

- (1) In this clause—

**building work** means—

- (a) building work for which a building permit is required under the *Building Act 2011*; and
- (b) demolition work for which a demolition permit is required under the *Building Act 2011*;

**building work waste** means all waste from building work that is capable of being windblown or may otherwise constitute a nuisance;

**receptacle** means a receptacle from which waste is collected and removed otherwise than by the local government or its contractor.

- (2) A person must not allow, commence or continue any building work on premises unless, at all times while the building work is being undertaken—

- (a) there is located on the premises, as close as practicable to the building work a receptacle with a capacity of not less than 4 cubic metres, or as otherwise approved by the local government, suitable for the collection and disposal of building work waste; and
- (b) any building work waste at the premises is deposited and kept in the receptacle; and
- (c) the lid of the receptacle is kept closed except when waste is being deposited in the receptacle.

#### **12.14 Other costs and expenses**

- (1) A person who is convicted of an offence under this local law is liable, in addition to any penalty imposed under clause 14.7, to pay to the local government the costs and expenses incurred by the local government in taking remedial action such as—
  - (a) removing and lawfully disposing of toxic, hazardous or poisonous waste; or
  - (b) making good any damage caused to a waste facility.
- (2) The costs and expenses incurred by the local government are to be recoverable, as a debt due to the local government, in a court of competent jurisdiction.

#### **12.15 Form of notices**

- (1) Where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the LG Act is that of Form 1 in Schedule 1 of the LG Regulations.
- (2) The form of the infringement notice given under section 9.16 of the LG Act is that of Form 2 in Schedule 1 of the LG Regulations.
- (3) The form of the infringement withdrawal notice given under section 9.20 of the LG Act is that of Form 3 in Schedule 1 of the LG Regulations.

## **Part 13 – Determinations**

### **13.1 Terms used**

In this Part, unless the context otherwise requires—

***date of publication*** means, where local public notice is required to be given of a matter under this local law, the date on which notice of the matter is published in a newspaper circulating generally throughout the district.

### **13.2 Property hire**

Notwithstanding anything to the contrary in this local law, the local government may—

- (a) hire local government property to any person; or
- (b) enter into an agreement with any person regarding the use of any local government property.

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

- (1) The local government may make a determination in accordance with clause 13.4—
  - (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 13.8; and
  - (b) prohibiting a person from pursuing all or any of the activities referred to in clause 13.9 on specified local government property; and
  - (c) as to the matters in clauses 13.8(2) and 13.9(2); and
  - (d) as to any matter ancillary, or necessary to give effect, to a determination.

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

- (1) The local government is to give local public notice, under section 1.7 of the LG Act, of a determination.
- (2) The determination becomes effective only after local public notice has been given in accordance with (2B) or (2C).
- (2A) The Local public notice referred to in subclause (1) is to state that-
  - (a) the local government intends to make a determination, the purpose and effect of which is summarized 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.
- (2B) Council is to consider submissions received, if any, and decide to:
  - (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication; and
  - (b) amend the proposed determination, in which case subclause (2C) will apply; or
  - (c) not continue with the proposed determination.
- (2C) If the Council decides to amend the proposed determination, it is to give local public notice –
  - (a) of the effect of the amendments; and
  - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (3) The determination remains in force for the period of 1 year after the date that local public notice has been under subclause (1).
- (4) After the period referred to in subclause (3), the determination continues in force only if, and for so long as, it is the subject of local public notice, given annually, under section 1.7 of the LG Act.

- (5) The determination must be recorded in a publicly accessible register of determinations that must be maintained by the local government.
- (6) A decision under (3) or (4) is not to be delegated by the Council.

*[Clause 13.4 amended by Government Gazette No. 153 of 2022]*

### **13.5 Discretion to erect a 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 local government property.

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

A person must comply with a determination.

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

- (1) The local government may amend or revoke a determination.
- (2) The provisions of clause 13.4 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the local government revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

### **13.8 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) bring, ride or drive an animal; or
  - (b) take, ride or drive a vehicle, or a particular class of vehicle; or
  - (c) fly or use a motorised model vehicle, boat or aircraft; or
  - (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age; or
  - (e) launch, beach or leave a boat; or
  - (f) take or use a boat, or a particular class of boat; or
  - (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property; or
  - (h) play or practice—
    - (i) golf or archery; or
    - (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; or

- (i) ride a bicycle, skateboard, rollerblades, sandboard or a similar device; or
  - (j) wear no clothing.
- (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; and
  - (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property; and
  - (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination; and
  - (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things; and
  - (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.

### **13.9 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) smoking; or
  - (b) riding a bicycle, skateboard, rollerblades, sandboard or a similar device; or
  - (c) taking, riding or driving a vehicle on the property or a particular class of vehicle; or
  - (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed; or
  - (e) taking or using a boat, or a particular class of boat; or
  - (f) fishing; or
  - (g) 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;
  - (h) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; or

- (i) 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; and
  - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property; and
  - (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things; and
  - (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.

## **Part 14 – Enforcement of local law**

### **14.1 Authorised person**

- (1) A person must not prevent or obstruct a duly authorised person or employee of the local government from carrying out their duties under this local law.
- (2) A person on local government property must obey any lawful direction of an authorised person.
- (3) An authorised person may direct a person to leave local government property where he or she reasonably suspects that the person has contravened a provision of any written law.

### **14.2 Employees and authorised persons**

An offence under this local law does not apply to a—

- (a) local government employee, authorised person or contractor engaged by the local government to undertake the work; or
- (b) any other person acting under the authority of the local government or a written law.

### **14.3 Notice of breach**

Notwithstanding the generality of clause 14.7(1) the local government may give written notice requiring an owner or occupier of any land to make good within the time specified in the notice any breach of this local law.

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

Where a person fails to comply with a notice referred to in clause 14.3, 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, by action in a court of competent jurisdiction.

#### **14.5 Power of Entry**

This local law is subject to sections 3.25, 3.27 and Schedules 3.1 and 3.2 of the LG Act and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3 of the LG Act.

#### **14.6 Modified Penalties**

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16 (1) of the LG Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 4.
- (3) The amount appearing in the third column of Schedule 4, Part 4, adjacent to the clause number is the modified penalty payable in respect of that offence if the dog is not a dangerous dog.
- (4) The amount appearing in the fourth column of Schedule 4, Part 4, adjacent to the clause number is the modified penalty payable in respect of that offence if the dog is a dangerous dog.
- (5) Unless otherwise specified, the amount of the modified penalty for an offence against any provision of this local law is \$100.

#### **14.7 Offences**

- (1) Whenever the local government gives a written notice under this local law requiring a person to do anything, if the person fails to comply with the notice, the person commits an offence.
- (2) 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.
- (3) Any person making a false or misleading statement in connection with any application, requirement or demand under this local law commits an offence.
- (4) The maximum penalty in respect of an offence involving a breach of this local law made under—
  - (a) the LG Act must be \$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; and
  - (b) under any other Act must be the maximum penalty under that Act for a breach of a local law made under the authority of that Act.

## Part 15 – Schedules

### Schedule 1 — Specifications for a sufficient fence on a residential lot

[Clauses 5.4(2)(a) and 5.4(3)(a)]

Each of the following is a **sufficient fence** on a residential lot—

- (1) A fully enclosed timber fence built to manufacturer's specifications or in accordance with established construction techniques, the height of the fence to be 1800mm except with respect to the front setback area for which there is no minimum height but which is subject to clause 5.5.
- (2) A fence constructed of corrugated fibre reinforced pressed cement or pre-painted steel sheeting erected to manufacturer's specifications or which otherwise satisfies the following specifications—
  - (a) a minimum in ground length of 25 per cent of the total length of the sheet, but in any case must have a minimum in ground depth of 600mm; and
  - (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet; and
  - (c) the sheets to be lapped and capped with extruded snap fit type capping in accordance with the manufacturer's written instructions; and
  - (d) the height of the fence to be 1800mm except with respect to the front setback area for which there is no minimum height but which is subject to clause 5.5.
- (3) A fence constructed of brick, stone, concrete or any other masonry product erected to the manufacturer's specifications or relevant Australian Standard or which otherwise satisfies the following specifications—
  - (a) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar; and
  - (b) fences to be offset a minimum of 200mm at maximum 3000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3000mm centres; and
  - (c) expansion joints in accordance with the manufacturer's written instructions; and
  - (d) the height of the fence to 1800mm except with respect to the front setback area for which there is no minimum height but which is subject to clause 7.
- (4) A composite fence having a minimum overall height of 1800mm except with respect to the front setback area for which there is no minimum height but which is subject to clause 5.5, which satisfies the following specifications for the brick construction—
  - (a) brick piers of minimum 345mm x 345mm at 2700mm centres with an infill wall to a maximum height of 600mm bonded to the piers; and
  - (b) each pier must be reinforced with 1 R10 galvanised starting rod 1500mm high with a 250mm horizontal leg bedded into a 500mm x 200mm concrete

footing and set 65mm above the base of the footing. The top of the footing must be 1 course (85mm) below ground level; and

- (c) the minimum ultimate strength of brickwork must be 20MPA. Mortar must be a mix of 1 part cement, 1 part lime and 6 parts sand; and
- (d) the ground under the footings is to be compacted to 6 blows per 300mm and checked with a standard falling weight penetrometer; and
- (e) control joints in brickwork must be provided at 6 metre centres unless an appropriately qualified engineer certifies that a wider spacing is appropriate; or
- (f) brick piers of minimum 345mm x 345 mm x 2700mm centres bonded to the base wall; and
- (g) each pier must be reinforced with 2 R10 galvanised starting rods as previously specified.

## **Schedule 2 — Specifications for a sufficient fence on a commercial or industrial lot**

[Clauses 5.4(2)(b), 5.4(3)(b) and 5.4(4)]

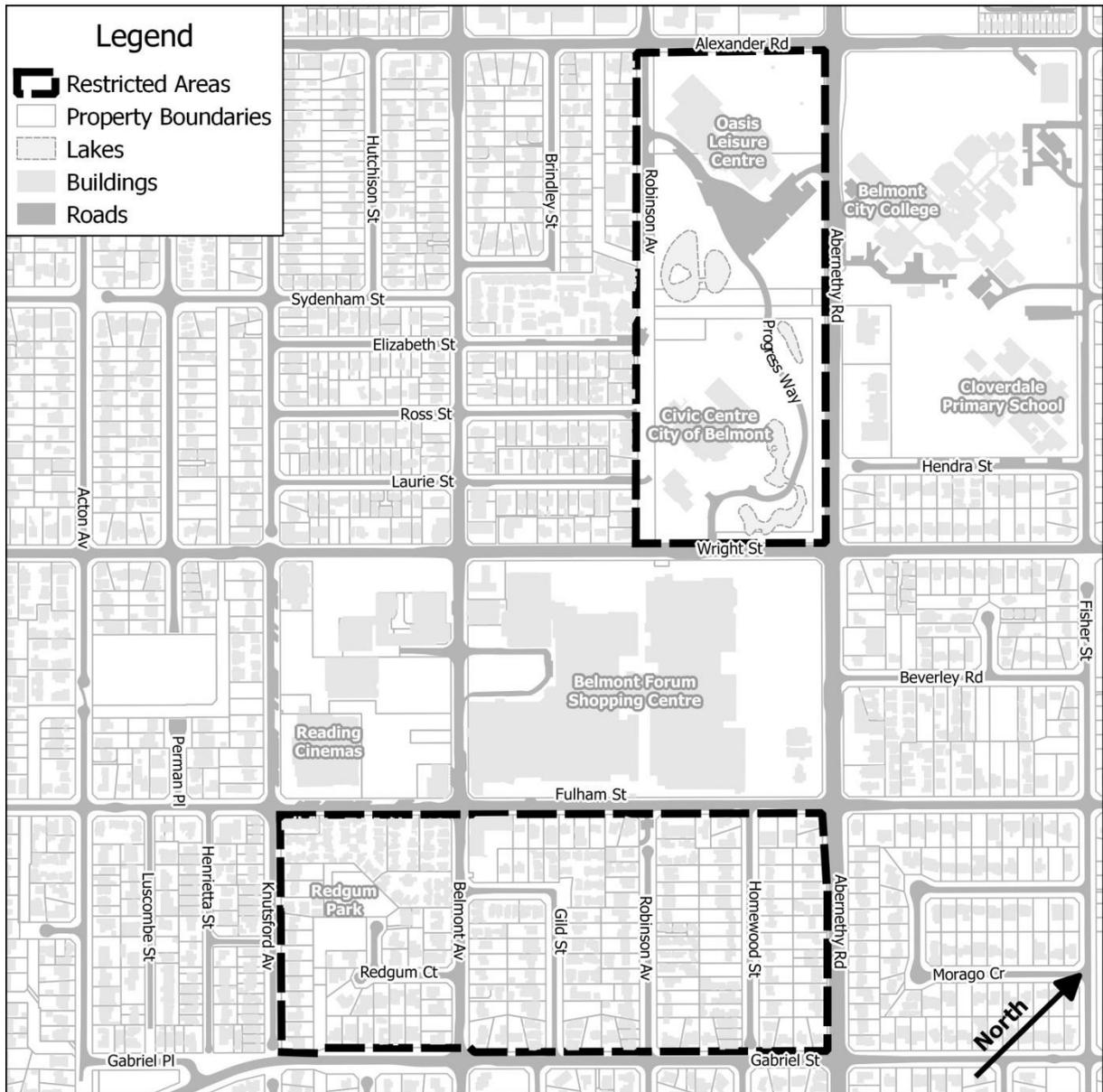
Each of the following is a **sufficient fence** on a commercial lot and an industrial lot—

- (1) A fence constructed of galvanised or PVC coated rail-less link mesh, chain mesh or steel mesh which satisfies the following specifications—
  - (a) corner posts to be minimum 50mm nominal bore x 3.5mm and with footings of a 225mm diameter x 900mm; and
  - (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5 metre centers and with footings of a 225mm diameter x 600mm; and
  - (c) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and 2 at each corner post and with footings 225mm x 600mm; and
  - (d) cables to be affixed to the top, centre and bottom of all posts and to consist of 2 or more 3.15mm wires twisted together or single 4mm wire; and
  - (e) rail-less link, chain or steel mesh is to be a height of 2000mm on top of which are to be 3 strands of barbed wire carrying the fence to a height of 2400mm in accordance with clause 5.10(2) of this local law; and
  - (f) galvanised link mesh wire to be 2000mm in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates must provide an opening of not less than 3.6 metre and must be constructed of 25mm tubular framework with 1 horizontal and 1 vertical stay constructed of 20mm piping and must be covered with 50mm x 2.5mm galvanised link mesh strained to framework. Gates must be fixed with a drop bolt and locking attachment.
- (2) A fence of fibre reinforced cement sheet or metal sheeting constructed to the minimum specifications referred to in Item 2 of Schedule 1.

- (3) Fences of timber, brick, stone, concrete or any other masonry product constructed to the minimum specifications referred to in Schedule 1.

### Schedule 3 — Abandoned shopping trolley restricted areas

[Clause 6.10(2)]



## Schedule 4 — Prescribed offences

[Clause 14.6]

<b>PART 3 – ACTIVITIES ON LOCAL GOVERNMENT PROPERTY</b>			
ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
1.	3.2(1)(a)	Placing or draining anything onto local government property which may create a nuisance	200
2.	3.2(1)(b)	Destroying, damaging, defacing, removing or interfering with any local government property	200
3.	3.2(1)(c)	Playing or participating in any game or sport so as to cause danger to any person or thing or impeding the movement of vehicles or persons on local government property	200
4.	3.2(1)(d)	Entering a fenced or closed local government property	200
5.	3.2(1)(e)	Causing an obstruction to a vehicle or person using local government property	200
6.	3.2(1)(f)	Altering, obstructing, or interfering with, any watercourse, drain, tunnel, or bridge that is local government property	200
7.	3.2(1)(g)	Hoisting anything over local government property	200
8.	3.2(1)(h)	Advertising anything by any means on local government property	200
9.	3.2(1)(i)	Teaching, coaching or training for profit on local government property	200
10.	3.2(1)(j)	Conducting a function on local government property	200
11.	3.2(1)(k)	Charging a person for entry onto local government property	200
12.	3.2(1)(l)	Lighting a fire or burning anything on local government property	200
13.	3.2(1)(m)	Parachuting, hang gliding, abseiling or base jumping from local government property	200
14.	3.2(1)(n)	Making an excavation or erecting or removing any fence on local government property	200
15.	3.2(1)(o)	Playing or practicing golf on local government property	200
16.	3.5	Enter or remaining on local government property while intoxicated	200
17.	3.6(1)	Consuming or possessing liquor or prohibited drug on local government property	200
18.	3.7(3)	Camping, lodging or erecting structure on local government property	200
19.	3.9(1)(a)	Driving or riding vehicle on jetty	200
20.	3.9(1)(b)	Taking or allowing an animal onto a jetty	200
21.	3.9(1)(c)	Using, hanging or drying fishing net on jetty	200
22.	3.9(1)(d)	Tying or mooring a boat so as to obstruct	200
23.	3.10(1)	Unauthorised entry to toilet block or change room	200
24.	3.11	Unauthorised entry to function on local government property	200
25.	3.12(1)	Failing to obtain permission for a temporary crossing for works on a lot	200
26.	3.15	Smoking within a 5 metre radius of an entrance or exit to premises on local government property	200

<b>PART 4 – ANIMALS</b>				
<b>ITEM</b>	<b>CLAUSE</b>	<b>DESCRIPTION</b>	<b>MODIFIED PENALTY \$</b>	
				<b>*DD</b>
27.	4.1(1)	Permitting animal to remain unattended on local government property	200	400
28.	4.1(2)	Securing animal on local government property for more than 1 hour	200	400
29.	4.2(a)	Allowing animal to enter or remain on local government property when not led, ridden or driven	200	
30.	4.2(b)	Allowing animal on local government property with contagious or infectious disease	200	
31.	4.2(c)	Training or racing animal or leading, riding or driving animal so as to damage local government property	200	
32.	4.2(d)	Depasturing animal on local government property	200	
33.	4.3	Taking or injuring any animal	200	
34.	4.4(1)	Feeding wildlife	200	
35.	4.4(2)	Failing to comply with notice as to feeding wildlife	200	
36.	4.5	Destroying, damaging or interfering with local government property used for the purposes of seizing animals	200	
37.	4.7(1)	Keeping of more than 2 cats without an exemption	200	
38.	4.8(4)	Failing to comply with a notice to abate a nuisance cat	200	
39.	4.9(1)	Failing to provide means for effectively confining a dog	200	
40.	4.13	Fouling local government property	100	
41.	4.15(1)	Keeping or stabling a horse otherwise than in registered stable premises	100	
42.	4.15(2)	Keeping or stabling a greater number of horses than the number for which the stables premises is registered	100	
43.	4.15(5)	Failure to comply with a condition of registration	100	
44.	4.20(3)	Keeping a horse overnight in a yard	100	
45.	4.21(1)	Keeping more horses than permitted on a property	100	
46.	4.24(1)	Failing to provide adequate provision of fly proof waste receptacles	100	
47.	4.24(2)	Failing to collect soiled bedding and manure waste as required and store in waste receptacle	100	
48.	4.24(3)	Failing to remove soiled bedding and manure waste as required	100	
49.	4.24(4)	Failing to ensure the lid of receptacle is kept closed	100	
50.	4.24(5)	Placing a receptacle containing waste within 10 metres of a property or premises	100	
51.	4.25	Failing to keep feed in sealed, rodent proof containers	100	
52.	4.26	Failing to maintain stable premises in a clean and sanitary condition.	100	
53.	4.27	Failing to maintain stables premises in good working order and sound weatherproof condition.	100	

*\*DD = Dangerous Dog*

<b>PART 6 – NUISANCES</b>				
<b>ITEM</b>	<b>CLAUSE</b>	<b>DESCRIPTION</b>	<b>MODIFIED PENALTY \$</b>	
54.	6.2(1)	Creating a nuisance on local government property	200	
55.	6.3(a)	Providing or conducting an amusement so as to create a nuisance	200	
56.	6.3(b)	Erecting an unauthorised amusement structure	200	

57.	6.4	Emitting light of more than 50 lux or reflecting light so as to create a nuisance	200
58.	6.6	Starting or driving a truck on residential land without written consent	200
59.	6.7	Disposing of disused refrigerator or similar container with door or lid that can be fastened	250
60.	6.9	Abandoning shopping trolley	200
61.	6.10(3)	Failing to remove shopping trolley once notified	200
62.	6.11	Failing to take effective measure to prevent the release of dust or liquid waste	200

#### **PART 7 – PLANTS, TREES AND VERGE TREATMENTS**

<b>ITEM</b>	<b>CLAUSE</b>	<b>DESCRIPTION</b>	<b>MODIFIED PENALTY \$</b>
63.	7.2(a)	Planting a tree on any verge or other local government property	100
64.	7.2(b)	Pruning, lopping, damaging, poisoning, removing or killing any tree or part of a tree on local government property	500
65.	7.2(c)	Planting a plant or sowing seeds on local government property	150
66.	7.2(d)	Damaging lawn or garden or removing any plant or part of a plant	350
67.	7.2(e)	Installing prohibited material on verge	100
68.	7.3(a)	Felling a tree across local government property without permission	500
69.	7.3(b)	Altering the level or gradient of a verge without permission	100
70.	7.3(c)	Laying pipes or installing anything on footpath or verge without permission	100
71.	7.6(1)	Installing or maintaining a verge treatment other than permissible verge treatment	350
72.	7.7(a)	Failing to maintain a permissible verge treatment in a good, tidy and safe condition	100
73.	7.7(b)	Verge treatment obstructing or encroaching upon a footpath or carriageway	100
74.	7.7(c)	Verge treatment causing a nuisance to pedestrians or other people	100

#### **PART 8 – SIGNS ON LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES**

<b>ITEM</b>	<b>CLAUSE</b>	<b>DESCRIPTION</b>	<b>MODIFIED PENALTY \$</b>
75.	8.2(2)	Failing to comply with sign on public place or local government property	200
76.	8.4(a)	Marking, setting up or exhibiting a sign purporting to be or resembling a sign marked, set up or exhibited by the local government	200
77.	8.4(b)	Remove, defacing or misusing a sign or property, set up or exhibited by the local government	200
78.	8.4(c)	Affix a board, sign, placard, notice or other thing to or painting or writing upon any part of a sign set up or exhibited by the local government	200
79.	8.5(a)	Erecting or placing advertising sign on local government property	200
80.	8.5(b)	Posting any bill or painting, placing or affixing any advertisement on local government property	200
81.	8.5(c)	Placing any other sign whatsoever on local government property	200

<b>PART 9 – TRADING IN PUBLIC PLACES, STALLHOLDERS, PUBLIC PERFORMERS AND OUTDOOR EATING FACILITIES</b>			
<b>ITEM</b>	<b>CLAUSE</b>	<b>DESCRIPTION</b>	<b>MODIFIED PENALTY \$</b>
82.	9.2	Conducting a stall in public place without a permit	400
83.	9.3	Trading without a permit	400
84.	9.7(1)(a)	Stallholder or trader failing to display or carry permit	200
85.	9.7(1)(b)	Stallholder or trader not displaying valid permit	200
86.	9.7(2)	Stallholder or trader engaged in prohibited conduct	200
87.	9.8(1)	Performing on local government property without a permit	100
88.	9.8(2)	Failing to cease performance when directed	200
89.	9.11	Street performer engaging in prohibited conduct	200
90.	9.12	Establishment or conduct of outdoor dining area without a permit	400
91.	9.15(1)	Outdoor dining area permit holder engaged in prohibited conduct	200
92.	9.17(1)	Use of outdoor dining area without purchase of food or drink from outdoor dining area	200
93.	9.17(2)	Failing to leave outdoor dining area when requested to do so by permit holder	200

<b>PART 10 – PERMITS</b>			
<b>ITEM</b>	<b>CLAUSE</b>	<b>DESCRIPTION</b>	<b>MODIFIED PENALTY \$</b>
94.	10.5(1)	Failing to comply with conditions of permit	200
95.	10.8	Failing to produce permit on request of authorised person	200
96.	10.11	Failing to comply with permit holder responsibilities	200

<b>PART 11 – PARKING</b>			
<b>ITEM</b>	<b>CLAUSE</b>	<b>DESCRIPTION</b>	<b>MODIFIED PENALTY \$</b>
97.	11.9(1)	Prohibited parking of vehicle in parking bay	120
98.	11.9(4)	Failing to park wholly within parking area	80
99.	11.10(a)	Causing obstruction in parking station	120
100.	11.10(b)	Parking contrary to sign in parking station	80
101.	11.10(c)	Parking contrary to directions of authorised person	120
102.	11.10(d)	Parking or attempting to park a vehicle in a parking bay occupied by another vehicle	80
103.	11.11(1)(a)	Parking wrong class of vehicle	80
104.	11.11(1)(b)	Parking by persons of a different class	80
105.	11.11(1)(c)	Parking during prohibited period	120
106.	11.11(3)(a)	Parking in no parking area	120
107.	11.11(3)(b)	Parking contrary to signs or limitations	80
108.	11.11(3)(c)	Parking vehicle in motorcycle only area	80
109.	11.11(4)	Parking without permission in an area designated for 'Authorised Vehicles Only'	80
110.	11.12(1)(a)	Failing to park on the left of a two-way carriageway or parking against the flow of traffic	80
111.	11.12(1)(b)	Failing to park on boundary of a one-way carriageway or parking against the flow of traffic	80
112.	11.12(1)(c)	Parking when distance from farther boundary less than 3 metres	80

113.	11.12(1)(d)	Parking closer than 1 metre from another vehicle	80
114.	11.12(1)(e)	Causing obstruction on a carriageway	120
115.	11.13(a)	Failing to park as near as practicable to and parallel with the boundary of the carriageway	80
116.	11.13(b)	Failing to park at approximate right angle	80
117.	11.14(2)	Failing to park at an appropriate angle	80
118.	11.15(2)(a)	Parking on or adjacent to a median strip	80
119.	11.15(2)(b)	Denying access to or obstructing private driveway or right of way	120
120.	11.15(2)(c)	Parking beside excavation or obstruction so as to obstruct traffic	120
121.	11.15(2)(d)	Parking within 10 metres of traffic island	80
122.	11.15(2)(e)	Parking on footpath, bicycle path or pedestrian crossing	120
123.	11.15(2)(f)	Parking contrary to continuous line markings	80
124.	11.15(2)(g)	Parking on intersection	120
125.	11.15(2)(h)	Parking within 1 metre of fire hydrant or fire plug	120
126.	11.15(2)(i)	Parking within 3 metres of public letter box	80
127.	11.15(2)(j)	Parking within 10 metres of intersection	120
128.	11.15(3)(a) or (b)	Parking vehicle within 10 metres of departure side of bus stop, children's crossing or pedestrian crossing	80
129.	11.15(4)(a) or (b)	Parking vehicle within 20 metres of approach side of bus stop, children's crossing or pedestrian crossing	80
130.	11.15(5)	Parking vehicle within 20 metres of approach side or departure side of railway level crossing	80
131.	11.16	Parking contrary to direction of authorised person	120
132.	11.17 (2)	Removing mark of authorised person	120
133.	11.18	Moving vehicle to avoid time limitation	80
134.	11.19(a)	Parking on local government property or a street for purpose of sale	80
135.	11.19(b)	Parking unlicensed vehicle on local government property or a street	80
136.	11.19(c)	Parking an unattached trailer/caravan on local government property or a street	80
137.	11.19(d)	Parking on local government property or a street for purpose of repairs	80
138.	11.19(e)	Parking commercial vehicle on local government property or a street for purpose of servicing or cleaning	80
139.	11.20(2)	Parking on private land without consent	120
140.	11.20(3)	Parking on land not in accordance with consent	80
141.	11.21	Driving or parking on reserve	120
142.	11.24	Vehicle causing an obstruction	120
143.	11.26(2)	Failing to display ticket in parking station or area set aside	80
144.	11.27(1)	Stopping contrary to a 'no stopping' sign	120
145.	11.27(2)	Stopping contrary to a 'no parking' sign	120
146.	11.27(4)	Stopping within continuous yellow edge line	120
147.	11.28	Stopping unlawfully in a loading zone	80
148.	11.29	Stopping unlawfully in a taxi zone, bus zone or mail zone	120
149.	11.30	Stopping in a zone contrary to a sign	80
150.	11.31	Stopping in a shared zone	80
151.	11.32	Stopping in a designated lane	80
152.	11.33	Double parking	120
153.	11.34	Stopping near an obstruction	80
154.	11.35	Stopping on a bridge or tunnel	80

155.	11.36	Stopping on crests/curves etc.	80
156.	11.37	Stopping near fire hydrant	120
157.	11.38	Stopping near bus stop	80
158.	11.39	Stopping on path, median strip, painted island or traffic island	80
159.	11.40	Stopping on verge	80
160.	11.41	Obstructing a footpath, bicycle path or driveway	120
161.	11.42	Stopping near letter box	80
162.	11.43	Stopping heavy or long vehicles on carriageway	300
163.	11.44	Stopping in bicycle parking area	80
164.	11.45	Stopping in motorcycle parking area	80
165.	11.46	Removal of notices on vehicle	80
166.	11.47	Contravening direction on a sign	80
167.	11.51	Driving or taking vehicle onto closed street	200

## PART 12 – WASTE

ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
168.	12.4(2)(a)	Failing to pay fee or charge	100
169.	12.4(2)(b)	Failing to ensure lawful use of receptacle	100
170.	12.5(1)(a)	Depositing non-collectable waste in a receptacle.	100
171.	12.5(1)(c)or(d)	Depositing unauthorised waste in a recycling waste receptacle or organic waste receptacle.	100
172.	12.5(1)(e)	Exceeding weight capacity of a general waste receptacle, recycling waste receptacle or organic waste receptacle.	100
173.	12.5(2)	Depositing waste in another receptacle without consent.	100
174.	12.5(3) or (4)	Depositing unauthorised waste in a general waste receptacle .	100
175.	12.6(3)	Failing to comply with a direction concerning placement or removal of a receptacle	100
176.	12.7(a)	Failing to keep a receptacle in the required location	100
177.	12.7(b)	Failing to place a receptacle for collection in a lawful position	100
178.	12.7(c)	Failing to notify of a lost, stolen, damaged or defective receptacle	100
179.	12.7(d)	Failing to keep a receptacle clean and in a good condition and repair	100
180.	12.7(e)(i) or (ii)	Failing to provide a sufficient number of receptacles	150
181.	12.7(e)(iii)	Failing to prevent fly breeding and vectors of disease in a receptacle	150
182.	12.7(e)(iv)	Failing to prevent the emission of offensive odours from a receptacle	150
183.	12.7(e)(v)	Allowing a receptacle to cause a nuisance	150
184.	12.7(f)	Failing to comply with a direction to clean, disinfect or deodorise receptacle	150
185.	12.9(a)	Damaging, destroying or interfering with a receptacle	150
186.	12.9(b)	Removing a receptacle from premises	100
187.	12.10(1)	Failing to comply with a term or condition of verge waste collection	100
188.	12.10(2)	Removing waste for commercial purposes	150
189.	12.10(3)	Disassembling or leaving in disarray waste deposited for collection	150
190.	12.11(1)	Unauthorised removal of waste from premises	100
191.	12.11(2)	Removing waste from a receptacle without approval	100

PART 13 – DETERMINATIONS			
ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
192.	13.6	Failing to comply with a determination	200

PART 14 – ENFORCEMENT OF LOCAL LAW			
ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
193.	14.1(1)	Preventing or obstructing an authorised person from carrying out duty	100
194.	14.1(2)	Failing to obey a lawful direction	100
195.	14.3	Failing to comply with a notice of breach	200
196.	14.7(1)	Failing to comply with a written notice	200
197.	14.7(2)	Failing to do anything required or directed to be done under this local law, or doing anything which under this local law that person is prohibited from doing	100
198.	14.7(3)	Making a false or misleading statement	200

Consented to—

MIKE ROWE  
 Chief Executive Officer  
 Department of Water and Environment Regulation

Dated this                    of                    2020

The Common Seal of the City of Belmont was affixed by the authority of the Council in the presence of —

\_\_\_\_\_  
 JOHN CHRISTIE  
 Chief Executive Officer

\_\_\_\_\_  
 PHIL MARKS  
 Mayor

Dated this                    of                    2020